

Palm Beach State College Procedure

TITLE	Harassment, Sexual Harassment, Discrimination and Retaliation Grievance Process	NUMBER 5.86P-1
LEGAL AUTHORITY	Title VI, VIII, Civil Rights Act of 1964; Civil Rights Act of 1991; Section 504, 1973 Rehabilitation Act; Americans with Disabilities Act (ADA) of 1990; Americans with Disabilities Act Amendments Act (ADAAA) 2008; Genetic Information Non-Discrimination Act (GINA); Sections 1000.05 & 1001.64, Florida Statutes; Florida Administrative Code Rule 6A-19.008; the Whistleblower Protection Enhancement Act of 2012; The Whistleblower’s Act, Sections 112.3187-31895, Florida Statutes.	PAGE 1 of 7
BASED ON POLICY	6Hx18-5.86 Harassment, Sexual Harassment, Discrimination, Retaliation Policy and Complaint Procedure	
EFFECTIVE DATE	10/08/19	

I. PURPOSE

To provide a grievance procedure for students, employees, or applicants for admission or employment alleging discrimination or harassment based upon race, color, creed, ethnicity, national origin, gender, sexual orientation, age, religion, marital status, veteran status, disability, genetic information, or pregnancy status.

For Title IX Complaints, see the procedure in [5.86P-2](#).

The College’s Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator (“Equity Officer”) will serve as the College’s primary resource on all matters relating to discrimination, harassment and retaliation. Depending on the parties involved and the nature of the complaint, the College may assign other College personnel as describe below to address a complaint as appropriate.

II. DEFINITIONS

1. Discrimination

Treatment of 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.

2. Disability Discrimination

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.

3. Harassment

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 impacts either a condition of work or learning or creates a hostile environment.

Harassment may include, but is not limited to, repeated remarks of a demeaning nature, implied or explicit threats, slurs, innuendoes or gestures, jokes, stories, pictures, objects or activities directed at an individual based on any of the above categories or groups.

A. Quid Pro Quo Harassment consists of unwelcome conduct when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, employment decisions, or academic advancement; or
- Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting such individual in matters of employment, employment decisions, or academic advancement.

B. Hostile Environment Harassment consists of unwelcome conduct when:

- Such conduct has the effect of unreasonably interfering with an individual's work or academic experience; or
- Such conduct has the effect of creating an intimidating, hostile or offensive work or learning environment.

4. Sexual Harassment

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:

- 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;
- 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;

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

5. Retaliation

Unlawful adverse or negative action taken against the person who makes or supports a complaint of harassment or discrimination.

III. PROCEDURE

Any Palm Beach State College employee, student, applicant for admission or employment or other participant in the College's programs or activities who believes they have been unlawfully harassed or discriminated against on the basis of sex, race, color, marital status, age, religion, national origin, ethnicity, disability, veteran's status, sexual orientation, pregnancy or genetic information is urged to communicate that information to an appropriate College official, as more fully described below. **ALL COLLEGE EMPLOYEES ARE EXPECTED TO REPORT ANY HARASSMENT OR DISCRIMINATION THAT THEY OBSERVE, HAVE HEARD ABOUT, OR BELIEVE MAY BE OCCURRING.**

1. All complaints are encouraged to be submitted in writing using the College's Complaint Form, which may be obtained from the Office of Human Resources, or from the College's website (<https://www.palmbeachstate.edu/student-life/panthers-voice/>). Complaints submitted in any other form (i.e. verbal) will be reduced to writing by the pertinent College personnel and provided to the Complainant for signature. Complainants are encouraged to file complaints as soon as possible following the incident because the passage of time may affect the College's ability to investigate the incident. The Complainant has the right to file a formal charge of discrimination with a state or federal agency authorized by law to receive such claims.
2. The Complaint should include the Complainant's name and signature; describe the act or acts and how the act or acts were discriminatory or harassing in nature; identify the person or persons purportedly responsible (the "Accused/Respondent"); indicate the date(s) or approximate date(s) on which the act or acts occurred; and the names and contact information of potential witnesses. The complaint should also include the effect the alleged act or acts have had on the complainant; complainant's desired resolution; and any

other information the complainant believes is relevant.

3. Initial Contact

A. Student Complaints

If the matter involves a student, whether as a complainant or a respondent, the Office of the Dean of Students of each campus or a designee of his or her professional staff (“collectively referred to in this procedure as the “Dean’s Office”) shall be the initial point of contact.

If the matter involves a disability-related issue the Student Development Director, or the Center for Student Accessibility should be the first point of contact. The previously mentioned College offices must provide assistance and support, respond to inquiries and provide general information regarding discrimination issues.

Students should also refer to the Student Handbook/Code of Conduct for student on student issues or complaints. Students may also direct their concerns to Kathleen Karran-McCoy, Dean of Student Development & Ombudsman at (561) 868-3371 or karran-k@palmbeachstate.edu.

If an applicant for admission to the College believes that he or she has been subjected to discrimination during the admission process the applicant should contact the Office of Campus Registrar.

B. Employee or Applicant for Employment

If the matter involves the complaint of an employee or an applicant for employment, the College’s Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator shall be the initial point of contact. The initial point of contact will provide assistance, respond to inquiries and provide general information. Additionally, they will describe the discrimination complaint process to the Complainant, review information relative to the complaint, and schedule any meetings or hearings requested or required by this procedure.

If a complainant cannot state a sufficient basis in fact or law to support a discrimination or harassment claim, the College’s Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator shall attempt to assist the Complainant with selecting a more appropriate internal means of resolving the specific complaint.

C. Alternate Points of Contact

Employees, students or applicants have the right to advise any College official (Dean, Faculty member, Chairperson, etc.) of a complaint of discrimination or harassment. The College official who is advised of a complaint or potential complaint must refer students to the Office of the Dean of Students or must refer employees and applicants to the College’s Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator.

4. Informal Resolution of Complaint

Complainants are initially encouraged to attempt to resolve complaints by informal resolution. 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 College’s Assistant Director of Human Resources, & Equity

Officer/ADA or 504 Coordinator will be available to aid the employment unit or academic department in order to resolve the complaint. If the complaint cannot be resolved through the informal resolution process, a formal complaint may be filed as outlined in this procedure.

The informal resolution process shall be handled by the following offices:

- A. Student on Student Complaints:
 - In cases where the Complainant is a student, or the complaint involves a student as respondent, the Office of the Dean of Students;
- B. Disability Related Complaints:
 - In cases where the Complainant is a student and the complaint involves a disability-related issues, Student Development Director;
- C. Application for Admission Complaints:
 - In cases where the Complainant is an applicant for admission, or the complaint involves a student as respondent, the Office of Campus Registrar;
- D. Employment Related or Application for Employment Complaints:
 - In cases where the Complainant is an employee or applicant for employment, the College's Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator.

Barring any College closures, no later than 15 working days after the filing of the complaint, the appropriate office as referenced above, will meet separately with the Complainant and Respondent to determine the factual allegations on which the complaint is based and to discuss the complaint procedures.

If it is determined that the complaint is suitable for informal resolution, that option will be discussed and offered to the Complainant and the Respondent, who will be given five working days to decide whether to proceed with informal resolution. If the complaint is deemed by the appropriate office to be unsuitable for informal resolution, or if either party declines to participate in or to make a decision regarding informal resolution, the appropriate department will conduct an investigation.

At any time during the informal resolution process, either party may elect to terminate the process, and the complaint will then be investigated by the appropriate office. Generally, the office designated to investigate will not involve any person other than the Complainant and Respondent in the informal resolution process, except as it may be necessary to consult with appropriate College officials regarding College policies and procedures. Unless there are extenuating circumstances, informal resolution should be completed no later than 30 working days, not including College closures, after the complainant and the respondent have agreed to this process.

IV. FORMAL COMPLAINT PROCESS

If it is determined by the coordinating office that informal resolution is not appropriate, it is not agreed to by both parties, or it is unsuccessful, the College's Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator will conduct an investigation. As a condition of employment, employees of the College are required to cooperate with these types of investigations by providing truthful and complete information. It is the College's expectation that the employee will answer all questions and provide any knowledge he or she possesses that may be helpful to the inquiry. Employees who refuse to answer questions related to their

employment, may be subject to discipline, up to and including termination of employment. The investigation will include, but is not limited to:

1. Interviews with material persons who may have relevant information;
2. Coordinate the gathering of relevant information;
3. Review relevant files and records such as personnel files, departmental and/or unit files, and others;
4. Comparing the treatment of complainant to that of others similarly situated in the department or unit; and
5. Reviewing applicable laws, rule, regulations, policies, procedures and practices.

The investigation shall be concluded as soon as reasonably possible under the circumstances. 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 and unanticipated leave (vacation/sick/personal) of involved parties, or other unforeseen circumstances. Justification for the delay will be documented and communicated to the respective parties.

The College's Assistant Director of Human Resources, & Equity Officer/ADA or 504 Coordinator shall issue a written report which shall include: a summary of the findings, 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. Copies of the report will be provided to the Complainant, the Respondent, and the appropriate College Representative, including Campus President/District Vice Provost, and/or the Executive Director of Human Resources. Confidentiality of the investigation shall be maintained to the extent authorized by law.

If either the complainant or the accused party disagrees with the determination, an appeal may be submitted 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 appeal. 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.

V. OTHER PROVISIONS

- A. The College prohibits retaliation against employees, students and applicants who file any type of complaints.
- B. Employees and students may be accountable for discrimination or harassment under applicable local, state and federal law as well as under College policies. The College, at its sole discretion, may elect to proceed or may elect to stay disciplinary action while other agency proceedings, either civil or criminal in nature, are pending.
- C. Employees who wish to file complaints regarding discrimination or harassment

external to the College may contact the U.S. Equal Employment Opportunity Commission (EEOC), Miami District Office, at Miami Tower, 100 SE 2nd Street, Suite, 1500, Miami, Florida 33131.

- D. 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.

VI. CONTACT INFORMATION FOR PERTINENT COLLEGE STAFF

- A. Palm Beach State College Executive Director of Human Resources is Michael Pustizzi. Contact information: (561) 868-3879 or pustizzm@palmbeachstate.edu
- B. Palm Beach State College ADA/Section 504 Coordinator is Juanita Hook. Contact information: (561) 868-3111 or benjamij@palmbeachstate.edu
- C. Palm Beach State College Dean of Student & Ombudsperson is Kathleen Karran-McCoy. Contact information: (561) 868-3371 or karran-k@palmbeachstate.edu
- D. Palm Beach State College Student Development Director is Nikki Champagnie. Contact information: (561) 868-3298 or champagn@palmbeachstate.edu
- E. Palm Beach State College Title IX Coordinator is Penny J. McIsaac. Contact information: (561) 868-3277 or mcisaacp@palmbeachstate.edu