

## Unlawful Workplace Harassment Policy

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### § 1. Policy

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 on the basis of race, religion, color, national origin, ethnicity, sex, pregnancy, gender identity or expression, sexual orientation, age (40 or older), political affiliation, National Guard or veteran status, genetic information or disability.

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### § 2. Purpose

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 shall develop strategies to ensure that work sites are free from unlawful workplace harassment, including sexual harassment discrimination and retaliation.

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### § 3. Definitions

Unlawful Workplace Harassment: is unsolicited and unwelcomed speech or conduct based of race, religion, color, national origin, ethnicity, sex, pregnancy, gender identity or expression, sexual orientation, age (40 or older), political affiliation, National Guard or veteran status, genetic information or disability 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.

## Unlawful Workplace Harassment Policy (cont.)

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Sexual Harassment: is harassment on the basis of sex is a particular type of violation of this unlawful workplace harassment policy and in addition to the previous definition of unlawful workplace harassment, this 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, pregnancy, gender identity or expression, sexual orientation, age (40 or older) political affiliation, National Guard or veteran status, genetic information or disability because of opposition to employment practices in violation of the unlawful workplace harassment policy.

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### § 4. Coverage

This policy covers, full-time or part-time employees with either a permanent, probationary, trainee, time-limited or temporary appointment; former employees; and applicants.

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### § 5. Complaint Process

An employee, former employee or applicant alleging unlawful workplace harassment or retaliation may file a complaint following the process outlined in the Employee Grievance Policy located in Section 7 of the State Human Resources Manual.

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## Unlawful Workplace Harassment Policy (cont.)

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### § 6. Prevention Strategies

Each agency head shall develop strategies to prevent unlawful workplace harassment. The strategies shall at the minimum include:

- a commitment by the agency to the prohibition of unlawful workplace harassment, sexual harassment and retaliation,
  - training and other methods to prevent harassing actions, “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, pregnancy, gender identity or expression, sexual orientation, age (40 or older) political affiliation, National Guard or veteran status, genetic information or disability because of opposition to employment practices in violation of the unlawful workplace harassment policy.
  - a process for disseminating information prohibiting unlawful workplace harassment and retaliation to all agency employees Workplace harassment prevention strategies shall be included as part of the agency’s Equal Employment Opportunity (EEO) Plan.
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### § 7. Sources of Authority

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-4\(5\), \(10\), \(11\)](#)

It is compliant with the Administrative Code rules at:

- [25 NCAC 01J .1101](#)
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### § 8. History of This Policy

Date	Version
December 1, 1980	First version. Sexual Harassment Policy adopted.
April 1, 1983	Expands the State’s definition of sexual harassment so that the definition can be in conformity with the Federal Guidelines
August 1, 1995	New policy on workplace violence.
December 10, 1998	Policy developed to conform to legislation. Also incorporated Sexual Harassment Policy into the Unlawful Workplace Harassment Policy.

**Unlawful Workplace Harassment Policy (cont.)**

August 19, 1999	Removed the phrase “in any form” from the first sentence of the purpose statement. In the Definition section, (a) redefined the term retaliation to read “adverse treatment” as opposed to “adverse action” and (b) added the word “alleged” to the third advisory note. In the Grievance Procedures and Appeals section, (a) added the following sentence to item number 2, “The employing agency shall provide a written response to the grievant when the agency has determined what action, if any, will result from the grievant’s written complaint”, and (b) in item number 3, changed “within 30 days” to read “within 30 calendar days”. In the Reporting section, added the second and third paragraphs. In the Prevention Plan section (a) added the phrase “or policies and procedures to comply with and implement the law and rules pertaining to unlawful workplace harassment” to the first sentence and the phrase “policies and procedures” to the second sentence, (b) modified item number 4 (b) to read “grievant right to bypass any step in the applicable agency procedure involving review of or decisions by the alleged harasser”, and (c) modified item number 6 to read “Method for implementing appropriate disciplinary actions to address unlawful workplace harassment and to assure that disciplinary actions shall be consistently and fairly applied.”
August 17, 2000	Added Advisory Note stating that conduct towards an outside vendor or contractor that would constitute unlawful workplace harassment toward an employee could constitute unacceptable personal conduct. Added provisions under Grievance and Appeals stating that agency shall take action within 60 days unless the agency has waived the 60- day period and grievant has acknowledged waiver.
June 21, 2001	Advisory Note on Page 1-19 deleted. Current employees and former employees use the same complaint procedures.
July 1, 2006	Advisory Note deleted in Item No. 2 since this provision has been approved permanently.

**Unlawful Workplace Harassment Policy (cont.)**

January 1, 2012	Genetic information was added to the policy where appropriate to conform to the Genetic Information Nondiscrimination Act of 2008 (GINA).
October 1, 2012	<ul style="list-style-type: none"> <li>• Remove reference to the State Personnel Commission in the Grievance Procedures and Appeals Section. Clarification was added to the policy about filing grievances based on genetic information.</li> </ul>
October 1, 2014	<ul style="list-style-type: none"> <li>• Policy statement amended to add sexual harassment discrimination and Retaliation</li> <li>• Purpose statement was amended to remove the requirement for agencies to develop policies and was replaced with requirements for agencies to develop strategies to ensure worksites are free from unlawful workplace harassment and retaliation. Strategies must be included in EEO Plan.</li> <li>• Definitions were reworded to match definitions provided by U.S. EEOC.</li> <li>• “Hostile work environment” and “Quid Pro Quo” definitions were removed since terms are no longer being used in the policy.</li> <li>• “Applicants” were included in the “coverage” section of the policy.</li> <li>• Grievance Procedures and Appeals section were renamed “complaint process” and refer applicants and employees to the “Employee Grievance Policy”.</li> <li>• The “reporting” section was removed from the policy.</li> <li>• The section on “prevention plans” was renamed “prevention strategies.”</li> </ul>
April 4, 2019	<ul style="list-style-type: none"> <li>• In alignment with Executive Order #24, the EEO policy was amended to add sexual orientation, gender identity and expression, and Veteran/National Guard status to the list of protected groups. Approved at the SHRC meeting on 4/4/2019.</li> <li>• In addition, definitions removed from the policy. The definitions will be expanded and provided as a supplemental document.</li> </ul>