PROCEDURE

Subject | Prohibited Harassment | Number: 2.44.01
Source | Office of Human Resources | Reference (Rule #) 6HX14-2.44
President’s Approval/Date: 5/6/11

PURPOSE:

A. The purpose of this procedure is to specify State College of Florida, Manatee-Sarasota standards and procedures regarding discrimination and harassment of employees, students, or applicants for employment or College admission (hereinafter collectively, referred to as “applicants”);

B. To provide procedures to address problems and questions regarding harassment in a prompt, discreet and fair manner. All members of the College Community are expected to comply and cooperate with its provisions; and

C. To comply with federal and state statutes (Title VII of the Civil Rights Act, Florida Civil Rights Act and Title IX of the Education Amendments of 1972)

POLICY:

A. State College of Florida, Manatee-Sarasota maintains a professional work and academic environment wherein all students, staff, faculty, applicants and other members of the College Community are treated with respect and dignity. The goal of the College is to provide an academic and institutional climate that is free of harassment.

B. Forms of harassment that are encompassed by this procedure include, but are not limited to, harassment based on color, sex, age, religion, genetic information, national origin, ethnicity, disability, marital status, sexual orientation and any factor protected under applicable federal, State and local laws, rules, and regulations.

C. Harassment is specifically prohibited by state and federal law. Instances of harassment may result in both civil and criminal liability on the part of the individual harasser, as well as the supervisor and the College. The College will not tolerate harassment of its students, applicants, and employees on the campus or at off campus events or programs held under the auspices of the College.
DEFINITIONS:

A. College Community is defined as all students, college employees, applicants, contractors, volunteers and visitors.

B. Sexual Harassment: Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

1. Submission to or rejection of such conduct is used either explicitly or implicitly as a basis for any decision affecting terms or conditions of an individual’s employment, participation in any program or activity, or of obtaining an education, or

2. Such conduct has the effect of unreasonably interfering with the individual's work performance or academic experience by creating an intimidating, hostile, or offensive environment for work or learning.

3. Sexual harassment can occur between any individuals associated with the college, for instance, between staff and a supervisor, between co-workers, between faculty members, between faculty, staff or students and applicants, customer, vendor, or contractor, or between a student and a faculty member or another student.

4. Examples of sexual harassment are such actions as sexual advances; stalking; the requesting of sexual favors accompanied by implied or overt pressure concerning one's job, grade, letter of recommendation, application for employment or admission to the College or similar activities; verbal abuse of a sexual nature including comments couched in humor or, suggestive gestures; physical contact such as patting, pinching, or unnecessary touching; subtle pressure for sexual activity; sexist remarks regarding a person's body, clothing or sexual activity; or derogatory comments about a person's sexual orientation.

C. The Harassment Complaint Official for students and applicants for admission to the College is the Vice President of Student Development and Enrollment Services. The Harassment Complaint Officials for employees, applicants for employment and visitors are the Executive Director of Human Resources, Director, Human Resource Operations and the Equity Officer.

D. Stalking is defined as the willful, malicious, and repeated following or harassing of another person. Stalking may be a criminal offense.

E. Racial Harassment is defined as unwelcome conduct relating to an individual’s race or color which unreasonably interferes with an applicants, employee’s, or student’s status or performance by creating an intimidating, hostile, or offensive working or educational environment. Harassment on the basis of race or color includes offensive or demeaning treatment of an individual, where such treatment is based typically on prejudiced stereotypes of a group to which that individual may belong. It includes, but is not limited to objectionable epithets, threatened or actual, physical harm or abuse, racial slurs, comments or manner of speaking, negative references to racial customs or other intimidating or insulting conduct directed against the individual because of his/her race or color.

F. Religious Harassment consists of unwelcome physical or verbal conduct which is related
to an individual’s religion or creed when the conduct has the effect of creating an
intimidating, hostile, or offensive working or academic environment. Harassment on the
basis of religion includes derogatory comments regarding surnames, religious traditions,
religious clothing, or religious slurs or graffiti.

G. National Origin/Ethnicity Harassment consists of unwelcome physical or verbal conduct
which is related to an individual’s national origin or ethnicity when the conduct has the
purpose or effect of creating an intimidating, hostile or offensive working or academic
environment. Harassment on the basis of national origin includes negative comments
regarding surnames, manner of speaking, custom, language, or ethnic slurs.

H. Disability Harassment consists of unwelcome physical or verbal conduct relating to an
individual’s disability when the conduct has the purpose or effect of creating an
intimidating, hostile or offensive working or academic environment.

I. Sexual Orientation Harassment consists of unwelcome physical or verbal conduct relating
to an individual’s sexual orientation when the conduct has the purpose or effect of creating
an intimidating, hostile or offensive working or academic environment. Harassment on the
basis of sexual orientation includes unwelcome verbal, written or physical conduct,
directed at the characteristics of a person’s sexual orientation such as negative name
calling or imitating mannerisms.

A Special Note to Faculty, Teaching Assistants, Supervisors, and Other Persons in
Positions of Power. Harassment can occur when a person who is in a position of trust or
authority engages in behaviors or creates conditions that are perceived as inappropriate,
unwanted and/or that are non-reciprocal. Sexual harassment, in particular, can occur when
an unwelcome personal element is introduced into what should be a sex-neutral situation.
Because of the difference in authority between faculty and students and supervisors and
employees, a faculty member or supervisor cannot be certain that a personal relationship is
truly welcome or consensual. Members of the College Community should be aware that
whatever differences in status exist, as between supervisor and employee, or faculty
member and student, abuses of status may take the form of sexual harassment. Charges of
sexual harassment may arise even when romantic or amorous relationships exist that are
apparently consensual. Should such a relationship result in a subsequent charge of sexual
harassment, the claim that the relationship is or was consensual will not be an adequate
defense. Moreover, other individuals may be affected by such relationship. Those who
abuse, or appear to abuse, their position violate their responsibility to the College
Community. The College expects its employees to be aware of the potential for problems
and conflicts of interest.

COMPLAINT PROCEDURE:

A. Anyone who feels that a Member of the College Community is violating the intent of this
policy should report the offensive behavior to a College official. If appropriate, an
individual may advise the Member of the specific behavior that is perceived to be
objectionable and request that the behavior cease. State College of Florida, Manatee-
Sarasota emphasizes that its applicants, employees, and students are not required to
complain to a supervisor, faculty member, or administrator if that person is the individual
allegedly harassing the applicant, employee or student.

B. College employees who receive complaints or observe harassing conduct should
immediately inform the Executive Director of Human Resources, Director, Human Resources Operations or Equity Officer of the College in cases involving employees, applicants for employment or visitors, or the Vice President of Student Development and Enrollment Services in cases involving students or applicants for admission to the College. (The “Harassment Complaint Officials”).

C. Although complaints should be brought as soon as possible, preferably immediately after an offensive incident, the College recognizes the sensitivity involved in certain situations may cause individuals to delay taking action.

D. Informal complaints may be oral or written and directed to the Harassment Complaint Official. The accused will be informed of the existence and nature of the informal complaint and will have an opportunity to respond. State College of Florida, Manatee-Sarasota has adopted this informal process by which harassment complaints may be resolved by mutual agreement between the complainant and the person accused of harassment. If informal resolution fails to resolve the matter to the complainant’s satisfaction, the complainant may file a formal complaint with a Harassment Complaint Official.

E. A formal complaint must be documented by hard copy in writing to the Harassment Complaint Official.

F. The Harassment Complaint Official shall conduct a prompt, thorough and confidential investigation. Accounts from witnesses and other parties, as well as other relevant information may be investigated. The Harassment Complaint Official also has the discretion to determine whether the situation warrants a meeting, either with the complainant and the alleged offender both present or with the parties separately. Denial by the accuser is not sufficient to close the investigation.

1. Every effort to maintain the confidentiality of the accuser, accused and witnesses will be used. However, the Harassment Complaint Official recognizes that it must balance the complainant’s right of privacy and the need to be fair to the alleged offender by notifying him/her of the allegation. The Harassment Complaint Official has the discretion to determine when the situation requires notification of an alleged offender.

2. A final report of findings will be made by the Harassment Complaint Official and given to both the accuser and the accused within 20 business days of the formal complaint. If due process requires further investigation, a written notice will be sent to the accuser and accused.

G. Possible outcomes of the investigation are that the allegations are substantiated, or that allegations are not substantiated, i.e. an inconclusive investigation. Every claim of harassment will be considered on an individual basis. In the event the allegations are substantiated the College will take whatever corrective action and/or disciplinary measures it considers appropriate under the circumstances, including but not limited to counseling, reprimand, probation, suspension, transfer, demotion or immediate termination of an employee or student in accordance with its policies.

CONFIDENTIALITY
A. All information regarding harassment will be kept in confidence to the greatest extent practicable and appropriate under the circumstances. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it. The College cannot, however, guarantee that the identity of the complainant will be concealed from the accused harasser. When reasonable, the College will consider requests for separation of the primary parties during the investigation.

B. In order to ensure that a complete investigation of harassment claims can be conducted it may be necessary for the College to disclose to others portions of the information provided by the complainant. The College will make every effort to honor any complainant's and accused’s request that the College not disclose certain information provided, consistent with the College’s obligation to identify and to correct instances of harassment, including sexual harassment. All parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved. Violations of these confidentiality requirements may be independent grounds for disciplinary action.

RETLATION / FRIVOLOUS CLAIMS

A. Retaliation against an individual for reporting harassment or for participating in an investigation is prohibited by College policy and state and federal laws. Retaliation is a serious violation which can subject the offender to discipline independent of the merits of the harassment allegation.

B. Any retaliation committed by the accused harasser by way of irresponsible, malicious or unfounded complaints will be investigated.

C. It is a violation of this policy for anyone to knowingly make false accusations of sexual harassment. Failure to prove a claim of harassment is not equivalent to a false allegation. Discipline will be imposed for making false accusations of harassment.