

**SOUTH FLORIDA STATE COLLEGE
ADMINISTRATIVE PROCEDURES**

PROCEDURE NO. 5231

TITLE: PREVENTING AND MANAGING SEXUAL MISCONDUCT

BASED ON POLICY: 5.23 PROHIBITED DISCRIMINATION

OFFICE OF PRIMARY RESPONSIBILITY: DEAN, STUDENT SERVICES/HUMAN
RESOURCES

I. Purpose:

To establish and maintain an environment which is free of all forms of sexual misconduct, including sexual harassment, public indecency, voyeurism, battery, or assault

II. Procedure:

In order to accomplish this, the college will implement a program of prevention and service to students and employees.

A. Definitions

1. Sexual misconduct includes sexual harassment, sexual assault, public indecency, sexual battery, and voyeurism
2. Assault: An intentional, unlawful threat by word or act to do violence to another person, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent
3. Aggravated assault: Assault with a deadly weapon without intent to kill or with an intent to commit a felony
4. Sexual harassment: Unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature which are unwanted and/or offensive to a reasonable person and interfere with the educational experience or work performance
5. Battery: Actually and intentionally touching or striking another person against the will of the other or intentionally causing bodily harm to an individual
6. Aggravated battery: When committing battery, intentionally or knowingly causing great harm, permanent disability, permanent disfigurement or use of a deadly weapon

7. Sexual battery: A rape, an acquaintance rape (date, friend, someone the victim knows) or oral, anal, or vaginal penetration by another object which is coerced, or against the victim's will. An individual who is mentally incapacitated, asleep, physically helpless, or unconscious due to alcohol or other drug consumption is considered "unable to give consent." The type of force employed may involve physical violence, coercion, or threat of harm to the victim.
8. Public indecency: Exposing one's body in such a manner that another party reasonably could be offended
9. Voyeurism: To trespass, spy, or eavesdrop for sexual arousal

B. Victim and witness rights

Victims and/or witnesses are entitled to the following rights:

1. Information concerning available crisis intervention services, supportive or bereavement counseling, community-based victim compensation
2. Information about the role of the victim in the criminal justice system, the stages in the criminal justice process which are of significance to a crime victim, and the manner in which such information can be obtained
3. Information concerning available protection from intimidation for victims and witnesses
4. Advance notification of judicial and post-judicial proceedings which relate to the arrest or release of the accused, the arraignment, trial, sentencing, or appeal of the accused, provided that the victim/witness gives the State Attorney's Office his/her name and current address
5. In felony crimes, consultation by the State Attorney's Office to obtain the views of the victim or victim's family about the release of the accused, plea negotiations, participation in intervention programs, and the sentencing of the accused
6. Return of the victim's property collected by law enforcement or the State Attorney's Office for evidentiary purposes
7. Assistance from law enforcement agencies or the State Attorney's Office, when requested by victims, to inform the victim's employer about necessary absences from work and the victim's creditors about serious financial hardship incurred as a result of the crime
8. Request for restitution from the offender for certain out-of-pocket losses
9. A statement oral, or written, to the judge, prior to the sentencing of an offender who pleads guilty, *nolo contendere*, or is convicted of a felony crime recommending appropriate penalties

10. Information concerning the escape of the offender from a state correctional institution, county jail, juvenile detention facility, or involuntary commitment facility
11. Permission to have a person of their choice accompany them through the disciplinary hearing process
12. Permission to not have to undergo direct examination and questioning by the offender/offenders in college proceedings
13. Permission to not have his/her past sexual history admitted as testimony in college proceedings
14. Permission to submit a written statement to the college, which includes a statement of an appropriate penalty, if the offender is found in violation of the Student Code of Conduct
15. Permission to have the dean, student services issue an immediate administrative restraining order, forbidding the offender from all contact with him/her
16. Permission to have the academic deans establish an immediate reassignment of classes for the offender when both offender and victim attend the same classes
17. Opportunity to have on-campus counseling services as well as referrals to appropriate agencies
18. Opportunity to have the dates of hearings/proceedings decided upon quickly, in order to prevent further stress being inflicted on the victim because of uncertainty

C. Retaliation

Retaliation against or harassment of complainants or others is prohibited. Violators may be subject to probation, suspension, termination, and/or civil legal action.

D. Procedures for victims

Students or employees who are victims of sexual misconduct should:

1. Not douche/shower, change clothes, or disturb the scene of the crime (when appropriate)
2. Not destroy any physical evidence (when appropriate)
3. Seek medical assistance (when needed)
4. Report the crime to the local law enforcement agency

5. Report the event to the equal access/equal opportunity (EA/EO) officer of the college
6. Complete a written statement of the complaint. The written statement should include precise details (time, date, location, witnesses, etc.) of the incident(s) prompting the complaint, the individual(s) involved, and the remedy requested. It shall be filed with the EA/EO officer within a reasonable time of the violation and no later than 180 days after the alleged event (except in extraordinary cases involving severe medical problems of the victim).

E. Procedures for the EA/EO officer/college

1. Conduct an informal hearing with the accused student/employee, if available, within five working days of the filing of the written statement, unless requested to wait due to an active law enforcement agency investigation, and offer him/her an opportunity to admit to the misconduct and agree to the appropriate disciplinary action
2. Notify the director, human resources (for employee) or dean, student services (for student) if an employee/student admits to or is formally charged by the local law enforcement agency or the college
3. Recommend suspension of the formally charged student/employee until the charges are resolved
4. In the case of college hearings, provide the formally charged student/employee a written notice of the charges, with a copy to the complainant, in sufficient detail to prepare for any formal hearings no fewer than three working days prior to the hearing.
5. Conduct a formal hearing of the charges before a special board which is appointed by the president or designee. The hearing shall be held within four weeks of the filing of the written statements, subject to law enforcement agency approval to ensure that an official investigation is not compromised.
6. Communicate in writing the findings of the special board to the charged student/employee and complainant within three working days of the hearing.

F. Outcomes of the charges

1. If the charged student/employee or complainant is not satisfied with the findings/recommendations, he/she may appeal to the president or designee in writing within three working days of receiving the findings/recommendations. The decision of the president or designee shall be the final decision of the college and shall be provided to the charged student/employee and complainant within 10 working days of the written appeal.

2. If it is determined that the complainant's charge is totally without merit and was filed in a frivolous manner or with retaliatory intent, the complainant shall be subject to appropriate disciplinary action.
3. Pending the outcome of the hearing, the penalty may be:
 - a. No penalty
 - b. Probation
 - c. Suspension
 - d. Termination/expulsion
 - e. Other sanctions as determined by the hearing committee

G. Procedure for the formally charged student/employee

The charged student/employee:

1. May inspect all evidence presented against him/her
2. Must represent himself/herself at meetings/hearings (he/she may have legal counsel present but counsel may only advise him/her)
3. May appeal the decision of the special board to the college president or designee.

H. Other conditions

1. If a charge of sexual misconduct is made against the EA/EO officer, the dean, student services shall coordinate the aforementioned process. If the charge implicates the director, human resources, the president shall select an alternate administrator to pursue the investigation.
2. If a victim does not report the incident to the college but does file a complaint with the local law enforcement agency, the college will implement the procedures of this section when the enforcement agency notifies the college of the formal charges against the student/employee.
3. All materials, reports, and documents relative to a case will be maintained in confidential files at the college.
4. The EA/EO officer acting as the victim's advocate will provide initial counseling and appropriate referral service to victims as well as ensure that the victim's rights are protected.
5. Information regarding prevention, reporting, and administrative procedures shall be presented

- a. To students in orientation, in the Student Handbook/Code of Conduct, in special seminars, and through brochures and the student newspaper
 - b. To employees at general meetings and in special seminars, in the Employee Handbook, Faculty Handbook, Adjunct Faculty Handbook, and Safety Manual
6. College facilities and security procedures shall be annually reviewed for potential problem areas; corrective action shall be taken.
7. College publications shall include information regarding the procedures for managing sexual misconduct cases, as follows:
- a. Faculty Manual - The college policy, procedure, and information regarding faculty responsibilities if a charge is made by a student or employee.
 - b. Adjunct Faculty Manual - the college policy, procedure, and information regarding faculty responsibilities if a charge is made by a student or employee.
 - c. Student Handbook/Code of Conduct - The college policy and procedures written in layman's terms; suggestions on prevention and follow-up if involved or a witness to sexual misconduct; how to deal with the emotions of misconduct; names and phone numbers of helping agencies; other helpful information.
 - d. Employee Handbook - The college policy, procedure, employee responsibilities, suggestions for prevention and follow-up, how to deal with the emotions of sexual misconduct, names and phone numbers of helping agencies, and other helpful information.
 - e. Safety Manual - The college policy, procedure, and campus/center security assessment procedures.

HISTORY: Last Revised: 4/24/18

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