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Faculty Resources

6. *UAMS Policies Concerning Equal Employment Opportunities and Student Records*

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10/13/2005



UAMS ADMINISTRATIVE GUIDE

NUMBER: 4.5.01

DATE: 09/14/00

REVISION:

SECTION: HUMAN RESOURCES

AREA: EMPLOYMENT

SUBJECT: AFFIRMATIVE ACTION

PURPOSE

The purpose of this policy is to inform all departments within the University of Arkansas for Medical Sciences (UAMS) of the commitment to do more than ensure employment neutrality with regard to race and gender. We will take affirmative action and/or make additional efforts to recruit, employ, and promote qualified African Americans, Hispanic, Asian Americans, Native Americans and females. The ability of UAMS to meet its mission will increasingly depend on and be strengthened by incorporating constructive diversity in its faculty, students and staff.

POLICY

UAMS will comply with and enforce the applicable laws--Title VII of the Civil Rights Act of 1964 (as amended), Executive Order 11246, U.S. Federal Court Decree in the Adams Cases of 1973, and Act 99 of the Arkansas General Assembly. UAMS will take positive actions to overcome institutional forms of exclusion and discrimination. It is not sufficient to just take benign neutrality with regard to race and gender in employment practices.

PROCEDURE

1. UAMS will do more than ensure neutrality with regard to race and gender but will actively recruit, employ, admit and retain African Americans, Hispanic, Asian Americans, Native Americans and females.
2. UAMS will implement positive and innovative efforts to enhance the quantity and the quality of the minority applicant pool.
3. All hiring units that advertise or list job vacancies in newspapers, professional journals, magazines and other media will also advertise in minority publications, if appropriate. All jobs must be posted for a minimum of 5 days. (See 4.5.09, Personnel Requisition)
4. UAMS will use race and gender in some special situations where these individuals have been historically and institutionally excluded, e.g., when the final applicant's applications are equal and there are not any minorities or females in the department and/or section where the vacancy occurs, the person or persons making the final decisions as to whom to hire will be mindful of incorporating constructive diversity in the workforce.
5. UAMS will continue to recruit, employ and admit minorities to areas where they either do not exist or are present in numbers less than represented in the relevant labor market.
6. At the end of each academic year, each college and administrative unit will submit to the Human Relations Office an Affirmative Action/Desegregation Progress Report.
7. UAMS will take remedial steps and affirmative action to eliminate and overcome all vestiges of discrimination, which have or may have resulted from previous policies and practices.
8. Complete the "Affirmative Action Review Form" and forward to the Director of Human Relations, slot 544. This form is sent to the hiring department during the recruitment process; or copies can be obtained by calling the Office of Human Resources at 686-5650.

REFERENCES

UAMS Policy 4.5.09 Personnel Requisition
UAMS Policy 4.5.11 Job Advertisements



UAMS ADMINISTRATIVE GUIDE

NUMBER: 4.4.08

DATE: 09/01/00

REVISION:

SECTION: HUMAN RESOURCES

AREA: EMPLOYEE RELATIONS

SUBJECT: AMERICANS WITH DISABILITIES ACT IN EMPLOYMENT

PURPOSE

The University of Arkansas for Medical Sciences desires a uniform and thorough application of the Americans with Disabilities Act (ADA) with regards to applicants and employees. This policy will serve as a guide to managers and supervisors in their responsibility under this Act.¹

POLICY

1. The University of Arkansas for Medical Sciences does not discriminate on the basis of disability in any term, condition, or privilege of employment. All aspects of employment are covered, including social and recreational programs.
2. Non-discriminatory assurances are given to all individuals.
3. An individual with a disability is a person who:
 - has a physical or mental impairment which substantially limits one of life's major activities of caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, standing, lifting, and reaching; included within this definition are any physiological disorder or condition, cosmetic disfigurement or anatomical loss, and any mental or psychological disorder
 - has a record of such an impairment.
 - is regarded as having such an impairment.
 - is associated with an individual with a disability.
4. UAMS will not limit, segregate, or classify applicants or employees which thereby affects their opportunities or status because of their impairment.
5. The Office of Human Resources will assure that all tests and other selection criteria accurately reflect skills and aptitudes necessary to perform the job, are business related, and are consistent with business necessity. Further, standards, criteria, and methods of administration will not have the effect of discrimination on the basis of disability.
6. OHR will assure that inquiries into the nature and/or severity of an individual's disability will be job related and will occur **only** after a conditional offer of employment.
7. OHR will assure that all medical records for employees are maintained separately and confidentially as required by the ADA. Likewise, worker compensation and benefit histories are maintained separately from master personnel files.
8. UAMS will avoid contractual or other arrangements that may subject an applicant or employee with an impairment to discrimination.

PROCEDURE

1. Managers and supervisors will identify the essential functions of the job and the essential physical requirements for each position reporting to them, and will make decisions of hiring, promotion, demotion, performance evaluation, and other employment actions on the basis of these essential criteria. Such essential functions shall be identified in [Position Classification Questionnaires \(PCQ\)](#) and in Personnel Requisitions, and shall be reflected in performance evaluation documents.
2. When a qualified individual with an impairment, either an applicant or a current employee, is unable to perform the essential functions of the position unassisted, the manager or supervisor will seek "reasonable accommodation" so that the individual is enabled to perform the essential functions. The process of finding available options for "reasonable accommodation" should include the input of the individual with the impairment, OHR and outside support agencies when necessary.
3. The manager or supervisor will contact OHR for guidance prior to taking any employment action when:
 - a "reasonable accommodation" for the qualified individual with a impairment cannot be found,
 - such accommodation poses an "undue hardship" on the department,
 - the qualified individual with an impairment might pose a health or safety hazard to employees, visitors, or patients, **OR**
 - the individual cannot be hired or be continued in employment because of inability to perform the essential functions of

the job.

4. In a case where the accommodation seems to be an "undue hardship," OHR will assist the department in seeking alternative accommodations and in finding additional financial and other resources from the University and/or the State of Arkansas in order to accomplish the necessary accommodation.
5. Managers and supervisors should participate in basic management training on the ADA as offered by the OHR and the UAMS Training Consortium.

REFERENCE

¹ UAMS Policy [3.1.12](#) Compliance with the Americans with Disabilities Act

The University of Arkansas for Medical Sciences desires a uniform and thorough application of the Americans with Disabilities Act (ADA) with regards to applicants and employees. This policy will serve as a guide to managers and supervisors in their responsibility under this Act.



UAMS ADMINISTRATIVE GUIDE

NUMBER: 3.1.10

DATE: 08/20/01

REVISION:

SECTION: GENERAL ADMINISTRATION

AREA: ADMINISTRATION

SUBJECT: ANTI-DISCRIMINATION: RACE, COLOR, GENDER, AGE, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN OR DISABILITY

PURPOSE

The University of Arkansas for Medical Sciences (UAMS) is committed to the principle and practice of nondiscrimination and equal opportunity in all areas of employment and other services that affect employees, students and the general public. The ability of UAMS to meet its mission will increasingly depend on and be strengthened by incorporating constructive diversity in its faculty, students and staff. Racism, bigotry and discrimination subvert the mission of UAMS which is to provide a wholesome environment where comprehensive educational, research and employment opportunities are offered to employees and students. In both obvious and subtle ways racism, bigotry and discrimination adversely affect an individual's ability to function at optimal level. They also have a harmful effect on one's ability to study, work and engage in leisure activities within the University community.

POLICY

The University of Arkansas for Medical Sciences abhors and condemns all forms of bigotry and racism. Such behavior is a violation of an individual's human rights and is also unlawful. UAMS will comply with and enforce Titles VI and VII of the Civil Rights Act of 1964 (as amended), Executive Order 11246, Title IX of the Educational Amendments of 1972, the Rehabilitation Act of 1973 (Sections 503 and 504), the Age Discrimination in Employment Act, the Americans With Disabilities Act of 1991, U.S. Federal Court Decree in the Adams Cases of 1973 and Acts 99 and 962 of the Arkansas General Assembly. UAMS shall recruit, retain, promote and graduate students without regard to race, color, gender, age, sexual orientation, religion, national origin or disability status. Specifically, UAMS will not discriminate on the basis of race, color, gender, age, sexual orientation, religion, national origin or disability status as a criterion in deciding against any individual in matters of admission, placement, transfer, hiring, dismissal, compensation, fringe benefits, training, tuition assistance and other personnel or educationally-related actions.

Therefore, the policy of UAMS is that members of the University community neither commit nor condone acts of bigotry, racism or discrimination. Actions on the part of any employee or official of the University contrary to this policy will be addressed promptly and appropriately, according to current UAMS disciplinary procedures. To ensure compliance with this adopted policy of nondiscriminatory behavior, UAMS will operate under the following procedures.

PROCEDURE (TRAINING & EDUCATION)

1. UAMS shall institute an on-going program designed to familiarize UAMS personnel with the fundamental principles of racial tolerance and cultural diversity. Priority will be given in the training of:
 - a. Faculty
 - b. Supervisory and management personnel
 - c. Personnel involved with customer contact
 - d. Students
 - e. Other personnel
2. Deans and division heads will be responsible for leading in the development and implementation of educational programs in their respective areas. The Office of Human Resources will be available, as a primary resource, for consultation in all areas of program development. The Office of Human Resources will also be a leader in the development and presentation of educational programs.
3. All promotional programs designed to solicit funds, provide customer information or create community goodwill, shall reflect the diversity of the University community and the general public. The appropriate dean/division head, or designee shall review such material prior to publication to ensure that the above standard is met.
4. Production of all faculty handbooks, student handbooks, employee handbooks, as well as any other communication designed to

publicize policy and procedure, or any other information, must be written in a manner to promote nondiscriminatory and tolerant behavior. The appropriate administrative personnel shall review such material prior to publication to ensure the above standard is met.

PROCEDURE (RACIAL SLURS, JOKES AND DEROGATORY REMARKS)

5. All complaints or allegations of slurs, inscriptions, jokes or other offensive behavior based on race, color, gender, age, sexual orientation, religion, national origin, or disability which occur in the workplace or are related to the workplace are to be reported to the appropriate department head. Any employee, faculty member, or student may contact the Human Relations Office should the complainant feel uncomfortable in reporting the incident to the department head.
6. (Campus Policy [4.4.02](#)) Progressive discipline will be implemented in proven cases of behavior referenced in Procedure #5 above:
 - a. First Offense -- Verbal Reprimand
 - b. Second Offense -- Written Disciplinary Notice
 - c. Third Offense -- Termination of Employment

Sensitivity training will be made available for those employees guilty of the behavior described in Procedure #5.

PROCEDURE (MONITORING)

7. During the month of June of each year, the Diversity Committee will review and report to the Chancellor the University's progress in the above areas of operation. This will be accomplished by review of such documents as the University's Affirmative Action plan, reports of accomplishments submitted by division heads, reports submitted to the Chancellor, and any other documented activities designed to accomplish the goals set out in this policy.



UAMS ADMINISTRATIVE GUIDE

NUMBER: 3.1.05

DATE: 11/01/93

REVISION:

SECTION: ADMINISTRATION

AREA: GENERAL ADMINISTRATION

SUBJECT: SEXUAL HARASSMENT

SIGNATURE: _____ **DATE:** _____
CHANCELLOR

PURPOSE

The University of Arkansas for Medical Sciences (UAMS) is committed to its mission of providing an academic and employment environment that fosters excellence. Sexual harassment violates the trust and respect essential to the preservation of such an environment, and threatens the education, careers, and well being of its community members. University members have the right to work and study in an environment free of harassment. This right is protected by Title VII of the 1964 Civil Rights Act for employees and Title IX of the Educational Amendments of 1972 for students, which view sexual harassment as a form of sexual discrimination. For these reasons, harassment of any kind will not be tolerated at UAMS. In both obvious and subtle ways, the very possibility of sexual harassment is destructive to individual students, faculty, staff, and the UAMS community as a whole.

Sexual harassment is particularly serious when it threatens relationships between teacher and student, or supervisor and subordinate, because it unfairly exploits the power inherent in these relationships. When, through fear of reprisal, a student or employee submits or is pressured to submit, to unwanted sexual attention, the ability of UAMS to carry out its mission is undermined. UAMS strongly encourages all UAMS community members to report incidents of sexual harassment. To that end, reporting and investigating procedures are supportive of and sensitive to the alleged victim. At the same time, they adequately safeguard the rights of the alleged offender.

POLICY

The University of Arkansas for Medical Sciences opposes all forms of sexual harassment, whether subtle or direct, and is committed to the thorough, timely and confidential investigation, in a fair and impartial manner, of all complaints from its students or employees. UAMS shall establish an independent Resource Panel for the purpose of providing counseling assistance for individuals who believe they have been victims of sexual harassment. Additionally, members of the panel may be called upon to investigate complaints of sexual harassment and provide the Assistant Vice Chancellor for Human Services with a written report of their findings. The Chancellor shall appoint a Resource Panel made up of twelve individuals nominated by the Heads of each UAMS Division. The Panel's membership shall reflect the diversity of the campus, and shall be divided into three groups of four members, with each group serving one, two, and three year terms, respectively. After the initial period, members shall be appointed to serve three year terms. The Panel members shall be trained in issues relating to sexual harassment, as well as in the proper manner of investigating complaints, and shall be certified as to completion of such training by the Assistant Vice Chancellor for Human Services. The Assistant Vice Chancellor for Human Services shall select individuals from the panel to conduct an investigation when a complaint of sexual harassment is received.

All individuals who believe that they have been sexually harassed are encouraged to notify their immediate supervisor, department head, or one of the resource persons from the independent Resource Panel appointed by the Chancellor. Names and contact numbers of panel members shall be published in the UAMS Administrative Guide as part of this policy. All individuals accused of sexual harassment shall be given the opportunity to respond to the complaints prior to any employment decisions. All records of sexual harassment complaints, whether filed by employees or students, shall be maintained in confidential files by the Office of Human Resources. Employees and students who are found guilty of sexual harassment are subject to disciplinary action in accordance with UAMS policies.

DEFINITIONS

Sexual harassment of employees and students is defined as any unwelcome sexual advance, request for sexual favors, or other physical or verbal behavior of a sexual nature either in or out of the work place when:

- (1) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of employment or status in a course, program, or activity;

- (2) Submission to or rejection of the conduct is used as a basis for an employment or educational decision affecting an individual; or
- (3) Such behavior unreasonably interferes with an individual's work or educational performance, or creates an intimidating, hostile, or offensive environment for work or learning.

Incidents that fall within the above defined criteria may occur between individuals of different sex -- male against female, or female against male -- or, between individuals of the same sex. Additionally, incidents may occur between supervisor and employee, faculty member and student, or between fellow-employees and fellow-students; they may also take place between employees and campus visitors and between employees and those who do business with UAMS.

EXAMPLES

The perception of what constitutes sexual harassment may vary from individual to individual; what is offensive to one person may be less so to another. Nevertheless, in both instances, complaints may arise alleging sexual harassment. The following examples are intended as illustrations only; they do not cover all possible situations. Some may be isolated and inadvertent offenses while others may be blatant and serious.

(1) Isolated and Inadvertent Offenses

- a) One-time or occasional comments of a sexual nature, or sexually explicit statements -- often unintentional, the perpetrator failing to realize that his/her actions discomfort or humiliate an individual or individuals (e.g., off-color statements, questions, jokes, or anecdotes;
- b) Spontaneous suggestive whistling, catcalls, or other gestures that call attention to one's sexuality;
- c) Body language, such as repeated staring, may be interpreted as pressure for sexual attention.

(2) Blatant and Serious Offenses

- a) Physical assault;
- b) Repeated and/or intentional behavior that constitutes a pattern where actions seriously discomfort or humiliate an individual (e.g., off-color statements, questions, jokes, or anecdotes) when the perpetrator has been warned previously;
- c) Persistent, unwelcome flirtations, and outright advances and/or propositions of a sexual nature;
- d) Unwelcome remarks or actions of a sexual nature about an individual's body or clothing;
- e) Unnecessary touching, such as patting, pinching, hugging, or repeated brushing against an individual's body;
- f) Suggestions that submission to or rejection of sexual advances will influence decisions regarding such matters as an individual's employment, salary, academic standing, work assignments or status, grades, award of financial aid, or letters of recommendation;
- g) Unwarranted displays of sexually suggestive objects or pictures;
- h) Unwelcome exposure to sexually explicit music, letters, or written notes;
- i) Descriptions of sexual activity or speculations about previous sexual experiences;

SPECIAL CIRCUMSTANCES

There are special circumstances when a staff member of an academic medical center may be at risk of being sexually harassed by individuals who are not employed by the institution. This might include employees of those who do business with UAMS. Investigative steps should be taken as outlined in this policy and appropriate warnings should be made if the action is found to have occurred. If such is the case, and the inappropriate behavior does not cease, UAMS shall take suitable action.

CONSENSUAL RELATIONSHIPS

Consenting amorous relationships between faculty members and students or between supervisors and employees are of particular concern to UAMS and are strongly discouraged. The relationship between faculty member and student or supervisor and employee should be one of trust and mutual respect, thus fostering an atmosphere of professionalism. Faculty members exercise power over students as do supervisors over employees, whether in evaluations, recommendations, study, duties, grades, assignments, or other benefits. This differential in power increases the opportunity for abuse of power, thus endangering the professional environment. In addition, faculty or supervisors who have chosen to enter consensual relationships with subordinates, should be aware of the possible difficulty in defending a future sexual harassment charge on the grounds of mutual consent.

PROCEDURE (INFORMAL COMPLAINTS)

UAMS recognizes that it is advantageous, where possible, to resolve complaints informally. The informal process is intended as a means of addressing misunderstandings between individuals which have resulted in a complaint of sexual harassment. Employees with complaints are

encouraged to notify their immediate supervisor, department head, or one of the resource persons from the independent Resource Panel. Students should report incidents of sexual harassment to the appropriate College's Student Affairs Office. Some complaints may be addressed informally by speaking directly with the accused to make them aware that the conduct is perceived as unwelcome. The informal process may also include referral of either or both parties in the complaint to confidential counseling through UAMS' Employee Assistance Program (EAP). The complainant or administrator may elect to refer the complaint into the formal campus procedure at any time during the process, as they deem necessary to resolve the complaint in an appropriate and timely manner.

PROCEDURE (FORMAL COMPLAINTS)

Where the informal process fails to resolve the complaint, or in instances where the alleged harassment is blatant, the University's formal complaint process will be used. The Director of Employee Relations in the Office of Human Resources or the University's Director of Human Relations may assist the complainant in preparing their complaint in writing, as necessary. The complaint will be directed to the Assistant Vice Chancellor for Human Services. Upon receipt of the written complaint, the Assistant Vice Chancellor for Human Services will notify the appropriate Dean, Vice Chancellor, or Executive Director, and appoint two members of the Resource Panel to investigate the facts of the complaint.

The assigned resource persons will interview the complainant to review facts presented in their complaint, and to determine any additional information pertinent to evaluating the complaint. The resource persons will also interview the accused, and present them with a written copy of the complaint. Each party will be asked to identify other individuals who may have direct pertinent knowledge relating to the complaint. The accused will also be given the opportunity to respond in writing to the complaint prior to completion of the investigation. The resource persons will attempt to interview all individuals identified by either party. Every effort will be made to ensure a thorough and timely investigation of the complaint.

Following completion of the investigation of the complaint, the resource persons will meet with the Assistant Vice Chancellor for Human Services and the appropriate division Dean, Vice Chancellor, or Executive Director to present the facts. A written report, outlining data collected in the interview process, will be presented at that time. The Dean, Vice Chancellor, or Executive Director will be responsible for the timely disposition of the complaint. The Assistant Vice Chancellor for Human Services will be available to consult with the division head regarding policy issues relating to the disposition of the complaint.

Employees may appeal any employment decision through the campus grievance procedure. Students who are found guilty of sexual harassment may appeal the decision, and any subsequent action taken, through the grievance procedure of their respective college. Individuals found to have intentionally filed false complaints of sexual harassment will be subject to disciplinary action in accordance with UAMS' policies on employee/student conduct. Complainants may not appeal administrative decisions regarding sexual harassment complaints through the UAMS grievance processes.

Any specific questions regarding the process for making a complaint may be directed to the Office of Human Resources ext. 6-5300, or the Office of Human Relations ext. 6-5945.

EDUCATION

The aim of education on sexual harassment is not just to end specific harassment but to help create a positive climate for working and learning within the UAMS community. The presentation of information develops awareness and acceptance of major differences among the members of this community. Therefore, this policy on sexual harassment shall be disseminated to all individuals associated in any way with the University of Arkansas for Medical Sciences. This shall include all full and part-time employees and students, as well as all businesses and their representatives who are involved with UAMS.

An educational program will be developed through the Office of Human Resources and presented to all current members of the UAMS community. This program shall be mandatory for all, and documentation of attendance will be placed in each member's file. This same program will be incorporated into the existing orientation programs for new employees and students. Each UAMS division director (Vice Chancellors, Deans, and Executive Directors) will be responsible for disseminating this educational program to their respective organizations.