

FLORIDA GATEWAY COLLEGE

POLICY

TITLE: Discrimination and Harassment

NUMBER: 6Hx12:06-23

AUTHORITY: District Board of Trustees

PAGE: 1 of 2

RESPONSIBILITY: Executive Director, Human Resources

OTHER: State Board of Education Rule
6A-14.0261; 6A-19.008
Florida Statutes 1001.02; 1001.03; 1001.44; 1001.65; 1001.726

DATE: See History Below

It is the policy of the District Board of Trustees that employees of the College, independent contractors performing services for the College, employees of vendors to the College, and students are to be able to perform their duties, render services, vend services and products, and/or pursue their educational goals, free from all forms of unlawful harassment or misconduct. Unlawful discrimination and harassment is based on such factors as race, color, ethnicity, national origin, gender, religion, disability status, age, marital status, genetic information, or any other legally protected status in accordance with the law. The College will not tolerate discrimination or harassment of its employees or students by employees, students, non-employees or non-students. Should incidents of discrimination or harassment occur, the College will take steps and measures, as set forth in this policy and in the applicable statement of procedures, to address and/or remedy such behavior.

This policy will be enforced consistent with procedures set forth in the Florida Gateway College Policy and Procedures Manual. Individuals found to have violated this policy will be subject to disciplinary action which, in the case of College employees, may take the form of dismissal or of a lesser penalty. In the case of students, sanctions may be imposed up to and including dismissal or expulsion, as permitted by applicable law. In the case of employees of others, the College may take such steps as are available to it and legally permissible, including the termination of business relationships or the making of requests to the offender's employer for appropriate action.

It is, however, the Board's policy, of equal dignity with its commitment against discrimination and harassment, to protect those who may be falsely or frivolously accused, by providing safeguards, and by addressing the problem of accusations themselves made in bad faith, frivolously or without reasonable grounds. College employees or students found to be in violation of this aspect of this policy will be subject to the same sanctions or penalties as those found to be guilty of discrimination or harassment.

The provisions of this policy may overlap with those of Board Policy No. 6Hx12:6-45, and these policies are not intended to be mutually exclusive. A given matter may be pursued under either policy, or under both. Neither is either policy intended to limit the Board or Administration in addressing any incident of sexual misconduct by taking such steps as may be necessary in the opinion of those concerned, to discharge applicable obligations. Under this policy, it will be appropriate for the college administration to take action against employees or students, where permitted by law, on account of conduct or behavior taking place off campus.

FLORIDA GATEWAY COLLEGE

PROCEDURE

TITLE: Discrimination and Harassment

PAGE: 1 of 4

AUTHORITY: District Board of Trustees

DATE: See History Below

RESPONSIBILITY: Executive Director, Human Resources

NUMBER OF BOARD RELATED POLICY: 6Hx12:6-23

In compliance with Board policy 6Hx12:6-23 the following procedures should be utilized for addressing a discrimination or harassment complaint:

1. For the purposes of this Procedure, unlawful discrimination refers to unfair or unequal treatment of an individual (or group) based on such factors as race, color, ethnicity, national origin, gender, religion, disability status, age, marital status, genetic information, or any other legally protected status in accordance with the law. Harassment includes, but is not limited to, written, verbal, physical, and visual conduct that creates an intimidating, offensive, or hostile working or educational environment or that interferes with work performance or educational opportunities. Some examples include racial slurs, ethnic jokes, posting of offensive statements, posters, or cartoons or other similar conduct. Sexual harassment includes solicitation of sexual favors, unwelcome sexual advances, or other verbal, visual or physical conduct of a sexual nature. Also, see Policy 6Hx12:6-45, SEXUAL MISCONDUCT.
2. Any complaint concerning an incident of discrimination or harassment should be reported immediately, but not later than 60 days of the incident. Complaints by employees concerning an incident of discrimination or harassment should be reported to the Executive Director of Human Resources at 386-754-4313 or directly to the employee's applicable College Vice President. Students reporting a complaint of discrimination or harassment should file their complaint with the Executive Director of Human Resources or, in the alternative, with the Vice President of Student Services. Employees or students are not required to file with a designated person if that person is alleged to be discriminating or harassing the employee or student. Complaints by applicants for employment, applicants for admission to college programs, participants in college-sponsored activities, and other persons affiliated with the College should be reported to the Executive Director of Human Resources.

3. Upon the filing of a complaint of discrimination or harassment by an employee or student, the Executive Director of Human Resources or the designated Vice President of the College will immediately investigate such complaint in a confidential manner. Further, upon the filing of a complaint, the Executive Director of Human Resources or the applicable Vice President will notify the Risk Management Consortium of such complaint and will, thereafter, advise the Consortium of developments pertaining to such complaint.
4. An investigation of a complaint pursuant to this policy will include an interview of both the victim and the accused and any witnesses identified by either party. When investigating a complaint, the College will endeavor to protect the confidentiality of all parties and will advise all individuals involved in the investigation that the College will not retaliate in any way against any individual who has brought a charge of harassment or who has cooperated in the investigation for doing so in good faith. Complainants, respondents and witnesses who participate in this process are bound by confidentiality. The investigation will be completed within 10 workdays from receipt.
5. At the conclusion of the investigation, the Executive Director of Human Resources and/or the designated Vice President will submit an official report to the College President within 15 work days for Board notification and to the College attorney and may request the attorney's advice as to the College's options and obligations.
6. The alleged victim and the accused will be kept apprised of the status of the investigation and shall be notified as to the conclusion(s) based on the investigation and of any action to be taken.
7. An employee of the Board or student found to have engaged in discrimination or harassment, after completion of the investigation, will be subject to immediate and appropriate disciplinary action, up to and including termination/suspension or expulsion. An employee or student who in bad faith has made a false accusation of discrimination or harassment shall be subject to disciplinary action, up to and including termination/suspension or expulsion.
8. Any College employee or student accused of discrimination or harassment, or who is the subject of a report or complaint which the administrators investigating the matter believe may result in a charge of discrimination or harassment shall be provided the following rights:

- (a) to be informed, during the investigation and prior to being interviewed or questioned in the course of it, of the nature of the allegations made, and of the identity of the person or persons complaining or reporting the matter, unless the person(s) complaining or reporting is (are) a student or students and has (have) requested anonymity, or at the discretion of the administration in other cases, in which event the nature of the allegations but not their name or names will be given.
 - (b) to be represented by counsel if requested, with the person accused to bear the cost of same.
 - (c) to be provided a reasonable opportunity to make a statement, or produce witnesses, or to produce other evidence, in denial or contravention of the allegations, before any action is taken on them.
 - (d) to be advised, in the event of any administrative decision to take or seek adverse action in the matter, of any rights the individual may have under Sec. 120.57, Florida Statutes, or to be advised of that Section without the administration expressing any opinion as to whether it grants rights or as to what rights it grants, if any.
 - (e) in the event any administrative determination that the individual has been guilty of discrimination or harassment is made, to be advised, without so stating, that the individual may have a right to request a liberty interest, or name-clearing, hearing, and that he or she may wish to consult an attorney as to that.
 - (f) to be accompanied by a fellow employee during any interview.
 - (g) to be advised of any administrative determination eventually made.
9. Nothing herein, or in the policy implemented, shall operate to create a property interest in his or her job in any College employee who would not otherwise have such an interest. Nothing herein shall operate to require the Board or administration to have cause or just cause or any cause for the recommending or taking of any disciplinary action or for dismissing any employee, if such a requirement would not otherwise exist. Nothing herein shall operate to require the Board or administration to give any annual contract instructional employee, or any other employee, a reason

for discontinuing the employment relationship or for not renewing an annual contract of employment, if such requirements would not otherwise exist. Nothing herein shall operate to change any at-will employment relationship to any other kind of relationship. If anything in this statement of policy would operate to create a property interest which would not otherwise exist, or a "for cause" requirement for discipline or dismissal when such would not otherwise exist, or a requirement to give a reason for discontinuance of employment or non-renewal which would otherwise not exist, or to change any at-will employment relationship, then this policy shall stand amended ab initio to eliminate the part or provision which would have that effect, as if such part of provision had itself never come into being.

History: Adopted: 3/9/93; Effective: 3/9/93; Revised: 11/4/97; 3/14/00; 3/5/03, 5/19/03; 02/28/11; 12/17/12