

# *Fayetteville Technical Community College*

## EMPLOYMENT AND AFFIRMATIVE ACTION MANUAL



Current Version Originally Published  
Fall 2009  
Last Revised: November 22, 2024

**Proponent:**

Vice President for Human Resources and Institutional Effectiveness

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# FAYETTEVILLE TECHNICAL COMMUNITY COLLEGE

## VI – EMPLOYMENT AND AFFIRMATIVE ACTION MANUAL

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## **VI-1 Non-Discrimination and Equal Opportunity Policy Statement**

The Trustees of Fayetteville Technical Community College are committed to providing a non-discriminatory and harassment-free environment for faculty, staff, students, and visitors at the College. Accordingly, it is the policy of the Trustees of Fayetteville Technical Community College to prohibit all forms of illegal discrimination and to foster a campus environment which empowers individuals to bring forth claims of illegal discrimination without fear of retaliation.

No form of illegal discrimination shall be tolerated whether it arises in the employment environment or arises in some manner which impedes the ability of students, employees, and others to access any service offered by the College. Fayetteville Technical Community College (FTCC) shall place a special emphasis on providing training designed to help faculty, staff, and students recognize, prevent, and end illegal discrimination whether based on race, color, national origin, religion, age, genetic information, disability, political affiliation, sex/gender, including sexual harassment, sexual violence, sexual assault, sexual orientation and/or gender identity, stalking, domestic violence, dating violence, or other forms of intimate partner violence.

Illegal discrimination shall be defined as any action or decision that interferes or denies a person employment or participation in any educational program/activity at FTCC based upon race, color, national origin, religion, sex/gender, age, genetic information, disability, or political affiliation. Sexual harassment, sexual assault, stalking, domestic violence, dating violence, or other forms of intimate partner violence are prohibited and considered to be forms of sex/gender-based discrimination.

FTCC faculty, staff, students, and visitors to the College shall be permitted to bring forth claims of illegal discrimination without fear of retaliation.

## **VI-2 Affirmative Action Plan Objectives**

Fayetteville Technical Community College is committed to the concept of affirmative action to avoid all vestiges of illegal discrimination in its personnel policies, procedures, and actions. The College intends that all College employees and all citizens within its service area be made aware of this commitment. The Board of Trustees charges the administration, faculty, and staff of the College with the responsibility of implementing the doctrine of affirmative action in achieving the following objectives:

- (1) To affirm and extend the College's commitment to the principles of equal employment and educational opportunities.
- (2) To inform citizens in the service area that the administration and employees of the College practice the precepts of fair and equal treatment in the execution of recruitment, employment, and personnel utilization procedures.
- (3) To contribute to the development of a community in which opportunity is available for all individuals regardless of race, national origin, color, religion, sex/gender, disability, age, or political affiliation and to utilize the human and material resources of the College to provide opportunities for the development of the skills and attributes inherent in all members of the community.
- (4) To comply with all applicable federal and state orders, regulations, and laws in the areas of civil rights, equal employment opportunity, and contract compliance made known and available to this College.
- (5) To delineate the lines of authority and fixed responsibilities for development, implementation, and supervision of the College's Affirmative Action Plan.
- (6) To conduct a recruitment program designed to create and maintain, to the degree possible, a faculty and staff of the highest quality who reflect the ethnic and gender balance of the available work force within the College's service area.
- (7) To provide for non-discriminatory practices in all matters pertaining to employee compensation and benefits.
- (8) To develop, promulgate, and adhere to a system of procedures for adjudication of any complaints of discrimination by an employee or student that fall within the authority of the College to consider.
- (9) To establish and conduct monitoring procedures for ensuring that the selection, promotion, advancement, transfer, training, evaluation, discipline, and termination of employees follow governmental and institutional regulations and policies pertaining to equal employment opportunity.

- (10) To provide information, upon request, regarding the College's equal employment programs and practices to interested and authorized individuals, groups, organizations, and agencies.
- (11) To ensure publications, advertisements, notices, public information releases, contracts, and service agreements stipulate adherence to equal employment opportunity regulations.
- (12) To ensure that institutional facilities, organizations, and activities remain open to utilization and participation by employees and/or students, as appropriate, without regard to race, national origin, color, religion, sex/gender, disability, age, or political affiliation except those facilities reserved for use by a single gender.
- (13) To provide a system of analysis, assessment, and evaluation of employment data and Affirmative Action Plan accomplishments.
- (14) To conduct an ongoing evaluation and review of policies and procedures and recommend revisions where appropriate.

## **VI-3 Affirmative Action Responsibilities and Procedures**

### **VI-3.1 General Information**

The success of this institution's Equal Employment Opportunity endeavors and the success of its Affirmative Action Plan are dependent upon the individual and collective efforts of each employee of Fayetteville Technical Community College. Accordingly, the ultimate responsibility for implementation of policies and procedures outlined in this plan is shared by all members of the faculty and staff. The progression of responsibilities follows the supervisory chain of the College. The responsibilities of those administrators charged with specific duties for effecting program implementation are detailed in the following subsections.

#### **VI-3.1.1 President**

The President of Fayetteville Technical Community College is responsible to its Board of Trustees for the overall development and direction of the College's Affirmative Action Plan (AAP). The President will ensure that all administrators and supervisory personnel adhere to the Non-Discrimination and Equal Opportunity Policy and that such policy is reflected in institutional publications, advertisements, and pronouncements. The President is the final approval authority for all personnel procedures and actions pertaining to employee recruitment, selection, compensation, advancement, transfer, grievance, adjudication, Title IX remedies and sanctions, discipline, and termination, as delegated to him by the Board of Trustees. The President appoints the Vice President for Human Resources and Institutional Effectiveness (HR/IE) to serve as the College's Affirmative Action Officer/Title IX Coordinator.

#### **VI-3.1.2 Vice President for Human Resources and Institutional Effectiveness**

The Vice President for HR/IE is responsible for the management of the College's Affirmative Action Plan. The Vice President for HR/IE will function generally as the staff supervisor in all matters pertaining to Equal Employment Opportunity and Affirmative Action. Specific duties and responsibilities will include:

- (1) The review of community census and workforce analysis data.
- (2) The establishment and maintenance of Equal Employment Opportunity (EEO) and Affirmative Action data files.
- (3) The provision of assistance to members of the administration, faculty, staff, visitors, contractors, subcontractors, and vendors on matters pertaining to EEO and AAP implementation.

- (4) The development, preparation, and recommendation of policies and procedures needed to comply with applicable laws and guidelines affecting AAP objectives.
- (5) The review, coordination, and updating of administrative and personnel procedures necessary to comply with EEO policies and AAP objectives.
- (6) Coordination of the College's efforts to investigate complaints of illegal discrimination.
- (7) Coordination of complaints involving Title IX. The Vice President for HR/IE may appoint Deputy Title IX Coordinators, as needed, to ensure timely, fair, and impartial resolution of Title IX complaints.
- (8) The preparation of reports on the status and progress of the College's Affirmative Action Plan.
- (9) The annual audit of data and accomplishments and the preparation and recommendation of any necessary or desirable revisions to the objectives stated therein to the President.
- (10) The primary point of contact and liaison in all matters pertaining to EEO and Affirmative Action.
- (11) In conjunction with the Director of Public Safety and Security, prepare and submit an annual report of the number of Title IX investigations to the President who in turn will present this information to the Board of Trustees at its June meeting.

### **VI-3.2 Release of Information Policy**

It is the policy of Fayetteville Technical Community College to maintain records for applicants, employees, and past employees in order to document employment-related decisions, evaluate and assess policies, and comply with government recordkeeping and disclosure requirements. It is also the policy of the College to control the release of records compiled from the files of its applicants, employees, and past employees to prevent the invasion of privacy. The disclosure shall comply with state law prohibiting the release of personnel records.

Each administrator and supervisor having the responsibility for maintenance of employee records will be held accountable for their control and utilization in compliance with policies and procedures set forth in this plan. Only specifically designated administrators will have access to records. Such access, even then, will be limited to the performance of reviews necessary for required data collection or for the conduct of advancement, promotion, training, termination, or investigative activities.



## **VI-3.3 Affirmative Action Procedures**

### **VI-3.3.1 Recruitment, Advertising, and Selection**

To fulfill its role as an equal opportunity institution, FTCC takes affirmative action to ensure that qualified members of minority groups and females are afforded opportunities on an equal basis with all other applicants. The recruitment and advertising effort aimed at locating and soliciting minority and female applicants will include the following:

- (1) Advertising employment opportunities in multiple venues to ensure the minority population has equal access to job postings.
- (2) Sending employment opportunities to colleges and universities with minority and female enrollment, as well as usual recruitment sources.
- (3) Advertising employment opportunities in trade journals, if appropriate for job.
- (4) Notifying the NC Department of Commerce of job vacancies for posting with the NCWorks Centers across the State of NC.
- (5) Posting employment opportunities to the NCCCS employment website.
- (6) Emailing employment opportunities campus wide.
- (7) Posting employment opportunities on the FTCC website.

Fayetteville Technical Community College recruits employees in all areas (administrative, staff, instructional, and service) on the basis of qualifications and individual ability without regard to race, national origin, color, religion, sex/gender, disability, age, or political affiliation except where gender or age are bona fide occupational qualifications or limitations. Emphasis will be placed on attracting applicants who will contribute to maintaining the standard of excellence to which this College is committed. Recruiting sources will be analyzed annually by the Vice President for HR/IE to evaluate responses from such sources and the need for expansion.

All requests for advertisements of position vacancies will be forwarded to the Vice President for HR/IE for review and action.

The phrase "An Equal Opportunity Employer" will be reflected on all position vacancy announcements. These will include advertising sites and other agencies having access or appeal to minority and female applicants.

Equal Employment Opportunity policies and the Affirmative Action Plan of this College will receive wide dissemination both within and outside the College. Internal measures will include: informing new employees of College policy during their orientation. External dissemination will include: providing statements of policy to recruitment sources, prospective employees, contractors, and the news media; providing copies of College plans and programs to appropriate governmental and other agencies having a requirement for knowledge of their content; and equally portraying minority and female employees and students and their accomplishments in public information releases, advertisements, catalogs and other appropriate publications to reflect the diversity of the College.

The College President retains the authority to occasionally approve upward mobility of qualified internal College personnel in lieu of advertising vacant positions. Also, the College President may occasionally waive the requirement to advertise a position in specific situations where an individual has been performing duties of the position while working for a contracted company. When this option is applied, there must be mutual agreement by the parties to transition the individual(s) from contracted status to College employment status, performing similar duties as was defined previously to fulfil his/her contracted duties.

The President delegates approval authority to the Vice President for HR/IE for hiring of part-time employees and to re-advertise vacancies when necessary. The President further delegates authority to the Vice President for HR/IE to approve internal-only vacancy postings when the Vice President for HR/IE reasonably determines the internal-only posting to be in the best interest of the College.

### **VI-3.3.2 Applicant Selective Service Registration Status**

Part 19A, Section 1, Chapter 143B of the North Carolina General Statutes requires that persons subject to Selective Service Registration must register to be eligible for State or Local employment or register to be eligible for State or Local employment or receipt of public educational assistance.

### **VI-3.3.3 Application Forms**

Fayetteville Technical Community College accepts and retains applications via the College's electronic application system powered by the PeopleAdmin<sup>®</sup> applicant tracking system (PeopleAdmin<sup>®</sup>).

Tests may be given to prospective employees or employees seeking advancement or transfer for the purpose of providing an aptitude or ability indicator to assist in the selection process. Tests must meet all validity and reliability measures to comply with federal and state law and therefore must be approved, prior to use, by the Vice President for HR/IE.

#### **VI-3.3.4 Promotion, Advancement, and Transfer**

A primary element of the College's Affirmative Action Plan is that of providing the opportunity to qualified employees to apply for promotion, advancement, or transfer to more responsible and remunerative positions. Where vacancies occur that afford such opportunities, they will be filled on the basis of merit without regard to race, national origin, color, religion, sex/gender, disability, age, or political affiliation.

Except in limited cases of upward mobility approved by the President, position openings will continue to be made known on a College-wide basis so that any qualified employee may apply. Those employee applicants who have the requisite experience, training, aptitude, record of performance, developmental potential, and personal qualities will receive priority consideration. There may be a need, however, to broaden the field of applicants, in which case the position will be advertised internally and externally with all qualified applicants receiving equal consideration. Candidates will be evaluated on the basis of individual ability, qualifications, and the needs of the College.

#### **VI-3.3.5 Compensation and Benefits**

All employees of Fayetteville Technical Community College receive compensation and benefits in accordance with the positions they occupy, their qualifications, and their term of service without regard to race, national origin, color, religion, sex/gender, disability, age, or political affiliation.

No employee has an expectation of continued employment beyond the term specified in their employment contract. The President retains the right to decide whether to issue or not issue additional contracts covering periods after the expiration of any FTCC employee's contract. The employee's race, color, national origin, sex/gender, age, disability, and political affiliation will not be a part of such consideration.

## VI-4 Employment Procedures

### VI-4.1 Introduction

Employment procedures are designed to establish a uniform recruiting and selection procedure throughout the Fayetteville Technical Community College campuses. These procedures ensure that the recruiting and selection processes are fair, equitable, and in compliance with state and federal laws and regulations. This manual provides the procedures for recruiting and selecting the most qualified employees. Uniform recruitment and selection procedures will help to ensure diversity throughout the College. Definitions of employee status are as follows:

**Full-time Permanent Employees:** A Full-time Permanent Employee is defined as an employee who works the equivalent of 40 or more hours per week and holds a position which is intended to exist for an indefinite period of time. Any such employee shall receive the employee benefits described in the Administrative Procedures Manual. Full-time Permanent Employees have no right to continued employment for any period except that stated in the employee's contract, if any.

**Full-time Temporary Employees:** A Full-time Temporary Employee is defined as an employee who works the equivalent of 40 or more hours per week and holds a position which exists for no more than 4 months during any 12-month period. Any such employee shall receive none of the employee benefits described in the Administrative Procedures Manual. Full-time Temporary Employees have no right to continued employment for any period of time except that stated in the employee's contract, if any.

**Part-time Permanent Employees:** A Part-time Permanent Employee is defined as an employee who works less than 40 hours per week and holds a position which is intended to exist for an indefinite period of time. An employee working 30 or more hours per week shall receive a pro-rata share of the employee benefits of full-time employees as described in the Administrative Procedures Manual. Part-time Permanent Employees who work less than 30 hours per week receive none of the employee benefits described in the Administrative Procedures Manual. Part-time Permanent Employees have no right to continued employment for any period of time except that stated in the employee's contract, if any.

**Part-time Temporary Employees:** A Part-time Temporary Employee is defined as an employee who works less than 40 hours per week and holds a position which exists for no more than 4 months during any 12-month period. A Part-time Temporary Employee shall receive none of the benefits described in the Administrative Procedures Manual. Part-time Temporary Employees have no right to continued employment for any period of time except that stated in the employee's contract, if any.

## VI-4.2 Veteran's Policy

In recognition of the sacrifices made by veterans and their families, Fayetteville Technical Community College shall make reasonable efforts to recruit veterans, their spouses, and spouses of active duty service members for employment opportunities at the College. In making hiring decisions, the College shall hire an applicant who is a veteran or the veteran's spouse when the veteran or veteran's spouse is determined, by and through the application, interview, and other hiring processes, to be equally or better qualified than all other candidates.

For the purposes of this policy, the following definitions apply:

- (1) **Veteran:** shall be defined as a person who served in the Armed Forces of the United States on active duty, for reasons other than training, and has been discharged under other than dishonorable conditions.
- (2) **Veteran's Spouse:** shall be defined as either (a) the legal spouse of a veteran; or (b) the surviving spouse of a veteran; or (c) the surviving spouse of a service member who died directly or indirectly as the result of active duty military service.

This preference applies to initial employment with Fayetteville Technical Community College and extends to other employment events including subsequent hiring, promotion, reassignment, and lateral transfer.

## VI-4.3 Hiring Procedures for Full-Time Employment

**Confidentiality Statement:** There must be no feedback to candidates from interview panel members (verbal/nonverbal) that might indicate whether or not a particular candidate “has the job” or is the preferred candidate. The President reserves the right to make the final selection decision. Discussing candidates outside of the committee deliberations could result in incorrect information leading to false expectations and create potential liabilities for the College. No promise or commitment will be made to any candidate until a hiring packet has been approved by the President and the selected candidate has accepted the position.

- (1) Hiring managers must complete a Job Posting Justification Form (Form J-1) and send through the supervisory chain to the appropriate Senior Vice President, Vice President, or Executive Director for final approval by the President. Once approved, the hiring manager is notified by the President’s office and the original form is given to Human Resources to create a vacancy announcement (posting) in the PeopleAdmin® applicant tracking system.
- (2) The vacancy announcement (posting) is moved to the hiring manager to review and return to Human Resources. Human Resources will move the vacancy announcement (posting) to the Vice President for Business and Finance for budget approval and then to the President for final approval to post.

Vacancy announcements (postings) will be placed in multiple locations to generate an applicant pool for the hiring manager to review after the closing date. In isolated situations, following approval by the President, vacancy announcements (postings) may be released as “open until filled” in lieu of a definitive closing date.

- (3) All candidates must submit an application via PeopleAdmin®, accessible through the FTCC website. Applications for positions advertised with a definitive closing date are held in a queue and released to hiring departments the day following the closing of the vacancy announcement (if open until filled, screening of applications will begin immediately and will continue until the position is filled). The hiring manager reviews applications and completes an Employment Application Evaluation Form (Form E-6). This form must be submitted to the division Senior Vice President, Vice President, or Executive Director for approval or non-approval of candidates selected for interviews.
- (4) Prior to interviewing candidates, the hiring manager must electronically submit an Interview Committee Approval Form (Form I-3) to the Vice President for HR/IE, or designee, for approval of the interview committee. The interview committee must consist of at least 3 diverse members – all committee members must be DDI trained and identified on the I-3 Form. All committee members must participate in the interview for every candidate scheduled.

- (5) During the interview process, an FTCC Interview Guide (Form I-12) must be completed by each committee member for each candidate interviewed; form must include the committee member's target ratings for each question. An Interview Target/Question Rating Consensus Sheet (Form I-13) must be completed by the Interview Committee Chair recording target ratings from each committee member's Interview Guide (Form I-12).
- (6) For faculty positions, the candidates are expected to present an evaluated instructional demonstration or presentation. The presentation will be rated by each committee member on the Interview Guide Supplement Form (Form I-14).
- (7) Reference Check Forms (Form R-8) must be completed after interviews. It is recommended reference checks be conducted for the top two or three candidates likely to be referred for employment (in the event the top candidate declines an offer, the next choice's references will already be complete).
  - **New hire** (no prior FTCC employment): Three reference checks are required. One of the 3 required reference checks must be from the current/most recent supervisor.
  - **Previous employee** of the college who departed within 2 years or less: their previous FTCC supervisor must complete a reference check and 2 additional reference checks will be required.
  - **Current employee** of the college: their current FTCC supervisor must complete a reference check and 1 additional reference check will be required.
  - a. Reference checks must be conducted by the hiring manager and/or a certified interviewer who served on the committee for the candidate. Exceptions to this must be approved by the appropriate Senior Vice President, Vice President, or Executive Director.
  - b. Should a candidate under consideration indicate "no contact allowed" with the current/most recent supervisor, the hiring manager must contact the candidate and advise that they are one of the top candidates for the position and to be further considered, the College requires a reference check from their current/most recent supervisor. The candidate must submit in writing they concur with the College contacting the current/most recent supervisor.

- c. Employees conducting reference checks are encouraged to contact references beyond just the persons identified by the candidate to gain additional insights and past performance information that may become available through expanded reference checks. Reference checks from individuals identified by the candidate may not give a clear picture of past performance.

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- (8) After conducting interviews and collecting reference checks, the hiring manager selects a candidate for further consideration. A hiring recommendation packet is then prepared with the following documents assembled in the order listed below:

### **Full-Time Curriculum Faculty**

- **Form E-3 (complete front and back)** (Employment, full-time)
- **Form C-19** (Condition of Employment Notice, if needed)
- **Credentials sheet** from Colleague (and F-14 Faculty Credentials Alternative Qualifications Summary Sheet for Portfolio Packet if needed)
- **Application** of the candidate recommended for hire
- **Form R-8** (Reference check) 3 are required, 1 must be most recent supervisor (see #7 above for guidance)
- **Form I-13** (Interview Target/Question Rating Consensus) for the candidate recommended for hire
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for the candidate recommended for hire.
- **Form E-6** (Employment Application Evaluation) signed by designated approving authority
  - Indicate in writing on the E-6 if any selected candidates declined an interview, withdrew, or did not show.
- **Form I-3** (Interview Committee Approval) approved by Human Resources

**Behind the first 10 bulleted items listed above,** include the interview packet for all other interviewed candidates. Each interview packet will include in the following order:

- **Form I-13** (Interview Target/Question Rating Consensus)
- **Application** of interviewed candidate
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for each candidate interviewed

**No promise or commitment will be made to any candidate until final approval is received and the candidate has been cleared for hire.**

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## **Full-Time Continuing Education Faculty**

- **Form E-3 (complete front and back)** (Employment, full-time)
- **Form C-19** (Condition of Employment Notice, if needed)
- **Form F-14** (Faculty Credentials Alternative Qualifications Summary Sheet for Portfolio Packet)
- **Application** of candidate recommended for hire
- **Form R-8** (Reference check) 3 are required, 1 must be most recent supervisor (see #7 above for guidance)
- **Form I-13** (Interview Target/Question Rating Consensus) for candidate recommended for hire
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for candidate recommended for hire
- **Form E-6** (Employment Application Evaluation) signed by designated approving authority
  - Indicate in writing on the E-6 if any selected candidates declined an interview, withdrew, or did not show.
- **Form I-3** (Interview Committee Approval) approved by Human Resources

**Behind the first 10 bulleted items listed above,** include the interview packet for all other interviewed candidates. Each interview packet will include in the following order:

- **Form I-13** (Interview Target/Question Rating Consensus)
- **Application** of interviewed candidate
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for each candidate interviewed

## **Full-Time Staff**

- **Form E-3** (Employment, full-time)
- **Form C-19** (Condition of Employment Notice, if needed)
- **Application** of candidate recommended for hire
- **Form R-8** (Reference check) 3 are required, 1 must be most recent supervisor (see #7 above for guidance)
- **Form I-13** (Interview Target/Question Rating Consensus) for candidate recommended for hire
- **Form I-12** (Interview Guide) from each panel member for candidate recommended for hire
- **Form E-6** (Employment Application Evaluation) signed by designated approving authority
  - Indicate in writing on the E-6 if any selected candidates declined an interview, withdrew, or did not show.
- **Form I-3** (Interview Committee Approval) approved by Human Resources

**Behind the first 8 bulleted items listed above,** include the interview packet for all other interviewed candidates. Each interview packet will include in the following order:

- **Form I-13** (Interview Target/Question Rating Consensus)
- **Application** of interviewed candidates
- **Form I-12** (Interview Guide) from each panel member for each candidate interviewed

**No promise or commitment will be made to any candidate until final approval is received and the candidate has been cleared for hire.**

- (9) The hiring packet must be forwarded through the supervisory chain to the Office of Human Resources to review and initiate a criminal background check. After the results are received, the Vice President for HR/IE will review and verify the hiring packet includes all required documents and then forward to the Vice President for Business and Finance to approve the salary. The hiring packet is then forwarded to the President to make a final hiring determination.

An exception to a criminal background check is available if FTCC completed an acceptable background check within 2 years or less of the anticipated hire date for the new position.

The President retains the authority to approve a hiring packet conditionally in situations where the position must be immediately filled and/or the completed background check has not been received. Notification of such conditional hires, pending receipt of the completed background check, will be included with the initial job offer for employment. The employee must sign and return the conditional job offer letter to show understanding that continued employment is conditional upon an acceptable background check.

- (10) Employment recommendations not meeting minimum requirements must be accompanied by a Condition of Employment Notice (Form C-19) from the hiring manager identifying additional requirements and specific actions to be taken by the recommended candidate within a specified period as a condition of employment. Form C-19 must be included with the hiring packet to be approved by the appropriate Senior Vice President, Vice President, or Executive Director and the President.
  - a. For faculty, outstanding professional experience and demonstrated contributions to the teaching discipline may be presented in a portfolio in lieu of formal academic preparation. A Faculty Credentials Alternative Qualification Summary Sheet (Form F-14) and portfolio packet must be included in the hiring packet.
  - b. For staff, outstanding professional experience and demonstrated competence may substitute for academic preparation. The appropriate Senior Vice President, Vice President, or Executive Director may be required to further justify this exception to the President on an individual basis.

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The President retains the authority to approve a hiring packet conditionally in situations where the position must be immediately filled and/or minimum requirements are not met. Notification to such conditional hires will be included with the initial job offer for employment. The employee must sign and return the conditional job offer letter to show understanding that continued employment is conditional upon completion of minimum requirements and any other conditions.

- (11) After final approval from the President, the Office of Human Resources will notify the appropriate supervisor with the approved hire date, approved salary, and if necessary, any conditions of employment.
  - a. The supervisor will contact the candidate for acceptance of the offer with any conditions of employment and report back to HR the candidate's decision.
  - b. After receiving notification of the candidate's acceptance, HR will send a formal offer letter to the candidate and request official transcripts, if needed.
  - c. The Office of Human Resources will contact the supervisor to move all applications in PeopleAdmin® and notify HR of the new employee's mentor assignment.
- (12) On the first day of employment, the Office of Human Resources will conduct in-processing of full-time employees. Full-time hiring takes place twice monthly, on the first business day and the mid-month business day on or before the 15<sup>th</sup>, with any exceptions to hiring dates being approved by the President.
- (13) In-processing is just the beginning of new hire orientation. Supervisors and/or assigned mentors continue orientation throughout the initial 90-day probationary period by completing the tasks on the Mentor Checklist (Form M-1). The completed M-1 Form should be attached to the probationary Employee Performance Appraisal Form (Form E-32) upon submission.

## VI-4.4 Hiring Procedures for Part-Time Employment

**Confidentiality Statement:** There must be no feedback to candidates from interview panel members (verbal/nonverbal) that might indicate whether or not a particular candidate “has the job” or is the preferred candidate. The President reserves the right to make the final selection decision. Discussing candidates outside of the committee deliberations could result in incorrect information leading to false expectations and create potential liabilities for the College. No promise or commitment will be made to any candidate until a hiring packet has been approved by the President and the selected candidate has accepted the position.

- (1) Hiring managers must complete a Job Posting Justification Form (Form J-1) and send through the supervisory chain to the appropriate Senior Vice President, Vice President, or Executive Director for final approval by the President. Once approved, hiring managers may review POOL applications in PeopleAdmin®.

For hard to fill part-time positions requiring a vacancy announcement (posting) with advertising, hiring managers should follow the hiring procedures for full-time employment located above.

- (2) Part-time POOL hiring does not require the Employment Application Evaluation Form (E-6); however, if requesting a part-time vacancy announcement (posting), the E-6 form is required and hiring managers should follow the hiring procedures for full-time employment located above.
- (3) Prior to interviewing candidates, the hiring manager must electronically submit an Interview Committee Approval Form (Form I-3) to the Vice President for HR/IE, or designee, for approval of the interview committee. The interview committee must consist of at least 3 diverse members – all committee members must be DDI trained and identified on the I-3 Form. All committee members must participate in the interview for every candidate scheduled.
- (4) During the interview process, an FTCC Interview Guide (Form I-12) must be completed by each committee member for each candidate interviewed; form must include the committee member’s target ratings for each question. An Interview Target Rating Consensus Sheet (Form I-13) must be completed by the Interview Committee Chair recording target ratings from each committee member’s Interview Guide (Form I-12).
- (5) For part-time faculty positions, the candidates are expected to present an evaluated instructional demonstration or presentation. The presentation will be rated by each committee member on the Interview Guide Supplement Form (Form I-14).

(6) Reference Check Forms (Form R-8) must be completed after interviews.

- **New hire** (no prior FTCC employment): Three reference checks are required. One of the 3 required reference checks must be from the current/immediate past supervisor.
  - **Previous employee** of the college who departed within 2 years or less: their previous FTCC supervisor must complete a reference check and 2 additional reference checks will be required.
  - **Current employee** of the college: their current FTCC supervisor must complete a reference check and 1 additional reference check will be required.
- a. Reference checks must be conducted by the hiring manager and/or a certified interviewer who served on the committee for the candidate. Exceptions to this must be approved by the appropriate Senior Vice President, Vice President, or Executive Director.
  - b. Should a candidate under consideration indicate “no contact allowed” with current/most recent supervisor, the hiring manager must contact the candidate and advise that they are one of the top candidates for the position and to be further considered, the College requires a reference check from their current/most recent supervisor. The candidate must submit in writing they concur with the College contacting the current/most recent supervisor.
  - c. Employees conducting reference checks are encouraged to contact references beyond just the persons identified by the candidate to gain additional insights and past performance information that may become available through expanded reference checks. Reference checks from individuals identified by the candidate may not give a clear picture of past performance.

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- (7) After conducting interviews and collecting reference checks, the hiring manager selects a candidate for further consideration. A hiring recommendation packet is then prepared with the following documents assembled in the order listed below:

**Part-Time Curriculum Faculty**

- **Credentials sheet** from Colleague (and F-14 Faculty Credentials Alternative Qualifications Summary Sheet for Portfolio Packet if needed)
- **Application** of the candidate recommended for hire
- **Form R-8** (Reference Check) 3 are required, 1 must be most recent supervisor (see #6 above for guidance)
- **Form I-13** (Interview Target/Question Rating Consensus) for the candidate recommended for hire
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for the candidate recommended for hire
- **Form I-3** (Interview Committee Approval) approved by Human Resources
- **Form J-1** (Job Posting Justification Form) fully approved (see #1 above for guidance)

**Behind the first 8 bulleted items listed above**, include the interview packet for all other interviewed candidates. Each interview packet will include in the following order:

- **Form I-13** (Interview Target/Question Rating Consensus)
- **Application** of interviewed candidate
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for each candidate interviewed

\*An E-6 is not required for POOL hiring

**No promise or commitment will be made to any candidate until final approval is received and the candidate has been cleared for hire.**

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## **Part-Time Continuing Education Faculty**

- **Form P-15** (Part-time Employee Personnel Approval)
- **Form F-14** (Faculty Credentials Alternative Qualifications Summary Sheet for Portfolio Packet)
- **Application** of candidate recommended for hire
- **Form R-8** (Reference check) 3 are required, 1 must be most recent supervisor (see #6 above for guidance)
- **Form I-13** (Interview Target/Question Rating Consensus) for candidate recommended for hire
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for candidate recommended for hire
- **Form I-3** (Interview Committee Approval) approved by Human Resources
- **Form J-1** (Job Posting Justification Form) fully approved (see #1 above for guidance)

**Behind the first 9 bulleted items listed above**, include the interview packet for all other interviewed candidates. Each interview packet will include in the following order:

- **Form I-13** (Interview Target/Question Rating Consensus)
- **Application** of interviewed candidates
- **Form I-12** (Interview Guide)
- **Form I-14** (Interview Guide Supplement) from each panel member for each candidate interviewed

\*An E-6 is not required for POOL hiring

## **Part-Time Staff**

- **Form E-4** (Employment, part-time)
- **Application** of candidate recommended for hire
- **Form R-8** (Reference check) 3 are required, 1 must be most recent supervisor (see #6 above for guidance)
- **Form I-13** (Interview Target/Question Rating Consensus) for candidate recommended for hire
- **Form I-12** (Interview Guide) from each panel member for candidate recommended for hire
- **Form E-6** (Employment Application Evaluation) signed by designated approving authority (**Not required for Pool hiring**)
  - Indicate in writing on the E-6 if any selected candidates declined an interview, withdrew, or did not show.
- **Form I-3** (Interview Committee Approval) approved by Human Resources
- **Form J-1** (Job Posting Justification Form) fully approved (see #1 above for guidance)

**Behind the first 8 bulleted items listed above**, include the interview packet for all other interviewed applicants. Each interview packet will include in the following order:

- **Form I-13** (Interview Target/Question Rating Consensus)
- **Application** of interviewed candidates
- **Form I-12** (Interview Guide) from each panel member for each candidate interviewed

**No promise or commitment will be made to any candidate until final approval is received and the candidate has been cleared for hire.**



- (8) The hiring packet must be forwarded through the supervisory chain to the Office of Human Resources to review and initiate a criminal background check. After the results are received, if favorable, the hiring packet is forwarded to the Vice President for Business and Finance to approve the salary, and returned to the Vice President for HR/IE to review and verify the packet includes all required documents and make a final hiring determination.

Should the background check results be less than favorable, the hiring packet is forwarded to the President to make a final hiring determination.

An exception to a criminal background check is available if FTCC completed an acceptable background check within 2 years or less of the anticipated hire date for the new position. The Vice President for HR/IE will verify the packet includes all the required documents, an acceptable criminal background check, and approval to hire.

The President retains the authority to approve a part-time hiring packet conditionally in situations where the position must be immediately filled and/or the completed background check has not been received. Notification of such conditional hires, pending receipt of the completed background check, will be included with the initial offer for employment. The employee must sign and return the conditional job offer letter to show understanding that continued employment is conditional upon an acceptable background check.

- (9) Employment recommendations not meeting minimum requirements must be justified by written memorandum from the appropriate Senior Vice President, Vice President, or Executive Director to the President. The memorandum should specify additional requirements and specific actions to be taken by the recommended candidate within a specified period as a condition of employment.
  - a. For faculty, outstanding professional experience and demonstrated contributions to the teaching discipline may be presented in a portfolio in lieu of formal academic preparation. A Faculty Credentials Alternative Qualification Summary Sheet (Form F-14) and portfolio packet must be included in the hiring packet.
  - b. For staff, outstanding professional experience and demonstrated competence may substitute for academic preparation with a memorandum from the supervisory chain. The appropriate Senior Vice President, Vice President, or Executive Director may be required to further justify this exception to the President on an individual basis.

The President retains the authority to approve a part-time hiring packet conditionally in situations where the position must be immediately filled and/or minimum requirements are not met. Notification to such conditional hires will be included with the initial job offer for employment. The employee must sign and return the conditional job offer letter to show understanding that continued employment is conditional upon completion of minimum requirements and any other conditions.

- (10) The Office of Human Resources will notify the appropriate supervisor their recommendation is cleared for hire. Then the supervisor will submit a Part-Time Contract Request (Form C-6). Unless the contract is of a short-term duration, supervisors are highly encouraged to assign a mentor to part-time employees.

After receiving the Part-Time Contract Request (Form C-6), the Part-Time Contracts Office will:

- Create the offer letter, contract, and new hire forms.
- Contact the new hire to collect I-9 Eligibility documents, (i.e. driver license, social security card, etc.) to complete in-processing requirements.
- Send collected documents referenced above, to the Office of Human Resources and the Payroll Office to facilitate creation of Personnel and Payroll records.

## **VI-4.5 Hiring Procedures for Vice Presidents and Above**

- (1) Except in cases of upward mobility, an announcement and advertisement for job vacancy will be posted after approval by the President.
- (2) Applications submitted electronically via PeopleAdmin®.
- (3) Screening Committee consisting of the Vice President for Human Resources and Institutional Effectiveness and at least two others, selected by the President, conducts an initial review of applications and completes the Employment Application Evaluation Form (Form E-6) and submits to the President with all application packets (applications and supporting documents).
- (4) The President reviews all applications and Form E-6 and selects applicants for interviews; assembles a committee of trained interviewers and schedules interviews.
- (5) During the interview process, an FTCC Interview Guide (Form I-12) must be completed by each committee member for each candidate interviewed; form must include the committee member's target ratings. An Interview Target Rating Consensus Sheet (Form I-13) must be completed by the Interview Committee Chair recording target ratings from each committee member's Interview Guide (Form I-12).
- (6) Three Reference Check Forms (Form R-8) must be completed after interviews. It is recommended reference checks be conducted for the top two or three candidates.
  - a. One reference check must be from the current/immediate past supervisor for each of the top candidates.
  - b. Should a candidate under consideration indicate "no contact allowed" with current/immediate past supervisor, the Vice President for HR/IE must contact the candidate and advise that they are one of the top candidates for the position and to be further considered, the College requires a reference check from their current/immediate past supervisor. The candidate must submit in writing they concur with the College contacting the current/immediate past supervisor.
  - c. If the candidate has previously worked or is currently working for FTCC, that supervisor must complete a reference (unless the former supervisor is no longer employed at the College). The supervisor's reference can be used as one of three references if the supervisor did not participate in the current interview. If the supervisor did participate in the interview his/her reference is required in addition to 3 others for a total of 4 reference checks.

- d. Employees conducting reference checks are encouraged to contact references beyond just the persons identified by the applicant to gain additional insights and past performance information that may become available through expanded reference checks. Reference checks from references identified by the candidate may not give a clear picture of past performance.
- (7) After conducting interviews and selecting a candidate for further consideration, recommendation to hire packet should be prepared that includes:
- a. Full-Time Employment Form (Form E-3).
  - b. Application and all required attachments for the candidate selected.
  - c. Three Reference Check Forms (Form R-8).
  - d. Approved Employment Application Evaluation Form (Form E-6) signed by the President.
  - e. Completed Interview Target Rating Consensus Sheet (Form I-13) for the recommended candidate.
  - f. Completed FTCC Interview Guides (Form I-12) from each committee member for the recommended candidate.
  - g. Interview Target Rating Consensus Sheets (Form I-13) and FTCC Interview Guides (Form I-12) for the other candidates interviewed are to be included behind the recommended candidate.
- (8) The employment packet must be sent to the Office of Human Resources where a criminal background check will be initiated and results received before the employment packet is processed further. The Vice President for HR/IE will verify the packet includes all required documents and an acceptable criminal background check and will then forward the packet to the Validation Committee. With approval of the President, background checks that are taking a lengthy time for completion (such as residency in multiple states and overseas locations) may be processed with an annotation that hiring consideration is contingent on receipt of an acceptable background check. Should the background check come back unacceptable, the contingent job offer may be rescinded by the President.

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- (9) The Validation Committee, appointed by the President, will verify that the selected candidate meets all job qualifications, has acceptable references, and that all affirmative action guidelines have been followed. The committee will review the entire hiring process to verify that all policies and procedures have been accomplished. Committee members will complete and sign the Validation Committee Action Form (Form V-4) before returning the packet to the Vice President for HR/IE.
- (10) The Vice President for HR/IE will notify the President that the candidate has been approved by the Validation Committee and the President will notify the Board of Trustees' Human Resources Committee of the name of the selected candidate for acceptance prior to offering the position to the candidate.
- (11) After acceptance of the Board of Trustees' Human Resources Committee, President will offer the position to the candidate. The Vice President for HR/IE will notify the other candidates who interviewed for the position that they were not selected. Applicants who were not selected for an interview will be sent an automated email via PeopleAdmin®.

## VI-4.6 Guidelines for Hiring Retired/Returning Faculty/Staff

### VI-4.6.1 Retired/Returning Full-Time

The following guidelines govern approval of full-time employment for retired faculty/staff who wish to return to teaching or serve in an administrative role. The faculty/staff member must wait until a date after the state-mandated six-month waiting period. Any offer of employment will be contingent upon availability of a faculty/staff position and availability of funds. **The President must approve all requests for retired/returning full-time faculty/staff.**

- (1) A retired/returning FTCC faculty/staff member will be hired for Fall and Spring semesters only. Exceptions for teaching both Fall and Spring semesters will be made to those retiring after Spring semester and eligible for a January start date.

Approximate starting/ending dates would be August 1 thru December 15 for Fall semester and January 1 thru May 15 for Spring semester. Salary for December and May will be prorated for the actual days worked based on the monthly salary rate.

- (2) A retired/returning faculty/staff member will teach a full load (*i.e. 18-20 contact hours or 20-24 contact hours*) and maintain all other faculty/staff job description responsibilities such as advising, office hours, registration, etc.
- (3) The monthly salary will not exceed one-half of the monthly FTCC salary at the time of the faculty/staff member's retirement.
- (4) A retired/returning faculty/staff member may not return as a Division Chair, Department Chair, or Program Coordinator.
- (5) Faculty/staff desiring to return to teaching after the six-month waiting period and desiring to teach less than a full teaching load will receive the Pay-by-Course rate.
- (6) Any exceptions for contracts provided to retiring/returning faculty/staff must be approved by the President.

These guidelines do not apply to retired faculty/staff members hired prior to July 1, 2007.

## VI-4.6.2 Retired/Returning Part-Time

The following guidelines govern approval of part-time employment for retired faculty/staff who wish to return to work at FTCC. The retired faculty/staff member must wait until a date after the state-mandated six-month waiting period. Any offer of employment will be contingent upon availability of a faculty/staff position and availability of funds.

Requirements for faculty/staff retirees who wish to return part-time after they have completed the six-month waiting period, but their last date of employment is 2 years or less:

- (1) Hiring manager completes a Part-time Employee Rehire Request Form (Form P-17) to include:
  - a. Updated Resume (submitted by the Retiree/Returning Employee)
  - b. Updated Faculty Credentials Sheet (Faculty Only)
  - c. E-4 (Staff Only)
- (2) Hiring manager submits Form P-17 and all documentation through the supervisory chain.
- (3) Human Resources will conduct a criminal background check (if the former employee did not already have one, or if it has been more than 2 years since the last background check was completed).
- (4) Once cleared for hire is received from HR, the hiring manager will then complete a Part-Time Contract Request (Form C-6) and submit to the Part-Time Contracts Office. The Part-Time Contracts Office will create the offer letter, contract, and new hire forms and will contact the retiree to complete in-processing. The Part-Time Contracts Office then shares the documents with the Office of Human Resources.

Faculty/staff retirees who wish to return part-time after they have been gone for more than 2 years will follow the process for a new part-time hire. Refer to the hiring procedures for part-time employment located in the previous section.

\*Note: A **staff** retiree requesting to return **for the purpose of teaching classes** will follow the process for a new part-time hire.

### **VI-4.6.3 Resigning Full-Time Desiring to Continue Part-Time Employment**

Faculty/staff members who resign from full-time employment but desire to immediately transition to part-time may be approved, dependent upon the needs of the department.

Immediate supervisors must complete a Part-time Employee Rehire Request Form (Form P-17) and attach it to the Resign or Retire Memorandum Form (Form R-2) and send through the supervisory chain to the Vice President for HR/IE for approval with the following:

- (1) Updated Faculty Credentials Sheet (printed from Colleague) (Faculty Only)
- (2) E-4 (Staff Only)
- (3) Updated Resume

### **VI-4.6.4 Rehiring Faculty and Staff for Part-Time Employment within 2 years or less**

To rehire faculty/staff members for part-time employment within 2 years or less of their last date of employment, immediate supervisors should follow the guidance on the Part-time Employee Rehire Request Form (Form P-17).

Human Resources will conduct a criminal background check (if the former employee did not already have one, or if it has been more than 2 years since the last background check was completed).

### **VI-4.7 Resignations and Retirements**

**All** employees who are voluntarily resigning or giving notice of retirement must complete FTCC Form R-2 FT or R-2 PT (Resignation or Retirement Memorandum for Full-Time or Resignation Memorandum for Part-Time) notifying the supervisory chain of their intent. Directions for completion are included on the form.

\*It is the responsibility of the supervisor to ensure that this form is submitted for Part-time instructors or staff who are at the end of their current contract. If these instructors or staff will be used in future semesters (but not the immediate future) this form still must be completed.

For example:

PT instructor A teaches a course in the fall semester and will not teach again until the following fall semester. The R-2 PT form **will** need to be completed.

PT instructor B teaches a course in the fall semester and will teach again in the spring semester. The R-2 PT form will not need to be completed.



## **VI-5 Discipline and Involuntary Termination**

The maintenance of a standard of excellence by Fayetteville Technical Community College is primarily attributable to the ability, dedication, and productivity of all its employees. This includes being at work at designated times to prevent a loss of productivity and provide timely, accurate, and professional support to students, visitors, and other College employees.

### **VI-5.1 Absenteeism and Tardiness**

As a condition of employment, all employees must take necessary precautions to prevent absenteeism and tardiness. A lapse in either attendance or punctuality presents a hardship to other employees, and as such, absenteeism and/or tardiness may be one of the performance attributes discussed on the annual performance appraisal. All employees are expected to be at their work site, prepared to work at their scheduled time, unless excused in advance by their supervisor. Excessive or habitual absenteeism or tardiness may result in disciplinary action.

- Absenteeism – Not present for work as scheduled, regardless of cause.
- Unexcused absenteeism - Failure to report for work as scheduled without prior approval of the supervisor.
- Tardiness - Arriving late for work, returning late from breaks/meals, or early departure from work without prior supervisor approval.

In rare instances, when employees cannot avoid being late for work or are unable to work as scheduled, they are required to obtain approval for their absence from their supervisor (or their supervisor's supervisor) prior to the beginning of their scheduled shift. Failure to contact the supervisor (or supervisor's supervisor) when absent or late may result in disciplinary action.

For additional information, see *Verification of Sick Leave* in the **FTCC Administrative Procedures Manual**.

## **VI-5.2 Disciplinary and/or Corrective Action**

Corrective action may be taken to preclude the adverse impact on the College's standards and service obligations should any employee:

- (1) fail to meet the expectations, demands, and/or essential duties of their job,
- (2) not perform their job in a satisfactory manner,
- (3) violate College policies or procedures, or
- (4) engage in conduct, on- or off-campus, that could reasonably be considered unbecoming of an FTCC employee.

Where such action may be necessary, it will be undertaken without regard to race, national origin, color, religion, sex/gender, disability, age, or political affiliation. Disciplinary or corrective action may include, but is not limited to, the following:

- (1) informal verbal or written counseling,
- (2) formal verbal or written counseling/reprimands,
- (3) placement on a Performance Improvement Plan (PIP),
- (4) probation,
- (5) suspension with or without pay, or
- (6) termination of service.

The disciplinary or corrective action taken is dependent upon the nature and severity of the employee's actions or inactions.

Personal and private counseling of an employee or his or her job performance, either as a routine matter or as a corrective measure is a normal function and responsibility of the employee's immediate supervisor. In the case of formal counseling, supervisors are expected to document, in writing, the major points discussed and retain a copy of the documentation.

When an employee's actions warrant, he or she may be reprimanded, either verbally or in writing, by the immediate supervisor. Written reprimands must be approved (initialed) by the appropriate Senior Vice President, Vice President, or Executive Director prior to inclusion in the employee's personnel file.

If a Performance Improvement Plan (Form P-24) is used, supervisors must forward the original copy to the Office of Human Resources for inclusion in the personnel file and retain a copy in the department files.

For serious violations, a supervisor may recommend to the College President that an employee be placed on probation, suspension, or terminated. This recommendation, with supporting documentation, must be submitted through the supervisory chain and the Vice President for HR/IE to the President.

An employee may be suspended with or without pay pending an investigation directed by the President into alleged misconduct or improper performance of duties for up to 90 days. All efforts will be made to resolve the matter within 90 days. However, the College reserves the right to extend the suspension period with or without pay to complete the full and impartial inquiry. If no action is instituted against the employee as a result of the inquiry, the employee will be reinstated.

\*Note: If the misconduct is a Title IX related allegation, the procedures in section VI-9 must be followed.

## **VI-5.3 Probation, Suspension, or Termination**

### **VI-5.3.1 Contract Employees**

This section applies to any individual employed under the terms of a written contract of employment, signed by a duly authorized representative of FTCC, providing a fixed term of employment. Contract employees may serve in either a full-time or part-time capacity in an academic or administrative position and are normally classified as exempt employees.

There is no tenure system at Fayetteville Technical Community College; however, any contract employee who alleges that his or her Constitutional rights have been violated in employment decisions has the right to the appeal procedures as specified.

The procedures stated in this section and its subsections shall not apply in instances of contract non-renewal or reduction in force of employees, whether part-time or full-time.

This policy shall also not apply to employees who have no written contract of employment for a specific period.

FTCC provides to contract employees, as defined above, the right to an appeal of their dismissal.

### **VI-5.3.1.1 Grounds for Probation, Suspension, or Termination**

A contract employee may be placed on probation, suspension with or without pay, or terminated for cause relating to personal conduct or improper performance of duties. Such cause includes, but is not limited to, the following:

- (1) incompetence,
- (2) neglect of duty,
- (3) conduct unbecoming of an FTCC employee,
- (4) the commission of an act involving moral turpitude (including sexual harassment/violence or other related Title IX misconduct),
- (5) abandonment of employment, and/or
- (6) insubordination.

A contract employee may be placed on probation with conditions to include, but not limited to, the following:

- (1) contracts for a limited duration, or
- (2) other appropriate conditions.

There is no right to appeal a probation decision.

### **VI-5.3.1.2 Notice of Proposed Suspension or Termination**

An employee working pursuant to a written contract will be notified in writing of the proposed suspension or termination by the appropriate divisional Senior Vice President, Vice President, or Executive Director. Such notice will clearly state the reason(s) for the proposed suspension or termination, the effective date of the proposed action, the time and place where the contract employee may review any material relied upon in making the proposal, and afford the contract employee a reasonable opportunity to respond verbally or in writing to the proposal before a final decision is made by the President.

### **VI-5.3.1.3 Notice of Intent**

A contract employee will be given notice by the appropriate divisional Senior Vice President, Vice President, or Executive Director of the decision to suspend or terminate him or her as soon as practicable after the decision has been made by the President.

The contract employee may request an appeal of the decision made by the President. The request shall be made to the President within 10 working days of receipt the notice of the decision. The request must specify the grounds upon which the contract employee contends the suspension or termination is improper. If an appeal to the President is successful, the contract employee will be reinstated and all benefits of employment will be reinstated.

### **VI-5.3.1.4 Hearing Request**

If an employee is not satisfied with the President's decision from the appeal, they may request a hearing before an ad hoc committee.

- (1) The ad hoc committee, appointed by the President, will conduct the hearing. The President may appoint any member of the faculty or staff to serve as a member of the ad hoc committee, except those who have been directly involved with the recommendation or consideration.
- (2) The hearing shall be held within 10 working days of receipt of the request.
- (3) The hearing will be closed to the public. All parties have the right to counsel, at their own expense, to present witnesses and documents in support of their claims, to cross-examine witnesses, and to examine all documents and evidence introduced at the hearing. A recording of the hearing will be made and a copy provided to the employee, upon request, at FTCC's expense. The conduct of the hearing will be under the control of the designated Chair of the ad hoc committee.
- (4) Within five working days after the hearing, the ad hoc committee shall make a written recommendation to the President. Such recommendation will include appropriate findings of fact and conclusions of the committee.

### **VI-5.3.1.5 Decision of the President**

Within 10 working days of receipt of the committee's recommendation, the President shall accept, reject, or modify the committee's recommendation.

#### **VI-5.3.1.6 Appeal to the Board of Trustees**

Following the President's action on the ad hoc committee's recommendation, a contract employee may file a written appeal within 10 calendar days to the Board of Trustees. The Board of Trustees may review the matter in full, or may delegate the duty to review such appeal to an ad hoc committee of at least three Trustees.

The Board of Trustees will consider the evidence previously assembled including the information adduced at the hearing, the committee's recommendation, the decision of the President, information in the appeal, and any other relevant evidence. The contract employee has no right to appear and present additional testimony or evidence in person to the Board or any committee thereof. Should the Board of Trustees need clarification, the Board may obtain in-person testimony from the appropriate parties. However, if in-person testimony is received by the Board of Trustees, the appealing employee shall have a right to provide verbal testimony.

The Board of Trustees will render a final decision on the matter within 45 calendar days of their receipt of the contract employee's appeal. No additional administrative remedy shall be granted after a decision is made by the Board or its ad hoc committee.

## **VI-5.3.2 Non-Contract Employees**

### **VI-5.3.2.1 Grounds for Probation, Suspension, or Termination**

Non-contract employees are considered at-will employees and may be placed on probation, suspension with or without pay, or terminated for cause related to personal conduct or improper performance of duties. Such causes include, but are not limited to, the following:

- (1) incompetence,
- (2) neglect of duty,
- (3) conduct unbecoming of an FTCC employee,
- (4) the commission of an act involving moral turpitude (including sexual harassment/violence or other related Title IX misconduct),
- (5) abandonment of employment, and/or
- (6) insubordination.

Non-contract employees have no right to appeal unless the appeal is based on alleged illegal discrimination.

## **VI-6 Political Activities of Employees**

### **VI-6.1 Definitions**

The following terms have the meanings indicated:

- (1) **Employee:** Instructional faculty, administrative faculty, administrative staff, general staff, and other persons employed by FTCC at the pleasure of the Board or on other short-term contracts, including the President.
- (2) **Board:** The Trustees of Fayetteville Technical Community College.
- (3) **FTCC:** Fayetteville Technical Community College.
- (4) **Public Office:** Any national, state, or local government position of public trust and responsibility, whether elective or appointive, which is created or prescribed or recognized by a Constitution, statute, or ordinance. Membership in the General Assembly of North Carolina will constitute a full-time public office under this definition.

### **VI-6.2 Policy**

It is the policy of the Board that each FTCC employee will retain all rights and obligations of citizenship established by the constitutions and laws of North Carolina and the United States. The Board encourages employees of FTCC to exercise their rights and obligations of citizenship; however, campaigning for public office, holding part-time or full-time public office, serving as a member of the General Assembly, or soliciting support for political candidates and activities during regular work hours may not interfere with the responsibilities of employees of FTCC and also may not derogate from the responsibility to provide the best possible education to students. This policy an attempt to define reasonable constraints for employees engaging, or proposing to engage, in such political activities.



### **VI-6.3 Procedures**

- (1) Any employee of FTCC who formally becomes a candidate for election shall submit written notification of their candidacy through the Vice President for Human Resources and Institutional Effectiveness and the President to the Board within 15 calendar days of their filing a notice of candidacy with the appropriate Board of Elections. Employees who are appointed to a public office shall notify the Board of their appointment within 15 calendar days of their acceptance of such appointment.
- (2) Any employee who is elected or appointed to a full-time public office or to the General Assembly will be required to take a leave of absence without pay upon assuming the office. The length of the leave of absence will be determined by the Board.
- (3) Any employee who becomes a candidate for public office is prohibited from soliciting support during his or her regular work hours, either on or off the College property, unless otherwise authorized by the Board. For the purposes of this restriction, an employee may solicit support while utilizing annual leave previously authorized by the employee's supervisor. The Board will grant no general authorizations, but will act on individual requests.
- (4) The Board will notify the State Board of Community Colleges if the President of FTCC should become a candidate for, is elected, or appointed to public office.

## **VI-7 Reduction in Force and Furlough Policy**

### **VI-7.1 Intent of the Board of Trustees**

It is the intent of the Trustees of Fayetteville Technical Community College to avoid, through prudent budgeting and fiscal constraint, any financial crisis that would require the College to reduce the number of persons employed by the College through implementation of this Reduction in Force Policy. However, the Trustees reserve the right to implement this policy in order to ensure the College's ability to fulfill its mission to the fullest extent possible during a financial crisis. Whenever it is necessary to implement this policy, the implementation will be accomplished without regard to race, color, national origin, religion, age, sex/gender, disability, or political affiliation of any employee.

#### **VI-7.1.1 Declaration of a Financial Crisis**

If the President of the College, in consultation with the Senior Vice President for Business and Finance, determines the existence of a financial crisis, the President shall report the crisis to the Board of Trustees. Upon its receipt of the President's notice, the Board of Trustees may authorize the implementation of a Reduction in Force.

#### **VI-7.1.2 Reduction in Force**

Upon the Trustee's authorization of a Reduction in Force, the President shall be authorized to eliminate any position(s) of the College and immediately sever the employment of any person(s) employed in such position(s). In the event a valid contract exists between the College and an employee whose employment with the College is severed pursuant to this policy, the contract shall be immediately terminated and both the College and employee shall be relieved from further obligations under the contract except the College shall pay the employee for any services already rendered pursuant to the contract and any benefits provided pursuant to this Reduction in Force Policy.

### **VI-7.1.3 Notice of Termination to Individual Employees**

The President shall provide written notice to the employee(s) whose employment is being severed pursuant to this policy. The notice shall either be hand delivered to the employee(s) or delivered by registered or certified mail. If hand delivered, the employee shall be given opportunity to remove their personal belongings from their work station at that time. If the notice is delivered by registered or certified mail, the employee(s) shall schedule an appointment with their supervisor to remove their personal belongings from their work station.

Decisions to terminate employment pursuant to these provisions will not be the result of discriminatory action against an employee based upon his/her race, national origin, color, religion, sex/gender, disability, age, or political affiliation.

### **VI-7.1.4 Employee Rights Upon Termination**

The employee rights granted in this section shall apply to full-time employees who are not holding a position funded by a grant or other special appropriation or who worked less than an average of six hours per day for the 40 working days immediately prior to the issuance of "Notice of Termination" described above.

- (1) **Severance Pay:** Employees terminated pursuant to these provisions shall receive severance pay in an amount equal to their hourly wage multiplied by 173.33 hours. Any terminated employee who has a negative leave balance at the time of termination shall have their severance pay reduced in an amount that fully compensates the College for the negative leave balance.
- (2) **Payout of Vacation and Bonus Leave:** Employees terminated pursuant to these provisions shall receive a lump sum payment of their accumulated vacation leave up to a maximum of 240 and any accumulated bonus leave balances as of the date of termination. Any vacation leave by an employee in excess of 240 hours shall be converted to sick leave. The College shall not pay the employee for any accumulated sick leave.
- (3) **Health Care Coverage:** To the extent required by law, and only to such extent, the College shall continue to make its contribution to the State Health Plan on behalf of the employee terminated pursuant to these provisions.
- (4) **Right of First Refusal:** For one year after the effective date of a termination pursuant to these provisions, the President will not fill a position vacated by an employee terminated pursuant to this policy without first offering that position to the terminated employee.

The offer of reemployment will be made by registered or certified mail, to the employee's last known address, and the employee must accept the offer of employment in writing within 15 calendar days of the date the offer was mailed

by the College. Failure to respond within the provided 15 calendar days shall be deemed a rejection of the offer of employment and any and all rights to reemployment shall expire.

Employees shall notify the Office of Human Resources of changes in address during the one-year period following the termination pursuant to this policy. Certified mail returned as non-deliverable will be considered as offering the position to the former employee.

#### **VI-7.1.5 Review of Individual Terminations**

Employees are not entitled to an administrative review of any termination made pursuant to this Reduction in Force Policy. However, any employee who is terminated pursuant to this policy may request a review of the action if he/she believes the termination was the result of discriminatory action against the employee based upon his/her race, national origin, color, religion, sex/gender, disability, age, or political affiliation.

The employee must request the review of the action in writing and address it to the President. The request must specify the grounds on which it is contended that the decision to terminate was the result of discriminatory action against the employee based upon his/her race, national origin, color, religion, sex/gender, disability, age, or political affiliation. It must include a short, plain statement of facts that the employee believes support the contention.

Upon receipt of the request, a thorough review will be conducted by one or more designees of the President. If it is determined that the termination was based on some illegal discrimination, the employee shall be reinstated and compensated for lost wages. If it is determined that no illegal discrimination occurred, the employee may appeal the decision to the Board of Trustees.

#### **VI-7.1.6 Furloughs**

In the event the College is lawfully required to furlough any or all of its employees, the Board of Trustees may authorize the President to unilaterally alter the terms and/or conditions of employment for any College employee. If the employee has an employment contract with the College, the President is authorized to unilaterally amend the contract and such unilateral amendment shall be binding on both the College and employee upon five days written notice to the employee. The authorization to unilaterally alter the terms and/or conditions of employment and the employment contract, if any, includes, but is not limited to, the authorization to furlough an employee, withhold pay for the period of any such furlough, and to reduce or eliminate any employee benefit when the benefit is not required by law.

## **VI-8 Employee Grievances and Appeals**

### **VI-8.1 Grievances**

Fayetteville Technical Community College expects employees to work together collegially, with mutual respect. Occasionally, differences of opinion may occur. Minor differences are to be resolved at the lowest level possible. The grievance process is designed to resolve disputes, including matters that are severe, pervasive and which impede the employee's ability to satisfactorily perform his/her duties, including allegations of violations of Title VII and other forms of illegal discrimination. Grievances will be filed through the supervisory chain unless the alleged discrimination is related to Title IX (sexual harassment/violence, gender identity/sexual orientation, and/or pregnancy). Title IX procedures are located in section VI-9 of this manual.

*Disclaimers: The employee grievance process is not designed for and shall not be used to dispute performance counseling, performance improvement plans, performance appraisal evaluations, probations, suspensions, or terminations.*

### **VI-8.2 Policy – Employee Grievances and Appeals**

FTCC encourages the prompt and fair resolution of grievances. An employee may present a grievance without fear of coercion, restraint, interference, penalty, or retaliation.

### **VI-8.3 Procedures**

**Step 1:** Employees are encouraged to attempt to resolve their grievances(s) at the lowest possible level by first discussing the concerns directly with the party (parties) involved, as the other party may not be aware of the concern. This discussion should be scheduled within 15 calendar days of the incident(s) giving rise to the grievance.

**Step 2:** If the employee is not satisfied with the Step 1 resolution, the employee must present their written grievance to their immediate supervisor within 30 calendar days of the incident giving rise to the grievance. Should the grievance be against their immediate supervisor, the employee must present the written grievance to the supervisor's immediate supervisor. The employee(s) and their supervisor(s) will meet within three working days following the submission of the grievance to discuss and attempt resolution. The supervisor(s) will provide a written decision on the grievance as soon as possible, but in most cases within 10 working days following this meeting.

**Step 3:** If the employee is not satisfied with the Step 2 decision, the employee may appeal the decision in writing to the next level of supervision. The employee must submit the request for appeal within five working days and include all documentation from Step 2 (complaint through the previous decision), specifically addressing what portions of the previous decision they are appealing. The next level of supervision will render a fair and impartial written decision based upon review of the documentation provided and/or by meeting with the parties involved as soon as possible, but in most cases within five working days of receipt of the appeal. The appellant will be notified in writing of the decision rendered and a copy of the notification will be retained by the supervisor.

**Step 4:** If the employee is not satisfied with the Step 3 decision, the employee may appeal the decision in writing to the appropriate Senior Vice President, Vice President, or Executive Director. The employee must submit the request for appeal within five working days and include all documentation from Step 2 and 3 (complaint through the previous decisions), specifically addressing what portions of the previous decision they are appealing. The Senior Vice President, Vice President, or Executive Director will render a fair and impartial written decision based upon review of the documentation provided and/or by meeting with the parties involved as soon as possible, but in most cases within five working days of receipt of the appeal. The appellant will be notified in writing of the decision rendered and a copy of the notification will be retained by the supervisor.

**Step 5:** If the employee is not satisfied with the Step 4 decision, the employee may, within five working days, appeal the previous decision in writing through the Vice President for HR/IE to the President. The employee shall attach the step 2, 3, and 4 written complaints/appeal decisions and specifically address what portions of the previous decision is being submitted for further consideration. The President will render a fair and impartial written decision based upon review of the documentation provided and/or by meeting with the parties involved as soon as possible, but in most cases within 10 working days of receipt of the appeal. The President's final and binding decision will be provided to the appellant and a copy maintained in the Office of Human Resources.

## **VI-9 Title IX: Sex Discrimination and Sex-Based Harassment**

### **VI-9.1 Policy: Title IX Sex Discrimination and Sex-Based Harassment Prohibition**

#### **Scope**

This policy describes the Board's prohibition of sex discrimination and sex-based harassment and requires the College to comply with federal regulations when resolving complaints of sex discrimination and sex-based harassment. The policy applies to all FTCC students, faculty, staff, and campus visitors.

#### **Policy Statement**

FTCC shall not engage in illegal discrimination in any activity it operates, including Admissions and Employment. FTCC shall place a special emphasis on providing training designed to help faculty, staff, and students recognize and prevent illegal discrimination.

For the purpose of this policy, illegal discrimination shall be defined as any action or decision that interferes or denies a person employment or participation in any educational program/activity at FTCC based upon:

- race, color, national origin,
- religion, age, genetic information, disability, pregnancy and related conditions,
- political affiliation,
- sex/gender, including sexual harassment, sexual violence, sexual assault, sexual orientation, sex stereotypes, sex characteristics, gender identity, stalking, domestic violence, dating violence, or other forms of intimate partner violence that are prohibited and considered to be forms of sex discrimination or sex-based harassment.

The Board of Trustees' prohibition of illegal discrimination includes a responsibility of the College to comply with Title IX of the Higher Education Act (Title IX).

FTCC faculty, staff, students, and visitors to the College shall be permitted to bring forth claims of illegal discrimination without facing any retaliation.

The College President shall establish procedures which help ensure compliance with Title IX and its associated regulations. The Procedures shall apply when:

- FTCC has actual knowledge of the Title IX Sexual Harassment or Sex-Based Discrimination;

- The Sexual Discrimination or Sex-Based Harassment occurred within FTCC's education programs or activities; and,
- The Sexual Discrimination or Sex-Based Harassment is against a person in the United States.

At a minimum, the procedures established by the President shall:

- Identify appropriate personnel to be responsible for ensuring the College's compliance with Title IX.
- Ensure that personnel involved in Title IX compliance efforts recuse themselves from participating in any part of the process if they have a conflict of interest or bias against an individual making a complaint or about whom a complaint is made.
- Establish and implement procedures which provide a process for students, faculty, staff, and visitors to grieve violations of the prohibition of sex discrimination and sex-based harassment.
- Establish and implement procedures to ensure that any allegation of a violation of the prohibition of sex discrimination and sex-based harassment is investigated and addressed in a fair and impartial manner.
- Evaluate all evidence of sex discrimination and sex-based harassment that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- Decide, using a preponderance of evidence standard, whether any alleged sex discrimination or sex-based harassment occurred.
- Establish timelines for the major stages of the grievance process, granting extensions when necessary to ensure fairness and thoroughness.
- Presume that an individual accused of sex discrimination or sex-based harassment is not responsible for the alleged discrimination or harassment unless such a determination is made at the conclusion of the grievance procedures.
- Protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.
- Prohibit any form of retaliation against anyone:
  - submitting a grievance under this policy;
  - identified as the individual subjected to sex discrimination or sex-based harassment;
  - who participates in any investigation of sex discrimination or sex-based harassment; or,
  - accused of sex discrimination or sex-based harassment, except that sanctions imposed on one found to have engaged in sex discrimination or sex-based harassment shall not be considered retaliation.
- Require that appropriate notices of this policy and its associated procedures be published to the campus community.



- Require that when a student, a parent of a minor student, or other authorized legal representative informs any College employee of the student’s pregnancy or related condition(s), the notified College employee must provide the individual with information related to the College’s obligation to prevent discrimination and ensure equal access. This policy further prohibits the disclosing of personally identifiable information the employee obtains through complying with Title IX, including information related to reasonable modifications for pregnancy or related conditions, with limited exceptions approved by the President.
- Provide reasonable modifications for students, including reasonable break times for lactation for employees, and lactation space for students and employees.
- Recognize that in the event of a conflict between Title IX, state law, or Family Educational Rights and Privacy Act (FERPA), Title IX shall prevail.

**Definitions**

For purposes of the policy, the Board adopts the definitions contained in [34 C.F.R. § 106.2](#)

**Authority**

[20 U.S.C. § 1681 – 20 U.S.C. § 1689](#) (Title IX)

[34 C.F.R. Part 106](#)

1C SBCCC 200.94(25)

1C SBCCC 200.95(b)

1C SBCCC 200.96

Approved by the FTCC Board of Trustees August 19, 2024.

**VI-9.2 Procedure: Title IX Sex Discrimination and Sex-Based Harassment**

**Scope**

These procedures govern processes for filing a Title IX Grievance/Complaint based upon alleged Sex Discrimination or Sex-Based Harassment. These procedures apply to all FTCC students, employees, and campus visitors.

**Procedures**

Board Policy requiring procedures to be established by the President are adopted.

Grievances/Complaints related to Title IX violations should be reported to the Office of Public Safety and Security, located in the General Classroom Building, or one of the Title IX Investigators or Title IX Coordinator/Deputy Title IX Coordinator identified in the Title IX Officers section of this procedure.

## **Filing a Grievance/Complaint**

- A. Complaints alleging Sex Discrimination or Sex-Based Harassment may be filed by the following persons:
- i. A FTCC student or employee who believes they have been subjected to conduct that could constitute Sex Discrimination or Sex-Based Harassment under Title IX or its regulations.
  - ii. A person other than a FTCC student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination or Sex-Based Harassment under Title IX or its regulations and who was participating or attempting to participate in the College's education program or activity at the time of the alleged violation.
  - iii. A parent, guardian, or other authorized legal representative with the legal authority to act on behalf of a FTCC student who is believed to have been subjected to conduct that could constitute Sex Discrimination or Sex-Based Harassment under Title IX.
  - iv. The Title IX Coordinator or any FTCC employee serving in the role of a Responsible Employee.
- B. Complaints alleging a violation of the Board of Trustee's prohibition of Sex Discrimination and/or Sex-Based Harassment may be made orally or in writing. It is preferred that Complaints be directed to the Office of Public Safety and Security at (910) 678-8433. Complaints may also be received by the Title IX Coordinator or Deputy Title IX Coordinator.
- C. Anyone filing a Complaint may consider pursuing criminal charges against the person alleged to have engaged in Sex Discrimination or Sex-Based Harassment in addition to any actions taken by the College.

## **Supportive Measures**

FTCC will offer and coordinate Supportive Measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to FTCC's education programs or activities, and/or provide support during FTCC's Title IX complaint procedures or during the informal resolution process. For Complaints of Sex Discrimination and/or Sex-Based Harassment, these Supportive Measures may include:

- Referral to Student/Employee Assistance Program;
- Referral to rape crisis centers;
- Referral to other community support groups of systems;

- Voluntary student class schedule or employee work schedule modifications to include extension of deadlines;
- Limitations related to further contact with one another;
- Security escorts or increased security presence in specific areas of campus; and,
- Other reasonable assistance.

Note: No supportive measure(s), such as changing course sections or moving from a face-to-face class to an online class, or adjustment to College work hours and locations, can be to the detriment of either Party, unless the Party subjected to the detriment voluntarily agrees to the supportive measure; Supportive Measures cannot be unreasonably burdensome to a Party and cannot be imposed for punitive or disciplinary reasons.

### **Written Notice to Parties**

Once the Complaint is received, the Title IX Investigator notifies all Parties of the allegations. The notice shall be sent to all Parties within 3 business days of the College's receipt of the Complaint. The notice shall include:

- A description of the process FTCC will use to resolve Title IX Complaints;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex Discrimination or Sex-Based Harassment, and the date(s) and location(s) of the alleged incident(s);
- Notification that any form of Retaliation is strictly prohibited;
- Notification that the Respondent is presumed not responsible for the alleged Sex Discrimination or Sex-Based Harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial Title IX Investigator or decisionmaker;
- Notification that the Parties may have an advisor of their choice who may be, but is not required to be, an attorney. However, the College is not responsible for any costs the Parties incur from retaining an attorney or other advisor;
- Notification that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence including any investigative report that accurately summarizes this evidence;
- Notification that the Parties are prohibited from knowingly making false statements or knowingly submitting false information during the complaint procedures;
- Notification that if, in the course of an investigation, FTCC decides to investigate additional allegations of Sex Discrimination and/or Sex-Based Harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated Complaint, it will provide written notice of the additional allegations to the Parties; and
- Identification of the Institution's Title IX Coordinator or Deputy Coordinator who is responsible for the coordination of the Title IX Process.

## **Dismissal of a Complaint**

The Title IX Coordinator may dismiss a Complaint if:

- FTCC is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not employed by FTCC and is not participating in an FTCC education program or activity;
- FTCC obtains the Complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a Complaint, and FTCC determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex Discrimination or Sex-Based Harassment under Title IX even if proven;
- FTCC determines the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination or Sex-Based Harassment under Title IX; or
- Before dismissing any Complaint, FTCC will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, FTCC will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then FTCC will notify the Parties simultaneously in writing.

FTCC will notify the Complainant that a dismissal may be appealed as outlined in the Appeals section of these procedures. If dismissal occurs after the Respondent has been notified of the allegations, then FTCC will also notify the Respondent that the dismissal may be appealed on the same basis. If a dismissal is appealed, FTCC will follow the procedures outlined in the Appeals section of this procedure.

When a Complaint is dismissed, FTCC will, at a minimum:

- Offer Supportive Measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator, to ensure that Sex Discrimination and/or Sex-Based Harassment does not continue or recur within FTCC's education program or activity.

## **Investigation**

FTCC is responsible for adequate, reliable, and impartial investigation of all Complaints of Sex Discrimination and Sex-Based Harassment. The burden is on FTCC—not on the Parties—to investigate and gather sufficient evidence to determine whether Sex Discrimination or Sex-Based Harassment occurred. Investigators shall:

1. Conduct the investigation in a timely manner. Except in unusual circumstances, the investigation should be substantially completed within 20 business days of the receipt of the Complaint by the Title IX Investigator;

2. Provide each Party an equal opportunity to identify witnesses – such as fact or expert witnesses - to the Investigator(s);
3. Provide each Party with an equal opportunity to share with Investigator(s) evidence, whether of an inculpatory or exculpatory nature;
4. Fully investigate the allegations of a violation of Title IX, including exploration of permissible evidence, if any, provided by the Complainant and Respondent;
5. FTCC will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
  - FTCC will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
  - FTCC may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the Parties.
  - FTCC will not incur costs associated with retaining an attorney.
6. All interviews will be recorded, and the interviewee will be told the interview is being recorded;
7. Allow the Complainant and Respondent to discuss the allegations with others, but Investigators may request that information be held in confidence;
8. Allow each Party to hear a recording of each interview and recommend additional questions, if any, for the Investigator to ask of the person being interviewed. Questions must be submitted to the Investigator within 2 business days after the recording is made available;
9. Forward any questions submitted by the Parties to the appropriate decisionmaker for a determination of whether the proposed question(s) are Relevant and not impermissible. Those which are Relevant and not impermissible will be returned to the Investigator to be asked of the person(s) interviewed in another recorded interview subject to items 6, 7, and 8 above. Any question(s) determined by the decisionmaker to be irrelevant or impermissible will be explained to the Party posing the question so that Party may clarify or revise the question and resubmit for consideration;
10. Prior to the conclusion of the investigation, permit both Parties and their advisors an equal and reasonable opportunity to review all Relevant and permissible evidence related to the Complaint and collected by the Investigators, including evidence gathered that the Investigators do not intend to rely upon;

11. After inspection of the evidence, permit each Party at least 5 business days to provide Investigators with any response they may have as to the evidence gathered;
12. Consider any responses received to the evidence gathered, prepare a draft investigative report, and share the report with the Respondent, Complainant, and their advisors. The Complainant and the Respondent shall have 10 business days to submit any response they may have to the draft investigative report;
13. Consider any responses received to the draft investigative report and prepare a final investigative report. Provide a copy of the final investigative report that fairly summarizes all Relevant evidence to both the Respondent, Complainant, and their advisors at least 10 business days prior to any decision on the matter. The College reserves the right to redact from the investigative report any personally identifiable information, any irrelevant or impermissible evidence, and other material that could violate privacy laws;
14. Provide a copy of the final investigative report to the designated decisionmaker. The investigative report may include a recommendation for findings and/or resolution as the Investigator deems appropriate.

FTCC will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate.

### **Determination Whether Sex Discrimination and/or Sex-Based Harassment Occurred**

Prior to making a final determination, the decisionmaker may question Parties and witnesses when necessary to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex Discrimination and/or Sex-Based Harassment.

The decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant and not impermissible. The decisionmaker will not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions.

Following an investigation and evaluation of all Relevant and not otherwise impermissible evidence, the decisionmaker will:

- Use the Preponderance of the Evidence Standard of proof to determine whether Sex Discrimination and/or Sex-Based Harassment occurred. The standard of proof requires the decisionmaker to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded by the

Preponderance of the Evidence Standard that Sex Discrimination and/or Sex-Based Harassment occurred, the decisionmaker will not determine that Sex Discrimination and/or Sex-Based Harassment occurred.

- Notify the Parties simultaneously in writing of the determination whether Sex Discrimination and/or Sex-Based Harassment occurred under Title IX including:
  - A description of the alleged Sex Discrimination and/or Sex-Based Harassment;
  - Information about the policies and procedures that FTCC used to evaluate the allegations;
  - The decisionmaker's evaluation of the Relevant and not otherwise impermissible evidence and determination whether Sex Discrimination and/or Sex-Based Harassment occurred;
  - When the decisionmaker finds that Sex Discrimination and/or Sex-Based Harassment occurred, any Disciplinary Sanctions FTCC will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by FTCC to the Complainant, and, to the extent appropriate, other students identified by FTCC to be experiencing the effects of the Sex Discrimination and/or Sex-Based Harassment; and
  - FTCC's procedures and permissible bases for the Complainant and Respondent to appeal.

FTCC will not impose discipline on a Respondent for Sex Discrimination and/or Sex-Based Harassment prohibited by Title IX unless there is a determination at the conclusion of the Title IX complaint procedures that the Respondent engaged in prohibited Sex Discrimination and/or Sex-Based Harassment.

- If there is a determination that Sex Discrimination and/or Sex-Based Harassment occurred, as appropriate, the Title IX Coordinator or Deputy Title IX Coordinator for Students will:
  - Coordinate the provision and implementation of Remedies to a Complainant and other people FTCC identifies as having had equal access to FTCC's education program or activity limited or denied by Sex Discrimination and/or Sex-Based Harassment;
  - Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Complainant of any such Disciplinary Sanctions; and
  - Take other appropriate prompt and effective steps to ensure that Sex Discrimination and/or Sex-Based Harassment does not continue or recur within FTCC's education program or activity.
- Comply with the Title IX complaint procedures before the imposition of any Disciplinary Sanctions against a Respondent; and

- Not discipline a Party, witness, or others participating in the Title IX complaint procedures during the Title IX complaint process for making a false statement or for engaging in consensual sexual conduct.

However, The FTCC disciplinary process may be used if a Party, witness, or others who participated in the Title IX complaint process are believed to have provided false statements during any part of the Title IX complaint process. Any determination made during the disciplinary process shall not be based solely on the determination of whether Sex Discrimination and/or Sex-Based Harassment occurred during the Title IX complaint process.

The determination regarding responsibility becomes final either on the date that FTCC provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

## **Appeals**

A Party not satisfied with the College's dismissal or determination whether Sex Discrimination and/or Sex-Based Harassment occurred may appeal on any or all of the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, Deputy Title IX Coordinator, or Investigator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

## **How to Appeal:**

Either the Respondent or Complainant may appeal the decision of the decisionmaker.

Any appeal must be submitted in writing within 10 business days after the written decision is e-mailed to the Parties. Appeals must be e-mailed to the Vice President for Legal and Administrative Services. If the Vice President for Legal and Administrative Services does not receive an appeal within the 10 business days, the decision shall be deemed final and no additional administrative appeal rights shall be available for either Party.

Upon receipt of any appeal, the Vice President for Legal and Administrative Services shall e-mail the appeal to the non-appealing Party. The non-appealing Party shall have 10 business days to respond to the appeal. Any response to the appeal shall be e-mailed to the Vice President for Legal and Administrative Services, who shall share a copy of the response with the appealing Party.



Once time has expired for the non-appealing Party's response to the appeal, the Vice President for Legal and Administrative Services shall provide to the College President all materials related to the appeal and any other Relevant information.

The College President shall review all Relevant information and shall draft a final decision in the matter. That draft shall be shared with the Complainant and the Respondent by e-mail within 10 business days of the College President's receipt of the appeal and associated information. The Complainant and the Respondent shall have 5 business days to review and make a statement of support of, or challenging, the draft outcome. The College President shall review any response received, shall make any changes to the draft, if warranted, and shall render a decision in the appeal to include the rationale for that decision. The decision of the College President shall not be appealable and no further administrative procedure in the matter shall be available to either Party.

### **Informal Resolution (Mediation)**

In lieu of resolving a Complaint through FTCC's Title IX complaint procedures, the Parties may instead elect to participate in an informal resolution process facilitated by the Title IX Investigator and/or the Title IX Coordinator/Deputy Title IX Coordinator.

### **Informal Resolution Process**

FTCC will notify the Parties in writing of the informal resolution process that FTCC determines to be appropriate. FTCC will not offer informal resolution to resolve a Complaint when such a process would conflict with Federal, State, or local law. Additionally, the College will not permit an informal resolution process in instances where any student under the age of 18 complains of Sex Discrimination or Sex-Based Harassment by a College employee.

No face-to-face meeting is required during an informal resolution process, and participation in such a process must be voluntary. Both the Complainant and Respondent must consent **in writing** to an attempt to informally resolve the Complaint. Either Party may withdraw their consent to an informal process to resolve the Complaint by providing **written** notice to the Title IX Investigator, Title IX Coordinator or Deputy Coordinator. Any withdrawal of consent must be received by the Title IX Investigator, Title IX Coordinator or Deputy Coordinator before agreement is reached on the resolution of any Complaint, including agreement on sanctions and Remedies. Once an agreement is reached to informally resolve the Complaint, the Complaint shall be closed and no further action may be taken against the Respondent on the conduct identified in the Complaint. Agreement shall be deemed reached when both Parties agree **in writing** as to the informal resolution. If an informal resolution cannot be reached by any deadline set by the College, the formal complaint process will be initiated.

Before the initiation of an informal resolution process, FTCC will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume complaint procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume complaint procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information FTCC will maintain and whether and how FTCC could disclose such information for use in Title IX complaint procedures if such procedures are initiated or resumed.

### **Disciplinary Sanctions and Remedies**

Following a determination that Sex Discrimination and/or Sex-Based Harassment occurred, FTCC may impose Disciplinary Sanctions which may include:

- **For College Employees:** Counseling, Performance Improvement Plans, Probation, Suspension, Termination, and/or other disciplinary action as appropriate.
- **For College Students:** Transfer from one course section to another, Counseling, Probation, Suspension, Expulsion, and/or other disciplinary action as appropriate.

FTCC may also provide Remedies, which may include but are not limited to: referrals to counseling, advocacy, and support agencies such as the Employee/Student Assistance Program, security escorts while on College properties, schedule adjustments, and/or other remedial actions as appropriate.

### **Evidence**

FTCC will objectively evaluate all evidence that is Relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by FTCC to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are Relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the

privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless FTCC obtains that Party's or witness's voluntary, written consent for use in its complaint procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex Discrimination and/or Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex Discrimination and/or Sex-Based Harassment or preclude determination that Sex Discrimination and/or Sex-Based Harassment occurred.

### **Prohibition of Retaliation**

As stated in the Board Policy, any form of Retaliation against anyone involved in a Title IX Complaint is prohibited.

Sanctions imposed against one found to have engaged in Sex Discrimination and/or Sex-Based Harassment shall not be considered Retaliation.

### **Title IX Officers**

The President designates the following as Title IX Officers:

1. Vice President for HR/IE serves as the Institution's Title IX Coordinator and is the decisionmaker for Complaints when either the Complainant or Respondent is an employee of the College.
2. Personnel Manager serves as a Deputy Title IX Coordinator and is the decisionmaker when the Institution's Title IX Coordinator is not available.
3. Associate Vice President for Student Services serves as a Deputy Title IX Coordinator for Students and is the decisionmaker for Complaints when the Complainant and Respondent are students of the College.
4. Associate Vice President for Corporate and Continuing Education serves as a Deputy Title IX Coordinator and is the decisionmaker when the Associate Vice President for Student Services is not available.

5. Director of Intercollegiate Athletics serves as Deputy Title IX Coordinator for student athletes and serves as a point of contact for all student athletes.
6. Director of Public Safety and Security, Assistant Director of Public Safety and Security serve as Title IX Investigators.
7. Senior Lieutenant of Public Safety and Security serves as Title IX Investigator and Case Manager.

### **Duties of Title IX Officers**

1. Maintain a working knowledge of Title IX Rules and Regulations, comply with Title IX Rules and Regulations, and ensure equitable treatment of Complainants and Respondents.
2. Remove oneself from any involvement in a Title IX matter in which they have a conflict-of-interest and/or bias and notify all other Title IX Officers of self-removal from the process.
3. Maintain reasonably prompt timeframes for all major states of the complaint process. If extensions are necessary, the College will determine such on a case-by-case basis. Written notification of any extension will be provided to the Parties.
4. Engage in reasonable efforts to inform faculty, staff, vendors, students, and College visitors that Sex Discrimination and/or Sex-Based Harassment is prohibited and the procedures available for filing and seeking resolution to Complaints.
5. Take reasonable steps to protect the privacy of the Parties and witnesses during the complaint resolution processes. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the complaint procedures.
6. Maintain objective evaluation of the Relevant evidence and the exclusion of impermissible evidence while assessing credibility when credibility is in dispute and Relevant.
7. Ensure both Parties involved in a Title IX Complaint are offered Supportive Measures upon initial receipt of the Complaint and at any other appropriate time.
8. Provide an equal opportunity for the Parties to present fact witnesses and other evidence and for the Parties to access the Relevant and not otherwise impermissible evidence or an accurate description of the evidence, including access to the underlying evidence upon the request of any Party; a reasonable

opportunity to respond; and a requirement that the College take reasonable steps to prevent and address unauthorized disclosures.

9. Maintain the confidentiality of all records of investigations to the fullest extent permitted under the law but acknowledging that such protections of confidentiality may be incomplete.
10. Fulfill all duties and responsibilities in a manner that are fair and impartial to both the Complainant and the Respondent; including but not limited to maintaining a presumption that the Respondent is not responsible for the alleged misconduct until a determination is made at the conclusion of the grievance/complaint procedures.
11. The Title IX Coordinator shall be responsible for ensuring the College effectively implements any sanctions and Remedies.
12. Use of a Preponderance of the Evidence Standard of proof to determine whether Sex Discrimination and/or Sex-Based Harassment occurred and to identify Remedies for the Complainant or others; Disciplinary Sanctions for those found responsible; and other appropriate steps to prevent Sex Discrimination and/or Sex-Based Harassment.
13. The Institutional Title IX Coordinator may approve consolidation of Complaints of Sex Discrimination and/or Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of Sex Discrimination and/or Sex-Based Harassment arise out of the same facts or circumstances.

## **Definitions**

### **Complainant:**

- a) A student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination and/or Sex-Based Harassment under Title IX or its regulations; or,
- b) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination and/or Sex-Based Harassment under Title IX or its regulations and who was participating or attempting to participate in the College's education program or activity at the time of the alleged Sex Discrimination and/or Sex-Based Harassment.

**Complaint (aka Grievance):** an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX or its regulations.

**Confidential Employee:**

- a) An employee of the College whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this Title IX policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.
- b) An employee of the College whom the College has designated as confidential under this part for the purpose of providing services related to Sex Discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex Discrimination and/or Sex-Based Discrimination in connection with providing those services; or
- c) An employee of a post-secondary institution who is conducting an Institutional Review Board-Approved Human-Subjects research study designed to gather information about Sex Discrimination and/or Sex-Based Harassment, but the employee's confidential status is only with respect to information received while conducting the study.

**Consent:** Clear words or actions that create the mutual understandable permission of all Parties to willingly engage in sexual activity and the conditions of such activity. Consent can only be given by one who has the mental and physical capacity to make such a decision, and it must be clear, knowing, and voluntary. Consent to engage in one form of sexual activity cannot automatically imply to Consent to engage in any other form of sexual activity. Previous relationships or prior Consent cannot imply Consent to future sex acts. Consent can be withdrawn at any time. Consent may not be granted by a person known to be, or by one who should be known to be, mentally or physically incapacitated. It should be recognized that the lack of protest or resistance is not, in and of itself, Consent and persons who are asleep, unconscious, or unable to communicate due to a mental or physical condition are not capable of granting Consent.

**Disciplinary Sanctions:** consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the College's prohibition on Sex Discrimination and/or Sex-Based Harassment.

**Party or Parties:** When the singular is used, either the Complainant or the Respondent; when the plural is used, both the Complainant and the Respondent.

**Preponderance of the Evidence Standard:** A finding that a claim or allegation is more likely than not to be true. This term does not refer to the quantity of evidence but rather to the quality of the evidence. It means that the fact finder must be persuaded, considering all the evidence, that the necessary facts to establish the allegation are more likely than not to exist.

**Relevant:** related to the allegations of Sex Discrimination and/or Sex-Based Harassment under investigation as part of these Grievance procedures. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex

Discrimination and/or Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex Discrimination and/or Sex-Based Harassment occurred.

Remedies: measures provided, as appropriate, to a Complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by Sex Discrimination and Sex-Based Harassment. These measures are provided to restore or preserve that person's access to the College's education program or activity after the College determines that Sex Discrimination and/or Sex-Based Harassment occurred.

Respondent: an individual who is alleged to have violated FTCC's prohibition on Sex Discrimination and/or Sex-Based Harassment.

Responsible Employee: any College employee who has been given the duty of reporting incidents of Sex Discrimination or Sex-Based Harassment to the Office of Public Safety and Security or the Title IX Coordinator.

Retaliation: intimidation, threats, coercion, or discrimination against any person by the institution, a student, or an employee or other person authorized by the institution to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sex Discrimination: discrimination based on sex in education programs or activities that receive federal financial assistance.

Sex-Based Harassment: a form of Sex Discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- a) Quid pro quo harassment. An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- b) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - i) The degree to which the conduct affected the Complainant's ability to access the College's education program or activity;

- ii) The type, frequency, and duration of the conduct;
  - iii) The Parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
  - iv) The location of the conduct and the context in which the conduct occurred; and
  - v) Other Sex-Based Harassment in the College's education program or activity, or
- c) Specific offenses including:
- i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
  - ii) Dating violence meaning violence committed by a person:
    - (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - (a) the length of the relationship;
      - (b) The type of relationship; and
      - (c) The frequency of interaction between the persons involved in the relationship.
  - iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
    - (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the College, or a person similarly situated to a spouse of the victim;
    - (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
    - (3) Shares a child in common with the victim; or
    - (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
  - iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    - (1) Fear for the person's safety or the safety of others; or
    - (2) Suffer substantial emotional distress.

Supportive Measures: individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- a) Restore or preserve that Party's access to the College's education program or activity, including measures that are designed to protect the safety of the Parties or the College's educational environment; or
- b) Provide support during the College's grievance procedures or during an informal resolution process.



## **VI-9.3 Procedure: Pregnancy and Related Conditions (Students)**

### **Scope**

This procedure applies to all aspects of Fayetteville Technical Community College's programs, including, but not limited to, admissions, educational programs, activities, and extracurricular activities.

### **Procedure**

All students in need of modification(s) because of Pregnancy and/or Pregnancy-Related Conditions including lactation, should notify the Deputy Title IX Coordinator for Students. Any employee of the College who learns of a student's pregnancy must provide the student with the contact information of the Deputy Title IX Coordinator for Students. However, if the employee reasonably believes the Deputy Title IX Coordinator for Students has already been notified, the employee need not provide the student with such information.

Reasonable Modifications may include, but are not limited to:

- providing modifications to protect the health and safety of the student and/or the pregnancy (such as allowing the student to maintain a safe distance from hazardous substances);
- making modifications to the physical environment (such as accessible seating);
- extending deadlines and/or allowing the student to make up tests or assignments missed for pregnancy-related absences;
- offering remote learning options;
- excusing Medically Necessary absences (this must be granted, irrespective of classroom attendance requirements set by a faculty member, department, division or College);
- granting Leave of Absence(s) for so long a period of time as is deemed Medically Necessary by the student's physician and then effectively reinstating the student to the same status as was held when the leave of absence began and without additional tuition to return to complete the class(es);
- devising alternative paths to completion in situations such as clinical rotations, performances, labs, and group work if possible. It may be a Reasonable Modification to permit the student to shift course order or substitute similar courses when returning from a leave of absence;
- allowing incomplete grades for classes that can be resumed at a future date;
- granting withdrawals up to the 90% date of the class;
- allowing breastfeeding students reasonable time and space to pump breast milk in a location that is private, clean, and reasonably accessible. Bathroom stalls do not satisfy this requirement;
- other Reasonable Modifications as agreed to by the student and the College.

Nothing in this procedure requires modification(s) to the essential elements of any course or academic program due to Pregnancy and/or Pregnancy-Related Condition. Reasonable Modifications end at the conclusion of the pregnancy or pregnancy-related condition.

The Deputy Title IX Coordinator for Students will collaborate with the Title IX Coordinator to determine that such Reasonable Modification(s) are necessary and appropriate, and the Title IX Coordinator will inform faculty members of the need to adjust academic parameters accordingly.

Faculty and staff will not require a student to take a Leave of Absence, or withdraw from, or limit their studies as the result of pregnancy, childbirth, or pregnancy-related conditions.

College employees are prohibited from interfering with students' right to take leave, seek Reasonable Modification, or otherwise exercise rights under this procedure.

Students who believe they have been denied access to Reasonable Modification may file a Title IX Complaint (see Title IX: Sex Discrimination and Sex-Based Harassment Procedures).

### **Lactation Room**

FTCC recognizes the importance of supporting students/employees who choose to breastfeed after the birth of a child. Thus, we maintain a family-friendly space for those members of our campus community. Lactation rooms have been established on campus, which allows mothers to breastfeed or express milk comfortably without interruption. For one year after the birth of a child, students/employees may request a schedule modification to take reasonable break time each time such student/employee has need to express milk.

Lactation rooms are located as follows and are available on a first-come, first-served basis:

<b>Building</b>	<b>Room</b>
• Collision Repair and Refurnishing Technology Building	103
• Collision-U, Spring Lake	111-C
• Education Center/Pauline Jones High School	24
• Fire and Rescue Training Center	124
• Horticulture Educational Center	102
• Neill Currie Building	9-A
• Nursing Education Simulation Center	139
• Tony Rand Student Center	13
• Spring Lake Center	127

## **Privacy**

As with disability modifications, information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Faculty and staff will regard all information associated with such requests as private and will not disclose this information unless necessary. Administrative responsibility for these modifications lies with the Deputy Title IX Coordinator for Students, who will maintain all appropriate documentation related to any modification.

## **Definitions**

Deputy Title IX Coordinator for Students: Associate Vice President for Student Services

Leave of Absence: An absence from the classroom or extracurricular activities because of a pregnancy and/or pregnancy-related condition and deemed necessary and documented by an appropriate health care provider.

Medically Necessary: a determination made by a health care provider (of the student's choosing) that a certain course of action is in the patient's/student's best health interests.

Pregnancy and/or Pregnancy-Related Conditions: include, but are not limited to, pregnancy, childbirth, false pregnancy, termination of pregnancy, conditions arising in connection with pregnancy, lactation, and recovery from any of these conditions.

Pregnancy Discrimination: includes treating an individual affected by pregnancy or a pregnancy-related condition less favorably than similar individuals not so affected, and includes a failure to provide legally mandated leave or modification.

Reasonable Modification: for the purpose of this procedure, changes in the academic environment or typical operations that accommodate and enable pregnant students or students with pregnancy-related conditions to continue to pursue their studies and enjoy the equal benefits of an education at Fayetteville Technical Community College.

Title IX Coordinator: Vice President for Human Resources and Institutional Effectiveness

## **Authority**

[34 CFR 106.40](#)

## **VI-10 Performance Appraisal Policy and Procedures**

### **VI-10.1 Purpose**

To ensure quality performance, retain qualified employees, and facilitate the communication of expectations between supervisors and employees, job performance is reviewed regularly for all employees.

### **VI-10.2 Professional Development and Training**

Professional development is essential for all faculty and staff to grow and increase effectiveness in performance of their jobs. In keeping with this philosophy, full-time faculty are required to complete 30 hours of professional development annually (see Faculty Handbook for details on requirements) and full-time staff are required to complete 12 hours of professional development annually. Part-time faculty are required to complete 3-6 hours of professional development annually. Part-time staff are encouraged to attend professional development sessions as their work schedule permits.

The College offers both face-to-face and online professional development opportunities to accommodate various work schedules and locations. Attendance and/or credit for any professional development session is approved/disapproved by the immediate supervisor. Employees are responsible for tracking their own professional development hours using the Employee Professional Development Form (Form P-14a or P-14b) and attaching it to their Employee Performance Appraisal Form (Form E-32).

The supervisor and the employee should review the employee's professional development using Form P-14 during the closeout of the performance appraisal. Supervisors will ensure the form is attached to Form E-32 before signing and submitting to Human Resources through the supervisory chain.

Professional development activities may be defined as:

- (1) Attending professional development sessions sponsored by the College
- (2) Preparing and presenting professional development sessions at the College
- (3) Completing continuing education courses related to career field
- (4) Pursuing advanced degrees that support the mission of the College
- (5) Attending any training related to career field
- (6) Attending or presenting at conferences, seminars, webinars, and workshops
- (7) Holding offices in professional/academic organizations

(8) Preparing articles and/or books for publication

All faculty and staff are expected to complete any College-mandated training as set forth by the College administration. These mandated trainings are not to be included in the 30 hours required professional development for faculty and the 12 hours required professional development for exempt staff (non-exempt staff may count the hours).

The following College-mandated training must be completed within 90 days of the employee's hire date and renewed thereafter according to the requirements set forth by the administration. The list of mandated training is subject to change.

- (1) Prevention of Sexual Harassment/Violence and Title IX Clery Act
- (2) Public Safety and Security
- (3) Student Records
- (4) Bloodborne Pathogens
- (5) Cyber Security Awareness (KnowBe4)

## **VI-10.3 Procedures**

(1) Types of Appraisals

a. Annual

The annual review period will run with the fiscal year calendar or begin at the end of the probationary performance appraisal period.

The annual review period shall end at the time the supervisor shares the Employee Performance Appraisal with the employee. However, the Employee Performance Appraisal must be received in the Office of Human Resources no later than the following dates:

May 30 – Contract II Faculty (10-month Faculty)

July 15 – Contract I & Contract III Faculty (12-month Faculty)

July 15 – Staff

Supervisors may attach an addendum to the appraisal indicating outstanding or substandard employee performance during the remainder of the fiscal year. An addendum may be included for 10-month faculty contracted to work beyond the May 30th date.

b. Probationary (90 day)

Ninety days from the employee's original hire date, or date of a new position, supervisors will complete and submit a Probationary Performance Appraisal evaluating performance during the first 90 days.

c. Change of Rater

If a full-time employee changes supervisor and has worked for the supervisor for at least 90 days, a performance appraisal will be completed according to the end of the review period procedures (see Item 5 below). The new supervisor will establish three or more objectives.

d. Multiple Supervisors of Single Employee

Full-time employees reporting to more than one supervisor should have an Employee Performance Appraisal (Form E-32) completed by each supervisor. Each supervisor will establish a minimum of three objectives.

e. Exiting Employees Prior to Appraisal End Date

Full-time employees who separate from employment with the College will receive an end-of-service performance appraisal. The supervisor will provide the written performance appraisal through the appropriate supervisory chain to the Office of Human Resources for inclusion in the employee's personnel file.

i. The employee's supervisor will make all reasonable attempts to conduct a performance appraisal with the employee prior to the employee's last working day.

ii. In the event it is not possible for the supervisor to conduct a performance appraisal prior to the employee's last working day, the supervisor will complete the appraisal, indicate employee not available to sign, and forward to the Office of Human Resources.

(2) An Employee Performance Appraisal Form (Form E-32) will be completed for each full-time employee once a year. All appraisals and observations shall be kept confidential to the degree possible.

(3) At the beginning of each review period, the employee and their supervisor **must conduct** an initial conference for the purpose of reviewing the employee's job description, establishing individual performance objectives, employability skills,

and performance attributes. The supervisor will consider the employee's input in the process.

- a. The job description shall be reviewed. If changes are needed, the supervisor should submit changes using the Document Control Routing Form (Form D-11).
- b. The supervisor, with input from the employee, will establish employee performance objectives:

At the beginning of the Employee Performance Appraisal Period, the supervisor and employee must write a minimum of three individual performance objectives using the **SMART** objective components outlined in Section 1 of the Employee Performance Appraisal Form (Form E-32). The scope of some positions may require more than three objectives.

Each individual performance objective must be **Specific**, **Measurable**, **Attainable**, **Relevant**, and **Time-bound**.

**Specific:** Objectives must include who, what, when, where, and how they relate to the employee's position and/or institutional goals.

**Measurable:** Objectives must show how they will be measured for success in terms of quantity, quality, cost, etc.

**Attainable:** Objectives must be within the employee's control and influence – make sure they are realistic and reasonable based on their position and daily demands.

**Relevant:** Objectives must show why their expected results are important to the employee's department or to the goals of the institution as a whole.

**Time-bound:** Objectives must include a target date or a deadline for completion, be sure to include the frequency of a specific action and steps needed for achievement of each objective.

All objectives should support College initiatives and institutional goals.

- c. The supervisor, with input from the employee, will mark the employability skills and performance attributes that are most critical to the function of the position.

i. Employability Skills

Section 2 of the Employee Performance Appraisal Form (Form E-32) requires supervisors to assess all six employability skills as each is critical for every position at FTCC. Supervisors should mark the box on the form indicating whether the employee Exceeds Expectations, Meets Expectations, or is Below Expectations for each skill.

Employability Skills are listed on [Appendix A](#), followed by characteristics of employees who demonstrate those individual skills.

ii. Performance Attributes

Section 2 of the Employee Performance Appraisal Form (Form E-32) also requires supervisors to select six or more performance attributes to be assessed and designated as critical to the employee's job duties. Supervisors should mark the box on the form indicating whether the employee Exceeds Expectations, Meets Expectations, or is Below Expectations for each attribute selected as critical.

Performance Attributes definitions are listed on [Appendix B](#).

(4) During the review period:

- a. The employee and supervisor will communicate formally and informally as needed. Supervisors should record, in writing, the topics discussed during such performance discussions as a memo of record.
- b. The employee and his/her supervisor should review and discuss the employee's progress on each established performance objective.

(5) At the end of the review period, the employee receives an overall assessment of their performance by their supervisor.

- a. Prior to the discussion with the employee, the supervisor's supervisor must review, provide feedback, and sign the appraisal.

If an employee receives an overall "Below Expectations" rating on their annual performance appraisal, a "Performance Improvement Plan" (PIP) (Form P-24) must be used to document the expected changes needed to improve their performance or behavior.

The PIP may also be implemented any time an employee's performance or behavior fails to meet the supervisor's expectations.



Employees on a PIP are ineligible for favorable personnel actions. If the employee does not make the expected performance or behavior improvements within a specified time period, the employee may be disciplined in accordance with policies and procedures of the College.

- b. Both the supervisor and the employee sign the form and may write comments. Should the evaluated employee refuse to sign, a note will be entered on the signature line by the supervisor indicating the employee refused to sign and the form will be treated as if signed by both the supervisor and the employee. Both the employee and the supervisor retain a copy of the completed, signed appraisal.
- c. Supervisors are responsible for evaluating the performance of their faculty and staff. Therefore, such appraisals of performance are normally not subject to an appeal, except if such appeal is based upon allegations of improper consideration of the employee's race, national origin, color, religion, sex/gender, disability, age, or political affiliation. Evaluated employees who document such illegal considerations in their appraisal process may file such appeal using the employee grievance process prescribed in this manual.

Should an employee disagree with a supervisor's appraisal of their performance, the College will accept a memorandum from the employee with their disagreement and reasons for such disagreement. The memorandum should be submitted through the supervisory chain to the Office of Human Resources and will be permanently attached to the original copy of the appraisal in the employee's personnel file.

- d. The supervisor forwards the completed, original, signed appraisal form through supervisory channels to the Office of Human Resources for inclusion in the employee's personnel file.

### **Special Considerations for Faculty Appraisals**

- Student evaluations will be considered by faculty supervisors when completing the Employee Performance Appraisal.
- Supervisors or designees will conduct at least one classroom observation per year for full-time and part-time faculty using the Faculty Teaching Observation Form (Form F-17).

- Classroom observations may be used to document performance appraisal requirements for part-time faculty instructors in lieu of using the full-time appraisal form; however, supervisors are highly encouraged to use Form E-32 to evaluate part-time employees having a history of consecutive part-time contracts from term to term. Classroom observations used in lieu of a part-time faculty's formal performance appraisal must be sent to Human Resources for inclusion in the part-time instructor's personnel file.

## **VI-11 Disability and Reasonable Accommodation Procedure (Interactive Process)**

Fayetteville Technical Community College (FTCC) is committed to assisting employees (and applicants) with medical impairments and/or disabilities as they seek work-related accommodations. The College facilitates an interactive process meeting between supervisors and the employee to determine possible accommodations (if any) that will allow the employee to perform the essential duties of the position without exacerbating the employee's condition or causing undue hardship to the College.

The interactive process is normally facilitated by the Vice President for Human Resources and Institutional Effectiveness (HR/IE) and may include the following participants as needed:

- (1) Employee requesting accommodations
- (2) Immediate supervisor of position and/or others from the supervisory chain
- (3) Personnel Manager
- (4) Vice President for Legal and Administrative Services
- (5) Employee Benefits Specialist
- (6) Other parties at the request of the employee or the immediate supervisor

The employee should submit a request for accommodation(s) to the Office of Human Resources that includes the Individual Disability Disclosure Form (Form D-1) along with documentation from their medical provider supporting the need for an accommodation. As soon as practical (typically within five working days of receiving the request for accommodation), the Office of Human Resources will schedule an interactive process meeting. Meeting participants will discuss possible accommodations, considering both the department's mission and the medical provider's recommendation. Details of the medical condition will be kept as confidential as possible in order to respect the privacy of the employee while allowing members of the group a general understanding of requested accommodations.

Meeting participants will compare the job duties and responsibilities from the employee's job description to the specific work restrictions and/or requested accommodations. If reasonable accommodation(s) are identified which prevent injury or harm to the employee and undue hardship to the department, the accommodation(s) will be implemented as soon as possible.

If no reasonable accommodation(s) can be determined, the employee will be asked to discuss their work restrictions further with their physician to determine if work restriction modifications are possible and/or alternatively discuss the possibility of employment disability. The employee is encouraged to share their job description, organizational chart, and minutes of the previous meeting(s) with their physician in pursuit of reasonable accommodations. If the physician modifies the work restrictions, another interactive process meeting will be scheduled. Additional meetings may also be necessary to adjust accommodations if the employee's condition improves or declines.

Questions concerning this procedure should be addressed to the Vice President for Human Resources and Institutional Effectiveness.

## **VI-12 Employment of Relatives**

The College shall not employ two or more persons concurrently who are closely related by blood or marriage in positions which would result in one person of such family relationship supervising another closely related person or having a substantial influence over employment, salary or wages, or other management or personnel actions pertaining to the close relative. "Closely related" is defined to mean mother, father, brother, sister, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in law, brother-in-law, grandmother, grandfather, grandson, granddaughter, uncle, aunt, nephew, niece, husband, wife, step-parent, step-child, step-brother, step-sister, guardian, or ward. With respect to the concurrent service of closely related persons within the same academic department or other comparable college subdivision of employment, neither relative shall be permitted, either individually or as a member of a committee, to participate in the evaluation of another relative.

# Appendices

## Appendix A

### Employability Skills

Employability Skills are listed below, followed by characteristics of employees who demonstrate those individual skills.

- (1) **Responsibility:** exhibiting individual behaviors that support the goals and objectives of the organization

Support the FTCC mission/purpose, goals, and critical success factors	Maintain professional appearance
Demonstrates a positive and supportive attitude	Accept accountability for actions and decisions
Perform job to best of your abilities	Admit mistakes
Demonstrate initiative	Utilize chain of command
Behave ethically	Challenge authority professionally
Make decisions ethically	Think cost effectively
Follow procedures	Meet deadlines
Maintain a safe and clean work environment	Keep accurate records
Adhere to FTCC attendance policy/work hours	Comply with the College's Code of Ethical Conduct

- (2) **Communication (Verbal):** exchanging ideas and information verbally

Use correct grammar, appropriate vocabulary, and proper etiquette when speaking	Give and receive constructive feedback
Use effective tone, pace, and inflection in verbal exchanges	Negotiate win-win resolutions
Practice active listening	Deliver effective oral presentations
Question effectively	Understand body language
Maintain open lines of communication	Interact rationally with difficult people

- Communication (Written):** exchanging ideas and information in written form via formal writing, e-mail, and presentations

Demonstrate literacy	Present information in visually appealing, understandable formats
Select appropriate format and style for written communications	Understand legal issues related to written communication
Use correct grammar, spelling, and mechanics	Write business-appropriate correspondence (e-mails, letters, memos, etc.)
Organize written presentations effectively	Write legibly
Summarize relevant and pertinent information	

- (3) **Adaptability:** exhibiting flexibility and receptivity to changing technologies, methods, processes, work environments, and organizational structures and practices

Embrace change	Adapt to the environment
Seek learning and growth opportunities	Support new ideas openly
Adjust to physical changes in workplace	Complete a periodic self-assessment
Adjust to changes in work flow	Adapt to changing technologies
Manage multiple assignments	Be aware of global impact on the workplace

- (4) **Teamwork:** working cooperatively with others to analyze a situation, establish priorities, and apply resources for solving a problem or accomplishing a task

Understand the importance of teamwork	Participate in team planning activities
Commit to team cohesion	Evaluate objectively the ideas of team members to determine options
Shares information and works cooperatively with others	Carry out team assignments in a timely manner
Embrace diversity and individual differences, including cultural, generational, and equitable inclusiveness.	Communicate team results to appropriate individuals
Incorporate creativity.	Evaluate team results

- (5) **Problem Solving:** identifying problems, potential causes, and continuous improvement opportunities

Be proactive in preventing problem occurrences	Interpret data
Define characteristics of situation or problem	Evaluate potential outcomes
Gather essential information	Prioritize best solutions
Determine root cause	Implement best solution(s)
Recognize organizational and personal barriers	Monitor, evaluate, and share results with appropriate individuals
Brainstorm possible solutions	Ensure proper follow up with internal and external customers
Utilize problem solving methods	Know when to seek help
Use appropriate technology	Approach problems as learning opportunities
Establish decision criteria	

- (6) **Information Processing:** finding, using, and sharing information

Determine information required	Ensure accuracy of sources
Identify information resources	Communicate information with appropriate individuals
Gather required information	Document action(s) taken
Modify search as required	Demonstrate mathematical skills appropriate to position
Compile information into appropriate format	Demonstrate basic computer and associated application skills
Understand sensitivity of data	

## Appendix B

### Performance Attributes

- (1) **Classroom Instructional Skills/Knowledge:** Staying current with new information and activities related to academic discipline. Demonstrating professional expertise in assigned subject matter and teaching methodology, including performance-based learning, alternative delivery methods, and instructional technology.
- (2) **Classroom Management:** Maintaining an appropriate environment for face-to-face and/or online learning. Using class time effectively. Conveying enthusiastic attitude toward subject and encouraging student participation in class.
- (3) **Classroom Presentation:** Applying appropriate instructional strategies and adequately conveying content. Is flexible in responding to the learning needs of students and adapting lesson plans as needed to facilitate student achievement.
- (4) **College Service:** Participating in and supporting College initiatives and activities. Serving on committees as requested. Attending scheduled meetings.
- (5) **Course Management:** Reviewing and revising assigned course(s) to ensure concepts, content, and learning experiences are current. Assessing assigned course(s) to ensure appropriate evaluation/assessment mechanisms are used to measure subject knowledge and performance. Demonstrating an ongoing review and analysis of course(s) retention and attrition. Following the required Blackboard template. Presenting current concepts and skills in courses and updating the syllabi as needed.
- (6) **Customer Service:** Treating students, the general public, and co-workers with basic courtesy. Being helpful and responsive to the concerns of others and promoting the College in a positive light.
- (7) **Developing/Mentoring Others:** Planning and supporting the development of individuals, skills, and abilities so they can fulfill current or future job/role responsibilities more effectively.
- (8) **Employee Development:** Providing career planning for direct reports through employee development opportunities including training and varied job assignments. Providing feedback to support employees' efforts to achieve established performance outcomes.



- (9) **Facility, Equipment, and Supply Management:** Developing and managing budgets based on objectives of the unit in order to identify and utilize resources to provide successful outcomes.
- (10) **Initiative:** Starting assignments without prompting and independently contributing ideas and projects. Seeing and acting upon new opportunities.
- (11) **Job Skills/Knowledge:** Possessing the knowledge and job skills for the specific area of responsibility assigned. Demonstrating an understanding of the administrative and management procedures related to the assigned responsibilities.
- (12) **Leadership:** Demonstrating initiative through encouragement of new ideas, innovation, and creativity. Providing for continuous improvement of College programs and services through techniques of mentoring, coaching, and problem solving. Setting a good example by displaying a positive approach and professional demeanor.
- (13) **Personnel Management/Supervision:** Managing and supervising assigned faculty/staff while consistently adhering to policies and procedures established by the institution. Sensitive and supportive of the College's EEO/Affirmative Action guidelines.
- (14) **Planning/Organization:** Scheduling and planning most efficient use of time in order to accomplish a specific goal. Keeping accurate records.
- (15) **Professional Development:** Participating in faculty/staff development activities on and off campus to improve job skills and knowledge.
- (16) **Program Administration:** Managing program or service area through utilization of available resources, maintaining records, developing schedules, and monitoring progress of established outcomes.
- (17) **Quality and Timeliness of Work:** Demonstrating neatness, thoroughness, and accuracy in completing job assignments in a timely manner.
- (18) **Student Advisement:** Demonstrating a professional, student-oriented, customer service attitude toward all students. Listening to student concerns, asking appropriate questions, providing program of study recommendations, and making applicable referrals. Maintaining currency in College policies to provide accurate information to students. Ensuring advisee records are properly maintained. Establishing contact with advisees on a consistent and systematic basis.

- (19) **Punctuality/Attendance:** Reporting to work on time at the designated work site or obtaining approval from supervisor prior to the beginning of the scheduled shift to include returning from breaks/lunch periods, illness, or in emergency situations.