



SUBJECT:
PROHIBITED DISCRIMINATION & HARASSMENT

Effective Date: 1/18/26

Policy Number:
1.21

Supersedes:
New

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Responsible Authority:
Executive Vice President, Administrative Affairs
Executive Director, Office of Civil Rights and Title IX (OCR9)

I. APPLICABILITY

This Policy applies to all Florida Atlantic University (“University” or “FAU”) students, registered student organizations, faculty and staff, including applicants for admission and employment, and third parties (contractors, vendors, alumni or visitors) (hereinafter collectively referred to as “University Community Members”), who are both protected by and subject to this Policy with regards to claims of prohibited discrimination and harassment which fall outside of the jurisdiction of Title IX. Any complaints under Title IX will be addressed under University Policy 1.15, Title IX Compliance.

II. POLICY

The objective of this Policy is to establish complaint procedures for University Community Members who believe a harassing or discriminatory act has occurred. Upon submission of a complaint to the appropriate investigating authority, an impartial review will be conducted.

III. DEFINITIONS

(a) *Advisor*: A person chosen by a Party to accompany the Party to meetings related to the resolution process, to advise the Party on that process. An Advisor is not required to be an attorney and may be any individual of the Party’s choice; however, an Advisor may not be a witness to the alleged incident(s).

(b) *Business day*: Monday-Friday, excluding official University holidays.

(c) *Complainant*: An individual who is alleged to be the victim of the conduct that could constitute

behavior prohibited by this Policy.

(d) *Complaint*: A document signed by a Complainant or the Executive Director of the University's Office of Civil Rights and Title IX ("OCR9 ED") alleging Discrimination and/or Harassment based on a protected class or Retaliation based on a protected activity against a Respondent and requesting that the University's Office of Civil Rights and Title IX ("OCR9") investigate the allegation.

(e) *Discrimination (unlawful or prohibited)*: Treating any member of the University community differently than others based upon race, color, religion, sex, national origin, age, disability, military or veteran status, marital status, pregnancy or parental status, sexual orientation, gender identity or expression, or other protected status recognized by state or federal laws. Prohibited discrimination includes unlawful discrimination and harassment based on protected classes defined by University regulation or policy. A violation of this Policy may occur regardless of any finding of "unlawful" conduct, as the standards for finding a violation of this Policy are independent.

(f) *Harassment*: Unwelcome verbal and/or physical conduct that is based on a protected status, which includes:

- (1) *Hostile environment harassment*: conduct that is so severe or pervasive and has the purpose or effect of (i) creating an objectively intimidating, hostile or offensive work or educational environment; (ii) unreasonably interfering with an individual's work or learning performance; or (iii) otherwise unreasonably adversely affects an individual's employment or educational opportunities. Examples could include making comments ("humorous" or "non-humorous" based on a protected characteristic, objectionable epithets/slurs, threatened or actual physical harm or abuse, the display of hostile symbols/objects, and other intimidating or insulting conduct directed against the individual because of their membership in a protected class.
- (2) *Quid pro quo harassment*: submission to or rejection of conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a University program or activity.

(g) *Informal Resolution*: Informal resolution is a voluntary remedies-based process designed to provide parties in a complaint with an option to resolve the alleged dispute in a forum separate and distinct from the formal grievance process. Informal resolution may include, but is not limited to, mediation, no contact directive, or apology. Informal resolution is subject to the consent of the parties and consent of the OCR9 ED. The University will not require, encourage, or discourage the parties from participating in an informal resolution.

(h) *Investigator*: The person or persons charged by OCR9 with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling information into an investigative report.

(i) *Party or Parties*: Complainant and Respondent. Witnesses are not parties.

(j) *Preponderance of Evidence*: The burden of proof that applies under this Policy, which means that the evidence presented supports the finding that it is more likely than not that the Respondent violated this Policy.

(k) *Report*: Information brought to the attention of OCR9 alleging conduct prohibited under this Policy, any law or regulation; a Report is not considered to be a Complaint. A Party or OCR9 ED may bring a Report and then subsequently file a Complaint.

(l) *Respondent*: An individual reported to be the perpetrator of conduct that could constitute Harassment, Discrimination, or Retaliation.

(m) Retaliation: Any words or behavior made to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Retaliation may be committed by the Respondent, the Complainant, the reporting party, or any other individual or group of individuals. Retaliation may be committed against the Complainant, Respondent, witnesses, or any individual who assisted with providing information.

IV. COMPLAINT AND INVESTIGATION PROCEDURES

OCR9 shall administer this Policy. The OCR9 ED is the University's Title IX Coordinator. OCR9 conducts investigations and assists in the University's response and resolution of all reports of prohibited Discrimination, Harassment, or Retaliation. OCR9 will maintain all discrimination reports in accordance with applicable laws and regulations. Inquiries regarding the procedures contained in this Policy should be forwarded to OCR9. The OCR9 ED contact information is provided below.

Office of Civil Rights and Title IX
Florida Atlantic University
Administration Building
777 Glades Road, Room 265
Boca Raton, Florida 33431-0991
compliance@fau.edu
<http://www.fau.edu/ocr9/>
(561) 297-3004

A. REPORTING

1. Any supervisory employee or other official who has the authority to institute corrective measures on behalf of the University who receives a report, observes or learns of an alleged violation of this Policy has an absolute and unqualified duty to promptly report the conduct to OCR9.
2. Failure to report an alleged violation as required by this Policy may result in disciplinary action up to and including separation or termination from employment.
3. All employees in the University's K-12 programs are considered officials with authority to institute corrective measures on behalf of the University for K-12 students and must report claims of harassment or discrimination to OCR9.
4. Any person may report allegations of Harassment, Discrimination, or Retaliation to OCR9 in person, via telephone, or online at <https://www.fau.edu/report/>.

B. COMPLAINTS

1. University community members who believe they have been harassed, discriminated or retaliated against in violation of this Policy should report the facts and circumstances to OCR9, or in the alternative, may report to an official who has authority to institute corrective measures on behalf of the University, including, but not limited to University President, Vice Presidents, Deans, Associate and Assistant Deans, Department Chairs, Department Directors, Department Managers, Department Supervisors, Housing Staff and Residential Assistants, Police Officers, Student Affairs staff (excluding Student

Affairs Counseling and Psychological Services staff), Faculty Advisors, Athletic Coaches, Athletic Trainers, and Faculty/Staff Club Advisors.

2. A Complaint of discrimination or harassment not related to Title IX must be filed with OCR9 within one-hundred eighty (180) calendar days of the alleged act(s) of discrimination or harassment. OCR9 may process an alleged violation outside of this time limitation in the discretion of the OCR9 ED.
3. The filing of a Complaint under this Policy is independent and does not preclude the Complainant from also filing a complaint with federal, state or local enforcement agencies. The filing of a Complaint with OCR9 does not constitute a filing with, or have any effect on the filing time limitations of those external agencies. All Complainants are advised to contact these external agencies directly to learn the filing deadlines and procedures for each agency. Contact information for these agencies is available from the OCR9 office, upon request.

C. INVESTIGATION

1. Upon receipt of a report or complaint alleging discrimination, harassment, or retaliation, OCR9 will conduct an initial assessment for the purpose of determining if the allegations fall within OCR9's jurisdiction. Also, OCR9 will determine if there are any immediate health, safety, or risk concerns.
2. After this initial assessment, OCR9 will conduct an initial meeting with the Complainant. Should the Complainant wish to file a Complaint, OCR9 will send the Complainant a Complaint form to complete; however, should the Complainant decline to file a Complaint, the OCR9 ED may consider authorizing an investigation where appropriate.
3. OCR9 shall investigate Complaints that contain enough information to substantiate investigation and allege prohibited discrimination or harassment. The investigation may include, but shall not be limited to, interviewing the Complainant and Respondent and any relevant witnesses, and gathering relevant evidence whether that evidence is inculpatory or exculpatory. Each Party shall have an opportunity to present the names and contact details of witnesses and other relevant evidence. Each Party may have an Advisor accompany the Party to meetings related to the resolution process to advise the Party on that process.
4. All University employees have a duty to cooperate fully and unconditionally in a University investigation. This duty includes, among other things, speaking truthfully with OCR9 and voluntarily providing all documentation and information that relates to the claim being investigated.
5. The OCR9 ED has the sole discretion to consolidate multiple reports or multiple Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations arise out of the same facts or circumstances, or it otherwise makes sense to consolidate.
6. OCR9 may attempt Informal Resolution before or during an investigation. If an Informal Resolution is not achieved, OCR9 shall continue to investigate the Complaint and shall issue a final report. Informal Resolution must be with the written voluntary consent of both parties.

7. OCR9 shall attempt to conclude its final report within seventy-five (75) days of the filing of the Complaint. Upon completion of the investigation, a final investigation report shall be prepared which includes a summary of the complaint, a description of the investigation, analysis of the facts and evidence presented based on a preponderance of the evidence, and recommendations for disposition. The final investigative report by OCR9 shall be submitted to the appropriate Vice President, Provost or designee if an employee is involved, and/or to the Dean of Students or designee if a student is involved. The Respondent and Complainant will each be notified in writing of the outcome of the Complaint.

D. DISMISSALS

The University may dismiss a Complaint in the following circumstances:

1. The conduct would not constitute a violation of this Policy, even if proved.
2. The Complainant notifies the OCR9 ED in writing that the Complainant would like to withdraw the Complaint or any allegations therein.
3. The Respondent is no longer enrolled or employed by the University.
4. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

V. RETALIATION PROHIBITED

Retaliation because an individual submitted a report, filed a Complaint, participated in the Complaint process, or reasonably opposed an unlawful and discriminatory practice is prohibited by this Policy. The University will take responsive action to any report of Retaliation, which may include, but is not limited to, interim action and investigation consistent with the process outlined above.

VI. CORRECTIVE OR DISCIPLINARY ACTION:

1. Violations by University students may result in any sanction listed in University Regulation 4.007 Student Code of Conduct, Section 13.
2. Violations by K-12 students may result in sanctions as described in the applicable code of conduct or disciplinary matrix.
3. Violations by employees may result in counseling which shall be constructive with the primary purpose of identification and correction of a problem. Employee violations may also result in disciplinary action pursuant, but not limited, to University Regulation 5.012, University Policy 8.2, other University regulations and policies, and any applicable Collective Bargaining Agreement.
4. Violations by outside parties may result in violations appropriate to the University relationship, including without limitation exclusion from University property and/or services.

VII. APPEALS:

Parties are allowed to appeal a determination regarding responsibility or dismissal of a Complaint

or allegations of a complaint within five (5) business days of the dismissal or determination. In cases involving students, appeals are submitted as required by Regulation 4.007. In all other cases, appeals are submitted through the reporting page under "OFFICE OF CIVIL RIGHTS AND TITLE IX - APPEAL FORM" at www.fau.edu/report, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not available at the time of determination regarding responsibility or dismissal that could affect the outcome of the matter;
3. The OCR9 ED, investigator(s), or decision-maker(s) had a conflict of interest or a bias for or against complainant(s) or respondent(s) generally or the individual complainant or respondent that affected the outcome of the matter.

Any appeal must clearly indicate one or more of the above permissible grounds. Disagreement with the findings or sanctions is not, by itself, grounds for appeal. The fact that any criminal charges based on the same conduct were dismissed, reduced or resolved in favor of the Respondent does not require, and will not necessarily result in, a change in the disciplinary decisions and sanctions in the written determination.

For all appeals, all parties will be notified in writing when the appeal is filed. The OCR9 ED will select the Appeal Officer. The decision-maker for the appeal cannot: (i) be the same decision-maker regarding responsibility or dismissal, (ii) be the investigator(s), and (iii) have a conflict or bias against Respondent(s) or Complainant(s). Parties will have five (5) days to respond, either in support or challenging the appeal. The decision-maker shall then have up to twenty (20) days to issue a written decision regarding the appeal and the rationale. The decision shall be provided to all parties simultaneously. No further appeal is allowed.

VIII. INITIATING AUTHORITY: Executive Vice President, Administrative Affairs; Executive Director, OCR9

POLICY APPROVAL
(For use by the Office of the President)

Policy Number: __

Initiating Authority

Signature: _____ Date: _____
Name: Dr. Stacy Volnick

Policies and Procedures

Review Committee Chair

Signature: _____ Date: _____
Name: Neil D'Arco

President

Signature: _____ Date: _____
Name: Adam Hasner

Executed signature pages are available in the Office of Compliance