

	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

- (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

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

- 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.

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)

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

- 0 Tw 4.tate

