

MANUAL OF PROCEDURE

PROCEDURE NUMBER: 1665

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PROCEDURE TITLE: Discrimination and Harassment Grievance Process

STATUTORY REFERENCE: Title VI, VIII, Civil Rights Act of 1964; Title IX, Higher Educational Amendments; Civil Rights Act of 1991; Section 504, 1973 Rehabilitation Act; American with Disabilities Act, Sections 1000.05 & 1001.64, Florida Statutes; Florida Administrative Code Rule 6A-19.008

BASED ON POLICY: I-21 Equal Access / Equal Opportunity

EFFECTIVE DATE: May 18, 2004

LAST REVISION DATE:

LAST REVIEW DATE: March 1, 2005

I. PURPOSE

To provide a grievance procedure for students, employees, or applicants for admission or employment alleging discrimination or harassment based upon sex, color, age, disability, national origin, race, religion, or marital status.

All supervisory and administrative personnel, faculty and staff are expected to become familiar with this Procedure and to assist the College and a complainant whenever instances of discrimination or harassment, as described in this procedure, are observed or reported.

The College's Office of Equal Opportunity Programs (OEOP) serves as the College's primary resource on all matters relating to discrimination and harassment.

II. DEFINITIONS

A. Discrimination:

Adverse treatment based on an individual's sex, color, age, disability, national origin, race, religion, or marital status.

B. Harassment:

Unwelcome conduct, based upon sex, color, age, disability, national origin, race, religion, or marital status that impacts either a condition of working or learning (quid pro quo) or creates a hostile environment.

1. Quid Pro Quo Harassment consists of unwelcome conduct when:
 - a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, employment decisions, or academic advancement, or
 - b. submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting such individual in matters of employment, employment decisions, or academic advancement.
2. Hostile Environment Harassment consists of unwelcome conduct when:
 - a. such conduct has the effect of unreasonably interfering with an individual's work or academic performance, or
 - b. such conduct has the effect of creating an intimidating, hostile or offensive working or learning environment.

C. Retaliation:

Conduct causing any interference, coercion, restraint or reprisal against a person complaining of discrimination or harassment or participating in the resolution of a complaint of discrimination or harassment.

D. Sexual Harassment:

All unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, involving persons of different or of the same gender, directed at an employee or student by another when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational career;
2. submission to or rejection of such conduct is used as a basis for employment and/or educational decisions affecting the individual; or
3. such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance or creating a hostile, intimidating or offensive working or educational environment.

4. Amorous Relationships:

The College strongly discourages amorous relationships, whether consensual or not, between employees who supervise students; between faculty members and students in their classes; and between supervisors and subordinates. In recognition of interests in privacy and free association, the College does not prohibit fully consensual amorous relationships. However, members of the College who hold positions of authority should avoid actions that can be considered sexual harassment. Even an apparently consensual amorous relationship may lead to sexual harassment or other breaches of professional obligations if one of the individuals in the relationship has a professional responsibility toward or is in a position of authority

with respect to the other, such as in the context of instruction, advisement, or supervision. Due to the difference in authority, there may be the appearance of favoritism and it may be difficult to assure that the relationship is truly consensual.

If involved in an amorous relationship with someone over whom he or she has supervisory authority, the individual must remove him or herself from any participation in recommendations or decisions affecting evaluation, employment conditions, instruction, or the academic status of the other person in the relationship, and must inform his or her immediate supervisor. The supervisor informed of the amorous relationship will document such and will take appropriate action to comply with the provisions of this section.

III. PROCEDURE

Any Miami Dade College employee, student, applicant for admission or employment or other participant in the College's programs or activities who believes he or she has been unlawfully harassed or discriminated against on the basis of sex, color, age, disability, national origin, race, religion, or marital status is urged to communicate that information to an appropriate College official, as more fully described below. **ALL COLLEGE EMPLOYEES ARE EXPECTED TO REPORT ANY HARASSMENT OR DISCRIMINATION THAT THEY OBSERVE, HAVE HEARD ABOUT, OR BELIEVE MAY BE OCCURRING.**

- A. All complaints must be in writing and on the "Complaint Form", which may be obtained from the OEOP or from the College's website (www.mdc.edu) and be filed in a timely manner within 30 days after the occurrence of the most recent allegedly discriminatory act. At the discretion of OEOP, the date may be extended due to extenuating circumstances. In addition to or instead of filing with OEOP, the complainant may file a formal charge of discrimination with a state or federal agency authorized by law to receive such claims.
- B. The complaint should include the complainant's name and signature; describe the act or acts complained of; identify the person or persons purportedly responsible (the "Respondent"); and indicate the date(s) or approximate date(s) on which the act or acts occurred. The complaint should also include names, addresses, and phone numbers of potential witnesses; the effect the alleged acts have had on the complainant; complainant's desired resolution; and any other information the complainant believes is relevant.
- C. Initial Contact and Filing of Complaint:
 1. If the matter involves a student, whether as a complainant or a respondent, the Office of the Dean of Students of each campus or a designee of his or her professional staff ("collectively referred to in this procedure as the "Dean's Office") shall be the initial point of contact. This office must provide assistance and support, respond to inquiries and provide general information regarding discrimination issues. This office must also provide a copy of the official complaint to the OEOP. The Dean's Office shall also describe the discrimination complaint process to the complainant; review information relative to the complaint; and schedule any meetings or hearings requested or required by this Procedure. If a complainant cannot state a sufficient basis in fact or law to support a discrimination or harassment claim, the Dean's Office shall attempt to assist the complainant with selecting a more appropriate internal means of resolving the specific complaint.

2. If the matter involves a complainant between employees or an applicant, the OEOP shall be the initial point of contact. The OEOP will provide assistance and support, respond to inquiries and provide general information regarding discrimination issues. The OEOP shall also describe the discrimination complaint process to the complainant; review information relative to the complaint; and schedule any meetings or hearings requested or required by this Procedure. If a complainant cannot state a sufficient basis in fact or law to support a discrimination or harassment claim, the OEOP shall attempt to assist the complainant with selecting a more appropriate internal means of resolving the specific complaint.

D. Informal Resolution of Complaint:

Complainants are encouraged, where appropriate, to attempt initially to resolve complaints by informal resolution. The informal resolution process is an attempt to resolve complaints quickly and to the satisfaction of all parties, while protecting confidentiality to the extent authorized by law. OEOP will be available to provide assistance to the employment unit or academic department in order to resolve the complaint. If the complaint cannot be resolved through the informal resolution process, a formal complaint may be filed as outlined in this procedure.

The informal resolution process shall be handled by the following offices:

1. In cases where the complainant is a student, an applicant for admission, or the complaint involves a student as respondent: the Office of the Dean of Students;
2. In cases where the complainant is an employee, the Office of the Campus President, District Vice Provost, College Provost, or designee (collectively referred to in this procedure as the “Area Head”) or the OEOP;
3. In cases where the complainant is an applicant for employment, the OEOP.

No later than ten (10) working days after the filing of the complaint, the appropriate office, as referred above, will meet separately with the complainant and respondent to determine the factual allegations on which the complaint is based and to discuss the complaint procedures. If it is determined that the complaint is suitable for informal resolution, that option will be discussed and offered to the complainant and the respondent, who will be given five (5) working days to decide whether to proceed with informal resolution. If the complaint is deemed by the appropriate office to be unsuitable for informal resolution, or if either party declines to participate in or to make a decision regarding informal resolution, OEOP will conduct an investigation.

At any time during the informal resolution process, either party may elect to terminate the process, and the complaint will then be investigated by OEOP. OEOP reserves the right not to proceed with an investigation if it determines that during the informal resolution process a complainant was offered and refused all of the relief to which he or she would be entitled. Generally, OEOP will not involve any person other than the complainant and respondent in the informal resolution process, except as it may be necessary to consult with appropriate College officials regarding College policies and procedures. Informal resolution should be completed no later than thirty (30) days after the complainant and the respondent have agreed to this process.

If the complaint is successfully resolved, each party will sign an "Informal Resolution

Form," prepared by OEOP, which describes fully the agreed-upon terms. A copy of the complaint and the Informal Resolution Form will be available to the complainant, the respondent and the appropriate area head as defined in this procedure.

IV. FORMAL COMPLAINT PROCESS

If it is determined by the appropriate office that informal resolution is not appropriate, or it is not agreed to by both parties, or it is unsuccessful, OEOP will conduct an investigation. As a condition of employment, employees of the College are required to cooperate with these types of investigations by providing truthful and complete information. It is the College's expectation that the employee will answer all questions and provide any knowledge he or she possesses that may be helpful to the inquiry. Employees, who refuse to answer questions related to their employment, are subject to discipline, up to and including termination of employment. The investigation will include, but not be limited to:

1. Interviews with material persons who may have relevant information;
2. Reviewing relevant files and records such as personnel files, departmental and/or unit files, and others;
3. Comparing the treatment of complainant to that of others similarly situated in the department or unit; and
4. Reviewing applicable policies and practices.

The investigation shall be concluded within sixty (60) working days of its inception, and OEOP shall issue a written report making findings of fact and any appropriate recommendations as to whether or not a policy violation is substantiated or has been substantiated. If OEOP concludes that the complainant's allegations are substantiated, the report will recommend that a directive be issued to stop the discriminatory practice, if it is ongoing; recommend disciplinary or other corrective action against the respondent and others; and, if appropriate, recommend provisions for the complainant, such as reinstatement, hiring, reassignment, promotion, training, back pay, or other compensation or benefits. If OEOP concludes that the complainant's allegations are not substantiated, the report may suggest other avenues, both internal and external, for the complainant should he or she wish to pursue the matter and, if appropriate, recommend reasonable steps to restore the reputation of the respondent.

Copies of the report will be provided to the complainant, the respondent, and the Campus President/District Vice Provost, Vice Provost of Employee Development and Quality Enhancement, and College Provosts. Confidentiality of the investigation shall be maintained to the extent authorized by law.


The appropriate College Provost(s) will make a determination, upon review of the OEOP's report, consultation with the Dean of Students, the Vice Provost of Employee Development and Quality Enhancement, and any other appropriate Department head; and upon consideration of any other relevant information, including aggravating or mitigating circumstances, whether disciplinary action is warranted under the circumstances. If the College Provost determines that disciplinary action should be initiated, then, consistent with

due process requirements, the alleged perpetrator will be notified of such determination, in accordance with applicable Florida Board of Education and College policies and procedures, collective bargaining agreements and the Code of Student Conduct. All appropriate disciplinary procedures as provided for therein will be followed. Regardless of whether formal disciplinary action is initiated, the College may take such informal corrective action as may be appropriate under the circumstances. The OEOP will notify the complainant and the respondent of the results of the investigation and subsequent disciplinary or other corrective action taken, if any, to the extent allowed by law.

The OEOP will notify the respondent of the results of the investigation when no policy violation is found and no further action planned.

V. OTHER PROVISIONS

- A. Employees and students may be accountable for discrimination or harassment under applicable local, state and federal law as well as under College policies. The College, at its sole discretion, may elect to proceed or may elect to stay disciplinary action while other agency proceedings, either civil or criminal in nature, are pending. College disciplinary action will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.
- B. This procedure does not eliminate other College policies authorizing individual employees to seek relief through established administrative channels to the College President; however, the aggrieved employee may select only one internal process for the purpose of resolving any one complaint alleging discrimination or harassment. The employee’s use of these policies may be terminated at any level, if the complaint has been mutually resolved, or, if the employee concurrently seeks relief through sources external to the College. If the complaint is resolved internally, the matter shall be closed.
- C. Employees who wish to file complaints external to the College may contact the Equal Employment Opportunity Commission (EEOC) at One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, Miami, Florida 33131.
- D. Students who wish to file complaints external to the College may contact the U.S. Department of Education, Office For Civil Rights at www.ed.gov/ocr/complaintintro.html.

	
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PRESIDENT	DATE