

**Title:** Unlawful Workplace Harassment Policy

**Purpose:** The University of North Carolina at Asheville strives to create an atmosphere in which the employees and students of the university work and learn in an environment free from unlawful workplace harassment. No university employee may engage in conduct that falls under the definition of unlawful workplace harassment as defined below. No member of the UNC Asheville community will be retaliated against for making a good faith report of alleged harassment or for participating in an investigation, proceeding, or hearing.

**Scope:** This policy applies to university employees and students. Harassment based on race, color, religion, creed, sex, national origin, age, or disabling condition is a form of discrimination in violation of federal law, state law, and/or university policy, and will not be tolerated.

**Definitions:** Unlawful Workplace Harassment is unwelcome or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or disabling condition as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo.

Hostile Work Environment is one that a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance. Hostile includes offensive, aggressive, antagonistic, belligerent, and/or contentious behavior involving unlawful workplace harassment based on race, sex, creed, religion, national origin, age, color, or disabling condition as defined by G.S. 168A-3.

Quid Pro Quo Harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Retaliation is adverse treatment which occurs because of opposition to unlawful workplace harassment.

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\* UNC Asheville acknowledges and understands that the category of sexual orientation is not a protected category under federal or state law and therefore cannot be grieved beyond campus level.

**Policy:** All UNC Asheville employees have the right to work in an environment free from unlawful workplace harassment and retaliation. Harassment of any person or group of persons on the basis of race, sex, creed, religion, national origin, age, color or disabling condition as defined in G.S. 168A-3 is prohibited. Any employee who violates this policy will be subject to disciplinary action up to and including dismissal in accordance with the University's Disciplinary Policy. Students will be subject to disciplinary action, up to and including permanent exclusion from the University.

A prompt and impartial investigation will be made of all cases alleging unlawful workplace harassment based on presented facts surrounding the misconduct. Any interference, coercion, restraint or reprisal of any person complaining of unlawful workplace harassment is prohibited. Retaliation against a member of the UNC Asheville community who makes a good faith report of an alleged harassment or for participating in an investigation, proceeding or hearing is also prohibited. Hostile includes offensive, aggressive, antagonistic, belligerent, and/or contentious behavior involving unlawful workplace harassment based on race, sex, creed, religion, national origin, age, color or disabling condition as defined by G.S. 168A-3. A hostile work environment is determined by looking at the following:

- Whether the environment is objectively offensive in the eyes of a reasonable person,
- Whether the environment is subjectively offensive in the eyes of the person who is the object of the alleged harassment, and
- The nature of the alleged hostility.

*Note: Conduct towards an outside vendor or contractor that would constitute unlawful workplace harassment toward an employee could constitute unacceptable personal conduct.*

## **Procedures:**

- I. UNC Asheville's Human Resources Department will offer annual Unlawful Workplace Harassment training sessions and will distribute a copy of the Unlawful Workplace Harassment Policy to new employees. The policy is also posted on UNC Asheville's policy web page: <http://www.unca.edu/facstaff/policies.html>
- II. Employee Rights and Responsibilities  
An employee who feels that he or she has been the victim of unlawful harassment by another employee or other non-student individual should bring the matter to the attention of a University administrator. The grievant has the right to bypass any step in the grievance procedure involving review of or decisions by the alleged harasser.

For a formal resolution, the employee must file a signed Unlawful Workplace Harassment Form with the University's Human Resources Office within 30 calendar days of the last incident, and/or may file a complaint with the EEOC within 180 days of the last incident if he or she has a

complaint under Title VII of the Civil Rights Act. UNC Asheville's *Unlawful Workplace Harassment Form* is available in the Human Resources office.

**Student Harassment** - Complaints by or about students must be presented to the Office of Dean of Students. The Dean of Students, or designee, will work with the Department of Human Resources on any cases involving harassment of a student by a UNC Asheville employee. In an instance of student-initiated harassment, the Dean of Students, or designee, shall investigate and take appropriate disciplinary action commensurate with the severity and/or frequency of the conduct. Discipline resulting from harassment by a student will be taken in accordance with the procedures provided in the Student Code of Conduct.

### III. University Responsibility

- A. In accordance with UNC Asheville's Grievance Procedures, the University will, in allegations of unlawful workplace harassment, review the totality of the circumstances to determine whether the alleged conduct constituted unlawful workplace harassment. Disciplinary Actions shall be consistently and fairly applied, and the University must also consider the record as a whole in addition to the nature of the alleged conduct and the context in which it occurred.
- B. The University shall take appropriate remedial action within 60 calendar days from receipt of written complaint/grievance unless the University has waived the 60-day period, and the grievant has acknowledged such waiver. The waiver and acknowledgement shall be in writing.
- C. The University shall provide a written response to the grievant when the agency has determined what action, if any, will result from the grievant's written complaint.
- D. After the 60-calendar day (or less, if waived) response period has expired, an SPA grievant may appeal directly to the Office of Administrative Hearings and the State Personnel Commission within 30 calendar days if not satisfied with the agency's response to the complaint.

*Notes: An SPA employee with a grievance concerning denial of employment, promotion, training, or transfer, or concerning a demotion, layoff, transfer or termination due to discrimination based on age, sex, race, color, national origin, religion, creed, political affiliation or disabling condition as defined by G.S. 168A-3, or a grievance based on retaliation for opposition to alleged discrimination may still appeal directly to the Office of Administrative Hearings and the State Personnel Commission.*

*Grievants may file a simultaneous complaint under Title VII with the Equal Employment Opportunity Commission.*

*Former SPA employees may appeal directly to the Office of Administrative Hearings and to the State Personnel Commission.*



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*Applicants, while not covered under State Statute, are covered under other state and Federal Civil Right Acts.*

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