

UNLAWFUL DISCRIMINATION AND RETALIATION PROCEDURE

Broward College Policy 3.34 (http://www.broward.edu/legal/policies-and-procedures/_docs/policy/6hx2-3.34.pdf)

General Statement

In compliance with Broward College Policy 6Hx2-3.34, any member of the College community (student, faculty or staff) who believes that they have been subjected to unlawful discrimination or retaliation in violation of Broward College Policy 6Hx2-3.34 may submit a complaint setting forth the alleged discriminatory or retaliatory action.

Separate Policy and Procedure Regarding Sexual Harassment/Misconduct

Any member of the College community (student, faculty or staff) with a concern regarding sexual harassment/misconduct by any member of the College community (including by any other student, faculty member or staff person) should refer to College Policy 6Hx2-5.39. In compliance with that policy, any member of the College community (student, faculty or staff) who believes they have been subjected to Sexual Harassment/Misconduct in violation of Broward College Policy 6Hx2-5.39 may submit a complaint setting forth the alleged Sexual Harassment/Misconduct and the investigation and resolution of that complaint will be in accordance with Broward College Procedure A6Hx2-5.39. Accordingly, the procedure below shall not apply to complaints regarding sexual harassment/misconduct within the scope of College Policy 6Hx2-5.39.

Complaints

In submitting a written complaint of a violation of Policy 6Hx2-3.34, the complainant may choose the option of attempting initially to resolve complaints through the informal process described below. In addition, individuals who believe that they have been victims of unlawful discrimination or retaliation may file a complaint with the appropriate federal, state or local agencies instead of or in addition to proceeding under this Procedure. In either event, the College may request information and cooperation from the complainant in order to investigate and address the matters raised.

1. **Content of Complaint.** Any member of the College community may submit a written complaint through the use of the Broward College Discrimination, Retaliation, and Sexual Harassment/Misconduct Reporting Form (http://cm.maxient.com/reportingform.php?BrowardCollege&layout_id=19)
 As an alternative to the online form, a member of the College community may submit a written complaint direct to College officials. If the complaint concerns conduct by an employee of the College, the written complaint should be directed to the Executive Director, Talent & Culture via email at Edhumanresources@broward.edu. If the complaint concerns conduct by a student, the written complaint should be directed to the Title IX Coordinator at TitleIXCoordinator@broward.edu. Any written complaint submitted as an alternative to the online form should contain the information below.
 - a. the name, telephone number(s), email address(es), home address, and Broward College campus with which that individual is primarily associated.
 - b. a complete and comprehensive written description of all facts explaining what the complaint believes constitutes unlawful discrimination or retaliation, including each statement, incident or act of conduct, including the date(s), time(s), and location(s) of each statement(s), incident(s) or act(s) of conduct.
 - c. the name (and, if known, telephone number, email address, home address, and Broward College campus location) for each person responsible for any statement(s), incident(s) or act(s) of conduct set forth in the written description.
 - d. the name (and, if known, telephone number, email address, home address, and Broward College campus location) for each person who witnessed or may have witnessed any statement(s), incident(s) or act(s) of conduct set forth in the witness description, or who may otherwise have knowledge pertinent to what the complainant believes constitutes discrimination or retaliation.
 - e. any specific proposed action the complaining party requests that Broward College take, including any request by the complainant that Broward College attempt to resolve the complaint through informal means.
2. **Procedure upon receipt of Complaint.**
 - a. **Record of date of receipt of Complaint.** Broward College will make a record of the date on which the Complaint was received.
 - b. **Notification to respondent(s).** Broward College will notify each person identified in the written Complaint as responsible for any statement(s), incident(s) or act(s) of conduct set forth in the written Complaint.
 - c. **Optional informal means of resolution.** If requested by or agreed to by the complainant, and agreed to by the respondent, Broward College will attempt informal resolution of the complaint to the satisfaction of all parties, through the use of principles of mediation, communication, negotiation, facilitation, and problem-solving that emphasize fairness, the needs and interests of the participants, and, to the extent possible, confidentiality. No complainant is or will be required to engage in informal resolution of any allegations of unlawful discrimination or retaliation. Further, Broward College may initiate or continue inquiry into matters addressed and resolved by informal resolution to the complainant's satisfaction, should such matters be of independent or continuing concern to the College.
 - i. As part of the informal resolution process, Employee Relations in the Office of Talent & Culture (for matters involving employees) or the Title IX Coordinator (for matters involving students), or their respective designees, may review all relevant information, interview pertinent witnesses, and conduct other communications with the complainant and respondent. If a resolution satisfactory to both the complainant and the respondent is reached, written notice to that effect along with the terms of any agreement reached and a copy of the complaint will

be sent to the complainant and respondent(s). Any agreement reached shall be signed and dated by the complainant, the respondent(s) and the appropriate College official(s).

- ii. At any time during the process of informal resolution, the complainant may request that their complaint be removed from that process and proceed as a formal complaint.

d. **Complaint investigation and resolution.** In the event: (i) the complainant does not request or agree to optional informal means of resolution; or (ii) the respondent does not agree to informal means of resolution; or (iii) the complainant requests that their complaint be removed from the process of information resolution and proceed as a formal complaint, the College will investigate the complaint.

- i. **Investigation.** The investigation may include communications with the complainant, witnesses, and the respondent(s) and review of any relevant documents or materials.

- ii. **Investigative Report.** Upon completion of the investigation, an Investigative Report shall be prepared which includes a summary of the complaint, a description of the investigation, any findings related to the investigation, and any recommendations to appropriate College officials for further action by the College. In the event that there are insufficient grounds to determine that any violation of College policy or standards has occurred, the Investigative Report shall so state but such finding shall not preclude otherwise appropriate action by the College.

- iii. **Final Resolution.** The appropriate College official(s) shall approve any written recommendation as to any remedial, corrective or disciplinary action, which shall be based on the information provided by the parties or otherwise determined through the investigation. Disciplinary action shall be based on specific findings, which may include any record of previous conduct and the scope or seriousness of any violation of College policy or standards, and shall be implemented in accordance with College policy and any applicable procedure(s) including, where pertinent, the terms of any collective bargaining agreement(s). A written record of the Final Resolution shall be made and transmitted to the complainant(s), respondent(s), and appropriate College officials.

If the complaint concerns conduct by an employee of the College, the process of investigation and resolution shall be directed by the Executive Director, Talent & Culture or their designee. If the complaint concerns conduct by a student of the College, the process of investigation and resolution shall be directed by the Title IX Coordinator, or their designee.

iv. **Review of Final Resolution.**

1. The complainant or respondent may request that the College president, or their designee, review the Final Resolution. Such written request must be made in writing within twenty (20) days of transmission of the Final Resolution.
2. The written request must be based on one or more of the following grounds:
 - a. that the findings made in the Final Resolution were insufficient to support any remedial, corrective or disciplinary action resulting from the Final Resolution;
 - b. that the College failed to consider pertinent facts or evidence (which facts or evidence shall be specified in detail in the written request), or facts or evidence unavailable during the investigation evidence (which facts or evidence shall be specified in detail in the written request), or premised its findings on mistakes of fact (which mistaken facts shall be specified in detail in the written request);
 - c. that the complainant or respondent was precluded from submitting pertinent facts or evidence (which facts or evidence shall be specified in detail in the written request).
3. A copy of the written request will be provided to the other party and the investigating official(s). The other party and the investigating official(s) may submit a response to the written request within twenty (20) days of receipt of the written request.
4. The College president, or their designee, will issue a written finding within twenty (20) days after the due date for any response to the written request.

3. **Voluntary withdrawal of Complaint:** By written request, the complainant may request withdrawal of the complaint, which shall include a statement by the complainant that such request was made of the complainant's own volition and without coercion or threat of retaliation. Broward College may approve the request for withdrawal, but may also continue inquiry into matters subject to a request for voluntary withdrawal should such matters be of independent or continuing concern to the College.

4. **Records of Complaint investigation and resolution.** The College will retain all documents pertinent to any Complaint in a confidential file separate from the personnel file of any Complaint who is a College employee or the academic file of any complainant who is a student.

5. **Duty to report alleged violations of Policy 6Hx2-3.34.** Any College administrator or supervisor who received a complaint or otherwise has knowledge of allegations of a violation of Policy 6Hx2-3.34 has a duty to report such matters to the appropriate College officials, and shall also inform any complainant of the existence of Policy 6Hx2-3.34 and this Procedure A6Hx2-3.34. Failure to do so may give rise to disciplinary action including termination of employment.

6. **Confidentiality.** Confidentiality shall be maintained regarding Complaints and related matters to the extent required and permitted by law and the College's obligation to investigate and address such matters.

7. **No waiver of rights.** Nothing contained in Policy 6Hx2-3.34 or this Procedure A6Hx2-3.34 is intended to or shall limit or otherwise affect the right of any person to pursue any matter with an appropriate external federal, state or local agency as otherwise permitted by law.

8. **Retaliation prohibited.** Policy 6Hx2-3.34 prohibits conduct directed against any member of the College community because that person has made a complaint of discrimination or harassment, participated in the investigation or resolution of such a complaint, objected to or opposed a practice or conduct inconsistent with Policy 6Hx2-3.34 or the federal, state or local laws upon which that policy is based.

9. **Safety in Private Spaces Act.** College Policy 6Hx2-7.23 provides that any person who willfully enters a college restroom or changing facility designated for individuals of a sex different than that assigned to the person at birth, for a purpose other than the authorized purposes in the policy, and refuses to depart when asked to do so by an agent of the College violates the Safety in Private Spaces Act, Section 553.865 of the

Florida Statutes., College staff, faculty, students and public safety personnel have the right to file a complaint directly with the State of Florida Attorney General alleging that the College has failed to meet the minimum requirements for restrooms and changing facilities under s. 553.865(4) and (5), F.S.

In addition, all violations of College Policy 6Hx2-7.23 Safety in Private Spaces Act will be investigated by the Talent and Culture Employee Relations in collaboration with Student Services, Collegewide Facilities and the Department of Safety, Security, Emergency and Preparedness (DSSEP) employees to determine if a violation of the policy occurred.