

Polk State College Procedure

| Subject | Reference | Date | Number |
|-------------------|---|-----------|--------|
| Sexual Harassment | FS 1001.03, SBE 6A-14-060 DBOT 3.27 | 12/4/2018 | 6076 |

1. Purpose

DBOT Rule 3.27 commits Polk State College to maintain an environment free of objectionable and disrespectful sexually-based conduct and to not tolerate behavior of a sexual nature that interferes with an employee's or student's or non-employees' (applicants, volunteers, vendors, contractors, etc.) performance or creates an unreasonably intimidating, hostile, or offensive learning or working environment. To the extent practical, non-employees (applicants, volunteers, vendors, contractors, etc.) on our premises should be made aware of the rule and are expected to comply. Sexual harassment is prohibited. Implementation of this procedure is the responsibility of the Director of Human Resources.

This procedure has been developed to address the need to investigate and correct any violations involving employees or students while recognizing the intensely personal nature of sexual harassment and the need to preserve privacy rights. College procedure will be to take corrective action up to and including immediate discharge if an employee engages in any acts or behavior defined below.

A. Definition

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, stalking, and other verbal or physical conduct of a sexual nature. Sexual harassment exists when any of the following occur:

1. Unwelcome sexual advances, requests for sexual favors, stalking, and other verbal or physical conduct of a sexual nature has the purpose or effect of unreasonably interfering with an employee's work performance or a student's academic performance or creating an intimidating, hostile, or offensive employment or educational environment.
2. Submission to unwelcome sexual advances, requests for sexual favors, stalking, and other verbal or physical conduct of a sexual nature 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.
3. Submission to or rejection of unwelcome sexual advances, requests for sexual favors, stalking, and other verbal or physical conduct of a sexual nature by an employee or student is used as the basis for employment or academic decisions affecting that employee or student.

The College will investigate and internally address complaints of sexual harassment that are civil in nature and that do not rise to the level of a criminal offense. Reports of sexual misconduct that may constitute dating violence, domestic violence, sexual assault, and stalking will be reported to law enforcement for investigation.

B. Designated Officers

The Director of Human Resources, the Director of Equity, Diversity, and Inclusion or the Dean of Student Services will be the designated officers to handle sexual harassment complaints. Faculty and staff complaints are directed to the Office of Human Resources or the Office of Equity, Diversity, and Inclusion. Students can direct their complaints to any of the designated officers. These officers will be responsible for assisting with the education of employees and students regarding sexual harassment and for assuring timely resolution of complaints according to established administrative procedures. Employees and students will be informed of the Harassment/Sexual Harassment Rule (3.27) through its inclusion in the Employee Handbook and Student Handbook.

In the event one of the currently designated officers is personally involved in a sexual harassment allegation or cannot perform his/her role as outlined below due to conflict of interest or prejudice, the President will appoint an interim replacement for the officer.

C. Complaint Resolution Process

A complaint shall be filed in writing to one of the three officers and should contain the name and address of the complainant and a detailed description of the alleged incident. Students have the option of filing a formal (written) or informal (verbal) complaint with the Dean of Student Services.

The complaint shall be filed within thirty (30) days from the time the last incident of alleged harassment occurred or within thirty (30) days from the time the complainant could be expected to know of an action alleged to have been taken as a consequence of a sexual harassment act.

Upon receipt of the complaint, the officer will conduct a thorough investigation in accordance with Investigation Procedure 6085. The officer will notify the person charged with the alleged violation at an appropriate point in the investigation process. All interested persons, including the complainant and the person against whom the complaint is lodged, will be afforded an opportunity to submit evidence to the officer, written and/or oral, relevant to the complaint.

D. Reporting Harassment Directed at Others

As a condition of their employment, administrators and supervisory personnel are required to report possible cases of sexual harassment to one of the officers, or the Dean of Student Services in cases involving students, even when they have been asked not to tell anyone.

Administrative and supervisory employees should never promise to keep a complaint of this nature confidential. A complaint is a complaint, regardless of whether the student or employee says they "just want to talk about it with someone" or asks one to keep the information confidential. Administrators and supervisory personnel who fail to report complaints of sexual harassment will be subject to disciplinary action, with a minimum of a letter placed in their personnel file, and up to and including termination for a first offense, depending on the severity.

All other Polk State employees, including faculty, are responsible for helping the College eliminate all forms of harassment at the College.

E. Cooperation with Investigations

As a condition of employment, Polk State College requires all of its employees to cooperate with internal investigations authorized by College rule, the President, or the District Board of Trustees. Students of the College are also required to cooperate with investigations.

F. Standard of Evidence

In deciding the facts of the complaint, the officer will use a preponderance of the evidence standard for resolving any conflicts in the evidence. This means the evidence must show that it is more likely than not that the complaint is valid. The officer must also find that the alleged act or acts meet the definition of sexual harassment to find that the accused person violated College rule.

G. Disciplinary Action

Where there has been a finding of sexual harassment, the resolution relative to the accused may include some form of disciplinary action for the person found to have committed the harassment. Depending on the individual circumstances of each case, disciplinary action could include one or any combination of the following: verbal counseling, letter of warning, specific activities to discourage future violations of sexual harassment, probation, suspension, reassignment, expulsion from enrollment at the College, and non-renewal of contract, up to and including termination. A report will be written by the investigator as a "Recommended Action" and submitted to the appropriate administrator to take such action deemed appropriate.

H. Appeal Process

Any discipline as a result of the investigation would then be subject to the College's Grievance Procedure (Procedure 6013). If the complainant or the accused determines that the response to the complaint is not satisfactory, either party may appeal through the regular College Grievance Procedure (6013) contained in the DBOT Rules and Procedure Manuals or Student Handbook, as appropriate.

I. Retaliation

There shall be no retaliation or adverse action taken by the College against the complainant for filing a sexual harassment complaint in good faith, regardless of the outcome of that complaint, nor will there be any retaliation or adverse action taken by the College against the person charged in a complaint where the complaint has been determined to be without merit. Further, the confidentiality of the complainant and the person charged will be maintained insofar as it does not violate the law or interfere with the College's ability to investigate allegations of sexual harassment and to take corrective action when it is found that misconduct has occurred.

J. Failure to Meet Time Limits

Failure on the part of the grievant to act within time limits shall result in the grievance being dropped from consideration.

K. Storage of Records

All documents, forms, communications, and records relating to grievances shall be filed in the Office of Human Resources, separate from the personnel files of the participants.

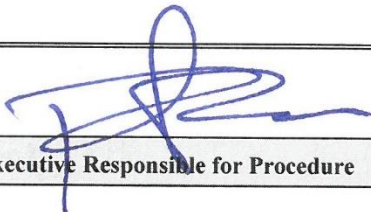
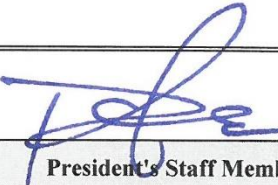
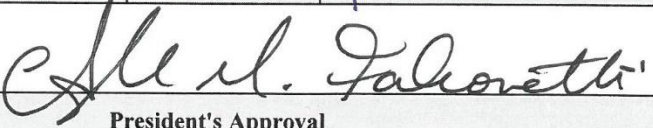
L. Withdrawal of Complaints

A complaint may be withdrawn by the complainant at any level upon a written and signed request to do so by the complainant. The investigating officer shall notify both the complainant and the accused of such withdrawal.

M. Closure

An investigation shall be considered complete, and the investigation shall be closed after final action is taken, including any appeal.

History: Adopted: 6/22/04
Revised: 4/6/17; 12/4/18

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|  | 12/13/18 |  | 12/13/18 |
| Executive Responsible for Procedure | Date | President's Staff Member's Approval | Date |
|  | | | 12/14/18 |
| President's Approval | | | Date |