

<p><b>TITLE</b></p>	<p>Harassment, Sexual Harassment, Discrimination, and Retaliation</p>	<p><b>NUMBER</b> 6Hx-18-5.86</p>
<p><b>LEGAL AUTHORITY</b></p>	<p>1001.64 FS, 1001.65 FS, The Americans with Disabilities Act of 2008 (ADAA), Genetic Information Non-Discrimination Act of 2008, Title VII of the 1964 Civil Rights Act for employees as amended by the Equal Employment Opportunity Act of 1973, Title IX of the Education Amendments of 1972 for students, 760.10 FS</p>	<p><b>PAGE</b> 1 of 5</p>
<p><b>DATE ADOPTED/AMENDED</b></p>	<p>Adopted 5/9/2000; Amended 06/19/2001, 03/12/2002, 05/12/2009, 03/13/2012, 1/16/2018.</p>	<p>Amendments to this policy supersedes all policies.</p>

**I. Policy Statement**

Palm Beach State College is committed to an academic and working environment free from harassment, sexual harassment, discrimination, and retaliation. Harassment, sexual harassment, discrimination, or retaliation, threatens the legitimate expectation of all members of the College community that the campus environment will be conducive to work or study. Preventing harassment, sexual harassment, discrimination, and retaliation is the responsibility of the entire College. It is contrary to the College policy for any individual to engage in retaliatory action against a person who files a harassment, sexual harassment, and/or discrimination complaint. Accordingly, Palm Beach State College encourages all employees and students who believe they are being subjected to harassment, sexual harassment, discrimination, or retaliation to follow the outlined complaint procedures. The College will take prompt disciplinary action against individuals, including third parties, at any locations who engage in actions that violate this policy. The college will comply with all said laws in the legal authority section of this policy, investigation, review and disposition of matters involving students to include compliance with Title IX.

**II. Scope of Policy**

This policy applies to all employees, students, applicants for employment, applicants for student admission, volunteers, contractors, and visitors. Student matters will be resolved in compliance with the law and the Student Code of Conduct.

**III. Definitions**

Harassment is defined as any unwelcome conduct or request for favors verbal or physical conduct or any action based on an individual's race, color, creed, ethnicity, national origin, gender, sexual orientation, age, religion, marital status, veteran status, disability, genetic information, or pregnancy status that adversely affects an individual's educational or employment opportunities.

Harassment 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 an individual based on any of the above categories or groups.

Sexual harassment is defined to be any unwelcome conduct of a sexual nature. It includes sexual advances, requests for sexual favors, or other verbal, non-verbal, or physical conduct of a sexual nature. This includes, but not limited to:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's status in a course, program, or activity;
2. Submission to, or rejection of such conduct by an employee is used as a basis for employment decisions affecting the individual. In the case of a student, it is used as a basis for academic or other decisions affecting a student; or,
3. Such conduct has the purpose or effect of unreasonably interfering with the individual's employment (or the student's educational experience) by creating an intimidating, hostile, or offensive environment.

Sexual harassment may occur within any relationship. It may occur between supervisor and employee or instructor and student; it may be directed by students towards a student, faculty or staff. It may occur among peers. It may occur where no relationship exists between the parties other than being co-employees or co-students. Sexual harassment may occur between persons of the same or different genders.

Discrimination is defined as treating any member of the College community different from the way others are treated based on race, color, creed, ethnicity, national origin, gender, sexual orientation, age, religion, marital status, veteran status, disability genetic information, or pregnancy status without lawful justification.

Retaliation is defined as unlawful adverse or negative action taken against the person who makes or supports a complaint of harassment or discrimination.

#### **IV. Examples of Prohibited Conduct**

Examples of prohibited conduct related to sexual harassment, as defined above, may include, but are not limited to, the following:

1. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades or letters of recommendation;

2. Unwelcome physical contact, including unnecessary touching, patting, hugging or brushing against a person's body;
3. Unwanted flirtations or advances of a sexual nature;
4. Inappropriate or unwelcome sexual remarks about a person's clothing, body or sexual relations;
5. The display in the workplace or classroom of sexually suggestive objects, pictures, posters or cartoons which are without defensible educational purpose;
6. Inappropriate or unwelcome conversation of a sexual nature or similar jokes and stories; and
7. Sexual assault.

Examples of harassment, as defined above, other than sexual harassment, may include, but are not limited to the following:

1. A disparity of treatment in the recruitment and hiring process.
2. A disparity of treatment to an individual or group, in the reassignment, termination, layoff, recall, leave of absence, salary, and other economic benefits that result in a significant change in employment status.

**V. Reporting and Complaint Procedures for Sexual Harassment or any other types of Harassment, Discrimination or Retaliation**

If an employee or a student feels that he/she has been the subject of sexual harassment or any other type of harassment, discrimination and retaliation, the employee or the student must report the incident within 60 days to the Executive Director of Human Resources or Assistant to the President for Equity Programs. If a faculty or staff member is informed by a student of a situation involving a student(s) and employee of the College that could possibly be considered sexual harassment or any other type of harassment, discrimination and retaliation, the employee has a duty to inform the Executive Director of Human Resources or the Assistant to the President for Equity Programs, who will take prompt action to investigate the complaint. In no case will a complainant be required to personally report such behavior to the person accused of the misconduct.

Sexual harassment or any other types of harassment or discrimination involving only students shall be investigated by the Campus Dean of Students or designee. The procedures for student on student complaints are listed in the Student Handbook.

When a supervisor or faculty member receives a complaint of this nature, he/she shall immediately advise the complainant to notify the Executive Director of Human Resources or Assistant to the President for Equity Programs. The supervisor or faculty member shall also notify the Executive Director of Human Resources or Assistant to the President for

Equity Programs of the complaint. Failure to notify the Executive Director of Human Resources or the Assistant to the President for Equity Programs of suspected sexual harassment or any other type of harassment or discrimination is a violation of this policy.

**VI. Complaint Investigation:**

1. In order to initiate the investigation process, the complainant may provide written details of the conduct that is the subject of the complaint on the official harassment, discrimination or retaliation complaint form or relay the information to the Executive Director of Human Resources or Assistant to the President of Equity Programs who will reduce the information to writing which must be reviewed and signed by the complainant. The complainant shall complete the [Harassment, Sexual Harassment, Discrimination, and Retaliation Complaint Form](#). Complaints will be investigated by the Executive Director of Human Resources, the Assistant to the President for Equity Programs or designee. To the extent possible, complaints will remain confidential and information about them will be provided only to those persons who need to know in order to achieve a timely resolution of the complaint. Similarly, both the complainant and accused party shall be treated respectfully and with sensitivity at all times. Complaints involving only students shall be investigated by the Vice President of Student Services or designee.
2. The Executive Director of Human Resources, Assistant to the President for Equity Programs or designee will interview the accused employee regarding the nature of the complaint and will provide the accused employee with a copy of the complainant's written complaint within 15 working days. If so desired, the accused employee may have five (5) working days to respond in writing to the complaint.
3. Any persons reasonably thought to have significant information relevant to the complaint shall be interviewed and such interviews shall be appropriately documented. It is expected that employees would cooperate in providing requested information and refusal to do so will result in termination of employment. Other acceptable methods for gathering information include, but are not limited to, visual inspection of offensive materials and follow-up interviews as necessary.
4. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. Investigations exceeding 30 days shall be reviewed by the Executive Director of Human Resources or the Assistant to the President for Equity Programs, and justification for the delay will be documented.
5. Upon completion of the investigation, the Executive Director of Human Resources or the Assistant to the President for Equity Programs or designee will prepare a written report of the investigation. The report shall include: a summary of the findings, a recommendation as to whether disciplinary action should or should not be pursued against the accused individual; a proposed disciplinary penalty, and the basis for the recommended action. a summary of the complaint; the findings of the investigation; a determination as to whether a violation of College policy was found; and a recommendation of disposition.

6. If either the complainant or the accused party disagrees with the determination, an appeal may be made to the College President within 15 working days of receipt of the written report. The College President shall review all such appeals and has discretion to further investigate the matter. The President shall issue a decision within 30 days of receiving the request. The determination of the College President shall be the final step of the internal review procedure. Any discipline administered for full-time faculty shall be subject to the grievance and arbitration procedures as outlined in the faculty union contract.

**VII. Confidentiality**

Confidentiality shall be maintained to the greatest extent possible within the law and the requirements for conducting appropriate investigations.

**VIII. Retaliation**

Retaliation against individuals who have filed a charge or participated in an investigation or opposed any unlawful practice is prohibited and will subject the person who retaliates to disciplinary action, up to and including termination of employment.

**IX. False or Malicious Complaints**

Complainants found to have been dishonest in making the allegations or to have made them maliciously are subject to disciplinary action, up to and including termination of employment.

**X. Prevention:**

Palm Beach State College further recognizes that prevention is the best tool for the elimination of sexual harassment and any types of harassment or discrimination. Therefore, the College will take necessary steps to prevent and eliminate all forms of harassment or discrimination including, but not limited to:

1. Publishing this policy for present, or future employees, and students.
2. Ensuring that training on the prevention of harassment or discrimination is established and offered to College employees.
3. Publishing harassment or discrimination materials where appropriate.
4. Including an explanation of the College's harassment policy including sexual harassment during student and employee orientation.