



**Title: Discrimination, Harassment and Related Misconduct Complaint Procedure for Employees and Students**

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**Implementing Procedure For Policy # 1.03**

**Date Approved: 03/28/02.  
Revised: 05/06/05,  
03/18/10, 04/13/10,  
06/28/12, 01/21/20**

**Division: Administration and Finance, Student Affairs**

A. The purpose of this procedure is to specify the appropriate process for students, employees, applicants for admission or employment or third parties alleging discrimination or harassment based on race, ethnicity, color, national origin, age, religion, disability, marital status, sex/gender, genetic information, sexual orientation, gender identity, pregnancy, veteran status and any other factor protected under applicable federal, state, and local civil rights laws, rules and regulations (collectively referred to as "Protected Status"). The procedure specifies the process for students, employees, applicants for admissions or employment or third parties alleging sexual assault, sexual exploitation, stalking, and interpersonal violence.

**Employee:** This procedure does not apply to employee performance appraisals, unless it is alleged that the appraisal is based on factors other than the employee's performance.

**Student:** This procedure does not apply to complaints related to matters such as academic problems, academic grades, mistreatment by any College employee that is not related to discrimination, wrongful fee assessment, financial aid concerns, records and registration errors, and student employment of a general nature.

**DEFINITIONS**

*Discrimination:* Prejudicial treatment on the basis of a Protected Status.

*Employee:* Throughout this procedure the term "employee" includes current employees and applicants for employment.

*Student:* Throughout this procedure, the term "student" includes current students and applicants for admission.

*Complaint:* The dissatisfaction that occurs when an employee believes that any condition of employment is unjust or inequitable based on discrimination or harassment or when a student believes that any condition of his or her educational experience is unjust or inequitable based on discrimination or harassment.

*Complainant:* An individual or group of individuals who file a complaint against another individual or group of individuals.

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*Harassment:* Consists of verbal or physical conduct on the basis of a Protected Status that: (1) is intended to or is reasonably likely to embarrass, distress, agitate, disturb or trouble the person or designated group to whom it is directed or to create an intimidating, hostile or offensive educational or work environment; (2) has the purpose or effect of unreasonably interfering with the individual's work or school performance or participation; or (3) otherwise adversely affects an individual's employment or educational opportunities.

Harassment, as defined above, may include, but is not limited to, repeated remarks of a demeaning nature, implied or explicit threats, slurs, innuendoes or gestures, demeaning jokes, stories, pictures, objects or activities directed at recipient which reflect upon the recipient's Protected Status.

*Sexual Harassment:* A form of discrimination which is against the law and is against Board policy. The College will not tolerate sexual harassment activities by any of its students or employees. Sexual harassment is behavior based on sex which falls under one of the following categories:

- a. Harassment which culminates in a tangible employment or academic action such as discharge, demotion, undesirable reassignment, or lowered grading; or
- b. Harassment in which no adverse tangible employment or academic action is taken but which is sufficient to constructively alter an employee's working conditions or student's educational experience.

*Respondent:* An individual or group of individuals against whom a complaint is filed.

### **GENERAL INFORMATION**

#### **Retaliation**

It is a violation of College policy to retaliate or take reprisal against any person who has filed a complaint or who has complained about discrimination, harassment or sexual harassment based on the fact that the employee raised an issue about discrimination, harassment or sexual harassment to his or her supervisor, or any supervisor or manager of the College, to any Dean, Vice President, or administrator, to any other person, entity, or human rights agency.

#### **False or Malicious Complaints**

Any employee or student found to have acted dishonestly or maliciously in filing a complaint, or in their actions or witness statements during an official investigation, shall also become subject to possible disciplinary action.

#### **Procedures**

The College will thoroughly investigate and resolve all appropriate complaints.

The privacy of both the complainant and the respondent will be respected, consistent with the College's legal obligations under state and federal laws and with the necessity to investigate allegations of misconduct and take corrective action when this has occurred.

**Employee:** During the investigation, the College reserves the right to reassign an employee or place an employee on paid leave.

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**Student:** During an investigation, the College reserves the right to reassign a student in accordance with the Student Code of Conduct.

The Equity Officer is responsible for investigation of all employee and student complaints.

**Employee:** All communications, documents, and records, paper or electronic, pertinent to an employee complaint process shall be kept in files separate from human resource records.

**Student:** All communications, documents, and records, paper or electronic, pertinent to a student complaint process shall be kept in files separate from student academic records.

### **FILING A COMPLAINT**

In the event that an employee or student believes that he/she has been the subject of discrimination, harassment or sexual harassment and cannot resolve the issue with the alleged party, that individual shall report his/her complaint to the College Equity Officer within sixty (60) working days of the alleged incident. Information on contacting the College Equity Officer is available on the College website, in the employee handbook and in the student handbook.

**Employee:** In the event that the alleged party is the Equity Officer, the employee should report his/her complaint to the Vice President responsible for his/her department.

**Student:** In the event that the alleged party is the Equity Officer, the student should report his/her complaint to the Vice President for Student Affairs. Contact information for the Vice President for Student Affairs is available on the College website, and the student handbook.

Any administrator or faculty who is informed of a complaint must refer the employee to the Equity Officer immediately. The Equity Officer will describe the complaint process to the complainant and review information relative to the complaint. If a complainant cannot state a sufficient basis in fact or law to support a discrimination, harassment or sexual harassment claim, the Equity Officer shall assist the complainant with selecting a more appropriate internal means of resolving the specific complaint.

Any administrator or faculty who has knowledge of a complaint must refer the complainant to the College Equity Officer immediately. The College has an obligation under law to investigate all reports of discrimination, harassment and/or sexual harassment, whether or not a complaint has been filed by the the victim.

### **INVESTIGATION**

**Informal:** The Equity Officer will attempt to resolve the allegation informally by meeting with both parties, either individually or together. The informal resolution process is an attempt to resolve complaints quickly and to the satisfaction of all parties, while protecting confidentiality to the extent authorized by law. The aim of the informal dispute resolution is not to determine whether there was intent to, or actual discrimination, harassment and/or sexual harassment, but to ensure that the alleged discriminatory and/or, harassing conduct ceases and the matter is resolved promptly at the lowest possible level. Both parties must agree to an informal resolution process. The Equity Officer will complete the informal investigation within thirty (30) working days.

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If the complaint is resolved by mutual agreement of the parties, the matter will be considered settled. The Equity Officer will file a written report outlining the result of the informal complaint to both parties and the President within fifteen (15) working days of final resolution of the informal complaint.

**Formal:** If the complaint cannot be resolved informally, the complainant shall file a formal, written complaint with the Equity Officer.

All complaints should be in writing. The College of Central Florida Complaint Form is available to assist with filing of formal complaints. The form may be obtained from the Equity Officer or from the College website at [http://www.cf.edu/about/equal\\_access.htm](http://www.cf.edu/about/equal_access.htm). Written complaints may also be submitted in the form of a letter or memo. The complaint should include the following:

1. Complainant's name and signature.
2. Description of the act or acts complained of.
3. Identity of the person or persons involved in the complaint (the "respondents").
4. Date(s) on which alleged acts occurred.
5. Names and contact information of potential witnesses.
6. Effect the alleged acts have had on the complainant.
7. Complainant's desired resolution.
8. Any other information the complainant believes is relevant.

Written complaints must be filed within ten (10) working days after receipt of the informal report. Upon receipt of the written complaint, the following will occur:

1. The Equity Officer will review the formal complaint process with the complainant and provide a copy of the applicable College policy and procedure.
2. The Equity Officer will notify the President and the appropriate department administrator of the formal complaint.
3. The Equity Officer will conduct a prompt and thorough investigation by reviewing documents and interviewing witnesses.
  - a. Any persons thought to have information or evidence relevant to the complaint shall be interviewed and such interviews shall be appropriately documented.
  - b. If determined necessary, an appropriate level senior administrator will conduct interviews jointly with the Equity Officer.
  - c. While interviewing witnesses, the Equity Officer will not disclose information gathered from witness interviews to anyone other than the complainant and respondent. Both the complainant and the respondent have the right to know the statements made and the identification of persons making statements.
  - d. The Equity Officer may remind a reluctant witness that it is his or her duty to cooperate with the investigation.

- e. The Equity Officer may secure any information that was given during the informal process.
  - f. Other acceptable methods for gathering information include, but are not limited to, visual inspection of offensive materials and follow-up interviews as necessary.
  - g. In determining whether the alleged conduct constitutes discrimination, harassment and/or sexual harassment, the totality of the circumstances, the nature of the conduct, frequencies, and the context in which the alleged conduct occurred will be investigated.
4. The Equity Officer will provide a copy of the written complaint to the respondent.
  5. The Equity Officer will file a written report with the appropriate Vice President and the President within thirty (30) working days after the formal complaint has been filed. The report shall include (1) an outline of the basis of the complaint (2) the names of the persons involved, (3) a description of the facts of the case that were in dispute, (4) a description of the findings of the investigation and (5) the final resolution of the investigation.
  6. The Equity Officer will meet individually with the complainant and respondent to discuss the findings and provide a written summary of the overall findings. The College will take appropriate action to ensure nondiscrimination.

### **Appeal/Final Resolution of Complaint**

#### **Right to Appeal**

Both the complainant and the respondent have the right to appeal the Equity Officer's findings. The appealing party may petition the President for review of a decision by the Equity Officer within five (5) working days of the date of the decision. The written petition shall state the facts of the case, a summary of the findings of the Equity Officer and the appealing party's reason for petitioning the President for review. The President's action will be limited to review of the basis for the Equity Officer's disposition and will not necessarily involve a new factual investigation. Notwithstanding the above, the President may, but is not required to, direct that further facts be gathered, direct a group (no more than three) to review the facts and make a recommendation to the President, or direct that additional remedial action be taken.

The President will act on the matter by letter, memo, or directive with notification to the complainant, the respondent and other appropriate persons within fifteen (15) working days of the receipt of the petition of appeal. The decision of the President shall be final.

#### **Decline to Appeal**

In cases where no appeal is filed within five (5) working days of receipt of the summary report and findings of the formal investigation, the determination of the Equity Officer will be final.

#### **Withdrawal of Complaints**

Once filed, the College has an obligation to investigate complaints raising claims of discrimination, harassment or sexual harassment. However, in appropriate circumstances, and at the discretion and judgment of the President, the College may agree upon a written and

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signed request to do so by the complainant, to withdraw a complaint. Both the complainant and the respondent will be notified of the withdrawal.

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Vice President, Administration and Finance

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Date

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Vice President, Student Affairs

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Date

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Approved by President

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Date