

SECTION .1100 - UNLAWFUL WORKPLACE HARRASSMENT

25 NCAC 01J .1101 UNLAWFUL WORKPLACE HARRASSMENT AND RETALIATION

(a) Purpose. The purpose of this Rule is to establish that the State of North Carolina prohibits in any form unlawful workplace harassment, including sexual harassment or retaliation based on opposition to unlawful workplace harassment of state employees or applicants. Every agency with employees subject to the State Human Resources Act shall develop strategies to ensure that work sites are free of unlawful workplace harassment, sexual harassment discrimination and retaliation.

(b) As used in this Rule:

- (1) "unlawful workplace harassment" means unsolicited and unwelcome speech or conduct based upon race, religion, color, national origin, sex, age, disability, genetic information, or political affiliation that creates a hostile work environment or under circumstances involving quid pro quo."
- (2) "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:
 - (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 - (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and
 - (C) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- (3) "retaliation" means adverse action taken against an individual for filing a discrimination charge; testifying; or participating in any way in an investigation, proceeding, or lawsuit related to discriminatory employment practices based on race, religion, color, national origin, sex, age, disability, political affiliation or genetic information; or because of opposition to employment practices in violation of the unlawful workplace harassment policy.

(c) Policy. No state employee shall engage in conduct that falls under the definition of unlawful workplace harassment, sexual harassment or retaliation, and no personnel employment decisions shall be made on the basis of race, sex, religion, national origin, age, color, disability, political affiliation, or genetic information.

(d) All employees are guaranteed the right to work in an environment free from unlawful workplace harassment and retaliation.

(e) Coverage of this Rule includes:

- (1) applicants,
- (2) former employees, and
- (3) full-time and part-time employees with either a permanent, probationary, trainee, time-limited, or temporary appointment.

(f) Agency Workplace Harassment Prevention Strategies. Each agency head shall develop strategies to prevent unlawful workplace harassment, sexual harassment, or retaliation. These strategies shall include:

- (1) a commitment by the agency to the prohibition of unlawful workplace harassment, sexual harassment or retaliation;
- (2) training and other methods to prevent harassing or retaliating actions; and
- (3) a process for disseminating information prohibiting unlawful workplace harassment and retaliation to all agency employees.

Workplace harassment prevention strategies shall be included as part of the agency Equal Employment Opportunity (EEO) plan.

History Note: Authority G.S. 126-4; 126-16; 126-17; 126-34.01; 126-34.02; 126-36; Eff. December 1, 1980; Amended Eff. November 1, 1988; April 1, 1983; Temporary Amendment Eff. February 18, 1999; Amended Eff. July 18, 2002; Recodified from 25 NCAC 01C .0214 Eff. December 29, 2003; Amended Eff. June 1, 2012; Temporary Amendment Eff. May 23, 2014; Amended Eff. April 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

