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6C10-1.003 Non-Discrimination Policy and Complaint Procedures

(1) General Statement

(a) Florida Gulf Coast 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 (or handicap), sex, national origin, marital status, and veteran status, except as otherwise permitted by law. The University strives to create 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, and sexual harassment as defined in Rule 6C10-1.004.

(b) It shall be a violation of this rule for any officer, employee, agent, vendor, or contractor to discriminate against or harass, as hereinafter defined, any employee, student, or applicant for employment or admission. Discrimination and harassment are forms of conduct which shall result in disciplinary action pursuant to University Rule 6C10-5.016 and 6C10-5.022 and the terms of any applicable collective bargaining agreement as to employees, or action permitted by law or contract as to vendors and contractors.

(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 (or handicap), 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. Disparate treatment in recruitment, hiring, training, promotion, transfer, reassignment, termination, discipline, salary and other economic benefits, and all other terms and conditions of employment on the basis of membership in one of the categories protected in

sub-paragraph (a), above.

2. Disparate treatment in or access to educational programs and related support services on the basis of membership in one of the categories protected in

sub-paragraph (a), above.

3. Limitation in access to housing, or to participation in athletic, social, cultural or other activities of the University because of membership in one of the categories protected in sub-paragraph (a), above.

4. Failure to abide by the terms of a conciliated agreement.

5. Retaliation for filing complaints or protesting practices which are prohibited under this rule.

(c) Conduct which falls within the definition of harassment includes, but is not limited to, that 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 and is based upon membership in one of the categories protected in sub-paragraph (a), above. 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, such as, objectionable epithets, threatened or actual physical harm or abuse, or other intimidating or insulting conduct directed against the individual.

(d) Scope of prohibitions: This rule covers all educational, athletic, cultural and social activities occurring on a campus of or sponsored by Florida Gulf Coast University, housing supplied by the University, and employment practices between the University and its employees, including Other Personal 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 of Complaints.

(a) Administration and Consultation. The Office of Equal Opportunity Programs shall administer the policies and procedures outlined in this rule, answer inquiries regarding the procedures, and provide informal advice regarding issues of discrimination. In cases where the complainant chooses not to file a formal complaint, action will be taken to inform the alleged offender of the concerns, suggesting that if the allegations are true, the individual monitor and modify his/her behavior.

(b) Formal Complaint.

1. A complaint must be made in writing to the Office of Equal Opportunity Programs using Discrimination Complaint Form EOP-D100 (10-96). Form EOP-D100, which is incorporated by reference, has been approved by the University President and is available upon request at the Office of Equal Opportunity Programs, 17595 S. Tamiami Trail, Fort Myers, FL 33908-4500. 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 should be filed within sixty (60) days of the alleged act(s) of discrimination, or in the case of a student complaint against a faculty member, within fourteen (14) days of the beginning of class of the following semester. This provision shall not limit the University in any way from initiating its own investigation and taking appropriate action should such be deemed warranted under the circumstances presented.

3. The Office of Equal Opportunity Programs shall investigate the complaint. The investigation may include, but shall not be limited to, interviewing the person complained about regarding the allegations, and/or 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 sixty (60) 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 shall notify the Office of Equal Opportunity Programs.

(d) Findings. The report of the Office of Equal Opportunity Programs

shall be made to the complainant, the alleged offender, the immediate supervisor and the Vice President of the alleged offender, or in cases of allegations against a vice president, to the President.

(e) Review.

1. Either party may seek review of the findings by filing a written appeal within fourteen (14) days of receipt, with the Vice President or designee of the alleged offender, or if the alleged offender is the Vice President, with the President. The appeal shall be based on one or more of the following grounds: relevant evidence was not reviewed; discovery of new evidence that was previously not available through exercise of reasonable diligence; or, the factual evidence was insufficient to support the findings.

2. Copies of the appeal shall be provided to the opposing party and to the Office of Equal Opportunity Programs.

3. The opposing party and/or the Office of Equal Opportunity Programs may file a response to the appeal with the Vice President or designee, within fourteen (14) days of receipt of the appeal.

4. The Vice President or designee or the President, in cases of allegations against a vice president, shall issue a written finding no more than fourteen (14) days after receipt of the appeal, or of a response to the appeal, whichever is later.

(f) Resolution. The Vice President or designee, or the President, in cases of allegations against a vice president, shall issue a finding of cause or no cause on the complaint. Where there is a finding of cause, the immediate supervisor of the alleged offender shall propose a resolution to the complaint (e.g., that a student be allowed to change sections, that the employee report to a different supervisor) and shall recommend or take disciplinary action against the offender. The proposed resolution shall be approved by the Office of Equal Opportunity Programs. Disciplinary action shall be taken in accordance with University disciplinary guidelines contained in University Rules 6C10-5.016 and 6C10-5.022 and the terms of any applicable collective bargaining agreement.

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

(h) The procedures contained in this rule apply to vendors and contractors, except that the Director, Equal Opportunity Programs shall consult with the contract manager to determine how the investigation will be undertaken. Upon determination that there is probable cause to believe that discrimination occurred, the University shall take action against the vendor or contractor in accordance with the terms of the party's contract.

(4) Election of Remedies; Complainant's Right to Seek Remedy Outside the University.

(a) The doctrine of election of remedies shall apply to complaints filed pursuant to this rule. Should a complainant elect to pursue an alternative remedy available to them, including the filing of a grievance pursuant to the collective bargaining agreement, or pursuant to the University Rules 6C10-5.016 or 6C10-5.020, the filing of any such grievance shall operate as a waiver of the Complainant's right to file a complaint and avail themselves of the procedures available under this rule. Should a grievance be filed pursuant to an alternative remedy and subsequent to the filing of a Complaint under this rule but before proceedings under this rule have been completed, the filing of any such grievance nonetheless will act as a waiver, and proceedings pursuant to this rule shall be terminated. As an exception to this provision, a complainant may file an EEOC charge while the complaint is in progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. § 2000e et seq.

(b) The doctrine of election of remedies shall also apply to appeals filed

by persons against whom a complaint has been filed. The filing of an appeal pursuant to an alternative remedy by a person against whom a complaint has been filed, including the filing of a grievance under the collective bargaining agreement, or the filing of a petition for a hearing pursuant to Section 120.57, Florida Statutes, shall operate as a waiver of the right to appeal to the President the decision of a Vice President pursuant to this rule.

(5) Frivolous or Malicious Complaints. In the event that a claim of discrimination or sexual harassment is found to be frivolous or malicious, disciplinary action shall be taken against the complainant, pursuant to University Rules 6C10-5.016 and 6C10-5.022 and the terms of any applicable collective bargaining agreement as to employees, and University Rule 6C10-4.003 as to students.

Specific Authority 240.227(1) FS, 240.261 FS. Law Implemented 240.227(5), 240.261 FS, 760.10 FS. History -- New 4-17-97.

FLORIDA GULF COAST UNIVERSITY

Complaint of Inequity/Discrimination:[Complaint Form](#)

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