DISCRIMINATION AND SEXUAL HARASSMENT POLICIES

At its meeting on October 15, 1993, the Board of Regents adopted the following policies regarding Prohibited Discrimination and Sexual Harassment.

Students on each campus of the University of Nebraska shall be admitted and enjoy the programs and privileges of the University without regard to individual characteristics other than qualifications for admission, academic performance and conduct in accord with University policies and rules and laws applicable to student conduct (University of Nebraska Policy Manual, RP 5.1.1, BRUN Minutes, 54, p. 145, May 12, 1989).

Employees on each campus of the University of Nebraska shall be employed and equitably treated in regard to the terms and conditions of their employment without regard to individual characteristics other than qualifications for employment, quality of performance of duties and conduct in regard to their employment in accord with University policies and rules and applicable law (University of Nebraska Policy Manual, RP 3.1.1, BRUN Minutes, 54, p. 145, May 12, 1989).

The University of Nebraska at Omaha is committed to maintaining an environment for all students, faculty, staff and visitors that is fair and responsible - an environment which is based on one’s ability and performance. To that end, it is the policy of the University of Nebraska at Omaha that any form of discrimination because of race, color, ethnicity, national origin, sex, pregnancy, sexual orientation, gender identity, religion, disability, age, genetic information, veteran status, marital status, and/or political affiliation or any unlawful reason shall not be tolerated.

In keeping with this commitment, the University also will not tolerate discrimination prohibited under this policy against students, faculty, staff and visitors by anyone acting on behalf of the University of Nebraska at Omaha.

Statement on Sexual Harassment

Sexual Misconduct, which includes dating violence, domestic assault, domestic violence, rape, sexual assault, sexual harassment (including hostile environment and quid pro quo) and stalking, is covered under UNO Student Sexual Misconduct Policy.

Unwelcome sexual advances, requests for sexual favors, and other physical, verbal or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment or academic standing, (2) submission to or rejection of the conduct is used as the basis for an employment or academic decision or (3) the conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working/academic environment. This statement is in keeping with federal employment and educational opportunity guidelines.

Statement on Consensual Relationships

Although the University of Nebraska at Omaha (UNO) does not prohibit romantic or sexual relationships between employees, it does discourage such consensual relationships between faculty and student or supervisor and employee.

All faculty, supervisors and other employees should understand that there are substantial risks in even an apparently consensual relationship where a power differential exists. That is, one of the parties is likely to have influence over the other’s assignments, grades or terms of employment. The inherent power differential between the parties may compromise freedom of choice.

The University of Nebraska at Omaha reaffirms the generally accepted ethical principle that situations in which one makes official evaluations of “intimates” should be avoided. If a close relationship with emotional ties develops, the faculty member or supervisor bears a special burden of accountability. That individual is advised to make suitable arrangements for the objective evaluation, for example, of the student, employee or the prospective student or employee.

Procedures for Resolution of Complaints

The University of Nebraska at Omaha declares and affirms a policy of equal education and employment opportunities, affirmative action in employment, and nondiscrimination in providing services to the public. Therefore, the University of Nebraska at Omaha shall not discriminate against anyone based upon race, color, ethnicity, sex, pregnancy, sexual orientation, gender identity, religion, disability, age, genetic information, veteran status, marital status, and/or political affiliation in its programs, activities, or employment.

Purpose

The purpose of these procedures is to secure, at the lowest possible level, equitable solutions to the problems which may affect students, faculty, staff, administrators, visitors, or other invitees, licensees, or university volunteers who believe they have been discriminated against within the university’s prohibited discrimination policy. Resolution of any concern or complaint is encouraged, but not required, at each step of the procedures. Any form of retaliation for filing or assisting with an investigation or charge is not permitted. The university reserves the right to take appropriate action in cases of alleged prohibited discrimination affecting the academic or work environment in the absence of a complaint from an individual.

Oversight and Information

The Office of Equity, Access & Diversity (EAD) is the established office of the University on prohibited discrimination issues.

The university’s nondiscrimination policy and complaint procedures will be widely disseminated through a variety of media and clearly posted in strategic locations throughout the university campus. Anyone seeking information about the nondiscrimination policy or complaint procedures should contact the assistant to the chancellor, EAD, or a designee.

Informal Resolution

If appropriate, persons are encouraged first to speak about their concerns with the party in question: relevant manager/supervisor, administrator or academic department chair/school director, or university ombudsperson to attempt to resolve the issue(s). A satisfactory resolution may be readily found.

Notification and Initial Investigation

Complainants who believe they have been discriminated against have thirty (30) working days after the occurrence of the alleged prohibited discrimination to informally resolve the issue(s) to their satisfaction or to contact the Assistant to the Chancellor, EAD. This time deadline can be extended if there are extenuating circumstances that must be documented by the complainant and determined by the Assistant to the Chancellor, EAD, to justify a delay.

Informal Investigation

From the time the Assistant to the Chancellor, EAD, or designee is made aware of a complaint, the Assistant to the Chancellor, EAD, or designee will
immediately notify the respondent, in writing, that a complaint has been received and will explain the nature of the complaint. The Assistant to the Chancellor, EAD, or designee will have ten (10) working days to conduct an informal confidential investigation and determine whether or not the complaint merits further action. If it is determined by the Assistant to the Chancellor, EAD, that further action is warranted, the formal procedures listed below will be begun within seven (7) working days of the decision. Both parties will be notified in writing as to the nature of this decision.

If the Assistant to the Chancellor, EAD, or designee deems that the complaint merits no further action, the Chancellor or Chancellor’s designee will appoint one individual, judged most qualified by the Chancellor or Chancellor’s designee, from among the three (3) university ombudspersons and the Academic Affairs, Student Affairs, and Business and Finance Vice Chancellors or their designated representatives to review the decision. The reviewer will have ten (10) working days to examine the case and respond to the Chancellor or designee and the Assistant to the Chancellor, EAD, or designee. If the reviewer agrees with the Assistant to the Chancellor’s, EAD, decision of no further action, no further action will be taken by the university. If the reviewer disagrees with the Assistant to the Chancellor, EAD, decision of no further action, the formal procedures listed below will be begun within seven (7) working days of the reviewer’s decision.

**Formal Procedures**

**Formal Complaint**

Within seven (7) working days of the decision of the Director, EAD, or the reviewer determining further action is warranted, the complainant must meet with the Director, EAD, or designee to review/discuss the incident or situation, attempts at resolution (if any), as well as to learn about formal procedures. If the complainant wants to file a formal complaint, he or she must do so in writing directly to the Director, EAD, or designee within seven (7) working days following this consultation. If the complainant is unable to write the complaint, it will be related orally or via the appropriate medium, transcribed into written form, and verified for accuracy by the complainant.

**Notification of the Respondent and the Equal Opportunity Review Panel**

Within three (3) working days of receiving the written complaint, the Director, EAD, or designee will notify the respondent that a formal written complaint has been filed, supply a copy of the written complaint to the respondent, and provide a description of the procedures to be followed. This notification will be made by certified or registered letter, postage prepaid, and return receipt requested, addressed to the most recent address listed in university records. Within five (5) working days of receiving the written complaint, the Director, EAD, or designee will select and notify the Equal Opportunity Review Panel that a formal inquiry will be required.

**Equal Opportunity Review Panel Composition**

The Equal Opportunity Review Panel will consist of five members - two full-time faculty, two staff (administrative, managerial/professional, and office/service), and one student selected by the Director, EAD, from a pool of six faculty selected by the Faculty Senate, six staff selected by the Staff Advisory Council, and six students selected by Student Government. Students must be currently enrolled in at least 6 credit hours (undergraduate and/or graduate) and in good academic standing.

The pool of names will be used until the beginning of the following academic year. If during the year, a nominated person becomes ineligible to be in the pool, the appropriate body, (i.e., Faculty Senate, Staff Advisory Council or Student Government) will nominate a replacement for that person in the pool. Selection of pool members and actual Panel members will be done in a manner that attempts to provide the widest possible diversity with respect to gender, ethnic background and other relevant socio/demographic traits.

Should a selected member of the panel identify himself/herself as having a legitimate conflict of interest, the Director, EAD, shall select a different member from the pool of names to maintain the required representation.

**Formal Inquiry**

Upon selection and contact by the Director, EAD, panel members will have ten (10) working days to convene, select a chair (student members are not eligible to chair), and schedule the start of the formal inquiry. The inquiry will be conducted as expeditiously as possible. During the inquiry the Panel will review the complaint in its entirety and conduct an impartial inquiry on the complaint. Documents and other information relevant to the complaint may be requested by the Panel, and witnesses may be called by the Panel. The complainant (and his/her representative[s], the respondent (and his/her representative[s]), and witnesses (if any) will only be present in the inquiry when their own testimony is being sought by the Panel. The inquiry will be audio taped.

The Panel has five (5) working days after the inquiry to reach a preliminary recommendation. In the event that it concludes that the complaint should proceed further, both parties will have access to all evidence presented before the Panel, including the audio tape. When the Panel concludes no additional action is warranted, neither of the parties will have access to the evidence. In cases where the Panel concludes that the complaint should go forward, both parties will have five (5) working days to rebut the evidence. The Panel then will have ten (10) working days to consider rebuttals and present its advice in writing to the appropriate Vice Chancellor. This written advice should report any dissenting views or include a written minority statement if the minority on the Panel chooses to do so. The Panel’s advice will be forwarded to the Vice Chancellor of the administrative unit in which the respondent is assigned (i.e., Senior Vice Chancellor for Academic Affairs for faculty respondents, Vice Chancellor of Business and Finance for staff respondents, Vice Chancellor for Student Success for student respondents).

Upon receipt of the Panel’s advice, the Vice Chancellor will have seven (7) working days in which to reach a conclusion whether or not this set of circumstances warrants additional investigation. The Vice Chancellor will communicate his/her decision in writing to the complainant and to the respondent and shall have the authority to implement such action as is deemed appropriate for non-faculty respondents. If the Vice Chancellor’s conclusion is that no further action be taken, no further action will be taken by the university. If, on the other hand, for faculty respondents the conclusion is that additional investigation should be undertaken, it will be in accord with and/or follow procedures detailed in the Bylaws of the Board of Regents of the University of Nebraska and policies promulgated pursuant thereto, and, in the case of faculty respondents who are members of the bargaining unit, in accord with the Collective Bargaining Agreement between the Board of Regents of the University of Nebraska and the University of Nebraska at Omaha Chapter American Association of University Professors.

**Guidelines/Clarification**

1. Accusations of prohibited discrimination are of utmost seriousness and should not be made casually or without cause. This policy shall not be used to bring frivolous or malicious charges against students, faculty, staff, administrators, visitors or other invitees, licensees, or university volunteers. The university reserves the right to take appropriate action against individuals who are determined to have brought frivolous or malicious charges. However, this provision shall not be construed in any manner that might unreasonably deter any person from bringing forth a concern. No person shall be retaliated against for exercising his/her rights under these procedures.

2. In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other education programs and activities of the university. In addition, First Amendment rights apply to the speech of students and faculty. (Federal Register/Vol. 62, No. 49, March 13, 1997)
3. Working days are those days that the university offices are scheduled to be open.

4. Time limits can be extended by the Assistant to the Chancellor, EAD, if there are extenuating circumstances which must be documented and determined by the Assistant to the Chancellor, EAD, to justify a delay.

5. Failure by University representatives to communicate the decision on a complaint within the specified time limits at any step of these procedures will not prejudice the complaint.

6. Failure by the complainant to pursue a complaint to the next step within the specified time limits at any step of the procedures, barring any extenuating circumstances which must be documented by the Assistant to the Chancellor, EAD, to justify a delay, will be considered acceptance of the last decision rendered.

7. All documents, communications, and records dealing with a complaint and processing of a complaint (except for those materials allowed in personnel files by existing policies or agreements) will be kept confidential and secured in the office of the Assistant to the Chancellor, EAD. The records will be retained for such time as may be legally required and/or deemed appropriate by the university; thereafter, all records will be destroyed.

8. All meetings and inquiries under this procedure will be conducted privately and will include only the parties specified in the procedure for that stage of the procedure.

9. If, as determined by the Panel, additional highly relevant facts that might alter the outcome of the decision are presented during the Panel’s proceedings, a recess of reasonable length as determined by the Panel may occur.

10. These are regarded as administrative, not legal procedures. However, in the formal stage(s) the complainant and/or the respondent have the right to legal representation in the form of an adviser at his/her own expense.

11. For hourly paid employees, time spent during scheduled working hours in meeting with the Assistant to the Chancellor, EAD, or designee or in the formal steps of the procedure is treated as time worked for pay purposes.

12. For faculty respondents, any decision on the part of the Vice Chancellor that additional investigation is warranted that could lead to disciplinary action must be forwarded to the Professional Conduct Committee. (Such sanctions could include sensitivity training, formal or informal reprimands, and an oral or written apology.)

13. Inquiry panels will not include faculty members currently serving on the Professional Conduct or Academic Freedom and Tenure Committees.

14. Failure or lack of clarity of the audio tape will not compromise the proceedings. In order to avoid such circumstances, two separate recordings will be made.

**Affirmative Action/Policies Prohibiting Discrimination and Sexual Harassment**

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The University of Nebraska at Omaha is committed to maintaining an environment for all students, faculty, staff and visitors that is fair and responsible; an environment which is based on one’s ability and performance. To that end, it is the policy of the University of Nebraska at Omaha that any form of discrimination because of race or ethnicity, color, age, disability, religion, sex (including sexual harassment and pregnancy), national origin, marital status, genetic information, Vietnam-era veteran status, political affiliation, sexual orientation or any unlawful reason shall not be tolerated. In keeping with this commitment, the University also will not tolerate discrimination prohibited under this policy against students, faculty, staff and visitors by anyone acting on behalf of the University of Nebraska at Omaha.

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Appropriate corrective action will be taken in those instances where the foregoing policies have been violated. Any student or employee who is found to have violated any of the foregoing policies will be subject to disciplinary action.

The University of Nebraska at Omaha complies with all applicable laws promoting equal educational and employment opportunity and prohibiting unlawful discrimination, including those addressing the obligations of the institution under Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, Sections 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, as amended.

Further information on these policies, as well as the Statement on Consensual Relationships and Procedures for Resolution of Complaints can be found on the Office of Equity, Access and Diversity website (https://www.unomaha.edu/office-of-equity-access-and-diversity). Inquiries regarding compliance with these statutes may be directed to Equity, Access & Diversity, 2078 Eppley Administration Building; 402.554.3490. Students who have concerns may contact the Title IX Coordinator/Assistant to the Chancellor for Equity, Access & Diversity, 205 Eppley Administration Building, 402.554.3490; faculty may contact the Assistant to the Sr. Vice Chancellor for Human Resources, 202 Eppley Administration Building, 402.554.2262; and staff may contact Equity, Access & Diversity, 2078 Eppley Administration Building, 402.554.3490.