

SDCRAA HUMAN RESOURCES STANDARDS AND PROCEDURES

Section: **Workplace Practices**
Standard: **HARASSMENT AND OTHER PROHIBITED CONDUCT**
Section #: **D-3**
Effective: May 13, 2008

See Also: Equal Employment Opportunity and Diversity; Formal Discipline;
Accommodation of Disabled Applicants and Employees; Corrective
Action

GENERAL STANDARD

As part of the Authority's *Equal Employment Opportunity and Diversity* Standard, and in accordance with federal and state law, the Authority is committed to providing its employees with a work environment free of harassment and discrimination. The Authority strictly prohibits workplace harassment on the basis of an individual's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy or child birth), age, citizenship, veteran status, sexual orientation, or any other basis protected by any federal, state, or local law. This Standard applies to all employees, supervisors, management, independent contractors, vendors, clients, and customers of the Authority.

Prohibited unlawful harassment includes, but is not limited to, the following behavior:

- Verbal conduct, including but not limited to, epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations, or comments; threats or demands to submit to sexual requests as a condition to continued employment, to avoid some loss, or to receive special sexual benefits;
- Visual conduct such as derogatory or sexually oriented posters, photography, cartoons, drawings or gestures; and

- Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race, or any other legally protected basis.

DEFINITIONS

Harassment is unwelcome verbal, visual or physical conduct that creates an intimidating, offensive, or hostile working environment or that interferes with work performance.

Discrimination is the act of differentiating among employees (or applicants for employment) based on race, color, religion, sex (including pregnancy or child birth), age, national origin, ancestry, sexual orientation, disability, medical condition, marital status, family care status, or any other consideration made unlawful by federal, state, or local law. (See **Equal Employment Opportunity/Diversity** Standard.)

Sexual harassment is one form of unlawful harassment and discrimination. The regulations of the Equal Employment Opportunity Commission (EEOC) define “sexual harassment” as follows:

Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- I. submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment;
- II. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- III. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Note: Sexual harassment is illegal and is strictly prohibited in the workplace, during working hours and at all work-related functions, whether at the airport or

off-site. Any employee who believes that he or she or another employee has been subjected to sexual harassment is encouraged to follow the complaint procedures for claims of harassment and discrimination.

SPECIFIC STANDARD

It is not possible to identify each and every act that constitutes or may constitute harassment. However, certain conduct clearly is inappropriate and strictly is prohibited:

- It is improper for harassment to interfere unreasonably with an employee's work performance or to create an intimidating, hostile, or offensive work environment.
- It is improper to draw or display any picture, poster, drawing, or cartoon that any employee views as derogatory or offensive because of its implicit or explicit reference to a person's race, color, religion, sex, age, national origin, sexual orientation, disability, medical condition, marital status or any other consideration where such conduct or action is made unlawful by federal, state, or local law.
- It is improper to harass any individual by assaulting, impeding, or unreasonably blocking his/her movements or physically interfering with normal work or movement.
- It is improper to make any unsolicited written, verbal, physical (i.e. touching, bumping, blocking, etc.), and/or visual contact having sexual overtones. Verbal examples are sexual advances, unwelcome requests for sexual favors, lewd comments, comments regarding sexual behavior and/or the body of another employee, sexual innuendoes, or other vocal activity such as catcalls and whistles. Written and visual examples are suggestive or obscene letters, notes, invitations, photographs, cartoons, articles or other written or pictorial matters of a sexual nature.
- It is improper to offer any favor or employment benefit as a *quid pro quo* for a promotion, favorable performance evaluation, favorable assigned duty or shift, recommendation, or reclassification in exchange for sexual favor.

- It is improper to treat an employee who has provided any sexual favor, either voluntarily or under threat, more favorably than any other employee because of the sexual favor.
- Because harassment and intimidation are forms of discrimination, actions or words that harass or intimidate fellow employees expressly are forbidden. Some examples include: jokes or gestures and posters or cartoons that have a sexual content or sexual connotation.
- It is improper to base an employment decision on another submitting to or rejecting harassment.

Any employee found to be responsible for discrimination or harassment in violation of this Standard will be subject to appropriate corrective or disciplinary action up to and including termination of employment. The severity of the corrective action will be based upon the facts and circumstances determined during the investigation and any hearings.

Note: The Director, Human Resources Department and the Vice President, Administration are responsible for the implementation of this policy and accompanying procedures. They will answer any questions or concerns an employee may have regarding the same.

GUIDELINES

Employee Responsibility

An employee, who believes s/he is being harassed, is asked to inform the other person that his/her behavior is unwelcome.

- Employees are free to try to resolve the problem with the other person or persons and are encouraged to do so.
- If the employee is too uncomfortable to approach the offending person or if such efforts are futile, the employee is asked to notify the Director, Human Resources (or designee) in accordance with procedures outlined herein.

Any incident of unlawful harassment should be reported promptly to a representative of the Human Resources Department, the employee's manager,

or to any member of Authority management. The Authority emphasizes that an employee is not required to complain first to his/her manager or supervisor if that individual is the person the employee feels is harassing him/her.

Note: The concerns raised by the employee will be promptly and thoroughly investigated.

Management Responsibility

Any supervisor or management employee of the Authority who receives a complaint or observes unlawful harassing conduct, whether by an employee or non-employee, shall promptly inform a representative of the Human Resources Department, the Director, Human Resources, or an appropriate member of management.

Failure to do so will subject the supervisor or manager to disciplinary action, up to and including termination of employment.

Important: The timely reporting of incidents will promote the proper investigation of such complaints. If a manager receives a complaint about a non-employee harassing an employee, the manager should contact a Human Resources Department representative immediately.

The Authority's Responsibility

The Authority does not tolerate unlawful harassment and/or discrimination, nor does it tolerate retaliation for reporting harassment or for participating in any investigation of harassment.

The Authority's policy is designed to resolve any complaints or harassment within the Authority and should be used for such.

- If for some reason an employee is uncomfortable with the process, Director, Human Resources (or designee) should be contacted immediately.
- Any employee who believes s/he (or another Authority employee) has been subjected to unlawful harassment or discrimination by a co-worker or manager, said employee should promptly report the incident to their department manager or to the Director, Human Resources (or designee).

- If the Director, Human Resources, is the alleged perpetrator of the discrimination, the Vice President, Administration, will assume all duties of the Director.

COMPLAINT PROCEDURES

The Director, Human Resources will investigate all complaints of unlawful harassment and discrimination. Based upon completion of the investigation, a determination will be made, and the results will be communicated to the complainant, the alleged perpetrator, and, as appropriate, to all others directly concerned.

If sexual or other unlawful harassment or discrimination is proven, prompt and effective remedial action will be taken to include:

- I. Appropriate action against the perpetrator of the harassment and discrimination;
- II. Steps to prevent any further harassment and discrimination; and
- III. Any other appropriate remedial action will be taken.

Note: There can be occasions when an independent, third party may be engaged to conduct an investigation.

Non- Retaliation

Employees are encouraged to utilize the foregoing complaint process. No employee will suffer reprisals for or be retaliated against for reporting harassment, discrimination, or any other unlawful conduct, or for initiating, filing, or assisting in any action or proceeding regarding unlawful harassment or discrimination.

Any employee who believes that s/he (or another employee) is the object of retaliation for having opposed what s/he believes to be unlawful harassment or discrimination (including, but not limited to sexual harassment), or for having filed a complaint or otherwise participating in an investigation concerning the same, should immediately report the same to the Director, Human Resources.

Note: All complaints of retaliation will be investigated in the same manner as underlying complaints of harassment and/or discrimination.

External Complaint Process

The Authority hopes that an employee will choose to avail him/herself of the Authority's internal complaint process. However, an employee may file a complaint with the appropriate state or federal agency.

Employees who believe they have been unlawfully harassed may file a complaint with:

1. The federal Equal Employment Opportunity Commission (EEOC) investigates and prosecutes complaints of unlawful harassment in employment.
2. In California, the agency that fulfills the same functions as the EEOC and accepts and processes complaints of unlawful harassment is the California Department of Fair Employment and Housing (DFEH).
 - DFEH has the authority to conduct investigations.
 - The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct.
 - If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission (FEHC) or file a lawsuit in court. Both the FEHC and courts have the authority to award monetary and non-monetary relief in meritorious cases.

For more information, an employee may contact a representative of the Human Resources Department. S/he may also contact the nearest office of the EEOC or DFEH as listed in the telephone directory or on the Authority's postings.