

## **NOTICE OF AMENDED REGULATION**

**September 8, 2014**

### **DEPARTMENT OF EDUCATION**

Division of Universities  
University of North Florida

### **REGULATION TITLE:**

Non-Discrimination, Equal Opportunity and Diversity

### **REGULATION NO.:**

1.0040R

### **SUMMARY:**

The regulation has been reorganized so that it flows much like the revised Sexual Misconduct regulation. In this reorganization, the definition section has been expanded and some definitions have been changed to more accurately reflect legal requirements. Sections have been added regarding confidentiality, enforcement and bystander intervention. Bystander intervention was added to encourage University community members to intervene, if they can safely do so, in stopping discriminatory and/or harassing behavior. The listing of available University services was expanded so students and community members know who to contact in the event they would like to utilize University and community services.

### **FULL TEXT:**

The full text of the regulation being proposed is attached.

### **AUTHORITY:**

Florida Board of Governors Regulation 1.001 and 2.003.  
Florida Statutes 1000.05

### **UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:**

Tom Serwatka, Vice President and Chief of Staff

### **INDIVIDUAL TO BE CONTACTED REGARDING THE PROPOSED REVISED REGULATION:**

Stephanie Howell, Paralegal, Office of the General Counsel, [showell@unf.edu](mailto:showell@unf.edu), phone (904)620-2828; fax (904)620-1044; Building 1, Room 2100, 1 UNF Drive, Jacksonville, FL 32224.

*Any comments regarding the amendment of the regulation must be sent in writing to the contact person on or before Friday, September 19, 2014, to receive full consideration.*

Policies & Regulations  
Organization/General

Non-Discrimination, Equal Opportunity and Diversity Regulation

<b>Number:</b>	1.0040R	<input type="checkbox"/>
<b>Effective Date:</b>	10/27/2006	New Regulation
<b>Revised Date:</b>	10/16/2012	<input checked="" type="checkbox"/>
<b>Responsible Division/Department:</b>	Director, Equal Opportunity and Diversity	Major Revision of Existing Regulation
		<input type="checkbox"/>
		Minor/Technical Revision of Existing Regulation
		<input type="checkbox"/>
		Reaffirmation of Existing Regulation
		<input type="checkbox"/>
		Repealed Regulation

**I. \_\_\_\_\_ OBJECTIVE & PURPOSE**

The purpose of this regulation is to set forth the ~~university's~~ [University of North Florida's](#) expectations ~~by~~for fostering and maintaining an environment of inclusiveness and equity for all who interact in our university community; and to reinforce the ~~university's~~ [University's](#) commitment to diversity in the recruitment, selection and retention of students, faculty and staff; and to provide procedures to file a complaint alleging discrimination, retaliation, discriminatory harassment.- Sexual misconduct/harassment is covered by [a separate regulation](#).- ([See Sexual Misconduct Regulation 1.0050R](#))

**II. \_\_\_\_\_ STATEMENT OF REGULATION**

The University of North Florida ("[University](#)" or "[UNF](#)") is committed to providing an inclusive and welcoming environment for all who interact in our community.- In building this environment, we strive to attract students, faculty and staff from a variety of cultures, abilities, backgrounds and life experiences.- [to achieve a diverse University community](#). In furtherance of the ~~university's~~ [University's](#) diversity initiatives and focus toward inclusiveness, it is expected that all in the ~~university~~ [University](#) community will appreciate and respect the dignity, individuality, and the uniqueness of our ~~individual~~ community members.- It is also expected that we will maintain an environment conducive to the pursuit of educational, scholarly, and career interests, where both the distinctiveness of each person's experience and the common humanity that unites us all will be recognized.- This will allow us to take full educational advantage of the variety of talents, backgrounds, and perspectives of those who study and work at the ~~university~~ [University](#).

The ~~university~~ University is equally committed to ensuring that educational and employment decisions, including but not limited to recruitment, admission, hiring, compensation and promotion, are based on the qualifications, skills and abilities of those desiring to work, study and participate in our ~~university~~ University community.

To accomplish the intent of this regulation, the ~~university~~ University shall not commit or permit discrimination or discriminatory harassment on the basis of race, color, religion, age, sex (inclusive of Title IX), ~~disability,~~ gender identity/expression, sexual orientation, disability, marital status, national origin or veteran ~~status~~ status under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA) or any other characteristic protected under applicable federal or state law, in any educational, employment, social or recreational program or activity offered by the ~~university.~~ University. Similarly, the ~~university~~ University will not commit or permit retaliation against ~~an~~ any individual who complains of discrimination or harassment or ~~an~~ any individual who cooperates in an investigation of an alleged violation of this regulation.

The ~~university~~ University recognizes that it is a unique learning environment in which its diverse community members have the First Amendment right to ~~exercise protected~~ free speech ~~in expressing their~~ and expression of differing opinions ~~as guaranteed by the First Amendment and in.~~ The University also recognizes that it is an environment in which its faculty has ves the academic freedom to provoke thought and debate and to engage in open discourse related to their individual areas of academic instruction. Thus, in exercising the standards put forth in this regulation, the ~~university~~ University will not abridge either free speech or academic freedom based on its context.

The ~~university~~ University understands that only by eliminating discrimination, discriminatory harassment and retaliation can we ensure that all community members, especially our students, have the opportunity to work and achieve excellence.- Accordingly, the ~~university~~ University expects that all community members including students, faculty, staff, vendors, contractors, visitors or others who interact at the ~~university~~ University will observe and comply with these equal opportunity and diversity principles.-

As a recipient of federal funds, the ~~university~~ University is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX")[1], which prohibits discrimination on the basis of sex in education programs or activities.-

~~The university has designated the Director of the Office of Equal Opportunity and Diversity ("EOD") as its Title IX Administrator (see contact information in Section III below).~~

### ~~III.~~ **VIOLATION**

~~Taking all the above into consideration, it shall be a violation of this regulation for any officer, university employee, student, visitor, agent, vendor or contractor to discriminate against or harass, as hereinafter defined, any other officer, university employee, student, visitor, agent, vendor, contractor or applicant. Further, this regulation prohibits conduct that limits or denies one's ability to participate in, interact with, or benefit from an academic program, event or activity or to otherwise participate in campus life; or employment free from discrimination, harassment or retaliation. Potential violations of this regulation 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.~~

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The responsibility for communicating, interpreting and monitoring this Equal Opportunity and Diversity Regulation and the University's Affirmative Action compliance obligations rests with the EOD Director, Office of Equal Opportunity and Diversity and University Title IX Administrator, University of North Florida, J.J. Daniel Hall, Suite 1201, 1 UNF Drive, Jacksonville, FL 32224-2645, (904)620-2507 or via 711 Florida Relay for persons who are deaf or head of hearing or those with speech impairments and/or limitations.-

#### IV. STATEMENT OF REQUIREMENTS

##### A. Responsibility to Comply with this Regulation

~~All members of the university community are responsible for ensuring that their conduct does not violate this regulation. 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. EOD shall consult with the vendor or contract manager to determine how any investigation will be undertaken. The university shall take action against the vendor or contractor, when warranted, in accordance with the terms of the governing contract or agreement.~~

##### B. Required Responsibility to Report

~~All supervisors and managers (defined for purposes of this regulation as supervising 4 or more employees) are required to promptly report to the Office of Equal Opportunity and Director (EOD)(either verbally or through written communications) allegations, reports or instances of alleged discrimination and harassment by or against any person covered by this regulation.~~

##### 1. Responsibility of Faculty

~~All faculty are required to promptly report to the EOD or alternatively, to their department chair, dean or applicable administrator allegations, reports or instances of alleged discrimination, retaliation and harassment by or against a student in violation of the university's EOD Regulation. Persons to whom alleged acts of discrimination, retaliation and harassment are reported must then promptly report the matter to the EOD (either verbally or through written communications).~~

~~**2. Responsibility of Community Members:** To maintain an environment free from discrimination, retaliation and harassment, the responsibility for reporting incidents rests with all members of the university community. Thus, any employee, staff or faculty member, student, applicant or other community member who believes an individual is being treated in a manner in violation of this regulation is strongly encouraged to report the same to their supervisor, manager, or directly to the EOD (As discussed above, all alleged incidents of conduct in violation of the University's Equal Opportunity and Diversity Regulation must be reported to the EOD).~~

~~**3. Responsibility of Victim:** While the alleged victim is not required to inform an alleged offender of the offensiveness of their behavior in order to make a claim under this Regulation, the person deeming any action or conduct as unwelcome is encouraged to advise the offending party of the same and seek help.~~

#### V.

It must also be understood that some acts of discrimination and/or harassment constitute criminal conduct. Faculty, administrators, managers and supervisors are required to report criminal activity on University property, University-controlled property or at University sponsored events to law enforcement (See contact information in Section IX below). Other University Community members who witness discrimination and/or harassment that places individuals or groups in fear for their health or safety are strongly encouraged to contact law enforcement. The health, safety and welfare of all members of University community should be a shared concern of all who interact in our learning community.

## A. DEFINITIONS.

For purposes of this regulation, the following definitions are controlling:

1. “Discrimination” means treating another individual unfavorably compared to other similarly situated individuals, whether intentional or unintentional, based solely upon their membership in a protected class as defined by this regulation. To be actionable, the discriminatory treatment must be severe, persistent or pervasive so that it limits or denies a community member's ability to participate in or to realize the intended benefits of an institutional activity, opportunity, or resource.

A. ~~“Discrimination: For the purposes of this regulation, discrimination is defined as the”~~ means treating another individual unfavorably compared to other similarly situated individuals, whether intentional or unintentional treatment of any member of the university community, or any unfair treatment, based solely upon genetic information, race, color, religion, age, sex, disability, gender identity/expression, sexual orientation, marital status, national origin or veteran status.their membership in a protected class as defined by this regulation.

B. ~~Harassment: For the purposes of this regulation, harassment is a form of discrimination, is unwelcome conduct that is based on genetic information, race, color, religion, age, sex, disability, gender identity/expression, sexual orientation, marital status, national origin or veteran status.~~

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2. ~~Harassment” means unwelcome conduct about an individual or protected class covered by this regulation that 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. Harassment can include such acts as making slurs, physical assaults or threats, and intimidation, when such conduct rises to the level of the definition provided above. “Harassment” means acts, including but not limited to, making slurs, offensive or derogatory remarks physical assaults or threats, intimidation, display of offensive objects or pictures regarding an or other unwelcome or offensive conduct about an individual or protected class covered by this regulation that 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.~~

3. ~~“Retaliation: Retaliation occurs”~~ means when an officer, agent, contractor or employee takes an adverse action against ~~an~~any individual for their participation in protected activity under this regulation.

D. ~~\_\_\_\_\_~~

4. ~~“Protected activity: This includes”~~ means actions that include, but ~~is~~are not limited to, filing a discrimination charge, testifying or participating in any way in an investigation, proceeding, or lawsuit, and opposing employment practices that one reasonably believes discriminates against individuals or encourages someone to exercise their rights.

5. “Protected classes” means individuals who are provided protection against discrimination or harassment under this regulation because of race, color, religion, age, sex (inclusive of Title IX), gender identity/expression, sexual orientation, disability, marital status, national origin or veteran status under the Vietnam Era Veterans’ Readjustment Assistance Act, as amended (VEVRAA) or any other characteristic protected under applicable federal or state law.

## B. Preventing Discrimination and/or Harassment – Bystander Intervention

Achieving the University’s commitment to providing an inclusive and welcoming environment for all who interact in our community is a **shared responsibility** that requires all community members to act when they observe discriminatory or harassing behavior. This means not only reporting behavior in violation of this regulation but if a community member can safely intervene to encourage others engaging in actions in violation of this regulation to cease their inappropriate conduct. Examples of how to safely intervene, include, but are not limited to the following:

- Educate yourself and others by reading and understanding this regulation ~~and discussing it with others.~~
- Make sure you know to whom and where to report incidents, the services available to victims/survivors as detailed in the regulation and discussing these issues with others to raise awareness in the campus community.
- Gain awareness of the challenges and experiences of others different than you by interacting and communicating with them and/or reading articles and books regarding cultural and other diversity initiatives.
- When you hear friends or acquaintances making discriminatory or harassing remarks, encourage them to refrain from such behaviors and explain to them why their actions may be harmful to others.
- Don’t assume someone else will take action when you observe discriminatory or harassing behavior
- When you see something that is wrong, don’t be afraid to speak up.

It cannot be emphasized enough that community members should only personally intervene when they feel it is safe to do so; therefore, if a community member has concerns about safely intervening, do not condone objectionable actions but instead intervene by reporting the inappropriate behavior to an administrator or other University official.

## III. STATEMENT OF REQUIREMENTS

### A. Responsibility to Comply with this Regulation.

All members of the University community are required to comply with and are responsible for ensuring that their conduct does not violate this regulation. This same responsibility extends to, vendors, contractors (including the employees of third parties), visitors or others on the University’s campus and at any University sponsored or related

function or activity. EOD shall consult with the vendor or contract manager to determine how any investigation, if necessary, will be undertaken. The University shall take action against the vendor or contractor, when warranted, in accordance with the terms of the governing contract or agreement.

## **B. Required Responsibility to Report.**

All supervisors and managers (defined for purposes of this regulation as supervising 1 or more employees) are required to promptly report to the EOD (either verbally or through written communications) allegations, reports or instances of alleged discrimination and harassment by or against any person covered by this regulation.

### **1. Responsibility of Faculty**

All faculty are required to promptly report to the EOD or their department chair, dean or applicable administrator any allegations, reports or instances of alleged discrimination, retaliation and/or harassment by or against a student in violation of this Regulation. Persons to whom alleged acts of discrimination, retaliation and harassment are reported must then promptly report the matter to the EOD (either verbally or through written communications). If safety and welfare are concerns, the first contact should be to the UPD.

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### **2. Responsibility of Community Members**

To maintain an environment free from discrimination, retaliation and harassment, the responsibility for reporting incidents rests with all members of the University community. Thus, any employee, staff or faculty member, student, applicant or other community member who believes an individual is being treated in a manner that is in violation of this Regulation is strongly encouraged to report the alleged violations to their supervisor, manager, or directly to the EOD (As discussed above, all alleged incidents of conduct in violation of the University's Equal Opportunity and Diversity Regulation must be reported to the EOD).

### **3. Responsibility of Victim**

The alleged victim is not required to inform an alleged offender of the offensiveness of their behavior in order to make a claim under this Regulation. However, any person who deems any action or conduct as unwelcome is encouraged to advise the offending party that their conduct is unwelcome and seek help.

## **V. CONFIDENTIALITY**

The University recognizes the importance of confidentiality and understands that some individuals filing complaints of harassment/discrimination or who are otherwise involved in an investigation may want their identity to remain anonymous and/or confidential. In all cases, issues of confidentiality must be

balanced against the University's need to investigate and take appropriate action. The University will respect the privacy and confidentiality of individuals involved in an investigation to the fullest extent possible. If you have concerns about this please contact the EOD.

## VI. RETALIATION

Retaliation, or otherwise taking adverse employment or educational action, against a member of the ~~university~~ University community because they in good faith reported discrimination or harassment, or participated in an investigation or review regarding a complaint, is strictly prohibited. Those found to have violated this prohibition against retaliation will be subject to disciplinary action up to and including termination.

## VII. VIOLATION

Taking all the above into consideration, it shall be a violation of this regulation for any officer, university employee, student, visitor, agent, vendor or contractor to discriminate against

—vii.—, harass, or retaliate against any person covered by this regulation. Prohibited behavior constitutes conduct that limits or denies one's ability to participate in, interact with, or benefit from an academic program, event or activity or to otherwise participate in campus-life. Potential violations of this regulation 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.

## VIII. ENFORCEMENT

As mentioned above, in some situations harassing behavior may lead to criminal prosecution. Any individual, student, faculty or staff, found to have violated this regulation will also be subject to discipline through the appropriate procedures. For example, students will be referred to Student Conduct. Faculty and staff will be subject to disciplinary action in accordance with UNF's personnel program and any applicable collective bargaining agreements. The University has an obligation to promptly respond to allegations of sexual misconduct and will proceed, unless exceptional circumstances dictate otherwise, with its own investigative and disciplinary procedures while criminal charges are pending.

## VIII. STATEMENT OF PROCEDURES

### **A. Seeking Guidance Regarding This Regulation.—**

Any member of the university community who believes that they have been subjected to discrimination, discriminatory harassment, retaliation and/or sexual misconduct, or observed or witnessed any member of the community being subjected to the same, may seek guidance, counseling or file a complaint in accordance with this regulation by

contacting EOD.

**—B.- Complaint Procedure.—**

Allegations of violation of this regulation including the actual filing of a complaint of discrimination, harassment or retaliation ~~of this regulation~~ will be addressed by the EOD in accordance with the Non-Discrimination EOD Complaint and Investigation Procedures which can be found on the EOD's website at <http://www.unf.edu/eod> and UNF Policy 1.0060P

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**IX. ON AND OFF-CAMPUS SERVICES**

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

**A. On Campus**

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

**UNF's Victim Advocacy Program** (located within the Women's Center)  
Founders Hall (Building 2)  
Room 2623  
(904) 620-1010

**B. Off Campus**

**Jacksonville Sheriff's Office**  
501 E. Bay Street  
Jacksonville, FL  
911 or (904) 630-0500

In addition to contacting the EOD, any of the following offices at the University may be contacted for information or assistance:

**UNF Counseling Center**  
Founders Hall (Building 2)  
Room 2300  
(904) 620-2602

**Disability Resource Center**  
College of Education and Human Services Building 57  
(904)620-2769

**Lesbian, Gay, Bisexual, Transgender Resource Center**

Student Union East (Building 58)

(904) 620-4720

**Office of Student Affairs**

Student Union East (Building 58)

Room 2091

(904) 620-2600

**Office of Student Conduct**

Founders Hall (Building 2)

Room 1011

(904) 620-3979

**Office of the Student Ombudsman**

Founders Hall (Building 2)

Room 2104

(904) 620-1491

**UNF Women's Center**

Founders Hall (Building 2) Room 2100

(904) 620-2528

*Revisions approved by the BOT ~~October 16, 2012.~~ \_\_\_\_\_*

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