

## NOTICE OF AMENDED REGULATION

August 21, 2012

### DEPARTMENT OF EDUCATION

Division of Universities  
University of North Florida

### REGULATION TITLE:

Non-Discrimination, Equal Opportunity and Diversity Regulation

### REGULATION NO.:

1.0040R

### SUMMARY:

Revisions to the regulation include the following:

- Addition of definitions
- Addition of gender identity and expression
- Revised to include non-discrimination in title and throughout
- Revised to promote Title IX compliance
- Revised to place emphasis on prohibiting retaliation

### FULL TEXT:

The full text of the revisions to the regulation is attached.

### AUTHORITY:

Resolution of the Florida Board of Governors dated January 7, 2003  
Florida Board of Governors Regulation 2.003  
Florida Statutes 1000.05

### UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:

Cheryl S. Gonzalez, Director Equal Opportunity and Diversity

### 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 September 5, 2012 to receive full consideration.***



Regulation Number	Subject	Effective Date	Revised Date
1.0040R	<u>Non-Discrimination</u> , Equal Opportunity and Diversity Regulation	10/27/06	<del>10/27/06</del>
<b>Responsible Unit/Division:</b> Director, Equal Opportunity and Diversity			
<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 purpose of this regulation is to set forth the university’s expectations ~~regarding creating by fostering~~ and maintaining an environment of inclusiveness and ~~equal opportunity equity~~ for all ~~members who interact of in~~ our ~~diverse~~ university community; and to reinforce the 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 separate regulation.

**II. STATEMENT OF REGULATION**

The University of North Florida is committed to providing an inclusive and welcoming environment for all who interact in our community. In building this environment, we ~~and~~ strives to attract students, faculty and staff from a variety of cultures, backgrounds and life experiences. In furtherance of the university’s diversity initiatives and focus toward inclusiveness, it is expected that all in the university community will appreciate and respect the dignity, individuality, and the uniqueness of our individual community members. While embracing these concepts including its obligations under affirmative action regarding race, ethnicity and gender, 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.

The 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 community.

To accomplish the intent of this regulation, the 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, marital status, national origin or veteran status in any educational, employment, social or recreational program or activity offered by the University. Similarly, the University will not commit or permit retaliation against an individual who complains of discrimination or harassment or an individual who cooperates in an investigation of an alleged violation of this regulation.

The University recognizes that it is a unique learning environment in which its diverse community members have the right to exercise protected free speech in expressing their differing opinions as guaranteed by the First Amendment and in an environment in which its faculty has 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 will not abridge either free speech or academic freedom based on its context.

~~Taking all the above into consideration, this regulation prohibits conduct that is severe, persistent or pervasive so as to limit or deny a student's ability to participate in or benefit from an academic program, event or activity or to otherwise participate in campus life; or a faculty, staff or other community member's ability to interact or work in an environment 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.~~

The 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 expects that all community members including students, faculty, staff, vendors, contractors, visitors or others who interact at the University will observe and comply with these equal opportunity and diversity principles.

~~The responsibility for communicating, interpreting and monitoring this equal opportunity and diversity regulation and the University's Affirmative Action compliance obligations rests with the Director, Office of Equal Opportunity and Diversity, University of North Florida, J. J. Daniel Hall, Room 2400, 1 UNF Drive, Jacksonville, Florida 32224 7699, (904) 620 2507 Voice & TDD and (904) 620 1004 Fax.~~

As a recipient of federal funds, the 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.

The responsibility for communicating, interpreting and monitoring this Equal Opportunity and Diversity Regulation and the University’s Affirmative Action compliance obligations rests with the 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.

### III-IV. STATEMENT OF REQUIREMENTS

#### A. ~~Scope of Regulation~~Responsibility to Comply with this Regulation.

The requirements of this regulation apply to all students, faculty, staff, vendors, contractors, visitors or others who interact at the University’s campus or at any University sponsored or University related function or activity. 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 Reporting of Alleged Violations 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 Office of Equal Opportunity and Director (EOD)(either verbally or through written communications) allegations, reports or instances of alleged discrimination and/or harassment by or against any person covered by this regulation.

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

~~Additionally, a~~All faculty ~~with instructional responsibilities~~ are required to promptly report to the ~~EOD Director~~ or alternatively, to their department chair, dean or applicable administrator (either verbally or through written communications) allegations, reports or instances of alleged discrimination, retaliation ~~and/or~~ harassment by or against a student in violation of the University's Equal Opportunity and Diversity 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. DEFINITIONS**

**A. Discrimination:** For the purposes of this regulation, discrimination is defined as the 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.

**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.

C. **Retaliation:** Retaliation occurs when an officer, agent, contractor or employee takes an adverse action against an individual for their participation in protected activity under this regulation.

D. **Protected activity:** This includes, but is not limited to, filing a discrimination charge, testifying or participating in any way in an investigation, proceeding, or lawsuit, opposing employment practices that one reasonably believes discriminates against individuals or encourages someone to exercise their rights.

## VI. RETALIATION

Retaliation, or otherwise taking adverse employment or educational action, against a member of the 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.

## IV. STATEMENT OF PROCEDURES

### A. Seeking Guidance Regarding This Regulation.

Any member of the University community who believes that ~~he or she has~~ they have been subjected to discrimination, ~~or discriminatory~~ harassment; ~~any member of the community who believes that he or she has been subjected to~~ retaliation and/orrelated ~~to an allegation of discrimination or harassment~~sexual misconduct; or observed or witnessed any member of the community ~~who believes being subjected to the same~~that others have been subjected to discrimination, harassment or retaliation in violation of this regulation, may seek guidance, counseling or file a complaint in accordance with this regulation by contacting ~~the Director~~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 ~~Director~~EOD in accordance with the Non-Discrimination EOD Complaint and Investigation ~~Policy and~~ Procedures which can be found on the EOD's website at <http://www.unf.edu/eod/>. ~~A copy of the EOD Complaint and Investigation Policy and Procedures can be obtained at the EOD Office, on the EOD website or as posted with the comprehensive listing of the University's regulations and policies.~~