

**THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL**  
**POLICY ON PROHIBITED HARASSMENT AND DISCRIMINATION**

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**THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL**  
**POLICY ON PROHIBITED HARASSMENT AND DISCRIMINATION**

**I. Policy Statement**

The University of North Carolina at Chapel Hill is committed to providing an inclusive and welcoming environment for all members of our community. In accordance with its Policy Statement on Non-Discrimination, The University of North Carolina at Chapel Hill does not discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of an individual's race, color, gender, national origin, age, religion, creed, disability, veteran's status, sexual orientation, gender identity or gender expression (hereinafter his/her "protected status").

The University recognizes the rights of all members of the University community to learn and work in an environment that is free from harassment and discrimination based on his/her protected status as described above. Any harassment or discrimination of University students, and employees, including faculty, EPA non-faculty, SPA employees, post-doctoral scholars, and student employees is prohibited.

This policy also prohibits retaliation against an individual who in good faith utilizes the procedures herein included as appendices and/or participates in any investigation related to an allegation of prohibited harassment or discrimination.

**II. Resources for Information and Assistance**

The Equal Opportunity/ADA Office has primary responsibility for administering this policy, but questions, concerns, and/or complaints may be addressed to any of the following offices: the Dean of Students Office, the Office of Human Resources, the Academic Personnel Office, the University Ombuds Office, The Office of Disability Services, The Office of Associate Provost for Diversity or to the respective Chairs of the Student, Faculty, and EPA Non-Faculty Grievance Committees.

Individuals in these offices are prepared to help all members of the university community understand the policy, including providing training and information and assisting units who wish to participate in online training. They are able to explain the options available for resolving concerns related to alleged harassment or discrimination in academic or work settings at the University, including use of the procedures provided herein as. All offices receiving complaints of harassment or discrimination must notify the Equal Opportunity/ADA Office.

### **III. Applicability**

It is the responsibility of every employee and student in the University community to strive to create an environment free of harassment and discrimination as described in Section I.

This policy and associated procedures apply to university students, and employees, including faculty, EPA non-faculty, SPA employees, post doctoral scholars and student employees.

#### **A. In employment**

The following employment practices are prohibited by the University:

1. Failing or refusing to hire or discharging any individual or otherwise discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's protected status; or
2. Limiting, segregating, or classifying employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of such individual's protected status.

#### **B. In academic and student programs**

It is the policy of the University that there shall be no prohibited harassment or discrimination against any student or applicant for admission as a student, because of such individual's protected status with respect to recruiting, admission, financial aid, academic progress/grading, housing and residential communities and access to program, including social, recreational and health programs.

### **IV. Protection against retaliation**

Retaliation against a person because he/she in good faith files a complaint or cooperates in an investigation of a complaint of alleged harassment or discrimination violates the law and this policy and is therefore strictly prohibited. Any person who retaliates against another person for exercising rights under this policy in good faith will be subject to appropriate and prompt corrective action which may include disciplinary action.

Any person who has a concern about potential or actual retaliation may contact any of the resources provided in Section II, above, for assistance in addressing the concern, and may also utilize the appropriate grievance procedure within the designated time frame to address any concern not otherwise resolved.

## **V. Confidentiality**

Because breaches of confidentiality compromise the ability of the university to investigate and resolve claims of prohibited harassment and discrimination, administrators responsible for implementing this policy will attempt to protect the confidentiality of harassment proceedings to the extent reasonably possible. All participants in the process are expected to respect the confidentiality of the proceedings and circumstances giving rise to the dispute. Complete confidentiality however, cannot be guaranteed except when a student shares a concern with Counseling and Wellness Services in Campus Health Services and when an employee shares a concern with the Ombuds Office that does not involve an imminent risk of serious harm.

The University is obligated to investigate all allegations that may constitute prohibited harassment or discrimination. Any person seeking information or guidance concerning potential harassment or discrimination allegations are advised that the University may need to take action once informed of an allegation whether or not the person wants to pursue a complaint.

This policy does not provide for anonymous complaints. Anyone alleging prohibited harassment or discrimination must identify themselves to the Equal Opportunity/ADA Office or one of the other offices listed in Section II. The Equal Opportunity/ADA Office will decide if and when it is appropriate to notify the accused of the complaint and/or the identity of the person (s) complaining.

## **VI. Academic Freedom and Harassment**

The University of North Carolina at Chapel Hill is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so.

Harassment or discrimination prohibited by this policy is not a proper exercise of academic freedom and may not be legally protected expression. On the contrary, prohibited harassment and discrimination compromise the University's integrity, as well as its tradition of intellectual freedom.

## **VII. False allegations**

A complaint of alleged harassment or discrimination may not always be able to be substantiated, but the lack of corroborating evidence should not discourage a person from seeking relief through procedures outlined in this policy. However, it is a violation of this policy to falsely accuse faculty, staff or students of unlawful harassment or discrimination.

Charges found to have been intentionally dishonest or made in willful disregard of the truth will result in appropriate and prompt corrective action which may include disciplinary action. Students found to have made false accusations may be subject to disciplinary action by the honor system.

### **VIII. Records**

The Equal Opportunity/ADA Office will report annually to the Chancellor on all incidents that have been reported under this policy.

### **IX. Effective Date**

The effective date of this policy is June 24, 2008.

*This Policy is maintained by the Equal Opportunity/ADA Office.*

### **X. RELATED UNIVERSITY POLICIES**

Policy Statement on Non-Discrimination  
Instrument of Student Judicial Governance  
Amorous Relationships Policy: Policy Prohibiting Improper Relationships  
Between Faculty/Staff and Students  
Official Recognition of Student Organizations Non-Discrimination Policy  
Protection for Reporting Improper Government Activities

## **Appendix A**

### **Definitions**

The following definitions are applicable to this policy.

- A. **Discrimination** – An intentional or unintentional act that results in adverse treatment of a person based on race, color, gender, age, color, national origin, religion, creed, disability, veteran’s status or sexual orientation gender identity or gender expression (“protected status”).
- B. **Harassment** – A form of discrimination that occurs when verbal or physical conduct based on an individual’s protected status unreasonably interferes with that individual’s work or academic performance or creates a hostile work or educational environment for that individual, including affecting his/her personal safety or participation in University-sponsored activities.
1. **Hostile Environment** – Unwelcome conduct by an individual(s) against another individual based upon protected category/status that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is hostile must be based on all of the circumstances. These circumstances could include the severity of the conduct, the frequency and whether it is threatening or offensive. An isolated incident unless extremely severe will usually not amount to hostile environment harassment.
  2. **“Quid Pro Quo” Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
    - submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic standing;
    - submission to or rejection of such conduct by an individual is used as a basis for an employment or academic decision affecting that individual, or
    - such conduct has the purpose or effect of creating a hostile work or educational environment, as described in Section I.C.4.a., above.
- C. **Protected Category/Status**- The University prohibits harassment or discrimination based upon race, color, gender, age, national origin, religion, creed, disability, veteran’s status, sexual orientation, gender identity, or gender expression.
1. **Age** – With respect to employment, individuals who are 40 years of age or older are protected from discrimination. There is no age threshold for educational programs or activities.

2. **Color** – Discrimination or harassment based on an individual’s pigmentation, complexion, or skin shade or tone.
3. **Creed** – A well-formed and thought out set of beliefs held by more than one individual, not necessarily belief in a supreme being, unless the University can demonstrate that it is unable to reasonably accommodate an individual’s religious observance or practice without undue hardship.
4. **Disability** – a person with a disability is any person who has a physical or mental impairment which substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such an impairment. A person with a disability must be able to perform the essential functions of the employment position or the academic program, with or without a reasonable accommodation.
5. **Gender** –An individual’s biological status of male or female.
6. **Gender Expression** -- The external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.
7. **Gender Identity** – An individual’s psychological sense of self as a male or female.
8. **National Origin** –Discrimination or harassment against an individual because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background.
9. **Race** -- Discrimination or harassment based on racial or ethnic ancestry or based on a person’s physical characteristics associated with race, such as a person’s color, hair, facial features, height and weight.
10. **Religion** –All aspects of religious observance and practice, as well as belief, unless the University can demonstrate that it is unable to reasonably accommodate an individual’s religious observance or practice without undue hardship.
11. **Sexual Orientation** – The inclination or capacity to develop intimate emotional and sexual relationships with people of the same gender (lesbian, gay), the other gender (heterosexual), or either gender (bisexual).
12. **Veteran’s Status** – Covered Veterans include disabled veterans, special disabled Veterans, Veterans of the Vietnam era and other protected Veterans as defined by federal and state law.

**D. Retaliation** – An adverse action taken against an individual because he/she in good faith, has reported allegations of harassment or discrimination or has participated in an investigation of alleged harassment or discrimination. Adverse action includes overt or covert acts of reprisal, interference, restraint, penalty, or intimidation.

## **Appendix B**

### **PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF STUDENTS REGARDING ALLEGATIONS OF HARASSMENT OR DISCRIMINATION**

Any University student who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

#### **I. Administrative Responsibility**

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role, he/she must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact any of the resources described in Section II of the Policy.

The administrator or supervisor must notify the Equal Opportunity/ADA Officer and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or corrective action, if appropriate.

If an administrator becomes aware of prohibited harassment or discrimination of a student by another student he/she must take steps to promptly and appropriately address the matter. The administrator must consult with the Dean of Students office or the Equal Opportunity/ADA Officer for advice on investigation, education, mediation, documentation and/or corrective action, if appropriate.

#### **II. Administrative Review Process**

A University student with a concern should first contact either the administrative office most directly concerned (excluding the person accused of harassment or discrimination) or any of the resources listed in Section II of the Harassment and Discrimination Prevention Policy for help in resolving the concern through Administrative Review.

## A. Overview

Administrative Review is an option for handling allegations of prohibited harassment or discrimination in which responsibility for investigation and resolution is assigned especially to Deans, Directors, and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through the Administrative Review Process. Please contact the Equal Opportunity/ADA Officer for consultation and information on the guidelines for utilizing this option.

## B. Time frames

A University student who has a concern involving a faculty, staff or student employee may also attempt to resolve the matter by informing the administrative official most directly concerned, excluding the person accused of prohibited harassment or discrimination within one hundred eighty (180) calendar days of the alleged prohibited harassment or discrimination.

## C. Reporting allegations of prohibited harassment or discrimination

1. An individual with a complaint (the “complainant”) is responsible for conveying his/her complaint to the appropriate administrator or supervisor, either orally or in writing; however, a written statement is not required. The administrator or supervisor is responsible for documenting the complaint and having the individual review and indicate that it is correct.
2. When an allegation of prohibited harassment or discrimination is brought to the attention of a supervisor or administrator, he/she must contact the Equal Opportunity/ADA Office immediately for consultation regarding an appropriate response. If an Administrative Review is deemed appropriate after this consultation, the person designated as responsible for conducting the Administrative Review (the “Administrative Reviewer”) must submit written notice to the Equal Opportunity/ADA Officer of the intent to investigate along with the names of the parties involved. The appropriate Dean or Department Director must also be notified.
3. When an allegation of prohibited harassment or discrimination is brought initially to the attention of the Equal Opportunity/ADA Officer, with the complainant’s knowledge the Equal Opportunity/ADA Officer will contact the supervisor or administrator most directly involved, excluding

the person accused of prohibited harassment or discrimination, and inform that supervisor or administrator of the complaint and his/her responsibilities under this policy and procedure.

D. Investigating the complaint

1. The supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review but another person(s) may be assigned responsibility depending on the nature of the complaint. The person(s) alleged to have engaged in prohibited harassment or discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. In determining whether alleged conduct violates this policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred.

E. Required Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer will prepare a written report that includes the names of all parties involved, any documentation submitted by the complainant and the accused, factual findings, a determination of whether this policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
  - a. If an Administrative Review results in a finding that the conduct or issue complained about is a violation of policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Officer, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair. Corrective action may include counseling about the behavior, a letter of reprimand, honor code charges, or other appropriate action up to dismissal or expulsion.
  - b. If an Administrative Review results in a finding that the conduct or issue complained of is not a violation of policy, all parties should be constructively educated regarding the definitions of prohibited harassment or discrimination and what it does and does not include.
2. A confidential report must be submitted to the appropriate Dean, Director, or Department Chair, and to the Equal Opportunity/ADA Officer within

thirty (30) calendar days of receiving the complaint. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair, and the Equal Opportunity/ADA Officer of a revised date. An appropriate record in the confidential departmental personnel file and/or the appropriate student's file will also be maintained.

F. Notification of Findings

Upon completion of an Administrative Review, the Administrative Reviewer is responsible for notifying the parties, to the extent permitted by law, of the results of the review and of efforts to resolve the complaint. The person conducting the review may inform the complainant that appropriate corrective action has been taken, but may not reveal the specifics of the action if it is confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.

### **III. Appeal of an Administrative Review**

A. Information and Assistance with Formal Resolution

Information and assistance is available from the Office of the Dean of Students.

B. Time frames

A University student has thirty (30) calendar days from the date of notification of the Administrative Review findings to file a grievance if he/she feels that the Administrative Review failed to produce a satisfactory resolution.

C. Appeal to the Student Grievance Committee or the Office of the Honor System

A University student whose complaint is not resolved through the Administrative Review Process may proceed either to the Student Grievance Committee or the Office of the Honor System within the time frame provided above.

If a student chooses to proceed with the Student Grievance Committee, a grievance must be filed according to that Committee's established procedures, and that Committee will proceed under its established procedures.

**Appendix C**  
**PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF**  
**EPA<sup>1</sup> EMPLOYEES REGARDING ALLEGATIONS OF HARASSMENT OR**  
**DISCRIMINATION**

Any EPA employee who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

**I. Administrative Responsibility**

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role under his/her administrative jurisdiction, he/she must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact any of the resources described in Section II of the Policy.

The administrator or supervisor must notify the Equal Opportunity/ADA Officer, and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or corrective action, if appropriate.

If an administrator becomes aware of prohibited harassment or discrimination of a student by another student he/she must take steps to promptly and appropriately address the matter. The administrator must consult with the Dean of Students office or the Equal Opportunity/ADA Officer for advice on investigation, education, mediation, documentation and/or corrective action, if appropriate.

**II. Administrative Review Process**

A University employee with a concern should first contact either the administrative officer most directly concerned (excluding the person accused of prohibited harassment or discrimination) or any of the resources provided in Section II of the Policy for help in resolving the concern informally through Administrative Review.

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<sup>1</sup> "EPA" means employees who are exempt from the State Personnel Act and covers faculty members and EPA Non-Faculty employees.

## A. Overview

Administrative Review is an option for handling allegations of prohibited harassment or discrimination in which responsibility for investigation and resolution is assigned especially to Deans, Directors, and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved through the Administrative Review Process. Please contact the Equal Opportunity/ADA Officer for consultation and information on the guidelines for utilizing this option.

## B. Time frames

A faculty or EPA non-faculty employee who has a concern may also attempt to resolve the matter by informing the administrative official most directly concerned, excluding the person accused of prohibited harassment or discrimination within one hundred eighty (180) calendar days of the alleged harassment or discrimination. A faculty or EPA non-faculty employee may also request an administrative review by the Equal Opportunity Office.

## C. Reporting allegations of prohibited harassment or discrimination

1. An individual with a complaint (the “complainant”) is responsible for conveying his/her complaint to the appropriate administrator or supervisor, either orally or in writing; however, a written statement is not required. The administrator or supervisor is responsible for documenting the complaint and having the individual review and indicate that it is correct.
2. When an allegation of prohibited harassment or discrimination is brought to the attention of a supervisor or administrator, he/she must contact the Equal Opportunity/ADA Office immediately for consultation regarding an appropriate response. If an Administrative Review is deemed appropriate after this consultation, the person designated as responsible for conducting the Administrative Review (the “Administrative Reviewer”) must submit written notice to the Equal Opportunity/ADA Officer of the intent to investigate along with the names of the parties involved. The appropriate Dean or Department Director must also be notified.
3. When an allegation of prohibited harassment or discrimination is brought initially to the attention of the Equal Opportunity/ADA Officer, with the complainant’s knowledge the Equal Opportunity/ADA Officer will contact the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination, and inform

that supervisor or administrator of the complaint and his/her responsibilities under this policy and procedure.

D. Investigating the complaint

1. The supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review but another person(s) may be assigned responsibility depending on the nature of the complaint. The person(s) alleged to have engaged in prohibited harassment or discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. In determining whether alleged conduct violates this policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred.

E. Required Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer will prepare a written report that includes the names of all parties involved, any documentation submitted by the complainant and the accused, factual findings, a determination of whether this policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
  - a. If an Administrative Review results in a finding that the conduct or issue complained about is a violation of policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Officer, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair. Corrective action may include counseling about the behavior, a letter of reprimand, a written warning, or other appropriate action up to dismissal.
  - b. If an Administrative Review results in a finding that the conduct or issue complained of is not a violation of policy, all parties should be constructively educated regarding the definitions of prohibited harassment or discrimination and what it does and does not include.
2. A confidential report must be submitted to the appropriate Dean, Director, or Department Chair, and to the Equal Opportunity/ADA Officer within thirty (30) calendar days of receiving the complaint. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair, and the Equal Opportunity/ADA

Officer of a revised date. An appropriate record in the confidential departmental personnel file and/or the appropriate student's file will also be maintained.

#### F. Notification of Findings

Upon completion of an Administrative Review, the Administrative Reviewer is responsible for notifying the parties, to the extent permitted by law, of the results of the review and of efforts to resolve the complaint. The person conducting the review may inform the complainant that appropriate corrective action has been taken, but may not reveal the specifics of the action if it is confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.

### III. Appeal of an Administrative Review

#### A. Information and Assistance with Formal Resolution

For faculty, information and assistance is available from the Chair of the Faculty Grievance Committee.

For EPA Non-Faculty, information and assistance is available from the Chair of the EPA Non-Faculty Grievance Committee or from the Office of Human Resources.

For post-doctoral scholars, information and assistance is available from the Office of Post-Doctoral Affairs.

#### B. Timeframe

A faculty or EPA non-faculty employee has thirty (30) calendar days from the date of notification of the Administrative Review findings to file a grievance if he/she feels that the Administrative Review failed to produce a satisfactory resolution. A grievance must be filed with the relevant Grievance Committee according to its established procedures, and that Grievance Committee, will proceed under its established procedures.

##### 1. Faculty

A faculty member whose complaint is not resolved informally or through Administrative Review may proceed to file a grievance by submitting a written, signed statement to the Faculty Grievance Committee within the timeframe provided above.

**Note:** A faculty member who alleges prohibited harassment or discrimination as evidence that a decision not to reappoint was based upon one or more of the existing impermissible grounds stated in the Trustees'

Rules and Regulations Governing Academic Tenure in The University of North Carolina at Chapel Hill (the “Tenure Regulations”) must file a complaint with the Faculty Hearings Committee in accordance with Section IV of the Tenure Regulations.

Librarians holding general faculty membership must file their statement with the Faculty Grievance Committee.

2. EPA Non-Faculty Employees

An EPA Non-Faculty employee whose complaint is not resolved informally or through Administrative Review may proceed to file a grievance by submitting a written, signed statement to the EPA Non-Faculty Grievance Committee within the timeframe provided above.

3. Post-Doctoral Scholars

Postdoctoral Scholars may proceed to utilize the grievance procedures established by the Office of Postdoctoral Affairs.

## **Appendix D**

### **PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF SPA<sup>2</sup> EMPLOYEES REGARDING ALLEGATIONS OF PROHIBITED HARASSMENT OR DISCRIMINATION-**

Any SPA employee who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

#### **I. Administrative Responsibility**

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role, he/she must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact any of the resources described in Section II of the Policy.

The administrator or supervisor must notify the Equal Opportunity/ADA Officer, and partner with that office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or corrective action, if appropriate.

If an administrator becomes aware of prohibited harassment or discrimination of a student by another student he/she must take steps to promptly and appropriately address the matter. The administrator must consult with the Dean of Students office or the Equal Opportunity/ADA Officer for advice on investigation, education, mediation, documentation and/or corrective action, if appropriate.

#### **II. Administrative Review Process**

A University employee with a concern should first contact either the administrative officer most directly concerned (excluding the person accused of prohibited harassment or discrimination) or any of the resources provided in Section II of the Policy for help in resolving the concern informally.

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<sup>2</sup> “SPA” means employees who are subject to the State Personnel Act.

## A. Overview

Administrative Review is an option for handling allegations of prohibited harassment or discrimination in which responsibility for investigation and resolution is assigned especially to Deans, Directors, and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through Administrative Review. Please contact the Equal Opportunity/ADA Officer for consultation and information on the guidelines for utilizing this option.

## B. Time frames

1. An SPA employee who has a concern may also attempt to resolve the matter by informing the administrative official most directly concerned, excluding the person accused of prohibited harassment or discrimination within one hundred eighty (180) calendar days of the alleged prohibited harassment or discrimination. An SPA employee may also request an administrative review by the Equal Opportunity Office.
2. However, an SPA employee who wishes to preserve his or her rights to proceed under the grievance policy must file a grievance within thirty (30) calendar days of the alleged prohibited harassment or discrimination. Under North Carolina law, during the period an SPA complainant participates in Administrative Review, the time limit for filing a grievance will not be suspended.

The University has 60 calendar days in which to respond to an employee's written complaint of prohibited harassment or discrimination. After 60 calendar days has been reached, if the SPA employee is not satisfied with the University's response, he/she may appeal to the Office of Administrative Hearings within 30 calendar days. If the University issues a written decision in fewer than 60 calendar days and waives additional time in writing, and the Spa employee acknowledges in writing his/her receipt of the decision and the waiver, then the SPA employee may appeal to the Office of Administrative Hearings within 30 calendar days.

3. An applicant who alleges a denial of employment based on prohibited harassment or discrimination may also file a grievance directly with the Office of Administrative Hearings.

### C. Reporting allegations of prohibited harassment or discrimination

1. An individual with a complaint (the “complainant”) is responsible for conveying his/her complaint to the appropriate administrator or supervisor, either orally or in writing; however, a written statement is not required. The administrator or supervisor is responsible for documenting the complaint and having the individual review and indicate that it is correct.
2. When an allegation of prohibited harassment or discrimination is brought to the attention of a supervisor or administrator, he/she must contact the Equal Opportunity/ADA Office immediately for consultation regarding an appropriate response. If an Administrative Review is deemed appropriate after this consultation, the person designated as responsible for conducting the Administrative Review (the “Administrative Reviewer”) must submit written notice to the Equal Opportunity/ADA Officer of the intent to investigate along with the names of the parties involved. The appropriate Dean or Department Director must also be notified.
3. When an allegation of prohibited harassment or discrimination is brought initially to the attention of the Equal Opportunity/ADA Officer, with the complainant’s knowledge the Equal Opportunity/ADA Officer will contact the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination, and inform that supervisor or administrator of the complaint and his/her responsibilities under this policy and procedure.

### D. Investigating the complaint

1. The supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review but another person(s) may be assigned responsibility depending on the nature of the complaint. The person(s) alleged to have engaged in prohibited harassment or discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. In determining whether alleged conduct violates this policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred.

### E. Required Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer will prepare a written report that includes the names of all parties involved, any documentation submitted by the complainant and the accused, factual findings, a determination of whether this policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
  - a. If an Administrative Review results in a finding that the conduct or issue complained about is a violation of policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Officer, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair. Corrective action may include counseling about the behavior, a letter of reprimand, a written warning, or other appropriate action up to dismissal.
  - b. If an Administrative Review results in a finding that the conduct or issue complained of is not a violation of policy, all parties should be constructively educated regarding the definitions of prohibited harassment or discrimination and what it does and does not include.
2. A confidential report must be submitted to the appropriate Dean, Director, or Department Chair, and to the Equal Opportunity/ADA Officer within thirty (30) calendar days of receiving the complaint. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair, and the Equal Opportunity/ADA Officer of a revised date. An appropriate record in the confidential departmental personnel file and/or the appropriate student's file will also be maintained.

#### F. Notification of Findings

Upon completion of an Administrative Review, the Administrative Reviewer is responsible for notifying the parties, to the extent permitted by law, of the results of the review and of efforts to resolve the complaint. The person conducting the review may inform the complainant that appropriate corrective action has been taken, but may not reveal the specifics of the action if it is confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.

### **III. Appeal of an Administrative Review**

#### A. Information and Assistance with Formal Resolution

Information and assistance is available from Employee & Management Relations in the Office of Human Resources.

B. Time frames

Consistent with Section II.B., above, an SPA employee who has not otherwise filed a grievance within thirty (30) calendar days from the date of alleged prohibited harassment or discrimination may not file a grievance under the Dispute Resolution and Staff Grievance Procedure if he/she feels that the Administrative Review failed to produce a satisfactory resolution.

C. Appeals to the Office of Administrative Hearings

In certain cases, employees may file a complaint directly with the State's Office of Administrative Hearings or may file a complaint with the State's Office of Administrative Hearings after the completion of the University's internal grievance procedure. See "Covered Employees/Issues for Grievances at the Office of Administrative Hearings" in the Dispute Resolution and Staff Grievance Procedure for more information on eligibility and procedures.

The University has 60 calendar days in which to respond to an employee's written complaint of prohibited harassment or discrimination. After 60 calendar days has been reached, if the SPA employee is not satisfied with the University's response, he/she may appeal to the Office of Administrative Hearings within 30 calendar days. If the University issues a written decision in fewer than 60 calendar days and waives additional time in writing, and the Spa employee acknowledges in writing his/her receipt of the decision and the waiver, then the SPA employee may appeal to the Office of Administrative Hearings within 30 calendar days.

An applicant who alleges a denial of employment based on prohibited harassment or discrimination may also file a grievance directly with the Office of Administrative Hearings.