

PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF SPA EMPLOYEES REGARDING ALLEGATIONS OF PROHIBITED, DISCRIMINATION, HARASSMENT, AND RELATED MISCONDUCT¹

To implement the Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual Violence, Interpersonal Violence and Stalking

Any SPA employee or applicant to an SPA permanent position who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation. Note that complaints by an SPA employee against a student will be handled under the *Procedures for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a Student as a Responding Party*.

Questions, concerns or complaints pursuant to the Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual Violence, Interpersonal Violence and Stalking (hereafter referred to as the Policy) should be directed to the Equal Opportunity and Compliance Office. Questions regarding the SPA Grievance process should be directed to Employee and Management Relations in the Office of Human Resources.

Internal complaints may be handled through an Administrative Review process, as described in Section II, below. Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved through the Administrative Review Process. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity and Compliance Office.

Please contact the Equal Opportunity and Compliance Office for consultation and information on the guidelines for utilizing this option.

I. Time Frames

A. Filing a Complaint

1. The University encourages an SPA employee who has a concern to bring a complaint within one hundred eighty (180) calendar days of the alleged prohibited harassment or discrimination. More information about filing a complaint is provided in Section III. A., below.

¹ Amended effective May 2014 to reflect changes required by the University System SPA Employee Grievance Policy.

2. Additionally, an SPA employee or an applicant for an SPA permanent position (the “SPA Grievant”) who wishes to retain rights to appeal an Administrative Review through the University System SPA Employee Grievance Policy must initiate the Administrative Review process (also known as the Equal Opportunity Informal Inquiry, or “Informal Inquiry”) by filing a completed SPA Grievance Initial Filing Form with the Grievance Officer in the Office of Human Resources within fifteen (15) calendar days of the alleged prohibited harassment discrimination, or retaliation (see <http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/>).
3. If the SPA Grievance Initial Filing Form is not submitted, or if an Informal Inquiry is not initiated, within fifteen (15) calendar days of the alleged act, then the SPA Grievant shall have forfeited his/her grievance rights regarding the issue. In such cases, the written response for the Informal Inquiry/Administrative Review is not eligible for appeal under the University System SPA Employee Grievance Policy. See Section IV.B below.

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of an SPA employee’s complaint of alleged prohibited harassment or discrimination must notify the Equal Opportunity and Compliance Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity and Compliance Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III. C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity and Compliance Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final report is issued. More information about this notification is provided in Section III. D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role, he/she must take steps to promptly and appropriately address the matter. Any employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact the Equal Opportunity and Compliance Office as soon as possible.

The administrator or supervisor must notify the Equal Opportunity and Compliance Office, and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and to make recommendations to address equitably the concerns in order to resolve the complaint.

A. Filing a Complaint

1. An SPA employee with a complaint (the "Complainant") of alleged prohibited harassment, discrimination or retaliation may bring his/her complaint directly to the attention of the Equal Opportunity and Compliance Office within the time frame established in Section I.A., above.
2. An SPA employee with a complaint (the "Complainant") of alleged prohibited harassment, discrimination or retaliation against an employee (including faculty members, staff members, post-doctoral scholars, and student employees) or a contractor may bring his/her complaint to the appropriate administrator or supervisor, either orally or in writing. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity and Compliance Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate the Policy, the Equal Opportunity and Compliance Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

Generally, the Equal Opportunity and Compliance Office will conduct the investigation. With notice to the Complainant, the Equal Opportunity and Compliance Office may identify other appropriate administrator(s) to assist with the investigation (the “Administrative Reviewer(s)”). This Administrative Reviewer usually would be the supervisor of the person who has been accused of prohibited harassment or discrimination, but other person(s) may be assigned the responsibility depending on the nature of the complaint.

The Equal Opportunity and Compliance Office will also notify the appropriate Dean, Director or Department Chair of the Administrative Review.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under the Policy, the Equal Opportunity and Compliance Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair and to the Equal Opportunity and Compliance Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity and Compliance Office of the need for an extension and request an extended deadline. The Equal Opportunity and Compliance Office will review the request for an extended deadline and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity and Compliance Office will provide written notification of the extended deadline to the parties.

1. The person(s) accused of prohibited harassment and discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment, discrimination or retaliation will be given a copy of the Policy and relevant Procedures and also be given an explanation of the Administrative Review process.
3. Both the Complainant and the person accused of prohibited harassment, discrimination or retaliation may provide information relevant to the complaint, including the names of any witnesses to the Administrative Reviewer(s) or the Equal Opportunity and Compliance Office.
4. In determining whether alleged conduct violates the Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in

which it occurred, and determine whether a preponderance of the evidence shows that the Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes subject to confidentiality protections provided by the State Personnel Act: factual findings, a summary of witness statements, a determination of whether the Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity and Compliance Office will notify the parties, to the extent permitted by law, of the results of the review and efforts to resolve the complaint within ten (10) calendar days after the final report is issued. The Equal Opportunity and Compliance Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will maintain an appropriate record in the confidential departmental personnel file.

E. Actions Taken as a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates the Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity and Compliance Office, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair.

Corrective action to correct the accused party’s conduct may include counseling about the behavior, a written warning, or other appropriate action, up to dismissal. The Administrative Reviewer may also take measures to assist the Complainant, including but not limited to recommending a review of any negative performance decision that may have resulted from the conduct that violated the Policy or informing the Complainant of University resources, such as the Ombuds Office or the Employee Assistance Program that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate the Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Information and Assistance with Formal Resolution

Information and assistance regarding formal resolution of a complaint is available from Employee & Management Relations in the Office of Human Resources.

B. Time frames for Filing an Appeal

1. If the SPA employee or applicant does not submit the SPA Grievance Initial Filing Form to the Office of Human Resources, or if an Administrative Review/Informal Inquiry is not initiated, within fifteen (15) calendar days of the alleged prohibited harassment, discrimination, or retaliation, then the SPA employee or applicant shall have forfeited his/her grievance rights regarding the issue. In such cases, the written response of the Administrative Review is not eligible for appeal under the University System SPA Employee Grievance Policy.
2. Consistent with Section I.A., above, if the SPA employee does not submit the SPA Grievance Initial Filing Form to the Office of Human Resources within fifteen (15) calendar days from the date of the alleged prohibited harassment, discrimination, or retaliation but does file a complaint with the Equal Opportunity and Compliance Office within 180 calendar days of the alleged event, then the SPA employee may not file a grievance under the University System SPA Employee Grievance Policy if he/she feels that the Administrative Review failed to produce a satisfactory resolution.
3. If the SPA employee or applicant submits the SPA Grievance Initial Filing Form to the Office of Human Resources within fifteen (15) calendar days of the alleged prohibited harassment, discrimination, or retaliation, then the SPA employee or applicant may proceed with the grievance process by filing an SPA Grievance Supplemental Filing Form within fifteen (15) calendar days of receipt of written response from the Informal Inquiry/Administrative Review.
4. If the SPA employee or applicant does not file the SPA Grievance Supplemental Filing Form within fifteen (15) days of receipt of written response from the Opportunity Informal Inquiry/Administrative Review, then the SPA employee or applicant shall have forfeited his/her grievance rights regarding the issue.