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**UNIVERSITY OF MIAMI POLICY AND PROCEDURE MANUAL**

TITLE:	Equal Employment Opportunity	REFERENCE:
CATEGORY:	Human Resources	PAGE: 1 of 5
		SUPERSEDES: Policy No. A005
APPROVER:	Office of Human Resources	EFFECTIVE: December 13, 2017

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**I. PURPOSE:**

The University of Miami (“University”) values diversity and the free expression of diverse perspectives to create a work and academic learning environment where every member feels a sense of belonging. The University is committed to the principles of fairness and respect for all people while maintaining an institution free from unlawful harassment and discrimination in accordance with federal, state and local law.

This policy supersedes the following policies in their entirety:

- Administrative/Professional: *Equal Opportunity/Affirmative Action*, Policy No. A005, dated 07/23/2013
- Clerical/Nursing/Technical/Service Employees: *Equal Opportunity/Affirmative Action*, Policy No. A005, dated 07/23/2013
- Research Employees: *Equal Opportunity/Affirmative Action*, Policy No. A005, dated 07/23/2013

**II. SCOPE:**

This policy applies to all employees of the University, which include: regular full-time, regular part-time, temporary, casual, or per diem. As employees of the University, this policy also applies to faculty, including adjunct and visiting faculty, and student employees.

**III. POLICY:**

It is the policy of the University to provide equal employment opportunity to all applicants and employees. The University prohibits discrimination on the basis of race, color, religion, sex (including pregnancy), sexual orientation, gender identity, genetic information, national origin, age, disability, marital status, familial status or other protected classification. This prohibition includes harassment based upon any of the aforementioned protected classifications, including sexual harassment, which is a form of sex discrimination.

**IV. DEFINITIONS:**

“**Discrimination or to discriminate**” shall mean to treat someone differently or less favorably based on one or more of the following protected classifications: race, color, religion, sex (including pregnancy and sexual harassment), sexual orientation, gender identity, genetic

information, national origin, age, disability, marital status, familial status or other protected classification, in connection with the terms and conditions and/or privileges of employment, including the application for employment.

**“Employment discrimination”** shall mean where an individual is subject to discrimination because of a protected classification in the terms, conditions and/or privileges of employment. The terms, conditions and/or privileges of employment include, but are not limited to, the following:

- recruitment, selection and placement of an applicant/employee;
- compensation and benefits
- career advancement;
- work assignments, scheduling, etc.;
- job training;
- discipline and performance management;
- job accommodation based upon disability and/or religion; and
- application of policies, procedures and practices.

**“Federal, state and local equal employment opportunity laws”** shall mean the following:

- Title I of the Age Discrimination in Employment Act of 1967, as amended: a federal law that prohibits discrimination in employment on the basis of age, as well as retaliation.
- Americans with Disabilities Act of 1990, as amended: a federal law that expands the protections available to persons with disabilities, prohibits discrimination on the basis of mental or physical disability and retaliation, and addresses the provision of reasonable accommodations for all qualified individuals with disabilities.
- Equal Pay Act of 1963: a federal law that prohibits discrimination on the basis of sex in the payment of wages, and retaliation.
- Executive Order 11246 of 1965: a presidential directive with the full force of law that requires certain federal contractors to take affirmative steps to ensure equality of opportunity in all aspects of employment.
- Family Medical Leave Act of 2008, as amended: a federal law that provides eligible employees up to 12 weeks of job-protected leave per year for qualifying reasons and prohibits interference with the use of such leave or retaliation as a result of utilizing such leave.
- Florida Civil Rights Act, as amended: a state law that prohibits discrimination in employment on the basis of race, color, religion, sex (including pregnancy and sexual harassment), national origin, age, handicap or marital status.
- Title II of Genetic Information Nondiscrimination Act of 2008: a federal law that prohibits discrimination on the basis genetic information of an employee or an employee’s family member.
- Immigration Reform and Control Act of 1986: a federal law that makes it unlawful to hire, discharge, or recruit to discriminate against any individual who is authorized to work in

the United States because of that individual's national origin, or, if the individual is a "protected individual" as defined by the Act, because of that individual's citizenship status.

- Miami-Dade County Code of Ordinances, Chapter 11A: a local law that prohibits discrimination in employment on the basis of race, color, religion, ancestry, sex (including pregnancy and sexual harassment), national origin, age, disability, marital status, familial status or sexual orientation of any individual or any person associated with such individual, as well as retaliation.
- Pregnancy Discrimination Act: an amendment to Title VII of the Civil Rights Act of 1964 that prohibits discrimination on the basis of pregnancy, childbirth or a medical condition related to pregnancy or childbirth.
- Title VII of the Civil Rights Act of 1964, as amended: a federal law that prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin, as well as retaliation.
- Title II of the Genetic Information Nondiscrimination Act of 2008: a federal law that prohibits discrimination in employment based upon genetic information, as well as retaliation.
- Uniformed Services Employment and Reemployment Rights Act: a federal law that prohibits discrimination in employment on the basis of military service, as well as retaliation.

**"Harassment"** shall mean unwelcomed conduct (whether verbal or physical) that is based on race, color, religion, sex (including pregnancy and sexual harassment), sexual orientation, gender identity, genetic information, national origin, age, disability, marital status, familial status or other protected classification and creates a work environment that would be intimidating, hostile or offensive to a reasonable person. Such harassing behavior may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults, offensive objects or pictures, and any other conduct or behavior that interferes with work performance.

**"Retaliation"** shall mean any adverse employment action taken against an individual for making a good faith complaint of employment discrimination or participating in any investigation or proceeding concerning a complaint of employment discrimination. Retaliation includes threatening, intimidating, harassing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy.

## **V. PROCEDURE:**

### **A. RESPONSIBILITIES UNDER THIS POLICY**

The University is committed to the enforcement of this policy and each employee has a responsibility to keep our University safe and free from employment discrimination. Any employee or applicant who believes that they have been subjected to or have information regarding employment discrimination is encouraged to report their concerns as soon as possible to the resources outlined in this policy.

## **B. SUPERVISORS AND MANAGEMENT**

Supervisors and members of leadership (“management”) are authorized to receive complaints of discrimination. Once a complaint is received, it must be immediately directed to Human Resources’ Office of Workplace Equity and Performance (“WEP”) for review and investigation. After transmitting a complaint to WEP, management can consult with a member of Human Resources regarding available University resources that can be afforded to the parties involved, if necessary. Management should also be vigilant to prevent discrimination by taking proactive steps to objectively address inappropriate language, abusive or insulting conduct, and negative cultural inferences immediately when they occur in the work environment.

## **C. HUMAN RESOURCES PARTNER**

Human Resources partners are authorized to receive complaints of employment discrimination. As with management (above), once a complaint is received, it must be immediately directed to WEP for review and investigation. Human Resources partners are in a unique position to assist management in preventing discrimination in the workplace by identifying opportunities for proactive steps, such as training.

## **D. OFFICE OF WORKPLACE EQUITY AND PERFORMANCE**

The University’s Office of Workplace Equity and Performance is responsible for supporting an inclusive and culturally diverse work environment by investigating complaints of alleged discrimination and harassment to ensure compliance with federal, state and local equal employment opportunity laws and regulations. Complaints of employment discrimination can be filed directly with WEP through either a complaint form available at [www.miami.edu/wep](http://www.miami.edu/wep), or by contacting WEP directly at (305) 284-3064 or at [wep@miami.edu](mailto:wep@miami.edu).

WEP will promptly and thoroughly investigate all claims of employment discrimination. The investigative process includes, but is not limited to, the following steps:

- (1) A complaint of employment discrimination is received and transmitted to WEP for investigation. The complaint can be written or verbally submitted by a complainant or witness;
- (2) Written notification of the pending investigation is provided to the Respondent(s) accused of the alleged employment discrimination;
- (3) An investigator is assigned to conduct a thorough investigation, gather evidence, and interview witnesses; and
- (4) A written notice is provided to all relevant parties in which the allegations are determined to be substantiated or unsubstantiated, along with recommendations (if any).

In the case of a respondent who is designated as a faculty member, WEP will partner with the Office of Faculty Affairs to investigate the matter.

Circumstances in which employees believe they have been harassed by visitors to the University, or contractors or vendors serving the University will be investigated and resolved through WEP.

#### **E. VIOLATIONS**

Employees who are determined to have violated this policy shall be subject to disciplinary action up to and including termination of employment. Violations include, but are not limited to: engaging in discriminatory or retaliatory conduct towards any employee or applicant; intentionally engaging in factual misrepresentations during the pendency of an investigation; failing to cooperate in an investigate when called as a witness or respondent; promoting or enabling discriminatory or retaliatory conduct by others towards an employee or applicant.

#### **F. POLICY INTERPRETATION; COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY LAWS AND RELATED REGULATIONS; AMENDMENT**

This policy and the procedures described herein above shall be interpreted in a manner consistent with federal, state and local equal employment opportunity laws, other guidance and/or regulations issued by the U.S. Equal Employment Opportunity Commission, Florida Commission on Human Relations, and/or Miami-Dade County's Human Rights Commission, and any interpretative case law. Amendments to this policy warranted by changes in the law may occur, from time to time. In such cases, employees shall be advised of any substantive and material amendments to this policy.