

# TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Title IX Sexual Harassment	<b>NUMBER:</b> 03-01-2AP
<b>AUTHORITY:</b> Florida Statute: Executive Order 11246, as amended Title IX of the Education Amendments Act of 1972	<b>SEE ALSO:</b>
<b>DATE ADOPTED:</b> 08/26/20	<b>PAGES:</b> 8

## A. PURPOSE

To provide a procedure for review, investigation and resolution of Title IX Sexual Harassment complaints related to applicants, faculty/staff, and students of the College.

## B. DEFINITIONS

**Actual Knowledge** – means notice of sexual harassment or allegations of sexual harassment is given to the Title IX Coordinator or an official of the College who has authority to institute corrective measures on behalf of the College.

**Complainant** – is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Determination** – is the conclusion of a dispute by the rendering of a final decision.

**Formal Complaint** – is a document filed by an identified complainant or signed by the Equity Officer/Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment.

**Preponderance of Evidence Standard** – is an evidence standard which means concluding that a fact is more likely than not to be true.

**Respondent** – is an individual who has been reported to be the perpetrator of conduct that could constitute a violation of College policy.

**Retaliation** – is any intimidating, threatening, coercing or discriminating conduct against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or

# TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES

refused to participate in any manner in an investigation, proceeding, or hearing under this procedure.

**Supportive Measures** – are individualized services offered to the complainant or respondent, as appropriate, that are reasonably available and without fee or charge. These services are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

**Title IX Sexual Harassment** – includes the following behaviors with respect to participation in the College’s educational programs or activities, which include locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurred. Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- a. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., *quid pro quo*); or
- b. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s educational program or activity; or
- c. Sexual assault (as defined in the Clery Act), or dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA).

## C. GENERAL PROVISIONS

1. This procedure provides for review, investigation and resolution of Title IX Sexual Harassment complaints as outlined in College Policy 03-01.
2. The College will use a preponderance of evidence standard for resolving any conflicts in the evidence and deciding the facts of the complaint.
3. The College Equity Officer serves as the Title IX Coordinator for the College, and is the College’s primary internal authority for matters related to this procedure; with responsibility to ensure equal access and equal opportunities for applicants, faculty/staff, students, vendors, or guests of the College.
4. Supporting Committee - In an effort to continuously improve the way the College responds to complaints of Title IX Sexual Harassment, the College’s Clery Committee shall meet quarterly to review the College’s complaint log, ensure compliance with federal and state regulations, and College policy and procedure. The Clery Committee includes, but is not limited to, the following personnel or their designee; the Director of Student Services, the Director of Human Resources, the Director of Athletics, the College Police Chief and the Equity Officer/Title IX Coordinator.

# **TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES**

5. To utilize this procedure, Title IX Sexual Harassment jurisdictional requirements must be met; they are as follows:
  - a. The alleged complainant is an individual participating in a College educational program or activity; which include locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and
  - b. The alleged incident or action happened against a person in the United States, and
  - c. The conduct meets the definition of Title IX Sexual Harassment as outlined above.

## **D. REPORTING**

The College strongly encourages ALL persons to promptly report any occurrence of Title IX Sexual Harassment. 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.

1. Complaints of Title IX Sexual Harassment should be filed promptly via Tallahassee Community College's (TCC or College) on-line Complaint Form, or directly with the College's Equity Officer/Title IX Coordinator at (850) 201-6074, or [tolsonr@tcc.fl.edu](mailto:tolsonr@tcc.fl.edu), or postmark to:

Tallahassee Community College  
Attn: Renae Tolson, Equity Officer & Title IX Coordinator  
Room 239 Administration Building  
444 Appleyard Drive  
Tallahassee, FL 32304-2895

2. Any College personnel, student, vendor or guest who becomes aware of alleged conduct of Title IX Sexual Harassment must report this information immediately to the College's Equity Officer/Title IX Coordinator.
3. The College will offer supportive measures to both the complainant and respondent as appropriate; designed to ensure equal employment opportunities, equal educational access, protect safety, or deter sexual harassment.
4. Submission of a written complaint (Formal Complaint) is required for the College to investigate allegations of Title IX Sexual Harassment. A Formal Complaint can be filed by a complainant, or signed by the Title IX Coordinator. The complainant's wishes with respect to whether the College investigates will be respected unless the Title IX Coordinator

# **TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES**

determines that the College should initiate a Formal Complaint and investigation over the wishes of the complainant in light of known circumstances.

5. Upon receipt of a Formal Complaint a review of the allegations will be made to determine if the complaint meets Title IX Sexual Harassment eligibility, or if other policy violations may be indicated and other procedures should be followed. If the allegations in a Formal Complaint do not meet the definition and/or jurisdiction of Title IX Sexual Harassment, the College must dismiss such allegations for *purposes of Title IX* but may still address the allegations in any manner the College deems appropriate under the school's own code of conduct or policy.
6. Once determined to be Title IX Sexual Harassment, the College must investigate the allegations presented and send written notice to both parties (complainant and respondent) of the allegations. The College may consolidate Formal Complaints where the allegations arise out of the same facts, and will not investigate a new complaint if it has already adjudicated a Formal Complaint based on the same circumstances.
7. Complaints or allegations may be withdrawn, in writing to the Equity Officer/Title IX Coordinator, by the complainant; however, the College reserves the discretionary right to continue with its investigation. The College, at its discretion, may dismiss a Formal Complaint if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination. The College will give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
8. All complaints of Title IX Sexual Harassment will be logged in the TCC Equity and Civil Rights Complaint Log. The log will include the complaint number, complainant's name, person whom the complaint is filed against, incident date(s), brief summary, and the determination/resolution. The Equity Officer/Title IX Coordinator is the official custodian of the log.

## **E. INVESTIGATING**

1. For all Formal Complaints of Title IX Sexual Harassment, the Equity Officer/Title IX Coordinator will coordinate with TCC's Police Chief, the Director of Student Services, the Human Resources Director, or designee and/or other personnel as appropriate to facilitate a prompt, impartial and confidential investigation.
2. The Equity Officer/Title IX Coordinator will assign one of the College's trained investigators as the College's Investigating Official of record for the complaint. The College's Investigating Official will follow state and federal guidelines, College Policy, Administrative Procedure 03-01-2AP, and the Student Code of Conduct, as appropriate, in reviewing the complaint.

# **TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES**

3. Complainants have 10 business days to provide additional information if their initial complaint does not contain sufficient information for a thorough review.
4. The burden of gathering evidence and burden of proof remain on the College, not on the parties. The College will provide equal opportunity for the parties to present facts and expert witnesses, and other inculpatory and exculpatory evidence.
5. Investigations will be completed within 60 calendar days from the date the complaint was filed, unless otherwise agreed upon by the parties or upon extenuating circumstances for good cause. Any extension shall be for a set period of time.
6. Prior to the completion of the investigative report and investigation itself, but after gathering all the evidence, complainant and respondent will be provided the equal opportunity to inspect and review any evidence so that each party can meaningfully respond to the evidence subject to inspection and review. The parties will be given ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. At expiration of the ten (10) day period to provide a response to the evidence, the investigator will not be required to accept a late submission. The investigator will then have ten (10) calendar days to generate the investigative report.
7. The College will send written notice of scheduled investigative interviews, meetings, or hearings where participation is required.
8. At the conclusion of the investigation, the Investigating Official will send the investigative report to the College Equity Officer/Title IX Coordinator for review and scheduling of the live hearing.

## **F. HEARING**

1. Once the investigation is complete, evidence directly related to the allegations and the investigative report, that fairly summarizes relevant evidence, will be sent to all parties (decision-maker, complainant, respondent and advisor) in electronic format or hard copy. The parties will be given ten (10) calendar days to respond to the investigative report. If the parties wish to file a written report in response to the investigative report they must do so no later than 24 hours prior to the scheduled live hearing.
2. A live hearing will be scheduled and will include a decision-maker, individual advisor for both the complainant and respondent, witnesses and any appropriate College personnel. Both parties have the opportunity to select an advisor of their choosing who may be, but need not to be, an attorney. If the complainant or respondent does not have an advisor, the College will provide one for cross-examination purposes. At the live hearing, the decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the

# **TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES**

party's advisor of choice and never by a party personally. At the request of either party, the College must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.

3. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
4. The College will create an audio or audiovisual recording, or transcript of any live hearing. The recording or transcript of all live hearings will be made available for review the parties.
5. Rape shield protection is given for complainants, deeming irrelevant questions and evidence about a complainant's prior sexual behavior inadmissible unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.
6. At the conclusion of the hearing, the decision-maker must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rational for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. This written determination must be sent simultaneously, within fourteen (14) calendar days, to the parties along with information about how to file an appeal.
7. The College will take steps to prevent the recurrence of any discrimination or harassment found to have occurred, and to correct its discriminatory effects on the complainant and others, if appropriate. Complainants and respondents will be treated equitably by providing appropriate remedies for the complainant anytime a respondent is found responsible, and by not imposing disciplinary sanctions on a respondent without following the grievance process outlined in this procedure. Remedies and/or sanctions, pursuant to the Student Code of Conduct – Section 16, may include removal from a class up to and including expulsion. Remedies and/or discipline, pursuant to College Policy, may include discipline up to and including termination.

## **G. APPEAL**

1. If the decision regarding a complaint is not satisfactory to the complainant or respondent, it may be appealed to the Equity Appeals Committee (Appeals Committee) only on the grounds of procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or Title IX personnel (investigators, coordinators and decision-makers) had a conflict of interest or bias, that

# **TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES**

affected the outcome of the matter. The complainant or respondent must file a written appeal, stating the basis of the appeal, to the Equity Office within seven (7) calendar days after receipt of the dismissal of a complaint or any allegations therein or receipt of a written determination of responsibility. The appeal must include all salient facts.

2. The Appeals Committee will be a five (5) member committee, consisting of the Human Resources Director, Chief of Police, Associate Vice President of Academic Affairs, Director of Communications and the Student Services Conduct Officer. If the Director of Human Resources is involved in the case, such that it would deem them unable to participate in the appeal process, the Assistant Vice President of Administrative Services will replace the Director of Human Resources on the Appeals Committee. If the Student Services Conduct Officer is involved in the case, such that it would deem them unable to participate in the appeals process, the Dean of Student Services will replace the Student Services Conduct Officer on the Appeals Committee.
3. The Appeals Committee will review the complaint based on the record of the live hearing and any documents submitted into evidence. The Appeals Committee will issue a final appelland decision to the parties within fourteen (14) calendar days of receiving the appeal. The decision of the Appeals Committee will be final and binding.

## **H. RETALIATION**

1. Retaliation is any intimidating, threatening, coercing or discriminating conduct against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, preceding, or hearing under this procedure.
2. Students and/or employees who believe that retaliatory actions have been taken against them for having filed a complaint of Title IX Sexual Harassment, or having provided testimony in an investigation should notify the College's Equity Officer/Title IX Coordinator. Any such reports will be investigated and findings of retaliatory conduct will be dealt with through appropriate action.

## **H. CONFIDENTIALITY/PUBLIC RECORDS**

1. All information regarding 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.

**TALLAHASSEE COMMUNITY COLLEGE  
ADMINISTRATIVE PROCEDURES**

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.