

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 3 - Administrative Affairs

3-4010 Allegation Intake, Investigation, and Discipline

Scope:

This regulation does not generally apply to allegations of criminal conduct as those would be investigated by a law enforcement agency; however, there are times when an internal investigation will commence before it is recognized that criminal activity is involved or law enforcement will request support with the investigation. This regulation applies to all Faculty, Administrative, Staff, and other employees of New College of Florida (i.e. employing agency); provided, however, that its application is subject to the terms and conditions of any existing applicable collective bargaining agreements whose members of a collective bargaining unit and/or are represented by a collective bargaining agent.

Definitions:

(1) Just cause shall include:

- (a) Incompetence
- (b) Negligence,
- (c) Violation of an employing agency regulation or policy, or
- (d) Other Misconduct (Please see NCF Misconduct regulation no. 3-4007 as well as material orders of the Campus Police General Order II-106 for definition.

Receiving Complaints:

In an effort to create an environment conducive for receiving and addressing complaints in a timely manner, complaints may be taken by personnel in the Human Resource, Campus Police, General Counsel, Ombudsman, Title IX, and Internal Audit & Compliance departments. Complaints may be received verbally over the phone or in person, electronically, or in writing. Complaints will be directed to the designated investigative authority for the respective area of concern. For instance, Title IX related complaints will be directed to the Title IX Coordinator or Internal Audit. Complaints regarding the Campus Police will be directed to the campus Police Department Chief.

The complainant may request an appropriate place to meet in person with the investigation authority where they feel comfortable presenting their complaint. The complainant need not go to the location where the subject of their complaint may be present. The complainant may also bring the university's victim advocate, a personal advocate, a faculty member or other trusted person to support them during the filing of of complaint.

Investigation:

In instances when allegations of wrongdoing rise to the level of criminal actions, a criminal investigation will be completed before the internal administrative investigation begins. An internal investigation shall be conducted by independent, experienced and qualified employing agency personnel, or outside 3rd party, who gather pertinent data, documentation, video, other forensic evidence, interview witnesses, and apply adequate professional investigative techniques to assure their findings and recommendations are adequately supported. The complaint receipt and investigation process must be thorough yet timely. The employing agency

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personnel conducting the investigation must always be, and appear, impartial and objective. As such, if the employing agency's investigator is the subject of, or a witness in, the investigation, they shall not be involved in the conducting of the investigation. With regard to the agency's Police Department, per Florida statute FSS 112.533, if composed of any combination of 35 or fewer law enforcement officers, the employing agency must document the potential conflict. Upon completion of such a Police Department investigation, the investigator with a potential conflict shall present the findings without any disciplinary recommendation to the employing agency.

Once the investigation is completed, the case facts will be reviewed with the President or Vice President/Provost/Chief with authority over the subject of the complaint, Human Resources and General Counsel. In the event fiscal, fraud, regulatory compliance, or enterprise risk related issues are involved, the Chief Audit Executive and Chief Compliance Officer (CAE/COO) will also be consulted. With the advice of General Counsel, Human Resources, and as applicable the CAE/COO, the employing agency hiring authority will take appropriate disciplinary action for sustained allegations in conformance with established standards of disciplinary guidelines. Pro-active training and/or interventions may be part of the disciplinary action taken. In very limited and defined circumstances in accordance with state law (FSS 112.533)*, an outside law enforcement agency may conduct the investigation.

Suspension and Termination:

The appointment and employment of a New College of Florida employee may be suspended or terminated during its term for just cause. When the President or the responsible Vice President/Provost/Chief has reason to believe there is just cause for suspension or termination of employment, the President/Vice President/Provost/Chief shall provide the employee with a written notice of the proposed suspension or termination and the reasons thereof. The employee shall be given at least ten days in which to respond to the President/Vice President/Provost/Chief before the proposed action is taken. After considering the employee's response, input from any applicable union representative, or after the expiration of the response period should the employee fail to respond, the President/Vice President/Provost/Chief shall conclude on the appropriate course of action and issue a written notice of such action.

Notice of Suspension or Termination. All notices of disciplinary action shall include a statement of the reasons for the action and the effective date and shall be sent by registered mail, return receipt requested. During the period following notice, the employee may, at the discretion of the President/Vice President/Provost/Chief, be reassigned.

Other Disciplinary Action. The responsible Vice President/Provost/Chief retains the right to impose probation, counseling, mental health treatment, community service, restitution, drug or alcohol rehabilitation for just cause. Counseling and mental health treatment shall not be considered disciplinary action. In determining such disciplinary action, the Vice President/Provost/Chief shall consider the counsel from Human Resources regarding action previously taken for similar offenses, General Counsel regarding legal grounds and union appeal, the severity of the violation, the harm caused to the campus community, fiscal loss, risk of recurring offenses, the employee's employment record, and the employee's length of service.

Leave Pending Investigation. Notwithstanding the provisions above, the Vice President/Provost/Chief may immediately place an employee on paid leave pending investigation when the Vice President/Provost/Chief has reason to believe that the employee's presence on the job would adversely affect the functioning of the university, impede investigation of the alleged act warranting disciplinary action, or jeopardize the safety or

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welfare of other employees or colleagues. Within two working days, excluding weekends and designated holidays, the employee shall be sent a written statement of reasons for the leave by certified mail, return receipt requested.

Post Investigation Activities:

When allegations are sustained, the Chief Audit Executive may perform an analysis to identify lessons learned from the investigation which can be presented to the interested parties to help assure a similar matter is not present or does not arise. The analysis will help assure interested parties understand the rationale for the corrective action taken and that the process used to conduct the investigation was fair, impartial, transparent, and efficient. The CAE or other designee will then present the investigation results and analysis to the President's cabinet, Audit Chair, and student government as applicable.

Authority: Article IX, Sec. 7, Fla. Constitution; Fla. Board of Governors Regulation 1.001; Florida Statutes: 112.533

History: Adopted 01-28-04, as Rule 6C11 8.009; Repealed 6/21/2011, NCF Regulation 3-4010 Revised 05-18-22