

Workplace Harassment

Policy 602.22

1 Introduction

2 Scope

3 Definitions

3.1 Workplace Harassment

Consistent with State law and University policy, workplace harassment is defined as unwelcome or unsolicited speech or conduct based upon race, sex, sexual orientation, religion, national origin, age, color, or handicapping condition as defined by N.C.G.S. § 168A-3, that creates a hostile work environment or circumstances involving quid pro quo.

3.2 Hostile Work Environment

A hostile work environment is one that both 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.

3.3 Quid Pro Quo Harassment

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.

3.4 Retaliation

Retaliation is adverse treatment against individuals who file a complaint about or otherwise oppose workplace harassment, or who provide information relative to a complaint, or who are involved in the complaint in any way.

Note: Sexual harassment does not include personal compliments welcomed by the recipient, or social interaction or relationships freely entered into by State employees or prospective employees.

Note: Examples of sexual harassment, however, can include:

1. A employee who repeatedly hugs and puts his or her arms around another employee or makes lewd and/or sexually suggestive statements that emphasize their sexuality.
2. A supervisor who labels and demeans an employee based on his or her sex.

Note: The U.S. Supreme Court recently held "that nothing in Title VII necessarily bars a claim of discrimination 'because of ... sex' merely because the" complainant and the alleged harasser "are of the same sex."

Note: "Hostile" includes offensive, aggressive, antagonistic, belligerent, and/or contentious behavior involving unlawful workplace harassment based on age, sex, race, color, national origin, religion, or handicapping condition as defined by N.C.G.S. 168A-3. A hostile work environment is determined by looking at the following: 1) whether the environment is objectively offensive in the eyes of a reasonable person, 2) whether the environment is subjectively offensive in the eyes of the person who is the object of the alleged harassment, and 3) the nature of the alleged hostility.

Note: Examples of quid pro quo unlawful workplace harassment include:

1. A supervisor promises an employee a promotion if the employee acquiesces to sexual advances.
2. A supervisor begins each staff meeting with a prayer session conducted by a Christian minister. A Jewish employee refuses to participate in the prayer session and is terminated because of this refusal. [Such conduct also constitutes discrimination on the basis of religion.]

4 Policy and Procedure Statements

4.1 Harassment

4.1.1 Harassment based upon race, color, religion, sex, national origin, age or disability is a form of discrimination in violation of federal and State law and Appalachian State University policy, and will not be tolerated. It is the internal policy of Appalachian State University to prohibit harassment on the basis of sexual orientation. Retaliation against any person opposing or complaining of harassment is in violation of federal and State law and Appalachian State University policy, and will not be tolerated.

4.1.2 The policy of Appalachian State University is that no University employee may engage in speech or conduct that constitutes harassment or retaliation as defined below. The University is committed to providing an atmosphere in which employees will be free from workplace harassment and retaliation.

4.2 Procedures and Appeals

4.2.1 Any former employee, full-time or part-time employee with either a permanent, probationary, trainee, time-limited permanent or temporary appointment who feels that he/she has been harassed or subjected to retaliation in the workplace must do the following:

1. Submit a written complaint to Appalachian State University within 30 calendar days of the alleged harassing or retaliatory action. (Employees subject to State Personnel Act must adhere to filing a report of workplace harassment with their supervisor or the Equity Office within 30 calendar days of the alleged harassing action in order to fully protect their rights.)
2. The University must respond to a complainant about the findings of an investigation and any appropriate remedial action, if indicated, within 60 calendar days from receipt of a written complaint. Any complainant subject to the State Personnel Act, N.C.G.S. 126-1, et seq., who has alleged harassment based upon race, sex, religion, national origin, age, color, or handicapping condition or who has alleged retaliation for complaining or protesting such harassment, may, if not satisfied with Appalachian State University's response, appeal directly to the Office of Administrative Hearings and the State Personnel Commission within 30 days of the University's response. Any complainant not subject to the State Personnel Act may, if not satisfied with the University's response, pursue such other administrative or judicial remedies (e.g., grievance, lawsuit) as may be available.

4.2.3 Note: An individual with a grievance concerning a 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, political affiliation or handicapping condition as defined by N.C.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.

4.2.4 Note: Complainants may file a simultaneous complaint under Title VII with the Equal Employment Opportunity Commission (EEOC).

4.2.5 Note: Former SHRA Employees are not required to conform to the written complaint procedures directed in N.C.G.S. 126-34. Former employees who were subject to the State Personnel Act may appeal directly to the Office of Administrative Hearings and the State Personnel Commission.

4.2.6 Note: Applicants, while not covered under the State statute (SB 78) governing workplace harassment, are covered under other State and Federal Civil Rights Acts.

4.2.7 A prompt and impartial investigation will be made of all cases alleging workplace harassment or retaliation based on presented facts surrounding the alleged misconduct. Any interference, coercion, restraint or reprisal directed against any person complaining of or opposing workplace harassment is prohibited.

5 Additional References

6 Authority

7 Contact Information

8 Effective Date

9 Revision Dates

