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# The University of Georgia

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## **NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

### **OFFICIAL POLICY STATEMENTS**

#### **SEXUAL AND DISCRIMINATORY HARASSMENT**

The University of Georgia (“the University”) is committed to maintaining a fair and respectful environment for living, work and study. To that end, and in accordance with federal and state law, Board of Regents’ policy, and University policy, the University prohibits any member of the faculty, staff, administration, student body, volunteers or visitors to campus, whether they be guests, patrons, independent contractors, or clients, from harassing and/or discriminating against any other member of the University community because of that person’s race, sex (including sexual harassment), sexual orientation, ethnicity or national origin, religion, age, genetic information, disabled status, or status as a disabled veteran or veteran of the Vietnam era. Incidents of harassment and discrimination will be met with appropriate disciplinary action, up to and including dismissal from the University.

#### **NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

Consistent with federal and state law and University policy, the University of Georgia restates its commitment to the concepts of affirmative action and equal opportunity.

Neither employment nor study, nor institutional services, programs, and activities should be hindered by such prohibited bias factors as race, color, religion, national origin, sex, sexual orientation, age, genetic information, veteran status, or disability. Prohibited bias factors will not be permitted to have an adverse influence upon decisions regarding students, employees, applicants for admission, applicants for employment, contractors, volunteers or participants in and/or users of institutional programs, services, and activities. The University of Georgia will continue in its efforts to maintain an institutional environment free of such bias and restates its policy prohibiting the interference of such bias factors in institutional processes.

Every member of this university community is expected to uphold this policy as a matter of mutual respect and fundamental fairness in human relations. Every student of this institution has a responsibility to conduct himself/herself in accordance with this policy as a condition of enrollment. Further, every University employee has an obligation to observe UGA policies in implementation of federal and state law as a term of employment. In addition, one aspect of performance appraisal for University personnel at all levels of supervision and administration will include the qualitative evaluation of their leadership in implementing this non-discrimination policy and in seeking resolution of problems in this area at the point nearest their origin.

Merit and productivity, free from prohibited bias, will continue to guide decisions relating to employment and enrollment.

No person will be penalized for good faith utilization of channels available for resolving concerns dealing with prohibited bias. Within any limits imposed by concurrent jurisdiction of the University System of Georgia Board of Regents and other agencies of the state of Georgia, no internal procedure or process for resolution of such concerns will be used for the purpose of abridging the access of any member of this institutional community to the courts or to compliance agencies.

## **DEFINITIONS**

### **SEXUAL HARASSMENT**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity;
2. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
3. Such conduct has the purpose or effect:
  - a. of interfering with the individual's work or educational performance;
  - b. of creating an intimidating, hostile, or offensive working and/or learning environment; or
  - c. of interfering with or limiting one's ability to participate in or benefit from an educational program or activity.

Examples of sexual harassment may include, but are not limited to the following:

1. Physical assault, and/or physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the use of drugs or alcohol, or due to an intellectual or other disability. This includes rape, sexual assault, sexual battery and sexual coercion.
2. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, compensation, promotion, grades, or letters of recommendation.
3. Sexual advances, physical or implied, or direct propositions of a sexual nature. This activity may include inappropriate/unnecessary touching or rubbing against another, sexually suggestive or degrading jokes or comments, remarks of a sexual nature about one's clothing and/or body, preferential treatment in exchange for sexual activity, and the inappropriate display of sexually explicit pictures, text, printed materials, or objects that do not serve an academic purpose.
4. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or that humiliates another.
5. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history that do not serve a medical or academic purpose.

Sexual harassment can occur regardless of the relationship, position or respective sex of the parties. Same sex harassment violates this policy as does harassment by a student of a faculty member or a subordinate employee of his/her supervisor.

## **DISCRIMINATORY HARASSMENT**

At the University of Georgia, discriminatory harassment is defined as:

Unwelcome verbal or physical conduct based on race, color, religion, national origin, sex, sexual orientation, age, genetic information, veteran status, or disability, when:

1. Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance;
2. Such conduct creates or has the intention of creating an intimidating, hostile, or offensive working and/or learning environment; or
3. Such conduct unreasonably interferes with or limits one's ability to participate in or benefit from an educational program or activity.

## **NON-DISCRIMINATION/ANTI-HARASSMENT OFFICER AND TITLE IX COORDINATOR**

The Director of the Equal Opportunity Office (or his/her designee(s)) serves as the Non-Discrimination/Anti-Harassment Officer ("NDAH Officer") and as the University's Title IX Coordinator. The NDAH Officer is the individual designated by the President with responsibility

for providing education and training about discrimination and harassment to the University community and for receiving and investigating reports and complaints of discrimination and harassment in accordance with this policy. The NDAH Officer(s) can be reached at the Equal Opportunity Office at (706) 542- 7912 and 290 South Jackson Street, Peabody Hall, Suite 3 or via email at [ugaeoo@uga.edu](mailto:ugaeoo@uga.edu). The NDAH Officer is authorized to designate other appropriately trained individuals to investigate discrimination and harassment complaints and reports as deemed appropriate.

All complaints of discrimination and/or harassment under this Policy should be made to the NDAH Officer at the EOO office number and address listed above. This includes complaints concerning administrators, supervisors, employees, staff, faculty, volunteers, students, athletes, and visitors.

## **SCOPE**

### **APPLICABILITY**

The University's Non-Discrimination and Anti-Harassment Policy applies to all faculty, staff, administration, supervisors, employees, the student body, athletes, volunteers and visitors to campus. This includes guests, patrons, independent contractors, or clients of the University of Georgia. This Policy prohibits sexual harassment and discrimination in any University education program or activity, which means all academic, educational, extracurricular, athletic and other programs.

Faculty, staff, administration, supervisors, employees, volunteers and students who feel that they have experienced discrimination and/or harassment while participating in off-campus programs and activities should immediately report such incidents to the program director or the NDAH Officer. Off-campus programs and activities are covered by this Policy and include, but are not limited to, study abroad programs, internships, student teaching and applied learning experiences.

Non-University visitors, guests, patrons, independent contractors or clients who fail to address discrimination and/or harassment of which they know or should have known (by their personnel on premises under their control) of administrators, faculty, staff, supervisors, volunteers, students or employees may be subjected to whatever sanctions the relationship with the organization permits.

This policy is not meant to address differences in opinion regarding validity of employment determinations such as salary recommendations, promotion and tenure decisions, performance evaluations, hiring decisions, job classification decisions, transfers or reassignments, termination or layoff because of lack of work or elimination of a position, and normal supervisory counseling. Furthermore, this policy does not intend to address behaviors that do not constitute discriminatory harassment. Offensive workplace behavior that does not violate this policy should be addressed to the appropriate supervisor or office.

## **ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION**

The University is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. However, these freedoms come with a responsibility that all members of the education community benefit from these freedoms without intimidation. In recognition and support of academic freedom for faculty in the pursuit of teaching, academic freedom and freedom of expression shall be strongly considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, raising issues of academic freedom and freedom of expression will not excuse behavior that constitutes a violation of the law or the University's Non-Discrimination and Anti-Harassment Policy.

## **SUPERVISORY/AUTHORITY RELATIONSHIPS**

No individual who is in a position of authority over another, either in the employment or educational context, has the authority to discriminate against or harass others by virtue of his or her role. The University does not in any way, expressly or impliedly, condone discrimination or harassment by a person in a position of authority, an administrator, or a supervisor. Furthermore, a supervisor, administrator, or person in a position of authority who does not appropriately handle reports or incidents of discrimination and/or harassment, or who does not report incidents about which he/she becomes aware to the NDAH Officer, may be subject to disciplinary action.

## **CONSENSUAL RELATIONSHIPS IN REGARD TO SEXUAL HARASSMENT**

When one party has a professional relationship toward the other, or stands in a position of authority over the other, even an apparently consensual sexual relationship may lead to sexual harassment or other breaches of professional obligations. The University prohibits all faculty and staff, including graduate assistants, from pursuing or engaging in dating or sexual relationships with students whom they currently supervise, teach, or have authority over.

Anyone involved in or who commences a dating or sexual relationship with someone over whom he or she has supervisory power or authority (employment or academic) must immediately disclose the existence of the relationship to his/her immediate supervisor. Anyone involved in or who commences a dating or sexual relationship with someone over whom he or she has supervisory power (employment or academic) or authority cannot participate in any decisions that affect the compensation, evaluation, employment conditions, instruction, and/or the academic status of the subordinate involved.

# **PROCESSING OF DISCRIMINATION AND HARASSMENT REPORTS AND COMPLAINTS REPORTS AND COMPLAINTS**

## **TIMELINE FOR REPORTING AND CONFIDENTIALITY**

Complaints and reports of discrimination and harassment should be reported as soon as possible after the incident(s) in order to be most effectively investigated. All reports and complaints of discrimination and harassment will be promptly investigated and appropriate action will be taken as expeditiously as possible. The University will make reasonable efforts to protect the rights of both the complainant and the respondent. The University will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses in a manner consistent with the University's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations required by law.

An informal complaint may be investigated without identifying the complainant, if in the judgment of the NDAH Officer this would increase the likelihood of satisfactory resolution of the complaint. While confidentiality cannot be guaranteed, care will be taken to keep investigation discussions sufficiently broad to protect the complainant's identity when requested.

The University reserves the right to investigate and resolve a complaint or report of discrimination and/or harassment regardless of whether the complainant ultimately desires the University to pursue the complaint. In such cases, the parties shall be informed of the status of the investigation at reasonable times until the University's final disposition of the investigation.

## **RESPONSIBILITY OF STUDENTS AND EMPLOYEES**

All students and employees should report any discrimination and/or harassment that they experience and/or observe to the NDAH Officer. No student or employee should assume that an official of the University of Georgia knows about a particular situation. The University encourages any person who feels he or she has been discriminated against or harassed to promptly report the incident to the NDAH Officer. Any student, faculty member, or employee who knows of, or receives a complaint of discrimination or harassment should report the information or complaint to a supervisor and/or the NDAH Officer.

## **RESPONSIBILITY OF SUPERVISORS, ADMINISTRATORS, AND THOSE IN POSITIONS OF AUTHORITY**

Any administrator, supervisor, or person in a position of authority who knows of, or receives a complaint of discrimination or harassment must report the information or complaint to the NDAH Officer in a timely manner.

## **INVESTIGATION AND RESOLUTION**

The University's complaint process, outlined herein, is the procedure used to end inappropriate behavior and prevent any recurrence; to investigate the factual situation; and to facilitate resolution of complaints involving allegations of discrimination and/or harassment. As part of the complaint process, and if appropriate, the NDAH Officer may recommend that the complainant and respondent attempt to resolve their differences through mediation or through the grievance process as stated in the University of Georgia's Dispute Resolution Policy.

These procedures do not replace the right of complainant to pursue other options or remedies available under the law.

## **PROCEDURES**

If a complainant is able and feels safe, he or she should clearly explain to the alleged offender that the behavior is objectionable and request that it cease. If the complainant is not able or does not feel safe confronting the alleged offender, or the behavior does not stop, or if the complainant believes some adverse employment or educational consequences may result from the discussion, he or she should contact the NDAH Officer or, for employees of the University, the next higher level of supervision to document the complaint. The supervisor must report the complaint to the NDAH Officer. When deemed appropriate, the NDAH Officer will work with the supervisor to facilitate a resolution of discrimination and/or harassment complaints at the local level.

The NDAH Officer must be contacted in order to initiate a complaint. The complaint should be brought as soon as possible after the most recent incident. The NDAH Officer will:

- determine whether the complaint is one which should be processed through another University dispute resolution procedure, such as mediation or grievance hearing, available to the complainant; and if appropriate, the NDAH Officer shall refer the complainant to that procedure(s) as soon as possible;
- inform the individual of the provisions of the discrimination/harassment complaint procedures and provide a copy of the complaint procedure;
- inform the person against whom the complaint is brought, of its existence;
- obtain information and evidence, including the identity of any witnesses, from the complainant and the respondent;
- attempt to obtain information from the identified witnesses;
- maintain appropriate documentation; and
- disclose appropriate information to others only on a need-to-know basis consistent with state and federal law.

During this process, the NDAH Officer will keep the supervisor/administrator informed of the status of the complaint and will seek input from the appropriate supervisor/administrator when implementing corrective action.

## **INVESTIGATIVE DATA**

During the investigation, the NDAH Officer will keep private the information gathered during the investigation to the extent permitted by state and federal law. The NDAH Officer shall exercise due care in sharing identifiable information about students, staff or faculty.

## **SUMMARY ACTION**

The President or his/her designee may impose a summary suspension prior to the completion of the investigation and resolution of a complaint. However, a summary suspension may be imposed only when, in the judgment of the President, or his/her designee, the accused individual's presence on campus would constitute a threat to the safety and well-being of members of the campus community. Before implementing the summary suspension, the accused individual shall be given written notice of the intention to impose the summary suspension and shall be given an opportunity to present oral and written arguments against the imposition of the suspension. If the accused individual is summarily suspended, the formal process should be completed within the shortest reasonable time period possible, not to exceed ten (10) working days. During the summary suspension, the accused individual may not enter the campus without obtaining prior written permission from the NDAH Officer.

## **UNIVERSITY ACTION**

The amount of time needed to conduct an investigation will depend in part on the nature of the allegation(s) and the evidence to be investigated (e.g., the number and/or availability of witnesses involved). Within 60 days of receipt of the complaint, the NDAH Officer or his/her designee will provide notice of the outcome of the investigation or will advise the parties of the additional estimated amount of time needed for the investigation. Upon conclusion, the NDAH Officer or his/her designee will notify the complainant and respondent, in writing, of the results of the investigation. In the event the investigation reveals that sexual harassment, discrimination or other inappropriate or unprofessional conduct (even if not unlawful) has occurred, disciplinary action may be taken by the University. Written notice to parties relating to discipline, resolutions, and/or final dispositions is deemed to be official correspondence from the University. The University will take the appropriate remedial action based on results of the investigation and will follow up as appropriate to ensure that the remedial action is effective. Complainants are encouraged to report any reoccurrences of conduct that were found to violate the NDAH policy.

## **RIGHT TO APPEAL**

Either party shall have the right to appeal the outcome of the NDAH Officer's/designee's investigation and decision to the President pursuant to this policy. In exercising the right of appeal to the President as provided by this procedure, a written appeal must be received by the Office of the President within ten (10) working days after the date of the written notification of the decision that is being appealed. The President or his/her designee may in his/her sole discretion extend the time for an appeal. The President or his/her designee may receive additional information if he/she believes such information would aid in the appeal. A decision by the President or his/her designee will be made within a reasonable time and the NDAH Officer, the complainant, and the respondent will be notified in writing of the decision on the appeal. During the time of appeal and review, disciplinary action, if any, taken as a result of the original complaint, may be implemented and enforced.

## **PROHIBITION AGAINST RETALIATION**

Anyone who, in good faith, reports what s/he believes to be discrimination or harassment, or who participates or cooperates in any investigation, will not be subjected to retaliation. Anyone who believes he or she has been the victim of retaliation for reporting discrimination or harassment or participating or cooperating in an investigation should immediately contact the NDAH Officer. Any person found to have retaliated against a person who has participated or cooperated in an investigation will be in violation of this policy and will be subject to disciplinary action

## **VIOLATIONS OF THIS POLICY**

The University will not tolerate discrimination or harassment of its faculty, staff, administrators, supervisors, students, visitors, employees and/or volunteers and will investigate all allegations. Where either discrimination and/or harassment is found, steps will be taken to end it immediately. In those instances where it is determined that an individual has discriminated against another or harassed another, that individual will be subject to appropriate discipline. The level of discipline will depend on the severity of the discrimination or harassment and may include, but is not limited to, probation, suspension, expulsion or termination.

To make deliberate false accusations of discrimination or harassment violates this policy. In such instances, the complainant will be subject to disciplinary action. However, failure to prove a claim of discrimination or harassment does not constitute proof of a false and/or malicious accusation.

Other violations of this policy may include, but are not limited to, the following:

1. Retaliation against a person who has made a report or filed a complaint alleging discrimination or harassment or participated as a witness in a discrimination or harassment investigation.
2. Disregarding or delaying investigation of allegations of discrimination or harassment, when responsibility for reporting discrimination or harassment are part of one's duties as a supervisor, administrator, or person in position of authority.

Adopted: September 15, 2011  
Amended: November 28, 2012