

POLICY PROHIBITING HARASSMENT

Harassment based upon race, color, religion, creed, sex, national origin, age, disability, or veteran status is a form of discrimination in violation of federal and/or state law and Appalachian State University policy; therefore, harassment will not be tolerated. Further, it is the internal policy of Appalachian State University to prohibit harassment on the basis of sexual orientation. Finally, because retaliation against a person who opposes or complains about harassment violates federal and state law and/or Appalachian State University policy, retaliation will not be tolerated.

The policy of Appalachian State University is that no member of the University community, whether faculty, staff, or student, may engage in speech or conduct that constitutes harassment or retaliation as defined below. The University is committed to providing an atmosphere in which University community members will be free from harassment and retaliation.

DEFINITIONS:

Consistent with state and federal law and University policy, harassment is defined as unwelcome or unsolicited speech or conduct based upon race, sex, sexual orientation, creed, religion, national origin, age, color, or handicapping condition, that creates a hostile work environment or circumstances involving quid pro quo.

A hostile environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile environment is determined by looking at all of the circumstances, including:

- the frequency of the allegedly harassing conduct;
- the severity of allegedly harassing conduct;
- whether such conduct is physically threatening or humiliating;
- whether such conduct unreasonably interferes with a an employee's work performance, or with a student's academic performance or full enjoyment of University programs or services;
- whether such conduct has the effect of emphasizing the race, sex, sexual orientation, sexual identity, creed, religion, national origin, age, color, or handicapping condition in a manner offensive to a reasonable person; or
- whether such conduct has the effect of creating an intimidating, hostile, or offensive environment in the workplace or inside or outside the classroom.

Quid pro quo harassment consists of unwelcome advances, requests for favors, or other verbal or physical conduct when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment or of a student's academic standing or status or success; or (2) submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.

Retaliation is adverse treatment directed against individuals who file a complaint about or otherwise oppose workplace harassment, or who provide information relative to a complaint, or who are involved in the complaint and resolution process in any way.

Notes:

1. ASU employees who believe that they may have been subjected to harassment or retaliation should refer to ASU's Policy Prohibiting Workplace Harassment, Policy Statement 24.
2. Peer (student-to-student) sexual harassment and racial harassment are identified in ASU's Code of Student Conduct as "Prohibited Misconduct." See Code of Student Handbook, § 4.02ac and § 4.02ad.
3. This Policy Prohibiting Harassment is a "Policy" within the meaning of § 2.15 of the Code of Student Handbook (i.e., a "written regulation, rule, or statement of Appalachian State University as found in any official publication of the University").
4. A claim of sexual harassment is not barred merely because the complainant and the alleged harasser are of the same sex.
5. "Hostile" includes offensive, aggressive, antagonistic, belligerent, and/or contentious behavior involving unlawful workplace harassment based on age, sex, race, color, national origin, religion, creed, sexual orientation, or handicapping condition. A hostile environment is determined by weighing the following factors:
 - a. whether the environment is objectively offensive in the eyes of a reasonable person;
 - b. whether the environment is subjectively offensive in the eyes of the person who is the object of the alleged harassment; and
 - c. the nature of the alleged hostility.

PROCEDURES AND APPEALS

- I. Any former employee, full-time or part-time employee with either a permanent, probationary, trainee, time-limited permanent or temporary

appointment who believes that he/she has been harassed or subjected to retaliation in the workplace must do the following in order to fully protect their rights:

- A. Submit a written complaint to Appalachian State University concerning the alleged harassing or retaliatory action. (Note: Employees subject to State Personnel Act must file a report of workplace harassment with their supervisor or the Equity Office within 30 calendar days of the alleged harassing action in order to fully protect their rights.)
 - B. Refer to the Policy Prohibiting Workplace Harassment for a complete description of the applicable policy and the procedures for making a complaint of workplace harassment.
- II. Any student who believes that he or she has been harassed by a fellow student may contact the Office of Student Judicial Affairs for more information about whether the behavior can be addressed through the Code of Student Conduct.
- A. The Office of Student Judicial Affairs is located in Room 221 of the Plemmons Student Union and can be reached at (828) 262-2704.
 - B. Any member of the University community may make an allegation of misconduct against a student. To be considered by the Office of Student Judicial Affairs, an allegation must be in writing, must include factual information supporting the allegation, and must be signed by the individual making the allegation.
 - C. The Office of Student Judicial Affairs will review and investigate reports and take further action, as provided by the Code of Student Conduct, when warranted. The Code addresses racial and sexual harassment, as well as other conduct that is disruptive to the mission of the University. The Code of Student Conduct can be found online at www.judicialaffairs.appstate.edu.
- III. Any student who believes that he or she has been harassed or subjected to retaliation by a member of ASU's faculty or staff should contact the ASU Equity Office at the following address:

Equity Office
Appalachian State University
123 I. G. Greer Hall
P.O. Box 32053
Boone, NC 28608
(828) 262-2144

- A. Equity Office personnel will inform students of Equity Office procedures and guidelines, and then listen, question, and attempt to determine what kind of resolution the student is seeking. Then, considering the student's desires and the information he or she has initially provided, the equity officer will discuss available and appropriate means to seek resolution.

- B. For additional detail, refer to the Equity Office's Problem Resolution information for faculty, staff, and students, available online at <http://www.equity.appstate.edu>

Effective March 17, 2004