

**ELIZABETH CITY STATE UNIVERSITY**  
**Sexual Harassment Policy**

**Preamble**

This policy serves as a prohibition against sexual harassment at Elizabeth City State University (ECSU) and sets forth the various campus-level processes for resolving a sexual harassment complaint. Sexual harassment as defined within this policy is an unlawful form of gender discrimination which may involve harassment of women by men, harassment of men by women or harassment between individuals of the same sex. This policy applies to the entire university community including: faculty, staff, students, agents and applicants for employment and admission to university programs.

**1. Definition**

Sexual harassment refers to unwelcome sexual advances, unwelcome requests for sexual favors or other unwelcome verbal and/or physical conduct of a sexual nature when:

- A. submission to such conduct is made either an expressed or implied term or condition of an individual's employment or academic standing; or
- B. submission to or refusal of such conduct is used as grounds for a decision concerning an individual's employment or academic standing; or
- C. such conduct is so extreme or constant that a reasonable person would find that it:
  - i. alters the terms or conditions of a person's employment or educational experience; or
  - ii. unreasonably interferes with an individual's work or performance in a course, program, or activity, which thereby creates a hostile or abusive work or educational environment.

**2. Complaint Procedure**

**A. Filing a Complaint**

Anyone within the university community who seeks to lodge a complaint of sexual harassment must complete, sign and date ECSU's Sexual Harassment Complaint Form and submit it within ninety (90) calendar days of the alleged incident in the following manner:

- i. If the Alleged Harasser is a Faculty or Staff Member  
If the alleged harasser is a member of the faculty or staff, the Complaint Form may be submitted to either the alleged harasser's supervisor, academic school dean, or the Equal Employment Opportunity Officer.

ii. If the Alleged Harasser is a Senior Administrative Officer

If the alleged harasser is a senior administrative officer, the Complaint Form may be submitted to either the alleged harasser's supervisor or the Equal Employment Officer.

iii. If the Alleged Harasser is a Student

If the alleged harasser is a student, the Complaint Form may be submitted to either the Dean of Students or the Equal Employment Opportunity Officer

iv. If the Alleged Harasser has Other Status

If the alleged harasser is an individual other than categorized above, the Complaint Form must be submitted to the Equal Employment Opportunity Officer.

B. Confidentiality

The full extent of confidentiality provided by law to personnel records and educational records shall apply to information and documents generated as a result of a sexual harassment complaint except where disclosures are required for the university to investigate a complaint or take appropriate action in response to a complaint. Anyone within the university community who, without authorization, discloses information in connection with a sexual harassment complaint shall be subject to disciplinary action.

C. Groundless Complaints

Under this policy, the term "groundless" complaint refers to the act of filing a false or malicious sexual harassment complaint. Anyone within the university community who files a groundless complaint shall be subject to disciplinary action.

D. Retaliation

Under this policy, the term "retaliation" means engaging in an adverse act against a person who has filed a sexual harassment complaint or against a person who cooperates in a sexual harassment investigation. Retaliation is expressly prohibited. Anyone within the university community who engages in retaliation shall be subject to disciplinary action.

E. Complaint Intake

The person who receives a completed Sexual Harassment Complaint Form under Sections 2.A. (i-iv) above must:

- i. Comply with the confidentiality requirements;
- ii. Complete ECSU's Sexual Harassment Intake Form;
- iii. Inform the complainant of the options for internal resolution of a sexual harassment complaint under the policy and document the complainant's choice for resolution;

- iv. Forward a copy of the completed Sexual Harassment Complaint Form and the completed Sexual Harassment Intake Form to the Assistant to the Chancellor for Legal Affairs including written documentation of the option selected by the complainant for resolving the complaint; and
- v. If the complaint is received by an individual other than the Equal Employment Opportunity Officer, forward the original completed Sexual Harassment Complaint Form and Sexual Harassment Intake form to the Equal Employment Opportunity Officer including written documentation of the option selected by the complainant for resolving the complaint.

F. Notice to the Alleged Harasser

As soon as the EEO Officer receives notice of a sexual harassment complaint, the EEO Officer will notify the alleged harasser in writing of the details of the sexual harassment complaint.

G. Withdrawing a Complaint

The complainant may withdraw a sexual harassment complaint at any time in writing to the Equal Employment Opportunity Officer. Notwithstanding the complainant's choice to proceed with a complaint, ECSU may conduct an administrative investigation of the complaint any sexual harassment complaint.

### 3. Options for Resolution

A sexual harassment complaint may be resolved through either an informal or formal process, at the option of the complainant and must indicate the option on the Intake Form. Notwithstanding the complainant's choice for resolution, ECSU may conduct an administrative investigation of any sexual harassment complaint. Notwithstanding the complainant's choice for resolution, ECSU may conduct an administrative investigation of any sexual harassment complaint.

A. Informal Processes

i. Individual Resolution

The complainant may seek to resolve the matter directly with the alleged harasser individual.

ii. Mediation

The complainant may seek resolution through mediation. If this option is selected, the complainant and the alleged harasser must mutually agree on an approved campus mediator, alleged harasser Mediation must be scheduled within ten (10) calendars of filing a complaint. The date of the scheduled mediation session may be more than ten (10) calendar days after a complaint is filed. A mediator will not conduct an investigation or determine culpability but will facilitate discussions with the aim of reaching a resolution.

iii. Reporting Outcomes of an Informal Resolution

(1) Individual Resolution

If the option of individual resolution is selected, the complainant must notify the Equal Employment Opportunity Officer in writing within fourteen (14) calendar days of filing the complaint whether or not the matter has been resolved. The outcome shall be filed by the Equal Employment Opportunity Officer in the personnel files of the parties involved, if employees, or in the student records maintained in the Division of Student Affairs, if a student is involved.

(2) Mediation

If the option of mediation is selected, the mediator must notify the Equal Employment Opportunity Officer in writing at the conclusion of the mediation conference as to whether or not the matter has been resolved. The outcome shall be filed by the Equal Employment Opportunity Officer in the personnel files of the parties involved, if employees, or in the student records maintained in the Division of Student Affairs, if a student is involved.

B. Formal Processes

A determination will be reached as to whether alleged conduct constitutes sexual harassment by considering the entire record in addition to the circumstances giving rise to the allegation based upon an objective standard.

i. Administrative Investigation and Resolution

The complainant may opt to have the complaint resolved through an internal administrative investigation. If the alleged harasser is an employee, the investigation will be conducted by the alleged harasser's supervisor. If the alleged harasser is a student, the investigation will be conducted by the Dean of Students. If the alleged harasser is a non-employee or non-student, the investigation will be conducted by the Equal Employment Opportunity Officer.

An investigator may confer with the Equal Employment Opportunity Officer for guidance and shall do the following, without compromising confidentiality:

- (1) Question the alleged harasser, after first notifying the complainant when the alleged harasser will be questioned and obtain a written response from the alleged harasser;
- (2) Question witnesses, if any, for purposes of verifying the truthfulness of the complaint;
- (3) Examine documentary evidence, if any;

- (4) Contact the Equal Employment Opportunity Officer to determine whether there have been other complaints of sexual harassment concerning either the complainant or the alleged harasser;
- (5) Complete the Sexual Harassment Investigation Report Form, including:
  - (a) The identity of the complainant and the alleged harasser;
  - (b) The written, signed and dated Complaint Form;
  - (c) The alleged harasser's written response, if any;
  - (d) Documentary evidence, if any;
  - (e) The findings and a summary of the facts constituting the basis for the findings;
  - (f) A statement, if applicable, of any difficulties confronted while conducting the investigation; and
  - (g) The resolution.

A copy of the investigation report must be mailed to the complainant and to the alleged harasser by certified mail return receipt requested or other method that provides confirmation of delivery with notification that either party may submit written comments, within fourteen (14) calendar days of the parties' receipt of the investigation report. Comments received within the fourteen (14) calendar day period, will be attached to the final investigation report. .

The final investigation report, including any attached comments by the parties, shall be submitted to the Equal Employment Opportunity Officer and shall be filed in the personnel files of the parties involved, if employees, or in the student record of the Office of Student Affairs, if as student is involved.

An administrative resolution is appealable to the Chancellor for a final campus level decision. Either party may file a written appeal to the Chancellor within fourteen (14) calendar days of the parties' receipt of the final report.

ii. Resolution Before a Hearing Body

A complainant may opt to have the matter resolved through a before a hearing body.

(1) Faculty

- (a) A faculty member who files a sexual harassment complaint against another faculty member may seek resolution in accordance with ECSU's Faculty Grievance Procedure (ECSU Policy 300.2.7.1).
- (b) A faculty member who files a complaint of sexual harassment in connection with evidence of discrimination in a non-reappointment decision or in the case of a discharge or imposition of other serious sanctions may seek resolution in accordance with the review process set forth in ECSU's Promotion and Tenure Policy (ECSU Policy 300.2.1.1).

(c) A faculty member who files a sexual harassment complaint against a student may seek resolution under ECSU's policy on Student Rights and Steps in the Judicial Process (ECSU Policy 500.1.3).

(2) State Personnel Act (SPA) Employees

An SPA employee with a complaint of sexual harassment may proceed according to the Grievance Procedure for SPA employees. An SPA employee may seek resolution of a sexual harassment complaint in accordance with ECSU's Mediation and Grievance Policy for SPA Employees (ECSU Policy 200.2.1). SPA employees and applicants for SPA positions also have the option of filing a complaint with the North Carolina Personnel Commission.

(3) Employees Exempt from the State Personnel Act (EPA) Employees

An EPA employee may seek resolution of a sexual harassment complaint in accordance with ECSU's Grievance Procedures for Employees Exempt from the State Personnel Act (ECSU Policy 200.3.5).

(4) Students

(a) A student who files a sexual harassment complaint against another student may seek resolution under ECSU's policy on Student Rights and Steps in the Judicial Process (ECSU Policy 500.1.3).

(b) A student with a sexual harassment complaint against a faculty member or other employee of the University shall proceed according to the Student Grievance Procedure. Information on the Student Grievance Procedure is available from the Office of the Vice Chancellor for Student Affairs. A student who files a sexual harassment complaint against a faculty member, an ECSU employee or others may seek a resolution under ECSU's Grievance Procedure for Students (ECSU Policy 500.1.2).

(5) The findings from a determination reached following a grievance hearing shall be submitted to the Equal Employment Opportunity Officer and shall be filed in the personnel files of the parties involved, if employees, or in the student records of the Office of Student Affairs, if the parties involved are students.

#### **4. Disciplinary Action for Violation**

Any individual who engages in sexual harassment shall be subject to disciplinary action, which will be determined on a case by case basis, up to and including discharge for employees and suspension for students.