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1-119 Nondiscrimination and Anti-Harassment

A. The Policy

The Arizona Board of Regents and the universities are committed to creating and maintaining a university system with an environment free from unlawful discrimination, including harassment, and retaliation. In support of this commitment, the board and the universities prohibit unlawful discrimination, harassment, and retaliation based on race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information.

The board and universities will take prompt and appropriate action to: (1) thoroughly investigate complaints under this policy; and (2) prevent, correct and, if necessary, discipline individuals who engage in behavior that violates this policy.

B. Application of Policy

1. This policy applies to all board and university employees in all aspects of their employment relationship with the board or universities; all university students in all aspects of their relationship with the universities; all board or university applicants, whether for employment or for admission to educational programs; all persons participating in or accessing board or university sponsored programs and activities; and all vendors, contractors, or volunteers in all aspects of their relationships with the board or universities.
2. Each university president and the executive director of the board shall maintain policies and procedures to address, investigate, and promptly remedy complaints of discrimination, harassment, and retaliation as prohibited by this policy.
3. The board and the universities shall provide reasonable accommodations for religious practices and for persons with disabilities as required by law.
4. Enforcement of this Policy is subject to constitutional protections

October 2020

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related to freedom of speech, association, and the press. Additionally, an individual's complaint filed with any outside agency will not affect any board or University investigation concerning the same or similar events.

C. Definitions

1. Discrimination

Discrimination is defined in federal and state law. In general, unlawful discrimination is a failure to treat persons equally if the motivation for treating a person differently is based, at least in part, on a status protected under applicable law or policy.

2. Harassment

Harassment is a specific form of discrimination. For purposes of this policy, harassment is unwelcome behavior, based on a protected classification, that is sufficiently severe or pervasive to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in board or university sponsored programs or activities. Additionally, sexual harassment, whether between individuals of the same or different sex, includes unwelcome conduct of a sexual nature that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in board or university sponsored programs or activities, or the submission to or rejection of such conduct is a factor in decisions affecting that individual's education, employment, or participation in board or university sponsored programs or activities.

Examples of conduct that may, if severe or pervasive, constitute sexual harassment may include but are not limited to the following:

- a. Sexual Violence, which includes 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, due to an intellectual or other disability, or due to age. This can include rape, sexual assault, sexual battery, and sexual

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coercion;

- b. Unwelcome physical or implied sexual advances, or requests for sexual favors;
 - c. Unwelcome inappropriate physical touching, kissing, or brushing up or rubbing against another;
 - d. Unwelcome sexually suggestive or degrading jokes, comments, or insults, or gestures;
 - e. Voyeurism (which occurs while observing others in a state of full or partial undress or engaged in sexual activity) or non-consensual photographing or audio or video recording of another, or publishing or disseminating such materials; or
 - f. The inappropriate display or circulation of sexually explicit materials such as photos, pictures, posters, magazines, cartoons, or statements, whether in printed or electronic form.
3. Title IX Sexual Harassment (“sexual harassment as regulated by Title IX of the Education Amendments of 1972 and its applicable regulations”), is conduct based on sex, that constitutes one or more of the following:
- a. Unwelcome conduct, occurring in the United States, that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to board or university sponsored education programs or activity.
 - b. An employee conditioning the provision of an aid, benefit, or service of the board or university on an individual’s participation in unwelcome sexual conduct.

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- c. Any of the following specific acts of sexual harassment taking place within the United States and within a board or university sponsored program or activity: sexual assault, dating violence, domestic violence, and stalking.

4. Retaliation

Retaliation in the context of non-discrimination and anti-harassment occurs when an adverse action is taken against an individual for engaging in protected activity. Protected activity consists of: (1) opposing conduct reasonably believed to constitute discrimination, including harassment, which violates an employment or education discrimination statute or which board or university policy prohibits; or (2) filing a complaint about such practice; or (3) testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint. Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

D. Responsibilities

1. All individuals identified in Section B.1. of this policy are responsible for participating in creating and maintaining a workplace and/or educational environment free from all forms of prohibited discrimination, including harassment and retaliation, and for cooperating with board and university officials who investigate allegations of violations of this policy.
2. Individuals charged with supervisory authority are required to engage in appropriate measures to prevent violations of this policy. Individuals charged with supervisory authority who are informed of or who have a reasonable basis to believe that a violation of this policy has occurred are required to promptly report it to the individual or office designated by each university president or, if applicable, the board's executive director for investigation. Supervisory inaction may be cause for disciplinary action.
3. An individual believing that he or she has been subjected to discrimination, harassment, or retaliation in violation of this policy

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should report the matter immediately to the university in accordance with the policies and procedures in place at that university. Complaints about alleged violations of this policy by any board employees should be reported to the executive director of the board or, if that is not practicable, to the general counsel or the Chair of the board.

4. Each University shall maintain at least one Title IX Coordinator to assist with complaints with Title IX of the Education Amendments of 1972 and shall establish a process for addressing formal complaints of Title IX Sexual Harassment in compliance with applicable law.

E. Confidentiality

All board and university employees who, in their administrative capacity, receive reports of discrimination, harassment, or retaliation shall maintain the confidentiality of the information they receive, except where disclosure is required by law or is necessary to facilitate legitimate board or university processes, including the reporting, investigation, and resolution of discrimination, harassment, or retaliation allegations.