

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED REGULATION**

REGULATION NUMBER AND TITLE: FPU-1.004 Non-Discrimination/Equal Opportunity.

SUMMARY OF THE REGULATION: This regulation provides guidelines and information regarding: conduct that constitutes unlawful discrimination or harassment, reporting responsibilities, and requirements for filing a complaint of discrimination or harassment with the University.

TEXT OF REGULATION: The full text of the Proposed Regulation can be viewed below and on the Florida Polytechnic University Board of Trustees website, at <http://floridapolytechnic.org/board-of-trustees/university-policies-and-regulations/>.

If you would like a copy of the Proposed Regulation, please contact Bacogie Luke, Administrative Assistant to the VP and General Counsel at (863)583-9061.

AUTHORITY: Board of Governors Regulation 1.001.

NAME OF PERSON INITIATING PROPOSED REGULATION: Gina DeIulio, VP and General Counsel.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Bacogie Luke, Administrative Assistant to the VP and General Counsel at 439 South Florida Avenue, Suite 300, Lakeland, Florida 33810, Email: bluke@floridapolytechnic.org, Phone: (863)583-9061, Fax: (863)583-9070.

DATE OF PUBLICATION: November 16, 2013

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

FPU-1.004 Non-Discrimination/Equal Opportunity.

(1) Purpose. The University is committed to providing and maintaining a dignified environment in which all members of the University Community appreciate and respect one another by collectively sustaining a welcoming environment to work, study, and interact with one another free from any form of unlawful discrimination. The University shall not unlawfully discriminate in offering access to any educational programs or activities or in conducting its employment practices on the basis of race, color, national origin, marital status, sex, religion, age, disability, sexual orientation, gender identity, gender expression, or veteran status (each hereinafter referred to as a “protected class”) or any other legally protected class or basis under applicable federal and/or state laws. The purpose of this regulation is to provide the University’s expectations to maintain and foster an inclusive and welcoming environment in which diversity is valued and opportunity is equalized. This regulation provides guidelines and information regarding: conduct that constitutes unlawful discrimination or harassment, reporting responsibilities, and requirements for filing a complaint of discrimination or harassment with the University. All complaints of discrimination or harassment filed with the University will be handled in accordance with applicable University grievance and disciplinary procedures.

(2) Definitions.

- (a) **Discrimination** is defined as unlawful disparate, different or otherwise unfair treatment of an individual that is different than others similarly situated, whether intentional or unintentional, based on a protected class and includes harassment and retaliation.
- (b) **Harassment**, under this regulation, is an unlawful form of discrimination and is defined as unwelcome or offensive conduct that is based on a protected class when such conduct:
 - i. is so frequent or so severe that it creates an intimidating, hostile, offensive, or abusive educational or work environment; or
 - ii. results in an adverse education or employment decision

A victim of unlawful harassment does not have to be the individual that is the target of such harassing conduct when the conduct effectually results in creating a hostile environment.
- (c) **Retaliation** is defined as unlawful adverse or negative action towards an individual because that person reported or filed a complaint, testified or participated in an investigation or proceeding, or opposed discriminatory practices in relation to unlawful discrimination or harassment based on a protected class.
- (d) **University Community**, for purposes of this regulation, is defined to include individuals applying for enrollment or employment to the University; students; University faculty and employees, both part-time and full-time; visitors; and contracted agents and vendors.

(3) Statement of Regulation. The University does not discriminate on any basis prohibited by federal and/or state law, including race, color, national origin, marital status, sex, religion, age, disability, or veteran’s status in recruitment, employment, promotion, compensation, benefits, and training. The University ensures equal access to educational programs and related opportunities for enrolled students, without regard to race, color, national origin, marital status, sex, religion, age, disability, or veteran’s status.

The University does not tolerate any form of unlawful discrimination, including harassment and retaliation, directed towards any individual within the University Community. Accordingly, the University expects every member of the University Community to observe and comply with the University's non-discrimination and equal opportunity principles set forth in this regulation and in applicable federal and state laws. All members of the University Community are responsible for ensuring their compliance with this regulation. While certain individual members of the University Community have a duty to report violations of this regulation, all other members are strongly encouraged to do the same to ensure Community compliance.

The educational environment provided by the University is unique in that there must be freedom to express ideas and foster communication on subjects that enhance the University's educational mission and goals. Accordingly, while the University is committed to providing a learning environment free from unlawful discrimination, the purpose of this regulation is not intended to abridge academic freedom or interfere with speech, as guaranteed by the First Amendment, in any way. Respect for diverse viewpoints, experiences, and intellectual pursuits is a cornerstone for learning, and this environment of dignity shall be representative of the University in its commitment.

Disparate treatment on the basis of a protected class shall not constitute a violation of this regulation if such disparate treatment is required and/or permitted under federal or state law.

(4) **Examples of Discrimination.** Examples of conduct that falls within the definition of unlawful discrimination, when based on a protected class, include, but are not limited to:

- (a) Disparate treatment in recruitment, hiring, assignment, training, promotion, transfer, compensation, benefits, discharge, or any other term or condition of employment.
- (b) Disparate treatment in admission and access to educational programs or related support services.
- (c) Disparate treatment in access to housing accommodations, or any related service or benefit, provided by the University.
- (d) Disparate treatment in access or selection in athletic, cultural or social activities occurring on University property or sponsored by the University.
- (e) Disparate treatment or application related to University grievance or disciplinary procedures.
- (f) Contractual arrangements or other professional relationships that utilize or otherwise subject members of the University Community to disparate or adverse treatment.

(5) **Examples of Harassment.** Examples of conduct that falls within the definition of unlawful harassment, when based on a protected class, include, but are not limited to:

- (a) Verbal acts, offensive jokes, slurs, epithets or name calling.
- (b) Intimidation, physical assaults, or threats.
- (c) Ridicule, mockery, insults, or put-downs.
- (d) Displaying, transmitting, or sending offensive or inappropriate objects, pictures, or communications, by any medium.
- (e) Suggestive, insulting or obscene gestures or sounds.

- (f) Conduct that is so severe, pervasive, or persistent so as to interfere with or limit an individual's ability to participate in or benefit from the services, activities, or opportunities offered by the University.

(6) **Violations.** It shall be a violation of this regulation for any member of the University Community to engage in any conduct or behavior that is characterized as discriminatory, harassing, and/or retaliatory and is based on a protected class. Individuals who fail to comply with his or her duty to report, as prescribed herein, shall be in violation of this regulation. Any individual charged with a violation of this regulation will be subject to disciplinary and other action up to and including expulsion or termination. Any individual who acts in violation of federal or state law may also be subject to criminal prosecution.

(7) **Responsibility to Report.** In order to maintain an environment free from discrimination, all members of the University Community shall acknowledge their individual responsibility to report any incidents or allegations. Any individual who believes another person is being subjected to discrimination is strongly encouraged to promptly report the matter. All University employees have an absolute and unqualified duty to immediately report all known incidents or allegations.

(a) **Supervisors.** All supervisory employees (defined, for purposes of this regulation, as persons supervising one or more employees) are required to immediately report all allegations, reports or instances of alleged discrimination, by or against any other person, to the President, Human Resources, the Director of Student Affairs, or the Provost.

(b) **University Faculty.** All University faculty members are required to immediately report all allegations, reports, or instances of alleged discrimination, by or against any person, to an immediate supervisor, the President, Human Resources, the Director of Student Affairs, or the Provost.

(c) **Members of the University Community.** All individuals who feel that they have been subjected to discrimination are encouraged to inform the discriminator that the conduct is unwelcome and must stop. An individual who feels uncomfortable and/or harmed by offensive behavior should attempt to remove himself/herself from the offending situation and report such behavior as soon as possible to the President, Human Resources, the Director of Student Affairs, or the Provost. Failure to take affirmative steps to stop discriminatory or harassing conduct in no way bars an individual from seeking relief through the filing of a complaint with the University or any external agency.

(8) **University Vendors and Contractors.** The prohibited conduct contained in this regulation shall apply to University vendors and contractors. In the event conduct by a University contractor or vendor is determined to be in violation of this regulation, the University shall take action against the vendor or contractor, as deemed appropriate, and in accordance with the terms of the governing contract or agreement.

(9) **Reporting Violations.** Any individual member of the University Community who believes that he or she is a victim of unlawful discrimination, including harassment, or retaliation may take formal or informal action. All formal complaints filed with the President will be addressed in accordance with the University's Complaint and Investigation Procedures.

While the University encourages members of the University Community to utilize the internal complaint process prior to filing an external complaint, individuals are not required to do so. Employees have the right to proceed directly to the Equal Employment Opportunity Commission (EEOC) to file a complaint and students may proceed directly to the Office for Civil Rights (OCR), U.S. Department of Education.

Authority: BOG regulation 1.001.

History: New: _____