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## Anti-Discrimination Essentials

K-State prohibits discrimination in employment and other University programs and activities under its anti-discrimination policy (PPM 3010 or the “policy”). Prohibited discrimination may be based on race, color, ethnicity, national origin, sex, sexual orientation, gender identity, religion, age, ancestry, disability, genetic information, military status, or veteran status.

“Discrimination” under the policy is treating someone adversely based on any of the above-listed categories. If the treatment is based on some other reason, such as poor grades, poor work performance, misconduct, lack of expertise, or some other valid reason, then it is not discrimination in violation of the policy. A person doesn’t have to be a particular race, sex or other characteristic within the listed types of discrimination to be discriminated against. In other words, discrimination can be committed by anyone and can be directed at anyone.

For example, suppose a department’s Affirmative Action Plan assessment shows a statistically significant underrepresentation of females, and “placement goals” have been established to increase the number of qualified females in the department. The hiring administrator is considering two roughly equally qualified candidates, one female and one male. The administrator considers the placement goals and hires the female in part *because* she is female. The administrator has discriminated based on sex and violated the policy and the law. The male applicant was subjected to adverse treatment and he lost an opportunity because of a protected characteristic.

Recruitment or placement goals may be used as targets for determining strategic ways to attract applicants of a particular demographic, but they cannot be used as hiring quotas, preferences, or “plus points” in the selection process. Hiring must be done *without regard to* race, sex, and all other protected characteristics. This includes all treatment of applicants during the entire hiring process, from selecting applicants for the short-

list, to interviewing them, to recommending one or more, to the final selection. Those decisions should be based only on the applicants’ job-related qualifications.

While diversity efforts cannot be made by discriminating, they can be made by casting a wide enough and strategic enough net at the position announcement stage. Posting and advertising of positions can be designed to attract a pool of qualified applicants that includes applicants in the underrepresented categories for a particular unit. Statistics show that, over time, this should result in lessening and eliminating the underrepresentation in that unit.

Harassment based on a protected category also is considered discrimination, but only when the harassing conduct is so severe or pervasive that it alters the terms, conditions, or privileges of the person’s employment, use of on-campus housing, academic opportunities, or participation in University-sponsored activities. Generally, isolated statements or social media posts that do not unreasonably alter a person’s University environment, even if offensive, are not considered harassment. In fact, much expression, even if highly offensive, is protected by the First Amendment.

Sexual violence is considered a form of prohibited sexual harassment. Generally, sexual violence is a physical sexual act perpetrated against a person’s will (without his or her consent).

K-State’s anti-discrimination policy also prohibits retaliation. “Retaliation” is adverse action taken against someone because he or she has engaged in protected activity, such as making a report of discrimination, participating in the PPM 3010 process, or requesting a reasonable accommodation of a disability. For example, if a supervisor demotes an employee because the employee made a discrimination complaint, the supervisor has engaged in retaliation, regardless of whether the underlying discrimination complaint had any merit.



## Anti-Discrimination Essentials *continued*

While everyone is encouraged to report discriminatory conduct, supervisors and administrators (sometimes known as “responsible employees”) **must** report potential violations of the policy to the Office of Institutional Equity (OIE). Administrators (typically department heads, directors, and equal or higher ranking administrators) must contact the OIE if they have reason to believe that discrimination may have occurred in any K-State activities, regardless of whether the alleged conduct is under their area of supervision. Supervisors must report conduct occurring within their area of supervision. For example, a professor is a “supervisor” of a class, so

s/he must report discrimination that is alleged to have occurred in the context of that class – whether alleged against the professor or another person.

If you have information or questions about discrimination or the policy, contact OIE. OIE is the office at K-State charged with implementing the University’s anti-discrimination policy, and can walk you through the requirements and process. OIE staff are available to all members of the campus community.

For complete definitions, requirements and procedures, please review the [policy](#).

### Featured FAQ

**Q: What should I do if I receive a subpoena, court order or search warrant pertaining to the University?**

**A:** Contact the Office of General Counsel at 785-532-5730 immediately and provide us with a copy of the document. Do not contact or discuss the document with the issuing party until you have received guidance from our office. In most cases we will be the appropriate office to handle communications with the issuing party. Note: Our office cannot provide advice and assistance regarding such documents if they are unrelated to University business.

**Q: What should I do if I receive an inquiry from an attorney outside the University about a University matter?**

**A:** Refer the attorney to the Office of General Counsel and contact us immediately at 785-532-5730. Do not discuss the matter with the attorney.



Maureen Redeker, K-State Assistant General Counsel, addresses questions after speaking on the topic “Clear and Present Danger? Assessing Threats and Safety Risks While Considering Individual Rights” at the 2017 Annual Conference of the National Association of College and University Attorneys (NACUA) in Chicago.

### Quote of the Day

“The freedom of speech and the freedom of the press have not been granted to the people in order that they may say things which please, and which are based upon accepted thought, but the right to say the things which displease, the right to say the things which convey the new and yet unexpected thoughts, the right to say things, even though they do a wrong.”

— Samuel Gompers, U.S. labor leader

### Visit our website:

[k-state.edu/generalcounsel](http://k-state.edu/generalcounsel)

Our website gives an introduction to the services we provide and addresses frequently asked questions. It also houses a list of resources for easy access to laws and policies applicable to University operations.

### About this Publication:

This newsletter is designed to serve as a practical informational tool, bringing you topics of interest and practical tips. It should not be relied on as a substitute for legal advice. Laws, regulations and policies change frequently, and legal advice requires careful consideration and application of all relevant facts. If you have legal questions or need legal advice concerning any University matter, please contact the Office of General Counsel directly at 785-532-5730 or [attys@k-state.edu](mailto:attys@k-state.edu).