

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4102 *Anti-Harassment, Including Sexual Harassment*

A. Policy Statement

Employees will have the opportunity to work in an atmosphere free from unlawful harassment, including sex-based harassment, as defined by state, federal, and local laws. The District prohibits quid pro quo and hostile work environment harassment.

The District will promptly and thoroughly investigate complaints pursuant to Policy 4104 alleging unlawful harassment and take appropriate action, including discipline, against any person found to have violated this Policy. Investigation determinations will be based on a preponderance of the evidence.

Unlawful harassment is strictly prohibited. This Policy applies to employee conduct perpetrated against other employees, parents/guardians, officers, Board members, agents, contractors, volunteers, and members of the public. Although Title VII sexual harassment falls within this Policy, Title IX sexual harassment does not. For the District's Policy on Title IX sexual harassment, see Policy 3118. Allegations that an employee engaged in unlawful discrimination, harassment, or retaliation against a student will be investigated under Policy 5202.

This Policy applies to unlawful conduct related to work in any way, regardless of location.

B. Unlawful Employment Harassment Definition

Except with regard to Title IX sexual harassment, the following definitions apply:

1. "Quid pro quo" harassment occurs when a supervisor requires sex, sexual favors, or sexual contact from an employee or job candidate as a condition of employment and where:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, to obtain or maintain employment; or
 - b. submission to or rejection of that conduct or communication is used as a factor in a decision affecting a person's employment.
2. "Hostile work environment" harassment is unwelcome verbal, visual/written, or physical conduct towards an employee because of the employee's race, color, national origin, ethnicity, religion, sex (including pregnancy), height, weight, marital status, gender identity or expression, age, sexual orientation, disability, genetic information, veteran status, military service, or any other protected class and that has:

- a. the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- b. the purpose or effect of unreasonably interfering with an employee's work; or
- c. an adverse impact on a person's employment opportunities.

Hostile work environment harassment is unlawful where it is based on an employee's protected class and the offensive conduct becomes a condition of continued employment or the conduct is sufficiently severe or pervasive to create a work environment that a reasonable person under the totality of circumstances would consider intimidating, hostile, or offensive.

- 3. Examples of conduct that may constitute unlawful sexual harassment include:
 - a. Verbal: Unwelcome comments, including: the use of derogatory, sexually suggestive, or vulgar language; the use of sexual innuendo; unwelcome advances or repeated requests for dates or sexual favors; threats based on or motivated by a person's sex; demanding or pressuring another person to submit to sexual requests or advances to attain academic or professional achievement; threatening another person's academic or professional reputation if that person does not submit to sexual requests or advances; or any other similar behavior.
 - b. Visual/Written: Subjecting another person to sexually suggestive, pornographic, or obscene images, text, or cartoons, including by electronic mail, text message, letter, or any other medium; the use of obscene gestures toward or around another person; leering at another person; or any other similar behavior.
 - c. Physical: Unwanted kissing, touching, patting, hugging, pinching, or any other unwanted physical contact; impeding another person's normal movements; stalking, assault, or battery based on the victim's sex; any other physical interference with another person based on that person's sex; or any other similar behavior.

C. Unlawful Retaliation

Unlawful retaliation against a complainant, witness, or other investigation participant is prohibited. Any person who unlawfully retaliates is subject to discipline, including discharge. A person who knowingly files a materially false complaint or makes a materially false statement is subject to discipline, including discharge.

D. Reporting Requirements

Board members, administrators, and supervisors must promptly report incidents of unlawful harassment and retaliation. This duty to report applies to unlawful

harassment and retaliation that the Board member, administrator, or supervisor observes or about which he/she receives information.

Board members, administrators, or supervisors who receive a complaint alleging a violation of this Policy must promptly report the complaint, in writing, to the Employment Compliance Officer(s).

A failure to comply with reporting requirements may result in discipline, including discharge.

Legal authority: 20 USC 1681 et seq.; 29 USC 621 et seq.; 42 USC 1983, 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1604.1 et seq., 1635; 34 CFR 106.8, 106.9; MCL 37.1101 et seq., 37.2101 et seq.; MCL 380.1300a

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