

PERS8 - Employee Welfare: Freedom from Discrimination, Harassment, and Retaliation

P - Personnel

DIA

Freedom from Discrimination, Harassment, and Retaliation

(local)

Introduction - Staff Harassment

Employees have the right to work in an environment free from harassment or discrimination. Employees are encouraged to immediately report harassment or discriminatory experiences that they have or that they witness. Employees found to be involved in harassment or discriminatory activities are subject to disciplinary action.

The following procedures apply to allegations of discrimination and/or harassment (collectively referred to as "harassment") on the basis of an employee's race, color, religion, gender, sexual orientation, gender identity, age, national origin, disability, or any other applicable legally protected status.

Additionally, Governing Board members or any members of the general public who are visiting a campus or administration facility of the District may follow these procedures if they are subjected to or witness harassing or discriminatory behavior.

The following definitions are examples and not a complete list of harassment definitions.

Harassment Definitions

Racial/Color/National Origin Harassment

Examples of race, color, or national origin harassment include oral, written, graphic, or physical conduct relating to an employee's race, color, or national origin, including an employee's ancestry or country of origin, that has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive employment environment. A race, color, or national origin basis for acts of harassment may be evident from the explicit statements of the perpetrator or may be inferred from the surrounding circumstances.

A hostile environment may be created through the following examples of conduct:

- A. Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin.
- B. Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, or national origin.
- C. Demeaning racial jokes, taunting, racial slurs, and derogatory racial nicknames, innuendoes, or derogatory remarks of a racial nature or relating to color, or national origin.

Religious Harassment

Examples of harassment based on religion or religious beliefs include oral, written, graphic, or physical conduct relating to an employee's religion or religious belief that has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive employment environment. A religious basis for acts of harassment may be evident from the explicit statements of the perpetrator or may be inferred from the surrounding circumstances.

A hostile environment may be created through the following examples of conduct:

- A. Intimidation and implied or overt threats of physical violence motivated by religion or religious beliefs.
- B. Physical acts of aggression or assault upon another, or damage to another's property that is motivated

by the individual's religion or religious beliefs.

C. Demeaning religious jokes, taunting, religious slurs and derogatory religious nicknames, innuendoes, or derogatory remarks of a religious nature.

Gender (Sexual) Harassment

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or regarding an individual's sexual orientation where:

A. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment; or

B. Submission to or rejection of such conduct is used as a basis for employment decisions; or

C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive employment environment.

Sexual harassment may include, but is not limited to:

A. *Verbal*: Derogatory comments or jokes, slurs, insults, epithets, threatening words spoken to another person, continuing to express sexual interest after being informed that the interest is unwelcome, sexual name calling, or spreading of rumors.

B. *Physical*: Unwanted physical touching, contact, assault, deliberate impeding or blocking of movements, leering gestures, or any intimidating interference with normal work or movement.

C. *Visual*: Derogatory, demeaning, obscene, suggestive or inflammatory posters, cartoons, calendars, written words, letters, notes, invitations, drawings, gestures, or objects.

D. *Coercive behavior*: Coercive behavior used to control, influence or affect the career, salary, and/or work environment of another employee.

E. *Quid Pro Quo*: Offering or granting of employment benefits, such as promotions, favorable performance evaluations, assignments, duties, etc., in exchange for sexual favors.

Disability Harassment

Examples of harassment based on a disability include oral, written, graphic, or physical conduct relating to an employee's disability that has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive employment environment. Acts of harassment based upon a disability may be evident from the explicit statements of the perpetrator or may be inferred from the surrounding circumstances.

A hostile environment may be created through the following examples of conduct:

A. Intimidation and implied or overt threats of physical violence motivated by a disability.

B. Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's disability.

C. Demeaning disability-related jokes, taunting, slurs and derogatory disability-based nicknames, innuendoes, or remarks.

Age Harassment

Examples of harassment based on age include oral, written, graphic, or physical conduct relating to an employee's age that has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive employment environment. Acts of harassment based upon age may be evident from the explicit statements of the perpetrator or may be inferred from the surrounding circumstances.

A hostile environment may be created through the following examples of conduct:

A. Intimidation and implied or overt threats of physical violence motivated by an individual's age.

B. Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's age.

C. Demeaning age-related jokes, taunting, slurs and derogatory age-based nicknames, innuendoes, or remarks.

Complaint Procedure

General Rules Regarding Harassment Reporting

Any employee who is subjected to or observes harassing or discriminatory conduct is encouraged to immediately report it, either verbally or in writing, to the building administrator, department head or the District's Equal Employment Opportunity (EEO) Officer, who is located in the human resources department at the District administrative offices. A report (either verbal or written) should contain information about the incident(s) of harassment, the date, the substance of the encounter and the alleged victim's reaction.

These regulations do not prohibit any individual from making a complaint directly to the appropriate state or federal agencies charged with enforcing harassment and discrimination laws.

A substantiated charge against an employee in the District shall subject that employee to disciplinary action.

Anyone who knowingly files or threatens to file a false complaint is subject to disciplinary action.

All matters involving harassment complaints will remain confidential to the extent possible. To assure confidentiality is consistent with legal mandates, the District will maintain all complaints, reports, statements, notations and memoranda generated during the course of an investigation in a separate file. Such material will be deemed confidential and access to the separate files will be limited. A record is kept of the report, results of the investigation and persons involved regardless of whether the complaint is informal or formal. However, any discipline issued may be documented in an employee's personnel file.

Should a complaint be received by a department or school directly from a compliance agency, the complaint is to be directed to the District's EEO Officer.

The District is committed to providing information and training for its administrators and staff through regular meetings, ensuring that they understand the policy and its importance; making all employees aware of this policy and the commitment of the District toward its strict enforcement; remaining watchful for conditions that create or may lead to a hostile or offensive work environment; and establishing and implementing programs and practices designed to create a working environment free from discrimination and harassment.

The District will neither allow nor tolerate retaliation in any form by any employee or others, against any complaining employee, or corroborating witness. Retaliation that contravenes this policy will result in disciplinary action.

If there is reason to believe that the Superintendent has violated policy, the complaint shall be made to the President of the Governing Board.

Informal Complaint Resolution Process

A complaint may first be presented informally to the person immediately involved in the alleged harassment. If the complaint is not promptly resolved at that level, or if the employee elects not to present the complaint to the person immediately involved, the employee is encouraged to immediately present the complaint to the supervisor of the alleged harasser.

After learning of an employee's complaint, the administrator or designee meets with the complaining employee ("complainant") to investigate the details of his/her complaint. The complainant will place their concerns in writing on the Informal Complaint Form. The administrator or designee will use the Administrator's Checklist when proceeding through the Informal Complaint Resolution Process. The complainant and alleged harasser may have a representative present with them.

In the case where the complainant's supervisor is the cause of the complaint, the complainant may file a complaint with the District's EEO Officer, located in human resources, who will arrange for the investigation of the matter.

The administrator or designee provides for an appropriate investigation, which includes giving the alleged harasser an opportunity to present his/her side of the incident and also includes interviewing any other relevant witnesses. If possible, the alleged harasser and witness(es) will place their responses in writing.

Within ten (10) working days after being notified of the complaint, the administrator shall inform both the complainant and alleged harasser of the administrator's determination and proposed resolution, if any, of the matter. If the administrator is unable to complete an investigation within this time frame, the complainant shall be provided with a written explanation of the reason for the delay and an estimate of when the investigation will be completed.

If applicable, during the investigation the administrator may implement any initial remedial steps to separate the complainant and the alleged harasser. A remedial step may include placing the alleged harasser on a nondisciplinary paid administrative leave.

The administrator or designee keeps a written record of the report, results of the investigation, and persons involved. All complaints, reports, statements, notations and memoranda generated during the course of an investigation are kept in a separate file. Such material will be deemed confidential and access to the separate files will be limited.

If the complainant does not agree with the findings of the administrator, the complainant may, within ten (10) working days after receiving the administrator's decision, appeal the decision in accordance with the Formal Complaint process.

Formal Complaint Resolution Process

If the complainant disagrees with the administrator's findings, the complainant may, within ten (10) working days after receiving the decision, appeal the decision to the District's EEO Officer by filing a formal complaint.

The complainant may also complete and submit a formal complaint when the administrator is the cause of the complaint.

Within twenty (20) working days after receiving the formal complaint, the EEO Officer shall receive and evaluate all relevant evidence related to the complaint and shall render a recommendation to the Superintendent. Evaluation of the complaint shall include, but is not necessarily limited to, conferring with the parties involved and any named or apparent witness(es). If the EEO Officer is unable to complete an investigation within this time frame, the complainant shall be provided with a written explanation of the reason for the delay and an estimate of when the investigation will be completed.

The EEO Officer's recommendation shall be delivered to the Superintendent and shall be in writing with supporting evidence and reasons. The Superintendent will render a decision upholding, modifying or rejecting the recommendation within three (3) working days. The Superintendent's decision will be communicated in writing to the complainant by the EEO Officer within two (2) working days after receiving the decision from the Superintendent. The EEO Officer shall retain a record of the Superintendent's written decision. If the Superintendent is unable to render a decision within three (3) working days, the complainant shall be provided with a written explanation of the reason for the delay and an estimate of when the written determination will be provided, which will be no longer than ten (10) additional working days.

If after the investigation the Superintendent has reason to believe that a violation of policy has occurred, the Superintendent, at his/her discretion, shall determine whether to hold an administrative hearing in accordance with the District's disciplinary procedures.