

**SEXUAL HARASSMENT POLICY AND PROCEDURES  
OF  
THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL**

**I. POLICY**

**A. Individual Responsibility**

It is the responsibility of every employee and student in the University community to conduct himself or herself in a manner that contributes to an environment free of sexual harassment.

**B. Who is Covered Under the Policy?**

The Sexual Harassment Policy and Procedures apply to all University students, agents, and employees, including faculty, EPA non-faculty, staff, and student employees.

**C. Definition of Sexual Harassment**

Sexual harassment is unlawful discrimination on the basis of sex. Such conduct violates both law and University policy, and it will not be tolerated in the University community.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by one in an official University position or by a fellow University employee or student constitute sexual harassment when

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing,
2. submission to or rejection of such conduct by an individual is used as the basis for an employment or academic decision affecting that individual, or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

In determining whether alleged conduct constitutes sexual harassment, the record as a whole will be considered, as well as the totality of the circumstances, such as the nature of the alleged conduct and the context in which it occurred.

**D. Retaliation of Any Kind Prohibited**

This Policy encourages students and employees to express freely, responsibly, and in an orderly way their opinions and feelings about any problem or complaint of sexual harassment. Any act by a University employee or agent of reprisal, interference, restraint, penalty, discrimination, coercion or harassment -- overtly or covertly -- against a student or an employee for responsibly using the Policy and its procedures interferes with free expression and openness. Such acts violate this Policy and are grounds for prompt and appropriate disciplinary action.

**E. Abuse of this Policy**

Because of the nature of the problem, complaints of sexual harassment often cannot be substantiated. Lack of corroborating evidence should not discourage complainants from seeking relief through procedures outlined in this Policy. Charges found to have been intentionally dishonest or made in willful disregard of the truth, however, will subject the complainant to disciplinary action.

**F. Academic Freedom and Sexual Harassment**

UNC-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.

Sexual harassment, however, is neither legally protected expression, nor the proper exercise of academic freedom. On the contrary, sexual harassment compromises the University's integrity, as well as its tradition of intellectual freedom. For conduct to constitute sexual harassment in a higher education teaching context, the complainant(s) must show that (1) the behavior substantially interfered with a student's academic performance, class participation, or educational opportunity, (2) the behavior would be regarded as offensive by a reasonable person in the same context, and (3) the behavior was persistent, pervasive, and not germane to the academic subject matter.

**G. Confidentiality**

Confidentiality is an extremely important issue for people who have concerns about sexual harassment. Administrators responsible for implementing this Policy will respect the privacy and confidentiality of individuals reporting or accused of sexual harassment to the fullest extent possible; however, the University is obligated to investigate all allegations that might be severe enough to constitute sexual harassment as defined by law (Section I.C.) and thus confidentiality cannot be guaranteed unless a legally protected relationship exists.

Confidential consultations may be available from individuals who, by law, have special professional status, such as mental health counselors, physicians, chaplains, ministers, and/or personal attorneys. In these cases, the level of confidentiality depends on what legal protections are held by specific persons receiving the information. Whichever person the complaining or accused parties elect to discuss their concerns with, the issue of confidentiality should be addressed with them before specific facts or identities are disclosed.

There is no provision for anonymous complaints under this Policy and Procedures: in any investigation of sexual harassment allegations, the accused must promptly be made aware of the complaint and of the identity of the complainant(s).

## **H. Important Time Considerations**

Two options are available to University employees or students who believe they have been victims of sexual harassment and who choose to attempt to resolve the matter under this Policy. The procedures associated with both options have strict time limits for bringing and addressing complaints.

All time limits are explained under the various options outlined in this Policy, and questions concerning any of these may be addressed to any of the resources listed below (Section I.I.).

## **I. Resources for Information and Assistance**

Questions concerning this Policy may be addressed to the University's Sexual Harassment Officer (962-3026), the Dean of Students (966-4042), the Associate Vice Chancellor for Human Resources (962-1554), the Vice Chancellor and General Counsel (962-1219), the Equal Opportunity/ADA Officer (966-3576), the Human Resources Counseling Service (962-2656), or respective Chairs of the Student, Faculty, and EPA Non-Faculty Grievance Committees.

These individuals are prepared to help all members of the campus community understand the Policy. They are able to explain the options available for resolving concerns related to sexual harassment in academic or work settings at the University. They cannot assure complete confidentiality, however, unless a legally protected relationship exists (see Section I.G.).

Additional copies of this Policy are available from Department Chairs, from the offices listed above, and on the Sexual Harassment Office's website at [www.ais.unc.edu/hr](http://www.ais.unc.edu/hr).

## **II. RESPONDING TO SEXUAL HARASSMENT CONCERNS**

All members of the University community should feel free at any time to seek advice from any of the resources listed above (Section I.I.) when attempting to deal with behavior they believe is sexually harassing. In most situations, it is possible to consult with these individuals initially without identifying one's name or department. It is important to understand, however, that when a University administrator has knowledge of conduct that might constitute sexual harassment, he or she has an affirmative obligation to investigate the matter. An investigation requires that the complainant be identified so that the person accused of harassment can be assured of due process.

### **A. University Employees**

#### **1. Faculty or EPA Non-Faculty Employees**

A faculty member or EPA non-faculty employee who believes he or she has been the victim of sexual harassment must attempt to resolve the matter initially through Administrative Review by informing the administrative

official most directly concerned, excluding the person accused of sexual harassment, within 180 calendar days of the alleged harassment. During the period a faculty or EPA non-faculty complainant participates in Administrative Review, time limits for filing a internal grievance will be suspended. Information about Administrative Review procedures may be found in Section IV of this Policy. Additional information about this process is available from the University's Sexual Harassment Officer.

## **2. SPA Employees**

An SPA employee who believes he or she has been the victim of sexual harassment may attempt to resolve the matter either through Administrative Review, or through grievance procedures, as more fully discussed in Sections IV. and V. below.

### **a. Administrative Review Option**

An SPA employee who chooses to use Administrative Review procedures must inform the administrative official most directly concerned, excluding the person accused of sexual harassment, within 180 calendar days of the alleged harassment. If an SPA employee wishes to preserve his/her rights to proceed under the grievance policy, he/she must file a grievance within 30 calendar days of the alleged harassment.

Under Administrative Review procedures, a departmental administrative official conducts an investigation and determines appropriate corrective action, if the findings of the investigation warrant.

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.

If an SPA employee initially chooses Administrative Review procedures to attempt to resolve the matter, and should the Administrative Review fail to produce a resolution satisfactory to the employee, he or she will not be able to file a grievance unless the employee has suffered an adverse employment action as defined by State law and the grievance is filed within 30 calendar days of the alleged harassment. Additional information about what constitutes an adverse employment action is available from the Human Resources Counseling Service.

Information about Administrative Review Procedures may be found in Section IV. Additional information about this process is available from the University's Sexual Harassment Officer.

### **b. Grievance Option**

An SPA employee who chooses not to use Administrative Review may proceed instead as indicated in the staff grievance procedure by filing his or her complaint in writing with the Human Resources Counseling Service within 30 calendar days of the alleged harassing incident (see Section V.A.).

Additional information about filing options under the staff grievance procedure is available from the Human Resources Counseling Service.

### **3. Faculty, EPA Non-Faculty, or Staff Employees Harassed by Students**

A faculty, EPA non-faculty, or SPA employee who believes he or she has been harassed by a student, but not in the course of the student's University employment, if any, should consult with any of the resources listed in Section I. I. about available options.

Complaints also may be made through the Instrument of Student Judicial Governance, which has procedures distinct from the procedures outlined in Section V of this Policy. Information about the Instrument is available from the Office of the Dean of Students.

## **B. University Students**

### **1. Students Harassed by University Employees**

A student (whether employed or not employed at the University) who believes he or she has been the victim of sexual harassment by an employee (faculty member, EPA non-faculty member, staff member, or student employee in the course of their University employment) is encouraged to attempt to resolve the matter through Administrative Review by informing the administrative official most directly concerned, excluding the person accused of sexual harassment, within 180 calendar days of the alleged harassment.

During the period a student complainant participates Administrative Review, any time limit for filing a internal grievance will be suspended. Information about Administrative Review Procedures may be found in Section IV. Additional information about this process is available from the University's Sexual Harassment Officer.

A student who chooses not to use Administrative Review Procedures may instead proceed directly to the Student Grievance Committee, as specified in Section V.B.

### **2. Students Harassed by Other University Students**

If a student believes he or she has been the victim of sexual harassment by another student, and the harassment has not occurred in the course of the

latter student's University employment, the student complainant should proceed according to the Instrument of Student Judicial Governance. Information concerning the Instrument is available from the Office of the Dean of Students.

**C. University Employees or Students Harassed by Non-Employees or Non-Students**

An employee or student who believes that, in the course of employment or study at the University, he or she has been a victim of sexual harassment by someone other than another University employee or student should contact his or her Department Chair, Director, or one of the resources for information and assistance listed in Section I.I.

Non-employees or non-students who might be parties involved in sexual harassment complaints that may fall under this Policy include, but are not limited to, agents working under contract for the University, patrons or patients using University facilities or services, or supervisors of internships, practica, preceptorships, or field placements.

**III. ADMINISTRATIVE RESPONSIBILITY**

Responsibility for implementing this Policy falls especially upon University administrators and supervisors, and timely and appropriate response is required. Should an employee in an administrative or supervisory position have knowledge of conduct involving sexual harassment or receive a complaint of sexual harassment that involves a University employee, including student employees or agents under his or her administrative jurisdiction, immediate steps must be taken to deal with the matter appropriately. Timely response -- consultation with the Sexual Harassment Officer, notification of the Dean or Director, investigation, education, mediation, documentation, and/or disciplinary action, if appropriate -- is essential.

For an Administrative Review, the University considers a timely response to be 30 calendar days from receipt of a complaint through submission of a final report to the Sexual Harassment Office. See Section IV.C. for additional information. Any extension of the response time requires the approval of the Associate Vice Chancellor for Human Resources.

**IV. ADMINISTRATIVE REVIEW PROCEDURES**

Under this Policy, Administrative Review is an option for handling complaints in which responsibility for investigation and resolution of allegations of sexual harassment falls especially upon Deans, Directors, Department Chairs, and others in administrative and supervisory positions throughout the University.

Because of the sensitive nature of alleged harassment incidents, every reasonable effort should be made to resolve them through Administrative Review. Detailed guidelines for handling sexual harassment allegations through this option are available from the Sexual Harassment Officer.

## **A. Initial Steps on Receiving an Allegation of Sexual Harassment**

1.
  - a. When an allegation of sexual harassment is brought to the attention of the alleged harasser's supervisor or administrator, that individual must contact the Sexual Harassment Officer immediately for consultation regarding an appropriate response. This consultation does not necessarily involve identifying any of the parties involved. If an Administrative Review is deemed appropriate after this consultation, however, the supervisor or administrator will indicate in writing to the Sexual Harassment Officer the names of the parties involved and his or her intention to investigate, as there is no provision for handling anonymous complaints under Administrative Review.

In addition to notifying the Sexual Harassment Officer, supervisors or administrators who become aware of a possible sexual harassment problem or complaint in their department must notify their Dean or Director.

- b. When an allegation of sexual harassment is brought initially to the attention of the Sexual Harassment Officer, that individual, with the complainant's knowledge, will contact the supervisor or administrator most directly involved, excluding the person accused of sexual harassment, to inform the supervisor or administrator of the complaint and his or her responsibilities under this Policy.
2. Administrative Review procedures do not require that complainants provide a written statement describing their complaint, though they may do so if they wish. Complainants are responsible only for conveying their complaint orally to the appropriate administrator or supervisor, who is then responsible for documenting the complaint and having the complainant review and sign the documentation to indicate that it is correct. Once an administrator receives a written complaint or signed documentation of an oral complaint, the administrator will promptly inform the alleged harasser about the complaint.

The administrator should at the same time provide the name(s) of complaining parties to the accused, along with counsel to not engage in any behavior towards the complainant(s) that could in any way be construed as retaliatory.

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  3. The supervisor of the person accused of sexual harassment has responsibility for conducting an Administrative Review in accordance with this section. If the complainant is associated with a department different from that of the accused, the complainant's supervisor must be consulted by the alleged harasser's supervisor during the Administrative Review and may be invited to participate in the process. However, decisions regarding findings of fact and sanctions rest with the alleged harasser's supervisor.

## **B. Reviewing the Complaint and Taking Appropriate Corrective Action**

1. In determining whether alleged conduct constitutes sexual harassment and what, if any, corrective action should be taken, an administrative reviewer must consider the record as a whole, as well as the totality of the circumstances, such as the nature of the alleged conduct and the context in which it occurred.
2. At this level of resolution, if an Administrative Review results in a finding that the conduct or issue complained of is not sexual harassment, efforts should be made to be constructively educational for all parties, informing them about the nature of sexual harassment and what it does and does not involve.
3. If an Administrative Review results in a finding of sexual harassment or other violation of this Policy, any disciplinary action taken should be corrective rather than punitive. Sufficient resolution may include an acknowledgment of the violation, a commitment not to engage in such behavior in the future, along with a letter of reprimand, a written warning, or other appropriate action directed toward the person who has violated this policy.
4. If an Administrative Review results in a finding of sexual harassment or other violation of this Policy, in deciding what action is appropriate, the administrative reviewer should consult with the Sexual Harassment Officer or the EO/ADA Officer to determine whether previous relevant findings involving concerned parties exist and, if so, the nature of those findings. If such confidential records exist, the administrator should consider them in reaching his or her decision about a resolution. The administrative reviewer should also consult with his or her Dean or Director about appropriate corrective action.

### **C. Required Documentation and Report**

1. Whether or not there is ultimately a finding of sexual harassment, the administrative reviewer shall make a record of the incident, including the names of parties involved, any documents submitted or signed by the complainant concerning the nature of the alleged incident(s), any documents submitted or signed by the accused concerning that party's response to the allegations, and the resolution of the complaint.
2. He or she shall submit this report to his or her Dean or Director and to the Sexual Harassment Officer within 30 calendar days of receiving a complaint or otherwise learning of conduct involving sexual harassment that requires investigation. The Sexual Harassment Officer is responsible for submitting a copy to the EO/ADA Officer, and each Officer shall maintain a confidential file of such records.
3. In addition to submitting a confidential report to the Sexual Harassment Officer and the appropriate Dean or Director, the administrator or

supervisor will maintain an appropriate record in the confidential departmental personnel file and/or the appropriate student's file.

#### **D. Notification of Findings**

1. Upon completing an investigation of a complaint related to sexual harassment, the administrative reviewer is responsible for notifying both parties, to the extent permitted by law, of the results of the investigation and of his or her efforts to resolve the complaint. The administrative reviewer may inform the complainant that disciplinary action has been taken, but may not reveal the specifics of the action. Additional information about what may and may not be reported to either party is available from the Vice Chancellor and General Counsel.
2. The administrative reviewer must inform both the complainant and the accused that each may inspect the record of the incident to which they are parties by contacting the Sexual Harassment Officer, and each may also submit a written statement to that Officer for the confidential file. The Sexual Harassment Officer will then provide a copy of the additional statement for the confidential files of the administrator or supervisor originally involved, the appropriate Dean or Director, and the EO/ADA Officer.
3. In the case of students, faculty, and EPA-non faculty, the administrator should inform both the complainant and the accused that either may file an appeal of the Administrative Review under the grievance procedures outlined in Section V.B.

#### **V. GRIEVANCE PROCEDURES**

Any grievance must be handled as expeditiously as possible. Further, the phrase "administrative official most directly concerned," as used in the procedures of each grievance mechanism, will be interpreted not to include the person accused.

In all grievance procedures, appeal of an administrative official's decision does not constitute a grievance against the supervisor or administrator who conducted the initial Review.

Finally, as with Administrative Review procedures, in determining whether alleged conduct constitutes sexual harassment and what, if any, corrective action should be taken, the record as a whole must be considered, as well as the totality of the circumstances, such as the nature of the alleged conduct and the context in which it occurred.

##### **A. SPA Employees**

1. An SPA employee who chooses not to use Administrative Review procedures (see Section II.A.2.) may proceed instead as indicated in the staff grievance procedure, within 30 calendar days of the alleged harassing incident. Relevant forms and additional information about filing complaints

under the staff grievance procedure are available from the Human Resources Counseling Service.

2. The grievance will proceed according to established rules set forth in Section XIII of the Human Resources Manual for SPA Employees. The University has 60 calendar days from receipt of the signed written complaint to respond with appropriate corrective action.

After this 60-day internal response period has expired, the grievant may appeal directly to the Office of Administrative Hearings if not satisfied with the University's response to his or her complaint. This appeal must be filed by the grievant within 30 calendar days following the 60 calendar days the University has to complete its internal response to the employee's grievance.

## **B. Students, Faculty, and EPA Non-Faculty**

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

Should any faculty, EPA non-faculty employee or student believe that he or she has been the victim of sexual harassment, and should the Administrative Review, if used initially, have failed to produce a resolution satisfactory to that person, the employee or student complainant may file a grievance against the alleged harasser under the appropriate grievance procedure. If a complaint is resolved under Administrative Review procedures to the satisfaction of the complainant but not to the accused, the accused may proceed to the internal grievance procedure to which he or she has access.

Either party has 30 calendar days from being informed of the Administrative Review resolution to file a grievance.

A grievance must be filed by a written, signed statement submitted to the Committee to which, by virtue of his or her position or circumstance in the University, the complainant has access: for a student, the Student Grievance Committee; for an EPA non-faculty employee, except a librarian holding general faculty membership, the EPA Non-Faculty Grievance Committee; and for a faculty member or a librarian holding general faculty membership, the Faculty Grievance Committee.

The relevant grievance committee in each case has 30 calendar days to complete its review and submit its report with recommendations to the appropriate administrator.

**Note:** A faculty member who alleges sexual harassment as evidence of an allegation that a decision not to reappoint him or her 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 complain to the Faculty Hearings Committee in accordance with Section IV of the Tenure

Regulations). Copies of the Tenure Regulations are available from Department Chairs and from the offices listed above in Section I.I.

## **2. Grievance Committees**

Faculty, EPA non-faculty, and student grievance committees shall observe the following procedures for matters arising under this Policy.

- a.** The grievant and the accused shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine witnesses, and to examine all submitted documents and other evidence. Counsel may not examine witnesses or other parties, but may advise their clients during the hearing in a manner that is not disruptive to other involved parties at the hearing.
- b.** The scope of the investigation is determined by the committee Chair in his or her discretion, according to the charge and the facts. Further, except as otherwise described in this Policy, the conduct of the hearing is under the charge of the hearing Chair.
- c.** The committee will consider only the evidence presented at the hearing, using its judgment in deciding what evidence presented is fair and reliable. In doing so, the committee is not bound by the rules of evidence. A recording or other record is kept of all proceedings in which evidence is presented.
- d.** For all committees, if the majority of the members find that the accused has violated this Policy, the committee will be entitled to receive from the Sexual Harassment Officer or the EO/ADA Officer the confidential records, if any, of prior incidents involving the accused, and will be entitled to consider such records in reaching its recommendations. A summary of these records must be included in the committee's recommendations to the supervisor.
- e.** If the majority of the committee finds that the accused has violated this Policy, it will recommend, in writing, an appropriate course of action -- which may include recommendation of appropriate sanctions -- to the supervisor of the accused, with a copy to the supervisor's Dean or Director.

Any recommendation for suspension from employment or enrollment, diminishment in rank, or dismissal from employment or enrollment must proceed according to established University policies and procedures on dismissal for cause.

- f.** The supervisor of the accused will consider the committee's recommendations and prepare a written decision within 15 calendar days that accepts or rejects the committee's report, conclusions, and

recommendations -- in whole or point by point. The supervisor of the accused will then file this written decision with his or her Dean or Director and with the Sexual Harassment Officer, who is responsible for providing a copy to the EO/ADA Officer.

- g.** It is the responsibility of the supervisor's Dean or Director to oversee implementation of the supervisor's decisions, including implementation of any disciplinary action. It is the supervisor's responsibility to notify his or her Dean or Director and the Sexual Harassment Officer as soon as all corrective action, including any disciplinary action, has been carried out.

### **3. Appeal of the Committee's Recommendations and Subsequent Administrative Decisions**

Following the committee's review and disposition of the complaint, the student, faculty, or EPA non-faculty complainant and/or the accused may within 5 calendar days appeal the committee's recommendations and subsequent decisions of the administrator, using the appropriate grievance mechanism and existing University procedures.

Response to this appeal will be completed within 10 calendar days of its receipt, unless an extension for good cause has been approved by the Associate Vice Chancellor for Human Resources. Additional information about these procedures is available at the Office of the Vice Chancellor and General Counsel (962-1219).

The entire grievance process for students, faculty, and EPA non-faculty should be completed within 60 calendar days of the date the grievance was initially received, unless an extension for good cause has been approved by the Associate Vice Chancellor for Human Resources.

## **VI. RECORDS**

The EO/ADA Office will report annually to the Chancellor on all incidents that have been reported under this Policy. The Sexual Harassment Officer will report quarterly to the Chancellor through the Associate Vice Chancellor for Human Resources.

## **VII. EFFECTIVE DATE**

The effective date of this Policy is July 1, 1999.