

# Appalachian State University Discrimination & Harassment Resolution Procedures for Employee & Third-Party Respondents

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## 1. Overview and Purpose

These procedures support Appalachian State University's (the "University") commitment to creating and maintaining an institutional environment free of discrimination and harassment. The following procedures provide an administrative framework for reporting, investigating, adjudicating, and resolving alleged violations of Prohibited Conduct pursuant to University [Policy 110 Discrimination and Harassment](#) and applicable state and federal laws, including but not limited to Title VI and Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

The Office of Access & Equity: Equal Opportunity ("EO") is the designated office for oversight of Policy 110. The Executive Director of Access and Equity serves as the University's ADA/504 Coordinator, Equal Employment Officer, and Title IX Coordinator.

## 2. Definitions\*

*\*Please refer to University Policy 110 for applicable definitions of key terms.*

**2.1 Advocate:** An individual selected to accompany a Party to meetings with EO staff as part of these procedures. An Advocate may observe and provide support and advice but may not unduly delay or otherwise disrupt EO resolution.

**2.2 Appropriate Administrative Official:** For faculty, the Senior Vice Provost of Faculty Policies, Development, and Training. For SHRA and EPS employees, the Associate Vice Chancellor of Human Resources.

**2.3 Complainant:** The individual alleged to have been subjected to Prohibited Conduct.

**2.4 Day:** A business Day when the University is in normal operation.

**2.5 Party/Parties:** An individual or collective term used to describe the Complainant, Respondent, or both.

**2.6 Prohibited Conduct:** Includes discrimination, harassment, or related retaliation on the basis of protected status as defined in [Policy 110 Discrimination and Harassment](#).

**2.7 Respondent:** The employee alleged to have engaged in Prohibited Conduct.

**2.8 Supportive Measures:** Non-disciplinary, non-punitive individualized supports offered as appropriate and reasonably available and intended to preserve or restore equal access or protect the safety of the Parties.

## 3. Reporting Prohibited Conduct

3.1 Any person may report an allegation of Prohibited Conduct. Anonymous reporting and reports from non-University affiliated individuals are 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.

3.2 All University employees are required to report alleged violations to EO as soon as possible and in no event after more than 48 hours (2 business days). Absent a recognized exception, employees 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 EO.

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3.3 Reports must be submitted as soon as possible after the alleged Prohibited Conduct occurs and generally within 180 Days. Delays in reporting could impact the University's ability to respond and EO's ability to implement these procedures.

3.4 An Equal Employment Opportunity Informal Inquiry submitted by a current SHRA or former SHRA employee covered by the [UNC System SHRA Employee Grievance Policy](#), when the underlying allegation is based on protected status, will be treated as a report.

3.5 An EPS Grievance submitted by a current or former EPS employee covered by the [Policy 602.23 EPS Grievance](#), when the underlying allegation is based on protected status, will be treated as a report.

### 4. University Response to Reports of Prohibited Conduct

4.1 The Executive Director of Access & Equity or their designee will conduct a preliminary review of the reported concern and may utilize a range of response options based on the nature of the report. Appropriate University officials and campus units may be consulted to complete the preliminary review and coordinate an appropriate response and resolution. If the Respondent is no longer an Employee, EO may provide reasonably appropriate Supportive Measures, assist the Complainant in identifying external reporting options, and take reasonable steps to prevent the recurrence of and remedy the effects of the alleged Prohibited Conduct, as appropriate.

4.2 If the preliminary review indicates that the allegations, if true, would **not** constitute a Policy 110 violation, EO may consult with relevant University officials to determine what, if any, additional actions may need to be taken to address allegations of inappropriate conduct. When applicable, EO will provide written notice of the dismissal and appeal information to the Complainant.

4.3 If the preliminary review indicates the allegations, if true, would constitute a Policy 110 violation, EO will conduct outreach to the Complainant to offer and coordinate Supportive Measures and inform the Complainant of resolution options, if any, under these procedures. EO may consult with the Appropriate Administrative Official to determine what, if any, additional actions may need to be taken to address allegations of inappropriate conduct, which could include but are not limited to increased monitoring of certain University areas, educational opportunities, or referral.

4.4 In cases when the Complainant does not wish to proceed with a formal resolution process, the University may still be required to investigate or take reasonable action in response to the reported allegations as part of the University's obligation to provide a safe, nondiscriminatory environment. The Executive Director of Access & Equity may initiate a resolution procedure but would not be a Party under these procedures.

4.5 Information obtained by the University in response to allegations of Prohibited Conduct shall be reviewed in a manner that considers an individual's preferences for privacy with the University's legal obligations and its obligations to provide a safe and nondiscriminatory environment. Complete confidentiality cannot be guaranteed. Information may be shared as necessary to investigate or address the Prohibited Conduct, fulfill legal obligations, or pursuant to University policies.

4.6 The University will ensure equitable treatment of the Complainants and Respondents. Respondents are presumed not responsible until a determination regarding responsibility is made at the conclusion of applicable resolution procedures. EO will offer and coordinate Supportive Measures for the Respondent.

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

4.8 Resolution options are initiated when a Complainant makes a complaint of Prohibited Conduct that passes the preliminary review and indicates their request for the University to address the allegation(s) or the University has determined to proceed in order to effectively resolve the allegation and prevent future reoccurrence. EO will provide written notice to the Parties, which includes a summary of the allegations, a list of all policies allegedly violated, and a description of the applicable procedures. EO will additionally notify the Appropriate Administrative Official and may also notify the Parties' supervisor(s). Upon receipt of the notice, or at any stage in the procedures, a Respondent may choose to accept responsibility for the policy violation.

4.9 The University may place an Employee Respondent on administrative or investigatory leave with pay when it is following these procedures to address alleged policy violations.

4.10 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.

## 5. Resolution Options

Parties should inform EO of their selection of an Advocate. Advocates are required to sign confidentiality agreements prior to their participation in these procedures.

### 5.1 Alternate Resolution

5.1.1 An alternate resolution includes the opportunity for the Respondent to voluntarily agree to resolve the complaint without an investigation. The Executive Director of Access & Equity must approve the alternate resolution. The Executive Director of Access & Equity, or the designated University official, is authorized to assist the Appropriate University Official and Respondent in achieving the resolution.

5.1.2 An alternate resolution is determined on a case-by-case basis and includes a process resulting in an informed, voluntary agreement between the Respondent and the University to resolve a complaint. An alternate resolution may utilize strategies such as educational interventions or other restorative principles to address the concern, prevent its recurrence, and/or restore the community and may or may not include disciplinary action. The Complainant may provide input for the resolution.

### 5.2 Administrative Resolution

5.2.1 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 substantiate a policy violation. Investigations are conducted in a timely manner. Specific timelines vary due to the complexity of allegations, 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 the formal processing of an Equal Employment Opportunity Informal Inquiry will be pursuant to the UNC System University SHRA Employee Grievance Policy.

5.2.2 If the preliminary review indicates that a potential policy violation has occurred, EO or an EO-appointed trained third party will investigate the alleged conduct. EO is a neutral factfinder during the investigation, collecting and analyzing relevant evidence from the Parties, witnesses, and other sources, as appropriate. A

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Party must notify the Executive Director of Access & Equity immediately if they believe that the appointed investigator has a conflict of interest or bias. The Executive Director will determine the scope of the investigation according to the charge and the allegations in the report. The method of investigation is within the discretion of the Executive Director of Access & Equity and/or the investigator.

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

5.2.4 Evidentiary support from Parties collected during the investigation may include interviews, reports, and additional information provided by the Parties. Investigators may exclude evidence or testimony that is repetitious, irrelevant, impermissible, or otherwise without sufficient value to the investigation.

5.2.5 Evidence collected and reports made during the investigation will be preserved pursuant to the University's applicable records retention schedule. Such material is otherwise confidential under other UNC System or Appalachian State University policies, including investigative files housed in Human Resources, Academic Affairs, Office of General Counsel, or the Office of Access and Equity, and shall not be located in employee personnel files. This information, which includes witness statements and other documentary evidence, will not be released except under court order.

5.2.6 Parties and witnesses are expected to give truthful testimony. Providing untruthful testimony may result in disciplinary action.

## **6. Outcomes**

6.1 At the conclusion of an alternate resolution, a notice of resolution will be provided to the Appropriate Administrative Official. The notice may include, but is not limited to, a summary of allegations, facts not in dispute, and the terms of the alternate resolution.

6.2 At the conclusion of the investigation, the Appropriate Administrative Official will receive a finalized investigative report. The report will include a summary of relevant evidence and testimony regarding the allegations, policies related to the main points of the investigation, and a determination of whether or not a policy violation was substantiated. Policy violations shall be substantiated using a preponderance of the evidence standard, as defined by University Policy 110.

6.3 In the event a policy violation is substantiated, Appropriate University Official will determine corrective action, including potential disciplinary action, up to and including termination, in order to resolve the policy violation and prevent its recurrence.

6.4 EO will notify Parties in writing of the resolution's outcome. For administrative resolutions, when a policy violation is substantiated, the Appropriate University Official will send a notice to the Respondent regarding any next steps for remedies or disciplinary action.

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## 7. Appeals

### 7.1 EO Investigation Appeal

7.1.1 An appeal is an objective, independent review designed primarily to detect any significant errors in the investigation that would substantially alter the outcome of an investigation.

7.1.2 The Respondent may appeal a determination of responsibility within **five (5) days** of receiving the Notice of Outcome on the following grounds:

- a) procedural irregularity that affected the outcome of the matter;
- b) new evidence that was not reasonably available at the time of the determination that could affect the outcome of the matter; or,
- c) the investigator had a conflict of interest or bias either generally for or against Complainants or Respondents, or specifically for a particular individual, such that it affected the outcome of the matter.

7.1.6 The appellate officer will issue a written decision describing the result of the appeal and the rationale for the result.

7.1.7 The appeal officer may:

- a) affirm the investigation findings;
- b) remand the case to the investigator based on procedural errors that affected the outcome of the investigation or new and significant material information that has become available and was not available previously to a person exercising reasonable diligence, which information could have affected the outcome of the proceeding; or
- c) remand the case to a new investigator if there was a bias that affected the outcome of the matter.

### 7.2 Outcomes Appeal

7.2.1 In the event that the Respondent is found responsible for a policy violation and corrective action is taken, additional appeal rights will be dictated by applicable grievance procedures outlined in the [EPS Grievance Policy 602.23](#), the [Faculty Handbook](#) and [Academic Affairs Standard Operating Procedures](#).

## 8. Retaliation Prohibited

8.1 The University prohibits related Retaliation as defined in Policy 110.

## 9. Right to Amend

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

Adopted July 14, 2023  
Amended August 15, 2023  
Amended August 12, 2024  
Amended January 11, 2025