**CHAPTER 6A-19**

**EDUCATIONAL EQUITY**

6A-19.001 Scope, Coverage and Definitions

6A-19.002 Treatment of Students – General

6A-19.003 Health Services

6A-19.004 Interscholastic, Intercollegiate, Club and Intramural Athletics

6A-19.005 Student Financial Assistance

6A-19.006 Housing

6A-19.007 Student Employment

6A-19.008 Educational and Work Environment

6A-19.009 Personnel

6A-19.010 Strategies to Overcome Underrepresentation

**6A-19.001 Scope, Coverage and Definitions.**

Chapter 6A-19, F.A.C., implements Section 1000.05, F.S., which prohibits discrimination on the basis of race, sex, national origin, marital status or handicap against a student or employee in the state system of public education, as defined in Section 1000.05(1), F.S. The following definitions shall apply:

(1) Activity. Any organized academic, vocational, athletic, co-curricular or extracurricular pursuit, undertaking or assignment conducted under the authority or direction of an institution within the state system of public education.

(2) Admission. Selection for part-time, full-time, special, associate, transfer, exchange or any other enrollment, participation or matriculation, in or at, an education program or activity conducted under the authority or direction of an institution within the state system of public education.

(3) Department. Florida Department of Education.

(4) Discrimination.

(a) Discrimination shall include:

1. Limiting, segregating or classifying students, employees, applicants for admission, or applicants for employment, in such a way as to deprive individuals of educational or employment opportunities or otherwise adversely affect individuals because of their race, sex, national origin, marital status or handicap;

2. Denying educational or employment opportunities to individuals because of their race, sex, national origin, marital status or handicap;

3. Providing unequal educational or employment opportunities to individuals because of their race, sex, national origin, marital status or handicap;

4. Providing unnecessarily separate educational programs or activities for individuals because of their race, sex, national origin, marital status or handicap;

5. Entering into contractual or other arrangements which utilize criteria or administrative methods which have the effect of subjecting individuals to discrimination or which otherwise adversely affect individuals because of their race, sex, national origin, marital status or handicap;

6. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a qualified handicapped person as a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on their handicap;

7. The application of any policy or procedure, or taking of any admission or employment action concerning the potential or actual marital status of a student, employee or applicant for admission or employment that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students or a group of employees on the basis of potential or actual marital status, or on the basis of head of household or principal wage earner status; however, reasonable practices prohibiting nepotism shall not constitute marital status discrimination;

8. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on ancestry or place of birth or of cultural, or linguistic characteristics of a national origin group;

9. The application of any policy or procedure, or taking of an admission action, that adversely affects a student, or applicant for admission, belonging to a national origin minority group, unnecessarily based on limited-English-language skills;

10. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on their race/ethnic category;

11. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on their gender.

(b) Any policy or procedure, or any admission or employment action, which can be shown to be predictive of, or significantly correlated with, essential elements of work behavior or program participation shall not constitute discrimination. See subsections 6A-19.002(2) and 6A-19.009(8), F.A.C.

(c) Efforts or measures developed by institutions to correct patterns of segregation, patterns of nonparticipation or underrepresentation among a race, sex, marital status, national origin or handicap group shall not constitute discrimination. Quotas, however, shall not be used.

(5) Disproportionate Enrollment. The actual enrollment of students of a particular race, sex, national origin or handicap differs from the appropriate pool of potential students, as determined by the governing board, by race, sex, national origin or handicap by more than two standard deviations.

(6) Handicapped Person. Any person who has a physical or mental impairment which substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

(a) Physical or mental impairment.

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(b) Major life activities. Functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) Has a record of such an impairment. Has a history of, or has been incorrectly classified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) Is regarded as having an impairment.

1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by an institution as constituting such a limitation;

2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others and, therefore, is treated by an institution as having such an impairment.

(7) Institution. An individual school, as defined in Section 1000.05(4), F.S., or the school district, as the context may require; a community college; a university or any other state-supported entity primarily of an educational nature, e.g., the Florida School for the Deaf and the Blind.

(8) Minority. Any individual belonging to one of the following race/ethnic categories: Black, Not of Hispanic Origin; Hispanic; Asian or Pacific Islander; American Indian or Alaska Native.

(9) Office of Equity and Access. The Department of Education work unit, otherwise known as the Office of Equity and Access, specifically designated to administer the Department’s implementation activities as defined in Section 1000.05(6), F.S., except to the extent those duties may be delegated by the Commissioner of Education to the Chancellor of the State University System pursuant to Section 1000.05, F.S.

(10) Qualified Handicapped Person.

(a) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(b) With respect to public preschool, elementary, secondary or adult programs, services and activities, a handicapped person of an age during which nonhandicapped persons are provided services, or of any age during which it is mandatory under federal or Florida law to provide services to handicapped persons;

(c) With respect to postsecondary programs, services and activities, a handicapped person who meets the academic and nonacademic admissions criteria requisite to participation.

(11) Race/Ethnic Categories. A person may be included in the race/ethnic group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. No person shall be included in more than one race/ethnic group. The race/ethnic categories to be used are:

(a) White, Not of Hispanic Origin – All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.

(b) Black, Not of Hispanic Origin – All persons having origins in any of the Black racial groups of Africa.

(c) Hispanic – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(d) Asian or Pacific Islander – All persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(e) American Indian or Alaska Native – All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

(12) Reasonable Accommodation. Changes in the work environment which allow a qualified handicapped employee to perform the essential tasks of the job if making those changes does not impose an undue hardship on the operation of the institution. Reasonable accommodation may include: making facilities used by employees readily accessible to and usable by handicapped persons, job structuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions. In determining whether an accommodation would impose an undue hardship on the operation of an institution’s program, factors to be considered include: the overall size of the institution with respect to number of employees, number and type of facilities, and size of budget; the type of operation, including the composition and structure of the workforce; and the nature and cost of the accommodation needed.

(13) Selection Criteria. Any measure, combination of measures, or procedure used as a basis for any decision on eligibility for admission, for participation in programs, services or activities, or for employment and promotion. Selection criteria include the full range of assessment techniques including course grades; performance tests; paper and pencil tests; training programs; probationary periods; physical, education and work experience requirements; formal or informal interviews; evaluation by prior teachers or employers; and scored or unscored applications.

(14) Student. Any person who is enrolled in any instructional program or activity conducted under the authority or direction of an institution which is a part of the state system of public education.

*Rulemaking Authority 1000.05(5), 1001.02 FS. Law Implemented 1000.05, 1001.02(1) FS. History–New 4-17-85, Formerly 6A-19.01.*

**6A-19.002 Treatment of Students ‒ General.**

All guidance, counseling, financial assistance, academic, career and vocational programs, services and activities offered by each institution shall be offered without regard to race, sex, national origin, marital status or handicap. There shall be no discrimination in recreational, athletic, co-curricular or extracurricular activities.

(1) Guidance and Counseling. Each institution shall assure that, in guidance and counseling practices, there is no discrimination on the basis of race, sex, national origin, marital status or handicap. Factors of race, sex, national origin, marital status or handicap shall not be used to encourage or discourage a student’s enrollment in a particular program or participation in a particular activity or to measure or predict a student’s prospects for success in any career, occupation, program, course or activity.

(a) If particular programs or disciplines have disproportionate enrollments of male or female students, minority or nonminority students, or handicapped students, the institution shall examine its policies, procedures and practices to determine whether the disproportion is the result of discriminatory counseling activities.

(b) Qualified handicapped students shall not be counseled toward more restrictive career or academic objectives than nonhandicapped students with similar abilities and interest. This requirement does not preclude the providing of factual information, at the postsecondary level, about licensing or certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) Counselors shall communicate with national origin minority students having limited-English-language skills and with students having hearing impairments. This requirement may be satisfied by having interpreters available.

(d) Counseling materials and other publications used by the institution shall not state or imply through text or illustration, that applicants, students or employees are treated differently on the basis of race, sex, national origin, marital status or handicap. This does not prohibit the inclusion of information designed to meet the needs of national origin minority students with limited-English-language skills, handicapped students needing special services or as may be appropriate for affirmative action purposes.

(e) Appraisal instruments selected by the institution shall not discriminate based on race, sex, national origin, marital status or handicap. Counseling tests and instruments, which result in disproportionate enrollment in any course or program, shall be examined by the institution for discrimination in the instrument or in its application. Institutions are not required to conduct additional examination of state-required instruments.

(f) Institutions which use testing or other materials for appraising or counseling students shall not use different materials for students on the basis of sex or use materials which permit or require different treatment of students on this basis unless these different materials cover the same occupations and interest areas and the use of these different materials is shown to be essential to eliminate sex bias.

(g) Promotional efforts, including activities of school officials, counselors, instructional staff, school-related parent groups, school-related community or business groups, shall not be conducted in a manner that states or implies that the institution restricts access to its programs, activities or services on the basis of race, sex, national origin, marital status or handicap. Promotional efforts include, but are not limited to, career awareness activities, open houses, parent programs, shop and laboratory demonstrations, student visitations and summer camps.

(h) Promotional or counseling materials and activities shall not state or imply, through text or illustration, that access to those programs, services or activities is restricted on the basis of race, sex, national origin, marital status or handicap.

(i) Student recruitment activities shall be conducted so as not to exclude or limit opportunities on the basis of race, sex, national origin, marital status or handicap.

(2) Admission to Courses, Programs and Activities. Institutions shall not base admission decisions on race, sex, national origin, marital status or handicap. Special selection criteria for admission within the institution for participation in programs or courses shall be related to program standards or requirements. If it has been empirically demonstrated that a selection criterion which has an adverse impact is predictive of success during the program, course or activity, and that there has been a reasonable search for equally valid criteria which do not have a disproportionate adverse impact, or if the criterion is required by law, then the criterion shall not be considered discriminatory. Selection criteria for admission, which are in use on the effective date of this rule, shall not be considered discriminatory if demonstrated to be predictive of success within one year from the effective date of this rule.

(a) Race or National Origin. No person, on the basis of race or national origin, shall be excluded from participation in, denied benefits of, or subjected to discrimination in any course, program, service or activity operated under the authority or direction of an institution within the state system of public education.

1. Institutions shall not unnecessarily restrict admission to vocational, career or academic programs solely because the applicant, as a member of a national origin minority with limited-English-language skills, cannot participate in and benefit from instruction to the same extent as a student whose primary language is English, except as provided in subsection 6A-19.002(2), F.A.C.

2. If there is a concentration of national origin minority students with limited-English-language skills, as determined by the institution, in particular programs, services or activities, then the institution shall examine its policies, procedures and practices to determine whether the concentration is the result of discrimination at the institution.

(b) Sex or Marital Status. No person, on the basis of sex or marital status, shall be excluded from participation in, denied benefits of, or subjected to discrimination under any course, program, service or activity operated under the authority or direction of an institution within the state system of public education.

1. Preference shall not be given to one person over another on the basis of sex by establishing numerical limitations of the number or proportion of persons of either sex. Exempt from this provision are membership practices of YMCA, YWCA, YMHA, YWHA, Girl Scouts, Boy Scouts, Camp Fire Girls, social fraternities and social sororities at institutions of higher education, and the membership practices of voluntary youth service organizations whose membership has traditionally been limited to persons of one sex and principally to persons of less than 19 years of age.

2. Students shall not receive different treatment based on their parental, family or marital status. Students shall not be excluded from any course, program, service or activity because of pregnancy, parental, family or marital status.

3. Participation in any separate program of instruction for pregnant students shall be voluntary on the part of the student. Any such separate program of instruction provided to pregnant students shall be comparable to the regular program of instruction and in no way limit the student’s academic, career, vocational or extracurricular options.

4. Pregnancy and childbirth shall be treated in the same manner as temporary disabilities with respect to, but not limited to, requirements for a physician’s certificate to return to the institution, medical and hospital benefits, or policies and procedures of the institution.

5. In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, no preadmission inquiry as to the marital or family status of an applicant for admission, including number of dependents and whether such applicant is “Miss” or “Mrs.”, shall be made.

6. In determining whether a person satisfies any policy or criterion for admission, no rules shall be applied concerning the actual or potential parental, family or marital status of a student or applicant.

(c) Handicap. No qualified handicapped person shall be excluded from participation in, denied benefits of, or subjected to discrimination under any course, program, service or activity, operated under the authority or direction of an institution within the state system of public education solely on the basis of handicap. Each program, service and activity shall be operated so that the program, service or activity, when viewed in its entirety, is readily accessible to handicapped persons.

1. Qualified handicapped persons shall not be denied access to vocational, career or academic programs, courses, services or activities because of architectural or equipment barriers, or because of the need for auxiliary aids or related aids and services. Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Institutions need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

2. Access to vocational and academic programs or courses shall not be denied to qualified handicapped students on the basis that employment opportunities in any occupation or profession may be more limited for handicapped persons than for nonhandicapped persons.

3. In administering admissions policies, each institution shall assure that admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual or speaking skills, the test results accurately reflect the applicant’s aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant’s impaired sensory, manual or speaking skills, except where those skills are the factors that the test purports to measure. Admissions tests that are designed for persons with impaired sensory, manual or speaking skills shall be offered as often, and in as timely a manner, as are other admissions tests. Admissions tests shall be administered in facilities that, on the whole, are accessible to handicapped persons.

4. Institutions shall make such modifications to its academic requirements as are necessary to ensure that they do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by the student, or to any directly related licensing requirement, will not be regarded as discriminatory. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

5. Institutions shall not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the institution’s education program or activity.

6. In course or program examinations, or other procedures for evaluating students’ academic achievement in its program, the institution shall provide methods for evaluating the achievement of students who have a handicap that impairs sensory, manual or speaking skills which will ensure that the results of the evaluation represents the student’s achievement in the course or program, rather than reflecting the student’s impaired sensory, manual or speaking skills, except where those skills are the factors that the test purports to measure.

7. A postsecondary institution shall not make preadmission inquiry as to whether an applicant is a handicapped person except when the institution is taking remedial steps to increase the participation of handicapped persons in programs and courses in which handicapped students have been traditionally underrepresented as specified in Section 1000.05(4), F.S., and under those conditions all written and oral inquiries must make clear that the information requested is intended for use solely in connection with remedial steps; the information is being requested on a voluntary basis; the information will be kept confidential as required by federal law; and that refusal to provide such information will not subject the applicant to any adverse treatment. However, after admission, an institution may make inquiries on a confidential basis as to handicaps that may require accommodation.

8. Nonacademic, co-curricular, extracurricular and physical education services and activities shall be provided in such a manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

9. An institution that offers physical education or that operates or sponsors interscholastic activities, clubs, intercollegiate or intramural athletics shall provide an equal opportunity for participation to qualified handicapped students.

10. Physical education and athletic activities that are separate or different from those offered to nonhandicapped students may be offered only if the institution can show that this is necessary to meet the needs of the handicapped students. Qualified handicapped students shall be provided the opportunity to compete for teams or to participate in physical education courses or activities that are not separate or different.

11. In choosing among available methods to ensure that programs, services and activities are accessible, priority shall be given to those methods that offer programs, services and activities to handicapped persons in the most integrated setting appropriate.

12. Any facilities, services or activities that are identifiable as being for handicapped persons shall be comparable to other facilities, services and activities.

13. Access to information regarding admission to programs, courses and activities shall be provided to handicapped persons.

14. Any activity or program which is not operated by the institution but which is considered a part of, or equivalent to, an institution’s program, shall be operated in a manner which provides equal opportunities to qualified handicapped persons.

*Rulemaking Authority 1000.05(5), 1001.02(1) FS. Law Implemented 1000.05(2), 1001.02(1), 1004.65 FS. History–New 3-11-85, Formerly 6A-19.02.*

**6A-19.003 Health Services.**

When health services or other related services are provided for students, the services shall be provided in a manner which does not discriminate on the basis of race, sex, national origin, marital status or handicap. Institutions are not required to provide specialized services and aids to handicapped persons in health programs. If, for example, an infirmary treats only simple disorders such as cuts, bruises and colds, its obligation to handicapped persons is to treat such disorders for them.

(1) If health services are provided for students, handicapped students shall be provided the opportunity to participate in the services at no greater cost than to nonhandicapped.

(2) If comprehensive health care services are provided, said services shall be available for maternity or pregnancy related reasons and for handicapped students in the same manner and at the same cost as for other students.

(3) Handicapped students who receive health or other related services need not receive those general health screenings which would be duplicative or less intensive than screenings or evaluations they have already received in the development of their educational plans.

*Rulemaking Authority 1000.05, 1001.02(1) FS. Law Implemented 1000.05(2), 1001.02(1), 1004.65(6)(c) FS. History–New 3-11-85, Formerly 6A-19.03.*

**6A-19.004 Interscholastic, Intercollegiate, Club and Intramural Athletics.**

The Commissioner shall require that governing boards include all factors identified in Section 1000.05(3), F.S., in the plans for implementation required of governing boards under subsection 6A-19.010(1), F.A.C., and shall require that those factors be included in the periodic reviews conducted under subsection 6A-19.010(2), F.A.C.

(1) Gender equity in athletics at all levels of public education shall be defined as: Gender equity in athletics is the fair distribution of overall athletic opportunity and resources, substantially proportionate to the enrollment of males and females, so that no student athlete, coach or athletic administrator is discriminated against in an athletic program on the basis of gender.

(2) Accommodation of interest and abilities. The level of participation for male and female students shall be provided in numbers substantially proportionate to their enrollment in the institution.

(a) The level of intercollegiate participation for male and female students shall be provided in numbers substantially proportionate to their undergraduate enrollments. Participation shall include all varsity roster positions available, but shall not include club or intramural opportunities. When participation is not substantially proportionate, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(b) Each level of interscholastic participation for male and female students shall be provided in numbers substantially proportionate to their respective enrollments. Participation opportunities shall include all varsity, junior varsity, or freshman roster positions available, but shall not include club or intramural opportunities. When participation is not substantially proportionate, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(c) Where the members of one sex are not, and have not been, substantially proportionate among intercollegiate or interscholastic athletes, the institution may defend the participation rates by showing a history and continuing practice of athletic program expansion which can be demonstrated to be responsive to the developing interests and abilities of that sex. Any defense on this basis shall be included in a correction action plan in compliance with subsection (17) of this rule.

(d) Where the members of one sex are not substantially proportionate among intercollegiate or interscholastic athletes, and the institution cannot show a history and continuing practice of athletic program expansion, the institution may show its commitment to gender equity in athletics if it can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated. Any demonstration on this basis shall be included in a corrective action plan in compliance with subsection (17) of this rule.

(3) Athletic financial assistance and scholarship. The amount of scholarship money and grants-in-aid made available in intercollegiate varsity sports shall be in substantial proportion to the number of students of each sex participating in athletic programs. Disparities that cannot be justified by a nondiscriminatory explanation shall be addressed in a corrective action plan developed in compliance with subsection (17) of this rule.

(4) Equipment and supplies. Educational institutions shall ensure equality in the provision of and funding for the equipment and supplies for athletic programs to include: the quality, suitability, amount, maintenance and replacement and availability of equipment and supplies. Disparities in equipment and supplies that cannot be justified by a nondiscriminatory explanation shall be included in a corrective action plan developed in compliance with subsection (17) of this rule.

(5) Scheduling of games and practice times. Educational institutions shall ensure equality in scheduling of games and practice times for athletic programs to include: the number of competitive events per sport, number and length of practice opportunities, time of day competitive events are scheduled, time of day practice opportunities are scheduled, and opportunities for pre-season and post-season competition. Disparities that cannot be justified by a nondiscriminatory explanation shall be addressed in a corrective action plan developed in compliance with subsection (17) of this rule.

(6) Travel and per diem allowances. Educational institutions shall ensure equality in the provision of and funding for travel and per diem allowances for athletic programs to include: modes of transportation, housing furnished during travel, length of stay before and after competitive events, per diem allowances and dining arrangements. Disparities that cannot be justified by a nondiscriminatory explanation shall be addressed in a corrective action plan developed in compliance with subsection (17) of this rule.

(7) Opportunities to receive coaching. Educational institutions shall ensure equality in the provision of and funding for the opportunities to receive coaching for intercollegiate and interscholastic sports to include: availability, training, experience, professional standing and other professional qualifications of coaches, and compensation of coaches. Disparities that cannot be justified by a nondiscriminatory explanation shall be addressed in a corrective action plan developed in compliance with subsection (17) of this rule.

(a) Athletic administrators and coaches in the same or comparable sports, subject to consideration of factors such as experience, training and success shall be compensated equally regardless of gender or race, while ensuring that male and female athletes receive equal and comparable coaching.

(b) Athletic administrative and coaching opportunities shall be made available to men and women without regard to sex or race. Employment of athletic personnel will exhibit the institutional obligation to equal employment opportunity.

(8) Locker rooms, practice and competitive facilities. Educational institutions shall ensure equality is maintained in the provision of and funding for locker rooms, and practice and competitive facilities for athletic programs to include: quality and availability for the practice facilities and competitive facilities; exclusivity of use of the facilities provided for practice and competitive events; availability and quality of locker rooms; maintenance of practice and competitive facilities; and preparation of facilities for practice and competitive events. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(9) Medical and training facilities and services, including weight training. Educational institutions shall ensure equality in the provision of and funding for medical and training facilities and services, including weight training for athletic programs to include: availability of medical personnel and assistance; health, accident and injury insurance coverage; availability and quality of weight and training facilities; availability and quality of conditioning facilities; and availability and qualifications of athletic trainers. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(10) Publicity and promotion. Educational institutions shall ensure equality in the provision of and funding for publicity and promotion for athletic programs to include: availability and quality of sports information personnel; access to other publicity resources for male and female programs; quantity and quality of publications; and other promotional devices featuring male and female teams. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(11) Support services. Educational institutions shall ensure equality in the provision of and funding for support services for athletic programs to include: the amount and quality of administrative assistance provided to male and female programs, and the amount and quality of clerical assistance provided to the male and female programs. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(12) Housing and dining facilities and services. Educational institutions shall ensure equality in the provision of and funding for housing and dining facilities and services for intercollegiate sports to include: housing, special services as part of housing arrangements, and meal plans. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(13) Recruitment of student athletes. Education institutions shall ensure equality in the provision of and funding for the recruitment of student athletes for intercollegiate sports to include: whether coaches and other professional athletic personnel in the programs serving male and female athletes are provided with substantially equal opportunities to recruit; whether the financial and other resources made available for recruitment in male and female athletic programs are equivalently adequate to meet the needs of each program; and whether the differences in benefits, opportunities, and treatment afforded prospective student athletes of each sex have a limiting effect upon the recruitment of students of either sex. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(14) Recruitment, assignment and compensation of tutors. Educational institutions shall ensure equality in the provision of and funding for the recruitment, assignment and compensation of tutors for athletes to include: amount of time tutors are available for athletes, qualifications and experience of tutors, rates of pay for tutors, and employment conditions of tutors. If there are disparities favoring teams of one sex that are not balanced by disparities favoring teams of the other sex, the institution shall develop a corrective action plan in compliance with subsection (17) of this rule.

(15) Club and intramural sports. The participating opportunities, funding, facilities and other resources available for club and intramural sports shall be substantially proportionate to the respective enrollments of males and females in the educational institution. Where the members of one sex in club or intramural sports are not substantially proportionate to their respective enrollment in the educational institution, the institution may show its commitment to gender equity if it can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated.

(16) Funding for athletic programs. Funding for athletic programs, including revenues from direct support organizations established pursuant to Sections 1001.453, 1004.28 and 1004.70, F.S., shall be disbursed in a manner that ensures equivalent benefits and services to male and female athletes. Appropriate consideration may be taken of the actual costs and emphasis of particular athletic programs, but no disproportionate funding based upon gender shall exist between the same or similar sports in the overall funding of the entire athletic program.

(17) Institutions shall develop and implement corrective action plans for equity in athletics components described in subsections (2)-(16), of this rule, that are determined to be not in compliance. The corrective action plan shall be developed and submitted consistent with the standards prescribed in this rule. The corrective action plan may cover a period of up to three (3) years and shall be submitted in the format and on the date prescribed by the Commissioner or the Chancellor of the State University System as appropriate. Information describing format and date of submission is available from the Office of Equity and Access, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399 or from the Office of Equity and Access, 325 West Gaines Street, The Florida Education Center, Tallahassee, Florida 32399. The corrective action plan shall be updated at least annually and compliance shall be monitored on an annual basis.

(18) The Department shall administer graduated penalties to ensure the enforcement of the athletic requirements of Title IX of the Educational Amendments of 1972 and Section 1000.05, F.S. Depending on the severity of the violation, penalties shall include the following:

(a) When a corrective action plan is not complete or not submitted in a timely manner, notification of the violation shall be made to the appropriate district or postsecondary administrative staff. If an acceptable corrective action plan is not submitted within thirty (30) days from the date of notification, the Commissioner shall notify the district or postsecondary institution that athletic teams of the particular institution will not be allowed to compete until such time as an acceptable plan is approved.

(b) Depending on the severity of violations of this rule, the Department shall issue a public letter of censure concerning the violation, designate the institution ineligible to participate in championship or post season events or prohibit the institution from participating in one (1) or more sports until the institution has come into compliance or has submitted an acceptable corrective action plan.

(c) If the institution is found out of compliance with no acceptable plan for coming into compliance, the Commissioner, or the Chancellor of the State University System as appropriate, shall implement the requirements of Section 1000.05(6)(g), F.S., and declare the educational agency ineligible for competitive state grants, and direct the Comptroller to withhold general revenue funds sufficient to obtain compliance.

(d) In cases of implementation of the penalties imposed in Section 1000.05(6)(f), F.S., the Commissioner shall make available a review mechanism composed of a panel of three (3) people, appointed by the Commissioner, to allow for appeal of the imposed penalty. The panel shall include one (1) representative of the appropriate athletic association, a representative of a district or postsecondary institution not associated with the disputed violation, and one (1) additional person not associated with the disputed violation. Within thirty (30) days, the panel shall review the case and make recommendations to the Commissioner.

*Rulemaking Authority 1000.05(5), (6)(g), 1001.02(1) FS. Law Implemented 1000.05(3), (6)(f), (g), 1001.02(1), 1004.65(6)(c), 1006.71 FS. History–New 3-11-85, Formerly 6A-19.04, Amended 10-30-94.*

**6A-19.005 Student Financial Assistance.**

Financial assistance administered in whole, or in part, by the institution in the form of loans, grants, scholarships, fellowships, special funds, services, benefits, waivers of fees, subsidies, compensation for work or prizes to students shall be awarded in a manner that does not discriminate on the basis of race, sex, national origin, marital status or handicap. This does not preclude awards made to overcome the effects of past discrimination. Institutions shall package financial assistance in such a way that minority students do not receive awards composed primarily of loans or work-study in lieu of scholarships or grants for which they are qualified.

(1) Restricted financial assistance may be administered where the assistance and restriction are established by statute, gift, will, trust, bequest or any similar legal instrument, if the overall effect of all financial assistance awarded by the institution does not discriminate on the basis of race, sex, national origin, marital status or handicap.

(2) Students shall not be discriminated against on the basis of race, sex, national origin, marital status or handicap when making available opportunities in cooperative education, work-study, job placement, apprenticeship programs, teaching assistantships, research assistantships, laboratory assistantships or other work programs for which they are qualified.

*Rulemaking Authority 1000.05(5), 1001.02(1) FS. Law Implemented 1000.05(2), (3), (6)(f), (g), 1001.02(1), 1004.65 FS. History–New 3-11-85, Formerly 6A-19.05.*

**6A-19.006 Housing.**

If housing opportunities are provided, opportunities shall be extended without discrimination based on race, sex, national origin, marital status or handicap. This obligation includes the provision of on-campus housing and the provision of off-campus housing when an institution makes agreements with other providers.

(1) If on-campus or off-campus housing is provided to nonhandicapped students, then comparable, convenient and accessible housing shall be provided, at the same cost and under the same conditions, to handicapped students. Housing opportunities shall be available to handicapped students in sufficient quantity that living accommodations for handicapped students are, as a whole, comparable to those for nonhandicapped students.

(2) Housing provided to students of either sex shall be proportionate in quantity to the number of students of that sex applying for such housing and shall be comparable in quality and cost to the student.

(3) Institutions may designate housing for married students and students with custody of or joint custody of minor children.

*Rulemaking Authority 1000.05(5), 1001.02(1) FS. Law Implemented 1000.05(2), (3), 1001.02(1), 1004.65(6)(c) FS. History–New 3-11-85, Formerly 6A-19.06.*

**6A-19.007 Student Employment.**

All decisions concerning employment and job placement of students under any program or activity shall be made in a manner which ensures that discrimination does not occur based on race, sex, national origin, marital status or handicap, except where sex or national origin constitute a bona fide occupational qualification under section 703 of Title VII of the Civil Rights Act of 1964, as amended. Reasonable accommodation shall be provided for qualified handicapped student employees.

(1) Each written agreement for the referral or assignment of students to an employer shall contain an assurance from the employer that students shall be accepted and assigned to jobs, and otherwise treated, without regard to race, sex, national origin, marital status or handicap.

(2) Assistance in making employment available to students shall only be given to agencies, organizations or persons who do not discriminate on the basis of race, sex, national origin, marital status or handicap. Any requests by prospective employers which have the effect of excluding students of a particular race, sex, national origin, marital status or handicap shall not be honored. This does not preclude prospective employers from specifying necessary job skills.

(3) No agreement for the provision or support of apprentice training for students shall be entered with sponsors that discriminate against its members, or applicants for membership, on the basis of race, sex, national origin, marital status or handicap. Each written agreement with a sponsor providing for apprentice training shall contain an assurance from the sponsor that it does not engage in such discrimination against its membership, or applicants for membership, and that apprentice training shall be offered and conducted in a manner free from such discrimination.

(4) Students seeking to participate in any student employment opportunity including, but not limited to, cooperative education, work study, teaching assistant or aide, research assistant or aide, library or laboratory assistant or aide, trainer, tutor, interpreter, service worker, and student assistant, shall not be discriminated against by employers, prospective employers, instructors or staff on the basis of race, sex, national origin, marital status or handicap in recruitment, hiring, placement, assignment to work duties, hours of employment, levels of responsibility or pay.

*Rulemaking Authority 1000.05(5), 1001.02(1) FS. Law Implemented 1001.02(1), 1004.65 FS. History–New 3-11-85, Formerly 6A-19.07.*

**6A-19.008 Educational and Work Environment.**

It is the policy of the State of Florida, and institutions have an affirmative duty, to create an educational and work environment free of harassment on the basis of race, sex, national origin or handicap. An institution is responsible for all acts of harassment regardless whether the institution knew or should have known of the acts if the harassment is committed by a person in a position of authority. If, however, the harassment is between fellow employees, fellow students or by nonemployees, an institution is only responsible if it knew or should have known of the harassment and failed to take corrective action. Harassment includes:

(1) Any slurs, innuendos or other verbal or physical conduct reflecting on an individual’s race, ethnic background, gender or handicapping condition which has the purpose or effect of creating an intimidating, hostile or offensive educational or work environment; has the purpose or effect of unreasonably interfering with the individual’s work or school performance or participation; or otherwise adversely affects an individual’s employment or educational opportunities.

(2) The denial of or the provision of aid, benefits, grades, rewards, employment, faculty assistance, services, or treatment on the basis of sexual advances or requests for sexual favors.

(3) Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or educational career; submission to or rejection of such conduct is used as a basis for educational or employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual’s work or educational performance or creating an intimidating, hostile or offensive working or educational environment.

*Rulemaking Authority 1000.05(5), 1001.02(1) FS. Law Implemented 1000.05(2), 1001.02(1), 1004.65(2) FS. History–New 3-11-85, Formerly 6A-19.08.*

**6A-19.009 Personnel.**

Equal employment opportunities shall be provided to all applicants and employees without regard to race, sex, national origin, marital status or handicap.

(1) Policies and Practices. Policies, practices and collective bargaining agreements shall not discriminate against an employee, or applicant for employment, on the basis of race, sex, national origin, marital status or handicap. Each governing board shall provide that the cost of providing reasonable accommodation be borne by the governing board, or in the case of state universities by the individual university, rather than by internal subsidiary budgeting units.

(a) Salary policies, employee classification, assignments and other practices shall not discriminate on the basis of race, sex, national origin, marital status or handicap.

(2) Fringe Benefits. All fringe benefits provided under the authority or direction of an institution shall be provided without discrimination on the basis of race, sex, national origin, marital status or handicap.

(3) Pregnancy. Pregnancy and childbirth shall be treated in the same manner as temporary disabilities with respect to all job-related purposes, including commencement, duration and extension of leave, reinstatement, payment of disability income, accrual of seniority, insurance and other fringe benefits provided under the authority or direction of an institution.

(4) Reasonable Accommodation. Reasonable accommodation shall be provided for the known handicaps of a qualified handicapped applicant or employee unless it can be demonstrated that the accommodation would impose an undue hardship on the institution. An institution may not deny employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the employee or applicant.

(5) Contractual Agreements. Institutions shall not participate in any contractual or other agreements that have the effect of subjecting an applicant or employee to discrimination on the basis of race, sex, national origin, marital status or handicap. Contractual or other agreements shall include, but are not limited to, collective bargaining agreements, insurance contracts, training contracts, research projects and studies, food services and transportation.

(6) Recruitment. Recruitment and hiring of employees shall be conducted without discrimination on the basis of race, sex, national origin, marital status or handicap. This shall not affect recruitment, employment and promotion activities conducted under a legally sufficient affirmative action plan adopted by the governing board or institution.

(a) Employment advertisements shall not indicate or imply preference or discrimination based on race, sex, national origin, marital status or handicap.

(7) Preemployment Inquiries. Preemployment inquiries shall not solicit information with respect to an applicant’s marital or parental status, or the existence or severity of handicapping conditions.

(a) No preemployment medical examination shall be conducted nor shall any preemployment inquiry be made of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. Inquiry into the applicant’s ability to perform job related functions is permissible. Conditioning an offer of employment on the results of a medical examination conducted prior to the employee’s entrance on duty is permissible if all entering employees in the particular job classification are subjected to such an examination.

(b) Preemployment inquiries as to the race and sex of an applicant for employment may be made only if such request is voluntary and only if the results of such inquiry are not used in a discriminatory manner.

(c) No preemployment inquiry regarding marital or family status, including number of dependents or whether an applicant is “Miss” or “Mrs.”, shall be made.

(8) Employment Criteria. Selection criteria for employment shall not discriminate against employees or applicants for employment on the basis of race, sex, national origin, marital status or handicap. Selection criteria that relate to standards or requirements of the job may be used. If it can be demonstrated that selection criteria with adverse impact have been validated as essential to the job, and that there has been a reasonable search for equally valid criteria which do not have a disproportionate adverse impact, the criteria shall be considered nondiscriminatory.

(a) Employment tests shall be selected and administered so as to ensure that the test results accurately reflect the applicant’s or employee’s job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant’s or employee’s impaired sensory, manual or speaking skills, except where those skills are the factors that the tests purport to measure.

(9) Job Classification. Jobs shall not be classified as being for persons of a particular race, sex, national origin, marital status or handicap, except where sex or national origin constitute a bona fide occupational qualification under Section 703 of Title VII of the Civil Rights Act of 1964, as amended.

*Rulemaking Authority 1000.05, 1001.02(1) FS. Law Implemented 1000.05(2), 1001.02(1), 1012.95, 1004.65(2) FS. History–New 3-11-85, Formerly 6A-19.09.*

**6A-19.010 Strategies to Overcome Underrepresentation.**

(1) Plans for Implementation. Each governing board within the state system of public education shall submit a three (3) year plan, in the format and on the date prescribed by the Commissioner of Education, to the Office of Equity and Access. Plans shall be designed to implement the Florida Educational Equity Act, Section 1000.05, F.S., and Rules 6A-19.001-.010, F.A.C., and shall be updated annually. The initial three year plan may include the program and employment analyses required by paragraphs 6A-19.010(1)(c), and (d), F.A.C., on a staggered schedule which shall provide for responsible and expeditious implementation. The staggered schedule and the programs, courses, services and activities to be analyzed and included for each of the first three years shall be prescribed by the Commissioner of Education. Priority shall be assigned, however, to mathematics, science, computer technology, electronics, communications technology, engineering, athletics and vocational education, as specified in Sections 1000.05(3) and (4), F.S. The plans need not be separate documents but may be portions of plans prepared by the governing board for other purposes, including current actions taken to implement judicial orders, if they contain at least the following information.

(a) Description of Plan Development. The plan shall identify, by title and organizational location, the persons involved in the development of the plan; a description of the participation of any advisory groups or persons; and the date of adoption of the plan by the governing board.

(b) Policy and Procedure Review. A description of the process used by the governing board to review policies and procedures used by the institutions under its jurisdiction to assure that all policies and procedures comply with the requirements of Section 1000.05, F.S., and Rules 6A-19.001-.010, F.A.C., and the conclusions reached.

1. The description of the review shall include a list of topic areas examined, which shall include, but not be limited to: student services, including counseling; financial assistance; student housing; accessibility and comparability of facilities in terms of sex and handicap; selection criteria for admission to the institution and program and course admission requirements by program area or discipline; criteria for participation in and funding of recreational, athletic, co-curricular and extracurricular activities; provision of auxiliary aids and services; transportation; employment policies and practices for staff and students including selection criteria for employment and methodology for providing reasonable accommodation.

2. The description of the review shall summarize conclusions, include plans for appropriate modifications with timelines, identify staff designated to coordinate the plan for modifications, and describe procedures for maintaining compliance with Section 1000.05, F.S., and Rules 6A-19.001-.010, F.A.C.

(c) Program Analyses. Implementation plans shall include a summary of the results of analyses of student participation in programs or disciplines. The plans shall identify those programs or disciplines which have disproportionate enrollment of students of a particular race, sex, handicap, or national origin minority having limited-English-language skills. The governing board shall specify the pool of potential students utilized in calculating disproportionate enrollment, as defined in subsection 6A-19.001(5), F.A.C., in each program or discipline. It is not expected that these analyses will be conducted at a course level unless the governing board determines that it is necessary for the development of strategies to overcome underrepresentation. The Commissioner of Education may designate selected programs, courses, services and activities for analysis.

1. For those programs or disciplines and those selected programs, courses, services or activities designated by the Commissioner of Education, which are found to have disproportionate enrollment, the institution shall develop and implement methods and strategies to increase the participation of students from those underrepresented groups.

2. The plans of implementation shall summarize the results of the analyses of student participation and identify the methods and strategies, including goals adopted by the governing board, and timetables for the implementation of those strategies to increase student participation.

(d) Employment Analyses. Implementation plans shall include a summary of the analyses of employment data by race and sex. Particular attention shall be given to employment patterns in mathematics, science, computer technology, electronics, communications technology, engineering, athletics and vocational education.

1. Plans for implementation shall summarize the results of the employment analyses and describe methods and strategies to increase employment of persons from underrepresented groups.

(e) The annual updates to the implementation plans shall include all modifications, additions, or deletions to the current three year plan for implementation and shall include an evaluation of each of the methods and strategies developed to increase student participation or employment of individuals from underrepresented groups.

(f) Regular Notification. The implementation plan shall include a copy of the policy of nondiscrimination adopted by the governing board and a description of the procedures utilized to regularly notify staff, students, applicants for employment and admission, parents, collective bargaining units and the general public of this policy.

(g) Equity Coordinator. The implementation plan shall identify the person(s), by name and title, designated to coordinate the institution’s compliance with Section 1000.05, F.S., and Rules 6A-19.001-.010, F.A.C. The identity of the Equity Coordinator shall be included in the regular notification of the policy of nondiscrimination.

(h) Grievance or Complaint Procedures. The implementation plan shall include a copy of the grievance or complaint procedures for use by students, applicants, and employees who allege discrimination.

1. Procedure(s) shall be available to all students and their parents, employees, and applicants for admission or employment.

2. Notification of these procedures shall be placed in prominent and common information sources.

3. Procedure(s) shall be designed to encourage prompt and equitable resolution of student, employee and applicant complaints but shall not prohibit individuals from seeking redress from other available sources.

(i) Plans and annual updates submitted by district school boards shall include all schools; vocational, adult and community education centers; vocational skills centers; and special education schools, centers or annexes operated by the board. The program analyses and employment analyses portions of the plan shall include school level and district level data.

(j) Plans and annual updates submitted by the Board of Regents shall include a plan for each university. Each university plan shall include all colleges, schools, campuses, annexes, centers, research centers and service centers operated under the authority or direction of the university.

(k) Plans and annual updates submitted by the community college boards of trustees shall include all departments, campuses, annexes and centers operated under the authority or direction of the board of trustees.

(l) The plan and annual updates submitted by the Board of Trustees of the Florida School for the Deaf and the Blind shall include all departments, units and schools operated under the jurisdiction of the Board of Trustees of the Florida School for the Deaf and the Blind.

(2) Periodic Reviews. The Office of Equity and Access of the Department of Education shall plan, coordinate and direct or conduct periodic reviews of public education institutions to determine compliance with Section 1000.05, F.S., and Rules 6A-19.001-.010, F.A.C.

(a) The Division of Public Schools, the Division of Applied Technology and Adult Education, the Division of Community Colleges and the Division of Universities shall submit to the Commissioner of Education through the Office of Equity and Access on September 1, 1985, procedures for including the appropriate provisions of Section 1000.05, F.S., in each of its regularly scheduled program review activities which shall be subject to approval by the Commissioner of Education. Any revisions or updates to those procedures shall be submitted to the Commissioner of Education for review prior to September 1 each year. Following each program review, a summary of all findings pertinent to determining compliance with Section 1000.05, F.S., shall be transmitted to the Commissioner of Education through the Office of Equity and Access.

(b) State Level Review. The Office of Equity and Access shall conduct a state level review of a sampling of the public educational entities, including school districts, community colleges, universities and the Florida School for the Deaf and the Blind.

(c) On-Site Review. The Office of Equity and Access shall conduct annual on-site reviews of a sampling of the public educational entities which participated in state level reviews during the previous twelve months under the provision of paragraph 6A-19.010(2)(b), F.A.C. Written notice of on-site reviews shall be provided to presidents and superintendents at least ten (10) working days prior to the review.

(3) Technical Assistance. The Department shall have responsibility for providing technical assistance for compliance with Section 1000.05, F.S. Technical assistance materials and services shall be provided to assist in the development, modification and monitoring of the plans for implementation described in Rule 6A-19.010, F.A.C.

(4) Studies of Effectiveness. The Office of Equity and Access shall analyze data and evaluation information to identify common elements of policies, practices, procedures and implementation strategies which contribute to, or present barriers to, the effectiveness of methods and strategies designed to increase participation of students in programs and courses in which students of a particular race, sex, national origin, marital status or handicap have been traditionally underrepresented. As common elements are identified, the Office of Equity and Access shall recommend studies to the Commissioner of Education for statewide evaluation and review.

*Rulemaking Authority 1000.05(5), 1001.05(1) FS. Law Implemented 1000.05(3), (4), (6), 1001.02(1), 1004.65 FS. History–New 3-11-85, Formerly 6A-19.10.*