

POLICY

TO

PROHIBIT

SEXUAL

HARASSMENT

Equal Opportunity Programs
Florida International University
PC 215 • (305) 348-2785

Sexual Harassment

**RULES OF THE
DEPARTMENT OF EDUCATION
DIVISION OF UNIVERSITIES
FLORIDA INTERNATIONAL UNIVERSITY**

6C8-1.010

SEXUAL HARASSMENT

1 General Statement

- (a) Sexual harassment undermines the integrity of the academic and work environment, and prevents its victims and their peers from achieving their full potential. All members of the University community are entitled to work and study in an atmosphere free from sexual overtures or innuendos that are unsolicited and unwelcome. It is the particular responsibility of those members of the University community who hold positions of authority over others to avoid actions that are or can be considered sexually abusive or unprofessional.
- (b) It shall be a violation of this rule on sexual harassment for any officer, employee, student or agent to sexually harass, as sexual harassment is hereinafter defined, any other officer, employee, student, visitor or agent. Sexual harassment is a type of misconduct which shall result in disciplinary or other action as provided by the rules of the University (see Rules 6C8-4.006 and 6C8-4.019, Florida Administrative Code).
- (c) When an individual evaluates or supervises another individual with whom he or she has an amorous or sexual relationship, a conflict is created. The University discourages amorous or sexual relations between employees and students. Such relationships, even when consensual, may be exploitive, and imperil the integrity of the educational process or work environment. They may also lead to charges of sexual harassment. The University requires the resolution of any conflict of interest created by these relationships.
- (d) Whenever a conflict of interest situation arises or is reasonably foreseen, the employee in a position of authority must resolve any potential conflict of interest by taking necessary steps, including removing himself or herself from

evaluative decisions concerning the other individual. If he or she is unable to resolve personally the conflict of interest, he or she is required to inform the immediate supervisor promptly and seek advice and counsel in dealing with the conflict. The employee, along with the supervisor, is responsible for taking steps to ensure unbiased supervision or evaluation of the employee or student. Failure to resolve potential or actual conflict of interest situations as described in this rule may result in disciplinary action, in accordance with Rules 6C8-4.006 and 6C8-4.019, Florida Administrative Code.

2 Definitions

- (a) For the purpose of this rule, sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature which:
 - 1. makes submission to or rejection of such conduct either an explicit or implicit basis for employment and/or academic decisions affecting the individual; or,
 - 2. unreasonably interferes with the individual's employment or academic performance by creating an intimidating, hostile or offensive environment.
- (b) Conduct which falls into the definition of sexual harassment includes, but is not limited to:
 - 1. Unwelcome physical contact of a sexual nature such as patting, pinching or unnecessary touching.
 - 2. Overt or implied threats against an individual to induce him or her to provide sexual favors or to engage in an unwelcome sexual relationship.
 - 3. Verbal harassment or abuse of a sexual nature, including intimating by way of suggestion a desire for sexual relations, or making jokes or remarks of a sexual nature which are not germane to academic course content.
 - 4. Use of sexually suggestive terms or gestures to describe a person's body, clothing, or sexual activities.
 - 5. Displaying or posting through any medium, including, but not limited to, electronic communication, offensive sexually suggestive pictures or materials in the workplace.

3 Procedures for Reporting Violations and Conducting Investigations and Complaints

The procedures described in Rule 6C8-1.009 shall be followed.

4 Prohibition of Retaliation

No University employee shall retaliate against a complainant. Any attempt to penalize a student, employee or agent for initiating a complaint through any form of retaliation shall be treated as a separate allegation of discrimination.

5 Frivolous or Malicious Complaints

In the event that a claim of sexual harassment is found to be frivolous or malicious, appropriate University sanctions shall be taken against the complainant, including disciplinary action where appropriate. Disciplinary action against students shall be taken in accordance with the University's code of conduct for students.

6 General University Responsibility

- (a) It is expected that vice presidents, deans, chairs, department heads, directors and other supervisors shall continue to monitor and take corrective action whenever instances of sexual harassment are either observed or reported to them. While the decision regarding resolution remains within the unit, all allegations of sexual harassment are to be immediately reported to the Office of Equal Opportunity Programs, which will provide advice and monitor the administrator's actions and/or take appropriate action.
- (b) There may be instances in which a potential complainant is unable or unwilling to pursue a complaint of sexual harassment, but where the University administration is aware of the behavior and may incur liability if action is not taken. In such instances, the Office of Equal Opportunity Programs may choose to pursue an investigation of the alleged offense. The decision of whether or not to pursue an administrative complaint will be based on the egregiousness of the alleged offense, the bases for the aggrieved party's decision not to pursue a complaint, and the apparent evidence supporting the allegations. The decision to pursue an administrative complaint shall be made by the director of the Office of Equal Opportunity Programs in consultation with the Vice President in charge of the aggrieved party's unit and the Vice President in charge of the alleged offender's unit, in the event that the two parties are in different units. An administrative complaint must be filed within 60 days of the alleged act(s) of

discrimination and shall follow the same procedures and time-lines as formal complaints except that no complainant will be named.

7 Education and Notification

- (a) Copies of this rule shall be widely disseminated in order that faculty, staff and students clearly understand which acts constitute sexual harassment and recognize that the University regards sexual harassment as a serious offense.
- (b) The rule shall also be made available to vice presidents, deans, chairs, department heads and directors and other supervisors. Requests for additional copies of this rule should be directed to the Office of Equal Opportunity Programs. Abbreviated versions shall be made available to students, faculty and staff. Additionally, this rule shall be included in the University catalog, the student handbook, and other available University media. Periodic workshops and other educational programs shall be offered to University personnel regarding the topic of sexual harassment.

8 The rule will be reviewed on a periodic basis to ensure responsiveness to campus needs.

This review may include follow-up interviews with complainants, persons complained against, and administrators who have used the process.

Specific Authority: 240.227(1), 240.261 FS., Law Implemented: 228.2001, 240.227(1), 240.261, 760.10 FS. – New July 3, 1997.

Florida International University is an Equal Opportunity/Equal Access Employer and Institution.

Contact the Office of Equal Opportunity Programs at (305) 348-2785, for further information.

TDD, via FRS 1-800-955-8771

NON-

DISCRIMINATION

POLICY

AND

DISCRIMINATION

COMPLAINT

PROCEDURES

Equal Opportunity Programs
Florida International University
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Discrimination

**RULES OF THE
DEPARTMENT OF EDUCATION
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6C8 - 1.009

NON-DISCRIMINATION POLICY

AND DISCRIMINATION

COMPLAINT PROCEDURES

1 General Statement

- (a) Florida International University affirms its commitment to ensure that each member of the University community shall be permitted to work or study in an environment free from any form of illegal discrimination, including race, color, religion, age, disability, sex, national origin, marital status, and veteran status. The University recognizes its obligation to work towards a community in which diversity is valued and opportunity is equalized. This rule establishes procedures for an applicant or a member of the University community to file a complaint of alleged discrimination or harassment.
- (b) It shall be a violation of this rule for any officer, employee or agent to discriminate against or harass, as hereinafter defined, any other officer, employee, student, agent, or applicant. Discrimination and harassment are forms of conduct which shall result in disciplinary or other action as provided by the rules of the University (see Rules 6C8-4.006, and 6C8-4.019, Florida Administrative Code).

2 Definitions

- (a) For the purpose of this rule, discrimination or harassment is defined as treating any member of the University community differently than others are treated based upon race, color, religion, age, disability, sex, national origin, marital status and/or veteran status.
- (b) Conduct which falls into the definition of discrimination includes, but is not limited to:
 - 1. Disparity of treatment in recruitment, hiring, training, promotion, transfer, reassignment, termination, salary and other economic benefits, and all other terms and

- conditions of employment on the basis of membership in one of the listed groups.
- 2. Disparity of treatment in educational programs and related support services on the basis of membership in one of the listed groups.
- 3. Limitation in access to housing, or to participation in athletic, social, cultural or other activities of the University because of race, color, religion, age, disability, national origin, marital status and/or veteran status.
- 4. Discrimination of the foregoing types on the basis of sex, unless based on bona fide requirements or distinctions, in housing, restrooms, athletics and other such areas.
- 5. Retaliation for filing complaints or protesting practices which are prohibited under this rule.

- (c) Conduct which falls into the definition of harassment includes, but is not limited to, harassment based on race, color, religion, age, disability, gender, national origin, marital status or veteran status. (For harassment on the basis of sex, see 6C8-1.010.) Within the content of this rule, harassment is defined as conduct which unreasonably interferes with an employee's, student's or applicant's status or performance by creating an intimidating, hostile, or offensive working or educational environment. It includes offensive or demeaning language or treatment of an individual, where such language or treatment is based typically on prejudicial stereotypes of a group to which an individual may belong. It includes, but is not limited to, objectionable epithets, threatened or actual physical harm or abuse, or other intimidating or insulting conduct directed against the individual.
- (d) Scope of prohibitions: Activities covered under this rule include, but are not limited to, all educational, athletic, cultural and social activities occurring on a campus of or sponsored by Florida International University, housing supplied by the University, and employment practices between the University and its employees, including Other Personnel Services ("OPS") employees.
- (e) When referred to in this rule, days means calendar days unless otherwise noted.

3 Procedures for Reporting Violations and Conducting Investigations and Complaints

- (a) Administration and Consultation. The Office of Equal Opportunity Programs shall administer the policies and procedures outlined in this rule. The Office of Equal Opportunity Programs shall answer inquiries regarding the procedures

contained in this rule and may provide informal advice regarding issues of discrimination. In cases where the potential complainant chooses not to file a formal complaint, action will be taken to inform the alleged offender of the concerns, suggesting that the individual monitor and modify (if necessary) his/her behavior.

(b) Complaints.

1. A complaint must be made in writing to the Office of Equal Opportunity Programs. The complaint shall contain the name of the complainant and state the nature of the act(s) complained of, including such details as the name of the alleged offender and the date(s) or approximate date(s) on which the offending act(s) occurred, the name(s) of any witnesses, and the desired resolution(s).
2. A complaint must be filed within one hundred (100) days of the alleged act(s) of discrimination, or in the case of a student complaint against a faculty member, within ten (10) University business days of the beginning of class of the following semester.
3. The Office of Equal Opportunity Programs shall investigate the complaint. This investigation may include, but shall not be limited to, interviewing the person complained about regarding the allegations, interview of other persons who may have information relevant to the allegations, preparation of witness statements for all persons interviewed, and review of any relevant documents. Upon completion of the investigation, a report shall be prepared which includes a summary of the complaint, a description of the investigation, the findings, and recommendations.

(c) Conciliation. The Office of Equal Opportunity Programs may attempt conciliation during the course of an investigation of a complaint. If conciliation is not achieved, then the Office of Equal Opportunity Programs shall continue to investigate the complaint, and shall issue a written finding concerning probable cause within a maximum of one hundred (100) days. If conciliation of the complaint was achieved between the parties in cooperation with the Office of Equal Opportunity Programs, and the alleged offender fails to abide by the agreement or retaliates against the complainant, the complainant or supervisor should notify the Office of Equal Opportunity Programs. The Vice President for Business & Finance or a designee may then require the complaint to proceed as if conciliation had not been reached.

(d) Findings. The report of the Office of Equal Opportunity Programs shall be made known to the Vice President for

Business & Finance or designee, the complainant, the alleged offender, the immediate supervisor of the alleged offender, and the appropriate vice president.

(e) Review.

1. Either party may seek review of the finding of the Office of Equal Opportunity Programs to the Vice President for Business & Finance or a designee by filing a request for a review within twenty (20) days of receipt of the Office of Equal Opportunity Programs finding. It shall specify the basis of the appeal. The appeal shall be based on one or more of the following: relevant evidence was not reviewed and/or new evidence is available; or, the factual evidence was insufficient to support the findings.
2. The request shall be in writing, and shall set forth the issues to be considered in the appeal. Copies of the appeal shall be provided to the opposing party and to the Assistant Vice President, Equal Opportunity Programs.
3. The opposing party and the Assistant Vice President, Equal Opportunity Programs, may file a response to the appeal to the Vice President of Business and Finance within twenty (20) days of receipt of the appeal.
4. The Vice President of Business & Finance or designee shall issue a written finding no more than twenty (20) days after receipt of the appeal, or of a response to the appeal, whichever is later.

(f) Resolution. Upon final acceptance by the Vice President for Business and Finance of a finding on the complaint, the immediate supervisor of the alleged offender may provide a reasonable resolution to the complaint (e.g., that a student be allowed to change sections, that the employee report to a different supervisor) and may also recommend or take disciplinary action against the alleged offender; the proposed resolution shall be approved by the Office of Equal Opportunity Programs. Disciplinary action shall be taken in accordance with the rules and regulations affecting the class of employee and the terms of any applicable collective bargaining agreement.

(g) Prohibition of Retaliation. No University employee shall retaliate against a complainant. Any attempt to penalize a student, employee or agent for initiating a complaint through any form of retaliation shall be treated as a separate allegation of discrimination.

Specific Authority: 240.227(1), 240.261 FS., Law Implemented: 228.2001, 240.227(1), 240.261, 760.10 FS. – New July 3, 1997.