

## POLICY FOR EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION / NON-HARASSMENT

The University of Guam Policy for Equal Employment Opportunity and Non-Discrimination / Non-Harassment was adopted on July 17, 2003, as Board of Regents Resolution #03-24 and replaces Article VI.H of the Rules, Regulations and Procedures Manual, and was amended by Board of Regents Resolution #03-33, which was adopted on September 18, 2003.

**Intent:** The University is committed to maintaining the campus community as a place of work and study for faculty, staff and students, free of all forms of discrimination and harassment that are unlawful under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq., or other applicable law. The University prohibits unlawful discrimination or harassment against any member(s) of the University community including faculty, student-employees, staff and administrators and applicants for such positions. Students (including student-employees) should also review the policies as summarized in the student handbook, and faculty should consult the faculty collective bargaining agreement. In case of questions or concerns regarding this Policy, please contact the University's Equal Employment Opportunity Office, (671) 735-2244, 735-2243 (TDD); Office of the President, UOG Station, Mangilao, Guam 96923, (671) 735-2990/5; or the University's Senior Vice President, Academic and Student Affairs Office, (671) 735-2991/4.

**No Discrimination/No Retaliation:** The University is an equal opportunity employer and is firmly committed to non-discrimination in its hiring, termination, compensation, promotion decisions and in all other employment decisions and practices and in the application of its personnel policies and collective bargaining agreements. In compliance with all applicable laws, except where a *bona fide* occupational qualification exists, employment decisions will be made irrespective of the employee's or applicant's race, color, religion, religious creed, national origin, age (except for minors), disability, sexual orientation, gender, citizenship status, military service status, and/or any other status protected by law. This policy prohibits retaliation because one has in good faith filed a complaint concerning behavior prohibited by this policy, or has reasonably opposed, reported or stated the intent to report such behavior or is participating in a related investigation, proceeding or hearing regarding such a matter.

All members of the University community must comply with this policy. The University will take prompt and effective corrective action in response to any complaint showing a violation of this policy. The University will reasonably accommodate qualified individuals with disabilities as defined by federal law if the individual is otherwise qualified to safely perform all essential functions of the position and if it will be done without undue hardship to the University.

The University's policy is supported by, and consistent with federal law. This policy thus accepts the mandate set for in Titles VI and VII of the Civil Rights Acts of 1964 and Title IX of the Educational Amendments of 1972.

**No Harassment:** Harassment based on race, sexual orientation, gender, national origin, color, religion, religious creed, age, disability, citizenship status, military service status, or any other status protected by law, is prohibited by University policy. Prohibited harassment in any form, including verbal and physical conduct, visual displays, threats, demands and retaliation is a violation of this policy and will not be tolerated. Prohibited acts that constitute harassment take a variety of forms. Examples of the kinds of conduct that may constitute harassment include, but are not limited to:

- Verbal conduct such as epithets, derogatory comments, slurs, or unwanted sexual advances, invitations, or comments;
- Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;
- Physical conduct such as unwanted touching, blocking normal movement, or interfering with work because of gender or any other status protected by law;
- Threats and demands to submit to sexual requests in order to keep your job or avoid some other loss, and/or offers of job benefits or conditions in return for sexual favors;
- Retaliation in the form of adverse actions because one has opposed, reported or stated the intent to report harassment or because one is participating in a related investigation, proceeding or hearing.

**Sexual Harassment:** Sexual harassment is a specific form of prohibited harassment which occurs when an individual's behavior constitutes (1) unwelcome sexual advances or (2) unwelcome requests for sexual favors, or (3) other unwelcome verbal or physical behavior of a sexual nature where:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's education or employment; or
- Submission to, or rejection of, such conduct by an individual is used as the basis for academic or employment decisions affecting the individual's welfare; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's welfare, academic, residential life or work performance, or creates an intimidating, hostile, or offensive educational, living or work environment at the University.

## **Complaint Review Process:**

**In General:** The University encourages individuals who believe they may have experienced discrimination or harassment in violation of University policy, or is aware that another person has allegedly engaged in such discrimination or harassment, to report such information using this complaint process. It is expected that review of these matters will begin expeditiously and that complaints will be resolved promptly and ordinarily no later than 45 days from receipt of the complaint. Confidentiality will be maintained to the extent appropriate in consideration of the circumstances. In addition to these procedures, complaints may be filed with the Equal Employment Opportunity Commission (EEOC) at the Hawaii District Office, Honolulu Office, Prince Kuhio Federal Building, 300 Ala Moana Blvd., Rm 7-127, Honolulu, HI 96850-0051, and the Office of Civil Rights of the US Department of Education at Federal Building, 50 United Nations Plaza, Room 239, San Francisco, CA 94102.

**Intake:** Complaints may be made in the following ways: An individual ("Complainant") may present the complaint to the University EEO officer, a University EEO counselor (collectively, "University intake person"), or to an administrator or officer of the University in the reporting relationship above the complaining individual or one who is above the person about whose

behavior the complaint is made. A list of the available University intake persons and their phone numbers is contained on the University web site. Wherever possible, the complaint should be made in writing and as soon as possible after the Complainant becomes aware of the prohibited behavior. If the Complainant declines to present a complaint in writing, the University intake person or the other University administrator or officer who receives the complaint will prepare a memorandum of the complaint made in oral fashion and in all situations promptly notify the University's EEO officer of the filing of the complaint, unless the complaint is against the University's EEO officer. Should the Complainant choose not to file a complaint with these persons, he/she may bring the complaint to the University's Senior Vice President or any vice president, dean or other senior University administrator, and should reference the matter wherever possible as arising under the University Policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment. The University's EEO officer shall be responsible to see that the Complaint is handled in the manner prescribed in this Policy, unless the complaint is against the University's EEO officer, in which case the University's Senior Vice President shall do so.

The University's EEO officer will inform the Complainant and where appropriate, the person whose conduct is alleged to violate the policy ("Respondent"), of this Policy, the procedures for resolution and the administrator or officer of the University who will be responsible for a final determination of the complaint ("decision maker"). The selection of the decision maker will be made with consideration of the reporting and/or academic relationships of the Complainant, Respondent and others involved. It is not possible to prescribe in advance the identity of the decision maker in all situations, given the unique organization of academic institutions.

**Process:** The Complaint will be reviewed, generally by the University's EEO officer, and resolved according to this policy, including that an investigation will be conducted if one is warranted. If the complaint is against the University's EEO officer or an individual in supervision over the EEO officer, the University will designate an individual independent of the University and who is not employed by an entity of the government of Guam, who is trained and experienced in EEO matters, to conduct the investigation if one is warranted and/or otherwise appropriately inquire into the complaint. Any investigation will proceed expeditiously and appropriately to investigate the matter, including interviews of individuals, if necessary, and a written summary of the facts relevant to the complaint will be prepared and, if any, the recommended corrective action.

**Resolution:** The University shall take prompt and effective action in response to the complaint. The decision maker will make a determination of the complaint in a manner consistent with the particular facts and circumstances of the complaint.

If the decision maker finds that the complaint in whole or in part shows a violation of the University policy, the decision maker shall determine what corrective action is appropriate and including, where appropriate, disciplinary action of the Respondent or others. Violations of this policy may result in disciplinary action such as warning, suspension or termination from employment or of any other affiliation with the University, etc. The decision maker may determine that the complaint does not show a violation of the University policy. If so, the decision maker shall so inform the Complainant and Respondent.

The decision maker will prepare a written summary of his/her determination. After the determination regarding the complaint has been made, to the extent appropriate the determination will be communicated in person to the Complainant within 5 days if the Complainant is available to meet.

**Non-Retaliation:** No member of the University community may be subjected to interference, coercion or reprisal for seeking advice concerning a matter under this Policy, reasonably filing a complaint, or otherwise in good faith participating in the internal complaint process or in a complaint process external to the University. The University will not so retaliate against any person making a complaint and will not knowingly permit retaliation.

**Appeal of Discipline:** Respondents or others who receive disciplinary action as a result of a complaint under this process may appeal under the provisions of the appropriate grievance procedures, if any, for faculty, staff, and students.

**Other University Procedure:** Time periods for filing of complaint, investigation and resolution should be advanced if proceedings under University collective bargaining agreements or other University procedures so warrant it.

**TITLE IX COMPLIANCE STATEMENT**

The University of Guam does not discriminate on the basis of sex in the admission to or employment in its education programs or activities. Inquiries concerning the application of Title IX and its implementing regulations may be referred to the University's Title IX Coordinator, located at the EEO/ADA Office, Dorm 2, Iya Hami Hall, Room 106, Tel. No. 735-2244, TDD: 735-2243; or to the Office of Civil Rights (OCR).