

REGENTS' POLICY
PART I – MISSION AND GENERAL PROVISIONS
Chapter 01.02 – General Provisions

P01.02.010. Freedom of Speech.

- A. An environment of free and honest inquiry is essential to the functioning and the mission of the university. The board and the university therefore acknowledge, affirm, and espouse the right of freedom of speech as guaranteed in the Constitutions of the United States and the State of Alaska. The essential purpose of the university is to engage in the pursuit of truth, the advancement of learning and the dissemination of knowledge. To achieve this purpose, all members of the university must be assured of the constitutionally protected right to question, speculate, and comment, as well as the right to criticize the university and society at large.
- B. The university will not limit or abridge any individual's constitutional right to free speech.

(06-07-06)

P01.02.020. Nondiscrimination.

It is the policy of the board that, in accordance with federal and state law, illegal discrimination against any individual because of race, religion, color, national origin, citizenship, age, sex, physical or mental disability, status as a protected veteran, marital status, changes in marital status, pregnancy, childbirth or related medical conditions, parenthood, sexual orientation, gender identity, political affiliation or belief, genetic information, or other legally protected status is prohibited. Decisions affecting individuals shall be based on the individual's qualifications, abilities and performance, as appropriate.

(06-01-17)

P01.02.025. Discrimination.

- A. The university will not permit or tolerate discrimination that creates an intimidating, hostile, or offensive working or learning environment, or that interferes with an individual's performance. The university recognizes that conduct which constitutes discrimination in employment or educational programs and activities is prohibited and will be subject to corrective and/or disciplinary action.
- B. Sex and gender-based discrimination under Title IX is addressed in Regents' Policy and University Regulation 01.04.
- C. Discrimination refers to being adversely treated or affected, either intentionally or unintentionally, in a manner that unlawfully differentiates or makes distinctions on the basis of the individual's legally protected status or on some basis other than an individual's qualifications, abilities and performance, as appropriate. The university will vigorously exercise its authority to protect employees and students from discrimination by agents or employees of the university, students, visitors and guests.

- D. Nothing contained in this policy will be construed or applied to limit or abridge any person's constitutional right to freedom of expression or to infringe upon the legitimate academic freedom or right of due process of any member of the university community. Principles of academic freedom and freedom of expression require tolerance of the expression of ideas and opinions even though they may be offensive to some. However, ideas and opinions must be expressed in a manner that does not create an intimidating, hostile, or offensive working or learning environment or unreasonably interferes with an individual's performance. The university upholds and adheres to principles of academic freedom and the laws prohibiting discrimination in employment and education.
- E. Individuals who believe they have been subjected to discrimination are encouraged to bring this behavior or action to the attention of an employee or faculty member who is in a position to assist in addressing the concern. The relevant MAU's Title IX coordinator, student affairs officer, or the University's Chief Human Resources Officer, or their delegate, as appropriate, will mediate disputes, receive complaints, obtain process information, or discuss resolution options regarding discrimination complaints.
- F. The university cannot guarantee confidentiality in connection with complaints alleging discrimination; however, all university employees and students are expected to make a reasonable effort to protect the legitimate privacy interests of involved persons consistent with their obligation to inform the accused.
- G. Nothing in this policy will be construed or applied to create a right to an award of damages or other monetary compensation against the university or university employees beyond any existing under state or federal law.

(11-07-25)

P01.02.030. Maintenance of Good Order.

Consistent with university policies and regulations and the laws of the State of Alaska, all officers and employees of the university and all persons on premises owned, used, or controlled by the university, are required to comply with university policies and regulations and MAU rules and procedures to maintain orderly procedures within the university, to avoid disruptions of the university's operations and to protect and preserve life and property.

(09-15-78)

P01.02.040. Officers', Directors', and Employees' Liability.

The board will defend, indemnify and hold harmless all of its officers and employees, including the board and members of policy advisory councils, from any and all liability or damage arising out of acts on behalf of the university done within the course and scope of duty. Policy advisory councils include community college councils, policy advisory councils for university centers, rural education centers, and cooperative extension centers, and cooperative extension service, and such other policy advisory councils as are set forth in regulation by the president.

(03-25-82)

P01.02.050. Restructuring.

- A. Actions of the board concerning restructuring of the university and University Regulations to implement restructuring shall control over any policy or regulation inconsistent with the restructuring action or regulation.
 - B. Policies and University Regulations identified by the president as inconsistent with such actions shall be brought to the attention of the board at its next regular meeting.
- (06-04-87)

P01.02.070. Unmanned Aircraft Systems / Model Aircraft Operations.

The president shall adopt regulations governing the operation of unmanned aircraft systems and model aircraft by university employees, students, and third parties as appropriate.

(05-31-18)

P01.02.080. Administrative Response to Reports of Misconduct.

- A. Prompt reporting of allegations of misconduct involving members of the university community is expected and in some cases required by law, Regents' Policy, or University Regulation. Prompt reporting contributes to thorough and fair investigations and proceedings, as well as the university's ability to provide meaningful remedies that might avert more serious impacts.
- B. At the same time, the university acknowledges that reporting obligations might not apply to certain members of the university community, those obligations might not have applied at the time of the misconduct, or there might have been compelling reasons for a delayed report.
- C. To encourage reports of misconduct, ensure response to all allegations regardless of when the alleged misconduct occurred, ensure fair proceedings, and appropriately address issues with ongoing impacts on the university environment, the university will respond to reports of misconduct as follows:
 - 1. The university will assess all allegations of misconduct involving members of the university community, regardless of when the alleged misconduct occurred.
 - 2. Regardless of when the alleged misconduct occurred, the university will appropriately address ongoing risks to individuals and impacts on the safety and inclusivity of the university environment, as well as impacts on current university operations.
 - 3. If the alleged misconduct occurred three or fewer years before a report is made, the university will process the complaint and conduct a formal investigation if appropriate.

4. If the alleged misconduct occurred more than three years before a report is made, the university will not conduct a formal administrative investigation, except as provided in this policy and accompanying regulations.
 - a. In such cases the president or designee shall assess ongoing risks to individuals, impacts on the safety and inclusivity of the university environment, impacts on current university operations, as well as other appropriate factors (such as ability to provide due process), and may determine, in his or her sole discretion, that it is in the best interests of the university community to conduct a formal administrative investigation.
 - b. If the president or designee determines that a formal administrative investigation is in the best interests of the university community, an investigation shall be conducted pursuant to Regents' Policy and University Regulation.
 - D. This policy does not alter obligations under other provisions of law, Regents' Policy, or University Regulation to report or respond to misconduct, or limit the university's ability to pursue administrative, civil, or criminal remedies in appropriate cases.
- (01-01-19)

UNIVERSITY REGULATION
PART I – MISSION AND GENERAL PROVISIONS
Chapter 01.02 – General Provisions

R01.02.025. Discrimination.

A. Prohibition Against Discrimination

1. Discrimination is a form of misconduct which undermines the integrity of the working and learning environment and will not be tolerated on or at University of Alaska premises or functions.
2. Subject to the constraints of Regents' Policy, the broadest range of legally permissible speech and expression will be tolerated in the learning environment, student and scholarly publications, and at public forums open to public debate and the exchange of ideas.

B. Definitions

1. "Advisors" are defined as individuals appointed from each MAU to advise individuals regarding discrimination, provide information on whom to contact to file a formal complaint, and outline alternatives for complaint resolution. The president and the chancellors or their designees will appoint and make available a list of university personnel to serve as discrimination prevention advisors for individuals with questions or complaints involving discrimination. Advisors must have knowledge of applicable law and Regents' Policy and University Regulation.
2. "Affirmative Action Officer" refers to the regional affirmative action director or designee.
3. "Discrimination" refers to being adversely treated or affected, either intentionally or unintentionally, in a manner that unlawfully differentiates or makes distinctions on the basis of an individual's legally protected status or on some basis other than an individual's qualifications, abilities, and performance, as appropriate.
4. "Investigator(s)" are defined as the person or persons who have the responsibility and authority to conduct an investigation of formal discrimination complaints.
5. "Learning Environment" is defined as the premises of the University of Alaska system or any site where educational programs and activities are conducted in the name of the University of Alaska or any unit thereof.
6. "Regional Personnel Officer" refers to the regional human resource or personnel director or manager or designee.

7. “Working Environment” is defined as any place where the business of the university is conducted in the name of the University of Alaska or any unit thereof.

C. Roles and Responsibilities

1. The university administration is responsible for promoting a positive working and learning environment where all persons are free to discuss any problems or questions they may have concerning discrimination at the university, without fear of intimidation or reprisal.
2. All university employees are responsible for maintaining a positive working and learning environment. Supervisors and faculty will promptly respond to complaints of discrimination to determine what, if any, remedial action may be warranted. In resolving these complaints, supervisors and faculty will seek advice and guidance from the affirmative action officer or advisors. University employees and students must cooperate fully with efforts to resolve complaints brought to their attention.

D. Informal Resolution Process

The purpose of informal resolution is to educate and inform individuals of their offensive behavior and to allow individuals the opportunity to voluntarily correct inappropriate behavior without disciplinary action. Informal resolution will not generally have as an outcome written reports or sanctions.

1. A complainant generally should try to inform the person directly that his or her behavior is unwelcome, harmful or offensive. The complainant is also encouraged to request assistance from other university employees (supervisors), regional personnel officers, advisors or affirmative action officers in the informal resolution of a complaint. These assistants will promptly attempt to resolve the complaint through consultation and guidance of the complainant or, as appropriate, mediation between all concerned parties. Successful resolution efforts will be greatly facilitated by the timely reporting and handling of complaints.
2. Informal resolution may include informing the person about the behavior and/or writing a letter concerning the behavior and requesting that the behavior be stopped.
3. If informal resolution efforts fail to achieve satisfactory results, or if informal resolution is inappropriate in consideration of the circumstances or the egregious nature of the alleged behavior, the complainant may file a formal complaint with the affirmative action officer or the regional personnel officer as the initial action.

E. Formal Resolution Process

The formal resolution process is an administrative remedy which requires an investigation and written findings. One or two investigators will be designated to conduct a timely investigation to ensure an objective review of the allegations. The statements of the complainant, respondent and witnesses become part of a written record which will be used for administrative review and action as necessary.

1. Formal complaints alleging discrimination must include the following information:
 - a. The names of the respondent and complainant.
 - b. Their affiliation to the university.
 - c. A description of the offensive behavior and circumstances.
2. A formal complaint should also include the following information:
 - a. A description of any attempts to resolve the problem informally.
 - b. An explanation of the impact on the complainant.
 - c. Specific remedies requested.
3. The investigator(s), in determining whether the alleged conduct constitutes discrimination, must give consideration, to the record as a whole, to the totality of the circumstances, and where applicable to regulatory guidelines.
4. A copy of the written findings will be distributed to the complainant, the respondent, the respondent's supervisor, the regional personnel officer, the office of General Counsel and the Statewide Office of Human Resources.
5. Any person who:
 - a. commits discrimination; or
 - b. fails to perform his or her investigatory or supervisory responsibilities; or
 - c. makes false claims or provides false testimony against another will be subject to appropriate disciplinary action including, but not limited to, verbal and written reprimands, probation, suspension or termination.
6. The standard of proof in any investigation shall be the preponderance of the evidence. When a preponderance of the evidence is found to substantiate a complaint, disciplinary action may be taken. In determining what disciplinary action may be appropriate, the extent to which the respondent knew or reasonably should have known that his or her conduct was harmful or offensive will be

considered. Sanctions for conduct will be based upon all facts and circumstances of each case.

7. A complainant or respondent who disputes the written findings of the investigation report may request a formal review of the findings within 5 working days of the release of the findings.

Such formal review will be conducted by one or more trained individuals appointed by the chancellor or, in the case of statewide employees, the president. The purpose of this review is to provide an opportunity for the chancellor or president to obtain an objective review of the investigation findings when those findings are disputed by one of the involved parties.

The review will be scheduled as soon as practicable and the written recommendation resulting from the review will be forwarded to the chancellor, or in the case of a statewide employee, to the president for a decision.

8. If a party is dissatisfied with a chancellor's decision, that party may request a discretionary review by the president within 5 working days of the decision. If the president elects to review a chancellor's decision, the president's decision will be the final decision of the university. If the president does not elect to accept a review within 15 working days, the decision of the chancellor then becomes the final decision of the university. In the case of Statewide Administration employees, the decision of the president is the final decision of the university.

In either case, the final decision of the university is not grievable except as set forth in this regulation and is subject to appeal within 30 days pursuant to Alaska Appellate Rule 602(a)(2).

F. Identity of Complainant

Whenever formal disciplinary action may be contemplated, alleged offenders will be advised of the identity of their accusers, the nature of the charges being brought against them, and the circumstances of the alleged offense(s).

G. Confidentiality

Investigators will make reasonable efforts to preserve the privacy of their investigation and resolution efforts but cannot guarantee anonymity to complaining parties or witnesses. University employees and students will make a reasonable effort to protect the legitimate privacy interests of all concerned parties.

H. Retaliation

1. All persons have the right to complain about any conduct which they reasonably believe constitutes discrimination. No university official may take disciplinary or other adverse action against a person who genuinely but mistakenly believes

himself or herself to be discriminated against, even if the practices complained of do not, in fact, constitute discrimination.

2. Threats or other forms of intimidation or retaliation against complainants, respondents, witnesses or investigators will constitute a violation of this regulation and may be subject to separate administrative action, including termination for cause.

I. Bargaining Unit Employees

1. If disciplinary action may result from an investigation of a bargaining unit employee alleged to have engaged in discrimination, the employee has a right to union representation during an investigatory interview with the employee. If a union representative is present for the investigation of a bargaining unit employee, the union representative will also receive a copy of the written findings of the investigation.
2. Bargaining unit employees who have been disciplined pursuant to this regulation must resolve their disputes through the dispute resolution processes provided in their collective bargaining agreement. Copies of written documentation of disciplinary action taken will be provided to their union representative.

J. Training programs on discrimination will be designed to:

1. Provide employees with current information on federal and state law, Regents' Policy, University Regulation, and administrative procedures; and
2. Demonstrate appropriate techniques for the resolution of discrimination allegations.

K. Dissemination

The university administration will make reasonable efforts to inform members of the university community regarding the prohibition against discriminating conduct. In particular, this information will be communicated to new employees as an integral part of their orientation experience.

(06-29-17)