

Appalachian State University

Discrimination, Harassment, Retaliation, and Workplace Violence Resolution Procedures for Employee & Third-Party Respondents

1. Overview and Purpose

These procedures seek to support the Appalachian State University (the “University”) commitment to creating and maintaining an institutional environment free of discrimination and harassment. The following procedures provides an administrative framework and oversight for reporting, investigating, adjudicating, and resolving alleged violations of Prohibited Conduct based on Protected Status and Workplace Violence pursuant to University [Policy 110 Discrimination, Harassment, Retaliation and Sex-Based Misconduct](#) , [Policy 602.32 Workplace Violence](#), [Policy 602.21 Improper Relationships between Students and Employees](#), and applicable state and federal laws, including but not limited to Title VI and Title VII of the Civil Rights Act and the Americans with Disabilities Act. Allegations of sexual harassment as defined under Title IX of the Education Amendments shall be addressed by utilizing the Title IX Resolution Procedures.

The University treats Complainants and Respondents equitably throughout the procedures outlined below.

The Office of Access & Equity: Equal Opportunity (“EO”) is responsible for responding to complaints of Prohibited Conduct as defined in University Policy 110 Discrimination, Harassment, Retaliation and Sex-Based Misconduct and Policy 602.32 Workplace Violence. The Executive Director of Access and Equity serves as the University’s ADA/504 Coordinator, Equal Employment Officer, and Title IX Coordinator.

2. Definitions*

**In the event of conflict between definitions described in the Appalachian State University Policy Manual and the definitions described herein, the University Policy Manual definitions shall control.*

2.1 Appropriate Administrative Office: For Faculty, the Senior Vice Provost for Faculty Policies & Development. For SHRA and EHRA Non-Faculty employees, the Associate Vice Chancellor for Human Resources.

2.2 Complainant: An individual alleged to be the victim of alleged conduct violating University policy.

2.3 Day: A business day when the University is in normal operation.

2.4 Employees: Individuals employed by the University including but not limited to full time or part time employees who are SHRA, EHRA Non-Faculty, Faculty, and Student Employees.

2.5 Prohibited Conduct: Conduct which includes Discrimination, Harassment, Retaliation, or Workplace Violence.

2.5.1 Discrimination: Conduct based on an individual's Protected Status that is an unlawful or otherwise prohibited preference for, or detrimental treatment of, one individual compared to other individuals. The conduct must be sufficiently serious to unreasonably interfere with or limit: an employee or employment applicant's access to employment, terms, conditions or benefits of employment; or a volunteer or visitor's ability to participate in, access or benefit from or deliver University's programs or services.

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2.5.2 Harassment: Communication or conduct, including, but not limited to: verbal, physical, electronic, or written, that creates a Hostile Environment or involves a Quid Pro Quo exchange for an individual within a Protected Status that unreasonably interferes with the individual's work environment or participation in a University program or activity.

2.5.2A Quid Pro Quo: Conduct based on Protected Status whereby submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions adversely affecting an individual's employment or participation in a University program or activity.

2.5.2B Hostile Environment: Conduct based on Protected Status that is so severe, persistent, or pervasive that it alters the conditions of employment, or participation in a University program or activity, thereby creating an environment in which a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not constitute a Hostile Environment.

2.5.3 Retaliation: Any adverse action against an individual, or an individual's spouse, partner, or other person with a close personal relation to the individual, for: making or supporting a claim of Prohibited Conduct, (b) opposing any Prohibited Conduct, participating in the reporting, investigation, or resolution of alleged violation(s), or otherwise engaging in a protected activity under associated University policies. Examples of Retaliation include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report or complaint made in good faith was not substantiated.

2.5.4 Workplace Violence: Includes, but is not limited to, bullying, domestic or family violence, intimidation, physical attack, property damage, stalking, or threats, that affect the University workplace.

2.5.4A Bullying: Unwanted offensive and malicious behavior (including but not limited to conduct, and written and verbal communication) which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate or demean the recipient.

2.5.4B Domestic or Family Violence: The use of abusive or violent behavior, including threats and intimidation, between family members or between people who have an ongoing or prior intimate or romantic relationship. Such relationships include, but are not limited to, people who are married, people who live together intimately or date, people who share a child in common, and people who have previously been married, lived together intimately, or dated.

2.5.4C Intimidation: Any act, by any means that places another person in reasonable fear of harm through the use of threatening words and/or other conduct. Includes, but is not limited to, stalking or other behavior intended to frighten, coerce, or induce stress.

2.5.4D Physical Attack: Unwanted or hostile physical contact such as hitting, fighting, pushing, using a weapon, shoving or throwing objects.

2.5.4E Property Damage: Intentional damage to property and includes property owned by University employees, students, visitors, or vendors.

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2.5.4F Stalking: Any behaviors or activities occurring on more than one occasion directed at a specific individual that place or are likely to place a reasonable individual in fear or at risk of physical, mental, or emotional harm for themselves or others. Such behaviors or activities may occur directly, indirectly, or through a third party, and may include, but are not limited to, unwelcome communication of any type (e.g., face-to-face, telephone calls, voice messages, electronic mail, written letters or notes); unwanted gifts; pursuing/following; observing/surveillance; or interference with property.

2.5.4G Threats: The expression, by any means, of intent to cause physical harm, mental harm, or property damage. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional, or future.

2.6 Party/Parties: An individual or collective term used to describe either the Complainant and Respondent or both.

2.7 Protected Status: Classes of people who receive certain protections under applicable federal and state law, and UNC System policies, because of their age, color, disability, gender, gender expression, gender identity, genetic information, national origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, or veteran status.

2.8 Respondent: The person alleged to have engaged in Prohibited Conduct.

2.9 Supportive Measures: Non-disciplinary, non-punitive individualized supports offered as appropriate and reasonably available intended to preserve or restore equal access.

2.10 Third-Party: Individuals who either participate in University programs or activities, or conduct business on behalf of the University including but not limited to contractors, vendors, visitors, or guests.

3. Reporting Prohibited Conduct

3.1 Any person may report an allegation of Prohibited Conduct. All University employees are expected to report alleged violations to EO and may be subject to disciplinary action for failing to report. Reports may be made by completing the [Access & Equity: Equal Opportunity Report Form](#) or by phone, in-person, or mail directly to the EO office.

3.2 Reports of Prohibited Conduct must be submitted within 180 days of the alleged Prohibited Conduct. Reports submitted after 180 days of the alleged incident will be reviewed and may be addressed as appropriate, at the sole discretion of EO. Delays in reporting could result in the University's ability to respond and impact EO's ability to implement these procedures. If the Respondent is no longer a student or employee, EO may provide reasonably appropriate supportive measures, assist complainants in identifying external reporting options and take reasonable steps to prevent its recurrence and remedy its effects, as appropriate.

3.3 All employees are responsible for promptly reporting any information which may indicate the occurrence of Prohibited Conduct (discrimination, harassment, retaliation) as defined in Policy 110 Discrimination and Harassment based on protected status (age, color, disability, gender, gender expression, gender identity, genetic information, national origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, or veteran status to EO.

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3.4 Anonymous reporting is permitted, however, EO's ability to respond or take further action may be impacted by the level of available information regarding the incident or individuals involved. EO values trust and works diligently to respect privacy. However, anonymity is unable to be guaranteed. Through the resolution of concerns, EO maintains privacy to the fullest extent possible but may need to partner with other areas such as Academic Affairs, Human Resources, or Student Affairs.

3.5 An Equal Employment Opportunity Informal Inquiry submitted by a current SHRA or former SHRA employee covered by the [State Human Resources Act's Grievance Policy](#) will be treated as a report.

4. University Response to Prohibited Conduct

4.1 The Executive Director of Access and Equity or their designee will conduct an initial review of reported Prohibited Conduct and may utilize a range of response options based on the nature of the report. Such response options include, but are not limited to: University resources and supportive measures to Parties, increased monitoring of certain University areas, or educational opportunities.

4.2 The University will ensure equitable treatment of Complainants and Respondents throughout the process. Respondents are presumed not responsible until a determination regarding responsibility is made at the conclusion of applicable resolution procedures. If a Respondent separates from University employment prior to the completion of a resolution, the University may discontinue the process but continue to take appropriate action to rectify and prevent the recurrence of any alleged Prohibited Conduct.

4.3 The University may place an Employee Respondent on administrative or investigatory leave while responding to a report as described above.

5. Preliminary Review

5.1 EO will conduct a preliminary review of all requests for formal resolution options.

5.2 Should an EO preliminary review indicate the allegations, if true, constitute a policy violation, EO will provide written notice the Parties. This includes a summary of the formal charges, a brief narrative of the alleged violation(s), a list of all policies allegedly violated, and a description of the applicable procedures. At this time, EO will also request a pre-resolution meeting with each Party.

5.3 Should an EO preliminary review indicate that the allegations, if true, would **not** constitute a policy violation, EO will provide written notice of the dismissal to the Complainant. EO may consult with the Appropriate Administrative Office to determine, what, if any, additional actions may need to be taken to address allegations of inappropriate conduct.

5.4 All Preliminary Review determinations shall be made at the sole discretion of EO.

5.5 EO strives to resolve cases of alleged Prohibited Conduct through these procedures in a timely manner (generally within 90 days).

5.6 Reporting to EO pursuant to this procedure does not preclude an individual from filing an external charge of Prohibited Conduct directly with the [Equal Employment Opportunity Commission](#), [the US Department of Education's Office for Civil Rights](#), the [North Carolina Office of Administrative Hearings-Civil Rights Division](#), or other relevant agency, nor does it prevent an individual from pursuing a related civil action or criminal charge.

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6. Resolution Options

6.1 Facilitated Resolution

6.1.1A facilitated resolution includes the opportunity to participate in a voluntary and mutually agreed upon resolution to appropriately resolve the complaint. The facilitated resolution must be approved by the Executive Director of Access and Equity or their designee.

A facilitated resolution is **not available** where an Employee or Third-Party is alleged to have engaged in Prohibited Conduct directed at a Student.

6.1.2 A facilitated resolution is a process resulting in an informed voluntary agreement between the Parties and the University to resolve a Complaint utilizing strategies such as educational interventions or other restorative principles to address the concern, prevent its recurrence, and/or restore the community. The facilitated resolution process allows the parties an opportunity to resolve the issue and is intended to be educational in nature.

6.1.3 EO will appoint a trained facilitator to oversee the Parties' facilitated resolution. Either Party should notify EO immediately if they believe that the facilitator has a conflict of interest or bias. The facilitator will meet with the Parties to discuss possible resolution options and to ascertain each Party's perspective regarding responsibility and outcomes.

6.2 Administrative Resolution

6.2.1 An administrative resolution includes an investigation and a determination of responsibility. The purpose of the investigation is to establish whether there is sufficient evidence to indicate a policy violation which would justify further administrative review and potential remedial action.

6.2.2 If the Preliminary Review indicates that a potential policy violation has occurred, EO will notify the Parties and perform an investigation of the alleged conduct, as applicable. EO, or an EO-appointed, trained, third party, will complete the investigation in a reasonably prompt time frame. Some investigations may take longer due to the complexity of allegations, issues, the University calendar (including breaks, holidays, or other closures), the unavailability of Parties or witnesses, inclement weather, and/or other unforeseen circumstances. The time frame to complete formal processing of an Equal Employment Opportunity Informal Inquiry will be pursuant to the SHRA Employee Grievance Policy.

6.2.3 EO will notify the Parties as to the Equal Opportunity Associate assigned to complete the investigation. In the event either Party believes the assigned investigator has a conflict of interest or bias such that the investigator could not complete a fair investigation, the Party must notify the Executive Director of Access and Equity immediately (within three (3) days upon receiving the notice).

6.2.4 The Respondent will be notified of the alleged conduct and will have an opportunity to respond to the allegations, provide exculpatory evidence, and provide witness testimony.

6.2.5 EO will notify the Appropriate Administrative Office and may also notify the supervisor(s) of the Parties with regards to the investigation.

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6.2.6 EO will provide written notice of the date, time, location, participants, and purpose of any investigative interview or meeting to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate. All Party and witness interviews will be audio recorded by the University but may not be recorded by any Party or witness.

6.2.7 Evidence collected during the investigation may include interviews, reports, and additional information provided by the Parties. EO may refuse to consider evidence submitted which is repetitious, irrelevant, or otherwise without sufficient value to the investigation.

6.2.8 Evidence collected, and reports made during the investigation will be preserved pursuant to the University's applicable records retention schedule. Such records are not part of an employee's personnel file.

7 Determinations

7.1 At the conclusion of the investigation, a finalized investigative report will be provided to the Appropriate Administrative Office. The finalized investigative report will include written summaries of Party and witness interviews regarding the allegations, summaries of relevant evidence and policies that relate to the main points of the investigation, and an analysis of whether or not a policy violation was substantiated. All determinations shall be made using a preponderance of the evidence standard, as defined by University Policy 110.

7.2 The Appropriate Administrative Office will notify Parties in writing of the outcome of the investigation, a determination as to whether a policy violation was substantiated, and as applicable, any sanctions or other disciplinary action that will be taken.

8 Appeals

8.1 In the event a determination is made that no policy violation was substantiated, the determination is final and there are no appeal options pursuant to these procedures.

8.2 In the event that the Respondent is found responsible for a policy violation and corrective action is taken, appeal rights will be dictated by applicable grievance procedures outlined in the [SHRA Grievance and Appeals](#), [EHRA Non-Faculty Grievances](#), and the [Faculty Handbook](#).

9 Corrective Action

9.1 In the event a policy violation is substantiated, the Executive Director of Access and Equity or designee will share a finding of responsibility with the Appropriate Administrative Office and others as needed (i.e. Supervisors, Office of General Counsel, Office of Human Resources, or Academic Affairs) to discuss and determine corrective action, including potential disciplinary action, up to and including termination, in order to resolve the policy violation and prevent its recurrence.

10 Right to Amend

10.1 The Executive Director of Access and Equity reserves the right to amend these procedures as may be necessary at any time.

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