

UNIVERSITY OF KENTUCKY <b>ADMINISTRATIVE REGULATIONS</b>	IDENTIFICATION <b>AR II-1.1-9</b>	PAGE <b>1</b>
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## POLICY ON DISCRIMINATION AND HARASSMENT

### I. Policy

The University, in its efforts to foster an environment of respect for the dignity and worth of all members of the University community, is committed to maintaining an environment free of prohibited discrimination, which includes sexual and other forms of harassment. Discrimination and harassment are prohibited between members of the University community and shall not be tolerated.

### II. Definitions

A. Discrimination. Discrimination is an action or behavior that results in negative or different treatment of an individual based upon race, color, ethnic origin, national origin, creed, religion, political belief, sex, sexual orientation, marital status, age, uniform service, veteran status, or physical or mental disability. Discrimination is also prohibited in employment matters based on whether an individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking.

B. Harassment. Harassment, a form of discrimination, is unwelcome conduct that is based on the statuses noted in section II.A above. Harassment becomes a violation of University policy when:

1. the offensive conduct explicitly or implicitly becomes a term or condition of employment or participation in a University course, program, or activity; or
2. the conduct is sufficiently severe, pervasive, or persistent to interfere with an individual's work, academic or program participation, or creates an environment that a reasonable person would consider intimidating, hostile, or offensive.

C. Sexual harassment. Sexual harassment, a form of sex discrimination, may or may not take place in situations of a power differential between the individuals involved. Sexual harassment includes unwelcome\* sexual advances, requests for sexual favors, or other verbal or physical behavior of a sexual nature and becomes a violation of University policy when:

1. the offensive conduct explicitly or implicitly becomes a term or condition of employment or participation in a University course, program, or activity; or

2. the conduct is sufficiently severe, pervasive, or persistent to interfere with an individual's work, academic or program participation, or creates an environment that a reasonable person would consider intimidating, hostile, or offensive.

\* Conduct of an amorous or sexual nature occurring in an apparently welcome relationship may be unwelcome due to the existence of a power difference which restricts a subordinate's freedom to participate willingly in the relationship.

If one of the parties in an apparently welcome amorous or sexual relationship has the responsibility for evaluating the performance of the other person, the relationship must be reported to the dean, department chair or supervisor so that suitable arrangements can be made for an objective evaluation of the student or employee. (*Governing Regulation I.D.2(f)*)

D. Retaliation. Retaliation occurs when an adverse action is taken against a covered individual because he or she engaged in a protected activity, i.e. reporting discrimination or participating in an investigation of a discrimination report.

E. Members of the University Community. Members of the University Community are its faculty, staff, students, and volunteers, as well as customers and visitors of the University.

### III Prohibited Acts and Sanctions

A. Every member of the University community is prohibited from:

1. Engaging in discrimination;
2. Retaliating in any manner against any individual who reports discrimination or who participates in an investigation of a discrimination report; and,
3. Making an intentionally false accusation of discrimination through the University's procedures.

B. Any member of the University community who engages in a prohibited act against any other member of the University community shall be subject to disciplinary action and appropriate sanctions up to and including termination or expulsion. If an individual has more than one role or status at the University, e.g. an employee also enrolled as a student, the individual's status at the time the alleged incident occurred and the capacity in which the incident occurred are used to determine the appropriate sanctions.

### IV. Examples of Harassment

A. Sexual Harassment

Conduct prohibited under this policy may include, but is not limited to the following: sexual or physical assault; unwelcome physical contact such as touching; direct solicitation of sexual activity; sex-related behavior accompanied by promise of reward or threat of punishment; conduct which interferes with participation in or benefit from work or academic performance; unwelcome sexual remarks about a person's clothing or body; offensive sexual questions, jokes, anecdotes and stories; display of sexually offensive posters, pictures, words or messages; introduction of sexually explicit materials into the classroom or into the workplace without an educational or work-related purpose.

B. Other Forms of Harassment

Conduct prohibited under this policy may include, but is not limited to the following: offensive jokes, slurs, epithets or name calling; physical assaults or threats; intimidation, ridicule or mockery; insults; offensive objects or pictures; and any other conduct that interferes with or limits the ability to participate in or benefit from services or privileges provided by the University.

V. Procedures

A. The Office of Institutional Equity and Equal Opportunity is the University office charged with handling reports of discrimination and for developing procedures for the investigation and resolution of reports.

B. Members of the University community are encouraged to contact the Office of Institutional Equity and Equal Opportunity for additional information regarding the investigation and resolution procedures or to report discrimination, harassment, or retaliation. There may be findings of retaliation, even in the absence of discrimination or harassment findings. Reports should be made as soon as possible after the alleged incident to facilitate the most effective investigation and resolution.

C. A report of discrimination may also be initiated by contacting any dean, director, faculty member, department head, manager, supervisor, or other individual with administrative responsibility. Any such individual who receives a report of discrimination shall contact the Office of Institutional Equity and Equal Opportunity as soon as possible after receiving the report.

D. In determining whether conduct constitutes discrimination or harassment, University officials shall look at the record as a whole and at the totality of the circumstances, such as the nature of the behavior and the context in which the incident(s) occurred. A determination is made from the facts on a case-by-case basis.

References:

Title VII of the Civil Rights Act; 29 C.F. R. Part 1604.11; The Age Discrimination in Employment Act; the Americans with Disabilities Act; KRS 344.040; KRS 61.165; GR I.D.2(a); GR I.D.2(e); GR I.D.2(f); AR II-1.1-15