

West Virginia Northern Community College

Harassment and Discrimination

Rule Number: NC-2024

Effective Date: July 1, 2011

Date Approved by WVNCC Board of Governors: June 22, 2011

Authority Reference: Title 1X, Education Amendment of 1972; Title VII of Civil Right of 1964; WV Human Rights Act

Replaces previous rule dated: Sexual Discrimination/Harassment March 25, 2004

Rule:

The College is committed to maintaining a work and learning environment including College sponsored activities free of all forms of harassment including sexual harassment and discrimination. Any form of harassment against an employee or student by anyone, including all employees, supervisors, students, outside personnel, vendors or non-employees who have contact with our employees or students will not be tolerated. College employees engaging in harassment shall be subject to immediate discipline, up to and including termination. Students engaging in harassment shall be subject to the guidelines set in the Student Code of Conduct.

Harassment consists of unwelcome or unsolicited behavior, whether verbal, non-verbal, physical, or visual, that is based upon a person's sex, color, race, ancestry, religion, national origin, age, disability, medical condition, marital status, veteran status, citizenship, or other protected group status.

Definitions:

Harassment-Education: Sexual harassment is conduct that can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the education program of the institution. In an education setting, the faculty member is presumed to be in position of power. Therefore, participation by the student does not automatically make the behavior welcome.

Harassment-Employment: Any form of unwelcome or unsolicited behavior directed at an individual or group of people because of their protected status where the behavior affects the person's working conditions or employment status.

It is illegal to discriminate against anyone because of race, sex, religious creed, national origin, age (above 40), veteran's status, or disability. Harassment affects working conditions so it is a form of discrimination.

Hostile Work Environment: Behavior unreasonably interferes with work performance or creates intimidating, hostile, or offensive working environment.

Not encouraged: Recipient doesn't do anything to cause the behavior through actions or words. (Body language and dress are not considered encouragement.)

Quid Pro Quo - Education: A College employee explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid pro quo harassment is equally unlawful whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm.

Quid Pro Quo - Employment: Submission to or rejection of harassing conduct is used as basis of employment decision (this for that).

Severe or pervasive: Behavior must be severe or pervasive enough to interfere with job performance, create hostile work environment, or prevent a student from participating in or to receive benefits, services, or opportunities in the education program of the institution. The more severe a behavior is, the less frequently it needs to occur to be considered harassment. Severe and pervasive also apply to harassment in the education setting.

Reasonable person standard is applied to objectively decide if behavior is offensive enough to create a hostile working environment.

Unsolicited: Unacceptable behavior which is not initiated by recipient.

Unwelcome: Behavior which is viewed as offensive by recipient.

Unwelcome or unsolicited behavior may include but is not limited to: verbal (jokes, sexist statements, sexual advances, invitations), non-verbal (leering, gestures, facial expressions), visual (posters, cartoons, photographs, clothing, electronic communications including e-mail and social networking), or physical (unwanted touching, hugging).

Statement of Conduct:

Harassment includes conduct that denigrates or shows hostility or aversion toward an individual because of his/her protected status or that of his or her relatives, friends or associates. It also includes conduct that persons in a protected group status would find offensive or objectionable. Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests to an employee or student for sexual favors, and other visual, verbal or physical conduct of a sexual or offensive nature when either:

1. Submission to such conduct is made an explicit or implicit term or condition of employment, continued employment, advancement or the student's ability to participate in or benefit from the education program.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting the individual; or

3. Such conduct has the purpose or effect of interfering with an individual's work performance or with the student's ability to participate in or benefit from the education program including College sponsored activities or creating an intimidating, hostile or offensive working or learning environment.

Best Practices:

What to do to reduce the risk of engaging in harassing behavior:

1. Act in a reasonable and professional manner.
2. Think before you act.
3. Steer clear of comments directed at a protected group.
4. Avoid intimate touching.
5. Refrain from repeating behavior when told it is offensive.

What to do if you are accused of harassment:

1. Consider your behavior.
2. Do not retaliate.
3. Respect confidentiality.
4. Cooperate fully.

What to do if you are the victim of harassing behavior:

1. Tell the harasser what he or she has done and demand it stop.
2. Be firm and don't be defensive.
3. Document the behavior.
4. Discuss the issue with your supervisor or Chief Human Resource Officer.
5. File formal complaint, if warranted.

What to do if you witness harassing behavior:

1. Bring it to the attention of your supervisor or the Chief Human Resource Officer.
2. Refer victim to the Chief Human Resource Officer.

Reporting a complaint:

Any *employee* who believes he or she has been the subject of harassment, including sexual harassment or discrimination, shall immediately report the incident to the immediate supervisor of the individual involved or the Chief Human Resource Officer without fear of retaliation or reprisal.

Any *student* who believes he or she has been the subject of harassment, including sexual harassment or discrimination, shall immediately report the incident to the Campus Dean, Vice President of Academic Affairs or Chief Human Resource Officer.

Anyone witnessing harassment of others should report the incident to the Chief Human Resource Officer. Faculty who witness harassment of students by other students in the classroom should

seek assistance and guidance as appropriate from the Vice President of Academic Affairs and/or Chief Human Resource Officer.

ANYONE who receives a complaint is to refer it to the Chief Human Resource Officer immediately.

Students who believe they have been sexually harassed and wish further information or assistance in filing a complaint should contact the Human Resource Office. All complaints will be thoroughly investigated and all complaints and related information will be kept confidential to the extent possible. The results of the investigation will be reported to the parties consistent with College practices regarding disclosure of personnel information.

Investigation:

It is the responsibility of the Chief Human Resource Officer or designee to coordinate all investigations. All complaints and related information will be kept confidential to the extent possible.

1. Chief Human Resource Officer receives complaint.
2. Contact between the parties is reduced or eliminated to the extent possible, if needed.
3. Parties and witnesses are interviewed.
4. Facts are reviewed to determine a conclusion.
5. Complainant and alleged harasser are informed of the results in a manner which is consistent with College practices regarding disclosure of personnel information.
6. Investigation records shall not be kept in the individual's personnel or student file except in the event there is a written recommendation and/or documentation of disciplinary action. Investigation records will be kept in a separate confidential file maintained by the Chief Human Resource Officer.

Employees who, after investigation, have been determined to have been engaging in the harassment of their co-workers or students which violates the sensitivities of their co-workers or students will be subject to disciplinary action, up to and including termination.

Training:

Training will be provided to all employees at the minimum of every two years and at the time of initial hire. Training will be provided to students every year.

Authority/Coordinator:

The Chief Human Resource Officer is responsible for implementing, and administering the Harassment and Discrimination Rule as well as serves as the Title IX Coordinator. Adhering to federal regulations, the appropriate College publication will provide contact information for the Title IX Coordinator.