

# *Building Coaches*



## Legal Side of Supervision

Human Resources

# Agenda

<b>Activity/Topic</b>
<b>Welcome, Learning Objectives</b>
<b>Employment Laws/Policies and Activity</b>
<b>Health Related Laws/Policies</b>
<b>Compensation Laws/Policies</b>
<b>Records Laws/Policies</b>
<b>Information Technology and Copyright Laws</b>
<b>Applying the Laws – Scenario Activity</b>

# *Expected Learning Outcomes*



Define primary employment laws or BC policies and procedures that apply to legal practices within the college workplace.

Identify health-related laws and associated Broward College policies.

Recognize compensation-related laws and associated Broward College policies.

Outline records-related laws and associated Broward College policies.

Identify information technology and copyright policies and laws that affect the workplace and classroom

Apply legal information to real case scenarios.

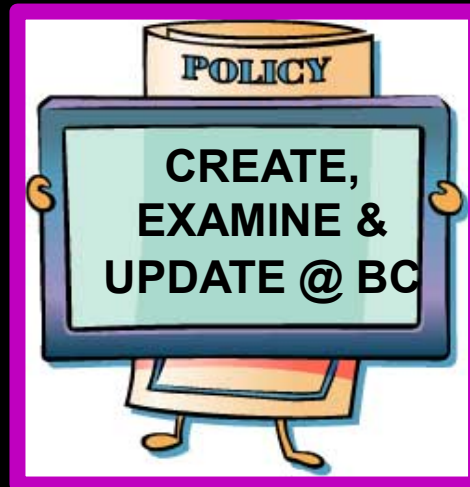


# *Employment Laws and Policies*

**LAWS**

**POLICIES**

**BOARD  
APPROVAL**



# Employment Law Highlights

Laws	Prohibits discrimination against...
Civil Rights Act (1964, 1991)	... race, religion, color, sex, and national origin
Age Discrimination Act of 1967	... age, 40 or older
Equal Pay Act of 1963	... gender, cannot have unlawful pay differences
Genetic Information Nondiscrimination Act of 2008 (GINA)	...DNA that may affect health by health insurers and employers.
Americans with Disabilities Act of 1990 (ADA) and Rehabilitation Act of 1973	... people with disabilities.
Immigration, Reform, and Control Act (IRCA)	... national origin or citizenship status and hiring of illegal aliens.
Executive Order 11246	Mandates an affirmative action plan for government contractors and second tier sub-contractors.
Florida State Statute 760	... race, color, religion, national origin, age, disability (state law)
Human Rights Ordinance, Chapter 16 1/2	... age, marital status, political affiliation, disability, and sexual orientation (county ordinance)

# *Discrimination, Harassment and Retaliation*

<b>Federal Civil Rights Act Protects:</b>	<b>Other Federal Laws &amp; Local Ordinances Protect:</b>
Race	Disability
Religion	Age
Sex	Pregnancy
Color	Marital Status
National Origin	Sexual Orientation

# *Americans with Disabilities Act*

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**Essential Job  
Functions**

**Disability  
Defined**



**Reasonable  
Accommodations**



# *Sexual Harassment*

- Submission to unwelcome sexual behavior is made a **term** or **condition** of employment decisions
- Submission to or rejection of any conduct of a sexual nature used as **basis** for employment decisions
- Unwelcome behavior unreasonably interfering with individual's **employment** or **academic performance**

# *Informal Complaint Process*

Employee must contact Equity Office in Human Resources to file complaint

Complainant will be requested to complete and sign Harassment and Discrimination Complaint form

Equity Office will attempt to reasonably resolve situation to mutual satisfaction of all parties

Informal resolution process utilizes effective facilitation and problem solving – emphasizing fairness and confidentiality

Equity Office will provide written letter of agreement within 60 working days of mediation meeting

# Formal Complaint Process

Complaint may be made in writing or by telephone

Complainant will be asked to complete and sign Harassment and Discrimination Complaint form

Equity Office will mail notice of complaint to respondent

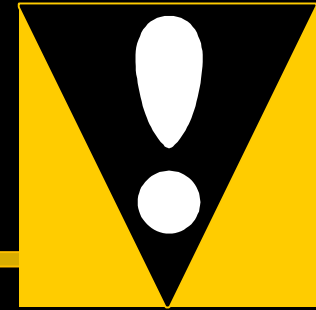
Equity Office shall investigate complaint and prepare report with recommendations for further action

College attempts to complete all investigations within 90 working days after date formal complaint is filed

College will take appropriate action to resolve situation

# *Workplace Violence*

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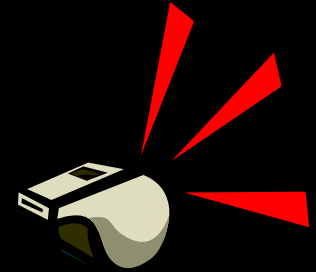


Zero-  
Tolerance  
Policy

Any violent  
behavior or  
threat of violent  
behavior  
occurring on  
College property  
or time

Violation  
of policy  
subject to  
disciplinary  
action

# Whistleblower - F.S. 112.3187



- Cannot take adverse action against an employee for reporting of improprieties.
- Includes:
  - ◆ violations of the law
  - ◆ gross waste
  - ◆ abuse or neglect of duty

No RETALIATION may be taken  
against a whistleblower!

# ***Standard of Ethics and Professionalism for Public Officers and Employees of Agencies***

- Avoid the appearance or reality of **conflict of interest**
- This may result from -
  - ◆ accepting or soliciting **gifts** (value **greater than \$25**)
  - ◆ outside **business** and **financial** interests
  - ◆ outside **employment**

# *Code of Conduct*

- Unwanted teasing
- Threatening behavior
- Intimidating behavior
- Stalking
- Cyberstalking
- Cyberbullying
- Physical violence
- Theft
- Harassment
- Public humiliation
- Destruction of property
- Malicious/derogatory rumors (spreading or misusing college assets to publish)



*Application of Broward College  
Policies & Employment Laws*

Scenarios/Discussions

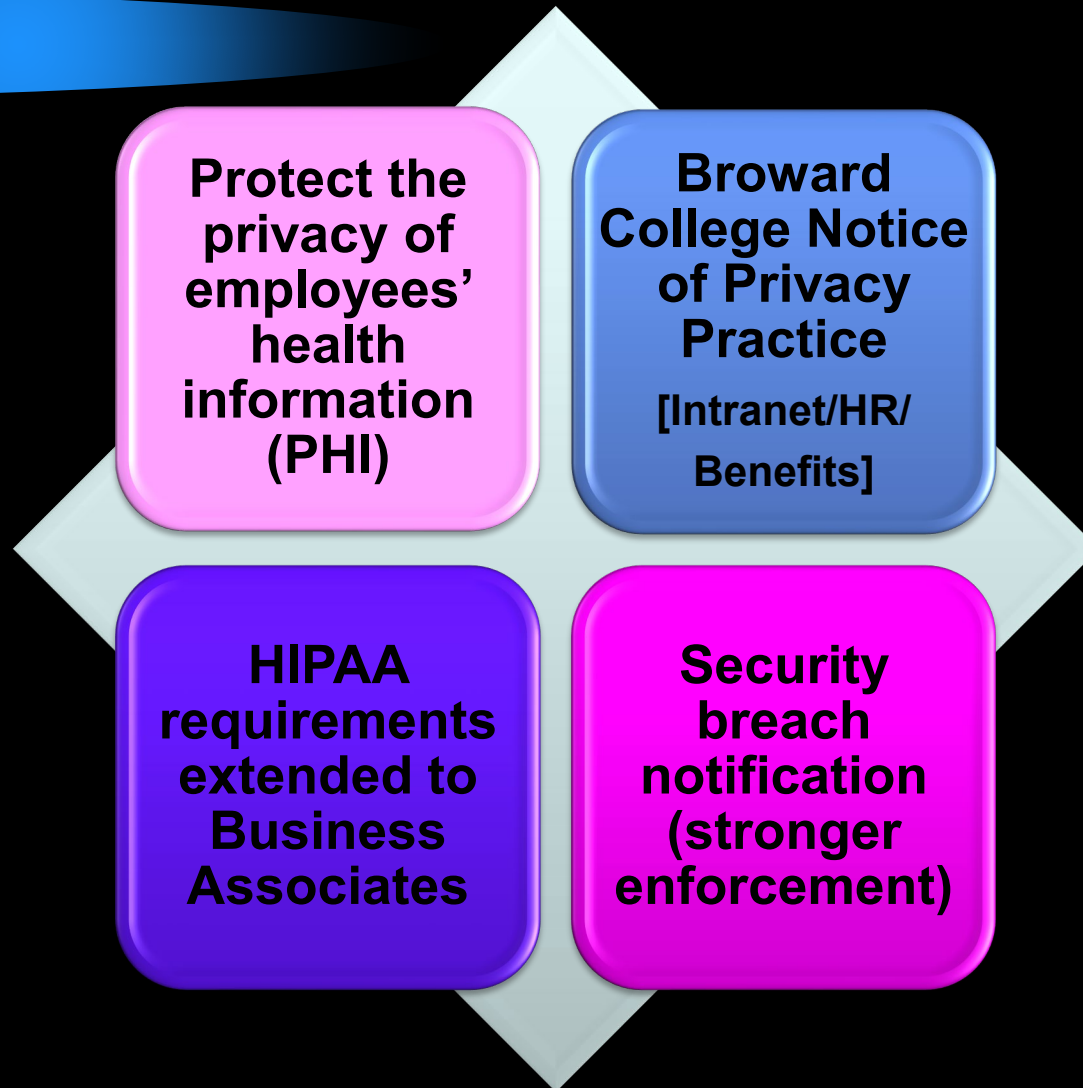




# *Health Related Laws and Policies*

# *Notice of Privacy – HIPAA*

## *(Health Ins. Portability & Accountability Act)*



# *Genetic Information Nondiscrimination Act (GINA)*

- Prohibits against acquiring genetic Information
- Prohibits discrimination against individuals in health insurance and employment
- Voluntary Wellness Programs
- The “Water Cooler Exception”
- GINA and Social Media
- Publicly Available Information
- Treat genetic information as confidential
- Kept in separate file with other medical information

# GINA

- Genetic information permissible if:
  - ◆ Written request made by employee
  - ◆ Upon court order, with notice to employee
  - ◆ Government officials investigation GINA compliance
  - ◆ In accordance with FMLA or similar state/local law
  - ◆ Public health agency regarding contagious disease

# *Family Medical Leave Act (FMLA)*

- Federal mandated, job-protection leave
- Must work at least **12 months** and **1,250 hours**
- Entitled to up to **12 weeks** in a 12-month period
- Reasons for leave:
  - ◆ Birth of a child or placement of a child for adoption
  - ◆ Caring for a spouse, child or parent with a serious health condition
  - ◆ Serious health condition of the employee
  - ◆ Military family leave

# *Military Family Leave*

- FMLA due to qualifying exigency
  - ◆ Military events, post deployment activities, counseling relating to call of duty, childcare
- Military Caregiver Leave
  - ◆ Up to 26 week of FMLA
  - ◆ Employee's spouse, son, daughter, next of kin
  - ◆ Armed Forces members, National Guard or Reserve
  - ◆ Undergoing medical treatment, recuperation or therapy

# FMLA

- Misconceptions about FMLA:
  - ◆ Only necessary when employee has no accrued time
  - ◆ If employee has a lot of accrued sick/vacation time he/she doesn't need FMLA
- Serious health conditions under FMLA

# *FMLA*

- Intermittent FMLA
- Calculation of FMLA Entitlement
- FMLA and Sick/Vacation leave
- Maintain benefits while on FMLA



# FMLA

- When to notify the Employee Benefits Office
- FMLA Guidelines
  - ◆ Mail FMLA packet to employee (forms)
  - ◆ Return Physician Certification to Benefits Office
  - ◆ Send approval/denial letter to employee & supervisor
  - ◆ Employee records time and attendance
  - ◆ Employee Benefits place employee on FMLA leave
  - ◆ 2 Days prior notice to return to work
  - ◆ Fitness for Duty
  - ◆ Employee Benefits return employee from FMLA leave

# *Worker's Compensation*

**On-the-job injuries or occupational illnesses of employees, volunteers, work-study students**

**Employees are entitled to twelve (12) days per calendar year for Workers Compensation leave**

**Workers' compensation will pay all medical bills and 66- $\frac{2}{3}$  percent of the employee's salary**

**Broward College has a Third Party Administrator and is a member of FCSRMC**

# *Worker's Compensation*

- All injuries must be reported
- Responsibility of the Department
- Paid workers' compensation days
- Department must track W/C days

- Work restrictions
- Status/work release reports
- Benefits place employee on leave



# *Worker's Compensation & FMLA*

- FMLA

- ◆ Job protection and Health Benefits for employee and dependent

- Worker's Compensation

- ◆ Compensation – replacement of wages
- ◆ Medical care
- ◆ Payment of medical costs

# *Domestic Violence Act*

**Job protection  
leave**

**Must be  
employed at  
least three (3)  
months**

**Three days  
unpaid leave  
in a 12-month  
period**

**Confidentiality**

**Failure to  
comply**

# *Consolidated Omnibus Budget Reconciliation Act (COBRA)*

**Temporary continuation of  
group health coverage**

**“Qualifying event” determines  
length of coverage**

**Providing notice of qualifying  
change**

# *Transfer Vacation Leave Type TRVA*

Over 500 vacation hours at end of calendar year (Dec 31), you do not lose these hours

Transfers to a sick leave bucket that can be used for sick leave only

It's to your advantage to use this TRVA bucket first when sick time is requested

The TRVA bucket cannot be paid out when you retire

# *Sick Leave Pool*

- What is the Sick Leave Pool (SLP)?
- Coordination of SLP with other leaves



# ***DISABILITY INCOME PROTECTION*** ***(Long-Term Disability)***

**LTD provided to all full-time eligible employees**

**Coverage starts first of the month following 30 consecutive days of employment**

**60% of the employee's monthly salary (maximum of \$10,000 per month)**

**Benefit commence after the 90<sup>th</sup> day of an accident, injury or illness**

# *Long Term Disability*

When to file LTD claim

Benefit Office notifies Department of LTD approval

Benefits place employee on LTD leave

LTD benefit retro to effective date

Department can hire full-time temp for up to 24 months

Employee can return to work – notify Benefits

An Essential Job Functions (EJF) form

# *How Laws and Policies Inter-relate*

- FMLA
- Sick Leave Pool
- Long Term Disability



# *Compensation Laws and Policies*

# *FLSA & Our Policies*

**Normal  
Work  
Hours  
Policy 3.04**

**What is  
FLSA?**

**Exempt  
vs. Non-  
Exempt**

**Overtime  
Work  
How is it  
paid?**

**Compensatory  
(Comp)  
Time  
What is it?**

# *The Fair Labor Standards Act (FLSA)*

- Passed in 1938 as part of Roosevelt's New Deal
- Sets the following:

Minimum Wage	Recordkeeping
Overtime pay	Youth Employment Standards

- Time reporting & Record Keeping

# *FLSA and Job Descriptions*



**“Primary Duty” is defined, for all exemptions, as principal, main, major or most important duty that employee performs.**

# *The Job and FLSA*

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More than 50% of time spent usually equals a primary duty – BUT NOT ALWAYS!

Look at job as a whole

Importance of exempt duties vs. non-exempt

Freedom from direct supervision with exempt duties



# *Non-Exempt vs. Exempt*

## **Who is Exempt?**

<b>Executive Employees</b>	<b>Professional Employees</b>
<b>Administrative Employees</b>	<b>Certain Computer Professionals</b>
<b>Most employees who earn over \$100,000 annually</b>	

# *Non-Exempt Employees*

<p><b><u>Anyone</u> earning less than \$23,660 or \$455 per week</b></p>	<p><b>Right to overtime for all hours worked over 40 in a work-week</b></p>
<p><b>Overtime must be authorized in advance</b></p>	<p><b>Unauthorized overtime is a disciplinary issue not a compensation one</b></p>
<p><b>Employers must ensure accurate record keeping Employees must certify records</b></p>	

# *Compensatory Time Off*

- Paid time off the job earned in lieu of immediate cash payment
- Normal Work Hours Policy has a 90 day max comp time accrual then cash payment
- Federal 240-hour limit on accrued comp time

# *Record Retention and FLSA*

- Under the FLSA, payroll records must be retained for at least three years.
- Records on which wages are based (time cards, timesheets, computer records) must be retained for at least two years.

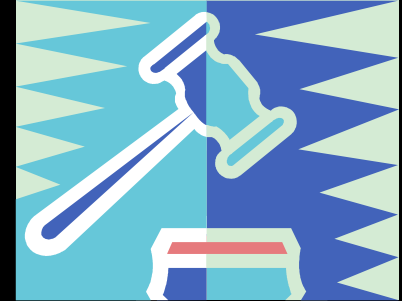


# *Records Laws and Policies*

# *College Records - Florida Public Records Act*

- Requires public records be **retained** and the public be given **access** to the records.
- Retention varies depending on type of record.
- **Custodian** of records is authorized to maintain a records management system.
- **Penalties** exist for violations of the FPRA.

# *Florida State Sunshine Law*



**Meetings of boards or commissions must be open to public**

**Reasonable notice of such meetings must be given**

**Minutes of meetings must be taken**

# *Electronic Public Records*



- Electronic information to and from College employees is public record.
- Information stored on College's telecommunication systems may be subject to public disclosure.



# *Florida Educational Rights and Privacy Act* *(FERPA)*

**Protects  
privacy of  
student  
education  
records**

**Gives  
parents  
certain  
rights to  
their  
children's  
education  
records**

**These  
rights  
transfer to  
student  
when  
he/she  
reaches  
age of 18**

**Written  
permission  
needed to  
release  
any  
information  
from  
student's  
education  
record**

**FERPA  
does have  
some  
exceptions**

*Information Technology  
Policies/Procedures  
Governing all Employees*



# Information Technology Policies/Procedures

<b>POLICY/PROCEDURE</b>	<b>POLICY/PROCEDURE NUMBER</b>
Network and Software Usage Policy	<a href="#"><u>6Hx2-8.01</u></a>
Network and Software Usage Procedure	<a href="#"><u>A6Hx2-8.01</u></a>
Communication via Email Policy	<a href="#"><u>6Hx2-8.03</u></a>
Communication via Email Procedure	<a href="#"><u>A6Hx2-8.03</u></a>
Copyright Policy	<a href="#"><u>6Hx2-8.05</u></a>
Copyright Procedure	<a href="#"><u>Procedure A6Hx2-8.05</u></a>
Telecommunication Services Policy	<a href="#"><u>6Hx2-8.06</u></a>
Telecommunication Services Procedure	<a href="#"><u>Procedure A6Hx2-8.06</u></a>

# Network/Software Usage Communication via Email



## Computing equipment

- College use only – **NOT** for personal use

## All logins – for a single individual

## Prohibited activities:

- Displaying obscene or offensive data
- Transmitting unsolicited material
- Accessing, altering, destroying another user's information

## Misuse addressed through disciplinary process

# *Side Note about E-Mail*

**The 'E' in E-Mail stands for:  
Electronic (yes)**

**And also.....**

**Evil**

**Embarrassing**

**Eternal**

**Evidence**

**Keep that in mind before you hit SEND**

# Copyright

## ACT IN GOOD FAITH

- when using copyrighted materials

## FAIR USE

- can copy/view/display/distribute copyrighted materials without permission, within limits

## PUBLIC DOMAIN

- no permission needed for copyrighted works in the public domain

## DMCA

- illegal to circumvent anti-privacy measures in software

## TEACH

- covers online, hybrid, broadcast classes

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*Application of Broward College  
Policies & Employment Laws*

Scenarios/Discussions

## *Wrap Up – 3..2..1*

- 3 Things that were **REINFORCED**
- 2 Things that were **NEW**
- 1 Thing you'll **DO DIFFERENTLY** from now on