



INDIAN RIVER STATE COLLEGE

ADMINISTRATIVE PROCEDURES

TITLE: Non-Discrimination and Non-Harassment Policy Violation Reporting Procedures	PROCEDURE: AP-3.131
REFERENCES: Non-Discrimination and Non-Harassment Policy, 6Hx11-3.13 Sexual Assault, Sexual Misconduct or Other Crimes of Violence AP-3.151 ADA and ADAA AP-3.161 Campus or Workplace Violence 6Hx11-3.15 Protection of Vulnerable Persons 6Hx11-3.513 Cyber-Bullying AP-3.132 Domestic Violence Leave AP-6.433	RESPONSIBLE ADMINISTRATOR: Equity Officer/Title IX Coordinator Vice President of Student Affairs Dean of Human Resources
LAST REVISION: April 23, 2013; July, 2011; February 5, 2015; October 17, 2017	PAGE: 1 of 8

Purpose

It is the policy of Indian River State College to maintain a fair and respectful employment and educational environment. In accordance with federal, state and local equal opportunity laws, Indian River State College prohibits discrimination on the basis of race, color, national origin, ethnicity, sex, religion, age, disability, sexual orientation, marital status, veteran status, or genetic information.

The College prohibits the commission of any act of sexual assault, sexual misconduct, sexual battery, and other crimes of violence upon any employee, employment applicant, student and prospective student, non-employee volunteers who work subject to the control of a College employee, guests, contractors, vendors, and/or affiliates engaged in conducting official College business, events, or programs.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., prohibits sex discrimination in all College programs and activities. Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. (Also reference AP-3.151.)



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The following procedures shall be used for a complaint investigation to allow all parties an opportunity to understand the general direction of the process of an investigation. These procedures apply to complaints of all applicable federal and state equal opportunity and discrimination violation allegations raised by employees, students or third parties against a faculty, staff member, or third party, such as a vendor or visitor to IRSC. These procedures are for the purpose of ensuring a prompt, thorough, and effective resolution of the matter at hand.

This procedure shall apply only to discrimination and/or harassment complaints, including complaints of sexual assault, sexual misconduct, or other acts of crimes of violence. Employee grievances, suspensions or terminations of employment are not covered by this procedure. The Employee Grievance Policy, 6Hx11-6.15 and Student Grievance Policy 6Hx11-7.26, guide these specific matters.

Definitions

Discrimination is an act or communication that interferes with an individual's or group's ability to participate fully in College programs, activities, or employment on the basis of race, color, national origin, ethnicity, sex, religion, age, disability, sexual orientation, marital status, veteran status, or genetic information.

Harassment is conduct and/or verbal action which, because of its severity and/or persistence, interferes significantly with an individual's or groups' work or education, or creates an intimidating or hostile academic or work environment. Harassment includes but is not limited to: incitement to or threat of violence; epithets referring to race, color, national origin, ethnicity, sex, religion, age, disability, sexual orientation, marital status, veteran status, or genetic information; and/or physical conduct that is unwelcome, hostile or intimidating. College policy also recognizes conduct and/or verbal communication that are hostile, intimidating, violent, threatening, or 'bullying' as harassment.

Sexual Harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, when: 1) Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in an educational course, program or activity; 2) Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals; or Such conduct has the purpose or effect of: a) interfering with the individual's work or education performance; b) creating an intimidating, hostile or offensive working and/or learning environment; or c) interfering with or limiting one's ability to participate in or benefit from an educational program or activity.



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Sexual Assault, Sexual Misconduct and Other Crimes of Violence may include the criminal offense of sexual battery (commonly known as rape), dating violence, assault, aggravated assault, battery, aggravated battery, stalking, domestic violence, and child abuse.

Depending on the particular circumstances, sex discrimination, sexual harassment or sexual assault may include, but is not limited to, the following:

- 1) Physical assaults of a sexual nature, such as rape, sexual battery, molestation, or attempts to commit these assaults; and intentional physical conduct that is sexual in nature such as touching, pinching, patting, grabbing, poking, or brushing against another individual's body.
- 2) Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct.
- 3) Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because sexual conduct is rejected.
- 4) The use or display in the classroom or workplace, including electronic, of pornographic or sexually harassing materials such as posters, photos, cartoons or graffiti without pedagogical justification.
- 5) Unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome, or sexual gestures, noises, remarks, jokes, questions, or comments about a person's sexuality or sexual experience. Such conduct between peers must be sufficiently severe, persistent, or pervasive that it creates an educational or working environment that is hostile or abusive. A single incident involving severe misconduct may rise to the level of harassment.



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Reporting of a Complaint

Overall, the College’s response to an allegation of violation of law or policy will be determined by the nature of the alleged violation and the totality of information available at the time of the alleged incident. Requests from Complainants to “just record my concerns” or “not take any action at this time” may not be honored depending on the circumstances involved. If at any time the College feels an investigation is necessary, an investigation may proceed without the support of the potential complainant.

Time Limit for Filing Complaint

Complaints must be filed within 60 days of the most recent offending incident. The College reserves the right, in its sole discretion, to investigate and act on complaints involving incidents that have occurred beyond the time limit.

Supervisors who learn of incidents that may be a violation of the College’s prohibition against discrimination or harassment are expected to promptly report the matter to the Equity Officer and Title IX Coordinator.

Support Persons

An individual who is a Complainant or Respondent may have another member of the College community present during an investigation as a support person. That support person may not be an attorney and may be present in support of the Complainant or Respondent but may not participate in the investigative process. Faculty or staff who are members of a union will be informed that they may have a union representative as a support person. Individuals who are witnesses to the behavior in question may not serve as support persons. All are expected to maintain confidentiality regarding any and all exchanges of information during the investigation.

Confidentiality

The College will make every reasonable effort to maintain confidentiality and privacy of all parties involved to the extent allowable in accordance with state and federal laws and IRSC policy.

Timely cooperation is expected of all involved parties throughout the investigative process. All parties (complainant, respondent, witnesses, and support persons) are expected to be respectful and confidential during the process of an investigation.



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Investigative Process

The College Equity Officer serves as the Title IX Coordinator for the College, and is responsible for coordinating and ensuring that appropriate notices, training, reporting, and complaint resolution procedures are in place to prevent or address issues that fall under the College Non-Discrimination and Non-Harassment Policy. **Contact information for the Title IX Coordinator** can be found below and on the IRSC website, and in employee, student, faculty and adjunct faculty handbooks.

Adriene Jefferson
Equity Officer and Title IX Coordinator
3209 Virginia Avenue
Fort Pierce, FL 34981
ajeffers@irsc.edu
(772) 462-7156

The College Equity Officer will notify the Student Affairs Office when complaints involve students and the Human Resources Office when complaints involve employees or applicants, so that complaint investigations may be coordinated. When Complainants go directly to the Office of Student Affairs or the Human Resources Office, each office will notify the College Equity Officer of such complaints so that investigations may be coordinated accordingly.

After a complaint is received, a fair, prompt, and thorough fact-finding investigation will be conducted, which includes separate meetings with the Complainant, Respondent, and witnesses with first-hand knowledge of the situation. Relevant records related to the allegations will also be reviewed and analyzed.

The Complainant will be provided an opportunity to discuss his/her complaint with the Investigator who will in turn determine if the complaint falls within the scope of the nondiscrimination/harassment procedures. The Complainant, Respondent, and witnesses will have the right to present evidence (including documents and names of witnesses) to the Investigator. It will be within the Investigator's discretion to determine the weight of the evidence and whether it is necessary or appropriate to talk to all persons listed.

Participants in the process may be requested to document their statements. If a person declines to provide a written statement or sign a statement taken by the Investigator that documents his/her



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account of the incident(s), the Equity Officer will conduct an investigation based upon available information. However, at all times, those involved will receive a procedurally fair, prompt, and thorough evaluation whose outcome is documented in writing. Upon completion of the investigation, the Complainant and the Respondent will be notified of the outcome.

The College will take interim measures as necessary to prevent the Complainant from being subjected to discrimination or harassment during the investigative process. The College will take steps to ensure that any interim measures taken do not adversely affect the Complainant.

Pre-Investigation Process

During the pre-investigation evaluation period, the Investigator will determine if:

- The complaint is timely;
- The situation described in the complaint arose in the course of a College program or activity;
- The complaint is directed against a College employee, student, administrative unit, or visitor,
- If factually supported, the alleged behavior could constitute unlawful discrimination or retaliation.

If the complaint does not meet the above criteria or establish a violation of a law or policy, the office may close the case.

Informal Resolution Process

The Investigator will have 21 days from receipt of a complaint to evaluate the complaint, contact the Respondent and Complainant and attempt to resolve the complaint if informal resolution is possible. The informal resolution process is an abbreviated process for less complicated matters that can be quickly resolved to the satisfaction of both parties. An example of such a matter might be a single comment that the complainant deemed objectionable and either a clarification or an apology would resolve the matter. The informal process is completed voluntarily, and both parties must agree to it. The Complainant has the right in every case to insist on a formal investigation and findings. The College recognizes that there may be certain complaints, for example those involving sexual assault, where the informal process will never be appropriate.



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How and Where to Lodge a Complaint

A person wishing to file a complaint should submit a written statement to the College Equity Officer at the following mailing address. Email and phone contact information are also provided below:

Adriene Jefferson
Equity Officer and Title IX Coordinator IRSC
3209 Virginia Avenue
Fort Pierce, FL 34981
ajeffers@irsc.edu
(772) 462-7156

Forms are available to report such complaints in writing on the College website (www.irsc.edu). The complaint should specify:

1. The name of the individual(s) against whom the complaint is made;
2. The nature of the alleged offense (discrimination based on a protected criteria, harassment, disability, etc.);
3. The specifics of the offending incident(s) with precise details (what happened, who was present, when, where, any reasons why they believe the action was taken),
4. The date and signature of the person making the complaint.

Evidentiary Standard

The Investigator shall determine there is unlawful discrimination based upon a “preponderance of evidence” standard. This standard means that it is more likely than not that the unlawful discrimination occurred.



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Investigative Time Frames

The Investigator will create a written report describing the findings. The Investigator will strive to complete the investigation within 90 days of receipt of the complaint. Both parties will receive notification of the outcome within seven days of the completion of the report. This period may be extended should it take a longer period of time to properly investigate a complaint.

Prohibition Against Retaliation

Retaliation against persons who participate in the complaint procedure is prohibited by federal and state law, including Title VII of the 1964 Civil Rights Act and Title IX of the Educational Amendments of 1972. Retaliation exists when action is taken against a participant which affects his/her employment, academic, or business status which is motivated in whole or in part by his/her participation in the process. Retaliation may be found even where the underlying complaint is found to have no merit. Persons who feel that they have been subject such retaliation may file a complaint under this procedure.

Corrective Action

If a final report finds that unlawful discrimination or harassment occurred, the College will determine appropriate corrective action. The College will take steps to prevent reoccurrence of any discrimination with remedies including discipline up to and including discharge for the Respondent. The College will also provide remedies to the Complainant, as deemed appropriate.

Guests and other persons who violate the policy are subject to corrective action, which may include removal from campus and termination of contractual agreements. The College may also decide to take action if a Respondent is found to have engaged in inappropriate workplace behavior. Disciplinary action will be determined in accordance with Human Resources practice and any applicable collective bargaining agreement.

Filing a False Complaint

Any individual who knowingly files a false complaint under this policy, or who knowingly provides false information to or intentionally misleads College officials who are investigating a complaint, may be subject to disciplinary and/or corrective action.