

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

DATE: September 20, 2023

REGULATION NUMBER AND TITLE: 2.003, Equity and Access

SUMMARY:

Board of Governors Regulation 2.003, Equity and Access, outlines the State University System's anti-discrimination policy and describes the Board's expectations that each university implements policies, programs, and practices to promote and ensure equal access and opportunity for all students and current and prospective employees. Board staff propose an amendment to Regulation 2.003 to align with section 1000.05, Florida Statutes, Florida Equity in Education Act; section 1006.71, Florida Statutes, Gender Equity in Intercollegiate Athletics; section 110.112, Florida Statutes, Affirmative Action: Equal Opportunity Employment; and section 760.10, Florida Statutes, Unlawful Employment Practices.

The proposed amendment changes the name of the regulation from "Equity and Access" to "Equal Access and Opportunity." It also adds that discrimination based on pregnancy is prohibited on university campuses. The proposed amendment also reduces the number of items institutions must annually report, including information on specific initiatives and performance related to equity and access in academic services, programs, and student enrollment. It also removes the requirement to report the representation by race and sex in student enrollment, senior-level administrative positions, and faculty rank and tenure status. The proposed amendment also implements an annual assessment by the Chancellor on the progress of each university's plan in support of equal opportunity in intercollegiate athletics. Finally, the proposed amendment eliminates the Florida Equity Report Guidelines review by the Council on Equal Opportunity and Diversity.

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: Dr. Christy England, Vice Chancellor, Academic and Student Affairs

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 St., Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

2.003 Equity and Access Equal Access and Opportunity.

(1) Discrimination on the basis of race, color, national origin, sex, pregnancy, 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 visitors~~university program invitees~~. No person shall, on the basis of race, color, national origin, sex, pregnancy, 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) Equal Access and Opportunity for Students. 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.;

~~(a)~~

~~(b)~~ Establish policies, procedures, and reporting mechanisms that prohibit and address unlawful discrimination, including harassment, of students, ~~employees~~, and visitors to the university ~~invitees~~.; and

~~(b)~~

~~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 Equal Access and Opportunity in Employment. Each university shall:

- (a) Offer equal opportunity and access in employment ~~in to~~ all qualified individuals without regard to the protected status ~~or category~~ of the individual.
- (b) Establish policies, procedures, and reporting mechanisms that prohibit and address unlawful discrimination, including but not limited to harassment, of employees.
- (a) ~~(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, investigate, and address complaints related to unlawful discrimination, including harassment, and recommend necessary action to the president or other decision-making designee.

~~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~~ Equal Access and Opportunity in Intercollegiate Athletics.
 - (a) Each university with an intercollegiate athletics program shall comply with all applicable requirements of their respective athletic conference or association ~~the National Collegiate Athletic Association (NCAA) and~~ of applicable state and federal law and regulations, including the provisions of Title IX, in providing equal opportunity and access to students ~~to who~~ participate in intercollegiate athletics, as well as in intramural, club, or recreational athletics.
 - (b) By September 30 of each year, Each university shall develop an equity plan pursuant to 1000.05(3)(d)1., Florida Statutes, 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, in compliance with state and federal regulations, including Title IX. -
 - (c) The Chancellor of the State University System shall annually assess the progress of each state university's plan and by December 1 of each year advise the Board of Governors and the Legislature regarding compliance.
 - ~~(c)(d)~~ Each board of trustees shall annually evaluate the presidents on the extent to which the gender equity goals have been achieved.

(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 September 30th 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)(5) Each university shall develop and submit to the Board office, a budget plan to support attainment of the university's goals as outlined in its equity plan, referenced in subsection (4), in accordance with state and federal law.~~

Authority: Section 7(d), Art. IX, Fla. Const. 1006.71, 1000.05, 760.01, 760.10, 110.112, Florida Statutes; History: New 11-4-10; Amended 11-5- 20; Amended XX-XX-XX.