

Appalachian State University

Discrimination & Harassment Resolution Procedures for Employee & Third-Party Responding Parties

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](#) ("Policy 110"), 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 ("ADA").

The Office of Access & Opportunity: Equal Opportunity ("EO") is the designated office for oversight of Policy 110. The Executive Director of Access and Opportunity ("Executive Director") 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.

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 Impacted Party: 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 Impacted Party, Responding Party, 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 Responding Party: The employee alleged to have engaged in Prohibited Conduct.

2.8 Witness: An individual who has direct experience with, or knowledge of, events, issues, or circumstances related to the incident. A Witness may not serve in any other role throughout the process.

3. University Response to Reports of Prohibited Conduct

3.1 The Executive Director 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. EO may consult with appropriate University officials and campus units to gather additional information to complete the preliminary review and to coordinate appropriate response and resolution processes. If the Responding Party is no longer an Employee, EO may provide appropriate resources, assist the Impacted Party 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.

3.2 If the preliminary review indicates that the allegations, if true, would not constitute a Policy 110 violation, 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. When applicable, EO will provide resource

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referrals to the Impacted Party. EO may also consult with University officials to determine what, if any, additional actions may need to be taken in response to the report, which could include, but are not limited to, increased monitoring of certain University areas, educational opportunities, or referral.

3.3 If the preliminary review indicates the allegations, if true, would constitute a Policy 110 violation, EO will conduct outreach to the Impacted Party to offer resources and inform the Impacted Party of resolution processes, if any, under these procedures.

3.4 The Executive Director may work with appropriate University officials to take immediate action to protect the interests of the Impacted Party, the Responding Party, or others impacted by the reported behaviors. Such actions may include, but are not limited to, temporary adjustment of schedules, temporary adjustment of supervisory relationships, or other appropriate interim measures. The Responding Party may also be placed on administrative or investigatory leave with pay when it follows these procedures to address alleged policy violations.

3.5 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 address the Prohibited Conduct, fulfill legal obligations, or pursuant to University policies.

3.6 The University will ensure equitable treatment of Impacted Parties and Responding Parties. Responding Parties are presumed not responsible until a determination regarding responsibility is made at the conclusion of applicable resolution procedures. EO will offer resources to the Responding Party.

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

3.8 Resolution processes are initiated when a report of Prohibited Conduct passes the preliminary review and either the Impacted Party 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 recurrence. 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 Responding Party may choose to accept responsibility for the policy violation.

4. Resolution Processes

Parties may choose to have an Advocate through the resolution process and should inform EO of their selection of an Advocate. Advocates are required to sign confidentiality agreements prior to their participation in these procedures. An Advocate may observe and provide support and advice but may not unduly delay or otherwise disrupt the process.

4.1 Alternate Resolution

4.1.1 An alternate resolution includes the opportunity for the University to resolve the reported violation with the Responding Party without an investigation.

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4.1.2 An alternate resolution is determined appropriate by the Executive Director on a case-by-case basis. An alternate resolution may utilize educational interventions or other restorative principles to address the concern, prevent its recurrence, and/or restore the community. Such resolutions may or may not include disciplinary action. While the resolution is not contingent on the approval of the Impacted Party, the Impacted Party may provide input for the resolution.

4.1.3 The Executive Director, or the designated University official, can assist the Appropriate Administrative Official or Responding Party in achieving the resolution.

4.2 Investigatory Resolution

4.2.1 An investigatory 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.

Timeline: 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.

Investigator: An EO-appointed trained investigator or third party will investigate the alleged conduct. The investigator is a neutral factfinder during the investigation, collecting and analyzing relevant evidence from the Parties, Witnesses, and other sources, as appropriate. A Party must notify the Executive Director 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 and/or the investigator.

Notice: 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 shall not be recorded by any Party, Advocate, or Witness.

Evidence: Evidentiary support collected during the investigation may include physical or documentary evidence such as interviews, reports, photographs, text messages, emails from the Parties and Witnesses, and University records. Investigators may exclude evidence or statements that are repetitious, irrelevant, impermissible, or otherwise without sufficient value to the investigation. Documentary evidence is collected via a secure online platform shared by EO. Evidentiary support may also include statements from Parties and Witnesses. Parties and Witnesses are expected to make truthful statements; providing untruthful statements may result in disciplinary action.

Relevance & Credibility: The investigator will determine relevant and permissible evidence during the investigation to be used in the final report. If the investigator considers credibility, such credibility determinations may not be based on a person's status as an Impacted Party, Responding Party, or Witness.

Draft Review: Prior to finalizing the investigative report, the Responding Party will be provided a download-restricted electronic version of the draft report or may request to review a hard copy within EO. The Responding Party shall not photograph or copy the draft report; however, notes on the content may be taken. The Responding Party will have **five (5) Days** from receipt of the draft to submit comments on the report or

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other relevant evidence. This is the final opportunity for the Responding Party to identify any additional information or Witnesses for the investigator to consider.

Final Report: After the Responding Party has had the opportunity to review the draft investigative report, the investigator will consider the comments, analyze the information collected during the investigation, and finalize the investigative report. In the final investigative report, the investigator will evaluate evidence using the preponderance of evidence standard.

Record Retention: 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 Opportunity, 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. Outcomes

5.1 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.

5.2 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 statements regarding the allegations, policies related to the main points of the investigation, and a determination of whether or not a policy violation was substantiated. University Policy 110 defines the standard of proof for substantiating policy violations as the preponderance of the evidence.

5.3 In the event a policy violation is substantiated, the Appropriate Administrative 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.

5.4 EO will notify the Parties in writing of the investigative outcome. The Appropriate Administrative Official will send a notice to the Responding Party regarding any next steps for remedies or disciplinary action.

6. Review Options

6.1 Administrative Review

6.1.1 The Responding Party may request an Administrative Review within five (5) business days of the notice of investigative finding due to one or more of the following reasons: (1) the process for making the decision was materially flawed; (2) the result was clearly erroneous; or (3) the decision was contrary to controlling law or policy. The request for an administrative review must accompany a written statement explaining how the investigative finding warrants review.

6.1.2 The administrative reviewer will consider all of the information provided and, giving deference to the investigator(s) who interviewed Witnesses and reviewed evidence first-hand, will determine whether the outcome of the investigation resulted from a material procedural error, was clearly erroneous, or contrary to controlling law or policy.

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6.1.3 The administrative reviewer will provide a written decision of the request for administrative review.

6.1.4 If the administrative reviewer determines that the outcome of the investigation is not clearly erroneous, did not result from a material procedural error, or was not contrary to controlling law or policy then the investigative finding and outcome will be final and is not subject to further review.

6.1.5 If the administrative reviewer finds that the investigation outcome is clearly erroneous, resulted from a material procedural error, or was contrary to controlling law or policy, the administrative reviewer will make recommendations to EO to address the concerns.

6.2 Grievance Reviews

6.2.1 In the event that disciplinary action is taken against the Responding Party by the Appropriate Administrative Official, additional appeal rights may be available pursuant to applicable employment policies.

7. Retaliation Prohibited

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

8. Right to Amend

8.1 The Executive Director reserves the right to amend these procedures as necessary at any time.