

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: September 18, 2020

REGULATION TITLE:

Non-discrimination; Affirmative Action Programs

REGULATION NO.:

UCF-3.001

SUMMARY OF REGULATION AMENDMENT: This regulation is amended to add language regarding Title IX Sexual Harassment as defined by the recently adopted Federal Title IX regulations; other references to Title IX Sexual Harassment are added where appropriate, for example in paragraph (5). Additionally, references to applicable laws in paragraph (2) are added; and references to sex discrimination are updated in paragraphs (1) and (2)(a) are updated to reflect recent legal developments.

AUTHORITY: BOG Regulation 1.001

NAME OF PERSONS 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
4365 Andromeda Loop N.
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
e-mail: regulations@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, age, genetic information, sex (including pregnancy, ~~and~~ parental status), gender identity or expression, and sexual orientation), marital status, physical or mental disability (including learning disabilities,

intellectual disabilities, and past or present history of mental illness), political affiliations, 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, discriminatory harassment, and retaliation. To that end, the University prohibits specific forms of behavior that violate state and federal laws, including but not limited to [Title VI of the Civil Rights Act of 1964 \("Title VI"\)](#), Title VII of the Civil Rights Act of 1964 ("Title VII"), Title IX of the Education Amendments of 1972 ("Title IX"), the Violence Against Women Reauthorization Act of 2013 ("VAWA"), [the Americans with Disabilities Act](#), [Section 504 of the Rehabilitation Act of 1973](#), Florida's Civil Rights Act (Florida Statutes ss. 760.10 and 110.1221), the Florida Educational Equity Act (Florida Statute s. 1000.05) and related state and federal anti-discrimination laws.

- (a) For purposes of this regulation, 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, [and](#) sexual orientation), marital status, physical or mental disability (including learning disabilities, intellectual disabilities, and past or present history of mental illness), political affiliations, 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. 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, physical, electronic or other conduct based upon an individual's protected class (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.

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, sexual harassment, or Title IX Sexual Harassment; or (ii) participated in any capacity, including as a witness or party, in a discrimination investigation or proceeding.

(3) Sexual harassment is a form of sex discrimination. Sexual harassment is defined as any unwelcome sexual advances, request for sexual favors, and other unwanted conduct of a sexual nature, 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.

(4) Title IX Sexual Harassment is a form of sex discrimination specifically defined under Title IX regulations. Title IX Sexual Harassment is defined as conduct on the basis of sex that occurs in a University education program or activity against a person located in the United States and that satisfies one or more of the following:

- (a) An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo);
- (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment); or
- (c) Sexual assault, dating violence, domestic violence, and stalking (as defined by the Jeanne Clery Act).

(54) 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, Title IX 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, Title IX 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, Title IX Sexual 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.

(65) Disciplinary Action.

- (a) Any employee or student of the University who is found to have unlawfully discriminated against an employee, an applicant for employment, a student, or other member of the University community will be subject to disciplinary action up to and including termination 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, may be denied reentry, and may provide cause to terminate any applicable contract.
- (b) Any employee in a supervisory capacity who has actual knowledge by direct observation or by receipt of a report of discrimination, ~~or~~ discriminatory harassment, sexual harassment, or Title IX Sexual Harassment, and who does not report the matter to the Office of Institutional Equity shall be subject to disciplinary action up to and including termination or expulsion.

(76) Complaint and Investigation Procedures. Any employee, student, or other member of the university community who believes that he or she is a victim of unlawful discrimination, discriminatory harassment, sexual harassment, Title IX Sexual 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 under certain circumstances; or pursue an investigation in accordance with Regulation UCF-3.0134 with the Office of Institutional Equity. The Office of Institutional Equity is available to assist employees, students, and members of the university community with reporting discriminatory conduct, obtaining information about the options to informally resolve a complaint, or pursuing an investigation by the Office of Institutional Equity.

(87) 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, 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 3-25-09, 1-3-11, 10-26-17, 11-14-19, _____-20.