

UNIVERSITY POLICY P-13.00 – 02/09

TO: University of West Florida Community
FROM: Dr. Judith Bense, President
SUBJECT: **Policy Prohibiting Discrimination, Harassment and Retaliation**

1. Introduction

The University of West Florida is dedicated to providing an inclusive and welcoming environment for all who interact in our community. In continuing to build a diverse environment, UWF strives to attract students, faculty and staff from a variety of cultures, backgrounds and life experiences. The University of West Florida is committed to ensuring that each member of the University community is permitted to work and study in an environment which is free from discrimination or harassment based on the following protected classes: **age, color, disability, gender, marital status, national origin, race, religion, sexual orientation and veteran status** and which is free from prohibited retaliation, as described in this policy.

2. Policy Statement

In order to ensure that educational and employment decisions made by the University are based on the qualifications, skills and abilities of those desiring to work, study and participate in our University community, the University has adopted the following policy statement:

Policy Statement

The University of West Florida will not tolerate discrimination, harassment, or retaliation, as described in this policy, in the workplace or educational environment.

- Discrimination or harassment by any member of the University community against any other member of the University community on the basis of the individual's age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veteran status is prohibited.
- Retaliation, as described in this policy, by any member of the University community against any other member of the University community is prohibited.

Each member of the University community is responsible for being familiar with this policy and for refraining from conduct that violates this policy.

While it is recognized that the University honors freedom of academic expression, it is essential that the University maintain a working and educational environment free of prohibited discrimination, harassment and retaliation.

3. Scope of the Policy

For purposes of this policy, the University community is defined as the employees, officers, students and agents of the University. This policy applies to all such persons while they are on University property or are participating in University-sponsored activities off campus. This policy also applies to applicants for employment. In addition, vendors, contractors and other third parties, when doing business with or visiting the University, are required to adhere to the prohibitions of this policy.

4. Definitions and Descriptions of Prohibited Conduct

A. Discrimination

For the purpose of this policy, discrimination is defined as differential treatment based on membership in a protected class (age, color, disability, gender, marital status, national origin, race, religion, sexual orientation and veteran status). Conduct which falls into the definition of discrimination includes, but is not limited to, the following:

- (I). Disparity of treatment in hiring, promotion, termination, salary and other applicable terms and conditions of employment, on the basis of membership in a protected class;
- (II). Disparity of treatment in educational programs, activities and related services, on the basis of membership in a protected class; or
- (III). Limitation on participation in athletic, social, cultural or other activities of the University, because of membership in a protected class that is not based on a *bona fide* requirement or distinction.

B. Harassment

(I). Harassment Based Upon a Protected Class

For the purpose of this policy, harassment is defined as unwelcome conduct which is based on an individual's protected class (age, color, disability, gender, marital status, national origin, race, religion, sexual orientation and veteran status) that is sufficiently severe, pervasive, or objectively offensive as to alter the terms and conditions of employment or substantially disrupt the educational environment.

(II). Sexual Harassment

Sexual harassment is a type of harassment based upon an individual's gender. For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct of a sexual nature when:

- (a). Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment or educational status or success;
- (b). Submission to or rejection of such conduct or request by an individual is used as the basis for an employment or educational decision affecting such individual; or
- (c). Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creates an objectively intimidating, hostile or offensive working or educational environment.

C. Retaliation

For the purpose of this policy, retaliation is defined as a materially adverse employment or educational action taken by the University against a member of the University community because he or she:

- (I). Reported discrimination or harassment in good faith,
- (II). Participated in an investigation or review regarding a complaint, or
- (III). Opposed or protested practices which are prohibited.

5. How to Report Discrimination

University employees, students, and other members of the University community who believe they may have been subject to discrimination, harassment or retaliation prohibited by this policy may, and are encouraged to, report this information to *any* of the following persons: their immediate supervisor, any vice president, the Associate Vice President for Human Resources, the coordinator for Equal Opportunity, the Dean of Students, the Director of Housing and Residence Life, or the office of the General Counsel. The coordinator for Equal Opportunity is a part of the Office of Human Resources. The Office of Human Resources is located in Building 20E. The telephone number is 474-2694. For contact information for the other individuals, please consult the printed University directory or <https://nautical.uwf.edu/people/main.cfm>.

Where there are any concerns for personal safety or destruction of University property the UWF Police department should be contacted. The telephone number is 474-2415.

6. Responsibility to Report

When any University supervisory employee receives a report of, observes, or learns of an alleged violation of this policy, he or she is required to report the information to the Office of Human Resources. The supervisory employee is also required to report the information to his/her immediate supervisor unless the immediate supervisor is alleged to be involved. Supervisory employees failing to report such information in a timely manner may be subject to disciplinary action up to and including dismissal.

7. Initial Response to Report

After receiving a report of an alleged violation of this policy, an investigator from the Office of Human Resources will meet with the individual who believes he or she may have been subject to discrimination, harassment, or retaliation to discuss the concerns. The investigator will advise the individual that he or she may file a complaint.

8. University Action

The University may, in order to promptly address concerns raised, take action before a complaint is investigated, in an effort to prevent conduct which might result in violation of this policy or conduct which, if continued, would likely lead to a violation of this policy.

9. Processing of the Complaint

Complaints will be processed and investigated in accordance with the *Procedure for Investigation and Disposition of Complaints of Discrimination, Harassment, or Retaliation* which can be found on the web at www.uwf.edu/ohr and <http://uwf.edu/studentaffairs/DOSOffice.shtml>. The following is a summary of those procedures; however, please consult the procedures for specific information:

- A.** The Office of Human Resources is responsible for administering the complaint and investigation process for complaints based on protected class discrimination, harassment or retaliation. If a threshold determination indicates that an investigation is required, the University will notify the individual complaining (the “Complainant”) and the individual alleged to have engaged in discriminatory, harassing or retaliatory conduct (the “Respondent”) that an investigation will begin.
- B.** An investigator from the Office of Human Resources will investigate the complaint. The Office of the General Counsel and the Office of Human Resources shall provide advice and counsel to the investigator. The investigation shall be concluded within 90 calendar days of the filing of the complaint, if practicable. This time period may be extended where necessary.
- C.** After the investigation is concluded, the investigator shall prepare an investigative Report (“Report”). The Report shall include a summary of the complaint, a description of the investigation, and a recommendation regarding whether a violation of University policy prohibiting discrimination, harassment or retaliation occurred. Copies of the Report shall be furnished to the Complainant and Respondent. The Complainant and the Respondent shall have an opportunity to submit written comments relating to the Report.
- D.** The appropriate Dean, Director or Vice President shall consider the Report and any written comments submitted by the Complainant and Respondent and within 21 calendar days shall prepare a written Final Determination (“Final

Determination”). The Final Determination shall be sent to the Complainant and Respondent.

10. Responsibility of University Employees to Cooperate in Investigation

University employees have a duty to cooperate fully in an investigation of discrimination, harassment or retaliation. This duty includes, among other things, speaking with the investigator and providing copies of any documentation which relates to the claim being investigated. The failure or refusal of any employee to cooperate in an investigation may result in disciplinary action up to and including dismissal.

11. Appeal of Report and Determination

- A. The Complainant and/or the Respondent may appeal the Report and Final Determination by filing a letter of appeal within 21 calendar days of the date of the Final Determination.
- B. The appeal must be filed with the Office of Human Resources. The following individuals will make determinations on appeals or designate others to do so:
 - (I). The Provost if the Respondent is a faculty member,
 - (II). The Vice President supervising the Respondent if the Respondent is a staff member, or
 - (III). The Vice President for Student Affairs if the Respondent is a student.
- C. The bases for appeal are limited to the following:
 - (I). New relevant evidence is discovered which was not available by the date the Report was issued; or
 - (II). The *Procedure for Investigation and Disposition of Complaints of Discrimination, Harassment or Retaliation* was not followed, or
 - (III). The decision is not supported by substantial information.
- D. The Provost, Vice President or designee shall issue a written decision within 60 days of the date of receipt of the appeal. The appeal decision shall be sent to the Complainant and the Respondent by certified mail and to the Dean, Director or Vice President who issued the Final Determination.
- E. Disciplinary action will not be taken until the appeal process is completed or until the time to file an appeal has expired. If disciplinary action is taken it shall only be taken in accordance with applicable University regulations, policies or collective bargaining agreements.

12. Discipline

- A. Discrimination, harassment and retaliation are prohibited and may result in disciplinary action up to and including dismissal or expulsion. Disciplinary action is subject to applicable University regulations and policies, the Student Code of Conduct and applicable collective bargaining agreements.
- B. Where warranted and where the authority to do so exists, the University shall take action against vendors, contractors or other third parties found responsible for violating this policy.
- C. Any Complainant found to knowingly make false complaints of prohibited discrimination, harassment or retaliation may be subject to disciplinary action up to and including dismissal.

13. Investigation Records

Pursuant to Section 1012.91, Florida Statutes, records of investigations of employee misconduct including allegations of discrimination are confidential until the investigation is completed. In cases where sexual harassment is alleged, however, information identifying complainants or witnesses or which could lead to their identification is confidential and exempt from Chapter 119, Florida Statutes, public records requests. Pursuant to 20 U.S.C. Section 1232g and Section 1002.22, Florida Statutes, personally identifiable student records, including records of student misconduct, are considered confidential and exempt from Chapter 119, Florida Statutes, public records requests.

14. Conflict of Interest

If an individual, who, because of his or her position would ordinarily participate in the administration or disposition of a complaint, files a complaint or becomes involved in a case as a Complainant, Respondent or Witness, the University will assign an alternate individual(s) to participate in the administration and/or disposition of the case.

Approved By: _____

Dr. Judith Bense, President

Date: _____

2/13/09 JB