



NORTH CAROLINA A&T STATE UNIVERSITY

**CHAPTER 200 - EQUAL OPPORTUNITY AND
NONDISCRIMINATION**

**UNIVERSITY POLICY 209, UNLAWFUL HARASSMENT AND
DISCRIMINATION**

SECTION 209.1 POLICY STATEMENT

North Carolina Agricultural and Technical State University (N.C. A&T or University) recognizes the rights of all members of the University community to learn and work in an environment free from unlawful harassment, discrimination, and retaliation. Unlawful harassment, discrimination, or retaliation by and against students, employees, or third parties 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 is prohibited.

SECTION 209.2 PURPOSE

The purpose of this policy is to provide a framework for reporting, investigating, adjudicating, and resolving unlawful harassment, discrimination, and retaliation for students and employees.

SECTION 209.3 SCOPE

This policy applies to all allegations of unlawful harassment, discrimination, and retaliation involving students, staff, faculty, former students and employees, applicants for employment, applicants for admission to the University, University officers, and third parties.

SECTION 209.4 DEFINITIONS

- (1) “Affirmative Action Officer” or “Equal Opportunity Officer” means the University official who is primarily responsible for evaluating and ensuring compliance with diversity laws and policies, investigating allegations of discriminatory conduct, and promoting inclusion, diversity, and equal educational and employment opportunities within the University community. The Director of the Employee Relations Office serves as the University’s Affirmative Action Officer.

- (2) “Bullying” means unwanted offensive and malicious behavior which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate, or demean the recipient. The behavior typically is severe or pervasive and persistent, creating a hostile work environment.
- (3) “Cyber-Bullying” means using technology to intentionally harm others through hostile behavior, as well as threatening, disrespectful, demeaning, or intimidating messages. This is bullying that occurs via the Internet, cell phones, or other electronic devices (e-mails, IMs, text messages, blogs, pictures, videos, postings on social media, etc.).
- (4) “Dating Violence” as defined in the Violence Against Women Act means violence committed by a person—
 - (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.
- (5) “Discrimination” means the unjust or prejudicial treatment of a person on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, age, disability, genetic information, pregnancy, veteran status, or political affiliation that may result in adverse consequences such as failure to hire or denial of admission to a program. Discrimination is not unlawful where gender, age, or physical requirements are bona fide job-related employment requirements.
- (6) “Domestic Violence” as defined in the Violence Against Women Act includes felony or misdemeanor crimes of violence committed by a current or former intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as an intimate partner, by a person who is treated like a spouse of the victim under the domestic or family violence laws of the state, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the state.
- (7) “Harassment” means verbal or physical conduct that unreasonably interferes with an individual’s work or academic performance or creates an intimidating or hostile work or educational environment.
- (8) “Hostile Environment” exists when the sexual or gender harassment or discrimination is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University’s education

or employment programs and/or activities. Conduct must be severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:

- (a) The frequency, nature and/or severity of the conduct;
 - (b) Whether the conduct was physically threatening;
 - (c) The effect of the conduct on the Complainant's mental or emotional state;
 - (d) Whether the conduct was directed at more than one person;
 - (e) Whether the conduct arose in the context of other discriminatory conduct;
 - (f) Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
 - (g) Whether the conduct implicates concerns related to academic freedom or protected speech.
- (9) "Intimidation" means engaging in actions that include behavior intended to frighten, coerce, or induce duress.
- (10) "Prohibited Conduct" for purposes of Title IX and this policy means conduct that satisfies one or more of the following:
- (a) A student, employee, or third party conditioning the provision of an aid, benefit, or service on another student's employee's, or third party's participation in unwelcome sexual conduct ("quid pro quo" sexual harassment);
 - (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity at N.C. A&T (including employment);
 - (c) Sexual assault as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act," specifically 20 U.S.C. 1092(f)(6)(A)(v));
 - (d) Sexual Exploitation;
 - (e) Dating violence as defined in Violence Against Women Act ("VAWA," specifically 34 U.S.C. 12291(a)(10));
 - (f) Domestic Violence as defined in VAWA (34 U.S.C. 12291(a)(8));
 - (g) Stalking as defined in VAWA (34 U.S.C. 12291(a)(30));
 - (h) Bullying (including cyber-bullying);
 - (i) Property Damage (public or personal);
 - (j) Intimidation;
 - (k) Threats;
 - (l) Retaliation; or
 - (m) Other discriminatory and harassing conduct.
- (11) "Property Damage" means intentional damage to property and includes property owned by the State or University, students, employees, or third parties.
- (12) "Public Property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the

facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

- (13) “Quid Pro Quo” is a Latin term that means “something for something.” Quid pro quo harassment occurs when a manager, instructor, or other authority figure offers or merely hints that he or she will give the employee or student something (i.e., a raise, a promotion, better grade, better assignments) in return for that employee’s or student’s satisfaction of a sexual demand. This also occurs when the other authority figure says he or she will not reprimand an employee or student in exchange for some type of sexual favor. Job applicants or applicants for admission to the University may be subject to this kind of harassment if the hiring or admission decision was based on the acceptance or rejection of sexual advances.
- (14) “Retaliation means” any adverse action taken against a person for making a good faith report of harassment or discrimination or participating in any investigation or proceeding related to a claim of harassment or discrimination. Retaliation includes threatening, intimidating, harassing, coercing, discriminating, or any other conduct that would discourage a reasonable person from testifying, or participating in any way in an investigation, proceeding, or lawsuit related to allegations of discrimination or harassment based on race, color, national origin, religion, sex, sexual orientation, gender identity, age, disability, pregnancy, genetic information, or veteran status, or because of opposition to unlawful employment or educational practices.
- (15) “Sexual Assault” as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation including:
 - (a) Rape, defined as the carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
 - (b) Sodomy is oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
 - (c) Sexual Assault With An Object, defined as the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her youth or because of age or because of temporary or permanent mental or physical incapacity;
 - (d) Fondling, defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the person, including instances where the victim is incapable of giving consent because of his/her youth or because of age or because of temporary or permanent mental or physical incapacity;
 - (e) Incest, defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
 - (f) Statutory Rape, defined as non-forcible sexual intercourse with a person who is under the statutory age of consent.

- (16) “Sexual Exploitation” means purposely or knowingly doing any of the following:
- (a) Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give affirmative consent to sexual activity;
 - (b) Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or streaming of images);
 - (c) Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);
 - (d) Recording or photographing private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts or buttocks) without consent;
 - (e) Disseminating or posting images of private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts or buttocks) without consent;
 - (f) Prostituting another person; or
 - (g) Exposing another person to a sexually transmitted infection without the other’s knowledge.
- (17) “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:
- (a) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
 - (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).
- Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise.
- (18) “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact, in order to engage in stalking behaviors.
- (19) “Third Party” means a person who is not a University student or employee.
- (20) “Threat” means the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the

present ability to carry it out and without regard to whether the expression is contingent, conditional, or future.

- (23) (21) “Title IX Coordinator” means the University official who is primarily responsible for coordinating the University’s responses to complaints involving sexual harassment or sex discrimination. The Title IX Coordinator will be informed of all reports of sexual or gender-based harassment and violence, stalking, and intimate partner violence, and will oversee the University’s review, investigation, and resolution of those reports.
- (22) “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:
- enduring the offensive conduct becomes a condition of continued employment; or
 - the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

SECTION 209.5 CONFIDENTIALITY

The University will maintain the confidentiality of the complaint, and the privacy of the persons involved to the greatest extent possible, consistent with its goal of conducting a thorough and complete investigation, ensuring fairness and equity, and to the extent permitted by law. Any person who reveals confidential information under this policy may be subject to disciplinary action. Disclosure of the content of complaints will be made on a “need to know” basis, depending on the type of investigation and remedial action required, if any.

SECTION 209.6 COMPLAINT AND INVESTIGATION PROCESS

Section 209.6.1 Complaints

Any student, employee, or third party who believes that they have been subject to unlawful discrimination, harassment (including sexual/gender harassment), or retaliation, or any student, employee, or third party who has witnessed such discrimination, harassment or retaliation should immediately report the circumstances. Reports may be made at any time, including during non-business hours.

The University may investigate any conduct that violates this policy, even in the absence of a formal complaint, and take remedial action where appropriate.

Section 209.6.1.1 Division of Human Resources

- Submit reports to the Affirmative Action Officer on the Division of Human Resources website: https://hub.ncat.edu/files/administrative/discrimination_complaint_form.pdf;
- Telephone: 336-334-7862

- Email: HR@ncat.edu
- In-person: 1020 East Wendover Ave., Suite 109 during regular business hours
- Mail: North Carolina A&T State University
Division of Human Resources
1020 East Wendover Ave.
Greensboro, NC 27405

Section 209.6.1.2 Title IX Office

Reports involving sexual or gender-based harassment or discrimination, sexual violence, stalking, and intimate partner violence in violation of [University Policy 207, Title IX Sex-Based Misconduct](#), or this policy may be made to the Title IX Coordinator:

- Submit a report on the Title IX website: <https://www.ncat.edu/legal/title-ix/how-to-report.php>;
- Telephone: 336-285-3770 or 336-500-1803;
- Email: TitleIX@ncat.edu; or
- In-person: Dowdy Administration Building, Suite 422 during regular business hours
- Mail: North Carolina A&T State University
Title IX Office
1601 East Market Street
Greensboro, NC 27411

Section 209.6.1.3 University Police Department

- Submit a report on the UPD website: <https://www.ncat.edu/campus-life/university-police-department/complaint-form.php>;
- Telephone: 336-334-7128;
- 24-Hour Emergency Telephone: 336-334-7675;
- Anonymous Tip Line: 336-334-7879;
- Email: UPD@ncat.edu; or
- In-person: 406 Laurel Street/Ward Hall

Section 209.6.1.4 Office of the Dean of Students

- Submit a Student Conduct Incident Report Form: https://cm.maxient.com/reportingform.php?NorthCarolinaAT&layout_id=3;
- Telephone: 336-334-7791
- Email: studaff@ncat.edu
- In-person: Murphy Hall, Suite 205 during regular business hours

Section 209.6.1.5 Other University and Local Officials

Any student, employee, or third party may also complain to any of the offices or individuals listed below:

- Members of the Chancellor's Cabinet;
- Administrators (including coaches, deans, department chairs, instructors);
- Any manager;
- Any supervisor;
- Resident Assistant; or
- Local law enforcement officer.

Section 209.6.2 Investigation

- (a) The Affirmative Action Officer or designee shall make every effort to complete a thorough and impartial investigation of the complaint within 60 calendar days of receiving the complaint.
 - (1) The investigator may find it necessary to extend the time for completing an investigation in some circumstances.
 - (2) The investigator will provide the parties and the business unit head with notice of any extension and give them a new timetable for completing the investigation.
- (b) Where a complaint alleges a potential violation of this policy, the investigation will include separate interviews of the parties, as well as the person who made the initial report, if different from one of the parties.
 - (1) The investigator shall also interview any other person who may have information regarding the incident, all of whom are expected to cooperate with any investigation.
 - (2) The investigator shall also review relevant documents and give both parties an opportunity to be heard and present information.

Section 209.6.3 Investigative Report

- (a) Upon completion of the investigation, the Affirmative Action Officer shall provide a written report of key evidentiary findings and conclusions to the applicable Vice Chancellor or Cabinet member, and relevant managers, supervisors, or administrators, as appropriate.
- (b) The report will include a determination, under a preponderance of the evidence standard, as to whether a policy violation occurred.
 - (1) The report shall include the Affirmative Action Officer's recommendation regarding what corrective action should be taken, if any, including appropriate disciplinary action.
 - (2) The applicable Vice Chancellor and relevant managers and supervisors shall be responsible for determining what, if any, disciplinary action will be imposed.
- (c) The Affirmative Action Officer shall provide written notice to complaining individuals and accused or responding individuals, which shall include the final determination as to whether a policy violation occurred, and the appeal rights of each person.

SECTION 209.7 APPEAL AND GRIEVANCE PROCESS

Section 209.7.1 Appeal of Affirmative Action Officer's Determination

- (a) Complaining or responding individuals may file a written appeal the Affirmative Action Officer's findings and conclusions within fifteen (15) calendar days of receipt of the Affirmative Action Officer's written notice of the final determination as to whether a policy violation occurred. Written appeals must:
- Clearly state the basis for the appeal;
 - Be directed to: Vice Chancellor for Human Resources
North Carolina A&T State University
1020 East Wendover Ave.,
Greensboro, NC, 27405
- (b) The Vice Chancellor for Human Resources shall respond to any appeal of the Affirmative Action Officer's determination within thirty (30) calendar days of receipt of the appeal, and may uphold, overturn, or modify the findings and conclusions. No further appeal by either party of the Affirmative Action Officer's or Vice Chancellor for Human Resources' findings and conclusions shall be permitted.

Section 209.7.2 Discipline and Grievance

Individuals found to have violated this policy may grieve any action taken against them in accordance with the applicable grievance process below. If the complaining individual or responding individual files an appeal of the Affirmative Action Officer's determination, the appeal rights and applicable grievance policy shall be set forth in the Vice Chancellor's decision letter:

- (a) If the responding individual is a student, or both a student and less than full-time employee, the matter will be conducted in accordance with the applicable University grievance process for students.
- (b) If the responding individual is a full-time employee, or both a full-time employee subject to the State Human Resources Act (SHRA) and less than full-time student, the matter will be conducted in accordance with the applicable University's SHRA grievance process.
- (c) If the responding individual is a full-time non-faculty employee, or both a full-time non-faculty employee exempt from the State Human Resources Act (EHRA) and less than full-time student, the matter will be conducted in accordance with the applicable University and EHRA non-faculty employee grievance process.
- (d) If the responding individual is a faculty member, the matter will be conducted in accordance with the faculty grievance process.
- (e) If there is a question as to the responding individual's relationship with the University, the Vice Chancellor for Student Affairs or designee, and the Vice Chancellor for Human Resources or designee shall work collaboratively to determine the responding individual's relationship with the University and applicable grievance process.

SECTION 209.8 RETALIATION PROHIBITED

Retaliation against anyone who complains of, testifies in, or assists in an investigation or proceeding involving discrimination, harassment (including Title IX sexual/gender harassment, sexual assault, or intimate partner violence), or retaliation violates this policy, as well as federal and state law. Any act of reprisal or retaliation, including interference, restraint, coercion, penalty, discrimination, or harassment, whether overt or covert, against a student, employee, or third party for making a good faith report under this policy violates this policy. Anyone who believes they have been subjected to retaliation should report the matter immediately according to the procedure provided in this policy for making complaints of discrimination or harassment.

SECTION 209.9 COMPLIANCE

In implementing this policy, the University is guided by federal and state laws, including Title VII of the Civil Rights Act of 1964 that prohibits discrimination in employment based on certain specified characteristics, and Title IX of the Education Amendments of 1972 which prohibits sex-based discrimination in any school or education program that receives federal funding. To encourage disclosure, the University shall promptly investigate all complaints of harassment, discrimination, or retaliation and take disciplinary action as appropriate. Violations of this policy may lead to disciplinary action, civil liability, and/or criminal charges.

SECTION 209.10 RELATIONSHIP TO OTHER LAWS AND POLICIES

- Nothing in this policy is intended to: (1) restrict any rights that would otherwise be protected from government action by the First Amendment of the United States Constitution; (2) deprive a person of any rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution; or (3) restrict any other rights guaranteed against government action by the United States Constitution.
- Reports of discrimination or harassment may be prohibited by other policies, including but not limited to [University Policy 207, Title IX Sexual Misconduct](#).
- Nothing in this policy should be read to deprive any person's rights under [Title VII of the Civil Rights Act of 1964](#), 42 U.S.C. § 2000e *et seq.* or any resulting regulations.

POLICY HISTORY:

Eff. August 27, 2018

Revised Eff. October 11, 2021

AUTHORITY: Board of Trustees

POLICY OWNER: Vice Chancellor for Human Resources

RESPONSIBLE OFFICE: Affirmative Action Office

RESOURCES:

University Policy 160, EHRA Non-Faculty Grievance

University Policy 170, Faculty Grievance

[University Policy 207, Title IX Sex-Based Misconduct](#)

University Policy 204, [Equal Opportunity and Non-Discrimination](#)

University Policy 402, Campus Violence

[SHRA Employee Grievance Policy-University](#)

[UNC Code Chapter I § 103, Equal Opportunity in the University](#)

[UNC Policy Manual Chapter VI, Academic Freedom and Tenure](#)

[UNC Policy Manual Chapter 700 § 704.2, Policy on Student Conduct](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*](#)

[Title IX Regulations \(May 19, 2020\)](#)