

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: February 20, 2013

REGULATION TITLE:

Non-Discrimination/Harassment/Invasion of Privacy Policies

REGULATION NO.:

1.006

SUMMARY: Pursuant to federal regulations and consistent with long-standing policies and practices, the changes state that sexual misconduct is a form of sex discrimination that subjects University personnel and students to disciplinary action. It is also made clear that violation of any provision of Regulation 1.006 will result in discipline.

AUTHORITY: BOG Regulation 1.001.

COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Rebecca J. Holt, Senior Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION: Paula Fussell, Vice President for Human Resource Services

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS OF THE
UNIVERSITY OF FLORIDA

1.006 Non-Discrimination/Harassment/Invasion of Privacy Policies.

(1) The University shall actively promote equal opportunity policies and practices conforming to laws against discrimination. The University is committed to non-discrimination with respect to race, creed, color, religion, age, disability, sex, sexual orientation, gender identity and expression, marital status, national origin, political opinions or affiliations, genetic information and veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act. This commitment applies in all areas to students, Academic Personnel (AP), Technical, Executive, Administrative, and Managerial Support (TEAMS) staff, University Support Personnel System (USPS) personnel, and Other Personnel Services (OPS) employees. This commitment intends to reflect the University's belief that educational and employment decisions and access to University activities should be based on individuals' abilities and qualifications and not on irrelevant factors, as well as that the University values broad diversity within our community and is committed to diversity and eliminating discrimination.

(2) It is the policy of the University that each employee and student be allowed to work and study in an environment free from any form of discrimination or harassment as defined in University regulations or law.

(a) Sexual harassment is a form of sex discrimination under Title VII of the Civil Rights Act of 1964, ~~and is conduct unbecoming a State employee as provided in Section 110.227, Fla. Stat.~~

~~(a)~~ Sexual harassment is defined as unwelcome sexual advances, or requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment or academic status.
2. Submission to or rejection of such conduct or request by an individual is used as the basis for employment or academic decisions affecting such individual, or
3. Such conduct or request has the purpose or effect of unreasonably interfering with an individual's work or academic performance or of creating an intimidating, hostile work-related or academic environment.

(b) Sexual misconduct is a form of sex discrimination. Sexual misconduct is defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. For the purposes of this regulation sexual misconduct includes sexual violence, sexual exploitation, non-consensual sexual contact and non-consensual sexual intercourse. Sexual violence includes rape, sexual assault, sexual battery and sexual coercion.

~~(c)~~ Disciplinary Action.

1. Any employee or student of the University who is found to have ~~sexually~~ harassed or discriminated against another employee or applicant for employment or student, will be subject to disciplinary action up to and including dismissal or expulsion.
2. Any employee or student in a supervisory capacity who has actual knowledge by direct observation or by receipt of a complaint of sexual harassment or sexual misconduct involving any of those employees he or she supervises or over whomever he or she has managerial authority, and who does not investigate, and, if appropriate, take corrective action or report the matter directly to the Director of Employee and Labor Relations~~Institutional Equity~~ ~~and Diversity~~, shall be subject to disciplinary action up to and including dismissal or expulsion.

(3) Complaints and Appeal Procedures. Any employee or student who believes that he or she is a victim of discrimination or harassment, including without limitation sexual harassment [and sexual misconduct](#) as defined above or retaliation for filing a claim of discrimination, may pursue informal resolution of the complaint or may file a formal written complaint in accordance with University of Florida Regulations 1.0063 and 4.012. Employees and students may contact the Director of [Employee and Labor Relations](#)~~Institutional Equity and Diversity~~ to seek assistance in informally resolving the complaint or in filing a formal complaint or grievance.

(4) Invasion of Privacy. The University prohibits making, using, disclosing or distributing a recording of a person in a location or situation in which that person has a reasonable expectation of privacy and is unaware of the recording or does not consent to it; and any other conduct that constitutes an invasion of privacy of another person under applicable law or University regulations. [Any employee or student of the University who is found to have so invaded the privacy of another person, shall be subject to disciplinary action up to and including dismissal or expulsion.](#)

(a) It shall not be a violation of this provision to make a recording authorized by the Florida Sunshine Law, any other law or University regulation or policy. Any making, use, disclosure, or distribution of an authorized recording must comply with the requirements of the applicable authorization, law and/or University regulation or policy, including without limitation obtaining any required notice or consent.

(b) University policies may provide further information and requirements concerning making, using, disclosing and distributing recordings. Refer to University websites for policies on recording and on privacy.

(c) Recording is defined as any recording, visual (for example and without limitation, photographs, videos), audio or both, in any medium, using any technology.

Authority: BOG Regulation 1.001.

History--New 2-23-82, Amended 3-6-85, 11-13-90, 4-30-95, 11-25-03, 10-11-07 (technical changes only), Formerly 6C1-1.006, Amended 3-16-10, 9-30-10 (technical changes only), 12-10-10, [_____](#).