

ARTICLE 6  
NONDISCRIMINATION

6.1 Statement of Intent. The University of Central Florida is an equal opportunity employer. The Board and the UFF shall protect and safeguard the rights and opportunities of each employee to work in an environment free from any form of discrimination or harassment, and fully support all laws intended to protect and safeguard these rights and opportunities. The parties recognize their obligations under federal and State laws, rules, and regulations prohibiting discrimination or harassment, and have made clear their support for the concepts of affirmative action and equal employment opportunity and diversity. The Board and the UFF affirm their commitment to create a diverse faculty, which brings new perspectives and new talent into the University.

(a) The parties have, in this Agreement, undertaken programs to ensure equitable opportunities for employees to receive salary adjustments, tenure, continuing multi-year appointments, successive fixed multi-year appointments, promotion, sabbaticals, and other benefits of employment, free from discrimination and/or harassment.

~~(b) a. To this end,~~ The Board and the UFF shall implement programs, policies, and practices to facilitate the recruitment, appointment, and retention of women, minorities, and other affected groups.

~~———— b. Furthermore, the Board and the UFF shall undertake equivalent programs to ensure equitable and adequate opportunities for employees to receive salary adjustments, tenure, continuing multi-year appointments, successive fixed multi-year appointments, promotion, sabbaticals, and other benefits necessary to achieve equitable and adequate terms and conditions of employment free from the discrimination and harassment proscribed in this article.~~

6.2 Policy.

(a) Discrimination and Harassment.

(1) The Board and the UFF shall not discriminate against or harass any employee, and shall protect employees from discrimination and harassment based upon race, color, sex, sexual orientation, gender identification, religious creed, ethnic origin, national origin, age, veteran status, medical condition, disability, political opinions or affiliation, ~~or~~ marital status, parental status, or any combination thereof; nor shall the Board or the UFF abridge any rights of employees related to union or collective activity, including those granted under Chapter 447, Florida Statutes, 2003, and 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.

(2) Harassment shall be defined as occurring when “the workplace is permeated with ‘discriminatory intimidation, ridicule, and insult’ that is ‘sufficiently severe

1 or pervasive to alter the conditions of the victim's employment and create an  
2 abusive working environment" (Harris v. Forklift Systems, inc., 510 U.S. 17,  
3 \_\_ (1993), quoting Meritor, 477 U.S. at 65, 67). Workplace conduct is not  
4 measured in isolation—simple teasing, incivility, off-hand comments, and  
5 isolated incidents (unless extremely serious) will not constitute harassment.  
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7 (3) Personnel decisions shall be based on job-related criteria and performance,  
8 pursuant to Article 10, Employee Performance and Evaluation.  
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10 (b) Sexual Harassment.

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12 (1) Sexual harassment is a prohibited form of sex discrimination under Section  
13 703 of Title VII of the Civil Rights Act of 1964, 42 USC SEC. 2000E-2(A).  
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15 (2) The Board strictly prohibits sexual harassment. Sexual harassment is defined  
16 as unwelcome sexual advances, requests for sexual favors, and other verbal or  
17 physical conduct of a sexual nature when:  
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19 a. submission to such conduct is made either explicitly or implicitly a  
20 term or condition of an individual's employment,  
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22 b. submission to or rejection of such conduct by an individual is used as  
23 the basis for employment decisions affecting such individual, or  
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25 c. such conduct has the purpose or effect of unreasonably interfering  
26 with an individual's work performance or creating an intimidating, hostile, or  
27 offensive working environment.  
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29 (3) In Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986), the United States  
30 Supreme Court recognized two types of sexual harassment: hostile-environment  
31 harassment and quid-pro-quo harassment. Hostile-environment harassment is  
32 defined in Section 6.2(a)(2) above. The EEOC Guidelines provide that "quid  
33 pro quo harassment" occurs when "submission to or rejection of [unwelcome  
34 sexual] conduct by an individual is used as the basis for employment decisions  
35 affecting such individual" (EEOC, "Policy Guidance on Current Issues of  
36 Sexual Harassment," No. N-915-050 [March 19, 1990], quoting 29 CFR  
37 1604.11A[2-3]).  
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39 (4) Title VII does not proscribe all conduct of a sexual nature in the workplace  
40 (EEOC, "Policy Guidance on Current Issues of Sexual Harassment," No. N-915-  
41 050, 3/19/90). The Board and the UFF recognize, however, that sexual  
42 relationships between employees and students, even if consensual, may become  
43 exploitative when a student's academic work, residential life, or athletic  
44 endeavors are supervised or evaluated by the employee (see Article 5). These  
45 relationships may involve a conflict of interest and should be addressed,  
46 pursuant to Article 19.

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2 (c) Harassment policies and regulations are intended to protect individuals from  
3 discrimination, not to regulate the content of speech, or restrict the academic freedom or free  
4 speech rights of employees. No activities within the scope of Article 5 may be subject to a claim  
5 of harassment.

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7 6.3 Investigation of Charges of Discrimination or Harassment. Charges of discrimination or  
8 harassment, including those filed by employees against the Board, alleging discrimination or  
9 harassment by students, shall be promptly reviewed/investigated according to the following  
10 principles:

11 (a) Prohibition of Retaliation or Reprisal.

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14 (1) Retaliation for exercising civil rights is prohibited by federal and state law.  
15 Employees shall not be subjected to harassment, intimidation, threats, coercion,  
16 or discrimination for filing a complaint, assisting in an investigation or other  
17 procedure related to the federal or state civil rights laws, or opposing a practice  
18 made illegal by those laws. Retaliation shall be regarded as seriously as  
19 discrimination itself and may justify discipline pursuant to the procedures  
20 established in Article 16.

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22 (4 2) No reprisal of any kind shall be made by an employee, the Board, or UFF  
23 against any party, any witness, any UFF representative, or any other participant  
24 in this process or in any grievance arising from this process by reason of such  
25 participation.

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27 (2 3) Any officer(s) of the Board or the UFF found to have committed such  
28 reprisal shall be fined thirty (30) days salary and shall not be eligible for salary  
29 increases for a period of one year.

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31 (b) Remedial measures shall correct the effects of the discrimination or harassment.

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33 (c) The remedial measures shall not adversely affect the employee who was the object  
34 of discrimination or harassment.

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36 (d) In determining whether the alleged conduct constitutes discrimination or harassment,  
37 consideration shall be given to the record of the incident as a whole and to the totality of the  
38 circumstances, including the context in which the alleged incidents occurred.

39 (e) The investigative report of the complaint of discrimination or harassment shall  
40 contain at least the following information:

41 (1) A statement of the issues under review.

42 (2) All statements by the parties.  
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1 (3) A summary of the results of the investigation.  
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3 (4) Conclusion as to whether there is probable cause to believe that  
4 discrimination or harassment, as defined in this Article, has occurred.  
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6 (f) In cases alleging discrimination or harassment by an employee and in which no  
7 finding of discrimination or harassment on any charge or complaint is made, no record of the  
8 charge or complaint will be placed in the employee's evaluation file unless the employee  
9 requests otherwise. The employee may request that a copy of the complete  
10 review/investigation be placed in the employee's evaluation file.  
11

12 (g) In cases alleging discrimination or harassment by an employee and in which, after  
13 the completion of the review/investigation, any finding of discrimination or harassment is  
14 made against the employee, a record of the complete findings will be placed in the employee's  
15 evaluation file.  
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17 (h) No employee shall be disciplined until such review is complete and unless a finding  
18 of discrimination or harassment by the employee has been issued.  
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20 (i) Disciplinary actions shall follow the policy of progressive discipline, pursuant to  
21 Article 16.  
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23 (j) An employee may bring a grievance under Article 20 or a formal appeal under  
24 Article 16, challenging a finding of discrimination or harassment. In such a grievance, if the  
25 defense of academic freedom is raised, the burden is on the Board to establish that the  
26 complained of activity was not covered by Article 5, and in the absence of such proof, the  
27 finding of discrimination or harassment shall be rescinded.  
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29 6.4 Access to Documents. No employee shall be refused a request to inspect and copy  
30 documents relating to claims under this Article, to which the employee is a party, except for  
31 records which are exempt from the provisions of the Public Records Act, Chapter 119, Florida  
32 Statutes, 2003. The Board shall provide copies of all requested documents within fourteen (14)  
33 days of its receipt of an employee's written request.  
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