

Polk State College Procedure

Subject	Reference	Date	Number
Investigations	<i>Florida Statutes</i> Section 1001.03; <i>State Board of Education Rule 6A-14.060</i> ; DBOT Rules: 3.05, 3.12, 3.27, 4.01, and 4.26	April 5, 2022	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., Rule 3.05, 3.12, 3.27, 4.01, and 4.26) and *Polk State College Procedures* (i.e., Procedure 5028, 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 if the need appears to exist. The College President may also engage a third-party investigator(s) to conduct a review (i.e., in addition to College personnel).

B. Cooperation with Investigations

The College is committed to investigating and resolving allegations of violations of the College's 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 Investigative 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 an alleged act violated a specific law, regulation, DBOT Rule, or Polk State College Procedure.

D. Evidence, Statements, and Relevant Records

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 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.

In the interest of providing a fair, thorough investigation, the Investigative Officer must have access to all relevant College records, correspondence, e-mails, and other materials kept on College property. This includes access to the desks, files, and computers of the involved parties. Specific details relating to violations of the *Polk State Code of Student Conduct* (i.e., DBOT Rule 4.01) are outlined in Procedure 5028: *Student Code of Conduct: Sanctions and Assignment of Penalties for Violations*.

E. Presence of Witnesses or Legal Representatives during Proceedings

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 Investigative Officer far enough in advance of the meeting so that the College may also have its attorney present at the meeting as well. The Investigative 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.

F. Conflicts of Interest

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.

G. Confidentiality

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.

H. Notification of Involved Parties and Submission of Evidence and Written Statements

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 and investigation process. All interested persons, including the complainant and any person against whom a complaint is lodged, are afforded an opportunity to submit written or oral evidence relevant to the complaint to the Investigative Officer.

I. Temporary Non-Punitive Actions

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 period necessary for the investigation. When a student is the alleged wrongdoer, the Investigative Officer may recommend non-punitive steps to minimize contact with the complainant; these recommendations are made to the District Associate Dean of Student Services (or his or her designee).

J. Findings and Recommendation Report

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

If a final Recommendation Report is not completed within the timeline stated, the Investigative 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 the Recommendation Report must be forwarded to both the complainant and respondent, simultaneously. The Report is also submitted to the District Associate Dean of Student Services (or his or her designee) in the case of an accused student, or to the appropriate administrator in the case of an accused employee. The District Associate Dean of Student Services (or his or her designee) 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.

K. Appeal Process

Any disciplinary action that results from the investigation is subject to Polk State Procedure 6013: *Employee Grievance Procedure* and Polk State Procedure 5025: *Student Appeals Hearing Protocol*.

L. Retaliation

The College prohibits retaliation or adverse action 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, the College is prohibited from retaliation or adverse action against the respondent in a complaint where the complaint has been determined to be without merit and the accused absent of any wrongdoing. 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.

III. Publication of the *Polk State College Equal Access/Equal Opportunity (EA/EO) Statement*

The following items of information are to be printed in all College literature to inform stakeholders of the College's policies:

A. The following is Polk State College'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.

B. The following is the Polk State 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:

*Lonnie Thompson
 Chief Diversity Officer/Title IX Coordinator
 Office of Equity, Diversity, and Inclusion
 999 Avenue H. NE
 Winter Haven, FL 33884
 Ph: 863.297.1000, ext. 5378
 Email: lthompson@polk.edu
 Website: <https://www.polk.edu/equity-diversity-inclusion/>*

History

Adopted: May 8, 2007
 Revised: January 26, 2015; February 4, 2020; September 1, 2020; and April 5, 2022

Executive Responsible for Procedure	Date	President's Staff Member's Approval	Date
President's Approval			Date