

UNDERSTANDING UNLAWFUL WORKPLACE HARASSMENT – EMPLOYEE QUICK GUIDE

NORTH CAROLINA UNLAWFUL WORKPLACE HARASSMENT POLICY OVERVIEW

All employees have the right to work in an environment free from discrimination and harassing conduct. No State employee shall engage in conduct that falls under the definition of unlawful workplace harassment, including sexual harassment discrimination, or retaliation, and no employment decisions shall be made based on race, sex, religion, national origin, age, color, disability, genetic information, or political affiliation.

The purpose of this policy is to establish that the State of North Carolina prohibits in any form unlawful workplace harassment or retaliation based on opposition to unlawful workplace harassment of State employees or applicants and to require that every agency develop strategies to ensure that work sites are free from unlawful workplace harassment, including sexual harassment discrimination and retaliation.

DEFINITIONS

“Unlawful Workplace Harassment” is unsolicited and unwelcomed speech or conduct based upon race, sex, religion, national origin, age, color, disability, genetic information, or political affiliation where: 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

“Sexual Harassment” on the basis of sex is a particular type of violation of the unlawful workplace harassment policy, and in addition to the previous definition of unlawful workplace harassment, the unlawful workplace harassment policy prohibits the following: “Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.”

“Retaliation” is any adverse action taken against an individual for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit related to discriminatory employment practices based on race, religion, color, national origin, sex, age, disability, genetic information, or political affiliation because of opposition to employment practices in violation of the unlawful workplace harassment policy.

TYPES OF UNLAWFUL WORKPLACE HARASSMENT

There are two basic types of unlawful workplace harassment - harassment that results in a “tangible employment action” (also referred to as “*Quid Pro Quo*”) and “hostile work environment” harassment.

1) Tangible Employment Action (Quid Pro Quo)

A tangible employment action is a significant change in employment status. Tangible employment actions are how the supervisor brings the official power of the agency or university to impact subordinate employees. Examples of tangible employment actions include: failure to hire, promotion and/or failure to promote, demotion/discharge, a decision causing a significant change in benefits, and/or changes in work assignment.

2) Hostile Work Environment

Hostile work environment harassment is a situation in which the employer (a supervisor, manager or co-worker) does or says things that unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment based on race, color, sex, religion, national origin, age, genetic information, disability, or political affiliation. Hostile work environment harassment does not need to include a demand for an exchange of favors for a job benefit. Examples of offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

FILING A COMPLAINT

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent escalation.

An employee, former employee or applicant alleging unlawful workplace harassment or retaliation may file a complaint following the process outlined in the Employee Grievance Policy. If you are going to file a harassment grievance against a co-worker, the first formal conversation should be with your supervisor, if possible. If you need to file a harassment grievance about your supervisor, your conversation should be with a Human Resources representative. Harassment complaints must be filed within 15 days of the alleged harassing event or action to the Human Resource (HR) office, in accordance with your agency filing procedures. For additional assistance contact your Human Resources representative or consult the Employee Grievance Policy.

An employee has the right, at any time, to bypass the grievance process and file a charge with the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC is responsible for enforcing federal laws that make it illegal to discriminate, harass, or retaliate against a job applicant or an employee. You may file a complaint with the EEOC at any time during the processing of your grievance. You may file your EEOC complaint simultaneously with the filing of your grievance, or you may file it after you have exhausted your internal appeals or at any point in between. The deadline for filing with the EEOC is 180 days (300 days for Fair Employment Practice Agencies with “work sharing agreements” with the EEOC) after the alleged harassing incident if you first file with your agency/university.

QUESTIONS/ASSISTANCE

If you have any questions on unlawful workplace harassment, please contact your agency EEO Officer and/or someone in your agency HR Office. That individual has been trained on Unlawful Workplace Harassment Policy and can answer your questions on policy and procedure and help you decide how to proceed with any concerns you have. The OSHR website has a link (www.oshr) provides the names of contacts in your agency.

While you are not required to contact your agency HR Office/EEO Office prior to filing a complaint or grievance and/or contacting the EEOC, many employees prefer to do this prior to filing a formal grievance. Please also note that while policy requires that a complaint within 15 days of the alleged harassing action you may contact your agency HR Office/EEO Office at any time even if this 15 days has expired.

QUICK GUIDE LINKS

OSHR – Main Webpage | <https://oshr.nc.gov>

OSHR – Unlawful Workplace Harassment Policy | <https://oshr.nc.gov/policies-forms/eo/unlawful-workplace-harassment>

OSHR – Employee Grievance Policy | <https://oshr.nc.gov/policies-forms/discipline-appeals-grievances/employee-grievance-policy>

EEOC – Harassment Information | <https://www.eeoc.gov/laws/types/harassment.cfm>