

Harassment, Discrimination and Retaliation Policy Statement

Purpose: To provide a policy for Central Workforce Development Board (CWDB), partner agencies and sub-recipient entities prohibiting employees and non-employees from harassing, discriminating against, intimidating, or retaliating against staff, customers and partner employees.

ORIGINAL DATE: 10/2012

REVISION DATE: 12/2016

Background: The nondiscrimination and equal opportunity (EO) provisions of WIOA prohibit discrimination against applicants, beneficiaries, and employees because of race, color, religion, sex, national origin, age, disability, and political affiliation or belief, and, for beneficiaries only, citizenship or participation in a WIOA Title I financially assisted program or activity. The regulations that implement these provisions are published at 29 CFR Part 38, and further prohibit intimidation of, or retaliation against, complainants.

Resources:

- Title VII of the Civil Rights Act of 1964
- The Missouri Human Rights Act, Chapter 213, RSMo
- Missouri Executive Order 10-24
- Division of Workforce Development (DWD) Issuance 17-2016

The Central Region Workforce Development Board (CWDB) and its subcontractors are committed to providing a workplace free of unlawful harassment and discrimination for all employees and customers. Employees assuming a management/supervisory role must report all complaints and instances of harassment or discrimination to the CWDB Equal Opportunity Officer immediately.

CWDB will promptly address all related complaints in a timely fashion and take appropriate disciplinary action, including dismissal, against those who violate this policy. The complaint process will remain confidential to the maximum extent possible.

Employees as well as non-employees are prohibited from harassing or discriminating against staff, customers, and partner employees whether or not the incidents of harassment or discrimination occur on employer premises and whether or not the incidents occur during work hours. **Employees of CWDB and partner staff will treat one another and all those with whom they come into contact during the course of business equitably and fairly regardless of age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).** Depending upon the circumstances, this policy may extend beyond normal work hours and cover employee conduct at conferences, meetings, or other events. Please be advised that this policy applies to all employee conduct, regardless of intent.

Definitions:

The following definitions are for general reference purposes only and are not intended as a substitute for any legal definitions.

Hostile Work Environment: When discriminatory or harassing conduct creates a work environment that would be intimidating, abusive, hostile, or offensive to reasonable people, or has the purpose or effect of unreasonably interfering with an individual's employment. Most instances of hostile work environment involve pervasive harassment that has a cumulative effect.

Intimate Relationships: Intimate relationships are those that involve dating, sexual activity and/or romantic involvement.

Power-differentiated Working Relationship: Any work relationship in which one employee supervises or manages (directly or indirectly) another employee OR makes decisions concerning another employee's terms, conditions or privileges of employment.

Protected Categories: Categories of individuals protected by law and/or executive order from any form of discrimination such as: Age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).

Retaliation: Occurs when an employer takes an action or makes an adverse employment decision because an employee reports an incident of harassment or discrimination, or who participates in a related investigation.

Unwelcome Conduct: Conduct may be considered unwelcome if the employee did not solicit or invite it or the employee regarded it as undesirable or offensive.

Discriminatory Harassment:

Discriminatory harassment occurs when one individual disparages or shows hostility toward another on the basis of a protected category. Discriminatory harassment is against the law if it is sufficiently severe, pervasive, or persistent so as to interfere with an employee's work performance or employment opportunities, or create an intimidating, hostile, or offensive environment. Discriminatory harassment might include verbal, non-verbal, physical, or visual harassment based on or related to an individual's protected category. The following is a non-exclusive list of behaviors that are inappropriate and, depending on the circumstances, may in and of themselves meet the definition of discriminatory harassment:

- Epithets, "jokes," or offensive or derogatory comments based upon an individual's sex, race, color, religion, national origin, age, disability, sexual orientation
- Ethnic slurs, workplace graffiti, or any offensive conduct directed towards an individual's birthplace, ethnicity, culture, or foreign accent
- Negatively stereotyping an individual based upon a one of the protected categories listed in this policy
- Making, posting, e-mailing or circulating written or graphic material in the workplace that denigrates or shows hostility towards an individual based upon his or her protected status
- Any other threatening or intimidating act that relates to race, gender, sex, color, religion, national origin, age or disability

Individuals, who engage in discriminatory harassment, as defined by this policy, will be subject to disciplinary action, up to and including termination from employment. CWDB and/or DWD will

determine, with proper regard for all surrounding circumstances, whether a specific act violates this policy.

Sexual Harassment:

Sexual harassment is unwelcome verbal, non-verbal, or physical conduct of a sexual nature that affects an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment. Certain behaviors, such as conditioning promotions, discharge, performance evaluation, pay adjustment, discipline, assignments, or any other condition of employment or career development on submission to unwelcome actions of a sexual nature, always constitute sexual harassment. The following is a non-exclusive list of examples of behaviors that are inappropriate and, depending upon the circumstances, may in and of themselves meet the definition of sexual harassment or contribute to a hostile work environment:

- Sexual advances and propositions
- Requests for sexual favors
- Sexual "jokes," comments, suggestions or innuendo
- Foul or obscene gestures or language
- Display of foul, obscene or offensive printed or visual material
- Physical contact such as patting, pinching, hugging or brushing against another individual's body;
or
- Any other unwelcome verbal, physical or visual conduct of a sexual nature

A victim of sexual harassment can be male or female. The victim can be of the same sex as the harasser. Although sexual harassment typically involves a power-differentiated working relationship, individuals in positions of lesser or equal authority can also harass.

Sexual harassment can be physical and/or psychological in nature. It can occur in one instance or as an aggregation of a series of incidents even if one of the incidents considered on its own would not rise to the level of harassment. Sexual harassment does not typically include occasional compliments of a socially acceptable nature.

Individuals who engage in sexual harassment, as defined by this policy, will be subject to disciplinary action, up to and including termination from employment. CWDB and/or DWD will determine, with proper regard for all surrounding circumstances, whether a specific act violates this policy.

Employees who CWDB finds have subjected another employee to unwelcome conduct of a sexual nature, whether such behavior meets the legal definition of sexual harassment or not, will be subject to discipline or other action appropriate to the circumstances.

Retaliation:

- Any employee who reports an incident of harassment or discrimination, or who participates in a related investigation, shall not experience retaliation as a result.
- Any employee who believes they have been retaliated against should immediately inform his/her supervisor or the CWDB Equal Opportunity Officer.
- Any employee who retaliates against another employee for filing a complaint or participating in an investigation of harassment or discrimination shall be subject to disciplinary action.

Reporting Harassment, Discrimination or Retaliation:

Employees who feel they have witnessed or been subject to conduct prohibited by this policy in connection with their employment with the Department, or who have questions or concerns about discriminatory harassment, sexual harassment, or retaliation should immediately contact Human Resources in accordance with the following:

Employee Rights and Responsibilities:

1. Employees may report any incident of discriminatory harassment, sexual harassment, or retaliation to the designated human resources coordinator, human resources manager, employee supervisor, or employee manager.
2. Employees are also encouraged to make their unease and/or disapproval directly and immediately known to the offending party. Employees may be able to stop or prevent harassment by informing the offending person that such conduct is unwelcome and offensive and must stop.
3. If an employee does not wish to communicate directly with the offending person, or if such communication has been ineffective, the employee may report the incident immediately.
4. To initiate a formal investigation into an alleged violation of this policy, employees may file a Discrimination Complaint Form (DWD-101 or DWD-101s, 2014-12) with their human resources manager or CWDB Equal Opportunity Officer. CWDB is available to assist the complainant in completing the Complaint Form. To ensure a prompt and thorough investigation, the complainant should provide as many details as possible.
5. If possible, employees should make a written record of the date(s), time(s), witness(es) to and nature of any incident(s) that may violate this policy.
6. An employee who finds himself or herself involved in an intimate relationship with his or her supervisor or manager is responsible for reporting that involvement to Human Resources or CWDB. The managing agency will take appropriate action to remove any power differentiation from the relationship.
7. Employees shall discourage discrimination by treating others respectfully and not initiating or participating in conversations or “jokes” about the protected categories listed in this policy.
8. Employees also have the responsibility to discourage sexual harassment by not participating in “jokes” or conversations of a sexual nature and not engaging in or supporting any unwelcome conduct.
9. Any person claiming to be aggrieved by an unlawful discriminatory practice, as defined in Chapter 213, RSMo, may also file a complaint with the Missouri Commission on Human Rights within 180 days of the most recent alleged discrimination.
10. Employees who make false (not including complaints that, even if erroneous, are made in good faith) and/or malicious complaints of harassment, discrimination, or retaliation shall be subject to disciplinary action, up to and including termination.

Management Responsibilities:

1. Immediately report all incidents of harassment or discrimination to the designated human resources manager or CWDB Equal Opportunity officer, whether or not the victim of the harassment or discrimination has filed a written complaint.
2. Cultivate and maintain a work environment free from harassment and discrimination and take immediate and appropriate corrective action if incidents of harassment or discrimination occur.
3. Supervisors/managers who knowingly allow or tolerate any form of harassment and/or discrimination are in violation of this policy and are subject to disciplinary action.
4. Supervisors/managers participating in an intimate relationship with subordinate employee(s) or with others where a power-differentiated relationship exists are in violation of this policy and may be disciplined for such conduct, up to and including termination.

Human Resources/CWDB/DWD Responsibilities:

1. Upon receipt of the Complaint Form, the designated human resources manager or CWDB Equal Opportunity Officer, will review the complaint and meet with appropriate personnel to obtain all pertinent information.
2. In cases where there is a conflict of interest or perceived conflict of interest, a designee will be assigned to conduct the investigation (e.g. Division of Workforce Development's Equal Employment Opportunity Officer).
3. Human Resources/CWDB/DWD will ensure that both the complainant and respondent are aware of the gravity of the allegations.
4. Human Resources will explain the Harassment, Discrimination and Retaliation Policy and complaint investigation procedures to both the complainant and the respondent.
5. Human Resources will explore informal means of resolving the complaint, depending on the seriousness of the conduct alleged.
6. Human Resources will notify the appropriate law enforcement agency if the complaint includes allegations of criminal violations.
7. Human Resources will notify the complainant in writing of its findings. However, Human Resources will not disclose details about the nature or extent of any disciplinary or corrective actions to the complainant(s) and/or witness(es) without compelling reason, such as the complainant's personal safety.

Confidentiality:

All inquiries, complaints, and investigations related to this policy are confidential unless legally required to be disclosed. Information is revealed strictly on a need-to-know basis. CWDB protects the confidentiality of information contained in formal complaints and maintain such complaints in a secure file, separate from the employee's personnel file.

Remedial Action and Policy Violation:

1. CWDB will take appropriate remedial action to stop all forms of harassment, discrimination, or retaliation.
2. Employees who are interviewed during an investigation are required to comply with the investigation process to the fullest extent possible. Employees who hinder the investigation process or provide false information are subject to disciplinary action, up to and including termination.
3. Violations of this policy are subject to disciplinary action, up to and including termination.

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By my signature below, I acknowledge that I have read and agree to abide by the Central Region Workforce Development Board Harassment, Discrimination and Retaliation policy.

Signature

Date
