

**ELIZABETH CITY STATE UNIVERSITY**  
**Sexual Harassment Policy**

**Preamble**

Sexual harassment is an unlawful type of gender discrimination, which may involve harassment of women by men, harassment of men by women, and harassment between individuals of the same sex. Sexual harassment is made unlawful pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.

Sexual harassment, in any form as defined herein, would seriously threaten Elizabeth City State University's objective of promoting excellence. The University is dedicated to fostering an environment in which employees can work effectively and students can achieve success. Therefore, sexual harassment will not be tolerated at ECSU and is expressly prohibited. This policy applies to the entire University community including: faculty, staff, students, agents and applicants for employment and admission to University programs.

**1. Definition**

Sexual harassment refers to unwelcome sexual advances, unwelcome requests for sexual favors or other unwelcome verbal and/or physical conduct of a sexual nature when:

- A. submission to such conduct is made as either an expressed or implied term or condition of an individual's employment or academic standing; or
- B. submission to or refusal of such conduct is used as grounds for a decision concerning an individual's employment or academic standing; or
- C. such conduct is so extreme or constant that a reasonable person would find that it:
  1. alters the terms or conditions of a person's employment or educational experience, or
  2. unreasonably interferes with an individual's work or performance in a course, program, or activity, which thereby creates a hostile or abusive working or educational environment.

## 2. Complaint Procedure

### A. Initiating a Complaint

Complaints of sexual harassment should be reported promptly and will be handled expeditiously. Anyone within the University community who seeks to lodge a complaint of sexual harassment shall proceed as follows based upon the status of the accused individual:

1. If the accused individual is a member of the faculty or staff, an oral or written complaint should be made to that individual's supervisor, academic department chairperson, or the Equal Employment Opportunity Officer.
2. If the accused individual is a senior administrative officer, an oral or written complaint should be made to that individual's superior or the Equal Employment Opportunity Officer.
3. If the accused individual is a student, an oral or written complaint should be made to the Vice Chancellor for Student Affairs or the Equal Employment Opportunity Officer.
4. If that accused is an individual other than categorized above, an oral or written complaint should be made to the Equal Employment Opportunity Officer.

### B. Confidentiality

The full extent of confidentiality provided by law to employee personnel records and student educational records will be given to information which is generated in conjunction with a sexual harassment investigation except to the extent that information needs to be disclosed in order for the University to effectively investigate the complaint or take appropriate action. Any individual who, without authorization, discloses any such information is subject to disciplinary action.

It should be noted that the accused will be informed of the specific details of any complaints of sexual harassment.

### C. Groundless Complaints

This policy shall not be utilized to commence false or malicious complaints against members of the University community. Any individual who makes a complaint in bad faith is subject to disciplinary action.

### D. Retaliation

Any act of retaliation against an individual who asserts a sexual harassment complaint or who cooperates in a sexual harassment investigation is expressly prohibited.

#### E. Responsibilities of the Individual Receiving the Complaint

The individual who receives a sexual harassment complaint must proceed as follows:

1. Comply with the confidentiality requirements;
2. Take written notes of the allegation;
3. Inform the complainant of the various options for handling a sexual harassment complaint, as set forth herein, and document the complainant's choice for resolution;
4. Notify the Assistant to the Chancellor for Legal Affairs, in writing, of the complaint and of the option selected by the complainant for handling the complaint; and
5. If the complaint is received by an individual other than the Equal Employment Opportunity Officer, notify the Equal Employment Opportunity Officer, in writing, of the complaint and of the option selected by the complainant for handling the complaint.

### 3. Options For Resolution

A sexual harassment complaint may be resolved through either an informal or formal process, at the option of the complainant. The complainant also has the option of withdrawing a complaint at any time. However, the University reserves the right to investigate all complaints of sexual harassment where necessary to protect the interests of the University community.

#### A. Informal Processes

##### 1. Individual Resolution

The complainant may seek to resolve the matter directly with the accused individual. If this alternative is chosen, the complainant must report back to the individual receiving the complaint within fourteen (14) calendar days of selecting this alternative for resolution.

##### 2. Mediation

The complainant may seek resolution through mediation. If mediation is selected, the individual receiving the complaint shall inquire as to whether the accused is willing to participate in mediation. If the accused is willing to participate in mediation, a mediator shall be selected by mutual agreement of the complainant and the accused. The mediator will not conduct an investigation or determine culpability but will facilitate discussions and suggest resolutions. At the conclusion of the mediation, the mediator will report the result to the individual receiving the complaint.

### 3. Reporting the Outcome of an Informal Resolution

The individual receiving the complaint will notify the Equal Employment Opportunity Officer, in writing, of the result of the informal resolution process which shall be filed in the personnel files of the parties involved, if employees, or in the student records of the Office of Students Affairs, if the parties involved are students.

## B. Formal Processes

A determination will be reached as to whether alleged conduct constitutes sexual harassment by considering the entire record in addition to the circumstances giving rise to the allegation based upon an objective standard.

### 1. Administrative Investigation and Resolution

The complainant may elect to have the complaint investigated and resolved administratively. An administrative investigation may also be initiated by the University if it is deemed necessary to protect the interests of the University community. If the accused is an employee, the investigation will be conducted by the accused's supervisor. If the accused is a student, the investigation will be conducted by the Vice Chancellor for Student Affairs.

The investigator may confer with the Equal Employment Opportunity Officer and shall do the following, without compromising confidentiality:

- a. Question the accused, after first notifying the complainant when the accused will be questioned;
- b. Question witnesses, if any, for purposes of verifying the truthfulness of the complaint;
- c. Examine documentary evidence, if any;
- d. Contact the Equal Employment Opportunity Officer to determine whether there have been other complaints of sexual harassment concerning either the complainant or the accused;
- e. Prepare written report of the complaint including;
  - the identity of the complainant and the accused;
  - the statement of the complaint;
  - the accused's response;
  - documentary evidence, if any;
  - the findings and a summary of the facts constituting a basis for the findings;
  - a statement, if applicable, of any difficulties confronted while conducting the investigation; and
  - the resolution or recommended resolution

A copy of the report will be provided to the complainant and to the accused with notification that either party may submit written comments, which may be attached to the report within fourteen (14) calendar days of the parties receipt of the report.

The final report, including any attached comments by the parties, shall be submitted to the Equal Employment Opportunity Officer and shall be filed in the personnel files of the parties involved, if employees, or in the student record of the Office of Student Affairs, if the parties involved are students.

An administrative resolution may be appealed by either party by filing a formal grievance in accordance with the appropriate employee or student grievance procedures.

## 2. Resolution by Grievance Hearing

A complainant may elect to have the matter resolved through a formal grievance hearing. A complainant may also seek resolution at this level if informal and /or administrative resolutions prove unsuccessful. In addition, an individual subject to an adverse administrative action resulting from an administrative investigation may seek resolution through a grievance hearing as follows:

### a. Faculty

A faculty member with a complaint of sexual harassment against another employee shall proceed according to the procedures of the Faculty Grievance Committee.

A faculty member who asserts a complaint of sexual harassment in connection with evidence of discrimination regarding a non-reappointment decision or in the case of a discharge or other serious sanction will proceed according to the procedures of the Faculty Hearing Committee.

Information on the procedures of the Faculty Grievance Committee and the Faculty Hearing Committee are available from the Office of the Vice Chancellor for Academic Affairs.

A faculty member with a complaint of sexual harassment against a student shall proceed according to the student Judicial Process. Information on the student Judicial Process is available from the Office of the Vice Chancellor for Student Affairs.

### b. State Personnel Act (SPA) Employees

An SPA employee with a complaint of sexual harassment may proceed according to the Grievance Procedure for SPA employees. SPA employees and applicants for SPA positions also have the option of filing a complaint with the North Carolina Personnel Commission. Information on grievance procedures for SPA employees is available from Human Resources.

### c. Employees Exempt from the State Personnel Act (EPA) Employees

An EPA employee with a complaint of sexual harassment shall proceed according to

the procedures of the EPA Non-Faculty Grievance Committee. Information on grievance procedures for EPA Non-Faculty employees is available at Human Resources.

d. Students

A student with a sexual harassment complaint against another student shall proceed according to the student Judicial Process. Information on the student Judicial Process is available from the Office of the Vice Chancellor for Student Affairs. A student with a sexual harassment complaint against a faculty member or other employee of the University shall proceed according to the Student Grievance Procedure.

Information on the Student Grievance Procedure is available from the Office of the Vice Chancellor for Student Affairs.

The findings from a determination reached following a grievance hearing shall be submitted to the Equal Employment Opportunity Officer and shall be filed in the personnel files of the parties involved, if employees, or in the student records of the Office of Student Affairs, if the parties involved are students.

#### **4. Penalty**

Any individual who engages in sexual harassment is subject to disciplinary action, which will be determined on a case by case basis, up to and including discharge for employees and suspension for students.