

Deleted: -

ARTICLE 6
NONDISCRIMINATION

Formatted: Font: 14 pt

Formatted: Font: 14 pt

6.1 Statement of Intent.

(a) The Board and the UFF recognize their obligations under federal and state laws, rules, and regulations prohibiting discrimination or harassment.

(b) The Board and the UFF affirm their support for the concepts of diversity and affirmative action. They recognize that the purpose of affirmative action is to provide equal opportunity in employment. The Board and the UFF shall implement programs, policies, and practices to facilitate the recruitment, appointment, retention and professional development of women and minorities. This statement of intent is not subject to Article 20, Grievance Procedure and Arbitration.

6.2 Policy.

(a) Discrimination.

(1) Personnel decisions shall be based solely on job-related criteria and performance.

(2) Furthermore, neither the Board nor the UFF shall discriminate against any faculty member based upon race, color, sex, religious creed, national origin, age, veteran status, disability, political affiliation, marital status, sexual orientation, gender identity or gender expression, nor shall the Board or the UFF abridge any rights of faculty members related to union activity granted under Chapter 447, Florida Statutes, including but not limited to the right to assist or to refrain from assisting the UFF, or the exercise of any rights under this Agreement.

Deleted: or


(3) Should state or federal law establish any additional protected category for claims of discrimination during the term of this Agreement, the Board and the UFF agree to modify the Agreement pursuant to Section 30.2.

(b) Harassment.

(1) Some types of workplace harassment may constitute discrimination.

(2) The faculty shall be protected from workplace harassment that is premised upon sex/gender or other protected classes of individuals.

Approved: _____


For the Florida State University
Board of Trustees

Approved: _____


For the United Faculty of Florida

Date: _____

06-28-10

Date: _____

28 June 2010

(3) In *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986), the United States Supreme Court recognized two types of sexual harassment in employment: quid-pro-quo harassment and hostile-environment harassment.

a. The Supreme Court defined hostile-environment harassment as occurring only when "the workplace is permeated with 'discriminatory intimidation, ridicule, and insult' that is 'sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment'" (*Harris v. Forklift Systems, Inc.*, 510 U.S. 17, (1993), quoting *Meritor*, 477 U.S. AT 65, 67).

b. The EEOC Guidelines provide that "'quid pro quo harassment' occurs when 'submission to or rejection of [unwelcome sexual] conduct by an individual is used as the basis for employment decisions affecting such individual'" (EEOC, "Policy Guidance on Current Issues of Sexual Harassment," No. N-915-050 [March 19, 1990], quoting 29 CFR 1604.11A[2-3]).

c. Title VII does not proscribe all conduct of a sexual nature in the workplace (EEOC, "Policy Guidance on Current Issues of Sexual Harassment," No. N-915-050, 3/19/90). However, even consensual sexual relationships may involve a conflict of interest. Such conflicts of interest are subject to the provisions of Article 19.

(4) In addition to the Board and the UFF's concern with respect to sexual harassment between employees, the Board and the UFF recognize the potential for this form of illegal discrimination involving students, including unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that constitutes sexual harassment.

(5) Furthermore, the Board and the UFF recognize that sexual relationships between faculty and students, even if consensual, may become exploitative and especially so when a student's academic work, residential life, or athletic endeavors are supervised or evaluated by the faculty member.

(6) Policies and regulations regarding harassment are intended to protect individuals from discrimination, not to regulate the content of speech, or restrict the academic freedom or free speech rights of faculty.

6.3 Investigation of Complaints of Discrimination or Harassment. Charges of discrimination, including complaints of harassment, shall be promptly investigated according to the following:

Approved: 
For the Florida State University
Board of Trustees

Approved: 
For the United Faculty of Florida

Date: 06-28-10

Date: 28 June 2010

(a) No retaliation shall be made by a faculty member, the Board or the UFF against any party, witness or representative arising from their good faith participation in the investigation process.

(b) The Board shall take appropriate remedial measures to correct any finding of discrimination or harassment that is found.

(c) The remedial measures shall not adversely affect the faculty member who was found to be the object of discrimination or harassment.

(d) In the process of investigating discrimination or harassment the conduct shall be considered in the context of the entire circumstances.

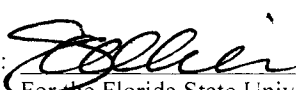
(e) The investigative report shall contain at least the following information:

- (1) The nature of the complaint;
- (2) All formal statements by the parties;
- (3) A summary of the findings; and
- (4) A conclusion as to whether there is cause to determine that discrimination or harassment has occurred.

(f) In instances where no finding of discrimination or harassment is made, no record of the complaint shall be placed in the faculty member's evaluation file unless the faculty member requests in writing that a record of the complete investigation be placed in the evaluation file.

(g) No faculty member shall be disciplined for discrimination or harassment until the investigation is complete and a finding of discrimination or harassment has been issued. The Board may determine that non-disciplinary action is appropriate pending the completion of the investigation. The faculty member may be placed on administrative leave pursuant to Article 17 of this Agreement during the investigation.

(h) Disciplinary actions shall follow the policy of progressive discipline, pursuant to Article 16, Disciplinary Action.

Approved: 
For the Florida State University
Board of Trustees

Approved: 
For the United Faculty of Florida

Date: 06-28-10

Date: 28 June 2010

6.4 Access to Documents. No faculty member shall be refused a request to inspect and copy documents relating to any claim of discrimination to which the faculty member is a party, except for records that are exempt from the provisions of the Public Records Act, Chapter 119, Florida Statutes.

6.5 Grievance Procedures.

(a) Claims of discrimination or harassment brought against the Board may be presented as grievances pursuant to Article 20, Grievance Procedure and Arbitration. However, no grievance may be maintained under this section if the faculty member has also initiated a complaint arising from the same issue(s) filed with any court or fair employment practices agency, except as specifically provided for in Article 20. This article cannot be relied upon to grieve issues that are not a violation of a provision of this Agreement.

(b) Appeals of adverse employment decisions made against faculty accused of discrimination or harassment may be presented as grievances pursuant to Article 20, Grievance Procedure and Arbitration.

Approved: _____


For the Florida State University
Board of Trustees

Approved: _____


For the United Faculty of Florida

Date: _____

06-28-10

Date: _____

28 JUN 2010