

# *Equal Opportunity and Title IX*

UM / Equal Opportunity and Title IX / Prohibited Conduct (Policy)  
/ **Definitions of Prohibited Conduct**

## *Discrimination*

Discrimination is conduct based upon an individual's race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, gender, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation ("protected classes") that:

1. Adversely affects a term or condition of an individual's employment, education, living environment or participation in a University Program or Activity; or
2. Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment or participation in a University Program or Activity; or
3. Constitutes Harassment, as defined below, by unreasonably interfering with an individual's employment, educational performance, on-campus living environment, or participation in a University Program or Activity.

Discrimination includes failing to provide reasonable accommodation to persons with disabilities. Under the Policy, a person with a disability means a person with a physical or mental impairment that substantially limits a major life activity; has a record of such impairment; or is regarded as having such an impairment. Determinations of whether individuals have a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) are made on a case by case basis. In accordance with the Americans with Disabilities Act (ADA), as amended, Section 504 of the Rehabilitation Act of 1973, and applicable federal and state laws, the University is committed to providing access and reasonable

accommodation in its services, programs, activities, education, and employment for individuals with disabilities.

An exception to the definition of Discrimination is a bona fide occupational qualification.

## *Discriminatory Harassment*

Discriminatory Harassment is unwanted conduct that is: (a) based upon an individual's race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, gender, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation; and (b) that has the purpose or effect of unreasonably interfering with a reasonable person's participation in a University Program or Activity.

Discriminatory Harassment emphasizes the consequence of conduct on an individual's participation in a University Program or Activity.<sup>[3]</sup> The following factors will be considered in assessing whether conduct objectively constitutes an unreasonable interference in a University Program or Activity:

1. The identity of the parties, the nature of the parties' relationship, and the influence of that relationship on the complainant(s)' employment or education;
2. The nature, scope, frequency, and duration of the protected class conduct;
3. The degree to which the protected class conduct affected one or more students' education or individual's employment; and
4. The nature of higher education.

## *Sexual Harassment*

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identity of those involved.

Sexual Harassment is unwanted conduct that: (1) occurs within a University Program or Activity located in the United States; (2) affects an individual participating or attempting to participate in a University Program or Activity at the time the Formal Complaint is filed; (3) is based on sex, gender identity, gender expression, or sexual orientation; and (4) satisfies the elements of Quid Pro Quo Conduct, Hostile Environment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Exploitation, as defined below.

## *Retaliation*

Retaliation means any adverse action, including efforts to intimidate, threaten, coerce or discriminate, and any adverse employment or educational actions, that would discourage a reasonable person from engaging in activity protected under this policy, against any individual for the purpose of interfering with any right or privilege secured by this Policy, or because the individual has made a report or complaint, responded to a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and accompanying Discrimination Grievance Procedures.