

Sexual Harassment Prevention Policy

POLICY FOR EMPLOYEES

Sexual harassment is a form of sex discrimination prohibited by N.C.G.S. §126-16. Harassment on the basis of sex is also a violation of §703 of Title VII of the Civil Rights Act of 1964, as amended. Sexual harassment is defined as deliberate, unsolicited, and unwelcomed verbal and/or physical conduct of a sexual nature or with sexual implications by a supervisor or co-worker that has or may have direct employment consequences resulting from the acceptance or rejection of such conduct. Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;

EXAMPLE 1: A probationary status employee, "A", is approached by her supervisor who asks her out for a drink. When she refuses, the supervisor reminds her that it would be to her advantage to be nice to him since she is a probationary status employee and that she can be terminated for any reason.

EXAMPLE 2: An adjunct instructor, "B", is invited by the chairperson of his department to meet with her at a hotel one evening. When "B" states that he is not interested, the chairperson informs "B" that she has changed her mind about hiring him to teach the next semester.

- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;

EXAMPLE 1: An SPA employee, "C", is approached by his supervisor who informs him that there are ways he can improve his performance. He suggests that they meet at his apartment later that week. When "C" arrives, his supervisor begins to tell him that he is attracted to "C". "C" resists the supervisor's advances and later receives a negative evaluation even though he had not received any previous criticisms about his work.

EXAMPLE 2: A junior faculty member, "D", requests a letter of recommendation for a fellowship from her department chairperson. He asks "D" to come to his house so that they can work on the letter. When "D" arrives, he has arranged a romantic dinner by candlelight. "D" states that she is uncomfortable and leaves. The chairperson thereafter refuses to write the letter of recommendation.

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- C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

EXAMPLE 1: "E" is an employee in the physical plant. The walls of the office are adorned with sexually suggestive posters. In addition, the male employees frequently sit around the office and tell sexual jokes loud enough that "E" cannot help but hear them. She does not appreciate this behavior and complains to the supervisor. His response is that men have behaved like that for years and they are just being men.

EXAMPLE 2: A senior professor, "F", regularly approaches a junior professor, "G", in the faculty lounge and pats her buttocks. This behavior makes "G" uncomfortable, and she tries to avoid him as much as possible. She starts going to another department's lounge.

No employee of North Carolina Central University may engage in conduct that constitutes sexual harassment as defined above. No personnel decisions shall be made on the basis of granting or denying sexual favors. The University shall make every reasonable effort to provide an environment free from sexual harassment.

Sexual harassment does not include normally welcomed personal compliments, social interaction, or relationships freely entered into by University employees, prospective employees, students, or student applicants. However, it is misconduct subject to disciplinary action, for a University employee, incident to any instructional, research, administrative, or other University employment responsibility or authority, to evaluate or supervise any enrolled student of the institution with whom he or she has an amorous relationship or to whom he or she is related by blood, law, or marriage.

Further, it is misconduct, subject to disciplinary action, for a University employee to engage in sexual activity with any enrolled student of the institution, other than his or her spouse, who is a minor below the age of 18 years. In addition, amorous relationships between University employees and students in a supervisory relationship may be viewed as exploitative and in violation of professional ethics. Therefore, it is important that University employees give careful consideration before entering into amorous relationships with students.

To knowingly file a false or malicious complaint of harassment or of retaliation is a violation of the Sexual Harassment Prevention Policy. Such conduct may be addressed following the procedures designated for a Complaint of Harassment. A complaint under this provision shall not constitute retaliation.

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Sexual harassment is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972. No University employee may engage in conduct that constitutes sexual harassment of students or student applicants. No decisions on the status of a student shall be made on the basis of granting or denying sexual favors. The University shall make every reasonable effort to provide an academic environment free from sexual harassment.

Sexual harassment is defined as deliberate, unsolicited, and unwelcomed verbal and/or physical conduct of a sexual nature or with sexual implications that has or may have direct academic or student-status consequences resulting from the acceptance or rejection of such conduct. Sexual harassment is also defined as student-to-student or student-initiated deliberate, unsolicited, and unwelcomed verbal and/or physical conduct of a sexual nature, or with sexual implications. Unwelcomed sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature shall constitute sexual harassment when:

- A. Submission to such contact is made explicitly or implicitly a term or condition of admission, academic advancement, retention, or dismissal.

EXAMPLE 1: Student "A" is an undergraduate who has received notice from the dean that she has been suspended and cannot re-enroll in the university the following Fall Semester unless she improves her grade point average by attending summer school. She meets with her advisor to discuss her situation. Her advisor encourages her to attend summer school and enroll in the two courses that he will teach. He tells her, as he strokes her leg, that if she is fully cooperative she will make good grades, thus assuring her reinstatement for the Fall Term.

EXAMPLE 2: Student "B" is a graduate student who is conducting research and working on her thesis under the supervision of her advisor. Her advisor often talks about how he can use his influence to help her get into a Ph.D. program if only she will go out with him.

- B. Submission to or rejection of such conduct by an individual is used as the basis for making decisions affecting grades, participation in university activities, financial assistance, job placements, or other privileges granted by the University.

EXAMPLE 1: Student "C" applies for a graduate assistantship and interviews with the department chairperson. During the private interview, the chairperson asks her to have an intimate dinner that evening and implies this as a necessary step if she is to receive the job. She declines and later receives a letter stating that someone else was given the job.

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EXAMPLE 2: Student "D" meets with her English professor to discuss her first essay. The professor tells her that she can probably pass the course only if he tutors her privately once a week, and he fondles her breast. She refuses and subsequently makes an F on her next essay. She has a close friend in the class who is making A's and B's. She asks her friend to exchange essays the next time before turning them in for grading. Student "D" receives an F on her friend's essay, and her friend receives a B on the essay written by Student "D". Student "D" concludes that her grades are based on her rejection of the sexual overtures of the professor.

- C. Such conduct has the purpose or effect of substantially interfering with an individual's academic performance or creating an intimidating, hostile, or offensive academic environment.

EXAMPLE 1: Student "E" is a nursing student who is supervised in the hospital by a male clinical professor. He repeatedly whispers in her ear comments about her body as she is working with patients; for example, "I can see the outline of your well-formed breasts through your white uniform". She tries to ignore the comments but finds that her work with her patients is adversely affected as she tries to escape his attention.

EXAMPLE 2: Student "F" is the only female on the student newspaper staff, which is supervised by an employee of the Division of Student Affairs. The male students have posters of nude women on the office wall, and jokes of a sexual nature are routinely exchanged among the students and with the supervisor. Student "F" feels very uncomfortable and spends less and less time in the office. As a result, she is given fewer good assignments and doesn't get the job as newspaper editor.

EXAMPLE 3: Student "G" is a female student in a mixed physical education class. The male professor periodically refers to her large hips and makes comments in class about women with large hips. She and other full-figured female students feel uncomfortable in class. She often dresses out late to avoid the crowded dressing room.

Sexual harassment does not include normally welcomed personal compliments, social interaction, or relationships freely entered into by University employees, prospective employees, students or student applicants. It is however misconduct, subject to disciplinary action, for a University employee, incident to any instructional, research, administrative, or other University employment responsibility or authority, to evaluate or supervise any enrolled student of the

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institution with whom he or she has an amorous relationship, or to whom he or she is related by blood, law or marriage.

Further, it is misconduct, subject to disciplinary action, for a University employee to engage in sexual activity with any enrolled student of the institution, other than his or her spouse, who is a minor below the age of 18 years.

In addition, amorous relationships between University employees and students in a supervisory relationship may be viewed as exploitative and in violation of professional ethics. Therefore, it is important that university employees give careful consideration before entering into amorous relationships with students. Any student or student applicant of the University who feels that he/she has been sexually harassed in violation of this policy may:

1. File a grievance through the grievance procedure described in the Grievance Section below; or
2. If the grievance constitutes a violation of Title IX of the Education Amendments of 1972 (20 USC Section 1681 et seq.), the student has the option of filing a grievance pursuant to Title IX.

For procedures applicable to student-student or student initiated sexual harassment, refer to the NCCU Student Code of Conduct. This document is located in the Office of the Vice Chancellor for Student Affairs.

To knowingly file a false or malicious complaint of harassment or of retaliation is a violation of the Sexual Harassment Prevention Policy. Such conduct may be addressed using the procedures followed for a complaint of harassment. A complaint under this provision shall not constitute retaliation.

DISCIPLINARY CATEGORIES

- A. **"Class A":** It is a "Class A" violation when after investigation, it is determined that an intentional breach of confidentiality has occurred, or that harassment occurred and included one of the following actions or equivalent actions:
1. Verbal harassment of a sexual nature
 2. Unnecessary physical contact
 3. Promise of special consideration in return for sexual favors
 4. Conduct that has the purpose or effect of unreasonably interfering with an employee's job performance, by creating an intimidating or offensive work environment, or a student's

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DISCIPLINARY CATEGORIES

academic performance by creating an intimidating or offensive learning environment. Off-campus activities and programs sponsored by the University are inclusive and covered by this policy.

B. **"Class B"**: It is a "Class B" violation when, after investigation, it is determined (a) that a claimant knowingly filed a false or malicious complaint of harassment or (b) that harassment occurred and included one of the following actions or equivalent actions:

1. The accused demanded favors through overt or implied intimidation or coercion as a term or condition of employment-related decisions for employees;
2. The accused gave special employment-related consideration or benefits in return for sexual favors;
3. The submission to or rejection of the conduct described in #1 or #2 above is used as a basis for any employment-related decision affecting the individual employee;
4. In the case of students, the submission to or rejection of the conduct described in #1 or #2 above is used as the basis for making decisions affecting grades, financial assistance, participation in University activities, job placement, or other privileges granted by the University; or
5. Actions that are so blatantly sexual in nature that they tend to cause an immediate disruption of the work or academic environment.

C. Disciplinary Actions

1. A "Class A" violation can result in a written reprimand or dismissal with cause.
2. A "Class B" violation is grounds for dismissal with cause.

GRIEVANCES

A. **Initiation of a Complaint**: The claimant initiates the process verbally or in writing by notifying the EEO Officer of the accused's conduct. The complaint must be reported within 30 calendar days of the most recent alleged conduct. In the instance of student complaints, vacation days are excluded from the 30-day time frame. However, if a claimant, for

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GRIEVANCES

whatever reason, prefers not to utilize the informal procedure, she/he may select the formal procedure as outlined in the section titled Formal Resolution Process.

- B. The Equal Opportunity Officer will hear the claimant's appeal and make a decision on probable cause within seven days of hearing the complaint. If the Equal Opportunity Officer determines that there is probable cause to pursue the complaint, the Equal Opportunity Officer initiates the informal resolution phase and serves as the mediator for that phase. If the Equal Opportunity Officer determines there is no probable cause, she/he notifies the claimant in writing within seven days of hearing the complaint. The claimant may then appeal to the Chancellor for a determination of probable cause.
- C. If the Chancellor determines there is probable cause to pursue the complaint, she/he will initiate the informal resolution phase and select a mediator to facilitate a mediation session. The decision of the Chancellor as to whether probable cause exists is final.

INFORMAL RESOLUTION PROCESS

Upon determination of probable cause, the mediator brings the claimant and the accused together in a mediation session in an effort to resolve the matter. In order to mediate, the mediator must verbally inform the accused of the claimant's accusation and arrange a mediation session with the parties within seven calendar days following the probable cause determination. The mediator must also submit a written report of the complaint to the Equal Opportunity Officer for the purpose of statistical recordkeeping only. If the matter is not satisfactorily resolved using the informal procedure, the claimant will then have the option of filing a formal complaint against the accused.

FORMAL RESOLUTION PROCESS

Any person who believes that he or she has been a victim of discrimination or other proscribed activities under these rules and regulations may initiate a grievance by filing a letter with the Equal Opportunity Officer.

The letter of grievance must be delivered to the Equal Opportunity Officer within:

1. 10 working days from the date of the failure of the informal resolution phase or
2. 30 calendar days of the most recent alleged conduct. In the case of student complaints, official vacation days are excluded from both the

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FORMAL RESOLUTION PROCESS

10-day and 30-day time frames.

The Equal Opportunity Officer or his/her agent shall provide a written acknowledgment to the claimant stating the time and date the letter of grievance was received by the Equal Opportunity Officer or his/her agent.

The letter of grievance shall state:

1. the specific conduct that has given rise to the grievance or violation under these rules;
2. the specific date or dates on which the alleged conduct occurred;
3. the name or other identification of the accused who allegedly violated the rights of the claimant;
4. the location(s) where the alleged offense(s) occurred; and
5. the names and addresses, if known, of any witnesses who might have heard or seen the alleged conduct of the accused that gave rise to the grievance.

The formal hearing shall be held before a panel of five persons selected from the Sexual Harassment Grievance Board by the Equal Opportunity Officer. Each party may exercise two peremptory challenges to remove proposed members of the panel for cause, such as conflict of interest, or familiarity with the parties or the facts.

If the claimant fails to appear at the designated time and place of the hearing, the grievance will be dismissed and no further internal appeals will be available through the University. If the accused fails to appear, the hearing will proceed and the accused will be deemed to have waived his/her right to rebut the evidence of the claimant. If both parties fail to appear, the complaint will be dismissed and no further internal appeals will be available through the University.

The process is as follows:

1. Once the panel of five has been established, the Equal Opportunity Officer will select a chairperson.
2. The Chairperson of the panel shall make all final rulings concerning the admissibility of evidence at the hearings.

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3. The Committee Chair shall have the authority to conduct the hearing including, but not limited to, the following powers:
 - i. determining the order of witnesses;
 - ii. interrupting testimony to ask questions;
 - iii. excluding testimony as unduly repetitious or irrelevant;
 - iv. sequestering witnesses;
 - v. conducting an independent investigation or reviewing evidence where warranted; and
 - vi. making rulings on other procedural or evidentiary questions where appropriate.
4. The claimant and the accused may be represented at the formal hearing by legal counsel.
5. Each party is responsible for notifying his or her own witnesses of the date, time and place of the hearing, and for insuring their presence at the hearing. Witnesses will not be sworn in.

Note: *The appearance and testimony of witnesses are not subject to subpoena.*
6. Employees shall be released from job duty, as necessary, to appear as voluntary witnesses for the claimant or the accused.
7. The North Carolina Rules of Evidence will not be applied in determining the admissibility of evidence. The rules of privilege and doctor/patient privilege shall apply.
8. The claimant shall have the burden of establishing by the preponderance of the evidence that the accused committed the alleged act.
9. At the formal hearing, the claimant will proceed initially to call witnesses and present evidence. If the claimant established a prima facie case, the accused may call witnesses and introduce evidence rebutting claimant evidence.
10. If a hearing is not judicial or quasi judicial, it is an administrative investigative proceeding. It is confidential in nature, therefore only

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individuals listed in the notice of hearing or otherwise approved by the Committee Chair will be granted admission to the hearing.

11. Each party may cross-examine the witnesses of the other party.
12. A stenographer will record the formal hearing and provide a transcript of the formal hearing proceedings.
13. At the close of presentation of the evidence, the members of the hearing panel will deliberate and render a formal written recommendation to the Chancellor within 15 working days. The written recommendation will include the findings of fact, conclusions, and recommendations to the Chancellor concerning the disposition of the grievance. Copies of the written recommendation and the transcript will be provided to the claimant, the accused and the Equal Opportunity Officer.

FINAL DECISION SUBJECT TO APPEAL

Upon receiving the recommendation of the panel, the Chancellor will take immediate action to impose appropriate disciplinary action and shall notify the parties in writing of his/her decision within seven working days following receipt of the recommendations of the panel and the accompanying transcript. Copies will be provided to the Equal Opportunity Officer. Appeal of the Chancellor's decision shall be in accordance with the procedures set forth for EPA employees in Section 501C (4) of the Code of the University of North Carolina system and the laws of the State of North Carolina. SPA employees who allege discrimination based on sex shall have the right to appeal directly to the State Personnel Commission.

TRAINING AND MAINTAINING CONFIDENTIAL RECORDS

The EEO/AA Office or the University shall develop training and other communications resources and methods to prevent sexual harassment. Such training methods will include informing employees and students of their rights and how to initiate the issue of harassment under Title VII and Title IX, respectively. Training activities to increase sensitivity among University employees and students will also take place. The Equal Opportunity Officer shall also maintain a confidential record of all complaints, both formal and informal, hearings, outcomes, and disciplinary actions invoked pursuant to the Sexual Harassment Prevention Policy.

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IMPLEMENTATION

A. Responsibilities:

It is the responsibility of University administrators and supervisors to provide a workplace free of sexual harassment. Administrators and supervisors with knowledge of conduct involving sexual harassment must take immediate and appropriate corrective action to ensure offensive activities cease. The University administration is also responsible for taking positive steps to sensitize employees with respect to this issue.

B. Responsible Parties:

1. Equal Opportunity Officer: The Equal Opportunity Officer will have the authority, financial resources, and staff to carry out his/her role effectively. The Equal Opportunity Officer is responsible for monitoring and documenting all charges of sexual harassment and for informing supervisors and other appropriate administrators of the status of the complaint or its resolution. In addition, the Equal Opportunity Officer is responsible for educating the university community and for providing training to supervisors, administrators, and the hearing panel members on matters of sexual harassment. The Equal Opportunity Officer is responsible for disseminating current policies, guidelines, and other materials on an on-going basis to the various unit heads for distribution.
2. The Sexual Harassment Grievance Board shall hear all formal complaints of sexual harassment. The Board shall consist of hearing officers appointed by the Equal Opportunity Officer. Hearing Officers will be selected in accordance with the procedure outlined in Education and Training, Section C. Hearing Officers of this policy. A hearing officer shall hear only cases involving parties not in her/his department. Hearing officers will serve two-year terms. Vacancies on the Board shall be filled in the same manner as hearing officers are selected. An officer appointed to fill a Board vacancy shall serve the remaining term of the hearing officer being replaced.
3. Administrators and Supervisors are responsible for disseminating up-to-date policies and other materials relative to sexual harassment matters to individuals within their respective units. They are also responsible for attending training workshops and

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seminars to familiarize themselves with and understand sexual harassment policies and procedures. In addition, they are accountable for reporting to the Equal Opportunity Officer any sexual harassment grievances brought to their attention and for advising the claimant of the procedures to be followed.

EDUCATION AND TRAINING

The Chancellor shall establish a mechanism for educating the entire University community (administrators, faculty, staff, and students) regarding the Sexual Harassment Prevention Policy. The Chancellor may assign the overall responsibility of education and the implementation of the policy to a full-time Equal Opportunity Officer. Each official of the University shall be responsible for carrying out the intent and provision of the Policy in all segments of her/his area of responsibility and to assist in providing opportunities to every chairperson and supervisor under her/his direction to become familiar with the policy.

The policy should not be viewed as a finished product, rather a written indication of an on-going process, which shall be continuously monitored and revised to ensure the University provides a safe, knowledgeable, and sexual harassment-free environment.

- A. Internal Dissemination Schedule of the Sexual Harassment Prevention Policy. The Equal Opportunity Officer will:
 1. Include Statement of Policy in the Faculty Handbook, Equal Opportunity Plan, General Catalog, and Student Code of Conduct. (Continual)
 2. Develop brochures and posters for display in highly visible locations campus-wide. (Continual)
 3. Conduct meetings with Vice Chancellors and Directors to explain the intent of implementing the policy and reiterate the Chancellor's commitment. (Continual)
- B. General Campus Training and Education: Administrator, faculty, staff and student workshops should be offered. In addition to facilitating thorough discussions of the Policy among these groups, administrative workshops will be designed to focus on the University's guidelines for administrative conduct in the handling of a complaint involving sexual harassment.

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EDUCATION AND TRAINING CONT'D

The Chancellor requires all administrators to attend at least one of several administrative workshops per academic year. Therefore, it shall be the responsibility of all immediate supervisors to require their personnel to attend the informational workshops.

The Faculty and Staff Institutes may serve as educational vehicles for all administrators, faculty, and staff by conducting Sexual Harassment Prevention Policy sessions each year. As part of the new employees' orientation, the Policy shall be explained and discussed.

- C. Hearing Officers: Hearing Officers are appointed by the Equal Opportunity Officer. The appointment letter will stipulate that prior to serving each person will undergo an intensive training process. The training will focus on, but is not limited to, the following areas:
1. The definition of sexual harassment;
 2. What constitutes sexual harassment under the law;
 3. How to resolve matters on the credibility of witnesses;
 4. A definition of the standard of proof;
 5. Admissibility of evidence; and the need for objectivity.

MISCELLANEOUS

- A. Dissemination of Policy Statement: Immediately following each policy revision, the University shall publish and disseminate the latest release of the Sexual Harassment Prevention Policy to the University.
- B. Prohibition against reprisals: Any person engaging in retaliation against any individual complaining of alleged sexual harassment shall be subject to disciplinary action under appropriate University policies, rules, and regulations.
1. Reprisals against the claimant: It is a violation of this policy to retaliate against a claimant for filing a charge of harassment. When necessary, the appropriate dean or other University officer will monitor activities regarding student grading, faculty/staff reappointments, tenure, promotion, merit review, additional work assigned or other decisions to ensure a process free of retribution.

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2. Reprisals against the accused: Lodging a complaint of harassment is not proof of prohibited conduct. A complaint shall not be considered while deliberations on reappointment, tenure, promotion, merit, or other evaluation or review are underway, unless a final determination has been reached that the University's Sexual Harassment Prevention Policy has been violated.
- C. Intentional Breaches of Confidentiality: All participants in the harassment complaint resolution process including the claimant, the accused, witnesses, hearing officers and others, shall respect the confidentiality of the proceedings.
1. Breaches of confidentiality jeopardize conditions necessary for the progression of internal procedures to resolve claims of harassment.
 2. A complaint alleging an intentional breach of confidentiality may be pursued following the process outlined for a harassment complaint. Such a breach may possibly constitute an act of retaliation. A breach of confidentiality may possibly negate the outcome of previously agreed upon resolution to a complaint.

NOTE: This policy is intended to provide steps for consistent application of the Sexual Harassment Prevention Policy throughout the North Carolina Central University workforce.

<i>Authority</i>	NCCU Chancellor
<i>Title</i>	Sexual Harassment Prevention Policy
<i>Classification</i>	Equal Employment Opportunity & Affirmative Action
<i>PRR Subject</i>	Discrimination and Harassment
<i>Contact Info</i>	Assoc. Vice Chancellor for DHR & EEO/AA – (919) 530-6164