

## **1.01 - DISCRIMINATION AND HARASSMENT PREVENTION**

**Effective:** February 1, 2025

**Purpose:** Emporia State University seeks to create an atmosphere that recognizes and protects an environment of acceptance and inclusion for all members of the university community, including, but not limited to, faculty, staff, and students.

**Scope:** This policy applies to the University campus wide.

**Responsible Office:** Human Resources; Academic Affairs; Enrollment Management & Student Success; Athletics

**Policy Statement:** Emporia State University prohibits all forms of discrimination including all types of harassment, sexual violence, and all other types of violence. Federal law and university policy (see Definitions) protect a number of groups from unlawful discrimination. The University makes all decisions with reference to employment status and student status without regard to age<sup>1</sup>, race<sup>2</sup>, color<sup>3</sup>, religion, sex<sup>4</sup>, marital status<sup>5</sup>, national origin<sup>2</sup>, disability status<sup>6</sup>, veteran status<sup>7</sup>, sexual orientation<sup>8</sup>, parental status, and genetic information<sup>9</sup>, ethnicity or any other factors which cannot lawfully be considered, to the extent specified by applicable federal and state laws. Moreover, the university regards inappropriate behavior, unfair treatment, acts of sexual violence, or harassment of any individual to be inconsistent with its goal to provide an environment in which members of the university community can develop intellectually, professionally, personally, and socially. The University will take immediate and appropriate steps to stop any discrimination or harassment, prevent recurrence and remedy discriminatory effects on the complainant and others, if appropriate. This policy applies to employees, students, applicants for employment or admission, contractors, vendors, visitors, guests, and participants in university-sponsored programs or activities, both on and off campus.

The Affirmative Action Officer and/or designee and/or designee in the Office of Human Resources can be reached by phone at (620) 341-5379 and is responsible for implementation of a campus-wide harassment training program for faculty and staff. This

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<sup>1</sup> Age Discrimination Act of 1975, Age Discrimination in Employment Act of 1967

<sup>2</sup> Title VI & VII of the Civil Rights Act of 1964

<sup>3</sup> Title VII of the Civil Rights Act of 1964

<sup>4</sup> Title VII of the Civil Rights Act of 1964, Equal Pay Act of 1963, Pregnancy Discrimination Act of 1978, Title IX of Education Amendments of 1972

<sup>5</sup> Emporia State University Equal Employment & Educational Opportunity and Non-Discrimination Policy

<sup>6</sup> Americans with Disabilities Act of 1990, Sections 503 & 504 of the Rehabilitation Act of 1973

<sup>7</sup> Vietnam Era Veteran's Readjustment Act of 1974, Uniform Services Adjustment and Re-Adjustment Act of 1994

<sup>8</sup> Kansas Board of Regents Policy and Procedures Manual, Policy on Affirmative Action and Equal Opportunity

<sup>9</sup> Genetic Information Nondiscrimination Act "sex" refers to whether a person is a male or female.

training shall be mandatory for University employees and appropriate training records will be maintained. This University has adopted a policy on the Use of Controversial Material in Instruction, Including the Use of Sexually Explicit Materials in Instruction (University Policy Manual 4.26) that complies with the Kansas Board of Regents' policy on this issue. The harassment, sexual violence, and discrimination policies and procedures described herein shall be followed for the reporting, investigation, handling, and disposition of all complaints by any person regarding ESU Policy 4.26 - Use of Controversial Material in Instruction, Including the Use of Sexually Explicit Materials in Instruction.

### **Age Discrimination**

The Age Discrimination in Employment Act of 1967 prohibits discrimination against individuals who are at least forty (40) years of age. Discrimination is prohibited in all terms and conditions of employment including hiring, firing, compensation, job assignments, shift assignments, discipline, and promotions.

Age is also addressed in the Age Discrimination Act of 1975. Under this act no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

### **Racial or Ethnic Discrimination**

Employment discrimination based on race, color, religion, sex, or national origin is prohibited under Title VII of the Civil Rights Act of 1964. It is unlawful for an employer to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to their compensation, terms, conditions, or privileges of employment.

Under Title VI of the Civil Rights Act of 1964 no person on the basis of race, color, or national origin be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Racial and/or ethnic harassment is a form of discrimination that is illegal under Title VI and Title VII of the Civil Rights Act of 1964. Title VI protects people from discrimination based on race, color or natural origin in programs or activities that receive Federal financial assistance. Title VII prohibits employment discrimination based on race, color, and natural origin. No member of the university community shall engage in racial or ethnic harassment. Retaliation against an individual for making a complaint of racial and/or ethnic harassment will be treated as a violation of the racial and/or ethnic harassment policy. For the purpose of this policy, racial and/or ethnic harassment is defined as ethnic slurs and other verbal or physical conduct relating to race, ethnicity, or racial affiliation that:

- has the purpose or effect of creating an intimidating, hostile, or offensive work or academic environment;
- has the purpose or effect of unreasonably interfering with an individual's work performance, academic performance, living environment, if residing in University housing, or participation in any university-sponsored activity;

- otherwise adversely affects an individual's academic or employment opportunities;  
OR
- is not legitimately related to the subject matter of a course.

Racial and/or ethnic harassment may be blatant or subtle. Examples of the conduct that is prohibited include, but are not limited to:

- derogatory name-calling or language based on cultural stereotypes;
- incidents or behaviors which are derogatory to a racial or ethnic group; or
- repeated ignoring or excluding of one's presence or existence in a University setting based on one's racial or ethnic group.

### **Discrimination on the Basis of Sex**

The Equal Pay Act of 1963 prohibits discrimination on the basis of sex in the payment of wages or benefits, where people perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

The Pregnancy Discrimination Act of 1978 is an amendment to Title VII of the Civil Rights Act of 1964. Therefore, discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated the same as other applicants or employees with similar abilities or limitations. The Americans with Disabilities Act of 1990 prohibits an employer from discriminating against a qualified applicant or employee because of their disability. To be protected individuals need to be qualified and able to perform the job with or without reasonable accommodation from the employer.

The Pregnant Workers Fairness Act (PWFA) requires covered employers to provide "reasonable accommodations" to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an "undue hardship." The PWFA does not replace federal, state, or local laws that are more protective of workers affected by pregnancy, childbirth, or related medical conditions.

### **Discrimination on the Basis of a Disability**

Discrimination based on disability in any program or activity receiving Federal financial assistance is prohibited under Sections 503 and 504 of the Rehabilitation Act of 1973 and under the Americans with Disabilities Act (ADA).

### **Discrimination on the Basis of Veteran Status**

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 prohibits discrimination based on veteran status in federally assisted programs and it requires affirmative action to employ and advance in employment of veterans. Veterans protected by this act are Vietnam era veterans, special disabled veterans, recently separated veterans, veterans who have

been awarded an Armed Forces Service Medal, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

### **Other Harassment**

No member of the University community shall engage in harassment on the basis of age, color, religion, marital status, national origin, disability status, veteran status, sexual orientation, or on any other factor that violates state or federal discrimination law. For the purposes of this policy, such aforementioned harassment is defined as unwelcome verbal and/or physical conduct which:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work or academic environment;
- Has the purpose or effect of unreasonably interfering with an individual's work performance, academic performance, living environment, if residing in University housing, or participation in any university-sponsored activity;
- Otherwise adversely affects an individual's academic or employment opportunities;
- OR
- Is not legitimately related to the subject matter of a course.

These other forms of harassment may be blatant or subtle. Examples of the conduct that is prohibited include, but are not limited to:

- Derogatory name calling or language on the basis of age, color, religion, marital status, national origin, disability status, veteran status, sexual orientation, or any other factor that violates state or federal discrimination law.
- Incidents or behaviors which are derogatory on the basis of age, color, religion, marital status, national origin, disability status, veteran status, sexual orientation, or any other factor that violates state or federal discrimination law.
- Repeated ignoring or excluding of one's presence or existence in the University setting.

**Definitions:** All words and phrases shall be interpreted utilizing their plain meanings unless otherwise defined in another University or Board of Regents policy or by statute or regulation.

**Procedures:** All procedures linked and related to the policies above shall have the full force and effect of policy if said procedures have first been properly approved by the University's administrator in charge of Human Resources procedures, Athletics procedures, Academic Affairs procedures, Enrollment Management and Student Success procedures, and General University procedures.

[[Hyperlink to Human Resources procedures](#)]

[[Hyperlink to Academic Affairs procedures](#)]

[[Hyperlink to Student and Student Life procedures](#)]

[[Hyperlink to General University procedures](#)]

**Related Policy Information:** 1.02 – Role of Affirmative Action and/or Designee and Title IX Coordinator; 1.03 – Title IX Sexual Harassment, Discrimination, and Retaliation for Employees, Students, and Visitors; 1.04 – Grievance Procedures for Faculty, Staff, and Students; 4.26 - Use of Controversial Material in Instruction, Including the Use of Sexually Explicit Materials in Instruction

**History:** Adopted: Unknown [Approved and included in UPM as Policy 3D.0106]  
Revised: 05/17/2024]  
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Revised: 01/27/2025 [Policy revised to reflect changes in Federal law]

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