

## Polk State College Procedure

Subject	Reference	Date	Number
Investigations	FS 1001.03, SBE 6A-14.060, DBOT Rules 3.05, 3.12, 3.27, 4.01, 4.26	9/1/2020	6085

### 1. Purpose

The District Board of Trustees (DBOT) of Polk State College has the responsibility to oversee the operations of the College. The Board has delegated to the College President the responsibility for ensuring that all DBOT rules and Polk State College procedures are followed and to provide a working and learning environment free of discrimination. Accordingly, from time to time, it will be necessary to investigate alleged violations of college rules and procedures involving discrimination, harassment, sexual harassment, and other serious violations of rules and procedures.

This procedure has been developed to ensure that all students and employees are aware of how the College will conduct investigations and what students' and employees' responsibilities are concerning participation in investigations.

### 2. Procedure

A. In addition to investigations mandated by DBOT rules (3.05, 3.12, 3.27, 4.01, 4.26) or college procedures (6013, 6076, 6054, 6086, 6091) the President or her/his designee may initiate investigations into allegations of improper behavior or wrongdoing by college employees and/or students. This includes, but is not limited to, possible violations of state or federal rules and regulations, possible violations of DBOT rules and Polk State College procedures and selecting Investigative Officers to investigate the issues involved when the need appears to exist. Third parties may also be engaged to conduct investigations as well as college personnel.

#### B. Cooperation with Investigations

The College is firmly committed to investigating and resolving allegations of violations of college rules and procedures involving discrimination, harassment, sexual harassment, and other serious violations of rules and procedures. As a condition of employment, Polk State College requires all employees to cooperate with investigations authorized by college procedures, the President, or the District Board of Trustees. Students of the College are also required to cooperate with investigations. Refusal to cooperate with an investigation may result in disciplinary action, up to and including termination of employment or expulsion from school.

#### C. Standard of Evidence

In deciding the facts of the complaint, the Officers 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 Officers must

also find that the alleged acts violated the law, regulation, rule, or College procedure in question.

- D. Investigations initiated by the College are informal in nature and will not be required to conform to the rules of evidence used in formal legal proceedings. The Investigating Officers will have the sole discretion to decide what evidence and statements will be considered. The Officers will endeavor to be fair to all parties involved and as thorough as circumstances allow. All directly-involved parties will be given the opportunity to present their views, give statements, provide evidence, and suggest other parties who might have relevant information on the incident being investigated.
- E. In the interest of providing a fair, thorough investigation, the Officers charged with conducting the investigation will have access to all relevant college records, correspondence, e-mails, and other materials kept on college property, including access to the desks, files, and computers of involved parties.
- F. During an investigation, both parties have the right to have one person of their choosing present at all meetings and during questioning. This person will be there only as a witness and not as a legal representative. In case either party chooses an attorney to be present at any meeting, he/she must notify the Officers far enough in advance of the meeting so the College may have its attorney present at the meeting as well. The Officers may cancel or postpone any meeting where an attorney is present without sufficient notice to have the college attorney present. The scheduling of the meeting should not be unreasonably delayed.
- G. The President or other College officials who initiates an investigation will ensure that the person or persons tasked with this responsibility do not have a conflict of interest or prejudice towards any of the individuals involved as parties to the investigation.
- H. Confidentiality will be preserved during the investigation process to the extent that conducting a fair and impartial investigation permits. Investigation materials may be released to law enforcement authorities as appropriate or to third parties when required by law. Complainants, respondents, and witnesses who participate in this process are bound by confidentiality, and any breach of this confidentiality may be sanctioned by disciplinary action.
- I. Upon receipt of a request for an investigation from the President or his/her designee and/or a written complaint, the Investigating Officers will conduct a thorough investigation. The Officers will notify the person charged with the alleged violation at the appropriate time in the investigation process. All interested persons, including the complainant and any person against whom a complaint is lodged, will be afforded an opportunity to submit to the Officers written or oral evidence relevant to the complaint.
- J. Pending complete investigation, the President may take interim steps to alleviate concerns raised by the complainant which may include a temporary transfer or other non-punitive action for any employee accused of wrongdoing during the investigation. When a student is the alleged wrongdoer, the Officers may recommend to the Dean of

Student Services that non-punitive steps be taken to minimize contact with the complainant.

- K. Within fifteen (15) working days of initiating the investigation, barring unusual circumstances such as the unavailability of key witnesses, the Officers will issue a findings and recommendation report, which may provide a basis for administrative or disciplinary action. In the event that a final report is not completed within the timeline stated, the Officers will submit a written request for extension to the President. The complainant and accuser will be notified of this extension. A summary of the report will be forwarded to both the complainant and respondent, simultaneously. The report will be submitted to the Dean of Student Services in the case of an accused student or to the appropriate administrator of an accused employee. The Dean of Student Services or other appropriate administrator will recommend appropriate action through the college disciplinary and/or termination procedure. Simultaneously, both parties will be notified within fifteen (15) working days after issuance of the findings and recommendation report of the final disposition of the complaint and any disciplinary action.

L. Appeal Process

Any discipline as a result of the investigation is subject to the College's Grievance Procedure (Procedure 6013-Employees) and the Student Appeals Hearing Protocol Procedure (Procedure 5025-Students).

M. Retaliation

There shall be no retaliation or adverse action taken by the College against any complainant or witness for taking part in an action protected by law, such as filing or serving as a witness in a discrimination, harassment or sexual harassment complaint, regardless of the outcome of that complaint. Nor will there be any retaliation or adverse action taken by the College against the respondent in a complaint where the complaint has been determined to be without merit and absent of any wrong doing. Furthermore, the confidentiality of the complainant and the respondent will be maintained insofar as it does not interfere with the College's ability to investigate allegations of discrimination, harassment, and sexual harassment and to take corrective action when it is found that misconduct has occurred.

N. Equal Access/Equal Opportunity Statement (Equity Statement)

Polk State College is an equal access/equal opportunity institution committed to excellence through diversity in education and employment. The College complies with all state and federal laws granting rights to students, employees, and applicants for employment or admission to the College. Polk State College does not discriminate on the basis of race, color, national origin, ethnicity, sex, age, religion, sexual orientation, marital status, veteran status, genetic information, disability, or pregnancy in its programs, activities, or employment.

The following person has been designated to handle inquiries regarding the non-discrimination policies:

Valparisa Baker  
Chief Diversity Officer, Equity, Diversity, and Inclusion  
(Title IX Coordinator)  
999 Avenue H NE  
Winter Haven, FL 33881-4299  
Office: WAD 227  
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**History:** Adopted: May 8, 2007  
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	9/8/2020		9/8/2020
<b>Executive Responsible for Procedure</b>	<b>Date</b>	<b>President's Staff Member's Approval</b>	<b>Date</b>
			9/8/2020
<b>President's Approval</b>			<b>Date</b>