

Harassment Policy

1. Purpose

This policy is established to prevent harassment of the employees and the students of NorthWest Arkansas Community College.

2. Policy

NorthWest Arkansas Community College does not tolerate any form of harassment related to a person's race, color, sex, religion, national origin, age, or disability, whether it is harassment of:

- An employee by another employee.
- A student by another student.
- An employee by a student.
- A student by an employee.
- An employee by a non-employee/non-student
- A student by a non-employee/non-student.

It is the goal of this policy to stop harassment before it becomes actionable harassment. Therefore, all unwanted, unwelcome, or offensive conduct related to a person's race, color, sex, religion, national origin, age, or disability is prohibited even though the conduct does not arise to the level of creating a tangible job detriment for an employee being harassed or a tangible educational detriment for a student being harassed.

The college shall take all reasonable steps to stop all forms of harassment brought to the college's attention and to protect the person being harassed from further harassment or retaliation. If an employee or student engages in harassment, he or she will be subject to discipline up to and including termination. If a non-employee/non-student engages in harassment, then the right of such non-employee/non-student to come onto college property may be limited or terminated.

It is the express duty of all supervisory employees of the college to report all observed conduct which appears to constitute harassment of an employee or student. However, any employee or student may report harassment.

No supervisory employee of the college may have a dating or romantic relationship with any college employee over whom he or she has direct or indirect supervision without first doing the following.

- a) Reporting such intention to have a dating or romantic relationship to his or her supervisor
- b) Signing an agreement by both the supervisor and the subordinate that they are voluntarily entering into the dating or romantic relationship which agreement shall be a form agreement prepared by the college administration for such purposes.

3. Definition

Harassment is generally defined as any unwanted, unwelcome, or offensive conduct related to a person's race, color, sex, religion, national origin, age or disability that is offensive, disparaging, or degrading to the person or which makes the person's work or education environment hostile.

Sexual harassment may include a wide range of behaviors from the actual coercing of sexual relations or favors to the forcing of sexual attention such as sexist comments or jokes, including verbal, written or physical conduct, on an unwilling person, whether male or female. Harassment does not have to be sexual in nature in order to be a sexual harassment if the harassment is based on the person's gender.

Harassment on the basis of race, color, religion, national origin, age, or disability (i.e. all forms of harassment other than sexual harassment.) may include, but is not limited to, slurs, jokes, and other verbal, written or physical conduct.

It is the express policy of the NorthWest Arkansas Community College that no person may use internal college mail, U.S. Postal Service mail, any form of express mail, facsimile transmission, e-mail, Telephones, college bulletin boards, or the walls of any college office or classroom to communicate, disseminate, or display any form of harassing communication or harassing material.

Students who are enrolled in classes offered through NorthWest Arkansas Community College may be expected to participate and cooperate in classroom, laboratory, clinical, or tutorial situations requiring close proximity or physical contact with other students or instructors. Physical contact may occur in a variety of learning environments such as laboratory or clinical settings which require a student physically to come in contact with an instructor or another student as part of the teaching/learning process. Such required activities will not be considered sexual harassment. Students who may be uncomfortable with specific learning situations are urged to consider which programs or classes they wish to take. Administrators, counselors and faculty are available for any questions a student may have about a specific learning situation.

4. Information and Training about Harassment

The college shall make information about this Harassment Policy available to employees and students by publishing the student handbook and posting notices throughout the college. Employees and students may also seek advice about whether particular conduct is prohibited by this policy by posing questions to the Director of Personnel or the Vice President of Student Services.

In addition, the college shall hold periodic training sessions with the employees and cover this Harassment Policy in such sessions. Furthermore, the college shall provide specialized training for all supervisory employees on identifying and handling harassment situations.

5. Procedures to resolve harassment

A. Introductory Matters

One purpose of this procedure is to try to solve minor problems before they become serious problems. Therefore, persons who are subjected to unwanted, unwelcome, or offensive behavior which does not rise to the level of harassment as defined above or by law may still sue this procedure to get the behavior stopped.

The Purpose of this procedure is to determine if the behavior has occurred and, if it has occurred, to arrange for the behavior to stop. However, information obtained from this procedure may be used in a disciplinary proceeding.

For purposes of convenience, the person who complains about harassment shall hereafter be referred to as the "Complainant", and the person about whom the complaint is made shall hereafter be referred to as the "Respondent".

B. Reporting Harassment

Any form of harassment or suspected harassment may be reported to the office of the Director of Personnel or to the office of the Vice President of Student Services. Students or employees who experience an event of harassment at a time other than standard business hours may report the harassment by phone or in person to the security officer on duty at the Central Educational Facility. The security officer who receives such a report shall (1) record information about the event and the identities of the persons involved, (2) take action to stop the event if it is ongoing, and (3) prepare a report for delivery to the office of the Director of Personnel or to the Vice President of Student Services on the next business day.

In order to assure that action is taken quickly to resolve any harassment, the harassment should be reported as soon as possible. A delay in reporting harassment may make it difficult for the college to investigate or resolve the harassment.

C. Informal Procedure

Confronting the Harasser: Anyone who is subjected to harassment or to unwanted, unwelcome, or offensive behavior should (but is not required to) first try to resolve the problem with the person engaging in the harassment or behavior by informing such person that the harassment or behavior is not wanted. If the harassment or behavior continues, then the complainant should submit a complaint as provided below.

Mediation Meeting: After receiving a complaint as provided below, the Vice President of Student Services or the Director of Personnel, as the case may be, shall, before beginning an investigation, determine if both the Complainant and the Respondent are willing to engage in mediation. This determination should be made as quickly as possible, and a failure by either party to agree to mediation within one (1) working day of first being contacted about mediation shall be deemed an election not to participate in mediation. If either party is not willing to engage in mediation, then the investigation shall be undertaken.

On the other hand, if both the Complainant and the Respondent are willing to use mediation, the Vice President or Director should, within ten (10) working days of receiving the complaint, hold a mediation

meeting attended by both the Complainant and the Respondent. The Vice President or Director shall assist both parties in reaching an understanding which resolves the problem with a focus on changing current and future behavior. College counselors and staff trained to help with such problems may be called on to assist with mediation. The mediation meeting may be adjourned from time to time by the Vice President or Director if progress, in the opinion of the Vice President or Director is being made. If the complainant and the Respondent agree to a resolution of the matter with the concurrence of the Vice President or Director, then the procedure ends. If not, then the Vice President or Director shall undertake the required investigation.

D. Formal Procedure

Complaint: A Complainant should submit in writing any complaint of harassment or of unwanted, unwelcome, or offensive behavior, which complaint shall be expressed in reasonable terms and shall contain:

- a. The cause for the complaint (i.e. the time, date possible witnesses, and detailed description of the event).
- b. A reasonable corrective action desired.
- c. Sufficient information upon which to base a decision.

In extenuating circumstances or if the Complainant prefers, the complaint may be verbal, not written. In case of the verbal complaint, the person receiving the complaint shall create a document detailing the complaint.

Submitting Complaint: A student complaint should submit his/her complaint to the Office of the Vice President of Student Services. An employee Complainant should submit his/her complaint to the Office of the Director of Personnel. A Complainant who is both a student and an employee may submit his/her complaint to either office. In addition, a student or an employee may submit his/her complaint to any supervisory employee of the college, who shall thereafter submit the complaint to the Office of the Vice President of Student Services or the Office of the Director of Personnel, whichever is appropriate. The submitting of a harassment complaint shall not be considered a violation of the chain of command procedure.

Instruction to Respondent: Upon the Vice President's or Director's first contact with the respondent, the Respondent shall be instructed (1) that if any of the alleged conduct or behavior is ongoing, then it is to end immediately and (2) that no retaliatory action may be taken against the Complainant for filing the complaint.

Report of Proceedings: The Vice President or Director shall within one (1) working day of receiving a complaint report that fact to the President. The Vice President or Director shall, until a written report on the investigation is submitted, advise the President every ten (10) working days about the status of the mediation or investigation.

Investigation: The Director of Personnel or the Vice President of Student Services shall act as an investigator unless his or her objectivity is impaired, in which case the President may appoint an alternate investigator. The Investigator shall interview the Complainant, the Respondent, and any other persons deemed appropriate by the investigator. The investigator's written report, with appropriate

documentation and recommendations, shall be submitted to the President and shall address the following issues:

- (a). Whether the Complainant has been subjected to harassment or to unwanted, unwelcome, or offensive conduct or behavior.
- (b). If the conduct or behavior is ongoing, how the conduct or behavior can be stopped.
- (c). If the conduct or behavior has stopped, whether the conduct or behavior can be expected to reoccur.
- (d). How the conduct or behavior can be prevented in the future.
- (e). Whether the matter should be referred to the appropriate person for possible disciplinary action.
- (f). Anything else that is relevant to the particular case.

President's Decision: The President, within ten (10) working days of receiving the investigator's report, shall do one of the following:

- (a). Accept the report and see that the recommendations are carried out.
- (b). Accept the report except for the disciplinary recommendation and make independent disciplinary decision based on the report.
- (c). Instruct the investigator to investigate the matter further.
- (d). Appoint a new investigator to investigate the matter further.

If the President is the Respondent or if his impartiality is otherwise impaired, the Vice President of Fiscal Affairs shall act in the President's place. If the impartiality of the Vice President of Fiscal Affairs is also impaired, then the Vice President of Student services shall act in the President's place. If the impartiality of the Vice President of student Services is also impaired, then the Vice President of Academic Affairs shall act in the President's place.

6. Disciplinary Action

If any disciplinary action is taken, it will be taken in accordance with relevant Board Policies. Those are Policy 3-22 for employees and Policy 5-10 for students.

7. Unfounded Accusations

The college will not retaliate against any Complainant in a bona fide harassment case even though the accusations are subsequently determined to be unfounded.

Legal Reference: Civil Rights Act of 1991 *29CFR Section 1604 11(a)-(f)*

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