



## 02.210 HARASSMENT RESOLUTION PROCEDURES

**Authority:** Chancellor

**History:** Revised December 22, 2009; Revised May 5, 2005; supersedes prior Appendix J- Administrative Review Procedure for Investigating Complaints Pertaining to Sexual Harassment, Improper Personal Relationships Policy, Personal Discrimination, Unlawful Workplace Harassment, or Workplace Violence.

**Source of Authority:** UNC Policy Manual, Section 502

**Related Policies/Links:** Harassment Prevention Policy; SPA Grievance and Appeal Policy; Code of Student Life

**Responsible Offices:** Human Resources; Dean of Students

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### I. Purpose

These procedures are intended to provide for the prompt and equitable resolution of harassment. These procedures apply to all university students, agents, and employees, including full and part-time students, graduate and undergraduate; and full, part-time and temporary employees, including faculty, EPA professionals, and SPA employees, as well as visitors. The university recognizes that there are multiple avenues for resolving harassment concerns, from informal means and mediation to formal investigations. The university encourages individuals who believe that they are the subject of harassment to report incidents in accordance with these procedures.

### II. Confidentiality

The university shall protect the privacy and confidentiality of individuals both reporting and individuals who are alleged to have harassed to the extent allowed by law. However, once a university official has actual knowledge of allegations which may be serious enough to constitute a violation of the university's harassment prevention policy, the university's legal obligations require it to investigate under the formal procedures described below in Sections VII or VIII. If an individual desires complete confidentiality and does not want such an investigation, he or she should consult with individuals, who by law have special professional status, such as mental health counselors, physicians, clergy, or private attorneys.

### III. Administrative Responsibility

Vice chancellors, deans, directors, department chairs, or supervisors who become aware of specific allegations of harassment, must report the allegations promptly

either to the Human Resources Director/Equal Employment Opportunity/Affirmative Action Officer (“EEO/AA officer”) or the Dean of Students, as appropriate based on the status of the alleged offender.

#### **IV. Retaliation Prohibited**

Any act by a university employee, agent, or student of reprisal, interference, restraint, discrimination, coercion or harassment against any person using these procedures shall constitute a policy violation and shall be subject to prompt and appropriate disciplinary action.

#### **V. Other Remedies**

- A. The existence of these procedures does not prohibit individuals from also filing claims under Title VII (Civil Rights Act of 1964) with the Equal Employment Opportunity Commission or under Title IX (Education Amendments of 1972) with the Office of Civil Rights, U.S. Department of Education.
- B. SPA employees may file a grievance under the Unlawful Workplace Harassment section of the SPA Grievance and Appeal Policy. This is the required procedure for SPA employees who desire to maintain their appeal rights through the Office of Administrative Hearings of the State Personnel Commission. To use this procedure, the SPA employee must submit a written grievance to Human Resources within thirty (30) calendar days of the alleged harassment. SPA employees who do not submit a written grievance to Human Resources within this time frame may still utilize the formal resolution procedures for resolving their concerns as stated below but will not have the option of later appealing to the Office of Administrative Hearings or using any other university appeal procedures.

#### **VI. Informal Resolution**

- A. In deciding whether to pursue informal means, including mediation, the affected individual is encouraged to seek the assistance of the Title IX Coordinator, the ADA Coordinator or representatives in the Office of the Dean of Students, Housing and Residence Life staff, Student Health Services, the Counseling Center or Human Resources. These offices are available to assist the affected individual in crafting the message to send to the offending individual, as well as recommending other informal mechanisms and setting up mediation. Whichever office the affected individual elects to discuss his/her concerns with, the issue of confidentiality should be addressed before specific facts or identities are disclosed due to the university’s legal obligations to investigate all allegations that may constitute harassment as defined in the university’s harassment prevention policy.

- B. Harassment concerns may be resolved through a variety of informal mechanisms, including but not limited to the following:
1. Telling the alleged offender his or her behavior is unwelcome and must stop.
  2. Asking for an apology and a commitment that the behavior will stop.
  3. Sending a copy of the university's harassment prevention policy to the alleged offender.
  4. Writing to the alleged offender regarding the conduct, pointing out the effects of such behavior, and explaining the behavior change desired.
  5. Having the pertinent supervisor to counsel the alleged offender about appropriate behaviors and conduct expectations.
  6. Seeking to mediate the concern.

## **VII. Formal Resolution: Student Initiated Harassment**

Complaints about students must be presented to the Office of the Dean of Students. The Dean of Students, or designee, shall investigate and take appropriate disciplinary action commensurate with the severity and/or frequency of the conduct. Discipline resulting from student harassment shall be taken in accordance with the procedures provided in The Code of Student Life.

## **VIII. Formal Resolution: Employee or Other Non-Student Initiated Harassment**

- A. A complaint must be presented within ninety (90) calendar days of the alleged harassing incident to the EEO/AA officer. If filed later than ninety calendar (90) days, the EEO/AA officer may extend the time limit based on extenuating circumstances and at his/her sole discretion. If the allegations are against the EEO/AA officer, the complainant may present the complaint to the general counsel for investigation and resolution.
- B. Complainants are not required to provide a signed, written statement describing their complaint; though such documentation is strongly encouraged. If the complainant conveys the allegations verbally, the EEO/AA officer, or designee, shall document the complaint and have the

complainant review and sign the documentation to indicate that it is accurate and complete.

- C. Depending on the nature and severity of the allegations, the university may be obligated to investigate a complaint of harassment without a signed, written statement once the university has actual notice of possible harassment. Under Title IX, the university is legally obligated to take prompt and remedial measures to end harassment of a student, even if the student does not make a complaint or otherwise requests action to be taken.
- D. The EEO/AA officer, or designee, shall determine whether the allegations fall within the scope of the university's harassment prevention policy. If the determination is that the policy is implicated, the EEO/AA officer, or designee(s), shall investigate promptly.
- E. At a minimum, the EEO/AA officer or designee shall form a fact finding team of two impartial and unbiased individuals who shall provide for an interview of the complainant and the respondent. Witnesses should also be interviewed, and any relevant documentary evidence shall be reviewed. The fact finding team shall take notes of all individuals who are interviewed. The fact finding team shall instruct individuals that retaliation is prohibited and is a violation of university policy and the law. The individuals shall also be instructed about the confidentiality and privacy parameters of the investigation.
- F. Both the complainant and the respondent may be accompanied when interviewed by another member of the university community, so long as the individual does not interfere with the interview. This person's role is simply as an observer. Representation by legal counsel during the interview is prohibited.
- G. Upon completion of the investigation, the fact finding team shall prepare a written report of the factual findings. The EEO/AA officer shall forward the report to the pertinent senior officer in the unit where the respondent is employed. The senior officer shall make a determination of whether a policy violation has occurred.
- H. In the event that a violation of the university's harassment prevention policy is found, the pertinent senior officer shall determine the appropriate disciplinary action, in consultation with the EEO/AA officer (and the Title IX Coordinator if a sexual harassment matter), and in accordance with the appropriate disciplinary procedures pertaining to the affected individual (e.g. Section 603 of the Code of the Board of Governors for imposition of serious sanctions against a faculty member; SPA Grievance Procedure; or EPA Grievance Procedure). Any prior violations of the harassment

prevention policy involving the respondent shall be considered in any disciplinary action.

- I. The complainant and the respondent shall be informed immediately when the investigation is completed. Results of the investigation, the fact finding report, and any subsequent disciplinary action shall be kept confidential to the extent allowed by the Family Educational Rights and Privacy Act (“FERPA”) and the North Carolina Personnel Records Act.

## **IX. Record Keeping**

- A. The Human Resources Office shall retain all records of the investigation in a confidential file.
- B. The EEO/AA officer and the Dean of Students shall provide statistics on an annual basis to the chancellor and the Title IX Coordinator of the number of incidents that have been investigated under the formal resolution procedures.

## **X. Appeal Procedures**

- A. The grounds for appeal by the complainant or the respondent may be for only these reasons:
  1. The harassment is ongoing;
  2. The remedy was not implemented;
  3. Material procedural irregularities occurred during the investigation; or
  4. New evidence has been discovered that had not been available during the investigation
- B. Dissatisfaction with the university’s conclusion from the formal resolution procedures is not grounds for an appeal. Appeals of any disciplinary action must be taken in accordance with the SPA grievance procedures, the EPA grievance procedures, or Section 603 of the Code of the Board of Governors, as appropriate.
- C. A written appeal statement must be filed within thirty (30) calendar days after notice that the investigation has been completed. The statement must be sent to the EEO/AA officer or to the general counsel if the appeal is against the EEO/AA officer.
- D. Appeal statements must include a copy of the original complaint, a summary of efforts to resolve the harassment, and the grounds for the appeal.

- E. The pertinent Vice Chancellor, or designee, shall review the appeal with the EEO/AA officer, general counsel (and the Title IX Coordinator if a sexual harassment matter) and make a decision. The decision must be in writing and sent to the complainant in a matter which ensures receipt. This decision constitutes a final university decision.