

Who you gonna call?

Essential Speed Dials for All Your University Problems

Overview of Relevant University Policies

- ▶ University Nondiscrimination Policies 501-504
 - ▶ Prohibit discrimination based on protected status
 - ▶ Describe procedures for reviewing reported violations
 - ▶ Clarify obligation to implement reasonable accommodations for qualified individuals with disabilities
- ▶ University Workplace Violence Policy 101.17
 - ▶ Prohibits a broad range of behaviors that generate concerns for personal safety, including but not limited to bullying, intimidation, and threats of violence.
- ▶ University Whistleblower Protection Policy 803
 - ▶ Provides employees a framework to report behaviors that violate the law or University policy
 - ▶ Protects complainants from retaliation for engaging in "protected activity," by making good faith reports
- ▶ University Family and Medical Leave Policies
 - ▶ Provide information regarding how to request protected leave and provide supervisors information regarding their obligations when such requests are received.

I Stand Corrected

Following last year's annual performance review process, Director Jones received a complaint from her assistant, Jim, challenging the accuracy of his review- particularly regarding Director Jones' observations about his tardiness and the timeliness and quality of his work product. In addition to highlighting these alleged inaccuracies, he shared his concern that his colleague Ann received preferential treatment and had likely not received similar feedback, even though Jim was aware that Ann was late on occasion and failed to complete one important office project before the Director's deadline.

After this year's performance review, the Director placed Jim on a performance improvement plan, providing Jim several months to improve recurring tardiness and work product issues. Jim did not react well to the new requirement and threatened to file a claim with HR against Director Jones for creating a hostile work environment and retaliating against him for raising concerns about the prior year's review.

Questions for Discussion

- ▶ Has Jim engaged in "protected activity" warranting protection under the University's Whistleblower protection policy?
- ▶ What are the requirements for establishing an actionable "hostile work environment" claim?
- ▶ Can the issues Jim raises in this scenario ever be sufficient basis to give rise to such a claim?

Who you gonna call?

- ▶ Essential Speed Dials for Supervisors who receive similar complaints:
 - ▶ For staff concerns, contact the Office of Human Resources Employee Relations Representatives: <http://hr.uncc.edu/employee-relations>
 - ▶ For faculty concerns, contact the Office of Academic Affairs Budget and Personnel: <http://provost.uncc.edu/academic-budget-personnel>

Hall Talk

Jane is scheduled to attend an annual professional conference in Chicago with Jack, a senior member of your department, next week. In advance of the trip, she casually shares with you that Jack is littering her inbox with emails among him and his friends from Chicago, commenting on how attractive Jane is and sharing their hope that Jane will join them for their post-conference outings in the evenings. When you ask Jane if she'd like you to discuss the emails with Jack, she brushes you off and says that she can handle it, and that she's used to it. She says that she will typically join them for one drink and make her excuses, but notes that Brenda, who also attends the conference, will likely not be participating in the group outings at all, "especially after what happened last year." When you ask for clarification, she provides none, saying she has to finish her work, so she can leave early to prepare for the conference.

Questions for Discussion

- ▶ As Jane's supervisor, do you have any obligations under the law or University policy to follow up on what Jane has just reported to you? Why or why not?
- ▶ Could the behaviors Jane has reported violate the University's Nondiscrimination policy?
- ▶ What additional information is needed, if any, to make that assessment?

Who you gonna call?

- ▶ It depends, but any of the following resources will get you to the right office:
 - ▶ For behaviors targeting students, contact the Title IX Coordinator: <http://titleix.uncg.edu/>
 - ▶ For behaviors targeting employees, contact the Office of Human Resources Employee Relations representatives: <http://hr.uncg.edu/employee-relations>;
 - ▶ Faculty may also contact the Office of Academic Affairs Budget and Personnel: <http://provost.uncg.edu/academic-budget-personnel>
- ▶ Confidential resources for individuals experiencing sexual harassment:
 - ▶ For Employees: <http://hr.uncg.edu/employee-relations/compsych-guidance-resources-employee-assistance-program>
 - ▶ For Students: <http://counselingcenter.uncg.edu/>

Interim Measures

An associate dean who reports to you is out on approved leave for 12 weeks, recovering from back surgery. During his leave period, you appoint another employee, who comes highly recommended, to serve as interim. The interim appointee receives high praise from direct reports and your supervisor regarding her efficiency and responsiveness. She appears to have a real talent for the position and thrives during the interim appointment.

The week prior to the associate dean's scheduled return from leave, you learn that his recovery will likely take longer than originally anticipated. Given the critical nature of the position, you are concerned about the uncertainty posed by his continued absence. The interim appointee has threatened to leave if the appointment is not made permanent. You contemplate permanently appointing the interim employee to an assistant deanship and assigning her areas of responsibility that would overlap with those of the associate dean to some degree, but would also include additional focus areas that you had not been able to address previously because of limited staffing. Office space is an issue, but you believe that the office currently occupied by the associate dean could be converted into two offices with minimal expense.

Questions for Discussion

- ▶ What obligations, if any, does the University have to employees on protected FMLA leave, when that protected leave is exhausted?
- ▶ What potential issues are posed by the appointment of the interim hire to a permanent position?

Who you gonna call?

- ▶ For questions concerning the implementation and administration of protected leave, contact the Office of Human Resources, Benefits Office:
<https://hr.uncg.edu/benefits>
- ▶ For complaints regarding alleged violations of applicable leave policies, contact:
 - ▶ The Office of Human Resources Employee Relations representatives:
<http://hr.uncg.edu/employee-relations>
 - ▶ Faculty may also contact the Office of Academic Affairs Budget and Personnel:
<http://provost.uncg.edu/academic-budget-personnel>

Lunch & Learn

The associate dean recovers and is released to work full time by his physician. Prior to his return, he learned of your plans to transition some of his work to the interim employee. He becomes very upset and files a claim with the Office of Academic Affairs Budget and Personnel, alleging a violation of his FMLA rights. Following a months' long review of the situation, the office finds insufficient evidence of a violation.

Sensing tension, colleagues in the department are wary of inviting both you and the associate dean to college outings and meetings. You are likewise inclined to discontinue professional development lunches you had scheduled for the entire department before the complaint surfaced.

Questions for Discussion

- ▶ Did the associate dean engage in "protected activity" by filing the complaint alleging retaliation for taking protected leave?
- ▶ If so, would the cancellation of professional development lunches constitute an "adverse employment action," in violation of the University's retaliation policy or whistleblower protection policy?

Who you gonna call?

- ▶ For complaints regarding alleged violations of the University policies prohibiting retaliation, contact:
 - ▶ The Office of Human Resources Employee Relations representatives:
<http://hr.uncg.edu/employee-relations>
 - ▶ Faculty may also contact the Office of Academic Affairs Budget and Personnel:
<http://provost.uncg.edu/academic-budget-personnel>

Team Building Exercise

As dean, you feel compelled to clear the air following all of the recent complaints in your office. Now fully versed on your obligations to avoid retaliation, you are interested in hosting all of your direct reports at an office retreat, to both address concerns about office morale and to identify key initiatives for the next academic year.

After seeking input from all prospective attendees, you reserve space at a nearby rustic resort that offers zip-lining, kayaking tours, and catered campfires! After contacting the resort, your associate dean learns that there are no paved access routes from the parking lot to the resort and, because of his on-going back issues, he says he says he regretfully cannot attend.

Questions for Discussion

- ▶ What policy or policies may be implicated by hosting the retreat at this particular site?
- ▶ What obligations, if any, does the dean have to the associate dean?
- ▶ Are there positions you can think of that may be more affected by the physical limitations the associate dean is experiencing? What would the supervisor's obligations be if the limitations affected the associate dean's ability to do his job?

Who you gonna call?

- ▶ For questions about responding to employee reports: Jeanne Madorin, ADA Coordinator for Faculty/Staff Executive Director of Human Resources for EPA Non-faculty Administration, Employee Relations, and Compliance, 113 King, (704) 687-0659, Jlmadori@uncg.edu
- ▶ For questions about responding to student reports: Gena Smith, ADA Coordinator for Students/General Public Director of Disability Services, Fretwell 230, (704) 687-0046, Gena.Smith@uncg.edu
