

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED NEW REGULATION**

DATE: September 22, 2010

REGULATION NUMBER AND TITLE: 2.003 Equity and Access

SUMMARY: The regulation prohibits discrimination against prospective and current students, prospective and current employees, and university program invitees on the basis of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by state and federal law. Each university may engage in lawful practices aimed at achieving a broadly diverse student body, faculty, and staff.

The regulation requires universities to promote equal access and opportunity in classes, programs, facilities, employment, and services and to establish policies prohibiting discrimination, including harassment. Universities must maintain an annual equity plan for remedying underutilization of minorities and women, as applicable, in senior-level administrative positions and by faculty rank and/or tenure status. Consistent with NCAA requirements, state law and federal law, universities must provide equitable opportunities for both genders in athletics.

The regulation provides for each university to submit an annual equity report to the Board Office by July 1st based on guidelines released by the Board Office. The Board Office must assess each university's plan on a yearly basis and advise the Board of Governors and the Legislature regarding compliance.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Vikki Shirley, General Counsel

COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

2.003 Equity and Access.

(1) Discrimination on the basis of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by applicable state and federal law against a covered individual at any university is prohibited. Covered individuals include prospective and enrolled students, prospective and current employees, and university program invitees. No person shall, on the basis of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any university program or activity, or in any employment conditions or practices, conducted by the university.

(a) Nothing in this regulation prohibits a university from engaging in lawful practices aimed at achieving a broadly diverse student body, faculty, or staff if a university determines that such practices are necessary to achieve its educational, research, or service missions. Such practices may include, but are not limited to, conducting targeted outreach and recruitment aimed at inclusion, creating training programs to increase capacity of diverse cohorts, and taking lawful action to remedy underutilization.

(b) Nothing in this regulation limits a university's authority to adopt non-discrimination policies that do not violate applicable law.

(2) Each university shall promote and ensure equal access and opportunity in accordance with this regulation. Each university shall:

(a) make available classes, programs, facilities, employment, and services without regard to the protected status or category of an individual; however, this is not intended to eliminate the provision of classes or programs designed to meet the needs of students with disabilities or programs tailored to students with specialized talents or skills;

(b) establish policies, procedures, and reporting mechanisms that prohibit and address unlawful discrimination, including harassment, of students, employees, and university invitees; and

(c) establish a designated office or person responsible for the development and implementation of the equal employment opportunity program at each university. Such person or office, or President's designee, shall receive and investigate complaints related to unlawful discrimination, including harassment, and recommend necessary action to the President or other decision-making designee.

(3) Equity and Accountability in Employment. Each university shall:

(a) offer equal opportunity and access in employment to all qualified individuals without regard to the protected status or category of the individual.

(b) maintain an annual equity plan for remedying underutilization of women and minorities, as applicable, in senior-level administrative positions and by faculty rank and/or tenure status. Such plan shall be maintained and ongoing until such underutilization has been remedied.

(4) Equity in Intercollegiate Athletics.

(a) Each university shall comply with all applicable requirements of the National Collegiate Athletic Association (NCAA) and of applicable state and federal law in providing equal opportunity and access to students to participate in intercollegiate athletics, as well as in intramural, club, or recreational athletics.

(b) Each university shall develop an equity plan that addresses the following:

1. sex equity in sports offerings, participation, availability of facilities, scholarship offerings, and funds allocated for administration, recruitment, comparable coaching, publicity and promotion, and other support costs; and
2. the proper level of support for women's athletic scholarships.

(5) Reporting and Monitoring. Each university shall prepare an annual Florida Equity Report in accordance with this regulation and reporting guidelines established by the Board of Governors Office.

(a) At a minimum, the university's equity report must include information on the institution's progress in implementing strategic initiatives and performance related to equity and access as they pertain to academic services, programs, and student enrollment; equity in athletics; and employment.

(b) Each university's equity report shall assess sex equity in athletics, as well as representation by race and sex in student enrollment, senior-level administrative positions and by faculty rank and/or tenure status.

1. Annual goals shall be developed and included in the equity report to address each area of underutilization. For each year in which prior year goals were not achieved, each university shall provide a narrative explanation and a plan for achievement of equity.

(c) Each equity report shall include a web citation of the university's non-discrimination policy adopted by its university board of trustees.

(d) Such reports are to be submitted to the Board of Governors Office by July 1 of each year pursuant to the requirements of this regulation and guidelines distributed by the Board Office for each reporting period.

(e) Each university board of trustees or designee shall approve the annual Florida Equity Report for its institution prior to submission to the Board of Governors Office.

(f) The Board of Governors Office shall annually assess the progress of each university's plan and advise the Board of Governors and the Legislature regarding compliance.

(6) Review of the Florida Equity Report Guidelines.

(a) No later than January 1 annually, the Council on Equal Opportunity and Diversity will transmit to the Board of Governors Office proposed revisions to the guidelines for the Florida Equity Report.

(b) The Board of Governors Office will consider any proposed revisions and any information in the previous year's Florida Equity Reports. No later than February 1, the Board of Governors Office will release the annual guidelines for the current year's Florida Equity Report.

(7) Each university shall develop a budget plan to support attainment of the university's goals as outlined in its equity plan in accordance with state and federal law.

Authority: Section 7(d), Art. IX, Fla. Const.; History: New XX-XX-10