Fair Employment Practices

This policy applies to all persons involved in the operation of the District and prohibits harassment, discrimination, and retaliation by any employee, including supervisors and coworkers, volunteers, customers or clients of the District, and any vendor or other service provider with whom the District has a business relationship. The District will not tolerate instances of harassment, discrimination, or retaliation whether or not such behavior meets the threshold of prohibited conduct/behavior(s). While single incidents of alleged harassment, discrimination, or retaliation may not be sufficiently severe or pervasive to rise to the level of being a violation of the law, the District nevertheless prohibits such conduct/behavior(s) and may impose appropriate disciplinary action, up to and including termination.

If the alleged discrimination could constitute sexual harassment under Title IX, the *Nondiscrimination on the Basis of Sex Under Title IX* policy and administrative regulations apply rather than the *Fair Employment Practice* policy and administrative regulations.

1. Equal Employment Opportunity Officer Designated

   The primary responsibility for ensuring fair employment practices for the District are promoted and adhered to is assigned to the District's designated Equal Employment Opportunity (EEO) Officer. The District's designated EEO Officer will also serve as the Americans with Disabilities Act (ADA) Coordinator, unless otherwise noted, and as such, also has responsibility for coordinating the District's compliance with federal and state disability laws. The designated EEO Officer for the District is the Human Resources (HR) Manager. The name and work telephone number of the individual designated will be posted at District work sites. In the event the designated EEO Officer is unavailable, the Chief Financial Officer is designated as the alternative EEO Officer.

2. Anti-Harassment

   a. Definition

      District promotes a productive work environment and does not tolerate verbal, physical, written, or graphical conduct/behavior(s) that harasses, disrupts, or interferes with another's work performance or that creates an intimidating, offensive, or hostile environment based on that protected class membership.

   b. Prohibited Conduct/Behavior(s)

      The District will not tolerate any form of harassment based on protected class membership, including any conduct/behavior(s) on the part of employees, volunteers, clients, customers, vendors, contractors, etc., that impairs an employee's ability to perform assigned duties. Examples of prohibited conduct/behavior(s) include, but are not limited to:

      - *Offensive verbal communication* including slurs, jokes, epithets, derogatory comments, degrading or suggestive words or comments, unwanted sexual advances, invitations, or sexually degrading or suggestive words or comments.

- *Offensive written communication* including notes, letters, notices, emails, texts, or any other offensive message sent by electronic means.
- *Offensive gestures, expressions and graphics* including leering, obscene hand, finger, or body gestures, sexually explicit drawings, derogatory posters, photographs, cartoons, drawings, or displaying sexually suggestive objects or pictures.
- *Physical contact* when the action is unwelcomed by recipient including brushing up against someone in an offensive manner, unwanted touching, impeding or blocking normal movement, or interfering with work or movement.
- *Expectations, requests, demands, or pressure for sexual favors.*

3. Dealing with Allegations of Prohibited Conduct/Behavior(s)

   a. Process

      Employees or applicants who believe they are being subjected to any form of prohibited conduct/behavior(s) as described in this policy/regulation by another (e.g., employee, student, parent, volunteer, vendor, contractor of the District) based on their protected class membership, as well as those who believe they have witnessed another employee, client, or member of the public being subjected to prohibited conduct/behavior(s), have an affirmative duty to bring the situation to the attention of the District. Employees covered by a collective bargaining agreement (CBA) may opt to use the process described in this policy/regulation or in an applicable grievance procedure delineated by their CBA, but may not use both.

   b. Employee Responsibilities

      Employees who believe they personally are being or have been subjected to prohibited conduct/behavior(s) and/or are the target of any form of prohibited conduct/behavior(s), or have witnessed any other employee being subjected to these behaviors should immediately:

      i. Identify the offensive behavior to the alleged harasser and request that the behavior cease.

         ***Note**: An employee is NOT required to talk directly to the alleged harasser or to the employee's supervisor. It is critical, however, that employees who believe they have been targeted or have witnessed what the employee believes to be prohibited conduct/behaviors(s) directed to or committed by another, contact one of the individuals listed in sections 2 or 3 below.*

      ii. If the employee feels uncomfortable in speaking directly to the alleged harasser or if the employee requested the prohibited conduct/behavior(s) to cease, but the request did not produce the results desired, the employee should report the prohibited conduct/behavior(s) as soon as possible to any administrator or manager/supervisor, District's designated EEO Officer (Human Resources (HR) Manager.

iii. Employees who believe the EEO Officer has engaged in prohibited conduct/behavior(s) should bring such concerns to the attention of the alternate EEO Officer or to the Superintendent who will designate an objective person to conduct an investigation of such allegations. Employees may also report the prohibited conduct/behavior(s) to the District Attorney.

iv. An employee who witnesses or obtains information regarding prohibited conduct/behavior(s) by the immediate supervisor is required to report the incident to the administrator, EEO Officer.

Applicants who have concern regarding violations of this policy are encouraged to contact the designated EEO Officer or the alternate.

c. Administrator or Manager/Supervisor Responsibilities

Regardless of whether the employee involved is in the administrator's or manager's/supervisor's department and regardless of how the manager/supervisor became aware of the alleged prohibited conduct/behavior(s), all administrators or managers/supervisors must immediately report all allegations, complaints or observations of such prohibited conduct/behavior(s) to the EEO Officer, Department Head, or Superintendent. The report shall contain all known information including:

- The persons(s) involved.
- A written record of any specific conversations held with the complainant(s) and other person(s) involved as applicable.
- All known pertinent facts, including date(s), time(s), and locations(s).

An administrator's or manager's/supervisor's failure to immediately report such activities, complaints, or allegations will result in discipline, up to and including possible termination.

Note: *Supervisors/Managers shall not investigate nor conduct further factfinding without authorization from the EEO Officer or Superintendent.*

d. Investigation

Upon being made aware of allegations or complaints of prohibited conduct/behavior(s), the District will ensure that such allegations or complaints are investigated promptly. The District treats all allegations of complaints seriously and requires all employees to be candid and truthful during the investigation process. The EEO Officer or Superintendent will identify the appropriate individual(s) to conduct the investigation.

The District will make efforts to ensure that all investigations into complaints of harassment or bullying are kept as confidential as reasonably possible. Employees will be required to refrain from discussing the subject content of the alleged harassment or bullying with other employees or persons who may have information pertinent to the investigation throughout the course of the investigation. Employees shall be required, upon request, to provide information to regulatory agencies. The District will release information obtained only to those individuals involved in the investigation and the administration of the complaint with

a business need-to-know, or as required by law per the District's *Confidential Information* policy.

The District will communicate to the individual who made the initial complaint, as well as the individual against whom the complaint was made, that the investigation is completed and appropriate action, if any, has been taken.

If evidence arises that a participant in the investigation made intentionally false statements, that employee may be disciplined, up to and including possible termination.

If it is determined that a violation of this policy/regulation has occurred, the District will take corrective action against the violator commensurate with the severity of the offense. Such corrective action may include, but is not limited to, counseling, verbal warning, written reprimand, transfer, demotion, suspension without pay, or termination. The District will also initiate action to deter any future prohibited conduct/behavior(s) from occurring.

With regard to disability-related complaints, the EEO Officer (when appropriate, working with the supervisor and/or the complainant) shall propose a resolution to the complaint based upon the findings of such investigation. Such resolution will include reasonable accommodation when the District determines that such a reasonable accommodation can be provided.

e. Training

The District will periodically provide training to all employees on the prevention of discrimination and prohibited conduct/behavior(s) in the workplace. The District will provide new employees a copy of this policy/regulation upon hire and discuss the contents during the new hire orientation process. New employees will participate in training on the prevention of discrimination and prohibited conduct/behavior(s) within 90 days of hire. A copy of this policy/regulation will be made available to applicants upon request.

f. Prohibition against Retaliation

Retaliation is adverse treatment which occurs because of opposition to prohibited conduct/behavior(s) in the workplace. The District will not tolerate any retaliation by administrators/supervisors or coworkers against an employee who exercises rights under this policy. An employee who believes they have been harassed, retaliated, or discriminated against in any manner as a result of having filed a complaint, assisted another employee in filing a complaint, or participated in an investigative process should immediately notify the EEO Officer or the alternate. The District will promptly investigate and deal appropriately with any allegation of retaliation.

Related Forms

GBB1-AR-EX1 MCSD Investigation Checklist

GBB1-AR-EX2 MCSD Investigation Report Template