

NOTICE OF AMENDED REGULATION

August 31, 2006

DEPARTMENT OF EDUCATION

Division of Universities
University of North Florida

REGULATION TITLE:

Sexual Harassment

SUMMARY:

The new Sexual Harassment Regulation includes examples of what types of conduct constitutes and does not constitute sexual harassment. Additionally, a paragraph was added in order to demonstrate that the regulation is not intended to abridge academic freedom or the University's educational mission. The regulation has been amended to separate the complaint and investigation procedures from the regulation as we previously detailed the complaint and investigation procedures for both the Equal Opportunity Regulation and Sexual Harassment Regulation. The amended regulation refers to one complaint and investigation procedure.

FULL TEXT:

The full text of the proposed amended regulation is attached.

AUTHORITY:

Resolution of the Florida Board of Governors dated January 7, 2003 and Florida Statutes 110.1221, 110.227, 1012.91, 1001.74 and 1001.75.

UNIVERSITY OFFICIAL INITIATING THE PROPOSED AMENDED REGULATION:

Malvelina P. Monell, Director of Equal Opportunity Programs

INDIVIDUAL TO BE CONTACTED REGARDING THE AMENDED REVISED REGULATION:

Stephanie Howell, Paralegal, Office of the General Counsel, showell@unf.edu, phone (904)620-2828; fax (904)620-1044; Building 1, Room 2400, 4567 St. Johns Bluff Road South, Jacksonville, FL 32224.

Any comments regarding the proposed amended regulation must be sent in writing to the contact person on or before Thursday, September 14, 2006 (14 days from the date of posting this Notice) to receive full consideration.



Regulation Number	Subject	Effective Date	Revised Date
	Sexual Harassment Regulation		
Responsible Unit/Division:			
<input type="checkbox"/> New Regulation Proposal	<input checked="" type="checkbox"/> Major Revision of Existing Regulation	<input type="checkbox"/> Minor/Technical Revision of Existing Regulation	<input type="checkbox"/> Reaffirmation of Existing Regulation

I. OBJECTIVE & PURPOSE

The University of North Florida is committed to providing all members of the University community, including students, faculty, staff, vendors, visitors or others, an environment where they can work, study and interact with each other free from any form of sexual harassment.

II. STATEMENT OF REGULATION

A. Definition of Sexual Harassment

For the purposes of this regulation, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal (including written and electronic communications) or physical conduct of a sexual nature from any person when:

1. Submission to such conduct or request is made either explicitly or implicitly a term or condition of a student's status in a course, program, or activity; or of academic achievement; or
2. Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment, salary increase, position advancement, or other employment-related benefits; or
3. Submission to or rejection of such conduct or request by an individual is used as the basis for an academic decision or employment decision affecting such individuals; or;

4. Such conduct is sufficiently serious (i.e., severe, persistent or pervasive) to deny or limit a student's ability to participate in or benefit from the University's educational programs or activities or such conduct is sufficiently severe or pervasive so as to alter the conditions of, or have the purpose and effect of substantially interfering with, a faculty or staff member's employment by creating an intimidating, hostile or offensive working environment

In determining whether alleged conduct constitutes sexual harassment in violation of this regulation, the conduct will be evaluated from the perspective of a reasonable person in the alleged victim's position considering the totality of the circumstances, such as the nature of the alleged conduct and the context in which the alleged conduct occurred. Accordingly, consideration will be given to free speech and academic freedom within an academic context. For example, expression that is intended to facilitate discourse or debate in a classroom setting or open debate forum may be considered appropriate, but similar expression in the workplace may be unwelcome and inappropriate in the context of communications between employees.

B. Examples of Sexual Harassment

Sexual harassment can take many forms, but common examples of unwelcome conduct which can be found to be sexually harassing include:

- Inappropriate touching or brushing against the body of another including, but not limited to patting, fondling, massaging, caressing, pinching, attempted or actual kissing.
- Requesting sex or sexual acts in exchange for an occupational or educational benefit.
- Repetitive propositions, invitations, or pressure for sexual activity.
- Suggestive or inappropriate communications, notes, letters, e-mail, or other written materials.
- Displaying, transmitting or sending suggestive or inappropriate photographs, videos, computer images, slides, calendars, cartoons or drawings.
- Sexual innuendo, comments, or remarks about a person's clothing, body, or activities.
- Making suggestive or obscene gestures or making suggestive or insulting sounds.
- Whistling in a suggestive manner.
- Attempts at humor or the telling of jokes about sex that denigrate either gender.
- Actual or implied sexual threats.

C. Actions that do not Constitute Sexual Harassment

A postsecondary educational environment is unique in that there must be the freedom to express ideas and to foster communication on subjects that enhance the University's educational mission. Accordingly, while the University is committed to providing a learning environment that is free from sexual harassment, the purpose of this regulation is not intended to abridge academic freedom or to interfere with free speech as guaranteed by the First Amendment. As such, pursuant to this regulation sexual harassment does not include:

- The expression of ideas in an academic context to provoke thought or discussion on topics germane to the course and advancement of the University's educational mission.
- Engagement in debate or discourse over issues that society may find to be unpopular, offensive or disagreeable.
- Discussing, using or displaying views, words, symbols or thoughts in an academic setting which are germane to the course and which some persons may find to be offensive.

Faculty must, however, be mindful that the courts have placed restraints on academic freedom at public institutions, such as UNF, and that conduct in the classroom cannot deny or limit a student's ability to participate in or benefit from the University's educational programs or activities. Further, while there is no "bright line" test regarding the appropriateness of the content of expression in an academic setting, all students, faculty and staff have an obligation pursuant to this regulation to conduct themselves in a "reasonable" manner in their interactions with other members of the University community.

III. REGULATION REQUIREMENTS

A. Responsibility to Comply with the Sexual Harassment Regulation.

All members of the University community are responsible for ensuring that their conduct does not sexually harass any other member of the University community. This same responsibility extends to, vendors, contractors (including the employees of third parties), visitors or others on the University's campus or at any University sponsored or University related function or activity.

B. Responsibility to Report Perceived or Actual Violations of the Sexual Harassment Regulation.

- 1. Required Reporting:** All supervisors (defined for purposes of this Regulation as supervising one or more employees) are required to promptly report to the Office of Equal Opportunity Programs (EOP) (either verbally or through written communications) allegations, reports or instances of alleged sexual harassment by or against any person covered by this regulation. Additionally, all faculty with instructional responsibilities are required to promptly report to the EOP or alternatively to their department chair, dean or applicable academic administrator allegations, reports or instances of alleged sexual harassment by or against a student in violation of the University's Sexual Harassment Regulation. As supervisors, all academic administrators must then report the matter to the EOP (either verbally or through written communications).
- 2. Responsibility of Community members:** To maintain an environment free from sexual harassment, the responsibility for reporting incidents of sexual harassment rests with all members of the University community. Thus, any employee, staff or faculty member, or student who believes another community member is being subjected to sexual harassment in violation of this Regulation is strongly encouraged to report any incident of sexual harassment they believe to be in violation of the

University's Sexual Harassment Regulation to their supervisor or directly to the EOP (As discussed above, all supervisors must report alleged incidents of conduct in violation of the University's Sexual Harassment Regulation to the EOP).

C. Amorous and Sexual Relationships

It is not uncommon for University community members who study, work or interact together to develop caring relationships. However, when persons in positions of unequal power engage in amorous or sexual relationships (e.g., between a supervisor and an employee, faculty member and student, or staff member and student) the person of greater power places themselves at risk of being accused of sexual harassment, either during the relationship or after the relationship ends. Accordingly, the University has adopted a policy prohibiting amorous or sexual relationships where one individual in the relationship is in a position to exercise authority such that it would impact the educational or work performance of the other individual. (*see* Amorous and Sexual Relationships Policy).

IV. REGULATION PROCEDURES

A. Seeking Guidance Regarding this Regulation.

Any member of the University community who believes that he or she has been subjected to sexual harassment; any member of the community who believes that he or she has been subjected to retaliation related to an allegation of sexual harassment; or any member of the community who believes that others have been subjected to sexual harassment in violation of this regulation, may seek guidance, counseling or file a complaint in accordance with this regulation by contacting: **Director, Office of Equal Opportunity Programs**, University of North Florida, J. J. Daniel Hall, Portable 832, 4567 St. Johns Bluff Road South, Jacksonville, Florida 32224-2645, (904) 620-2507 Voice & TDD and (904) 620-1004 Fax.

B. Complaint Procedure.

Allegations of violation of this regulation including the actual filing of a complaint of sexual harassment will be addressed by the Director in accordance with the EOP Complaint and Investigation Procedures. A copy of the EOP Complaint and Investigation Procedures can be obtained at the EOP Office, on the EOP website or as posted with the comprehensive listing of the University's regulations and policies.

V. WHERE TO GET HELP

In addition to contacting the EOP office, any of the following offices at the University of North Florida may be contacted for information or assistance regarding matters involving sexual harassment:

UNF Counseling Center
Founders Hall (Building 2)
Room 2068
(904) 620-2602

UNF Women's Center
Andrew A. Robinson Student Life Center (Building 14)
Room 2623
(904) 620-2528

Office of Human Resources
J.J. Daniel Hall (Building 1)
Room 1000
(904) 620-2903

Office of Student Affairs
Founders Hall (Building 2)
Room 2091
(904) 620-2600

Office of the General Counsel
J.J. Daniel Hall (Building 1)
Room 2100
(904) 620-2828

Employee Assistance Program
Corporate Care Work
8665 Baypine Road
Suite 100
Jacksonville, FL 32256
(904)296-9436
(800)327-9757
www.corporatecareworks.com

If fear of physical safety, threats, or assault is involved contact:

University Police Department
Police Station (Building 41)
(904) 620-2801
or

University's Office of the Victim Advocate (located within the Women's Center)
Andrew A. Robinson Student Life Center (Building 14)
Room 2623
(904) 620-2528