

# Notice of Nondiscrimination and Affirmative Action Policy

**Version 2 (Current Version)**

 Print

<b>Policy</b>	POL05.25.02
<b>Title</b>	Notice of Nondiscrimination and Affirmative Action Policy
<b>Category</b>	Campus Environment
<b>Sub-category</b>	Non-Discrimination
<b>Authority</b>	Board of Trustees
<b>History</b>	Approved November 20, 2015 to be Effective January 1, 2016. Revisions to policy approved by ECU Board of Trustees April 3, 2020. Non-substantive revisions to policy approved August 13, 2020.
<b>Contact</b>	Associate Provost for Equity and Diversity  Office for Equity and Diversity, Old Cafeteria Building, Suite G-406  (252) 328 - 6804  oed@ecu.edu (mailto:oed@ecu.edu)
<b>Related Policies</b>	<p>ECU Equal Employment Opportunity Plan (<a href="https://oed.ecu.edu/eeo-and-hiring-practices/">https://oed.ecu.edu/eeo-and-hiring-practices/</a>)</p> <p>REG06.35.03 Resolving Allegations of Discrimination (<a href="https://policy.ecu.edu/06/35/03">https://policy.ecu.edu/06/35/03</a>)</p> <p>REG05.25.03 Title IX Compliance and Resolution Regulation (<a href="https://policy.ecu.edu/05/25/03">https://policy.ecu.edu/05/25/03</a>)</p> <p>Policy of the Board of Governors of the University of North Carolina: 300.4.1 Improper Relationships between Students and Employees (<a href="https://www.northcarolina.edu/apps/policy/doc.php?id=120">https://www.northcarolina.edu/apps/policy/doc.php?id=120</a>)</p> <p>REG06.35.02 Mediation and Grievance Procedure for SPA Employees (<a href="https://policy.ecu.edu/06/35/02">https://policy.ecu.edu/06/35/02</a>)</p> <p>Grievance Procedures for Complaints of Unlawful or Prohibited Harassment, Discrimination or Improper Relationships Brought Against East Carolina University Faculty Members or Administrators Holding Faculty Status (ECU Faculty Manual, Part XII, Section II) (pdf) (<a href="https://www.ecu.edu/cs-acad/fsonline/customcf/currentfacultymanual/part12section2.pdf">https://www.ecu.edu/cs-acad/fsonline/customcf/currentfacultymanual/part12section2.pdf</a>)</p>

**Additional  
References**

Title VI (<https://www.dol.gov/agencies/oasam/regulatory/statutes/title-vi-civil-rights-act-of-1964>) and Title VII (<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/title-vii-civil-rights-act-of-1964>) of the Civil Rights Act of 1964, as amended

Title IX of the Education Amendments of 1972 (<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/title-ix>)

Section 799A and 845 of the Public Health Service Act (<https://www.gpo.gov/fdsys/granule/CFR-2000-title45-vol1/CFR-2000-title45-vol1-part83/content-detail.html>)

Equal Pay Act of 1963, as amended (<https://www.dol.gov/agencies/oasam/regulatory/statutes/equal-pay-act>)

Age Discrimination in Employment Act of 1967, as amended (<https://www.eeoc.gov/statutes/age-discrimination-employment-act-1967>)

Rehabilitation Act of 1973, as amended (<https://www.eeoc.gov/statutes/rehabilitation-act-1973>)

Pregnancy Discrimination Act of 1978 (<https://www.eeoc.gov/statutes/pregnancy-discrimination-act-1978>)

Civil Rights Restoration Act of 1988 ([https://www.fhwa.dot.gov/environment/environmental\\_justice/legislation/restoration\\_act.cfm](https://www.fhwa.dot.gov/environment/environmental_justice/legislation/restoration_act.cfm))

Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (<https://www.dol.gov/agencies/ofccp/vevraa/as-amended>)

Civil Rights Act of 1991 (<https://www.eeoc.gov/statutes/civil-rights-act-1991>)

Americans with Disabilities Act of 1990, as amended (<https://www.ada.gov/pubs/ada.htm>)

Title II of the Genetic Information Non-discrimination Act of 2008 (<https://www.eeoc.gov/statutes/genetic-information-nondiscrimination-act-2008>)

Executive Order 11246 of 1965, as amended (<https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>)

N.C. General Statutes § 126-16, as amended ([https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_126/Article\\_6.html](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_126/Article_6.html))

N.C. General Statute § 116-11(3a) ([https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_116/GS\\_116-11.html](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_116/GS_116-11.html))

The Code of the University of North Carolina, Section 103 (<https://www.northcarolina.edu/apps/policy/doc.php?id=54>)

Other applicable Federal and state laws.

## 1. Introduction

1.1. East Carolina University ("ECU") is committed to equality of opportunity and prohibits unlawful discrimination based on the following protected classes: race/ethnicity, color, genetic information, national

origin, religion, sex (including pregnancy and pregnancy related conditions), sexual orientation, gender identity, age, disability, political affiliation, and veteran status (including relationship or association with a protected veteran; or Active Duty or National Guard service) ("Protected Class").

1.2. This policy also prohibits retaliation, as defined below, against an individual for using applicable policies responsibly. Retaliation interferes with free expression, inhibits openness that is important to the University, and violates University policy.

### 1.3. Pay Transparency

1.3.1. Consistent with Executive Order 11246, as amended, ECU will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by ECU, or (c) consistent with the ECU's legal duty to furnish information.

1.4. This policy supersedes all other expressions of nondiscrimination provisions pertaining to all University programs and activities and the Office for Equity and Diversity complaint resolution procedures published in any other documents, handbooks, or manuals except those outlined in University regulations (specifically, the Resolving Allegations of Discrimination- Interim and Title IX Compliance and Resolution Regulation).

1.5. When an individual is found to have violated this policy, sanctions up to and including termination of employment, expulsion, and/or the issuance of a ban from University property will be imposed in an attempt to ensure that such actions are not repeated by the individual within the University community. In determining whether conduct violates these provisions, all relevant facts and circumstances shall be considered. Care will be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards.

## 2. Coverage

2.1. This policy covers admission, readmission, access to, treatment and employment in university programs and activities, including, but not limited to, academic admissions, financial aid, any services, and employment. This policy applies to students, applicants, employees, visitors, volunteers and other third parties under circumstances within the University's control.

2.2. This policy applies to all discrimination and related retaliation that occurs either on ECU property or off ECU property if (1) the misconduct occurred in the context of an ECU program or activity or (2) if the misconduct creates or contributes to, for a member of the University community, a learning or working environment that is hostile, as defined in 4.2.2.

## 3. Affirmative Action Obligations

3.1. Pursuant to its obligation under applicable federal law, the University will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin and to employ and advance in employment qualified employees and applicants who are protected veterans and individuals with disabilities at all levels of employment.

3.2. The University will recruit, hire, train and promote persons in all job titles and ensure that all other personnel matters and any other term, condition, or privilege of employment will continue to be administered in accordance with this policy and without regard to University Protected Classes listed in Section 1.1 above. The University will ensure that all employment decisions are based only on valid job requirements.

3.3. The Chancellor of ECU fully endorses and supports this policy.

3.4. The monitorial and evaluative aspects of the Equal Employment Opportunity Plan, including analysis and reporting, are the responsibilities of the Office for Equity and Diversity. The Chancellor has appointed the Associate Provost for Equity and Diversity to coordinate all aspects of the ECU Equal Employment Opportunity Plan and Program.

#### **4. Definitions**

4.1. Discrimination - actions that subject individuals to unfavorable or unequal treatment based on a Protected Class.

4.2. Harassment - a form of discrimination. Harassment is unwelcome conduct based on a Protected Class, as defined in Section 1.1 above, which creates either quid pro quo harassment or a hostile environment, as defined in Section 4.2.1 and Section 4.2.2, below. It also includes Sexual Harassment and Gender-Based Harassment as those terms are defined in University Regulations (specifically, Title IX Compliance and Resolution Regulation).

4.2.1. Quid Pro Quo Harassment - submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual.

4.2.2. Hostile Environment Harassment - A "hostile environment" exists when the conduct 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 deemed severe, persistent, or pervasive from both a subjective and an objective perspective.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

4.3. Retaliation - any act of interference, restraint, penalty, discrimination, coercion, reprisal, intimidation, threats, or harassment against an individual for using applicable policies responsibly (including making a charge of discrimination protected by this policy; testifying, assisting, or participating in a hearing, proceeding, review process or investigation of discrimination; opposing an illegal act; requesting a reasonable disability or religious accommodation; or exercising any other right protected by this policy).

#### **5. Obligation to Provide Reasonable Accommodations**

##### 5.1. Disability Accommodations

5.1.1. In compliance with Section 503 of the Rehabilitation Act of 1973, as amended; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), accommodations for individuals with disabilities extend to student programs, employment practices, elimination of physical barriers, and special assistance to students and employees within the university who are individuals with disabilities.

5.1.2. To request disability accommodations, please contact the Department for Disability Support Services, 138 Slay Building Greenville, NC 27858-4353 or phone (252)737-1016 voice/TTY.

##### 5.2. Religious Accommodations

5.2.1. The University accommodates the religious observances and practices of students and employees except where such accommodation causes undue hardship for the University. The extent of the University's obligation is determined initially by considering statutory requirements; and any obligation of accommodation beyond that shall be determined with consideration of business necessity, financial costs and expenses, and resulting personnel and/or academic problems.

#### 5.2.1.1. Accommodations for Students:

- 5.2.1.1.1. Students shall be allowed a minimum of two excused absences each academic year for religious observances required by the faith of the student.
- 5.2.1.1.2. Students shall provide written notice to the faculty member for the affected class of their request for an excused absence for a religious observance in a reasonable time prior to the date of the observance. If a faculty member determines a specific minimum period of prior notice to be reasonable with regard to a class for purposes of complying with this requirement, he or she should communicate that to the students in the class.
- 5.2.1.1.3. Students shall be given the opportunity to make up tests and other work missed due to such an excused absence for a religious observance.

#### 5.2.1.2. Accommodations for Employees:

- 5.2.1.2.1. Employees shall request religious accommodations from their supervisor in writing at least, if possible, 30 days in advance of the desired accommodation. The employee and supervisor should cooperate to determine whether a reasonable accommodation can be granted. If requested, the employee should provide documentation to support the request.
- 5.2.1.2.2. Supervisors may contact Human Resources Employee Relations or the Office for Equity and Diversity for assistance with employee requests for religious accommodations.

### 5.3. Complaints Relative to Accommodations

5.3.1. Members of the University community who have concerns about the adequacy of accommodations or wishing to file a complaint, may follow the resolution procedures outlined in University regulations (specifically, Resolving Allegations of Discrimination - Interim). Information about filing a complaint may be obtained from the Office for Equity and Diversity.

## **6. Sex Discrimination Prohibited**

- 6.1. ECU is required by Title IX of the Education Amendments of 1972 not to discriminate on the basis of sex in its education programs and activities.
- 6.2 Sexual Harassment, as defined in the Title IX Compliance and Resolution Regulation, and sexual assault, dating and domestic violence, and stalking are all forms of sex discrimination.
- 6.3. Questions regarding Title IX may be addressed to Ms. LaKesha Alston Forbes, Title IX Coordinator, in the Office for Equity and Diversity; and/or to the U.S. Department of Education's Office for Civil Rights.
- 6.4. The Title IX Coordinator may be reached in the Office for Equity and Diversity, Old Cafeteria Building Suite G-406, phone (252) 328-6804, or email [oed@ecu.edu](mailto:oed@ecu.edu) (<mailto:oed@ecu.edu>).
- 6.5. Additional information regarding the University's obligations and procedures for responding to conduct prohibited by Title IX may be found in University regulations (specifically, the Title IX Compliance and Resolution Regulation (<https://policy.ecu.edu/05/25/03>)).

## **7. Obligation to Review or Investigate Prohibited Conduct**

7.1. If the Office for Equity and Diversity becomes aware of any information or concerns related to prohibited discrimination, harassment, and/or related retaliation, the Office for Equity and Diversity will address with an informal review or formal investigation of those concerns.

## **8. Office for Equity and Diversity Complaint Resolution Procedures for Formal Complaints of University Prohibited Harassment or Discrimination and/or Related Retaliation**

8.1. An individual should follow the complaint/resolution procedures outlined in University regulations

(specifically, Resolving Allegations of Discrimination - Interim) if he or she is alleging discrimination, harassment and/or related retaliation, as defined in this policy, based on any of the following protected classes: race/ethnicity, color, genetic information, national origin, religion, sex (including pregnancy and pregnancy related conditions and sexual harassment and sexual violence), gender identity, sexual orientation, age, disability, political affiliation, or veteran status. Additional investigation principles will be applied for complaints of sexual harassment and sexual violence and are outlined in University regulations (specifically, Title IX Compliance and Resolution Regulation).

8.2. The Office for Equity and Diversity will consult with and answer questions from individuals about specific procedural matters upon request.

## 9. East Carolina University Statement of Nondiscrimination

9.1. The following statement should be used in the University's academic catalogues, contracts, and applications for admission and employment:

9.1.1. East Carolina University prohibits unlawful discrimination based on the following protected classes: race/ethnicity, color, genetic information, national origin, religion, sex (including pregnancy and pregnancy related conditions), sexual orientation, gender identity, age, disability, political affiliation, and veteran status (including relationship or association with a protected veteran; or Active Duty or National Guard service).

9.2. Any flyers, brochures, posters, or advertisements concerning a University activity or event that is open to the public must include the following statement:

9.2.1. Individuals requesting accommodation under the Americans with Disabilities Act (ADA) should contact the Department for Disability Support Services at least 48 hours prior to the event at (252) 737-1016 (voice/TTY).

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### East Carolina University

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