

<p>TITLE</p>	<p>Harassment, Sexual Harassment, Discrimination, Retaliation Policy and Complaint Procedure</p>	<p>NUMBER 6Hx-18-5.86</p>
<p>LEGAL AUTHORITY</p>	<p>1001.64 FS, Title VII of the Civil Rights Act of 1964; Chapter 760 of the Florida Civil Rights Act; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794; and its implementing regulation at 34 C.F.R. Part 104; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 <i>et seq.</i>, and its implementing regulation at 28 C.F.R. Part 35; The Americans with Disabilities Act of 2008 (ADAA), Genetic Information Non-Discrimination Act of 2008,</p>	<p>PAGE 1 of 5</p>
<p>DATE ADOPTED/AMENDED</p>	<p>Adopted 5/9/2000; Amended 06/19/2001, 03/12/2002, 05/12/2009, 03/13/2012, 1/16/2018, 10/08/2019.</p>	<p>Amendments to this policy supersedes all policies.</p>

I. Policy Statement

This policy has been established to prevent all forms of Discrimination and Harassment based on an individual’s protected status, including race, color, creed, ethnicity, national origin, gender, sexual orientation, age, religion, marital status, veteran status, disability, genetic information, or pregnancy status in any of its employment, or educational programs or activities.

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 by an employee or third party to follow the outlined complaint procedures. Students who believe they have been subjected to harassment, sexual harassment, discrimination or retaliation by another student should consult the Student Code of Conduct/Student Handbook. 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 federal, state and local laws.

II. Scope of Policy

This policy and associated procedures apply to conduct and protection of all employees, students, applicants for employment, applicants for student admission, volunteers, interns, and visitors. The non-discrimination provisions also apply to contractors and other third parties under circumstances within the College's control.

All members of the College community are responsible for conducting themselves in accordance with this Policy and other College policies and procedures. College' students and employees who violate this Policy may face discipline up to and including expulsion or termination.

The complaint procedures as outlined in this Policy (6Hx-18-5.86) are applicable to complaints of sexual harassment as well as any other form of harassment or discrimination, including disability-related discrimination complaints. However, students are encouraged to first follow the student complaint procedure outlined under Procedure Number 5.86P. If the student does not obtain a satisfactory resolution, the student should follow the complaint procedure outlined in this Policy for complaints of discrimination or harassment.

If a student believes that he or she has been subjected to discrimination during the process for admission to the College, the student may file a written complaint to the District College Registrar.

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.

Disability discrimination is defined as a qualified individual with a disability being either excluded from participation in or denied the benefits of the College's services, programs, or activities, or otherwise being discriminated against by the College and that the exclusion, denial of benefit, or discrimination was by reason of his or her disability.

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

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

If an employee, applicant for admission or employment or other participant in the College's programs or activities feel they have been the subject of sexual harassment or any other type of harassment, discrimination or retaliation, they must report the incident within a reasonable time frame to the Executive Director of Human Resources or Assistant Director of Human Resources & Equity Officer/ADA and 504 Coordinator ("Equity Officer") or Title IX Coordinator unless the law dictates otherwise.

If a student feels they have been the subject of sexual harassment or any other type of harassment, discrimination, including disability-related discrimination, or retaliation, the student should follow the procedures outlined under the Student Handbook/Code of Conduct. Students have the right to escalate their complaint to a formal process at any time through formal complaint Procedure 5.86P.

If a faculty or staff member is informed by a student of a situation involving a student(s) and an 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 Director of Human Resources & Equity Officer /ADA and 504 Coordinator 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.

When a supervisor or faculty member receives a complaint of this nature, they shall immediately advise the complainant to notify the Executive Director of Human Resources or Assistant Director of Human Resources & Equity Officer/ADA and 504 Coordinator. A supervisor or faculty member's failure to notify the Executive Director of Human Resources, the Assistant Director of Human Resources & Equity Officer/ADA and 504 Coordinator or the Title IX Coordinator of suspected sexual harassment or any other type of harassment or discrimination is a violation of this policy.

V. Complaint Investigation Procedures:

1. In order to initiate a formal 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 Director of Human Resources & Equity Officer/ADA and 504 Coordinator, who will reduce the information to writing which must be reviewed and signed by the complainant. Complaints will be investigated by the Executive Director of Human Resources, the Assistant Director of Human Resources & Equity Officer/ADA and 504 Coordinator, Title IX Coordinator or appropriate designee when appropriate. 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.
2. The Executive Director of Human Resources, Assistant Director of Human Resources & Equity Officer/ADA and 504 Coordinator, Title IX Coordinator or appropriate designee will interview the accused 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. It is the responsibility of the College, not of the parties, to gather relevant information, to the extent reasonably possible. The Executive Director of Human Resources, Assistant Director of Human Resources & Equity Officer/ADA and 504 Coordinator, Title IX Coordinator or an appropriate designee (“investigator”) will conduct the investigation in a manner appropriate in light of the circumstances of the case. The investigator will coordinate the gathering of information from the complainant and the accused and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. The complainant and the accused will have an equal opportunity to be heard, to submit evidence/ information, and to identify witnesses who may have relevant information for the investigator to consider. Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual’s character. All investigations shall be impartial and conducted in an adequate and reliable manner.
4. 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.
5. The College will make every effort to conclude its investigation into the complaint within a reasonable time frame. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of reasonable time frames for good cause. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening College break or planned leave (vacation/sick/personal) of involved parties, or other unforeseen circumstances, and justification for the delay will be documented and communicated to the respective parties.
6. Upon completion of the investigation, the investigator will prepare a written report of the investigation. The report shall include: a summary of the complaint; the findings of the investigation; a determination as to whether a violation of College policy was found, and the report will be provided to all parties.

7. 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. Students who believe they have been subjected to harassment, sexual harassment, discrimination or retaliation by another student should consult the Student Code of Conduct/Student Handbook.

VI. Confidentiality

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

VII. 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.

VIII. 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. Students may be subject to suspension or dismissal from the College.

IX. 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 and students.
3. Publishing harassment or discrimination materials where appropriate.

X. Resource and Website Information:

The following provides additional recommendations and/or information for College employees and students, including those with disabilities

1. Employees who wish to file complaints external to the College may contact the Equal Employment Opportunity Commission (EEOC) at www.eeoc.gov.
2. Students who wish to file complaints external to the College may contact the U.S. Department of Education, Office for Civil Rights at

www.ed.gov/ocr/complaintintro.html.

3. See www.disability.gov for federal laws, regulations, and guidelines.
4. See <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=6a-10> for State Rules, 6A-10.040, and 6A-10.041.