

6Hx19-2.56 EDUCATIONAL AND WORKPLACE HARASSMENT

The purpose of this Board Rule is to establish Board policy concerning harassment in 1) the College's education programs and activities and 2) the College as a workplace and to define harassment in accordance with applicable Federal and State Laws and Rules. In addition to this policy relating to the prohibition of educational and workplace harassment, the College also maintains a comprehensive policy relating to the prevention and prohibition of sexual assault (See Board Rule 6Hx19-1.33, *Sexual Assault Prevention and Response Measures*). All students, employees, volunteers, and visitors shall fully comply with both Board Rules.

In accordance with Federal and State Laws and Rules, harassment within the College's education programs, activities and work environment in any form, whether directed toward supervisors, employees, or students, will not be condoned or tolerated by the College. Those actions defined as harassment will be published and distributed to all College employees.

1. Workplace Harassment

- a. This definition applies to College employees.
- b. The Colleges defines harassment as follows:

Slurs, innuendoes or other verbal or physical conduct reflecting on an individual's race, color, religion, national origin, ethnicity, age, gender, gender identity, pregnancy, marital status, sexual orientation, genetic information or disabling condition, veteran status, or any other factor or condition protected by law which has the purpose or effect of creating an intimidating, hostile or offensive work environment; has the purpose or effect of unreasonably interfering with the individual's work performance or participation; or otherwise adversely affects an individual's employment opportunities.

Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment; submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working or educational environment.

2. Harassment in the College's education programs or activities

The definitions in this section apply to actions directed towards students.

Harassment. The College defines harassment as slurs, innuendoes or other verbal or physical conduct based upon a race, color, religion,

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national origin, ethnicity, age, gender, gender identity, pregnancy, marital status, sexual orientation, genetic information or disabling condition, veteran status, or any other factor or condition protected by law. It applies to conduct that interferes with that individual's educational opportunities, participation in a College program or activity, or receipt of services.

Sexual Harassment: In accordance with Title IX, the College defines sexual harassment to include the following types of misconduct:

- (1) any instance of *quid pro quo* sexual harassment by a College employee;
- (2) any unwelcome sex-based conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal access to the College's educational programs or activities; or
- (3) any instance of sexual assault (as defined in the *Clery Act*), dating violence, domestic violence, or stalking (as defined in the *Violence Against Women Act (VAWA)*).

With regards to the above definition of sexual harassment, the College uses the Supreme Court's definition specific to Title IX (i.e., 'severe, pervasive, and objectively offensive conduct, effectively denying a person equal educational access') rather than the Supreme Court's Title VII workplace standard.

The Title IX definition provides First Amendment protections appropriate for educational institutions where students are learning, and employees are teaching. Students, teachers, faculty, and others are afforded free speech and academic freedom protections, even when speech or expression is offensive. Thus, where unwelcome sexual-based conduct consists of speech or expressive conduct, the College balances Title IX enforcement with respect for free speech and academic freedom based on the First Amendment.

Quid Pro Quo Harassment and Clery Act or VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such misconduct is sufficiently serious to deprive a person of equal access.

A complaint of alleged harassment should be lodged with the Provost by campus-assigned personnel, or with a Vice President. If preferred, the complaint may be lodged directly with the President. If the person filing a complaint under this Rule is a student,

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complaints of alleged harassment or sexual harassment may be directed to the Title IX Coordinator and the procedures outlined in Internal Management Memorandum (IMM) #6-17 *Student Grievance Procedures* and IMM Procedures for Title IX Student Discipline Cases Alleging Sexual Misconduct shall govern the investigation and disposition of the complaint. For all other persons filing a complaint under this Rule, the procedures outlined in IMM #1-7 *Educational and Work Environment* shall govern the investigation and disposition of the complaint. All complaints of harassment or discrimination should be filed within 60 days of the alleged incident; however, this time limit is not absolute and failure to file within that time shall not have an adverse impact on the complainant or the College.

The College will comply with law enforcement requests for cooperation, and such cooperation may require the College to temporarily suspend the fact-finding aspect of a preliminary Title IX investigation while the law enforcement agency is in the process of gathering evidence. Internal College investigation will be suspended only upon written requests from a law enforcement agency. The College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process. The College will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the complaining party(s) and the campus community.

Complete written records of the investigation shall be maintained in a separate file with restricted access. At the conclusion of the investigation, the President will determine what disciplinary and/or remedial action is to be taken, if any.

No person filing a complaint under this section shall be subject to any adverse action by the College or any employee of the College. Any person acting in a manner deemed to be retaliatory for the filing of a complaint under this Rule shall be subject to appropriate disciplinary action. Any person filing a complaint under this Rule, which complaint is determined to have been filed in bad faith or for purposes of harassment, embarrassment or to disrupt the orderly operation of the College, may be subject to disciplinary action.

Rule Adopted: 6/13/83; 12/16/85; 11/16/87; 10/21/97; 1/16/07; 1/20/09; 5/15/18;
11/17/20

Effective Date: 6/13/83; 12/16/85; 11/16/87; 10/21/97; 1/16/07; 1/20/09; 5/15/18;
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Legal Authority:

General Authority: Florida Statutes: 1001.64; 1001.65

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Other References: Florida Administrative Code: 6A-19.008(1)

Law Implemented: Florida Statutes: 110.112(5); 1000.05;
1001.64(1)(2)(4)(8)(18)(43)(44); 1001.65(1)(3)(16)(22)(24)

Proposer: Timothy L. Beard, Ph.D., President

Administratively reviewed, no changes recommended: 01/03/13