

Regulations and Policies

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Organization/General

Non-Discrimination, Equal Opportunity and Inclusion Regulation

Number:

1.0040R

Regulation Status:

Minor/Technical Revision

Responsible Division/Department:

Administration & Finance / Office of Equal Opportunity & Inclusion

Effective Date:

08/11/20

Revised Date:

10/14/21

I. OBJECTIVE & PURPOSE

The purpose of this Regulation is to set forth the University of North Florida's expectations for fostering and maintaining an environment of inclusiveness and equality for all who interact in our University Community. It also reinforces the University's commitment to inclusion in the recruitment, selection, and retention of students, faculty, and staff. Finally, it outlines how to file a complaint alleging discrimination, retaliation, and/or discriminatory harassment.

It is the objective of the University that this Regulation be broadly applied to ensure the protection of all those who interact with the University. Therefore, "University Community" is defined to refer to any person who is a student, faculty/staff member, University official, any other person employed or contracted with the University, and any other individual interacting with the University.

Sexual misconduct, such as sexual harassment and sexual violence, is covered by a separate regulation. See the Sexual Misconduct and Title IX Sexual Harassment Regulation, 1.0050R.

II. STATEMENT OF REGULATION

The University is committed to providing an inclusive and welcoming environment free from unlawful harassment, discrimination, and retaliation 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 diversity initiatives and focus toward inclusiveness, it is expected that all who are a part of the University Community will appreciate and respect the dignity, individuality, and the uniqueness of our 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.

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.

The University prohibits discrimination and harassment on the basis of age, race, color, religion, creed, ancestry, physical or mental disability, national origin, citizenship status in employment for those authorized to work in the United States, sex, gender identity, gender expression, sexual orientation, marital status, genetic information, AIDS/HIV status, sickle cell trait, veteran status, or any other basis protected by federal, state or local law. In addition, the University will not permit retaliation against any individual who complains of discrimination, harassment, or who otherwise engages in protected activity.

III. DEFINITIONS

- A. "Discrimination" means treating another individual unfavorably compared to other similarly situated individuals based upon their membership in a protected class. For students and guests, to be actionable, the discriminatory treatment must limit or deny their ability to participate in or to realize the intended benefits of an institutional activity, opportunity, or resource. For applicants and employees, the discrimination must result in an adverse employment action.
- B. "False Report" means making a materially false statement in bad faith in the course of proceedings under this Regulation. For example, a False Report includes providing materially false information during an investigation in bad faith, or misleading University officials in proceedings involving alleged violations of this Regulation through materially false information in bad faith. UNF takes the accuracy of information very seriously and a false report of discrimination, harassment, or retaliation may

have severe consequences. A good-faith complaint is not considered a False Report, even if the case is dismissed or the Respondent is not found responsible.

- C. "Harassment" means unwelcome conduct toward an individual based on their protected class that is objectively offensive and sufficiently severe, persistent or pervasive as to deny or limit a student's ability to participate in or benefit from the University's educational programs or activities, or substantially interfere with or alter the conditions of employment. Harassment includes, but is not limited to, acts such as making slurs, physical assaults or threats, and intimidation, when such conduct rises to the level provided above. Please refer to the University's Sexual Misconduct and Title IX Sexual Harassment Regulation, 1.0050R, for the definition of sexual harassment.
- D. "Obstruction of an EOI Investigation" means improper actions to discourage or impair participation in an EOI investigation, including but not limited to intimidating witnesses or other participants in the investigation.
- E. "Protected activity" means requests for reasonable accommodations or religious accommodations; good faith actions in opposition to unlawful discrimination, harassment, or retaliation; and/or participating in an investigation, proceeding, or hearing for alleged unlawful discrimination, harassment, or retaliation. Some examples of protected activity include, but are not limited to, filing a discrimination charge, testifying or participating in an investigation, proceeding, or lawsuit, and opposing practices that one reasonably believes discriminate against individuals on the basis of a protected class.
- F. "Protected classes" means individuals who are provided protection against discrimination or harassment under this Regulation on the basis of age, race, color, creed, religion, ancestry, disability, national origin, citizenship status in employment for those authorized to work in the United States, sex, gender identity, gender expression, sexual orientation, marital status, genetic information, AIDS/HIV status, sickle cell trait, veteran status, or any other basis protected by federal, state, or local law.
- G. "Reasonable accommodation for a disability" means an accommodation or auxiliary aid or service that enables a qualified individual with a disability to participate in the University's programs, events, activities, or employment, so long as the requested accommodation does not fundamentally alter the nature of the program, event, or activity, or impose an undue hardship.
- H. "Reasonable religious accommodation" means an accommodation to enable an individual with sincerely held religious beliefs to participate in the University's programs, events, activities, or employment when that individual's religious beliefs otherwise conflict, so long as the requested accommodation does not impose an undue hardship.
- I. "Retaliation" means taking an action against an individual that might well dissuade a reasonable person from engaging in a protected activity. It includes, but is not limited to, intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with engaging in a protected activity or any right or privilege provided under civil rights laws or this Regulation.

- J. "Supervisors" and "Managers" mean a University employee who has supervisory responsibility for one or more University employees.

IV. PROHIBITION AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION

A. Application to All

All members of the University Community are required to comply with this Regulation both on- and off-campus. This extends to vendors, contractors (including the employees of third parties), guests, or others on the University's campus and at any University sponsored or related function or activity.

B. Violations

It shall be a violation of this Regulation to engage in any of the following conduct:

1. Discrimination;
2. Failure to provide a reasonable accommodation for a disability;
3. Failure to provide a reasonable religious accommodation;
4. Harassment;
5. Making a False Report;
6. Obstruction of an EOI Investigation;
7. Retaliation.

C. Protection for Freedom of Expression

The University 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 unlawful discrimination, harassment, and retaliation, the purpose of this Regulation is not intended to abridge academic freedom or to interfere with freedom of expression as guaranteed by the U.S. and Florida Constitutions. As a result, the following are not violations of this Regulation.

- 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; and
- Other legally protected activities and statements.

Individuals must be mindful that although rights of freedom of expression and academic freedom are broad, they are not unlimited. The University will take action on conduct that goes beyond legal protections and violates this Regulation

V. THE EQUAL OPPORTUNITY AND INCLUSION OFFICE

The responsibility for communicating, interpreting, and monitoring this Regulation rests with the Equal Opportunity and Inclusion ("EOI") Director and University Title IX Coordinator, who may be contacted with any questions:

EOI Director and University Title IX Coordinator

University of North Florida

J.J. Daniel Hall, Suite 1201

1 UNF Drive, Jacksonville, FL 32224-7699

eoif@unf.edu

(904) 620-2507 or via 711 Florida Relay for persons who are deaf or hard of hearing or those with speech impairments and/or limitations.

Any member of the University Community who believes that they have been subjected to or witnessed unlawful harassment, discrimination, or retaliation may seek guidance or file a complaint by contacting EOI. More information regarding EOI can be found on its website at <http://www.unf.edu/eoi>.

VI. ADDRESSING DISCRIMINATION, HARASSMENT, AND RETALIATION

A. Community Members Are Encouraged to Participate

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. Community members should only personally intervene when they feel it is safe to do so; however, in all cases, they are strongly encouraged to report

the inappropriate behavior to EOI. Some examples of how to safely intervene may include, but are not limited to the following:

- Educating yourself and others by reading and understanding this Regulation;
- Making sure you know to whom and where to report incidents and what services are available to individuals who believe they have been subject to discrimination, harassment, or retaliation;
- Discussing discrimination, harassment, and retaliation issues with others to raise awareness in the University Community;
- Gaining 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;
- Encouraging others to refrain from making discriminatory or harassing remarks, and explaining that such behaviors may be harmful;
- Avoiding the assumption that someone else will act when you observe discriminatory or harassing behavior; and
- Speaking up when you see something that is wrong.

B. Requirement to Report

All faculty, and all non-faculty Supervisors and Managers, are required to immediately report to EOI any incident of discrimination, harassment, or retaliation that comes to their attention.

C. What to Do if You Believe You Have Experienced Discrimination, Harassment, or Retaliation

A person who believes that they have been subjected to discrimination, harassment, or retaliation is not required to inform an alleged offender of the offensiveness of their behavior to make a claim under this Regulation.

The University is committed to preventing and correcting any conduct that is in violation of this Regulation and has therefore established an effective reporting and investigation procedure. If an individual believes that they have been subject to conduct prohibited by this Regulation and fails to report such to EOI, the University may be inhibited in its ability to investigate and resolve the concern.

D. Investigation of Complaints

EOI investigates reported complaints pursuant to the Complaint and Investigation Procedures which can be found on EOI website at <https://www.unf.edu/eoi/equal-opportunity-procedures.html>. If the complaint

concerns an EOI employee, an individual may report the matter to the University's Chief Compliance Officer at compliance@unf.edu.

Generally, the investigation will consist of interviewing the complainant, the responding party, and any witnesses or others alleged to have been subject to a violation of this Regulation. It is the University's intention to complete a timely investigation. The University's good-faith efforts to conduct a fair, impartial investigation in a timely manner may require different timelines depending on the circumstances of each case.

Once it decides to open an investigation that may lead to disciplinary action against the responding party, the University will provide written notice to the responding party of the allegations constituting a potential violation of this Regulation, including sufficient details and with sufficient time to prepare a response before any initial interview. This notice will include sufficient details on the identities of the parties involved, the specific section of the Regulation allegedly violated, the conduct allegedly constituting the potential violation, and the date and location of the alleged incident, to the extent known. Each party will receive written notice in advance of any interview or hearing with sufficient time to prepare for meaningful participation.

The University will reach a prompt and equitable resolution through a reliable and impartial investigation of each complaint. The complainant(s) and respondent(s) will receive equal opportunity to provide information, witness statements, evidence and other information that may be necessary to fully evaluate the alleged offense. Both will be afforded equal rights.

In a written report summarizing the investigation, for student respondents the designated investigator will determine whether there is reasonable cause to believe that this Regulation has been violated. For all other respondents, the investigator will determine whether the preponderance of the evidence demonstrates that the Regulation has been violated. In all cases, both parties will receive simultaneous written notification of the outcome and any disciplinary proceeding to be scheduled, all to the extent permitted under FERPA, the Clery Act, and applicable law. Generally, the report is not shared with third parties who report alleged violations, unless applicable law requires the University to disclose it.

EOI will monitor outcomes, identify and address any patterns of issues under this Regulation, and assess effects on the campus climate. EOI will work with the University to recommend changes to policies, procedures, or training in order to provide a safe, equitable University environment in compliance with this Regulation.

E. Violations and Enforcement

For student respondents, if the investigation concludes that there is reasonable cause to believe that a violation of this Regulation occurred, then the matter will be referred for further proceedings according to the procedures set forth in the Student Code of Conduct Regulation, 5.0010R. These further proceedings are conducted under a higher evidentiary standard: the preponderance of the evidence standard.

For all other respondents, if the investigation concludes that the preponderance of the evidence demonstrates that the Regulation was violated, the matter will be referred to the Provost and Vice President for Academic and Student Affairs, if the respondent is a faculty member, or to Human Resources if the respondent is a staff member, for appropriate further action. All other types of respondents will be referred to the Vice President for the responsible area for further appropriate action.

In all cases, the respondent is presumed innocent unless the preponderance of the evidence shows otherwise. The totality of all evidence available, from all relevant sources, is considered.

Students who are found to have violated this Regulation will be subject to disciplinary action as set forth in the Student Code of Conduct. Faculty and staff who are found to have violated this Regulation will be subject to disciplinary action pursuant to applicable collective bargaining agreements and UNF's Personnel Program. Third parties (including contractors and guests) who are found to have violated this Regulation may be barred from the campus and/or conducting business with UNF. Disciplinary actions against students, employees and third parties will be determined on a case-by-case basis.

VII. CRIMINAL COMPLAINTS

It is important to recognize that some violations of this Regulation constitute criminal conduct. University Community members who witness discrimination, harassment, and/or retaliation 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 the University Community should be a shared concern of all.

The criminal process is separate from UNF's investigation and disciplinary process. The University has an obligation to promptly respond to allegations of discrimination, harassment, and retaliation and will proceed, unless exceptional circumstances dictate otherwise, with its own investigative and disciplinary procedures while the criminal process is pending. Therefore, the University in its sole discretion may proceed with an investigation under this Regulation before, during, or after any law enforcement investigation or criminal proceedings.

VIII. CONFIDENTIALITY

The University recognizes the importance of confidentiality and understands that some individuals may want their identity to remain anonymous and/or confidential when filing complaints or otherwise becoming involved in an investigation. 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 any questions regarding confidentiality, please contact EOI.

IX. REASONABLE ACCOMMODATIONS FOR A DISABILITY

If you would like to request a reasonable accommodation for a disability or learn more about the University's accommodation process, please contact the University's ADA Compliance Office at <https://www.unf.edu/adacompliance/>. You may also refer to the University's Americans with Disabilities Act Regulation, 4.0070R. For specific information on website accessibility and how to make a complaint if a website is inaccessible, please visit the University's page at <https://www.unf.edu/webaccessibility/>.

X. REASONABLE RELIGIOUS ACCOMMODATIONS

If you would like to request a reasonable religious accommodation, please contact the University's EOI Office at <https://www.unf.edu/eoi/>.

XI. ON- AND OFF-CAMPUS CONTACTS TO GET HELP

A. Emergency Situations

If in fear for physical safety, facing threats, or assault is involved contact:

University Police Department

Martin P. Garris Police Building (Building 41)

911 or (904) 620-2800

<https://www.unf.edu/upd/>

UNF's Victim Advocacy Program (located within the Women's Center)

Founders Hall (Building 2)

Room 2100

(904) 620-1010

<https://www.unf.edu/womenscenter/victim-advocacy/>

Jacksonville Sheriff's Office

501 E. Bay Street

Jacksonville, FL

911 or (904) 630-0500

<https://www.jaxsheriff.org/>

B. University's Equal Opportunity and Inclusion Office

Equal Opportunity and Inclusion Office

J.J. Daniel Hall (Building 1), Suite 1201

1 UNF Drive, Jacksonville, FL.

(904) 620-2507

<https://www.unf.edu/eoi/>

C. Additional On-Campus Contacts

Office of Academic Affairs

J.J. Daniel Hall (Building 1)

Room 2500

(904) 620-2700

<https://www.unf.edu/asa/>

UNF Counseling Center

Founders Hall (Building 2)

Room 2300

(904) 620-2602

<https://www.unf.edu/brooks/counseling-center/>

Student Accessibility Center

Tom and Betty Petway Hall (Building 57)

Room 1500

(904) 620-2769

<https://www.unf.edu/sac/>

Office of Human Resources

J.J. Daniel Hall (Building 1)

Room 1101

(904) 620-2903

<https://www.unf.edu/hr/>

Lesbian, Gay, Bisexual, Transgender Resource Center

Student Union East (Building 58)

Room 1111

(904) 620-4720

<https://www.unf.edu/lgbtqcenter/>

Office of Student Accountability & Resolution

Tom and Betty Petway Hall

Building 57W, Suite 2750

(904) 620-3979

<https://www.unf.edu/conduct/>

Office of the Student Ombudsman and Dean of Students

Tom & Betty Petway Hall

Building 57W

Suite 2700

(904) 620-1491

<https://www.unf.edu/ombuds/>

<https://www.unf.edu/deanofstudents/>

UNF Women's Center

Founders Hall (Building 2) Room 2100

(904) 620-2528

<https://www.unf.edu/womenscenter/>

Authority: Board of Governors Regulations 1.001; Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of 1972.

Approved by the BOT as amended 10/14/21.