



BOV POLICY # 05.03 (2017) PREVENTING AND ADDRESSING RETALIATION

Policy Title: Preventing and Addressing Retaliation
Policy Type: Board of Visitors
Policy No: BOV Policy # 05.03 (2017)
Approval Date: September 15, 2017
Responsible Office: President’s Office
Responsible Executive: Title IX Coordinator
Applies to: University Community

POLICY STATEMENT

NSU is committed to providing a workplace and educational environment, programs and activities free of retaliation against persons who, in good faith (holding a genuine belief in the truth of one’s allegations), complain of discrimination and/or harassment as defined in [BOV Policy # 05.02 Preventing and Addressing Discrimination and Harassment](#) or who assist with or participate in in any investigation of alleged conduct under [BOV Policy # 05 Title IX; Sexual and Gender-based Harassment and Other Forms of Interpersonal Violence](#) or [BOV Policy # 05.01 Reporting by University Employees of Disclosures to Sexual and Gender-based Harassment and Other Forms of Interpersonal Violence](#). This policy does not allow curtailment or censorship of constitutionally protected expression.

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PURPOSE

This policy is intended to comply with a change in the law pertaining to the definition of retaliation, as decided in *Burlington Northern v. White*, 126 S. Ct. 2405 (2006). In *Burlington Northern*, the U.S. Supreme Court extended the scope of the anti-retaliation provision of Title VII of the Civil Rights Act of 1964 to include materially adverse employer action with consequent harm occurring at or outside the workplace.

CONTACTS

The Title IX Coordinator officially interprets this policy and is responsible for matters pertaining to this policy as it relates to the University Community. The President's Office is responsible for obtaining approval for any revisions as required by [BOV Policy # 01 Creating and Maintaining Policies](#) through appropriate governance structures. Questions regarding this policy should be directed to the Human Resources Office.

DEFINITIONS

“Complaint” means allegation(s) of discrimination, harassment and/or retaliation, filed in good faith and in accordance with NSU's Preventing and Addressing Discrimination, Harassment and Retaliation Complaint Procedures.

“Discrimination” means inequitable treatment by NSU of a person based on one or more of that person's protected characteristics or statuses, excepting any treatment permitted or required by law.

“Protected Characteristics/Statuses” means age, color, disability, gender identity, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, and family medical or genetic information.

“Harassment” means unwelcome conduct directed against a person based on one or more of that person's protected characteristics or statuses, which conduct is so severe or pervasive that it interferes with an individual's employment, academic performance or participation in University programs or activities, and creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

“Retaliation” means reprisal, interference, restraint, penalty, discrimination, intimidation or harassment, determined in accordance with applicable legal standards.

“Supervisor” refers to any person who has authority to undertake or recommend tangible employment decisions affecting an employee or academic decisions affecting a student; or to direct an employee's work activities or a student's academic activities. Examples include faculty members to whom work-study students report and team lead workers who, from time to time, monitor other employees' performance or direct their work.



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“**University**” refers to Norfolk State University, including its Daycare Center, and includes all Board of Visitors members, administrators, faculty, staff, students, student employees, contractors, agents, visitors and volunteers of Norfolk State University.

TO WHOM THIS POLICY APPLIES

This policy applies to the University Community, which includes persons who, in good faith, complain of discrimination and/or harassment, or who assist with or participate in the process outlined in the Preventing and Addressing Discrimination, Harassment and Retaliation Complaint Procedures.

POLICY CONTENTS

This policy is based on federal and state laws, including [Executive Order 11246](#), [Titles VI and VII of the Civil Rights Act of 1964](#), the [Age Discrimination in Employment Act of 1967](#), [Title IX of the Education Amendments of 1972](#), the [Rehabilitation Act of 1973](#), the [Americans with Disabilities Act of 1990](#), as amended, the [Virginia Human Rights Act](#), and the [Genetic Information Nondiscrimination Act of 2008](#), as well as state policy, including the [Governor’s Executive Order One](#), the Commonwealth’s [Department of Human Resource Management \(DHRM\) Policy 1.60 - Standards of Conduct](#), [DHRM Policy 2.05 - Equal Employment Opportunity](#), and [DHRM Policy 2.30 - Workplace Harassment](#).

NSU will not tolerate discrimination, harassment, or retaliation in the workplace, academic setting or in its programs or activities based on age, color, disability, gender identity, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, or family medical or genetic information.

Training

All members of management, supervisors, faculty and NSU classified and Daycare Center staff are responsible for successfully completing NSU’s non-discrimination, anti-harassment, and anti-retaliation training at least every two years.

In addition, supervisors are responsible for:

- knowing and understanding this policy;
- explaining this policy to persons under their supervision;
- taking appropriate action to prevent retaliation;
- being receptive to concerns and complaints of retaliation;
- taking appropriate action (in consultation with Human Resources) when they become aware of potential violations of this policy; and
- following up with persons who make complaints of retaliation to assure them that their complaints were investigated and to determine whether any remedial actions were successful.



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Supervisors who do not fully perform their responsibilities under this policy will be rated unfavorably on their performance evaluations and may be subject to disciplinary action, up to and including termination.

Procedures

A complaint may be filed with Human Resources, the Division of Student Affairs, or the Title IX Coordinator by any present or former employee of NSU, student, applicant for admission or employment or participant in a NSU program or activity, who believes (s)he has been retaliated against in violation of this Policy. Any such complaint must be filed within 300 calendar days of the incident.

This Policy as well as the Preventing and Addressing Discrimination, Harassment, and Retaliation Complaint Procedures in the [Title IX Handbook for Students and Employees](#) shall be made available online and in printed form across the campus.

Knowingly filing a false complaint of discrimination/harassment or of retaliation is a violation of this policy and may be pursued using the steps followed for a complaint of discrimination/harassment. If a false complaint is found to have occurred, such conduct will result in disciplinary action that may include termination or expulsion.

PUBLICATION

This policy will be widely published and distributed to the NSU community. To ensure timely publication and distribution thereof, the Office of the President shall:

- Communicate the policy in writing, electronically or otherwise, to the NSU community;
- Post the policy on the Board of Visitors and University Websites; and
- Direct appropriate offices to educate and train all stakeholders and appropriate audiences on the policy's content, as necessary.

Failure to satisfy procedural requirements does not invalidate this policy.

RELATED POLICIES AND DOCUMENTS

IN GENERAL

- [Title IX Handbook for Students and Employees](#)
- [BOV Policy # 04 \(2014\) Equal Opportunity](#)

STUDENTS

- [Code of Student Conduct](#)
- Rights of Students at Norfolk State University Pursuant to the [Family Educational Rights and Privacy Act](#) (FERPA)



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EMPLOYEES

- [Reporting Policy: BOV Policy # 05.01 \(2017\) Reporting by University Employees of Disclosures to Sexual and Gender-based Harassment and Other Forms of Interpersonal Violence](#)

EMPLOYEES AND THIRD PARTIES

- [BOV Policy # 05 \(2017\) Title IX: Sexual and Gender-based Harassment and Other Forms Interpersonal Violence](#)
- [BOV Policy # 05.01 \(2017\) Reporting by University Employees of Disclosures to Sexual and Gender-based Harassment and Other Forms of Interpersonal Violence](#)
- [BOV Policy # 05.02 \(2017\) Preventing and Addressing Discrimination and Harassment](#)

REVIEW SCHEDULE

- Next Scheduled Review: Annually in October
- Approved date: September 15, 2017
- Revision History: BOV Policy # 05 (2014) Sexual Violence, Discrimination, Harassment and Retaliation, (as amended December, 2015); BOV Policy # 05 (2014) Sexual Misconduct; and NSU Policy #27.004 Sexual Assault Policy (2011)
- Supersedes: None