

FIU-106 Nondiscrimination, Harassment and Retaliation (Title VII)

Responsible University Officer: Director, Office of Civil Rights Compliance and Accessibility/
Title IX Coordinator

Responsible Office: Office of Civil Rights Compliance and Accessibility (CRCA)

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I. POLICY STATEMENT

Florida International University (the 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, sex, pregnancy, religion, age, disability, national origin, marital status, and veteran status. The University recognizes its obligation to work towards a community in which diversity is valued and opportunity is equalized. This Regulation establishes procedures for an applicant or a member of the University community (faculty, staff, affiliated third parties, and/or student) to file a complaint of alleged discrimination or harassment. It shall be a violation of this Regulation for any member of the University community to discriminate against or harass any member of the University community or applicant. Discrimination and harassment are forms of conduct that shall result in disciplinary or other action as provided by the Regulations/policies of the University.

The University is also committed to creating a work or academic setting free from illegal discrimination based on sexual misconduct, sexual orientation, gender identity or expression which is addressed in Regulation FIU-105 Sexual Harassment (Title IX) and Sexual Misconduct.

II. PURPOSE AND INTENT

This Regulation applies to the conduct of University students and employees, including faculty and staff. The non-discrimination provisions also apply to contractors and other third parties occurring under circumstances within the University's control. The Regulation provides for prompt and equitable resolution of reports of discrimination, harassment, and retaliation.

III. DEFINITION OF TERMS

Complainant - Any individual who is alleged to be a victim of conduct that could constitute behavior prohibited by this Regulation.

Discrimination - treating any member of the University community differently than others are treated based upon race, color, sex, pregnancy, religion, age, disability, national origin, marital status and/or veteran status.

Examples of conduct which falls into the definition of discrimination includes, but is not limited to:

- Disparity of treatment in recruiting, hiring, training, promotion, transfer, reassignment, termination, salary and other economic benefits, and all other terms and conditions of employment on the basis of membership in one of the listed groups.
- Disparity of treatment in educational programs and related support services on the basis of membership in one of the listed groups.
- Limitation in access to housing, or participation in athletic, social, cultural or other activities of the University on the basis of membership in one of the listed groups..
- Retaliation for filing complaints or protesting practices which are prohibited under this Regulation.

Formal Complaint – A document filed by a Complainant alleging discrimination and/or harassment based on race, color, sex, pregnancy, religion, age, disability, national origin, marital status and/or veteran status against a Respondent and requesting an investigation of the alleged acts.

- A document filed by a Complainant is a document or electronic submission that contains the Complainant’s physical or electronic signature or otherwise indicates the Complainant is the person filing the complaint.

Harassment - conduct 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. 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. It includes, but is not limited to, objectionable epithets, threatened or actual physical harm or abuse, or other intimidating or insulting conduct directed against the individual.

Respondent - Any individual or group, including student organization, who has been accused of violating this Regulation.

IV. PROHIBITED CONDUCT

Activities covered under this Regulation include, but are not limited to, all educational, athletic, cultural and social activities occurring on a campus of or sponsored by the University, housing supplied by the University, and employment practices between the University and its employees.

V. COMPLAINT AND INVESTIGATIVE PROCESS

CRCA shall administer the policies and procedures outlined in this Regulation. CRCA shall answer inquiries regarding the procedures contained in this Regulation and may provide informal advice regarding issues of discrimination. Members of the University community are encouraged to report conduct they believe may be prohibited discrimination or harassment (or that left unchecked may rise to the level of prohibited discrimination or harassment) even if they are not sure that the conduct violates this Regulation. The identity of any individual who reports discrimination, harassment, or other personally identifiable information will be kept confidential to the extent possible and permitted by law. In cases where the potential complainant chooses not to file a formal complaint, action will be taken to inform the alleged offender of the concerns, suggesting

that the individual monitor and modify (if necessary) their behavior.

A. Reporting

1. FIU Central Reporting Page provides a method to report on alleged violations of FIU-106 online to the Office of Civil Rights Compliance and Accessibility:
<https://report.fiu.edu>

B. Complaints.

1. A complaint must be made in writing to CRCA. 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 Respondent, 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 Formal Complaint must be filed within three hundred (300) calendar days of the alleged act(s) of discrimination.
3. CRCA shall investigate the Formal Complaint. This investigation may include, but shall not be limited to, interviewing the Respondent regarding the allegations, interview of 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.
4. There may be instances in which a potential Complainant is unable or unwilling to pursue a complaint of discrimination, but where the University administration is aware of the behavior. In such instances, CRCA may choose to pursue an investigation of the alleged offense. The decision of whether or not to pursue an administrative complaint will be based on the egregiousness of the alleged offense, the basis for the Complainant's decision not to pursue a complaint, and the apparent evidence supporting the allegations. The decision to pursue an administrative complaint shall be made by the director of CRCA in consultation with the Vice President in charge of the Complainant's unit and the Vice President in charge of the alleged Respondent's unit, in the event that the two parties are in different units. An administrative complaint will follow the same procedures as a Formal Complaint.
5. In the event that a claim of discrimination is found to be frivolous or malicious, the Complainant is subject to appropriate University disciplinary actions pursuant to applicable University regulations, policies, and procedures.

C. Conciliation.

1. CRCA may attempt conciliation during the course of an investigation of a complaint. If conciliation of the complaint was achieved between the parties in cooperation with CRCA, and the Respondent fails to abide by the agreement or retaliates against the Complainant, the Complainant or supervisor should notify CRCA. The Vice President for Human Resources or a designee may then require the Formal Complaint to proceed as if conciliation had not been reached.
2. If conciliation is not achieved, then CRCA shall continue to investigate through the Formal Complaint process. The investigation by CRCA will be conducted expeditiously, but in a manner consistent with the complexity and severity of the matter

and availability of witnesses. CRCA will attempt to complete its investigation and recommendation within sixty (60) calendar days of initiation of the Formal Complaint, if possible.

D. Findings.

1. The findings shall be shared with the Complainant, the Respondent, the Vice President for Human Resources or designee, and all other appropriate University officials.

E. Review.

1. Either party may seek review of the finding made by CRCA to the Vice President for Human Resources or a designee by filing a request for a review (“appeal”) within seven (7) business days of receipt of CRCA’s finding. It shall specify the basis of the appeal. The appeal shall be based on one or more of the following:
 - Relevant evidence was not reviewed, and/or
 - New evidence is available that was not reasonably available at the time the finding was made, that could affect the outcome of the matter, and/or
 - The evidence relied upon to support the finding was insufficient.
2. The appeal shall be in writing, and shall set forth the issues to be considered in the appeal.
3. Copies of the appeal shall be provided to the opposing party and to the Director of CRCA.
4. The opposing party may file a response to the appeal to the Vice President for Human Resources or designee within seven (7) business days of receipt of the appeal.
5. The Vice President for Human Resources or designee shall issue a written finding no more than seven (7) business days after receipt of the appeal, or of a response to the appeal, whichever is later.
6. Upon final acceptance by the Vice President for Human Resources or designee of a written finding on the complaint, the Office of Employee and Labor Relations along with the immediate supervisor of the Respondent shall provide a reasonable resolution to the complaint (e.g., that a student be allowed to change sections, that the employee report to a different supervisor) and may also recommend or take disciplinary action against the Respondent. The proposed resolution shall be approved by CRCA. Disciplinary action shall be taken in accordance with the Regulations and policies affecting the class of employee and the terms of any applicable collective bargaining agreement. Student Conduct and Academic Integrity (SCAI) will oversee disciplinary sanctions for students and student organizations.

IV. RETALIATION PROHIBITED

Retaliation is expressly prohibited by this Regulation, and the University will take immediate and responsive action to any report of Retaliation. No University community member shall retaliate against a Complainant or any person involved in the process. Any attempt to penalize a Complainant or anyone involved in the process through any form of retaliation shall be treated as a separate allegation of discrimination.

Specific Authority: Board of Governors Regulation 1.001 (5)(a). History-- Formerly FIU-104 (repealed) and FIU-103 (repealed). New -- June 8, 2018, Amended 6.10.24.