

# UNDERSTANDING UNLAWFUL WORKPLACE HARASSMENT – SUPERVISOR 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.

## 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 Actions and Vicarious Employer Liability

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. An employer is always liable for harassment by a supervisor on a prohibited basis that culminates in a tangible employment action. On the other hand, an employment action does not reach the threshold of “tangible” if it results only in an insignificant change in the complainant’s employment status.

Examples of tangible employment actions include:

- Failure to hire
- promotion or failure to promote
- demotion or discharge
- undesirable reassignment
- a decision causing a significant change in benefits
- compensation decisions
- 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, disability, genetic information, or political affiliation. Hostile environment harassment does not need to include a demand for an exchange of favors for a job benefit. Petty slights and annoyances will not rise to the level of illegality. 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.

## 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.

## SUPERVISORS

Prevention is the best tool to eliminate harassment in the workplace. It is important for supervisors to establish, publicize, and enforce anti-harassment policies and complaint procedures. How you handle the complaint has a major effect upon how the organization’s policies on harassment are viewed and accepted by the employees. Even more important, how you handle the complaint has a major effect on the person who has alleged the harassment. Here are some helpful steps to take when handling a complaint:

- Adhere to all Federal, State, and Agency Policies and consult with Human Resources
- Enforce, Widely Post, and Disseminate a “No Tolerance” Policy
- Create Multiple Paths in the Complaint Process
- Investigate Complaints Promptly and Objectively
- Take Appropriate Remedial Action to Prevent a Reoccurrence
- Ensure that Retaliation Does Not Occur

## 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.nc.gov](http://www.oshr.nc.gov)) 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 – Employee Grievance Policy | <https://oshr.nc.gov/policies-forms/discipline-appeals-grievances/employee-grievancepolicy>

EEOC – Harassment Information | <https://www.eeoc.gov/laws/types/harassment.cfm>  
 OSHR – Unlawful Workplace Harassment Policy | <https://oshr.nc.gov/policies-forms/eo/unlawful-workplace-harassment>