

ARTICLE __
NONDISCRIMINATION

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4 __.1 Statement of Intent. The ~~Board~~ **Trustees** and the UFF fully support all laws
5 intended to protect and safeguard the rights and opportunities of each **employee faculty**
6 **member** to work in an environment free from any form of discrimination or harassment.
7 The parties recognize their obligations under federal and State laws, rules, and
8 regulations prohibiting discrimination, and have made clear their support for the concepts
9 of affirmative action and equal employment opportunity. They desire to assure equal
10 employment opportunities within the **SUS University** and recognize that the purpose of
11 affirmative action is to provide equal opportunity to women, minorities, and other
12 affected groups to achieve equality in the **SUS University**. The implementation of
13 affirmative action programs will require positive actions that will affect terms and
14 conditions of employment and to this end the parties have, in this Agreement and
15 elsewhere, undertaken programs to ensure equitable opportunities for **employees faculty**
16 **members** to receive salary adjustments, tenure, continuing multi-year appointments,
17 successive fixed multi-year appointments, promotion, sabbaticals, and other benefits.
18 This statement of intent is not intended to be subject to Article ~~20~~ __, Grievance
19 Procedure.
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21 __.2 Policy.

22 (a) Neither the ~~Board~~ **Trustees** nor the UFF shall discriminate against any
23 **employee faculty member** based upon race, color, sex, religious creed, national origin,
24 age, veteran status, disability, political affiliation, or marital status, nor shall the ~~Board~~
25 **Trustees** or the UFF abridge any rights of employees related to union activity granted
26 under Chapter 447, Florida Statutes, including but not limited to the right to assist or to
27 refrain from assisting the UFF. Personnel decisions shall be based on job-related criteria
28 and performance.
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30 (b) Sexual Harassment.

31 (1) Sexual harassment is a prohibited form of sex discrimination. In
32 *Meritor Savings Bank v. Vinson*, 106 S.Ct. 2399 (1986), the United States Supreme
33 Court defined sexual harassment (29 CFR 1604.11a) in the employment context as
34 including the following:
35

36 Unwelcome sexual advances, requests for sexual favors, and other verbal
37 or physical conduct of a sexual nature constitute sexual harassment when
38 (1) submission to such conduct is made either explicitly or implicitly a
39 term or condition of an individual's employment, (2) submission to or
40 rejection of such conduct by an individual is used as the basis for
41 employment decisions affecting such individual, or (3) such conduct has
42 the purpose or effect of unreasonably interfering with an individual's work
43 performance or creating an intimidating, hostile, or offensive working
44 environment.
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46 (2) In addition to the parties' concern with respect to sexual

1 harassment in the employment context, the parties also recognize the potential for this
2 form of illegal discrimination against students. Relationships between employees and
3 students, even if consensual, may become exploitative, and especially so when a student's
4 academic work, residential life, or athletic endeavors are supervised or evaluated by the
5 employee (see Section 5.3). These relationships may also involve a conflict of interest
6 (see Article 19).

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8 (c) Investigation of Charges of Discrimination. Charges of discrimination,
9 including those filed by ~~employees~~ **faculty members** against students alleging
10 unwelcome sexual advances, requests for sexual favors, or other verbal or physical
11 conduct of a sexual nature that constitutes sexual harassment, shall be promptly
12 reviewed/investigated according to established university procedures. No ~~employee~~
13 **faculty member** reviewed/investigated under such procedures shall be disciplined until
14 such review is complete and a finding of discrimination has been issued.

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16 If after the completion of the review/investigation, any finding of
17 discrimination is made, a record of the complete findings will be placed in the ~~employee's~~
18 **faculty member's** evaluation file. If no finding of discrimination on any charge or
19 complaint is made, no record of the charge or complaint will be placed in the ~~employee's~~
20 **faculty member's** evaluation file unless the ~~employee~~ **faculty member** requests in
21 writing that a record of the complete review/investigation be placed in the evaluation file.

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23 (d) Should state or federal law establish sexual orientation as a protected
24 category for claims of discrimination during the term of this Agreement, the Board and
25 the UFF agree to modify the Agreement pursuant to ~~Section 30.2~~ **the Amendment and**
26 **Duration article.**

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28 ~~___~~.3 Access to Documents. No ~~employee~~ **faculty member** shall be refused a request
29 to inspect and copy documents relating to the ~~employee's~~ **faculty member's** claim of
30 discrimination, except for records which are exempt from the provisions of the Public
31 Records Act, Chapter 119, Florida Statutes, provided, however, that ~~a university~~ **the**
32 **University** may charge for copies of documents in accordance with law, rule, university
33 procedures, and this Agreement.

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35 ~~___~~.4 Consultation. As part of the consultation process described in ~~Article 2~~ **the**
36 **Consultation article**, the parties agree to discuss efforts made to appoint and retain
37 women and minority ~~employees~~ **faculty members**.

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39 ~~___~~.5 Grievance Procedures. Claims of such discrimination by the ~~Board Trustees~~ or
40 ~~universities~~ **the University** may be presented as grievances pursuant to Article 20,
41 Grievance Procedure. It is the intent of the parties that matters which may be presented
42 as grievances under Article ~~20~~ **___**, Grievance Procedure, be so presented and resolved
43 thereunder instead of using other procedures. The UFF agrees not to process cases
44 arising under this Article when alternate procedures to Article ~~20~~ **___** are initiated by the
45 grievant, except as specifically provided for in ~~Section 20.2~~ **___**.