



02.205 Unlawful Discrimination

The university promotes a learning, working, and social environment where all members of the campus community interact in a mutually respectful, professional, and fair manner. The university is committed to ensuring a workplace and academic environment free of unlawful discrimination, harassment, and sexual misconduct, as these behaviors may create a risk to health, safety, or wellbeing, cause serious emotional distress, loss of productivity and morale, and potential legal risks.

Authority:

Chancellor

History:

Revised December 9, 2025; August 1, 2022; August 14, 2020; Established January 3, 2017; replaces former Policies 02.200 Harassment Prevention and 02.210 Harassment Resolution Procedures

Source of Authority:

UNC Policy Manual, Chapter 100.1, Section 502; Code Section 103

Related Links:

- [UNCW Policy 02.230 Equal Employment Opportunity and Affirmative Action](#)
- [Policy 04.130 Student Gender-Based/Sexual Misconduct Policy](#)
- [Policy 02.220 Improper Relationships Between Students and Employees](#)
- [Policy 08.510 SHRA Disciplinary Action](#)
- [Policy 08.540 Workplace Violence Policy and Protocol](#)
- [Policy 08.420 Employee Assistance Program](#)
- [02.210 Title IX Grievance Policy](#)
- [Code of Student Life](#)
- [Faculty Handbook](#)
- [Section 603 of the Code of the Board of Governors](#)

Responsible Office:

Office of Human Resources; Office of Title IX and Clery Compliance; Office of the Dean of Students

Policy Details:

I. Purpose

The university promotes a learning, working, and social environment where all members of the campus community interact in a mutually respectful, professional, and fair manner. The university is committed to ensuring a workplace and academic environment free of unlawful discrimination, harassment, and sexual misconduct, as these behaviors may create a risk to health, safety, or wellbeing, cause serious emotional distress, loss of productivity and morale, and potential legal risks.

II. Scope

- A. This Policy applies to the prohibited conduct described in Section IV and includes acts communicated physically, verbally, in print, in email systems, instant message systems, videoconferencing technology, intranet, public website, official social media accounts, other equivalent electronic or technological services, or through other means by or against students and employees. The category of “employees” includes all SHRA and EHRA employees, including those who are in assignments that are full-time, part-time, probationary, non-career status, adjunct, and temporary.
- B. This Policy does not apply to protected speech, reasonable criticisms of work, fair and justified feedback, evaluations, or disciplinary actions deemed unfounded by Human Resources. This Policy applies only to the behavior that a reasonable person would view as violating the rights of another.
- C. SHRA employees, former employees, and applicants for employment seeking to grieve unlawful discrimination or harassment based on race, religion, color, national origin (including shared ancestry or ethnic characteristics), sex, age, disability, genetic information, or political affiliation, if the individual believes that he or she has been discriminated against in the terms and conditions of employment, must follow the procedures in [Policy 08.520 SHRA Employee Grievance](#). EHRA employees or former employees seeking to grieve unlawful discrimination when an adverse employment action is taken must follow the procedures in [Policy 08.521 EHRA Review and Appeal Procedures](#).
- D. The university will respond promptly to all complaints of unlawful discrimination, harassment, and sexual misconduct. When necessary, the university will institute discipline against the offending individual, which may result in a range of sanctions. For SHRA employees, disciplinary actions are explained in [Policy 08.510 SHRA Disciplinary Action Policy](#). For EHRA employees, actions may include a range of potential actions (reference the [UNC Policy Manual and Code 300.1.1\[R\]](#)). For faculty, sanctions include those listed in the [Faculty Handbook](#). For students, sanctions include those listed in the [Code of Student Life](#).
- E. The university considers the filing of intentionally false reports of prohibited conduct as a violation of this policy and grounds for appropriate disciplinary action. Employees who file a complaint in good faith will not be subject to retaliation or harassment based upon their report.

III. Confidentiality

Generally, the university will protect the privacy and confidentiality of complainants reporting allegations of discrimination and/or harassment, including sexual misconduct and respondents who have allegedly engaged in discrimination and/or harassment, including sexual misconduct, to the extent allowed by law. Once the university is made aware of allegations that could constitute a violation of this Policy, the university takes appropriate steps to investigate the allegations following the reporting and resolution procedures described in section V. of this Policy. If an individual requests complete confidentiality and does not want such an investigation, he or she should consult with individuals who by law have special professional status, such as mental health counselors, physicians, clergy, or private attorneys. Additionally, in accordance with [Policy 08.420 Employee Assistance Program](#) employees may pursue a confidential self-referral to the Employee Assistance Program.

A. Sexual Misconduct Victims

If a victim of sexual misconduct prefers that the details of an incident be kept confidential, they can speak to professional staff in the following offices:

- UNCW Campus Advocacy, Resources & Education (CARE) (*for students and employees*)
- UNCW Counseling Center (*for students only*)
- Abrons Student Health Center (*for students only*)

- Employee Assistance Program (*for employees only*)

Additionally, the local Rape Crisis Center of Coastal Horizons, Domestic Violence Shelter and Services, Inc., and campus ministers will honor confidentiality. Confidential resources may need to share otherwise confidential information in a situation where an imminent danger to a victim or another individual exists in the opinion of the professional staff or administrator. In addition, all university resources are required by North Carolina law to report abuse or neglect upon a child or any disabled person.

Public awareness events such as “Take Back the Night” or other forums at which students disclose experiences with sexual violence are not considered notice to the school for the purpose of triggering an individual investigation unless the victim initiates a complaint with an appropriate campus official.

Research involving human subjects (which requires approval by UNCW’s Institutional Review Board for the Protection of Human Subjects) may ask subjects to provide personal information in a confidential setting. Information about an incident covered under this Policy may be disclosed by a research subject as part of participation in that research. Notwithstanding Section V.A.3 of this Policy, researchers involved in the research shall not report the incident to the Director of Title IX and Clery Compliance.

IV. Prohibited Conduct

A. Discrimination

1. Discrimination constitutes any unlawful distinction, preference, or detriment to an individual as compared to others that is based on one of the characteristics protected by federal and state law or university policy, as listed in policy [02.230 Equal Opportunity and Affirmative Action](#). Those protected characteristics include race, religion, color, national origin (including shared ancestry or ethnic characteristics), ethnicity, sex, pregnancy, childbirth or other related medical conditions, gender identity or expression, sexual orientation, age (40 or older), political affiliation, National Guard or veteran status, genetic information (including family medical history), or disability. UNCW recognizes that an effective and efficient institution requires the talents, skills, and abilities of all qualified and available individuals. This policy prohibits all forms of discrimination based on a person’s protected status.
2. Students will be held to the standards of discriminatory conduct as defined in the [Code of Student Life](#), Section II-1-B.
3. Conduct based on a protected characteristic as defined above will constitute discrimination when it is sufficiently serious to unreasonably interfere with or limit:
 - a. An employee’s or applicant for employment’s access to employment or conditions and benefits of employment;
 - b. A student’s or applicant for admission’s ability to participate in, access, or benefit from educational programs, services, or activities;
 - c. An authorized volunteer’s ability to participate in volunteer activity; or
 - d. A guest’s or visitor’s ability to participate in, access, or benefit from the University’s programs.

B. Unlawful Harassment

1. Unlawful harassment can take the form of a variety of actions founded on one of the characteristics protected by federal law, state law or university policy, as listed in [Policy 02.230 Equal Opportunity and Affirmative Action](#). Those protected characteristics include race, religion, color, national origin (including shared ancestry or ethnic characteristics), ethnicity, sex, pregnancy, childbirth or related medical conditions, gender identity or expression, sexual orientation, age (40 or older), political affiliation, National Guard or veteran status, genetic information (including family medical history), or disability. UNCW recognizes that an effective and efficient institution requires the talents, skills, and abilities of all qualified and available individuals. This policy prohibits all forms of discrimination based on a person’s protected status.
2. Students will be held to the standards of harassing conduct as defined in the [Code of Student Life](#), Section II-1-B.
3. Unlawful harassment is a form of discrimination and can consist of:
 - a. Quid pro quo harassment, which consists of unwelcome conduct based on a protected characteristic when:

- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, employment decisions, academic standing, or receipt of a needed or legitimately requested university service or benefit; or
 - ii. Submission to, or rejection of, such conduct by an individual is used as a basis for decisions affecting such an individual in matters of employment, employment decisions, academic decisions (such as grades) or receipt of a needed or legitimately requested university service or benefit.
- b. Hostile environment harassment, which consists of unwelcome conduct based on a protected characteristic when:
- i. Such conduct is so severe or pervasive, or subjectively and objectively offensive as to unreasonably interfere with an individual's work, academic performance, or living environment; or
 - ii. Such conduct is so severe or pervasive, or subjectively and objectively offensive as to create an intimidating, hostile or offensive working, learning, or living environment. Hostile environment harassment is determined by looking at the totality of the circumstances, including the frequency of the allegedly harassing conduct and its severity.
 - iii. The determination of whether an environment is "hostile" must be based on the totality of the circumstances. These circumstances may include, but are not limited to:
 - the frequency of the conduct
 - the nature and severity of the conduct
 - whether the conduct was physically threatening
 - whether the conduct was humiliating
 - the effect of the conduct on the alleged victim's mental or emotional state
 - whether the conduct was directed at more than one person
 - whether the conduct arose in the context of other discriminatory conduct
 - degree to which the conduct unreasonably interfered with the alleged victim's educational or work performance
 - whether there is a power disparity – and its extent – between the harasser and person being harassed
 - whether the statement falls under an existing exception to the First Amendment, such as true threats and intimidation
 - whether speech or conduct deserves the protection of academic freedom
- c. A single, serious incident (such as intentional sexual touching or display of a noose) may be sufficient to constitute hostile environment harassment.
- d. Offensive conduct may include, but is not limited to, objectively offensive jokes, slurs, name calling, physical assaults or threats, and objectively offensive objects or pictures. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of unlawful workplace harassment.
- e. Harassment can be based on:
- i. The perception that an individual has a particular protected characteristic even if the perception is incorrect.
 - ii. Association with someone in a different protected class.
 - iii. The complainant's protected characteristic, even if the harasser is a member of the same protected class.
 - iv. More than one protected characteristic.

C. Sexual Misconduct

1. Definition of Terms

Acts of gender-based discrimination, harassment, and sexual misconduct, including dating violence, domestic violence, and stalking, will not be tolerated at UNCW. In order to provide a safe campus community within which all members are valued and respected, policies and procedures for addressing gender-based/sexual misconduct have been established in accordance with Title IX, VAWA, and other regulatory requirements and are detailed herein.

As a recipient of Federal funds, the university is required to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”), which prohibits discrimination on the basis of sex in educational programs or activities. Title IX-related incidents are covered in a separate grievance policy at [02.210 Title IX Grievance Policy](#). For additional definitions and procedures applicable to alleged instances of student-on-student sexual misconduct, refer to [Policy 04.130 Student Gender-Based/Sexual Misconduct Policy](#). This policy covers other sexual misconduct not within the regulatory purview of Title IX and [02.210 Title IX Grievance Policy](#). Sexual misconduct, as defined in this policy, is a form of sex discrimination and can include gender-based misconduct, sexual misconduct, sex-based harassment, dating violence, domestic violence, and stalking. All such forms of misconduct are referred to generally as “gender-based/sexual misconduct” throughout this policy.

State law defines various violent and/or non-consensual sexual acts as crimes. Title IX further defines a limited number of sexual misconduct for coverage under the regulatory framework. Additionally, UNCW has defined categories of sexual misconduct, as stated below, for which disciplinary action under this policy may be imposed. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identity of those involved. Sexual misconduct occurs when sexual acts are attempted or committed without consent and/or by force, threat, coercion, or pressure, or through the use of the victim’s mental or physical helplessness, of which the assailant was aware or should have been aware.

CONSENT

The definition of consent is central to the recognition of both sexual assault and sexual misconduct. The university defines consent as mutually voluntary permission to engage in sexual activity demonstrated by clear actions and/or words. This decision must be made freely, consciously, knowingly, and actively by all participants, as shown by the totality of the circumstances.

Intoxication is not an excuse for failure to obtain consent.

Silence, passivity, acquiescence, or lack of active resistance does not constitute or imply consent on its own.

Previous participation in sexual activity, however recent, does not indicate current consent to participate, and consent to one form of sexual activity does not imply consent to another form of sexual activity. Patterns of non-verbal or other communication can convey consent when it is mutually understood between the parties.

Consent can be withdrawn at any time.

Consent has not been obtained in situations where the individual:

1. is forced, coerced (defined as an unreasonable amount of pressure), manipulated, or has reasonable fear as the result of a threat (such as, the individual or another will be injured if the victim does not submit to the act); or
2. is incapacitated by alcohol, other drugs, sleep, etc. Because consent must be given consciously, sexual activity is prohibited with someone one knows to be, or should know to be, incapacitated. Incapacitation means the individual cannot make rational, reasonable, and informed decisions; or
3. has a mental or physical disability which inhibits or precludes his/her ability to give knowing consent.

In North Carolina, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, as well as a violation of this policy, even if the minor willingly engaged in the act.

Nothing more than proof of non-consent is necessary for a policy violation. Evidence to prove that consent had been obtained may be used to rebut a policy violation.

OFFENSES:

The 2020 Title IX Regulations enact prescriptive standards for jurisdiction, and in particular, covers offenses that occur during an “education program or activity,” which includes locations, events, or circumstances over which the university exercises substantial control that are within the United States. However, this policy and others may cover off-campus conduct when it implicates and impacts UNCW affiliates. Therefore, this policy covers off-campus sexual misconduct, including those offenses that may otherwise meet Title IX definitions but for geographic restrictions. Those offenses include:

- a. **Non-Consensual Sexual Intercourse** is defined as any sexual penetration or intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- b. **Non-Consensual Sexual Contact** is defined as any intentional sexual touching, however slight, with any object by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.
- c. **Dating Violence** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- d. **Domestic Violence** is defined as a felony or misdemeanor crime of abuse or violence committed by:
 - i. a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
 - ii. a person with whom the victim shares a child in common; and/or
 - iii. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner.

Dating and domestic violence include, but are not limited to, sexual or physical abuse or the threat of such abuse.

The state definitions of domestic violence can be found in [North Carolina General Statute § 50B-1](#) and [NC Gen Stat. 14-32.5](#), which are applicable to criminal prosecutions for domestic violence in North Carolina but may differ from the definition used by the University to address policy violations.

- e. **Stalking** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to feel fear for his or her safety or the safety of others or suffer substantial emotional distress. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. “Course of conduct” is defined as a pattern of two or more acts over a period of time, however short, that evidence a continuity of purpose. Stalking behaviors include, but are not limited to, the following behaviors if they occur when it is known or reasonably should have been known that such behavior or one's presence is unwanted by a recipient:
 - i. non-consensual communication including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on Web sites, written letters, gifts, or any other communications that are undesired and/or place another person in fear;
 - ii. following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a victim; or
 - iii. surveillance and other types of observation, whether by physical proximity or electronic means.

The state definition of stalking can be found in [North Carolina General Statute § 14-277.3A](#), which is applicable to criminal prosecutions for domestic violence in North Carolina but may differ from the definition used by the university to address policy violations.

OTHER FORMS OF SEXUAL MISCONDUCT

- a. **Sexual Exploitation** refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, in situations in which the conduct does not fall within the definitions of Sex-Based Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of sexual exploitation include, but are not limited to:

- i. sexual voyeurism (such as watching a person undressing, using the bathroom, or engaged in sexual acts without the consent of the person observed);
 - ii. taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent);
 - iii. prostituting another employee or student;
 - iv. engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted infections (STI) and without informing the other person of the infection;
 - v. administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent.
- b. **Sex-Based Harassment** is a particular type of violation of this policy. It may include, but is not limited to:
- i. harassing conduct of a sexualized nature such as unwanted sexual attention or expression of sexual attraction;
 - ii. harassing conduct of a non-sexualized nature such as sex-based epithets;
 - iii. harassing conduct based on pregnancy, childbirth, or related medical conditions. This can include issues such as lactation or the use of contraception;
 - iv. harassing conduct based on sexual orientation or gender identity, including how that identity is expressed

Sex-based harassment may occur in a single incident, as well as in persistent behaviors. Everyone is protected from sex-based harassment, and sex-based harassment is prohibited regardless of the sex of the harasser. There are two types of Sex-based Harassment:

i. Hostile Environment

Hostile environment harassment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive/persistent, or patently/objectively offensive such that it alters the conditions of education or employment, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

The list of factors to consider when determining whether an environment is "hostile" is listed in section IV-B-3.

ii. Quid Pro Quo

Quid pro quo harassment exists when: submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a university program or activity.

- c. **Intimidation** is defined as engaging in threats and/or actions that include, but are not limited to, behavior intended to frighten, coerce, or induce duress, which would cause a reasonable person to experience fear or severe emotional distress.
- d. **Other civil rights offenses**, when the act is based upon gender or sex include, but are not limited to:
- i. Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class. Discrimination can also involve treating an individual less favorably because of his or her connection with an organization or group that is generally associated with people of a certain protected class.
 - ii. Hazing, defined as acts, performed voluntarily or involuntarily, likely to cause physical or psychological harm or social ostracism to any person within the UNCW community, when related to the admission, initiation, pledging, joining or any other group-affiliation activity on the basis of actual or perceived membership in a protected class. Hazing is also illegal under North Carolina law.
 - iii. Bullying, defined as repeated and/or severe aggressive behavior that is likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class.

Violation of any other UNCW rules, when such violation is motivated by the actual or perceived membership of the victim on the basis of sex or gender or in a protected class may be pursued using this policy.

A. Offenses under the Code of Student Life

The [Code of Student Life](#) lists offenses for which the Vice Chancellor for Student Affairs or designee may initiate disciplinary proceedings against a student, including those related to unlawful harassment and discrimination.

B. **Retaliation** (adverse action) against any person who engages in a protected activity or exercises their grievance or appeal rights as provided by policy and/or law are prohibited and violations are subject to disciplinary action.

- Examples of protected activities include, but are not limited to:
 - filing or being a witness in a complaint or investigation under this policy;
 - communicating with a supervisor or manager about employment discrimination, including harassment;
 - answering questions during an investigation under this policy;
 - refusing to follow orders that would result in discrimination;
 - resisting sexual advances, or intervening to protect others from unwelcome sexual advances; or
 - requesting accommodation of a disability or for a religious practice.
- Examples of adverse actions include, but are not limited to:
 - reprimand the employee or give a performance evaluation that is lower than it should be;
 - transfer the employee to a less desirable position or schedule;
 - engage in verbal or physical abuse;
 - increase scrutiny of job performance;
 - spread false rumors, treat a family member negatively (for example, cancel a contract with the person's spouse); or
 - arbitrarily changing the work schedule without justified business need.

V. Reporting and Resolution

A. Reporting

The university encourages prompt reporting of all perceived violations of this Policy, regardless of who the alleged offender may be.

1. Sexual misconduct, sex-based harassment, or related retaliation

In addition to violating university policy, some instances of sexual misconduct may also constitute criminal activity. Victims are encouraged to inform law enforcement authorities about instances of sexual misconduct. Victims may inform law enforcement officers without making a criminal or university complaint. If a victim wishes to pursue criminal charges, they may contact UNCW Police at 910-962-2222, or emergency 911. UNCW Police can assist victims in identifying and contacting the appropriate law enforcement agency. Victims who make a criminal complaint may simultaneously pursue a university complaint. The university can assist victims in making a complaint to law enforcement officials. The university can also assist victims with obtaining a court ordered protective order as well.

a. Complaints against students

Employees and students seeking to make a complaint of sexual misconduct by a UNCW student should contact the university's Director of Title IX and Clery Compliance, using the [Sexual & Gender-Based Misconduct Reporting Form](#). Alleged student-on-student incidents of gender-based/sexual misconduct will be handled in accordance with [Policy 04.130 Student Gender-Based/Sexual Misconduct](#) or [02.210 Title IX Grievance Policy](#).

b. Complaints against employees

Allegations of sexual misconduct against a university employee should be reported to the Director of Title IX and Clery Compliance, University Police, the Office of Human Resources, and/or to the Office of the Dean of Students. The university will follow the resolution procedures detailed in Section V.C., below.

c. Complaints against student workers

Allegations of sexual misconduct against a student worker may be reported to the Director of Title IX and Clery Compliance, the Office of the Dean of Students (ODOS), University Policy, Campus Advocacy, Resources, and Education (CARE), and/or to Human Resources. The university will process the complaint using procedures applicable to the capacity in which the student worker was acting at the time of the alleged misconduct (*i.e.*, student or employee).

2. Discrimination, harassment, or related retaliation

a. Complaints involving students

Students seeking to file complaints of discrimination or harassment against UNCW employees, or UNCW employees seeking to file complaints of discrimination or harassment against students, should contact the Director of Title IX and Clery Compliance, University Police, the Office of Human Resources, and/or the Office of the Dean of Students. Resolution and disciplinary procedures for complaints against students will be handled by the Dean of Students as detailed in the [Code of Student Life](#) or other relevant policy.

b. Employee-on-employee complaints

Employees seeking to file complaints of discrimination or harassment against another UNCW employee should contact the Director of Title IX and Clery Compliance, University Police, the Office of Human Resources, and/or the Office of the Dean of Students. The university will follow the resolution procedures detailed in Section V.C., below.

c. Complaints against student workers

Allegations of discrimination or harassment against a student worker may be reported to the Director of Title IX and Clery Compliance, University Police, the Office of Human Resources, and/or to the Office of the Dean of Students. The university will process the complaint using procedures applicable to the capacity in which the student worker was acting at the time of the alleged harassment (*i.e.*, student or employee).

3. Responsibilities of employees

Any university employee, faculty/instructor, staff, administrator or person working on behalf of an officially sanctioned university office, event or activity, including resident assistants (“responsible employees”), receiving notice of suspected or potential sexual misconduct is required to file a report with the Director of Title IX and Clery Compliance within one (1) business day of receiving the notice, unless that notice was communicated to an official who can provide professional confidentiality (*see* “Confidentiality” above). Clery Act crime statistic and timely warning reporting duties must also be observed in accordance with [Policy 05.505 Crime Reporting, Timely Warning, and Emergency Response Procedures](#).

Vice Chancellors, deans, directors, department chairs, or supervisors who become aware of specific allegations of discrimination or harassment must report the allegations promptly to the Associate Vice Chancellor of Human Resources, if the alleged offender is an employee, or to the Dean of Students, if the alleged offender is a student.

B. Optional Informal or Initial Actions; Interim Measures

1. Depending on the type or severity of offense, initial actions may include the following:

- a. Telling the alleged offender his or her behavior is unwelcome and must stop.
- b. Asking for an apology and a commitment that the behavior will stop.
- c. Sending a copy of this policy to the alleged offender.
- d. Writing to the alleged offender regarding the conduct, pointing out the effects of such behavior, and explaining the behavior change desired.
- e. Having the pertinent supervisor counsel the alleged offender about appropriate behaviors and conduct expectations.

- f. Requesting a fact-finding investigation.
2. Additionally, the university may provide interim measures (also referred to as supportive measures) to ensure that there is no interference with the educational or employment opportunities of the complaining party. These interim measures may include, but are not limited to, an institutional order of no contact, no trespass order, parking accommodation, transportation assistance or security escorts, and changes in academic or relocation of workspace, among other options. The complaining party may also receive services including an EAP referral, assistance from the CARE office, as well as connections to community resources such as the Rape Crisis Center and the Domestic Violence Shelter and Services.
3. In deciding whether to pursue informal means, including mediation, the complaining individual is encouraged to seek the assistance of the Director of Title IX and Clery Compliance, or representatives of the Office of the Dean of Students, Housing and Residence Life Staff, Student Health Services, the Counseling Center, or the Office of Human Resources, as appropriate. These offices are available to assist the complaining party in crafting the message to send to the offending individual, as well as recommending other informal mechanisms and setting up mediation. Whichever office the affected individual elects to discuss his/her concerns with, the issue of confidentiality should be addressed before specific facts or identities are disclosed due to the university's legal obligations to investigate all allegations that may constitute harassment as defined in this Policy.
4. In response to allegations of sexual assault, dating violence, domestic violence, and stalking, the university shall refer employee-complainants to appropriate support resources such as CARE. Student-complainants shall be referred in accordance with Policy 04.130 Student Gender-Based/Sexual Misconduct or 02.210 Title IX Grievance Policy.

C. Formal Resolution of Complaints against Employees

1. Initiating a Formal Complaint
 - a. If the offending behavior continues after the initial response, or if the severity of the behavior warrants immediate initiation of a fact-finding investigation (such as alleged instances of sexual misconduct), the complainant or witness may make a formal complaint.
 - b. A complaint must be presented within ninety (90) calendar days of the alleged incident to the appropriate office as listed in Section V.A. above. Such office shall forward the complaint to the Office of Human Resources. If filed later than ninety calendar (90) days, the Associate Vice Chancellor of Human Resources or designee may extend the time limit based on extenuating circumstances and at their sole discretion.
 - c. Complainants may provide a written account of the incident(s) that led to the complaint, including the identity of the respondent, though such documentation is not required to file a complaint. A complainant may also convey an accounting of the incident(s) that led to the complaint verbally to the assigned Employee Relations Consultant who will document the details of the incident(s) that led to the complaint as described by the complainant. Upon receipt of allegations involving sexual misconduct, the Director of Title IX and Clery Compliance shall be notified.
2. Investigation
 - a. At the conclusion of the complaint intake process, the Associate Vice Chancellor of Human Resources or designee will review the information gathered during the intake process and determine whether the complainant's allegations, if true, would be sufficient to constitute a violation of this policy and be cause for initiating a formal fact-finding inquiry. If so, the Associate Vice Chancellor of Human Resources or designee(s) shall launch a formal fact-finding inquiry and investigate the matter promptly. All proceedings will include a prompt, fair, and impartial inquiry process from the initial investigation to the conclusion. Fact-finding proceedings will be completed in a reasonably prompt time frame and as expeditiously as possible without compromising the thoroughness of the process. In most cases, the formal fact-finding inquiry process will be completed within sixty (60) business days of the respondent being placed on notice of the complaint. However, some investigations may take longer and will require time beyond sixty (60) business days, due to the complexity of the issues, the University calendar (including breaks, holidays, or other closures), the unavailability of parties or witnesses, inclement weather, and/or other unforeseen circumstances. Reasonable extensions of time for good cause are permissible, and both the complainant and respondent will be provided with written notice of the need for an extension and the reason for the delay.
 - b. The Associate Vice Chancellor of Human Resources or designee shall launch a fact-finding inquiry to include interviewing the complainant and the respondent. Witnesses should also be interviewed, and any relevant documentary evidence shall be collected and reviewed. The factfinder(s) shall take notes of all individuals who are interviewed. The factfinder(s) shall instruct individuals that retaliation is prohibited and is a

violation of university policy and the law. The individuals shall also be instructed about the confidentiality and privacy parameters of the investigation. In cases involving sexual assault, dating violence, domestic violence, and stalking, the factfinder(s) will undergo annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking, as well as how to conduct an investigation and resolution process that protects the safety of victims and promotes accountability.

- c. In general, both the complainant and the respondent may be accompanied when interviewed by another member of the university community, so long as the individual does not participate in or interfere with the interview. This person's role is simply an observer. Representation by legal counsel during the interview is prohibited, except in cases involving sexual assault, dating violence, domestic violence, and stalking, where both the complainant and respondent may be accompanied by any advisor of their choice, including legal counsel, so long as the individual does not interfere with the interview. In no case may an advisor include any individual that could serve as a witness or decision-maker in the process.

3. Findings and Determination

- a. Upon completion of the investigation, the factfinder(s) shall prepare a written final report of the factual findings. The Associate Vice Chancellor of Human Resources or designee shall forward the report to the pertinent senior officer in the unit where the respondent is employed. The senior officer, in consultation with the General Counsel, shall review the recommendations made by the fact-finder(s) about any policy violations or management matters for consideration. The standard of proof for policy violations shall be a preponderance of the evidence, which means that there is greater than a 50% chance that the respondent is responsible for the alleged violation.
- b. In the event of a policy violation, the pertinent senior officer shall determine the appropriate disciplinary action, in consultation with the Associate Vice Chancellor of Human Resources or designee and General Counsel, in accordance with the appropriate disciplinary procedures pertaining to the affected individual. Any prior violations of this policy as well as other active disciplinary actions involving the respondent shall be considered in any disciplinary action.
- c. The complainant and the respondent shall be informed within three (3) business days by the Associate Vice Chancellor of Human Resources or designee, in writing, when a decision has been made. Results of the investigation, the fact-finding report, and any subsequent disciplinary action shall be kept confidential to the extent allowed by the North Carolina Human Resources Act (G.S. §§ 126-22 *et. seq.*) and the State Human Resources Commission Personnel Records Policy, or, in the case of student-workers, the Family Educational Rights and Privacy Act ("FERPA"). Generally, parties to the fact-finding will not receive a copy of the report during this stage of the process. Additionally, in general, investigation records are kept in a confidential file separate from the personnel file.
- d. The administration of any disciplinary action will be the responsibility of the pertinent senior officer and immediate supervisor in the employee's division, after consultation with the designated Human Resources Employee Relations Consultant and in accordance with applicable SHRA and EHRA procedures on disciplinary actions.

VI. Record Keeping

The Office of Human Resources shall retain all investigation records of employees in a confidential file separate from the personnel file. The Office of the Dean of Students and/or the Office of Title IX and Clery Compliance shall retain all investigation records of students.

VII. Appeal Procedures

- A. The grounds for appealing a decision reached pursuant to the procedures in Policy 04.130 Student Gender-Based/Sexual Misconduct are detailed in that Policy.
- B. The grounds for appealing a decision reached pursuant to the procedures in 02.210 Title IX Grievance Policy are detailed in that Policy.
- C. The grounds for appealing the decision reached pursuant to the procedures under Section V.C., by either the complainant or the respondent, may be for only the following reasons:
 1. The behavior is ongoing;
 2. The remedy was not implemented;
 3. Material procedural irregularities occurred during the investigation; or

4. New evidence has been discovered that had not been available during the investigation and that may have a substantial impact on the outcome of the investigation.
- D. Dissatisfaction with the university's decision from the formal resolution procedures is not grounds for an appeal.
 - E. Parties seeking to appeal the decision based on approved grounds listed above in section VII, C must submit an appeal in writing within fifteen (15) calendar days after notice of the decision. Appeal statements should clearly address the grounds for appealing as outlined in section VII, C., 1-4 and include any additional/new documentation in support of the appeal.
 - F. Respondents against whom disciplinary action has been taken, other than a coaching memo or written warning which are not grievable, must follow the appeal procedures in accordance with Policy 08.520 SHRA Employee Grievance, Policy 08.521 EHRA Review and Appeal Procedures, or Section 603 of the Code of the Board of Governors, as appropriate, to appeal the imposition of such disciplinary action.
 - G. A Vice Chancellor unaffiliated with the investigation, or their designee, shall be assigned to review the appeal with General Counsel and the Associate Vice Chancellor of Human Resources or their designee. Upon completion of the appeal review, the unaffiliated Vice Chancellor or their designee will render a written decision and send a copy of that written decision to the appellant as soon as practicable and in a manner that ensures receipt. The Vice Chancellor, or their designee's decision constitutes a final university decision.