

Polk State College Procedure

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

I. Purpose

The Polk State College District Board of Trustees (DBOT) has the responsibility to oversee the operations of the College. The Board has delegated responsibility to the College President for ensuring that all *DBOT Rules* and *Polk State College Procedures* are followed, and that the working and learning environment is kept free of discrimination.

Accordingly, from time to time, it may be necessary to investigate alleged violations of College rules or procedures involving discrimination, harassment, sexual harassment, or other serious charges. This document details how the College is to conduct such an investigation and what students' and employees' responsibilities are concerning participation in an investigation.

II. Procedure

A. In addition to investigations mandated by DBOT rules (i.e., DBOT Rule 3.05, 3.12, 3.27, 4.01, and 4.26) and Polk State College procedures (i.e., Procedure 6013, 6076, 6054, and 6086), the President (or her or his designee) may initiate investigations into allegations of improper behavior or wrongdoing by College employees and students. This includes, but is not limited to, possible violations of state or federal rules and regulations, as well as possible violations of *DBOT Rules* and *Polk State College Procedures*. The College President may select an Investigative Officer (Officer) if the need appears to exist. The College President may also engage a third party investigator(s) to conduct a review (in addition to College personnel).

B. Cooperation with Investigations

The College is committed to investigating and resolving allegations of violations of college rules and procedures, including those involving discrimination, harassment, sexual harassment, and other serious charges. 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 Officer must 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 acts violated a specific law, regulation, DBOT rule, or College procedure.

- D. Investigations initiated by the College are informal in nature and are not required to conform to the rules of evidence used in formal legal proceedings. The Investigating Officer has sole discretion regarding what evidence and statements are able to be considered. The Officer is required to show fairness to all parties involved and to be as thorough as circumstances allow. All directly involved parties must 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 Officer conducting the investigation must 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 the involved parties.
- F. During an investigation, each party has the right to have one person of his or her choosing present at all meetings and during questioning. This person is there only as a witness and not as a legal representative. If either party chooses to have an attorney present at any meeting, he or she must notify the Officer far enough in advance of the meeting so that the College may also have its attorney present at the meeting as well. The Officer may cancel or postpone any meeting in which an attorney is present without sufficient notice to enable the Polk State College attorney to be present. The scheduling of the meeting should not be unreasonably delayed.
- G. The President (or other College official who initiates an investigation) must ensure that the person (or persons) tasked with investigative responsibilities does not have a conflict of interest or prejudice towards any of the individuals involved as parties within the investigation.
- H. Confidentiality must be preserved during the investigation process to provide for a fair and impartial investigation and outcome. 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; 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 or her designee) or the receipt of a written complaint, the Investigating Officer is to conduct a thorough investigation. The Officer must notify the person accused of the alleged violation of the investigation process. All interested persons, including the complainant and any person against whom a complaint is lodged, are afforded an opportunity to submit to the Officer written or oral evidence relevant to the complaint.
- J. Pending a complete investigation, the President may take interim steps to alleviate concerns raised by the complainant. These steps 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 Officer may recommend non-punitive steps be taken to minimize contact with the complainant to the Campus Dean of Student Services.

- K. Within 15 working days of initiating the investigation, barring unusual circumstances such as the unavailability of key witnesses, the Officer is to issue the findings and recommendation report. This information may provide the basis for administrative or disciplinary action.

In the event that a final report is not completed within the timeline stated, the Officer must submit a written request for an extension to the College President. The complainant and accuser must be notified of this extension.

A summary of the findings and recommendation report is forwarded to both the complainant and respondent, simultaneously. The report is submitted to the Campus Dean of Student Services in the case of an accused student, or to the appropriate administrator in the case of an accused employee. The Dean of Student Services or other appropriate administrator must recommend appropriate action in accordance with the College's disciplinary or termination procedures. Both parties are notified simultaneously (within 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 disciplinary action that occurs as a result of the investigation is subject to *Polk State Procedure 6013: Employee Grievance Procedure* and *Polk State Procedure 5025: Student Appeals Hearing Protocol*.

- 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. Additionally, there shall be no 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 the accused absent of any wrong doing. Furthermore, the confidentiality of the complainant and the respondent must be maintained insofar as this confidentiality does not interfere with the College's ability to investigate allegations of discrimination, harassment, or sexual harassment and to take corrective action when it is found that misconduct has occurred.

- N. The Polk State College Equal Access/Equal Opportunity (EA/EO) Statement

The following are to be printed in College literature to inform stakeholders of the College's policies.

The following is Polk State's EA/EO 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.

The following is the College's non-discrimination statement:

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 non-discrimination policies:

<Name>
 Chief Diversity Officer/Title IX Coordinator
 Office of Equity, Diversity, and Inclusion
 <College Address>
 <Phone and Extension>
 <Email>
 <website>

History: Adopted: May 8, 2007
 Revised: January 26, 2015; February 4, 2020; September 1, 2020

	9/8/2020		9/8/2020
Executive Responsible for Procedure	Date	President's Staff Member's Approval	Date
			9/8/2020
President's Approval			Date