

CATAWBA COLLEGE SEXUAL HARASSMENT POLICY AND APPEALS PROCEDURES

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Sexual Harassment Policy for Faculty, Staff and Students:

The Catawba College community values a positive community environment of tolerance, civility, and mutual respect. The College is committed to providing and promoting an atmosphere in which faculty and staff can realize their maximum potential in the workplace and students can engage fully in the learning process. Sexual harassment creates an environment incompatible with its values, is a form of discrimination, and can be illegal. Sexual harassment is unacceptable conduct and will not be condoned in any form at the College.

What Is Sexual Harassment?

"*Sexual harassment*" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature, when:

- * Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity;
- * Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals; or,
- * Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from an educational program or activity.

By way of example, **sexual harassment** can include:

- * sexual innuendoes, "off-color" jokes, sexually-suggestive comments;
- * offensive remarks about another person's clothing, body, or sexual characteristics;
- * suggestive or insulting sounds;
- * implied or overt sexual propositions, or pressure for sex.
- * leering or ogling;
- * obscene gestures;
- * physical intimidation, e.g., blocking, cornering, leaning too close;
- * inappropriate touching, fondling or kissing;
- * coerced sexual contact;
- * placing sexually-suggestive objects, pictures or cartoons in the work or study area.

Sexual harassment can be perpetrated upon members of the opposite gender or one's own gender. Occasional compliments of a socially acceptable nature do not normally constitute sexual harassment. Similarly, depending upon the circumstances (including the nature of course materials or the context of an action), not all verbal or physical conduct will be considered sexual in nature.

The academic setting is distinct in the workplace and the College will maintain and encourage academic freedom. Academic setting will be considered in regard to complaints in the teaching context and to be sexual harassment such behavior must be persistent, pervasive and not germane to the subject matter.

Incidents of actual or attempted sexual assault or rape may be considered sexual harassment but are typically of a much more serious nature and so should warrant more appropriate actions (e.g., bringing criminal charges, reporting to the Office of Public Safety) than this policy provides for and other policies (e.g., Sexual Assault Student Policy¹) may be applicable.

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1. From the site index on the Catawba Web page: STUDENT LIFE & ACTIVITIES\ CONDUCT\STUDENT CONDUCT WEBPAGE\Catawba College Student Handbook and Planner
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Harassment Complaints

Catawba College encourages any person who feels he or she has been sexually harassed to take informal or formal steps to deal with sexual harassment. Complaints may be resolved through an informal or formal process as described below. Informal means are encouraged as the beginning point, but the choice of where to begin rests with the complainant. Among the informal steps that may be taken to deal with sexual harassment are:

- * Clearly say "NO" to the person whose behavior is unwelcome.
- * Communicate either orally or in writing with the person whose behavior is unwelcome. The most useful communication will have three parts:
 - a. A factual description of the incident(s) including date, time, place, and specific action.
 - b. A description of the writer's feelings, including any consequences of the incident.
 - c. A request that the conduct cease. Frequently such a communication will cause the unwelcome behavior to stop.
- * Speak with the supervisor, department chair, dean, director, academic advisor, or a faculty member who may speak to the person whose behavior was unwelcome. The name of the complainant need not be disclosed. The purpose for such conversation is cessation of the unwelcome behavior.
- * Contact the appropriate College official listed below to facilitate a meeting with the alleged harasser.

If the informal process does not resolve the complaint to the complainant's satisfaction, or if the complainant prefers, the complainant may begin the formal process. The first step in the formal process to deal with a sexual harassment complaint is for the complainant to file a written report of the incident to the appropriate College official. Any student, faculty member, or staff employee who knows of, receives information about, or receives a complaint of sexual harassment should report the information or complaint to the Human Resources Officer in a timely manner. The College also reserves the right to act as "complainant" and institute formal proceedings.

| <u>If the alleged harasser is:</u> | <u>Report the harassment to:</u> |
|-------------------------------------------|-----------------------------------------------------------|
| Student | Dean of Students or H.R. Officer |
| Staff | H.R. Officer or Vice President for Finance |
| <u>If the alleged harasser is:</u> | <u>Report the harassment to:</u> |
| Faculty Member | Provost or Human Resources Officer |
| H.R. Officer | Vice President for Finance or President of College |
| Other (vendor, guest) | Human Resources Officer or Vice President for Finance |
| Vice President | Human Resources Officer or President of the College |
| President of the College | Human Resources Officer or Chair of the Board of Trustees |

The College's Human Resources Officer is responsible for coordinating the College's efforts to comply with and carry out its responsibilities with respect to sexual harassment complaints. If an employee or student has any questions about how to file a sexual harassment complaint, he/she should contact the Human Resources Officer or the appropriate official listed above.

Investigation And Resolution

The appropriate College official contacted or his/her designee(s) will conduct the investigation with the Office of Human Resources. The investigation will include interviews of the complainant, the alleged harasser, and other persons believed to have knowledge of the allegations as well as a review of any other information pertinent to the allegations. The alleged harasser will be afforded an opportunity to respond to the allegations. Investigations of formal complaints should be concluded within twenty (20) calendar days after they are made. When it is not reasonably possible to conclude the investigation within that amount of time, the Office of Human Resources will notify the complainant and the alleged harasser in writing of the delay and the reasons for the delay.

Additionally, a complainant may elect to withdraw a complaint at any time. However, the College reserves the right to complete the investigation of all complaints where it deems necessary to protect the interests of the College and the community.

The Human Resources Officer will maintain a record of the final disposition of ALL formal complaints, even when such investigations result in a finding of no harassment or insufficient information to find a violation of this policy.

No Retaliation

It is a violation of this policy to retaliate against a person for complaining of alleged harassment, or for assisting, participating, or cooperating in an investigation of sexual harassment. When a member of the College community believes retaliation has occurred, the complainant may bring a complaint under this policy. The College also has the right to make such a determination on its own. Retaliation is a basis for corrective or disciplinary action.

Confidentiality

The College will make reasonable efforts to keep all information relating to sexual harassment allegations and investigations confidential on a "need-to-know" basis, to the extent consistent with the College's legal obligations, the need to investigate allegations of sexual harassment, and the need to take corrective and/or disciplinary action. Any person who violates provisions of this policy including confidentiality provisions will be subject to disciplinary and/or corrective action.

Corrective And/Or Disciplinary Action

Following the College's investigation of any alleged sexual harassment, the College will determine the appropriate corrective or disciplinary action. This may result in immediate sanctions, up to and including termination of employment for employees and immediate dismissal from the College for students if they are determined to have engaged in sexual harassment. Conduct approaching sexual harassment may also result in corrective and/or disciplinary action. For faculty members with continuous tenure, any decision to terminate shall then follow procedures for termination with adequate cause.

The President of the College, or his/her designee, may impose a summary suspension prior to the resolution of the informal or the formal proceedings. A summary suspension may be imposed when, in the judgment of the President, the accused individual's presence on campus would constitute a threat to the safety and well-being of the members of the College community. During the summary suspension, the accused individual will not be permitted on College property without the approval of the President of the College.

Improper Complaints

This policy shall not be used to bring frivolous or malicious complaints against anyone. Making a knowingly false complaint subjects the complainant to disciplinary or corrective action. However, failure to prove a claim of sexual harassment does not constitute proof of a false and/or malicious accusation.

The Appeal Process: Sexual Harassment Grievance Committee

In the event a person is found in violation of this, he or she may appeal the decision and/or the sanction. Such appeal must be made within ten (10) days of notice of that decision and/or sanction. Such appeal must be made in writing and submitted to the Chair of the Sexual Harassment Grievance Committee.

The Sexual Harassment Grievance Committee will be comprised of:

- * Two students² recommended by the President of the Student Government Association, or the Dean of Students.

2. The student representatives will serve on the Committee only when a student is involved in the sexual harassment case being heard.

- * Two representatives of the College staff appointed by the President of the College.

- * Two representatives of the College faculty appointed by the Provost.

- * The Human Resources Officer shall serve in an ex officio (non-voting) capacity.

- * The Provost and the Dean of Students or their designees.

- * The Secretary of the Sexual Harassment Grievance Committee shall be the Administrative Assistant assigned to the Provost's Office.

The Chair of the Committee shall be approved by majority vote by the committee members.

Sexual Harassment Grievance Committee Procedures:

a. Confidential notice in the form of the written appeal will be provided to the Committee and the alleged harasser and complainant. The date and time of the hearing will be provided to all persons involved (alleged harasser, complainant, committee members, and any witnesses such as the investigators of the formal complaint).

b. A verbatim record of the hearing including documentary or other evidence, but not the deliberation, will be made and kept secure and confidential as College property in the Human Resources office for a period of no less than three years.

c. All parties will be afforded an opportunity to obtain and present necessary witnesses and documentary or other evidence. Neither the alleged harasser nor the complainant may be represented by legal counsel at the hearing. A member of the College community (any non-lawyer faculty, staff or student being otherwise uninvolved in the matter) may attend at the request of a party but may not speak or participate directly in the appeal. If a

committee member investigated the complaint being appealed, or otherwise was involved in the matter in a manner that makes it difficult to be impartial, he or she will not participate in Committee deliberations or vote but shall be available to testify.

d. All parties will have the right to raise questions to the Committee to be asked of witnesses including other parties. The Committee will not be bound by strict rules of legal evidence and may hear any evidence that it deems of probative value in determining the issues involved. Decisions about procedural questions are subject to final decision by majority of the Committee. Every effort will be made to keep said evidence confidential within the proceedings. Committee decisions are determined by consensus when possible; otherwise, a simple majority rules.

e. The Sexual Harassment Grievance Committee will make findings about the appropriateness of the decision and/or sanctions and, if it determines sanctions should be different, it will provide a clear and specific list of charges and recommended sanctions in a report to the President of the College. This will stand as the College's final decision unless timely appeal is made per the procedures below.

All steps of inquiries into complaints by the Sexual Harassment Grievance Committee will be closed and will be confidential. All members of the committee, the complainant, the alleged harasser, and all other parties involved in the hearing will be reminded of their obligation to maintain confidentiality of the complaint and evidence presented at the hearing.

The Committee may affirm the prior decision and/or sanctions, remand the matter for further investigation as to specific matters or reverse the prior decision.

Right To Appeal

The complainant and the harasser shall have the right to appeal the decision of the Sexual Harassment Grievance Committee to the President of the College if either party feels the actual process identified in this document has been violated or disagrees with the sanctions. In exercising the right of appeal to the President of the College, a written appeal must be made within ten (10) days after written notification of the decision being appealed. The President of the College may receive additional information if he/she believes the information will aid in the decision. A decision will be made within ten (10) days. The complainant and the harasser will be notified of the decision. The decision of the President of the College will be final. During the time of appeal and review by the President of the College, disciplinary action recommended as a result of the original complaint will not be implemented and/or enforced.