

Policies, Regulations & Rules

POL 04.25.05 – Equal Opportunity, Non-Discrimination and Affirmative Action Policy

Authority: Board of Trustees

History: First Issued: April 9, 1999. Last Revised: July 15, 2020, with an Effective Date of August 14, 2020.

Related Policies:

NCSU POL05.25.01 – Faculty Grievance and Non-Reappointment Review Policy

NCSU POL05.25.03 – Review and Appeal Processes for EHRA Non-Faculty Employees

NCSU POL11.35.01 – Code of Student Conduct

NCSU REG11.35.02 – Student Discipline Procedures

NCSU REG04.25.06 – Discrimination and Harassment Prevention and Response Training

NCSU REG04.25.02 – Discrimination, Harassment and Retaliation Complaint Procedure

UNC System SHRA Employee Grievance Policy

NCSU REG02.20.01 – Academic Accommodations for Students with Disabilities

NCSU REG05.00.02 – Reasonable Accommodations in Employment

NCSU REG05.25.06 – EHRA Non-Faculty Employee Reviews and Appeals

NCSU REG04.25.06 – Equal Opportunity, Title IX and Non-Discrimination Training for Employees

Additional References:

Chancellor's Memo – Title IX and Non-Discrimination

Chancellor's Memo – Equal Opportunity and Non-Discrimination

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1. INTRODUCTION

North Carolina State University (NC State) is a diverse community committed to being welcoming, inclusive and supportive for all people. Educational and employment decisions must be based on factors germane to academic- or work-related abilities or performance and must be in alignment with NC State's values.

In support of this commitment, NC State strives to provide a learning and working environment free from unlawful discrimination and harassment and to provide an equitable and supportive process for reporting and resolving such allegations free from retaliation. In addition, NC State maintains an affirmative action program designed to create and maintain diversity in its educational programs and activities, its workforce, and in its contracts with outside entities.

This policy defines prohibited conduct and outlines general provisions the university will follow with respect to handling allegations of Discrimination, Harassment, and Retaliation. Specific procedures relating to Discrimination, Harassment, and Retaliation complaint processes are contained in companion regulations.

2. POLICY STATEMENT[1]

NC State provides equal opportunity and affirmative action efforts, and prohibits Discrimination and Harassment based upon the following, which is considered by NC State to be a "Protected Status":

- a. race
- b. color
- c. religion (including belief and non-belief)
- d. sex, including but not limited to
 - (i) pregnancy, childbirth, or related medical condition,

- (ii) parenting; and
- (iii) sexual harassment;
- e. sexual orientation;
- f. actual or perceived gender identity;
- g. age;
- h. national origin;
- i. disability;
- j. veteran status; or
- k. genetic information.

NC State also prohibits Retaliation based upon a person's engagement in a Protected Activity.

3. COVERAGE

3.1 This policy applies to all NC State applicants, employees, students, and other persons who participate in University programs or activities, and/or who are conducting University business, whether on or off-campus.

3.2 The Board of Trustees through the Chancellor has designated NC State's Office for Institutional Equity and Diversity ("OIED") as the office to address allegations of discrimination, harassment, or retaliation.

3.3 Title IX of the Education Amendments of 1972 ("Title IX") prohibits sexual harassment, which is a form of sex discrimination.

Title IX regulations require institutions of higher education to implement a Title IX Policy to address sexual harassment as specifically defined by the U.S. Department of Education. Accordingly, reports that an individual may have engaged in sexual harassment as defined by Title IX regulations may be subject to review in accordance with the Title IX Sexual Harassment Policy (**NCSU POL 04.25.07**). Notably, reported misconduct that does not constitute sexual harassment as specifically defined by the Title IX Sexual Harassment Policy may still be prohibited and does not preclude the University from evaluating the reported misconduct under the other provisions of this policy.

4. DEFINITIONS

For purposes of this policy, the following definitions apply:

4.1 **Discrimination** is unfavorable treatment of a person because of a person's Protected Status which denies, limits, or adversely impacts a term or condition of a person's employment, education, or participation in University programs or activities. Discrimination includes the denial of a request for a reasonable accommodation based upon disability or religion.

4.2 **Harassment** is unwelcome conduct based on a person's Protected Status that creates a situation where:

- a. enduring the offensive conduct becomes a condition of employment or of participation in a University program or activity; or
- b. the conduct is sufficiently severe or pervasive to create an environment that a reasonable person would consider intimidating, hostile, or abusive.

All relevant circumstances are examined as part of this determination, including but not limited to, whether the conduct is verbal, physical, or electronic; the frequency of the conduct; the severity of the conduct; the Protected Status and relationship of the individuals involved; whether the conduct was physically or psychologically threatening or humiliating; whether the conduct unreasonably interfered with work performance (for employees) or academic performance (for students). When sufficiently severe, a single instance of unwelcome conduct may constitute Harassment under this policy.

Sexual Harassment is defined in section 4.6 below.

4.3 **Protected Activity** includes filing a complaint that alleges a violation of this policy, participating as a witness or party in an investigation, proceeding, or hearing involving an alleged violation of this policy; or requesting a reasonable accommodation based on disability or religion.

4.4 **Protected Status** is defined in Section 2 of this policy.

4.5 **Retaliation** is any adverse action (including but not limited to intimidation, threats, or coercion relating to an adverse action) against a person because that person engaged in a Protected Activity.

4.6 **Sexual Harassment** is a form of Harassment which is based on a person's sex or is of a sexual nature. Sexual Harassment can include unwelcome sexual advances, requests for sexual favors, sexual exploitation, and other verbal, non-verbal or physical harassment of a

sexual nature. Allegations of sexual harassment as defined under Title IX may be addressed by the Title IX Sexual Harassment Policy (**NCSU POL 04.25.07**).

5. COMPLAINTS

Any person may report an allegation of Discrimination, Harassment (including Sexual Harassment), or Retaliation as defined in this policy. The reporter should follow the procedure described in **NCSU REG 04.25.02** (Discrimination, Harassment and Retaliation Complaint Procedures) to file a report or formal complaint.

6. RESPONSE TO ALLEGATIONS OF DISCRIMINATION, HARASSMENT AND RETALIATION

6.1 In response to a report or complaint filed pursuant to this policy, NC State will respond and provide a fair procedure with due process protections for complainants and respondents.

6.2 Appropriate corrective measures will be instituted for violations of this policy. Such corrective measures will be designed to stop the Discrimination, Harassment, and/or Retaliation and to prevent future violations. Corrective measures may involve disciplinary action up to and including expulsion (for students) or discharge (for employees).

6.3 Disciplinary action for a violation of this policy will be the responsibility of the Office of Student Conduct (for students) and appropriate administrator (i.e. vice chancellor, dean, director, supervisor, etc.) (for employees), in accordance with applicable disciplinary procedures for students or employees.

7. AFFIRMATIVE ACTION

7.1 NC State maintains an affirmative action program in accordance with federal and state law and regulations. Development of the University's affirmative action and equal employment opportunity plan (the "AA/EEO Plan") at NC State, is assigned to the Vice Provost for Institutional Equity and Diversity, who serves as the university's Affirmative Action Officer.

7.2 The head of each administrative or academic unit, and subunits as identified by the Affirmative Action Officer, shall be responsible for working with the Affirmative Action Officer to implement the requirements of the AA/EEO Plan.

7.3 All University publications, job advertisements, prime federal contracts and subcontracts, purchase orders, and publicity for University events must state that NC State is an AA/EEO employer. Approved taglines and clauses for these purposes are located on the OIED webpage.

7.4 As part of NC State's affirmative action efforts regarding persons with a disability and protected veterans, individuals who qualify and wish to benefit from the Affirmative Action Plan are invited and encouraged to self-identify their status. This information is provided voluntarily and unless required by law to be disclosed, the information obtained will be kept confidential.

^{FN1}This policy is established in accordance with 41 CFR Part 60 and is implemented in accordance with applicable laws and their amendments, including but not limited to, Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Executive Order 11246, the Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the Civil Rights Restoration Act of 1988, North Carolina General Statutes Chapters 116 and 126.

Tags:

Faculty

Staff

Students

Non-Discrimination

Audience: Faculty, Staff, and Students.

Category: Non-Discrimination.

NC STATE UNIVERSITY

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