

APPENDIX K

SEXUAL HARASSMENT PREVENTION PLAN

POLICY STATEMENT

SEXUAL HARASSMENT - POLICY OF THE STATE OF NORTH CAROLINA

The policy of the State of North Carolina is that no state employee may engage in conduct that falls under the definition of sexual harassment indicated below. Personnel decisions shall not be made on the basis of granting or denial of sexual favors. All employees are guaranteed the right to work in an environment free from sexual harassment. Sexual harassment shall henceforth be deemed a form of sex discrimination prohibited by North Carolina General Statutes 126-16.

Sexual harassment is defined as deliberate, unsolicited, and unwelcome verbal and/or physical conduct of a sexual nature with sexual implications by a supervisor or co-worker which: 1) has or may direct employment consequences resulting from the acceptance or rejection of such conduct; 2) creates an intimidating, hostile or offensive working environment; or 3) interferes with an individual's work performance. Sexual harassment does not include personal compliments welcomed by the recipient, or social interaction or relationships freely entered into by state employees or prospective employees.

STATEMENT FROM THE CHANCELLOR

UNCP POLICY PROHIBITING SEXUAL HARASSMENT

The University of North Carolina at Pembroke is committed to providing a place where employees and students can work and study without concerns about sexual harassment. As Chancellor, I take this commitment seriously and affirm my support of the **UNCP Policy Prohibiting Sexual Harassment**. I ask for your continued support of our efforts to educate the university community about sexual harassment and to eliminate its presence on the UNCP campus.

The University of North Carolina at Pembroke POLICY PROHIBITING SEXUAL HARASSMENT

The University of North Carolina at Pembroke is committed to ensuring an environment for all students and employees which is fair, humane and respectful. The University supports and rewards student and employee performance on the basis of relevant considerations such as ability and effort. Any behaviors which indicate that sexuality is a relevant criterion for evaluating student or employee performance are detrimental to the work/study environment. Sexual harassment by any member of the University is a violation of both law and University policy, and it will not be tolerated in the University community. Sexual harassment is a particularly sensitive issue and as such will be dealt with **promptly and confidentially** by the University administration.

Definition (from the EEOC Interpretive Guidelines on Discrimination Because of Sex Under Title VII)

"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 or academic advancement, or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual, or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment."

Harassment of employees on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Acts of 1964. Harassment of students is a violation of Section 902 of Title IX of the Education Act of 1972. Sexual harassment is also prohibited by North Carolina General Statutes 126-16.

Examples of behaviors which may constitute sexual harassment include (but are not limited to):

Verbal - sexual innuendo or suggestive comments; inappropriate jokes about sex or gender-specific traits; demeaning references to gender; unwelcome emphasis on an individual's sexual identity; offensive written communications, including sexual propositions, insults or threats; persistent, unwanted attempts to turn a professional relationship into a personal one;

Nonverbal - leering, suggestive or offensive gestures or sounds; showing of materials that are either sexual or sexist in nature; and

Physical - touching (for example, brushing, patting, pinching); sexual relations coerced through the use of threats or quid pro quo proposals (either explicit or implicit).

Statement of Policy

The University of North Carolina at Pembroke prohibits sexual harassment among any members of the university population. Sexual conduct is considered harassment if it is tied in any way to decisions about academic success or personal advancement; or if it suggests a "discriminatory hostility" towards any person based on gender.

The University of North Carolina at Pembroke's policy seeks to address sexual harassment which results from one person's insensitivity to another as well as harassment which is more obviously abusive. Therefore, the goals of the policy are to promote public awareness and education; to provide mechanisms to deal promptly and fairly with problems; and to protect the rights of both the complainant and the accused.

Sexual harassment, in both obvious and subtle ways, may profoundly affect the lives of individuals. A person who is subjected to unwanted sexual attention may submit to this behavior out of fear of retaliation or reprisal or may withdraw from a course or resign from a job as a result. Through its sexual harassment policy procedures, The University of North Carolina at Pembroke seeks to provide alternative means of problem resolution. In some cases a person may not be aware that his or her behavior is inappropriate or offensive, or a person's words or actions may be misinterpreted. In either case, these misunderstandings must be resolved so that they do not interfere with educational or administrative processes.

Sexual harassment often occurs in situations in which one person has power or authority over another (faculty-student, supervisor-staff, administrator-faculty). It can also occur among peers (student-student, staff-staff, faculty-faculty, etc.). Sexual harassment may involve members of the opposite sex or members of the same sex. Sexual relationships between faculty and students or supervisors and staff involve power differentials. Consequently, if a charge of sexual harassment is brought as a result of faculty-student or supervisor-staff relationships, the defense of mutual consent may be difficult to prove given this power differential.

It is also possible that unfounded allegations of sexual harassment may be made: such charges are slander or libel. The University does not condone either sexual harassment or unfounded charges of sexual harassment.

PROCEDURES

There are three types of procedures for dealing with problems of sexual harassment. They are counseling, mediation and formal grievance. These procedures are not sequential; that is, a complainant may enter or leave the process at any stage.

Sexual Grievance Advisors are available for the counseling and mediation steps. These Advisors are faculty and staff members who are known to be able to maintain confidentiality, who are familiar with laws and policies concerning sexual harassment, and experienced in counseling or advising. Their names, telephone numbers and office locations will be widely publicized each year.

Counseling. Advisors will be available to listen empathetically and provide emotional support to complainants. The Advisors will also help to determine if the behavior of the accused person is indeed sexual harassment.

Mediation. At the request of the complainant, an Advisor will discuss the problem with the accused.

The goal of mediation, through counseling and education, is to persuade the accused to discontinue the harassing behavior. An equally important goal is to prevent retaliation against the complainant (for example, in grades, salary, promotion).

A written record of the mediation effort will be kept in a strictly confidential file by the University Affirmative Action Officer. The accused person may also submit a statement to become a part of the record. If a pattern of behavior on the part of an individual is observed, then disciplinary action may be taken even if complaints against that individual have been resolved through mediation.

If the complaint cannot be satisfactorily resolved by mediation, then a formal grievance may be filed. Using the informal procedure of mediation does not in any way preclude the filing of a formal grievance.

Formal Grievance Procedures

A formal grievance may be filed as a first step by a complainant in seeking redress in a case of sexual harassment or after the mediation process has been attempted. Disciplinary action may range from a written reprimand to other actions such as suspension or even dismissal.

The procedures to be followed in filing a grievance will differ depending on the classification or level of the members of the university community involved in the grievance.

If the complainant is a student, procedures outlined in the **Student Sexual Harassment Grievance Procedures** policy shall apply.

If the grievance involves only faculty members, the Faculty Grievance Committee will have jurisdiction.

If the grievance involves only SPA employees, the SPA Employees Grievance Committee will have jurisdiction.

If the grievance involves only EPA non-faculty employees, the Chancellor will appoint a special hearing committee.

If the grievance involves members of different factions of the university community, the Chancellor will appoint a hearing committee consisting of six members to represent fairly the parties to the grievance. The Chancellor will appoint the chair of the committee.

A petition for redress of grievance should be submitted to the chair of the appropriate committee (Campus Hearing Board, Faculty Grievance Committee or SPA Employees Grievance Committee) when the parties to the grievance are from the same constituency; or to the Vice Chancellor (for Academic Affairs, Business Affairs or Student Affairs) appropriate to the status of the grievant when the status of the parties to the grievance differs. The Chancellor will be notified at this stage if a special committee needs to be formed.

The grievance petition should set forth the nature of the grievance and the individual against whom the grievance is directed; the grounds upon which the grievance is based; affirmation that attempts to resolve the grievance through mediation have failed when such attempts have been made; and any other information that the petitioner considers pertinent to the case.

Sanctions against persons guilty of sexual harassment may include, but are not limited to a written reprimand which becomes a part of the record, suspension, or dismissal. Recommendations for sanctions are made by the committee hearing the complaint. The final determination of disciplinary action rests with the Chancellor.

SEXUAL ASSAULT POLICY

Philosophy

The University of North Carolina at Pembroke is committed to providing a safe and secure environment for students. To this end, the University recognizes the importance of its role in assisting a student who is a victim of sexual assault in regaining a sense of personal control over his/her life and the decisions he/she makes.

Procedures for Victims Alleging Sexual Assault

A student who is a victim of sexual assault should immediately report those offenses to the proper authorities (Campus Police or local law enforcement agency). The well being of a student who has been sexually assaulted is a vital priority. The sooner a sexual assault is reported, the sooner the victim can be treated and tested for pregnancy and sexually transmitted diseases. A victim of sexual assault is reminded to go to a safe place. It is very important to preserve all physical evidence; therefore, the victim should not bathe, shower, douche or change clothes. This evidence is extremely important if the case goes to court. Calling a friend, family member and/or rape crisis companion to be with the victim for emotional support is encouraged. The University (Student Health Services or Campus Police) will provide transportation to the hospital emergency room. A victim of sexual assault should certainly seek the service of the University Counseling Center or a local rape crisis center. They have trained professionals who can help the victim and his/her family members deal with the aftermath of the assault.

Services to Victims

A survivor/victim of a sexual assault will be provided with support throughout the process of his/her deliberating whether or not to formally report the crime, have a medical examination, change his/her room assignment or class schedule, seek professional counseling, change availability of directory information, etc. This support will be provided by certain University agencies/disciplines that have been identified as available for assistance to a victim of sexual assault. Further, these University agencies will be available to inform the victims of other resources and service providers in the local community.

Rights of Alleged Assailants

Any student enrolled at UNCP who is accused of sexual assault will be afforded full procedural due process in the investigation and adjudication of his/her case. This shall include the right to the presumption of innocence until proven guilty and the privilege against self-incrimination.

UNCP Student Code of Conduct

A UNCP student who has been victimized by sexual assault may seek redress through the campus judicial system if the accused is also an enrolled student at the University. Such redress may be in conjunction with or in place of pressing charges in the court system. In order to cite a student internally for sexual assault, the victim should report the offense to the Vice Chancellor for Student Affairs or his/her designee. Once the report is made, an investigation will be initiated by the Vice Chancellor for Student Affairs. The Campus Judicial Board will be convened in cases where the accused denies the charges. The victim will be required to appear before the Campus Judicial Board and to testify against the alleged assailant. Both students may have a friend/advisor from the campus community present with them throughout the hearing process and may present witnesses on their behalf. Immediate suspension of the accused student will occur if the Vice Chancellor for Student Affairs concludes that the person's continued presence at the University would constitute a clear and present danger to the health or welfare of other members of the University community. When such a suspension is imposed, a hearing of the charges against the suspended person shall be held as expeditiously as possible.

The penalty for a student found guilty of sexual assault will at minimum be conditional probation, with the maximum penalty being suspension or expulsion from the institution. In severe cases involving forced rape and/or physical injury involving a weapon, the penalty will be expulsion. The severity of the offense and the potential for subsequent harm to the victim/survivor or the community at large weigh heavily in sanctioning actions taken in such cases. The victim's/survivor's identity and all information concerning the offense are held in strict confidence by hearing authorities under the guidelines of FERPA. However, the University cannot guarantee confidentiality.

Room and Class Change Options

A survivor/victim of a sexual assault may request an immediate room change from the Director of Residence Life if he/she feels threatened or compromised at his/her current residence. A room change will be approved if alternative space exists. The student may also request a lock change and new telephone number if the assailant had knowledge or previous access to those items. The victim may also file a request form in the Registrar's Office to remove his/her directory information from public access.

A survivor/victim of a sexual assault may also request the Provost and Vice Chancellor for Academic Affairs to change his/her class schedule. Such requests will be honored when multiple sections of classes are available. Every effort will be made by the University to make the victim feel cared for and safe.