

Proposed Edits to BOR P04.02, P04.07, and P04.08
Proposed by the UA Human Resource Directors from UAA, UAF & UAS
March 2016 – All Feedback due March 28, 2016

REGENTS' POLICY
PART IV – HUMAN RESOURCES
Chapter 04.02 - General Personnel Policies

P04.02.010. Equal ~~Employment~~ Opportunity and Affirmative Action: Statement of Intent.

The board recognizes that discrimination in employment practices has in the past foreclosed economic opportunity to a substantial number of persons in the United States. The board is committed to oppose illegal employment discrimination and to prohibit it within the university. In addition to prohibiting illegal employment discrimination, as a part of its commitment to equal employment opportunity, the board is committed through an affirmative action program, to recruit, employ and promote qualified “protected class” persons who have been historically under-represented in the workforce.

(06-06-07)

P04.02.012. Equal Employment Opportunity Program.

The program of equal employment opportunity consists of two parts: nondiscrimination and a program of affirmative action.

A. Nondiscrimination is detailed in policy P01.02

~~In accordance with federal and state laws and regulations, the university will not engage in impermissible discrimination. In accordance with federal and state law and regulation, the university makes its programs and activities available without discrimination on the basis 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, political affiliation or belief, or genetic information. Among the federal and state laws and regulations prohibiting discrimination in employment that pertain to the university as of September 2014 are:~~

~~Equal Pay Act
Title VI and Title VII of the Civil Rights Act of 1964
Executive Order 11246
Age Discrimination in Employment Act
Title IX of the Education Amendments of 1972
Section 504 of the Rehabilitation Act of 1973
Vietnam Era Veterans' Readjustment Assistance Act of 1974
Pregnancy Discrimination Act of 1978
Immigration Reform & Control Act of 1986
Civil Rights Restoration Act of 1987
Americans with Disabilities Act of 1990 as
amended Age Discrimination Act of 1975
Genetic Information Non-Discrimination Act of 2008
Alaska Statute 14.40.050 and 18.80.220~~

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~~2. Individual merit will be considered by the university. University hiring decisions will be based on the individual's qualifications, demonstrated abilities, and performance, as appropriate.~~

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B. Affirmative Action

~~Individual merit will be considered by the university. University hiring decisions will be based on the individual's qualifications, demonstrated abilities, and performance, as appropriate.~~

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The university seeks to hire, train and promote individuals based on qualifications and demonstrated ability to perform the job. In its commitment to affirmative action, the university is committed to recruit and retain qualified underrepresented women and minorities individuals in positions of employment, ~~where they have been traditionally under-represented.~~ The concept of affirmative action requires that practices that adversely impact protected classes should be eliminated unless the university can demonstrate a legally permissible basis. ~~To accomplish the goals of its affirmative action program, the university encourages employment applications from and makes special efforts to recruit protected classes.~~

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(09-19-14)

P04.02.014.
Implementation.

The president and the chancellors are responsible for planning, implementing, and monitoring an effective program of equal employment opportunity. The president and each chancellor will provide an annual report to the board with regard to the effectiveness of their respective equal employment opportunity program.

(06-20-97)

~~P04.02.020. 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. 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~~

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~~exercise its authority to protect employees and students from discrimination by agents or employees of the university, students, visitors and guests.~~

~~C. 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.~~

~~D. 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 affirmative action officer, human resources or student affairs officer, or designee, as appropriate, will mediate disputes, receive complaints, obtain process information, or discuss resolution options regarding discrimination complaints.~~

~~E. 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.~~

~~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.~~

(06-06-07)

P04.02.022. Sexual Harassment.

~~The university will not tolerate inappropriate sexual or sexually harassing behavior and seeks to prevent such conduct toward its students, employees and applicants for employment. Violation of this policy may lead to discipline of the offending party.~~

~~Since some members of the university community hold positions of authority that may involve the legitimate exercise of power over others, it is their responsibility to be sensitive to that power. Faculty and supervisors in particular, in their relationships with students and subordinates, need to be aware of potential conflicts of interest and the possible~~

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~~compromise of their evaluative capacity. Because there is an inherent power difference in these relationships, the potential exists for the less powerful person to perceive a coercive element in suggestions regarding activities outside those inherent in the professional relationship.~~

~~It is the responsibility of faculty and staff to behave in such a manner that their words or actions cannot reasonably be perceived as sexually coercive, abusive, or exploitative. Sexual harassment also can occur in relationships among equals as when repeated unwelcome advances, demeaning verbal behavior, or offensive physical contact interfere with an individual's ability to work or study productively. Consensual sexual conduct that unreasonably interferes with other employees' work or creates a hostile, intimidating or offensive working or learning environment constitutes sexual harassment for purposes of this policy.~~

~~The university is committed to providing an environment of study and work free from sexual harassment and to ensuring the accessibility of appropriate procedures for addressing all complaints regarding sexual harassment. Nothing contained in this sexual harassment 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.~~

(06-06-07)

~~P04.02.024. Consensual Sexual Relations.~~

- A. ~~Faculty members or staff who engage in sexual relations with students enrolled in their classes or subject to their supervision, even when both parties have consented to the relationship, will be engaging in unprofessional behavior.~~

~~Employees~~ who engage in sexual relations with students enrolled in their classes, subject to their supervision, or who may be advantaged or disadvantaged by the employee's action(s), even when both parties have consented to the relationship, will be engaging in unprofessional behavior **and subject to discipline.**

- ~~D.B. Supervisors who have authority or control over employees and engage in sexual relations with those employees, abuse their power, even when both parties have consented to the relationship.~~

~~Employees~~ who have authority, control or influence over other employees and engage in sexual relations with those employees, abuse their power, even when both parties have consented to the relationship **and will be subject to discipline.**

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E.C. Individuals who hold university affiliate appointments or other agreements to use university resources and who have authority, control or influence over other employees or students and engage in sexual relations with those employees or student, abuse their power, even when both parties have consented to the relationship and will be subject to appropriate sanction.

(06-06-07)

P04.02.026.. Limitation of Liability.

Commented [1]: Add to 01.02

Nothing in P04.02.020 - 04.02.026 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.

(08-15-97)

P04.02.030. Reasonable Accommodation for People with Disabilities: Prohibition Against Discrimination on the Basis of Disability.

All members of the university community have a right to a working and learning environment free of all forms of illegal discrimination including discrimination against people with disabilities. It is the university's intent that no employee, or user of university facilities, be subjected to unlawful discrimination based on disability.

(06-06-07)

P04.02.040. Drug-Free Workplace.

- A. The unlawful manufacture, distribution, dispensing, possession, or use by an employee of a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812), and as further defined by regulation at 21 C.F.R. 1308.11 - 1308.15 is prohibited in any workplace of the university.
- B. All employees will abide by the terms of this policy as a condition of their employment and will notify the university of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 working days after the conviction. Within 30 days of receiving the notice of conviction, the university will take appropriate personnel action against the employee as prescribed by university regulation, up to and including termination, or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

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- C. The university regulation implementing this section must provide for publishing a statement to notify employees of this policy and to establish a drug-free awareness program to inform employees about: the dangers of drug abuse in the workplace; the university's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- D. Each employee will be provided a copy of this policy and accompanying university regulation.

(06-20-97)

P04.02.050. Employee Alcohol and Controlled Substances Testing.

- A. The university regulation implementing P04.02.040 and this section will at a minimum provide for the establishment of alcohol and controlled substances testing programs as required by law; the imposition of penalties on employees when tests exceed allowable levels; compliance with reporting and record keeping requirements; dissemination to affected employees of educational materials explaining the legal requirements, this policy and university regulation; and provide for appropriate staff training and employee assistance programs. Collective bargaining units representing affected university employees will be given written notice concerning the availability of this information.
- B. All employees subject to laws mandating alcohol and controlled substances testing will comply with such laws, this regents' policy and university regulation as a condition of their employment.

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REGENTS' POLICY
CHAPTER IV – HUMAN RESOURCES
Chapter 04.07 - Employee Relations

P04.07.010. Employee Orientation.

Regular employees, within a reasonable time after initial hire, will receive an orientation and be provided material that communicates university human resource programs.

(09-30-94)

P04.07.020. Probationary Status.

Newly hired and promoted regular exempt and nonexempt staff, with the exception of officers of the university and senior administrators and faculty, will serve a six month probationary period. The provisions for probationary status will be set forth in university regulation.

(06-10-04)

P04.07.030. Performance Evaluation.

- A. The performance of each employee will be evaluated annually and written evaluations will be used as a basis for personnel actions. Performance evaluations will include discussions of the position duties, responsibilities and purpose as defined by the supervisor, performance and conduct, review of progress, and as appropriate, planning for more effective performance. The review will include an opportunity for the employee to ask questions concerning work assignments and performance expectations. Written performance evaluations will be communicated to the employee and will be placed in the employee's official personnel file.
- B. Written evaluations will be sufficiently specific to inform and guide the employee toward achieving major goals and objectives for the employee's position as determined by the supervisor. The employee will have an opportunity to respond to the performance evaluation in writing. Employee performance review guidelines appropriate to officers of the university and senior administrators, and exempt and nonexempt staff will be established in university regulation. Evaluation of faculty will be consistent with P.04.04.050 - 04.04.056.

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P04.07.040. Corrective Action.

- A. Supervisors will apply necessary and appropriate corrective action whenever an employee fails to meet the required standards of conduct or performance. Corrective action may be necessary because of employment related problems, including but not limited to: inattention to duty, unsatisfactory performance, insubordination, absenteeism, violation of law, regents' policy, or university regulation, dishonesty, theft or misappropriation of public funds or property, inability to work effectively with others, fighting on the job, acts endangering others, inappropriate behavior toward or harassment of others, bullying or other misconduct.
- B. Corrective actions may include: formal discussion, written communications detailing performance and behavior standards and expectations, written reprimands, which are sent to the official personnel file, disciplinary probation, suspension, dismissal, or any reasonable combination of these or other actions.

(09-19-14)

P04.07.041. Written Reprimand.

A written reprimand will describe the nature of the offense or deficiency, the method or methods of correction, and the probable action to be taken if the offense is repeated or the deficiency persists. The written reprimand will be placed in the employee's official personnel file and also state the employee's right to request administrative review of the action by the MAU human resources office.

(06-20-97)

P04.07.042. Written Notice of Intent to Take Corrective Action.

If corrective action more formal than written reprimand is necessary, notice of intent to take action will be given in writing to the MAU human resources office. If after consultation with the MAU human resources office the supervisor intends to take action, the employee will be notified in writing of the action to be taken.

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P04.07.043. Disciplinary Probation.

Any employee who fails to meet the performance standards or employment conditions of the supervising authority may, at the discretion of the supervisor, be placed on disciplinary probation for a period not exceeding six months. Failure to meet the performance standards or employment conditions of the supervising authority may result in termination of employment for cause.

(06-20-97)

P04.07.044. Suspension.

- A. Suspension without pay of not greater than 10 working days may be used in circumstances which the supervisor believes that by its use the employee will correct the employee's job related behavior or performance and where discharge appears unwarranted.
- B. The employee will be provided the reason for the suspension and the date and time to return to work in writing. The written notice will also state the employee's right to request administrative review of the action by the MAU human resources office.
- C. A suspended employee will not receive holidays, wages, sick or annual leave accrual or other benefits based on hours worked during the leave period, but will continue to be covered by the applicable group insurance program.

(06-20-97)

P04.07.045. Investigatory Leave.

After review by the MAU human resources ~~director or designee~~~~office and concurrence of the Statewide Office of Human Resources~~, a supervisor may place an employee on paid investigatory leave without prior written warning in order to review or investigate allegations of serious misconduct of a nature which, at the discretion of the university, requires removing the employee from the premises. The regional Human Resources Director, or designee, will notify the CHRO of such action as soon as is practicable.

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P04.07.050. Administrative Review.

- A. To encourage and facilitate the resolution of employee complaints in a prompt manner, an individual may request administrative review of any complaint regarding a specific management action which adversely affects the employee's terms and conditions of employment. These complaints include, but are not limited to, those regarding: selection for transfer or promotion, release from at-will employment, salary actions, a performance evaluation, disciplinary probation and suspension.
- B. An employee who has a complaint will discuss it with the immediate supervisor who will have an opportunity to resolve the complaint informally. If the complaint is not resolved, the employee may request administrative review by the MAU human resources office. The director or designee may conduct a review, decline a review, or refer the matter to an administrative process.

(06-20-97)

P04.07.060. Termination for Cause.

- A. Regular employees may be terminated from employment for cause. In the event of a decision to terminate an employee for cause, the supervisor will provide the employee:
 - 1. a written statement of the reason for the planned action;
 - 2. a statement of the evidence supporting the reason for the planned action; and
 - 3. notice of the employee's right to request a hearing in accordance with the procedure for consideration of a termination for cause as set forth in the university grievance procedure in P04.08 and R04.08.
- B. Copies of the notification under A. of this section will be sent to the regional human resources office for placement in the official personnel file and to the offices of the general counsel and statewide human resources.

(05-04-99)

P04.07.080. Resignation.

The provisions for resignation will be set forth in university regulation.

(06-20-97)

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P04.07.090. Retirement.

- A. The university will comply with applicable laws regarding age discrimination, including Alaska Statute 18.80.220.
- B. Retirement eligibility will be governed by the Public Employees Retirement System or Teachers Retirement System of the State of Alaska, or any applicable Optional Retirement Plan.

(06-09-00)

P04.07.100.
Nonretention.

The university may discontinue or not renew an existing employment relationship through nonretention. Nonretention does not reflect discredit on an employee. If notice of nonretention is required by university regulation, the notice will be in writing and will comply with university regulation adopted under this section. The university may not use nonretention to terminate tenured faculty.

(06-09-00)

P04.07.110. Layoff, Recall, and Release.

Provisions regarding layoff, recall, and release of university employees will be set forth in university regulation.

(06-09-00)

P04.07.115. Employee Furlough.

- A. To address budgetary shortfalls in any unit of the university, employees may be subject to furlough via temporary unpaid leaves of absence or via prospective, temporary reductions in pay and equivalent work hours.
- B. Furloughs shall be implemented in accordance with regulations and plans approved by the president pursuant to this policy, provided however that employees shall receive written notice of furlough as provided by regulation.
- C. Furlough plans may be implemented notwithstanding any other regents' policy, university regulation or university or campus practice or procedure and are subject to appeal processes only as may be provided in regulations adopted pursuant to this policy.

(12-11-14)

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P04.07.120. Exit Interviews.

Prior to termination from employment, the department and the employee will contact the regional human resources office to receive information regarding university personnel programs as appropriate; and the employee will be given the opportunity to communicate in writing any comments or suggestions for improvement within the workplace.

(09-30-94)

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REGENTS' POLICY
PART IV – HUMAN RESOURCES
Chapter 04.08 - Dispute and Grievance Resolution

P04.08.010. General Statement.

It is the objective of the university to treat its employees in a fair and consistent manner. The university recognizes that a dispute and grievance resolution process is an important mechanism in identifying and resolving problems. In the event of an employee grievance, it is the objective of the university to accomplish the prompt, fair, and equitable resolution of the grievance at the earliest possible time. Procedures for dispute and grievance resolution will be established by university regulation.

[Suggest adding a 2nd paragraph to P04.08.010 General Statement](#)

B. Allegations that an employee has engaged in unlawful discrimination or sexual misconduct cannot be processed under this chapter. (See Regents' Policy and University Regulations 01.02).

(05-04-99)

P04.08.020. Effect of Failure to Seek Review.

- A. The failure of any party to exhaust administrative remedies by seeking review of a decision under the grievance procedure by the first or next higher level within the time limits established by the grievance procedure will be deemed to constitute acceptance of that decision by the party and will constitute a resolution of the grievance.
- B. It is the employees' responsibility to be familiar with the Dispute and Grievance Resolution time frames and deadlines included in regents' policy and university regulation. Failure to receive a response within the established time frame will not relieve an employee from proceeding within the time allowed to a subsequent step in the grievance process.

(05-04-99)

P04.08.030. Time Limits.

Time limits will be established in university regulation.

(05-04-99)

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P04.08.040. Reprisal Prohibited.

- A. No grievant, respondent or witness will be subject to harassment, reprisal, or retaliation for good faith participation in the dispute and grievance resolution process.
- B. The dispute and grievance resolution process is intended to afford employees a meaningful opportunity to resolve good faith employment-related disputes within the structures of the university. Its success depends on the good faith efforts of all employees to implement the regents' policy and university regulation for this purpose.
- C. Grievants or administrators who utilize the process to harass other employees or who pursue vexatious or repetitive grievances that are determined to be without merit are subject to disciplinary action. A hearing officer may recommend disciplinary action against persons using the process for other than the intended purpose.

(05-04-99)

P04.08.050. Abuse of Process.

Sanctions or costs may be imposed and awarded in the grievance process for dishonest, bad faith or vexatious actions during the grievance process on the part of any grievant or administrator.

(05-04-99)

P04.08.060.

Definitions.

Definitions will be established in university regulation.

(05-04-99)

P04.08.070. Dispute and Grievance Resolution Process.

The process for dispute and grievance resolution will be established in university regulation.

(05-04-99)

P04.08.080. Review of a Proposed Termination for Cause.

The process for review of a proposed termination for cause will be established in university regulation.

(05-04-99)

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P04.08.090. Applicability to Other Policy and/or Regulation.

The applicability to other regents' policy and university regulation will be established in university regulation. (05-04-99)

P04.08.100. Appeal of Final Decisions Issued Under This Chapter.

The process for appeals of final decisions issued under this chapter will be established in university regulation. (05-04-99)

P04.08.110. Reporting of Grievances to the Board of Regents and Governance Office.

The statewide office of human resources, in coordination with the vice chancellors for administration, provosts, and university general counsel, will prepare an annual report of the grievance process which will be distributed to the board and to the system governance office. The report will include data, by campus, including the number and type of grievances, and recommendations for changes, additions or modifications to the grievance policy. No individually identifiable information will be included as a part of the report.

(05-04-99)