

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: September 27, 2017

REGULATION TITLE:

Non-discrimination; Affirmative Action Programs

REGULATION NO.:

UCF-3.001

SUMMARY OF REGULATION: This regulation is amended to update the definition of discrimination, including explaining hostile environment harassment and quid pro quo harassment and to add a new section on employee reporting responsibilities. Additional amendments include updating the categories that are protected from discrimination to align with the university policy *Prohibition of Discrimination, Harassment, and Related Interpersonal Violence* and updating the name of the Office of Institutional Equity.

AUTHORITY: BOG Regulation 1.001

NAME OF PERSON WHO INITIATED PROPOSED REGULATION AMENDMENT:

Nancy Myers, Director, Office of Institutional Equity

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION AMENDMENT IS:

Regulations Administrator
4000 Central Florida Blvd.
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
Fax: (407) 823-6155
e-mail: regulations@mail.ucf.edu

FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-3.001 Non-Discrimination; Affirmative Action Programs.

(1) The University shall actively promote equal opportunity policies and practices conforming to federal and state laws against discrimination. The University shall not discriminate in offering access to its educational programs and activities or with respect to employment terms and

conditions on the basis of race, color, ethnicity, national origin, religion, non-religion, sex, national origin, age, genetic information, sex (including pregnancy and parental status), gender identity or expression, sexual orientation, disability, marital status, physical or mental disability (including learning disabilities, intellectual disabilities, and past or present history of mental illness), political affiliations, sexual orientation, gender identity, gender expression, and veteran status (as protected under the Vietnam Era Veterans' Readjustment Assistance Act), or membership in any other protected classes as set forth in state or federal law. This commitment applies to the University's relationships with outside organizations, including the federal government, the military, ROTC, and private employers, only to the extent of state and federal requirements.

(2) It is the policy of the University that each employee and student be allowed to work and study in an environment free from unlawful discrimination, including discriminatory harassment, and retaliation.

- (a) For purposes of this regulation, unlawful discrimination is defined as any unlawful distinction, preference, or detriment to an individual that is based upon an individual's race, color, ethnicity, national origin, religion, non-religion, age, genetic information, sex (including pregnancy and parental status), gender identity or expression, sexual orientation, marital status, physical or mental disability (including learning disabilities, intellectual disabilities, and past or present history of mental illness), political affiliations, prior conviction of a crime, veteran's status (as protected under the Vietnam Era Veterans' Readjustment Assistant Act), or membership in other protected classes set forth in state or federal law and that: (1) excludes an individual from participation in; (2) denies the individual the benefits of; (3) treats the individual differently with regard to;

or (4) otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a university program or activity, treating an individual differently than similarly situated other individuals based on a protected category (such as race, color, religion, et al). Religious discrimination includes failing to reasonably accommodate an employee's or student's religious practices where the accommodation does not impose an undue hardship. Disability discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability where the accommodations do not impose an undue hardship.

- (b) Unlawful discriminatory harassment is a form of unlawful discrimination wherein an individual is subjected to verbal, ~~or physical,~~ electronic or other conduct, based upon an individual's on a protected classecategory (such as race, color, religion, et al), that interferes with that individual's educational or employment opportunities, participation in a university program or activity, or receipt of legitimately-requested services and meets the description of either Hostile Environment Harassment or Quid Pro Quo Harassment, as defined below, ~~which, due to severity and pervasiveness of the conduct, (i) has the purpose or effect of creating an objectively intimidating, hostile or offensive work, educational or business environment; and (ii) has the purpose or effect of unreasonably interfering with an individual's employment, schooling, or business with the University.~~

1. Hostile Environment Harassment: Discriminatory Harassment that is so severe or pervasive that it unreasonably interferes with, limits, deprives, or alters the terms or conditions of education (e.g., admission, academic

standing, grades, assignment); employment (e.g., hiring, advancement, assignment); or participation in a University program or activity (e.g., campus housing), when viewed from both a subjective and objective perspective.

2. Quid Pro Quo Harassment: Discriminatory Harassment where submission to or rejection of unwelcome conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education (e.g., admission, academic standing, grades, assignment); employment (e.g., hiring, advancement, assignment); or participation in a university program or activity (e.g., campus housing).

(c) Retaliation is defined as taking an adverse action against an individual because that individual, in good faith: (i) reported or threatened to report discrimination or discriminatory harassment; or (ii) participated in any capacity, including as a witness or party/complainant, in a discrimination investigation or proceeding.

~~(d) Gender identity is defined as an individual's self-perception of being male, female, or both. Gender expression is defined as the manifestation of an individual's self-perception of being male, female, or both.~~

(3) Sexual harassment is a form of sex discrimination. Sexual harassment is defined as any unwelcome sexual advances, ~~or requests~~ for sexual favors, and other unwanted verbal or physical conduct of a sexual nature ~~when, whether verbal, non-verbal, graphic, physical, or otherwise,~~ when the conditions for Hostile Environment Harassment or Quid Pro Quo Harassment (as defined above) are present.:

~~(a) Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment or academic achievement;~~

- ~~(b) Submission to or rejection of such conduct or request by an individual is used as the basis for employment or academic decisions affecting such individual; or~~
- ~~(c) Such conduct or request has the purpose or effect of both unreasonably interfering with an individual's employment or academic performance and creating an intimidating, hostile, or offensive work or academic environment.~~

(4) Employee Reporting Responsibilities.

- (a) Responsible employees are required to immediately report to the university's Office of Institutional Equity all relevant details (obtained directly or indirectly) about an incident of sex/gender-based discrimination or harassment, sexual harassment, sexual assault, sexual exploitation, relationship violence, and/or stalking (as defined in the University's *Prohibition of Discrimination, Harassment and Related Interpersonal Violence Policy*, No. 2-004) that involves any student as a complainant, respondent, and/or witness, including dates, times, locations, and names of parties and witnesses. Reporting is required when the responsible employee knows (by reason of a direct or indirect disclosure) or should have known of such sex/gender-based discrimination or harassment, sexual harassment, sexual assault, sexual exploitation, relationship violence, and/or stalking.
- (b) Deans, directors, department heads and supervisors are required to report to the Office of Institutional Equity all relevant details about an incident of discrimination, discriminatory harassment, or retaliation where either the complainant or the respondent is an employee or Direct Support Organization employee. Reporting is required when such deans, directors, department heads,

and supervisors know (by reason of direct or indirect disclosure) or should have known of the discrimination, discriminatory harassment, or retaliation.

(54) Disciplinary Action.

- (a) Any employee or student of the University who is found to have unlawfully discriminated against an employee, an applicant for employment, ~~or a student,~~ or other member of the University community will be subject to disciplinary action up to and including ~~termination~~dismissal or expulsion. Any contractor or other visitor to the University who is found to have engaged in unlawful discriminatory or retaliatory conduct in violation of this regulation will be subject to removal from University facilities, ~~and~~ may be denied reentry, and may provide cause to terminate any applicable contract.
- (b) Any employee in a supervisory capacity ~~or student in a position of authorized influence~~ who has actual knowledge by direct observation or by receipt of a ~~report~~complaint of discrimination ~~or discriminatory harassment involving any of those employees he or she supervises or over whom he or she has authority,~~ and who does not ~~investigate or~~ report the matter to the Office of Institutional Equity~~an appropriate university official with authority to take action with regard to the matter,~~ shall be subject to disciplinary action up to and including ~~termination~~dismissal or expulsion.

(65) Complaint and ~~Investigation~~Grievance Procedures. Any employee, student, ~~contractor~~ or other member of the university community~~visitor~~ who believes that he or she is a victim of unlawful discrimination, ~~including~~discriminatory harassment, or retaliation may take formal or informal action. The individual may report the conduct to his or her supervisor or a higher level employee for further action; pursue informal resolution of the complaint; or ~~may~~pursue an

~~investigation file a formal written grievance~~ in accordance with Regulation UCF-3.0134 ~~with the Office of Institutional Equity~~. The Office of ~~Institutional Equity~~~~Equal Opportunity and Affirmative Action Programs~~ is available to assist employees, students, ~~contractors~~ and ~~members of the university community~~~~visitors~~ ~~in~~with reporting discriminatory conduct, ~~obtaining information about the options to~~ informally resolving a complaint, or ~~pursing an investigation by the Office of Institutional Equity~~~~filing a formal grievance~~.

(76) The University, in affirming equal opportunity practices, is committed to a continuing program of promotion and maintenance of an affirmative action program. The University, as a federal contractor, is required by law to maintain a current affirmative action plan for the University. For further information about that plan, contact the Office of ~~Institutional Equity~~~~Equal Opportunity and Affirmative Action Programs~~, University of Central Florida, Orlando, Florida 32816.

Authority: BOG Regulation 1.001. History—New 10-8-75, Amended 1-10-82, 1-9-83, 12-27-83, 12-27-84, Formerly 6C7-3.01, Amended 3-27-86, 1-6-93, 3-16-03, 11-07-07, 07-10-08. Formerly 6C7-3.001, Amended 3-25-00, 1-3-11, _____-17.