

Regulations of Florida A&M University



10.103 Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures.

(1) It is the policy of Florida A & M University that each member of the University community be permitted to work or attend class in an environment free from any form of discrimination including race, religion, color, age, handicap, disability, sex, marital status, national origin, veteran status, and sexual harassment, as prohibited by state and federal statutes. Organizations using University facilities, support or services must assure that they do not illegally discriminate in their membership with respect to race, color, religion, age, handicap, disability, sex, marital status, national origin, and veteran status. This commitment applies to all areas affecting students, faculty, administrative and professional (A &P) employees, Executive Service employees, University Support Personnel System (USPS) employees and Other Personal Services (OPS) employees. It is also relevant to the University's selection of contractors, to suppliers of goods and services, and any employment conditions and practices.

(2) Definition of Discrimination and Harassment.

(a) *Discrimination* shall include, but not be limited to:

1. Limiting, segregating or classifying students, employees, applicants for admission, or applicants for employment, in such a way as to deprive individuals of educational or employment opportunities or otherwise adversely affect individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
2. Denying educational or employment opportunities to individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
3. Providing unequal educational or employment opportunities to individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
4. Providing unnecessary separate educational programs or activities for individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
5. Entering into contractual or other arrangements which utilize criteria or

administrative methods which have the effect of subjecting individuals to discrimination or which otherwise adversely affect individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;

6. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status.

(b) *Harassment* shall include, but not be limited to:

1. Any slurs, innuendoes or other verbal or physical conduct reflecting on an individual's race, ethnic background, gender or handicapping condition which has the purpose or effect of creating an intimidating, hostile or offensive educational or work environment; has the purpose or effect of unreasonably interfering with the individual's work or school performance or participation; or otherwise adversely affects an individual's employment or educational opportunities.

2. The denial of or the provision of aid, benefits, grades, rewards, employment, faculty assistance, services, or treatment on the basis of sexual advances or requests for sexual favors.

3. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational career; submission to or rejection of such conduct is used as a basis for educational or employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile or offensive working or educational environment.

(3) **Dissemination and Implementation of the Regulation.**

(a) The Office of Equal Opportunity Programs shall disseminate this regulation or portions of it to the University community which shall comply and adhere to its provisions. All units shall also take appropriate action to implement the provisions set forth in this regulation.

(4) **Procedures for Filing a Complaint.**

(a) Any individual who believes that he/she is a victim of discrimination or harassment may seek guidance from the Equal Opportunity Programs (EOP) Officer who has been delegated authority by the President to receive and investigate EEO discrimination and harassment complaints based on a protected class issue. The EOP Officer shall inform prospective complainants of the formal and informal options by which his/her concern can be

addressed and resolved. Issues handled informally will not normally invoke the investigatory procedures set forth in this regulation. Issues handled formally, shall include the full range of processes and reviews that are necessary to ascertain the facts.

(b) A formal complaint shall be filed on the Charge of Discrimination/Harassment Form and submitted to the EOP Officer within 60 calendar days after the alleged occurrence of the discrimination/harassment incident. The form may be obtained from the EOP Office.

(c) No formal action may be undertaken unless and until a formal complaint is filed. This provision shall not limit the University in any way from initiating its own review of the complaint and taking appropriate action should such be deemed warranted under the circumstances presented.

(d) After receiving the signed written complaint, the EOP Officer shall notify, in writing, the complainant and the person against whom the complaint was filed of the allegations; provide the person against whom the complaint was filed an opportunity to respond; conduct a complete investigation; and, determine a resolution to the complaint within thirty (30) working days of receipt of the written complaint.

(e) The complaint will be dismissed if it is determined that the allegations are without merit. If disciplinary action is warranted, the EOP Officer shall prepare written notices to both parties (complainant and person against whom the complaint was filed). The written notice shall include the proposed disciplinary action, the reasons for the disciplinary actions, and the right of the person against whom the complaint has been filed to request, within ten (10) working days of receipt of the proposed disciplinary action, an investigatory interview before a University hearing board.

(f) The University hearing board, when charged to review the complaint, shall file with the President or President's designee their findings and recommendations. The hearing board will notify both parties of its recommendations.

(g) The Complainant or the person against whom the complaint has been filed may upon receipt of the hearing board's decision make an appeal to the President, or the President's designee, for a review of the decision. Any appeals to the President or President's designee must be filed in writing within ten (10) working days of receipt of the hearing board's written decision. Any additional information provided to the President or President's designee can only be provided in conjunction with the written appeal addressed to the President or President's designee. The President or President's designee shall render, within working twenty (20) working days of receipt of the hearing board's recommendation, a final written

decision either dismissing the complaint or taking appropriate disciplinary action. The President or President's designee shall have the right to affirm, modify or reverse any prior decisions.

(5) **Disciplinary Actions.**

(a) Any employee or student of the University who is found to have discriminated against or harassed a student, an employee or an applicant for admission or employment will be subject to counseling or disciplinary action. Disciplinary action may include a written reprimand, probation, suspension, expulsion, or dismissal. The nature of the counseling or disciplinary action shall be guided by the seriousness of the offense.

(b) Any employee in a supervisory capacity who has knowledge of a complaint involving another supervisor, subordinate, employee(s) supervised by another supervisor, or student(s) in the class(es) of another supervisor and who does not take appropriate corrective action or report the matter directly to the President or University EOP Officer will be subject to counseling or disciplinary action. Disciplinary action may include a written reprimand, suspension or dismissal. The nature of the counseling or disciplinary action shall be guided by the seriousness of the offense.

(c) Any employee or student who knowingly files a false complaint of discrimination or harassment or who knowingly provides false testimony under this regulation shall be subject to disciplinary action. Disciplinary action may include a written reprimand, probation, suspension, expulsion or dismissal. The nature of the disciplinary action shall be guided by the seriousness of the offense.

(6) **Retaliation Procedure.**

(a) Complainants who feel that they have been retaliated against for exercising their rights under this regulation shall have the right to file a retaliation complaint with the EOP Officer.

(b) Retaliation complaints shall be handled in the same manner and utilizing the same procedures set forth above in Section 4 of this regulation.

(7) **Election of Remedies.**

(a) The doctrine of election of remedies shall apply to complaints filed pursuant to this regulation. Should a Complainant elect to pursue an available alternative remedy, including the filing of a grievance pursuant to the collective bargaining agreement, the filing of any such grievance shall operate as a waiver of the Complainant's right to file a complaint and

avail the Complainant of the procedures available under this regulation. Should a grievance be filed pursuant to an alternative remedy and subsequent to the filing of a complaint under this regulation but before proceedings under this regulation have been completed, the filing of any such grievance nonetheless will act as a waiver, and proceedings pursuant to this regulation shall be terminated.

(b) The doctrine of election of remedies shall also apply to appeals filed by persons against whom a complaint has been filed. The filing of an appeal pursuant to an alternative remedy by a person against whom a complaint has been filed, including the filing of a grievance under the collective bargaining agreement or the filing of a petition for a hearing pursuant to Section 120.569, F.S., shall operate as a waiver of the right to appeal to the President or President's designee pursuant to this regulation.

Specific Authority 1001.74(4), 1006.60(5), 1012.92(3)FS. Law Implemented 1000.05, 1001.74(10)(a),(19),(20) and (34) FS. History– New 5-6-82, Amended 7-15-87, 6-27-96, 12-1-05, _____.