

## **Florida Southern College Section 504/ADAAA Grievance Procedure**

### **Students with Disabilities**

#### **2020-2021 Academic Year**

##### **M. Pospichal**

*The following Section 504/ADAAA grievance procedure has been developed in part from material prepared by the U.S. Department of Education, Office of Civil Rights, and the Thompson Publishing Group Section 504 Compliance Handbook (May, 2012). These procedures apply to grievances that occur from August, 2020 until the next update of the procedure in August, 2021. Grievances reported to have occurred prior to August, 2020 will be considered on a case-by-case basis.*

Florida Southern College welcomes all students seeking to further their education. Accordingly, Florida Southern College prohibits discrimination against any qualified student with a disability.

#### **New Applicants**

A student applying to Florida Southern College is not required to disclose a disability. When a disability is disclosed during the application process, it is not used in any way to determine admission to the college. Similarly, when a student receives a letter of admission, it is not a guarantee that the college can accommodate a given disability. Admissions and disability accommodations are two separate processes.

The Office of Student Disability Services (SDS), which coordinates reasonable accommodations for students with protected disabilities, engages in an interactive process with the student to determine accommodations that can be made. SDS mails or emails a form describing the procedure for submitting documentation and follows through with a letter detailing the reasonable accommodations Florida Southern College can provide according to the nature of the disability. Florida Southern College is committed to equality of educational opportunities for qualified students with disabilities.

#### **Currently Enrolled Students**

When a currently enrolled Florida Southern College student requests reasonable accommodations for a protected disability, such requests are evaluated on a case-by-case basis, using an individualized and collaborative process. First, Florida Southern reviews the submitted supporting documentation to determine the nature of the disability and the accommodations being requested to overcome disability-related barriers to college living and learning. After sharing with the student in writing the accommodations FSC can provide, discussing and clarifying the Accommodation Plan as needed, and over a waiver signed by the student, appropriate faculty and staff receive copies of the student's Accommodation Plan which includes a list of reasonable accommodations. These approved recipients typically receive the Accommodation Plan within 1 - 5 working days after the student waiver is signed.

Florida Southern College welcomes the opportunity to ensure equal access to all qualified, enrolled students. Thus, appropriate case-by-case accommodations are provided for students with documentation of a protected disability. The student must make his or her disability known to the college and students who do not seek accommodations are not required to disclose a disability. Requests for disability accommodations must be made each semester. Students should speak to each faculty member very early each semester to agree together how the accommodation will be implemented in a given class. Self-advocacy by students is encouraged, as well as taking the initiative in requesting desired appropriate accommodations and having relevant diagnostic tests or other professional evaluations to verify the need for accommodations.

Accommodations cannot be applied retroactively to a previous point in the semester or academic year. Rather reasonable accommodations are active from the date of approval forward.

In some cases, a request for an accommodation may be denied. Florida Southern College has adopted an internal grievance procedure for providing prompt and equitable resolution of complaints alleging any action prohibited by the Americans with Disabilities Act (as Amended and implemented in 2009-ADAAA) and by Title III regulations implementing Section 504 of the Rehabilitation act of 1973, as amended (29 U.S.C. section 794).

A student who is currently enrolled in FSC may initiate a grievance if she/he (1) has made a request for a reasonable accommodation on the basis of a protected disability and believes she/he has been wrongly denied that accommodation, or (2) alleges she/he has suffered discrimination because of her/his disability. Accommodation discussions could include, but not be limited to (1) whether the student is a qualified individual with a disability; (2) whether a student's documentation of a disability is adequate to determine/support accommodations; (3) whether the accommodations being requested are reasonable.

### **Initial Accommodation Plan Re-Evaluation**

If a student disagrees with an accommodation decision, or believes they are experiencing discrimination because of a disability, the first step is to discuss this with Dr. Marcie Pospichal, Associate Vice President of Student Support and Coordinator of Student Disability Services, Florida Southern College, tel: (863) 680-4197; email: disabilityservices@flsouthern.edu. Students should notify Dr. Pospichal immediately or ideally no later than five (5) working days of discovering the need to re-evaluate accommodations or explore the possibility of discrimination. This is so that, if there is any non-accommodation or discrimination happening, the college can take prompt steps to correct the situation. Often, clarification or resolution can occur in this initial stage. Allegations of discrimination will be investigated beginning within one (1) working day of this discussion and any modifications to Accommodation Plans will be submitted to appropriate College recipients within two (2) working days of this Accommodation Plan Re-Evaluation.

### **Informal Grievance**

If resolution is not possible using the Initial Accommodation Plan Re-Evaluation process or if a student is dissatisfied with the outcome of the Initial Re-Evaluation, she/he may initiate an Informal Grievance. This Informal Grievance should be directed to Dr. Marcie Pospichal, Florida Southern College, tel: (863)

680-4197, email: [disabilityservices@flsouthern.edu](mailto:disabilityservices@flsouthern.edu), who has been designated to coordinate compliance efforts for students with disabilities.

1. An Informal Grievance may be filed in writing or verbally (by phone or ZOOM) by a current student who believes she/he/they have not received reasonable accommodations or who alleges discrimination based on a protected disability. The “complainant” (the reporting student or student initiating the Informal Grievance) will need to provide the following information:
  - a. A clear and precise description of the complaint
  - b. A statement regarding how the action is discriminatory or how the decision is unreasonable if it is a denial of a requested accommodation
  - c. The name(s) of the person(s) (called “respondents”) who are reportedly not providing accommodations or who are reportedly behaving discriminatorily against the person who filed the grievance (the “complainant”)
  - d. A statement regarding how each respondent is responsible for not complying with an Accommodation Plan or for discrimination
  - e. A statement of the requested remedy
  - f. A statement as to whether witnesses or additional evidence are to be provided, if necessary
2. An Informal Grievance should be made by the reporting student within five (5) working days of her/him/them experiencing or discovering the alleged violation or within five (5) working days of the conclusion of an Initial Accommodation Plan Re-Evaluation.
3. An investigation will follow the filing of an Informal Grievance. The investigation will be led by Dr. Marcie Pospichal or, if the allegations involve Dr. Pospichal, Dr. Susan Freeman, Vice President of Student Life, will assign a college officer to investigate the grievance (please see Formal Grievances, below). The investigation will be prompt, thorough, and equitable. In all cases, the investigation will involve conversations and explorations between the investigator and the complainant.
4. If appropriate, all interested parties will have the opportunity to provide witnesses or submit information relevant to the complaint.
5. A written or verbal Informal Grievance Outcome and a description of the resolution, if any, will be issued to the complainant promptly by Dr. Pospichal, with a target time of no later than ten (10) working days after receipt of the Informal Grievance. Every effort will be made to complete the investigation expeditiously but the college reserves the right, in its discretion and based on external factors it may not be able to control, to extend the target deadline for the Informal Grievance Outcome if that will permit a more completely-resolved outcome. The complainant will be kept up-to-date on the progress of the investigation.

If discrimination or a failure to provide reasonable accommodations is discovered, the Informal Grievance Outcome will name the steps taken to promptly remedy this and to prevent its recurrence in the future, both toward the complainant to others.

6. The Student with Disabilities Grievance Officer will maintain the files and records relating to the complaints for 7 years.

### **Appealing the Informal Grievance: Formal Grievances**

1. Under certain circumstances (please see below) the complainant can request a reconsideration of the investigation outcomes of the Informal Grievance. Request for reconsideration should be made in writing within five (5) working days of the complainant receiving the written Informal Grievance Outcome to Dr. Susan Freeman, Vice President of Student Life, Rogers Building room 123, Florida Southern College, 111 Lake Hollingsworth Drive, Lakeland, FL 33801, tel: (863) 680-3952; email: [sfreeman@flsouthern.edu](mailto:sfreeman@flsouthern.edu)

All Formal Grievances must be in writing and signed by the student. The Formal Grievance must contain:

#### **\*The Initial Informal Grievance:**

- a. A clear and precise statement of the initial complaint.
- b. A statement regarding how the initial action is discriminatory or how the decision is unreasonable if it is a denial of a requested accommodation
- c. The name of the respondents (the person(s) against whom the grievance is filed)
  - a. A statement regarding how each respondent is responsible for not complying with an Accommodation Plan or for discrimination
- d. A statement of the initially-requested remedy
- e. The statements of any witnesses or evidence that were provided

\*Note: If the Informal Grievance was made to Dr. Pospichal verbally, to assist the complainant, Dr. Pospichal will offer to provide this portion of the grievance in writing to the student. If the student presented the Informal Grievance in writing, this can be submitted to Dr. Freeman to fulfill the above requirements.

- g. A description/copy of the Informal Grievance Outcome (provided to the student by Dr. Pospichal)

#### **Plus:**

- f. An explanation of why the Informal Grievance Outcome is unsatisfactory, and
- g. A request and the reasons for an alternative, desired remedy.

Reasons a student may appeal an Informal Grievance Outcome include (1) additional witnesses or information have been obtained that were not available during the Informal Grievance, or (2) there is evidence that the College did not follow its own policies and procedures.

A written evaluation of and response to the complaint and a description of the resolution, if any, will be issued by Dr. Freeman and a copy forwarded to the complainant promptly, with a target time of no more than 10 working days after the Formal Grievance has been filed. Every effort will be made to complete

the investigation expeditiously but the College reserves the right, in its discretion and based on external factors it may not be able to control, to extend the target deadline for the written determination of the investigation if that will permit a more completely-resolved outcome. The complainant will be kept up-to-date on the progress of the investigation. Additional procedures will be similar to those of Informal Grievances.

If discrimination or a failure to provide reasonable accommodations is discovered, a written report will name the steps taken to promptly remedy this and to prevent its recurrence in the future, both toward the complainant to others.

NOTE: Any grievance filed AFTER APRIL 30 AND BEFORE AUGUST 30 of each year may require additional time for investigations, if respondents are absent from the college for the summer.

### **Discretionary Decisions of Florida Southern College**

FSC cares deeply about all students and works with each individual to support persistence to degree completion. To thoroughly investigate reports of inadequate accommodation or discrimination, and to put into place effective remedies if needed, the college may require more time than indicated above. However, it will always be FSC's goal to respond promptly and completely to such concerns. Additionally, if FSC learns from a third party about the potential need to evaluate accommodations or investigate discrimination, an appropriate college official may initiate contact with the student to explore these possibilities. However, the student is not required to reveal a disability unless the student is requesting accommodations and it is the student's right to determine if she/he wishes to request accommodations or an investigation.

### **False Accusations**

If an investigation results in a finding that the complainant intentionally falsely and maliciously accused another of discrimination, the complainant will be subject to appropriate sanctions for "false accusations" under the Student Handbook and associate accountability procedures. The fact that no action is taken as a result of the complaint against the respondent does not mean that the complaint was not false or malicious. This should not deter students from reporting concerns about accommodations or discrimination and the college will always assume that such inquiries are made in good faith.

### **Retaliation and Reprisals**

No individual shall suffer reprisals or retaliation for truthfully reporting any incidents of discrimination, for making any good-faith complaints of discrimination, or for participating in any investigation of incidents of discrimination or perceived discrimination. Acts of retaliation and reprisal under these circumstances are strictly prohibited by the college. Reprisal and retaliation, either through direct actions or through a third party, will result in disciplinary consequences. Examples of retaliations or reprisals would include, but would not be limited to, the following kinds of conduct:

- Assigning low grades, changing work assignments, or refusing to cooperate with a person who has complained about discrimination
  - Denying participation, membership, or relationship to a person who has reported or resisted discrimination
  - Imposing physical, social, or emotional sanctions on a person who has reported or resisted discrimination
7. The right of a student to a prompt and equitable resolution of the filed complaint will not be impaired by the complainant's pursuit of other remedies such as filing of an ADAAA complaint with the responsible federal department or agency. Simultaneous pursuit of multiple remedies could require the college to delay portions of its investigation so as not to impede the investigations of other agencies.

The designated Office for Civil Rights Department of Education contact for Florida postsecondary institutions is:

Office for Civil Rights,

***Atlanta Office***

U.S. Department of Education

61 Forsyth Street S.W., Suite 19T10

Atlanta, GA 30303-8927

Telephone: (404) 974-9406

Facsimile: (404) 974-9471

Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)