

EMPLOYEE WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT AND RETALIATION

DIA
(LOCAL)

Note: This policy addresses discrimination, harassment of and retaliation involving District employees. In this policy, the term “employees” includes former employees and applicants for employment. For discrimination, harassment of , and retaliation involving students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

STATEMENT OF
NONDISCRIMINATION

The District prohibits ~~sexual~~ discrimination, including harassment and harassment based on a person's against any employee on the basis of race, color, religion, gender, national origin, age, disability, ~~religion~~, or age any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy.

Employees shall not tolerate harassment of others and shall make reports as required at reporting procedures, below:

SEXUAL
DISCRIMINATION

Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law, that adversely affects the employee's employment.

HARASSMENT

~~Sexual~~ Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee's performance, environment or employment opportunities.

EXAMPLES

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

SEXUAL
HARASSMENT

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

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1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

EXAMPLES

Examples of sexual harassment may include, ~~but are not limited to~~, sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, communication, or contact.

~~OTHER PROHIBITED
HARASSMENT~~

~~Harassment of a District employee on the basis of the employee's race, color, gender, national origin, disability, religion, or age includes physical, verbal, or nonverbal conduct related to these characteristics when the conduct is so severe, persistent, or pervasive that the conduct:~~

- ~~1. Has the purpose or effect of unreasonably interfering with the employee's work performance;~~
- ~~2. Creates an intimidating, threatening, hostile, or offensive work environment; or~~
- ~~3. Otherwise adversely affects the employee's employment opportunities.~~

~~EXAMPLES~~

~~Examples of prohibited harassment may include, but are not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other types of aggressive conduct such as theft or damage to property.~~

RETALIATION

The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding harassment or discrimination is subject to appropriate discipline.

EXAMPLES

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include

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threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

PROHIBITED
CONDUCT

In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

REPORTING
PROCEDURES

An employee who believes that he or she has experienced prohibited harassment conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts ~~to an appropriate person designated below.~~ to his or her supervisor or campus principal.

~~Any District employee with supervisory authority who receives notice that another employee has or may have experienced prohibited harassment is required to immediately report the alleged acts.~~

~~Any other person who knows or believes that a District employee has experienced harassment should immediately report the alleged acts to the appropriate person designated by this policy.~~

Alternatively, the employee may report the alleged acts to one of the District officials below.

DEFINITION OF
DISTRICT
OFFICIALS
TITLE IX
COORDINATOR

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX coordinator. The District shall by regulation designate from time to time persons to coordinate its efforts to comply with Title IX of the Education Amendments of 1973, as amended.

ADA / SECTION
504
COORDINATOR

Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The District shall by regulation designate from time to time persons to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973:

SUPERINTENDENT

The Superintendent shall serve as coordinator for purposes of District compliance with all other antidiscrimination laws.

ALTERNATIVE
REPORTING
PROCEDURES

An employee shall not be required to report prohibited conduct to the person alleged to have committed it. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

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TIMELY
REPORTING

Reports of ~~harassment~~ **prohibited conduct** shall be made as soon as possible after the alleged acts act or knowledge of the alleged act. A failure to promptly report ~~alleged harassment~~ may impair the District's ability to investigate and address the ~~harassment~~ **prohibited conduct**.

NOTICE OF REPORT

Any A District ~~employee may report harassment to his or her supervisor or campus principal. A person shall not be required to report harassment to the alleged harasser; nothing in this policy prevents~~ **who receives** a person from reporting harassment directly to one of the District officials below:

DISTRICT
OFFICIALS

1. ~~For sexual harassment, the Title IX coordinator. [See DAA(LOCAL)]~~
2. ~~For all other prohibited harassment, the Superintendent.~~

A report against the Title IX coordinator may be made directly to the Superintendent; a report against the Superintendent may be made directly to the Board.

NOTIFICATION OF
REPORT

Upon receipt of a report of harassment, a supervisor or principal **prohibited conduct** shall immediately notify the appropriate District official listed above

CONFIDENTIALITY

~~To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to~~ **take any other steps required by this policy.**

INVESTIGATION OF
THE REPORT

The District may request, but shall not insist upon, a written report. If a report is made orally, the District official shall reduce the report to written form.

Upon receipt or ~~notification~~ **notice** of a report, the District official shall determine whether the allegations, if proven, would constitute ~~sexual harassment or other~~ prohibited harassment **conduct** as defined by District **this** policy. If so, the District official shall immediately authorize or undertake an investigation, **regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.**

If appropriate, the District shall promptly take interim **action calculated** to prevent harassment **prohibited conduct** during the course of an investigation.

The investigation may be conducted by the District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the campus principal or supervisor shall be involved in or informed of the investigation.

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The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

~~The District's obligation to conduct an investigation is not satisfied by the fact that a criminal or regulatory investigation regarding the same or similar allegations is pending.~~

CONCLUDING THE
INVESTIGATION

Absent extenuating circumstances, the investigation should be completed within ten **District** business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall be filed with the District official overseeing the investigation.

DISTRICT ACTION

If the results of an investigation indicate that prohibited ~~harassment~~ **conduct** occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the ~~harassment~~ **conduct**.

The District may take ~~disciplinary~~ action based on the results of an investigation, even if the ~~District concludes that the~~ conduct did not rise to the level of ~~harassment prohibited by law or District policy~~ **or unlawful conduct**.

CONFIDENTIALITY

To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

APPEAL

A complainant who is dissatisfied with the outcome of the investigation may appeal through DGBA(LOCAL), beginning at the appropriate level.

The complainant ~~shall be informed of his or her~~ **may have a** right to file a complaint with ~~the Texas Workforce Commission Civil Rights Division, the Equal Employment Opportunity Commission, or the United States Department of Education Office for Civil Rights~~ appropriate **state or federal agencies**.

RETALIATION
PROHIBITED

~~Retaliation against an employee alleged to have experienced harassment, a witness, or another person who makes a report or participates in an investigation is strictly prohibited. A person who makes a good faith report of prohibited harassment shall not suffer retaliation for making the report. A person who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding prohibited harassment is subject to appropriate discipline.~~

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~~Retention of records shall be in accordance with DAA(LOCAL).~~

RECORDS RETENTION

Copies of reports alleging prohibited conduct, investigation reports, and related records shall be maintained by the District for a period of at least three years. [See CPC]

ACCESS TO POLICY

This policy shall be distributed annually to District employees. Copies of the policy shall be readily available at each campus and the District administrative offices.