

Request:

Faculty Senate to review the University Non-Discrimination Statement with the goal of recommending changes that will provide greater clarity by addressing some problematic language.

Language in Question:

*“Kennesaw State University (KSU) is committed to maintaining a fair and respectful environment for living, work and study. To that end, and in accordance with federal and state law, Board of Regents policy, and University policy, the University prohibits harassment of or discrimination against any person because of race, color, sex (including sexual harassment and pregnancy), sexual orientation, gender identity, gender expression, ethnicity or national origin, religion, age, genetic information, disability, or veteran status by any member of the KSU Community on campus, in connection with a University program or activity, **or in a manner that creates a hostile environment** for members of the KSU community. Incidents of harassment and discrimination will be met with appropriate disciplinary action, up to and including dismissal, expulsion, or termination from KSU. Every member of the KSU community is expected to uphold this policy as a matter of mutual respect and fundamental fairness in human relations. All members of the faculty, staff, and student body are expected to ensure that nondiscriminatory practices are followed at the University.”*

- University Handbook 5.2.12

- <https://equity.kennesaw.edu/titleix/non-discrimination.php>

Concerns:

- The phrase "...or in a manner that creates a hostile environment..." is unclear for at least two reasons. First, it's not clear how to read the sentence (e.g., is the "or" a contrast to all that came before or just some portion?). Second, hostile environment is not defined here or elsewhere in University policy, which raises questions about what it is and isn't, and when/how it will be defined. (see, perhaps, Student Code of Conduct 5.A.23)
- Harassment is not defined here or elsewhere in University policy. (see, perhaps, Student Code of Conduct 5.A.23 and Sexual Misconduct Policy)
- It is not clear how this policy intersects with existing policies that commit to intellectual diversity (University Handbook 5.2.1), freedom of expression (University Handbook 5.2.20), and academic freedom (Faculty Handbook 2.1).
- Given the relevance of this issue in higher ed, and given that the potential ramifications are high (e.g., dismissal, expulsion, termination), the request is pursue greater clarity. In particular, there is a desire that such clarification protect faculty and students.

Suggestions for Possible Additional Language:

The expression of any opinion, argument, or fact, particularly during a scholarly event such as a class meeting or speech, shall not be interpreted as creating a discriminatory or hostile environment for purposes of this policy, unless such expression contains an explicit threat that would cause any reasonable person to fear for their safety.

Hostile environment-sanctions can and will be imposed for the creation of a hostile environment only when [unwelcome] harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's educational or employment program or activities.

For purposes of this policy, harassment shall be defined as a sustained pattern of contact that is maintained after the victim explicitly states that such contact is unwanted.

Existing Language:

KSU Sexual Misconduct Policy, 6.7.1

"Sexual Harassment: Unwelcome verbal, nonverbal, or physical conduct, based on sex or on gender stereotypes, that is implicitly or explicitly a term or condition of employment or status in a course, program, or activity; is a basis for employment or educational decisions; or is sufficiently severe, persistent, or pervasive as to interfere with one's work or educational performance, creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from an institutional program or activity."

KSU Student Code of Conduct, 5.A.23

"Harassment: Any unwelcome conduct based on actual or perceived status including: (sex, gender, gender identity, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation or other protected status). Any unwelcome conduct should be reported to campus officials, who will act to remedy and resolve reported incidents on behalf of the victim and community. Hostile Environment-sanctions can and will be imposed for the creation of a hostile environment only when [unwelcome] harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's educational or employment program or activities."