

Sexual Harassment Policy

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I. Purpose

The purpose of this policy is to set forth the University of North Carolina Asheville's procedures for preventing sexual harassment and for investigating and resolving allegations of sexual harassment, and also to ensure compliance with Title VII of the Civil Rights Act of 1964, as amended, and with Chapter 126 of the North Carolina General Statutes.

II. Scope

This policy applies to all applicants for employment, to all applicants for admission to University programs, and to all officers and employees of the University, all students, all persons who serve the University as its agents and are under the control of the University, and to all individuals who teach, conduct business or participate in activities at the University. University contractors are also subject to this policy.

III. Policy

A. Introduction

Sexual harassment and discrimination are illegal and endanger the environment of civility and mutual respect that must prevail if the University is to fulfill its mission. The University of North Carolina at Asheville is committed to providing and promoting an atmosphere in which employees can realize their maximum potential in the workplace and students can engage fully in the learning process. Toward this end, all members of the University community must understand that sexual harassment, sexual discrimination and sexual exploitation of professional relationships violate the University's policy and will not be tolerated. The University will take every step to resolve grievances promptly. Any act of reprisal, interference, or any other form of retaliation, whether direct or indirect, against an individual for raising concerns covered by this policy are also violations of this policy and are prohibited.

B. Sexual Harassment Definitions (See Title 29 Code of Federal Regulations 1604.11)

Two categories of sexual harassment between members of the opposite or same sex are recognized:

1. Quid Pro Quo – Sexual harassment presented as a “bargain” (quid pro quo – ‘something in exchange’). Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature by one in a superior position constitutes “bargained-for sexual harassment” when submission by another is made either an explicit or implicit term or condition of employment or of academic standing. In this case, apparent consent of the submitting party is less relevant than the extent to which the sexual conduct is unwelcome. As defined here, “bargained-for sexual harassment” normally arises in the context of an authority relationship. This relationship may be direct as in the case of a supervisor and subordinate or teacher and student or it may be indirect when the harasser has the power to direct others who have authority over the victim.
2. Environmental Sexual Harassment – Unwelcome conduct, including sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature, that is so severe, persistent, or pervasive and objectively offensive that it alters the conditions of and effectively denies equal access to education,

employment, or participation in a University program or activity. Environmental harassment can inflict emotional and psychological harm on individuals and can make relationships and the work or study environment unpleasant, threatening, and unproductive. However, there is no requirement that evidence of actual emotional or physiological harm be shown in order for environmental sexual harassment to be found to have occurred.

In determining whether alleged conduct constitutes sexual harassment as defined in the policy, the record as a whole will be considered as well as the context in which the conduct occurred. "Environmental sexual harassment" normally arises from a repeated or pervasive course of conduct, whereas "bargained-for sexual harassment" can be based on a single act.

C. Penalties

Penalties will be determined on the basis of the facts of each case and the extent of harm to the University's interests, as well as any University record indicating previous wrongdoing by the accused person. Possible penalties are described in UNC Asheville's SHRA Disciplinary Actions Policy, the faculty handbook, the student handbook, the UNC Policy Manual, and the North Carolina Office of State Personnel Manual.

D. Anti-Retaliation Assurance

This policy seeks to encourage individuals to express freely, responsibly, and in an orderly way, opinions and feelings about any problem or complaint of sexual harassment. Any act of retaliation against a complainant or witness is prohibited and will result in appropriate disciplinary action in accordance with disciplinary measures defined by applicable state or University disciplinary policies.

E. Improper Complaints

This policy shall not be used to bring frivolous or malicious complaints against students or employees. A person who brings a complaint that is later found to be frivolous or malicious will be subject to disciplinary action.

F. Confidentiality

Information generated in the course of informal reviews and formal investigations necessary to enforcing this policy will be given the full extent of confidentiality accorded by law to employee personnel records and student educational records. Any person who, without authorization, reveals such information will be subject to disciplinary action. The sharing of the content of complaints will be on a "need to know" basis, as determined in consultation with the Director of Employee Relations or the Title IX Coordinator, and may depend on the type of review and response required by the complaint. In any case, when a complaint is being mediated or investigated, the person accused will be informed of the specific details of the complaint, as well as the prohibition against retaliation.

G. Responsibility for Reporting

Any University employee who has direct knowledge of sexual harassment that has occurred is obligated to inform the University's Director of Employee Relations/Affirmative Officer or Title IX Coordinator immediately. To not do so may result in serious consequences for the University, may be considered a breach of responsibility and may be grounds for disciplinary action.

H. Education and Outreach

To aid the University in achieving its mission by preventing sexual harassment, the Sexual Harassment Advisory Committee will assist the Director of Employee Relations and Title IX Coordinator and other University officials in their efforts to train, educate and advise members of the University community about sexual harassment so that the University will continue to be a safe and productive place to work and to learn.

IV. Procedures

The purpose of these procedures is to provide a prompt and fair resolution of problems and to preserve the due process rights of all involved, including the right to receive notice of complaints and to have an opportunity for an impartial investigation. These procedures are also created to provide for discipline of violators of the University's Sexual Harassment Policy. If necessary, however, the University's administration may take immediate and reasonable action to stop harassment and is not limited to the process provided herein.

A. Filing a Complaint

Complaints of violations of the University's Sexual Harassment Policy will be accepted in writing or verbally, however formal complaints (see Section C below) must be received in written form. Complaints will be taken seriously and investigated. Anyone who has observed sexual harassment should report it to their immediate supervisor, a department head/chair, vice chancellor, the Title IX Coordinator, or the Director of Employee Relations. The ability to make a complaint is not limited to those who are the direct targets of the harassment.

B. Informal Resolution

Complaints of harassment addressed through the informal resolution process may be addressed through a variety of actions, including, but not limited to, the following:

1. The employee may discuss the concern(s) and the desired resolution with the alleged harasser, with or without the facilitation or presence of an employee relations representative or a supervisor.
2. The employee may address the alleged harasser in writing regarding the concern(s) and the desired resolution with or without the facilitation or presence of an employee relations representative or a supervisor.
3. The employee may ask an employee relations representative to notify the alleged harasser of the concern(s) and the desired resolution.

If the conduct has not stopped after the complainant's communication or if the complainant does not wish to make the initial contact with the harasser, they may contact the University's Director of Employee Relations, their own immediate supervisor, a department head/chair, vice chancellor, or the Title IX Coordinator. The person to whom the report is made shall report it immediately to the University's Director of Employee Relations.

C. Formal Resolution

Employees who have a complaint of harassment may use the formal grievance procedures in accordance with UNC Asheville's Unlawful Workplace Harassment policy. To use this procedure, the employee must submit a written complaint to Human Resources within 30 calendar days of the alleged harassing action. This is the required procedure for SHRA employees who want to maintain their appeal rights to the State Personnel Commission.

SHRA employees who do not submit a written complaint to Human Resources within 30 calendar days may still utilize the informal procedures described in Section IV.B. for resolving their concern; however, such individuals will not have the option of later appealing to the Office of Administrative Hearings or using any University appeal procedure.

D. Investigation

Confidentiality shall be maintained to the greatest extent possible within the requirements of conducting reasonable investigations. Only those who have a 'need to know' will or may find the identity of the parties.

Once a formal complaint is made to a University official or employee, the official or employee will forward the complaint to the Director of Employee Relations. They will maintain all records related to such cases separately from the University personnel files. Formal complaints will be investigated promptly and impartially.

The Director of Employee Relations may conduct the investigation or, if they deem it appropriate, will forward the complaint to an investigatory team for investigation and recommended action. The team is authorized to review, investigate, and advise with respect to the adjustment of complaints related to sexual harassment filed by any member of the University community.

The investigatory team is authorized to meet with the complainant, the respondent, and any witnesses in order to determine facts regarding the allegation. Meetings with the parties to the complaint should be conducted individually and should not take the form of a hearing. These meetings may be done by the team as a whole or by members designated by the chair.

An accurate record of all meetings and interviews shall be made by the investigatory team. These records shall be maintained per the UNC records retention schedule (at least 7 years) by the Director of Employee Relations.

Upon completion of its review, the team shall make a report to the division head (or designee) of the accused. The report shall consist of a summary of findings, including a statement of the charges, the evidence presented and a determination as to whether or not the complaint rises to the level of sexual harassment as defined by federal law. The division head or designee will determine the appropriate action, in consultation with the Director of Employee Relations.

All reasonable attempts will be made to complete this entire process in a timely manner. Complaints shall be resolved within sixty (60) days from the date the complaint is received by the Director of Employee Relations.

E. Appeals

Any current or former State employee who feels they have been sexually harassed in violation of UNC Asheville and N.C. General Statute 126-16 may file a grievance through the UNC Asheville grievance procedures (as applicable to SHRA, EHRA Non-Faculty or EHRA faculty.)

Applicants for positions governed by Chapter 126 of the N.C. General Statutes (i.e., positions Subject to the State Human Resources Act [SHRA]) who believe that they have been sexually harassed may file grievances pursuant to that chapter of the General Statutes. Such grievances must be in compliance with the procedures set forth in UNC Asheville policies and with the North Carolina Office of State Personnel Manual. The grievance must be filed within 30 days of the alleged harassment.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and Title IX of Title IX of the Education Amendments of 1972. Employees or applicants may also choose to file a complaint of sexual harassment with the United States Equal Employment Opportunity Commission and/or the North Carolina Civil Rights Division.

United States Equal Employment Opportunity Commission
Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, NC 28202
Phone: 800.669.4000 | Fax: [704.954.6410](tel:704.954.6410) | TTY: 800.669.6820 | ALS Video Phone:
[844.234.5122](tel:844.234.5122)
Web: www.eeoc.org

North Carolina Civil Rights Division
1711 New Hope Church Road
Raleigh, NC 27609
Phone | 984.236.1850 | Fax: 984.236.1946
Web | <https://www.oah.nc.gov/civil-rights-division/employment-discrimination>

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