


PROCEDURE

Subject	Prohibited Harassment and Nondiscrimination (Non Sexual Misconduct/Harassment)	Number: 2.44.01
Source	Office of Human Resources	Reference (Rule #) 6HX14-2.44
President's Approval/Date:	 3/3/22	

PURPOSE:

The purpose of this procedure is:

- A. To specify State College of Florida, Manatee-Sarasota standards and procedures regarding discrimination and harassment of employees, students, applicants for employment or College admission, volunteers, contractors or visitors (hereinafter collectively, referred to as "College Community");
- B. To provide procedures to address problems and questions regarding harassment and/or discrimination 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, State and local civil rights laws, rules and regulations.

POLICY:

- A. State College of Florida, Manatee-Sarasota ("SCF" or "College") 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 in which all members can participate fully and equally in an environment free from all forms of harassment, discrimination, or intimidation.
- B. SCF is an equal opportunity institution, and it is our policy to provide equal opportunity to all without regard to race, color, sex, age, pregnancy, 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, (hereafter referred to as "Protected Categories").

- 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. Discrimination is also prohibited by state and federal law. No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of the Protected Categories. The College will not tolerate harassment of or discrimination against members of the College Community on the campus or at off campus events, programs or activities held under the authority of the College.

DEFINITIONS:

- A. Discrimination: means exclusion from participation in, or denial of the benefits of any public education program or activity, or in any employment condition or practice conducted by a public educational institution that receives or benefits from federal or state financial assistance on the basis of race, color, sex, age, religion, pregnancy, genetic information, national origin, ethnicity, disability, marital status, sexual orientation or any other factor prohibited under applicable federal, state and local civil rights laws, rules and regulations. Discriminatory conduct in the form of sexual misconduct/sexual harassment is also prohibited. (Please see procedure 2.44.02 Sexual Misconduct / Sexual Harassment).
- B. Harassment: Any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct that places a student or employee in reasonable fear of harm to their person or damage to their property; has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or has the effect of substantially disrupting the orderly operation of the College, including any course of conduct directed at a specific person on the basis of a Protected Category that causes substantial emotional distress in such a person and serves no legitimate purpose.
- C. Hostile Environment: an academic or work environment where harassing and/or discriminatory conduct based on any of the Protected Categories is severe, pervasive, and persistent, so as to deny or limit the ability of an individual to participate in, or benefit from the services, activities, or privileges provided at SCF.

RESPONSIBILITY TO REPORT:

- A. The person who believes they have been a victim of discrimination or harassment (although there is no absolute duty to report, any victim may seek additional or optional support services including advocacy and counseling outside the Equity Officer or Dean of Students process); or
- B. Any student or employee who has direct or indirect knowledge of the alleged discrimination or harassment should report to Equity Officer or Dean of Students as applicable under this Procedure. The exceptions are those persons or offices who offer confidential counseling if the complainant requests privacy, such as Campus Ministry, Mental Health Counseling for Students or Employee Assistance Program for employees.

COMPLAINT PROCEDURE:

- A. For students and applicants for admission to the College, complaints should be made to the Dean of Students or designee and subject to the Student Code of Conduct and disciplinary procedures. For employees, applicants for employment and visitors, complaints should be made to the Equity Officer or designee. These individuals are here in referred to as "Complaint Officials". Contact information can be found on SCF homepage under the "Equal Opportunity/Title IX" link.
 - a. Anyone who feels that a member of the College Community is violating the intent of this procedure 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 and/or discriminatory conduct should immediately inform the appropriate Complaint Officials (see above) or their immediate supervisor.** 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.
 - c. Informal complaints may be oral or written and directed to the Complaint Official. If the complaint meets the definition of harassment and/or discrimination, then all parties will be informed of the existence and nature of the informal complaint and will have an opportunity to respond. SCF has adopted this informal process by which harassment and/or discrimination complaints may be resolved by mutual agreement between the complainant and the person accused of harassment and/or discrimination. If informal resolution fails to resolve the matter, either party may file a formal complaint with a Complaint Official.
 - d. A formal complaint must be documented in writing identifying the alleged violation to the Protected Category and sent to the Complaint Official.
 - e. The Complaint Official or designee, shall conduct a prompt, thorough and confidential investigation. Accounts from witnesses and other parties, as well as other relevant information may be investigated. The Complaint Official also has the discretion to determine whether the situation warrants a meeting, either with one or both parties present or with the parties separately. Denial by the respondent is not sufficient to close the investigation.
 - f. The conduct will be evaluated from the perspective of a reasonable person, considering the totality of the circumstances, such as the nature of the alleged conduct and the context in which the alleged conduct occurred. A determination on the allegations is made from the facts on a case-by-case basis, using the preponderance of the evidence

standard. Preponderance of evidence means information, considered as a whole, that indicates the facts sought to be proved are more likely than not. This is the burden of proof that must be met in determining whether conduct is a violation of this procedure. In an academic setting, consideration will be given to free speech and academic freedom.

- g. A final report of findings will be made by the Complaint Official or designee and given to both parties within 20 business days of the formal complaint. If the investigation and determination cannot be completed within 20 business days, both parties will be notified in writing.
- h. Possible outcomes of the investigation are that the allegations are substantiated, or that allegations are not substantiated. Every claim of harassment and/or discrimination 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, prohibited harassment/discrimination training, reprimand, probation, suspension, transfer, demotion or immediate termination of an employee or expulsion of a student in accordance with its policies.

APPEAL:

A complainant or respondent may appeal the findings and sanction(s) after receiving the Notice of the Determination or a dismissal of the Final Complaint or any allegations in a Formal Complaint.

- A. An appeal must be submitted to Equity Officer or Dean of Students Office, in writing, within ten (10) business days of receipt of the issued findings and sanction(s) and must specify the basis of the appeal.
- B. Appeals must be based on one or more of the following provisions:
 - a. Procedural irregularity;
 - b. New evidence that was not reasonably available at the time of the investigation or when the determination regarding responsibility or dismissal was made; and/or
 - c. The investigator(s) or decision-maker(s) had a conflict of interest or bias for or against the complainant or respondent.
- C. Written notice of an appeal is provided to the other party. The complainant or respondent may submit a written response to an appeal to Equity Officer or Dean of Students Office. Such response will be attached to the final report and maintained in the same file.
- D. The President or designee will appoint a person with appropriate training to serve as an appellate officer to review the appeal and issue a written decision that describes the result

of the appeal and the rationale for the result. The person that reached the determination regarding responsibility or dismissal cannot be the appellate officer.

- E. The written decision is provided to both parties.

CONFIDENTIALITY:

- A. All information regarding a harassment and/or discrimination complaint will be kept in confidence to the greatest extent practicable and appropriate under the circumstances and as such may be limited by law. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it during the investigation. The College cannot, however, guarantee that the identity of the complainant will be concealed from the respondent. 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 and/or discrimination 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 respondent's request that the College not disclose certain information provided, consistent with the College's obligation to identify and to correct instances of harassment and/or discrimination, 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.

RETALIATION / FRIVOLOUS CLAIMS:

- A. No member of the College Community will be retaliated against, intimidated or coerced for making a good faith report of alleged discrimination or harassment or for participating in an investigation. 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 or discrimination allegation.
- B. Any possible retaliation committed by or on behalf of the respondent by way of irresponsible, malicious or unfounded complaints will be investigated.
- C. It is a violation of this procedure to file a discrimination or harassment complaint in bad faith. Failure to prove a claim of harassment or discrimination is not equivalent to a false allegation. Discipline will be imposed for making false accusations of harassment or discrimination.