



March 16, 2015

## MEMORANDUM

**TO:** District Board of Trustees  
**FROM:** Jim Murdaugh, President  
**SUBJECT:** College Policy Update

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### Item Description

This item requests Board approval for updates to policies listed in Chapter 3.0 – General Administration.

### Overview and Background

The College brings forth a request to update Policy 03-01 – Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment.

Highlights of the policy changes are outlined below:

Policy 03-01 – The equal opportunity statement and the definition of discrimination have been revised to include the term “sexual orientation”.

- Tallahassee Community College (TCC) does not discriminate against any person on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, sexual orientation, marital status, disability, or age in its programs and activities.
- Discrimination is defined as treating any member of the College community differently than others on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, sexual orientation, marital status, disability, age or other legally protected classifications.

### Past Actions by the Board

The Board previously revised Policy 03-01 on November 17, 2014.

### Funding/Financial Implications

None

### Staff Resource

Teresa Smith

**Recommended Action**

Approve the updates to the College policies.

**TALLAHASSEE COMMUNITY COLLEGE  
DISTRICT BOARD OF TRUSTEES  
P O L I C Y**

<p><b>TITLE:</b> Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment</p>	<p><b>NUMBER:</b> 03-01</p>
<p><b>AUTHORITY:</b>          Florida Statute: 1001.64, 1001.65, 1006.35, 1006.67          Florida Administrative Code: 6A-14.0262, 6A-14.060, 6A-19.008          Age Discrimination in Employment Act of 1967, as amended          Executive Order 11246          Section 504, Rehabilitation Act of 1973 as amended          Title II, Genetic Information Non-Discrimination Act of 2008          Titles VI and VII of the Civil Rights Act of 1964, amended 1972          Title IX, Education Amendments of 1972          Florida Educational Equity Act of 1984, as amended</p>	<p><b>SEE ALSO:</b></p> <ul style="list-style-type: none"> <li>• <a href="#">Administrative Procedure 03-01AP: Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment</a></li> </ul>
<p><b>DATE ADOPTED:</b> 12/01/97; revised 01/22/01; 09/21/09; 08/20/12; 11/17/14; <u>03/16/2015;</u></p>	

**A. EQUAL OPPORTUNITY**

Tallahassee Community College (TCC) does not discriminate against any person on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, sexual orientation, marital status, disability, or age in its programs and activities.

As an institution of higher education, the College reaffirms its policies of equal opportunity and open admissions, and is committed to maintaining and promoting nondiscrimination in all aspects of its programs and activities. The College has an Equity Plan to ensure equal access/equal opportunity to all individuals and has designated a College Equity Officer to ensure compliance with applicable TCC Policy, State and Federal laws.

The College will broadly publish and circulate its policy of equal access/equal opportunity by including the policy in correspondence, media communication, and printed matter. The College will engage the services of only those professional organizations, employment agencies, contracts, or other agents whose policies are in alignment with the equal opportunity policy of the College.

## **B. POLICY STATEMENT**

1. The College is committed to having a learning and working environment that is free of discrimination, sexual misconduct, and unlawful harassment. Discrimination, sexual misconduct, or harassment of students or employees in the learning and/or working environment will not be tolerated. Accordingly, members of the college community, including students, faculty, administrators, staff, vendors and the public can expect professional and courteous treatment at all times.
2. It shall be a violation of this policy for a student, faculty member, administrator, or staff member of the College to discriminate against, participate in sexual misconduct, or harass another student, faculty member, administrator, staff member, or vendor.
3. The College will not tolerate retaliation against employees or witnesses for filing complaints, or protesting practices which are prohibited under this policy.
4. Terms and conditions of employment based on a bona fide occupational requirement or distinction (i.e. gender specific restrooms, athletic activities, or other areas) is not a violation of this policy.
5. Discrimination, sexual misconduct, and unlawful harassment on the part of vendors toward any member of the College community will not be tolerated. Vendors will be required to promptly investigate claims of discrimination, sexual misconduct, or harassment reported against their employees or subcontractors.

## **C. DEFINITIONS**

1. Discrimination is defined as treating any member of the College community differently than others on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, sexual orientation, marital status, disability, age or other legally protected classifications.

Conduct which falls under the definition of discrimination and which is prohibited by this policy includes, but is not limited to:

- a. Disparate treatment in employment, job placement, promotions, demotions, salaries or wages, benefits, terms and conditions of employment, on the basis of one of the protected categories outlined above in III(A).
  - b. Limiting a person's access to athletic, social, cultural or other activities of the college on the basis of one of the protected categories outlined above in III(A).
2. Sexual Misconduct is defined as a range of behaviors including rape, sexual assault (which includes any kind of nonconsensual sexual contact), sexual harassment, intimate partner

violence, stalking, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing.

- a. Sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature when:
  1. Submission to or rejection of such conduct is used explicitly or implicitly as a basis for any decision affecting terms or conditions of an individual's employment, academic status, participation in any program or activity, receipt of College services; or
  2. Such conduct has the purpose or effect of interfering with an individual's work performance or academic experience by creating an intimidating, hostile, or offensive environment for work or learning.

Sexual harassment can occur between any persons including students, faculty, administrators, staff, vendors, or visitors.

Sexual harassment can be verbal, visual, or physical. Conduct which falls within the definition of sexual harassment may include, but is not limited to:

- Unwelcome physical contact of a sexual nature, such as patting, pinching, or nonconsensual touching of another's body.
  - Verbal innuendoes or jokes of a sexual nature including graphic or degrading comments about an individual or his/her appearance.
  - Sexual assaults or batteries
  - Overt or implied requests for sexual favors as a condition of employment or for continued employment or preferences in the workplace.
  - Use of suggestive gestures or remarks to describe a person's body, clothing or sexual activity.
  - Display or posting of sexually explicit or suggestive photographs or materials in the workplace.
3. Unlawful harassment is defined as conduct that is a) unwelcome and b) unreasonably interferes with an individual's ability to learn or work due to the creation of an intimidating, hostile, or offensive environment.
    - a. Unlawful harassment may include, but is not limited to:
      1. Offensive treatment
      2. Demeaning language
      3. Objectionable epithets
      4. Threatened or actual physical harm or abuse
      5. Intimidating or insulting conduct

## **D. REPORTING, INVESTIGATION, AND RESOLUTION**

The College strongly encourages persons to promptly report violations of this policy as outlined below and commits that a thorough review will be undertaken with the ultimate goal of resolution.

### 1. Duty to Report

- a. Complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment by and against students should be filed promptly with the Student Judicial Advisor. Complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment involving faculty or staff should be filed promptly with the Director of Human Resources/College Equity Officer.
- b. Administrators and supervisors who become aware of an alleged conduct of discrimination, sexual misconduct, unlawful harassment, or retaliation must immediately report this information to the appropriate intake person named above.
- c. All complaints of discrimination and unlawful harassment received by the Student Judicial Officer or College Equity Officer will be logged. The log will include the complainant's name, person whom the complaint is filed against, incident date(s), brief summary, and the resolution. The College Equity Officer is the official custodian of the log.
- d. The Student Judicial Advisor will submit all student complaints, including resolution, to the College Equity Officer for review and inclusion in the log on a monthly basis.
- e. The Student Judicial Advisor and College Equity Officer shall meet each quarter to review the complaint log.

### 2. Investigation

- a. Upon receipt of a complaint, the Student Judicial Advisor or College Equity Officer will conduct a prompt and confidential investigation. The registering of a complaint will not be used or held against the student or employee, nor will it have an adverse impact on the complainant's educational or employment status.
- b. For matters involving employees, the investigating official (College Equity Officer or designee) will submit findings for review at Step Four of the College's Grievance Procedure 06-16.
- c. For matters involving students, the Student Judicial Advisor will follow the guidelines of the Student Code of Conduct in reviewing the complaint. The Student Judicial

Officer will send the investigative report to the College Equity Officer for input and approval prior to sending the findings and recommendations to the Vice President of Student Affairs.

3. Resolution

- a. For matters involving employees, the College will follow the guidelines of the College's ~~Grienvance~~Grievance Procedure 06-16.
- b. For matters involving students, once the recommendation of the Student Judicial Officer is reviewed by the College Equity Officer and approved by the Vice President of Student Affairs, the complainant will be advised of the results of the investigation.
- c. If the decision regarding a student complaint is not satisfactory for the complainant, it may be appealed to the President. The complainant must file a written appeal to the President within seven days after the decision is rendered. The President may adjudicate the complaint based on the records or may call witnesses or examine other documents as deemed necessary.

## E. RETALIATION

Retaliatory acts include adverse actions taken against the person who makes or supports a complaint of discrimination, sexual misconduct, or harassment.

Students and/or employees who believe that retaliatory actions have been taken against them for having filed a complaint of discrimination, sexual misconduct or harassment, or having provided testimony in an investigation should notify the College Equity Officer. Any such reports will be investigated and findings of retaliatory conduct will be dealt with through appropriate action.

## **F. CONFIDENTIALITY/PUBLIC RECORDS**

1. All information regarding discrimination, harassment, retaliation, and sexual misconduct will remain confidential to the extent possible to provide for an effective investigation, and as allowed by law.
2. Only those individuals necessary for the investigation and resolution of the complaint shall be involved. All parties to the complaint, including witnesses, should treat the matter under investigation with discretion and have respect for the reputation of everyone involved.
3. Written records developed through the use of this internal complaint process are confidential in accordance with state law until a final determination is made.

## **G. FALSE COMPLAINTS**

Any person who knowingly files a false complaint of discrimination, harassment, retaliation, or sexual misconduct against another will be in violation of this policy.

## **H. DISCIPLINE**

Violation of this policy shall result in appropriate corrective and/or disciplinary action.



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