



Board Policy No. 350
Unlawful Harassment

SUBJECT CATEGORY: SECTION 300,
PERSONNEL

350: Unlawful Harassment

350.1 Harassment and discrimination in employment on the basis of sex, race, color, national origin, ancestry, citizenship, religion, age, physical or mental disability, medical condition, sexual orientation, gender identity or gender expression, veteran status, marital status, registered domestic partner status, genetic information, or any other protected basis is prohibited by federal and state law. The District does not tolerate unlawful discrimination or harassment in the workplace or in a work-related situation. Unlawful discrimination and harassment is a violation of these Guidelines. Section 350 shall also include and applied to members of the District Board of Directors including the use of complaint procedures described herein.

350.2 Unlawful harassment in employment may take many forms. Some examples include, but are not limited to:

- a) Verbal conduct such as epithets, derogatory comments, slurs, or unwanted comments and jokes;
- b) Visual conduct such as derogatory posters, cartoons, drawings, or gestures;
- c) Physical conduct such as blocking normal movement, restraining, touching, or otherwise physically interfering with work of another individual;
- d) Threatening or demanding that an individual submit to certain conduct or to perform certain actions in order to keep or get a job, to avoid some other loss, or as a condition of job benefits, security, or promotion; and
- e) Retaliation by any of the above means for having reported harassment or discrimination, or having assisted another employee to report harassment or discrimination.

350.3 Sexual harassment under state and federal laws is defined as unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
- c) Such conduct has the purpose or effect of interfering with a person's work performance or creating an intimidating, hostile or offensive work environment; or adversely affected

the employee's performance, appraisal, assigned duties, or any other condition of employment or career development; or

- d) Such conduct is offered in order to receive special treatment or in exchange for or in consideration of any personal action.

350.4 Prohibited acts of sexual harassment can take a variety of forms ranging from unwanted verbal or physical actions, subtle pressure for sexual activity to physical assault. Sexual harassment conduct need not be motivated by sexual desire. Examples of the kinds of conduct included in the definition of sexual harassment are:

- a) Direct or indirect threats or suggestions of sexual relations or sexual contact which is not freely or mutually agreeable to both parties.
- b) Continual or repeated verbal abuses of a sexual nature including graphic commentaries on the person's body; sexually suggestive objects or pictures placed in the work area that may embarrass or offend the person, sexually degrading words to describe the person, or propositions of a sexual nature.

350.5 Abusive conduct or workplace bullying of the District's employees, by any person in or from the work environment, is strictly prohibited. Abusive conduct or workplace bullying is the conduct of any employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interest. Abusive conduct or workplace bullying includes, but is not limited to:

- a) Repeated infliction of verbal abuse;
- b) Derogatory remarks, insults, epithets;
- c) Verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or
- d) Gratuitous sabotage or undermining of a person's work performance.

350.6 Policy Publicizing: All employees shall be informed of the District's unlawful harassment policy and complaint process prior to their need to know, and again when any complaint is filed. Also, said policy and complaint process shall be readily available to all employees and members of the general public utilizing the District's facilities and services.

All new employees shall be given a copy of the sexual harassment policy at the time of hiring and said policy's contents shall be discussed with said employee at that time by the Battalion Chief or Business Services Manager within whose division they will be working.

350.7 Complaint Process: Any employee who believes he or she is the victim of unlawful harassment, abusive conduct, or discrimination on any prohibited basis, or who has observed such conduct, or believes he or she is subject to retaliation ("Unlawful Harassment") may file a formal or informal confidential complaint without fear of reprisal or embarrassment.

- a) An informal complaint is made verbally by the employee to the immediate supervisor. Although filing the complaint with the immediate supervisor is preferred, the employee is free to file a complaint with any supervisory employee.

- b) A formal complaint by a member of the public or a member of the Board of Directors must be made in writing and submitted to the Fire Chief or President of the Board. A formal complaint by the Fire Chief must be presented to the President of the Board or, if against the President of the Board, to any other member of the Board. Complaints by all other employees must be submitted in accordance with general employee complaint procedures.

350.8 Complaint Response Process: Any supervisory employee who receives a formal or informal Unlawful Harassment complaint shall maintain the confidentiality of the plaintiff to the extent possible, and shall personally deliver said complaint immediately and directly to a Battalion Chief, Business Services Manager or to the Fire Chief if the Battalion Chief or Business Services Manager is unavailable or personally involved in said complaint.

- a) Promptly after the filing of a formal or informal complaint, an investigation shall be conducted by the supervising Battalion Chief, in cooperation with the Fire Chief, or other appropriate neutral investigator as determined by the District.
- b) A written record of any investigation of an alleged Unlawful Harassment shall be maintained. Findings will be sent to the Fire Chief. The Fire Chief shall immediately inform, in total confidentiality, the Board of Directors.
- c) All discussions resulting from said investigation shall be kept confidential by all informed of said investigation to the extent possible, unless disclosure is required by law.

350.9 Disciplinary Procedures and Sanctions: Upon conclusion of the investigation of an alleged Unlawful Harassment claim, appropriate action shall be taken by the Fire Chief against the harasser where Unlawful Harassment is found, including mandatory sexual harassment training to prevent future incidents.

- a) Appropriate action may be taken to remedy the victim's loss, if any, resulting from the Unlawful Harassment. Making the employee whole may involve reinstatement, back pay, promotion, etc.
- b) Action taken to remedy a sexual harassment situation shall be done in a manner so as to protect potential future victims. An employee involved in a confirmed incident shall be removed from supervision of a person verified to have committed a harassment activity.

350.10 Retaliation: Retaliation against any individual for making a report, or for participating in an investigation, under this policy is strictly prohibited. Individuals are protected by law and by District policy from retaliation for opposing unlawful discriminatory practices, for filing an internal complaint under this policy or for filing a complaint with the DFEH or EEOC, or for otherwise participating in any proceedings conducted by the District under this policy or by either of these agencies.

Adopted: December 12, 2018



Clerk of the Board



Board President