

Harassment, Discrimination, and Retaliation Policy and Complaint Procedure

Section 11.04

It is the policy of the Sacramento Employment and Training Agency (SETA) to provide a working environment free of harassment, discrimination, and retaliation. Harassment, discrimination, or retaliation by any of SETA's employees, directors, officers, volunteers, vendors, participants or agents will not be tolerated. SETA shall act promptly, vigorously and visibly with respect to any harassment, discrimination, or retaliation complaint and shall abide by the following Harassment, Discrimination, and Retaliation Policy and Complaint Procedure.

This Harassment, Discrimination, and Retaliation Policy may be more comprehensive than state or federal law. Conduct that violates these policies may not violate state or federal law but still could subject an employee to discipline. SETA will take preventative and corrective action, up to and including termination, to address any of the following behaviors, including but not limited to:

- Failure to follow any provision of this policy and/or for behavior that violates this policy or the rights it is designed to protect.
- Making unfounded allegations of harassment, discrimination, or retaliation.
- Purposely impeding an investigation involving harassment, discrimination, or retaliation.
- Retaliation related to the reporting or investigation of harassment or discrimination.

This policy applies to all employees. All employees shall follow the intent of this policy in a manner that reflects professional workplace standards and the best interests of the Agency and its mission.

Training

All new employees shall be provided with a copy of this policy and receive training on this policy as part of their new hire orientation. All employees, including supervisory and management, shall receive mandated training in accordance with state and federal law.

Protected Group/Status Defined

All SETA employees, agents, contractors, and volunteers are prohibited from harassing or discriminating against any applicant or employee in the following protected group/status under federal and state law:

Race, color, religion (includes religious dress and grooming practices), sex/gender (includes pregnancy, childbirth, breastfeeding and/or related medical conditions), gender identity, gender expression, sexual orientation, marital status, medical condition (genetic characteristics, cancer or a record or history of cancer), military or veteran status, national origin (includes language use),

ancestry, disability (mental and physical, including HIV/AIDS, cancer, and genetic characteristics), genetic information, request for family care leave, request for leave for an employee's own serious health condition, request for Pregnancy Disability Leave, and age (over 40).

A. Harassment Defined

Harassment, including sexual harassment, is any verbal, physical or visual conduct that creates an intimidating, offensive, or hostile working environment or that interferes with an employee's work performance. Sexual harassment is any unwelcome sexual advance, request for sexual favors and/or other verbal, visual or physical conduct of a sexual nature. Such conduct constitutes harassment when it is either:

- An employment condition: submission to such conduct is made either explicitly or implicitly a term or condition of employment.
- An employment consequence: submission or rejection of such conduct is used as a basis for employment decisions.
- An offensive job interference: such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Unlawful harassment takes many forms including, but not limited to, the following (when based upon an individual's protected status):

- Verbal conduct such as epithets, derogatory comments, provocative comments about or relating to one's sex or appearance, slurs, jokes, statements, using sexually vulgar, obscene, explicit or foul language, unsolicited sexual advances, invitations, comments or other conduct which does not need to be based on genuine sexual interest or desire.
- Visual conduct such as leering, stalking, staring, derogatory or sexually suggestive pictures, objects, posters, magazines, cartoons, drawings, letters, poems, emails or gestures that are known or should be known to be unwelcome.
- Physical conduct such as assault, impeding or blocking normal movement or interference with work directed at one because of his\her sex, age or other protected basis, or unwelcome touching or grabbing of any part of the body.
- Explicit or implicit threats and/or demands to submit to sexual requests as a condition of employment (i.e. promotion, in order to keep one's job, or avoid some other loss and offers of job benefits) in return for sexual favors.
- Retaliation for rejection of sexual advances or having reported the harassment.

C. Discrimination Defined

Discrimination includes, but is not limited to:

- Taking an adverse employment action (i.e. demotion, transfer, discipline, termination, recruitment, layoff, salary and benefits) against an employee based on that individual's protected group/status.
- Treating an applicant or employee differently with regard to any aspect of employment because of the individual's protected group/status.
- Taking an employment action that adversely affects the employment opportunities for members of a protected group/status.
- Basing an employment decision as to a job applicant or employee on the individuals protected group/status
- Engaging in harassment based on an individual's protected group/status.

Discrimination may include, but is not limited to, the following types of behavior relating to an individual's protected group/status:

- Making slurs or derogatory comments in any format
- Engaging in verbal or physical conduct, comments, or jokes relating to an individual's group/status
- Wearing t-shirts, clothing, or hats depicting derogatory or insulting scenes or terminology
- Distributing or displaying printed material
- Refusing or failing to hire or promote

D. Retaliation Defined

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because they engaged in protected activity including raising a concern of, filing a complaint of, participating in an investigation of, or being a witness to, harassment/discrimination. Retaliation is prohibited.

E. Responsibility of Supervisors and Management

Each Supervisor/Manager shall do the following:

- Convey to the employees within his/her Department/Unit SETA's strong disapproval of harassment, discrimination, and retaliation.
- Continually monitor the work environment and strive to ensure that it is free from all types of unlawful harassment, including discrimination and/or retaliation.
- Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of harassment, discrimination or retaliation.
- Ensure their subordinates understand their responsibilities under this policy.
- Ensure employees who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

Any supervisor or member of management who is aware, or has reason to believe, that an employee has alleged harassment, or may be feeling harassed, has a responsibility to notify the Equal Employment Opportunity Officer/Human Resources Chief regarding the allegation. Depending on the circumstances, the seriousness of the offense, the extent of the conduct, or the type of remedy being sought, it may be appropriate for the supervisor, manager or chief to remedy the situation. Supervisors and members of management should work closely with the Human Resources Department.

It must be emphasized to all employees the importance of reporting incidents promptly to assure further incidents do not occur. The employee must also be assured that they will not be subject to any recrimination or reprisal for making a harassment complaint. Employees should also be informed that harassment may be grounds for disciplinary action, up to and including termination.

F. Complaint Procedure:

Employees who believe they are experiencing harassment, discrimination, or retaliation are encouraged to inform the individual that their behavior is unwelcome, offensive, or inappropriate. However, this step is not required. The problem may be resolved by advising the individual of their offensive behavior. If this does not resolve the concern or if an employee feels uncomfortable, threatened or has difficulty in expressing their concern, the employee shall complain to one of the individuals listed below. If the alleged harasser is the Human Resources Chief/EEOO, the employee shall promptly inform the Executive Director.

Any employee who believes they are being harassed, discriminated against, subjected to retaliation, or who has observed harassment or discrimination, is strongly encouraged to file a complaint verbally or in writing with any of the following individuals:

- Supervisor
- Manager
- Deputy Director or Department Chief
- Human Resources
- Equal Employment Opportunity Officer (EEOO)

Anyone receiving a complaint of harassment, discrimination, or retaliation shall immediately document the complaint in writing and refer the complaint to Human Resources, who will ensure that a timely, effective, thorough, and objective confidential investigation of the allegation(s) is undertaken.

Once an employee makes a complaint, the Human Resources Chief/EEOO or Executive Director shall engage in the following:

1. Fully Inform the Complaining Employee of his/her Rights.

The employee shall be promptly and clearly informed of his or her rights contained in this Policy and Procedure. Further, the employee shall be advised of his or her right to file a

complaint with the California Department of Fair Employment and Housing (DFEH), the U.S. Equal Employment Opportunity Commission (EEOC), the California Labor Commissioner and/or the courts.

2. Fully and effectively investigate.

The Human Resources Chief/EEOO or Executive Director must immediately undertake an effective, thorough, objective and complete investigation of the situation complained of. If it is appropriate to do so, the Human Resources Chief/EEOO or designee shall consult with the complaining employee, the alleged subject, any witnesses to the conduct and victims of similar conduct that the Human Resources Chief/EEOO or Executive Director has reason to believe may exist and any other person who may have relevant information. All applicable documents and records shall be reviewed as needed to ensure that the investigation is thorough.

All SETA employees, agents, contractors, or volunteers shall cooperate fully with all investigations, shall not retaliate against complainants or witnesses, and shall not suppress, or attempt to suppress a complaint of harassment, discrimination, or retaliation.

3. Harassment, Discrimination, or Retaliation Determination.

The investigation shall be concluded and a determination shall be made about the situation complained of as expeditiously as possible. In determining whether the alleged conduct constitutes harassment, discrimination, or retaliation, the record as a whole must be considered and the totality of the circumstances such as the nature of the conduct and the context in which the alleged incidents occurred. The determination shall be made from the facts on a case-by-case basis. A confidential written determination shall be provided to the complaining employee and the subject. The determination by the Human Resources Chief/EEOO or Executive Director constitutes the final decision of the agency.

4. Remedial Action for the Subject.

If it is determined that harassment, discrimination, or retaliation has occurred, effective action will be taken in a manner consistent with the circumstances. Discipline ranging from verbal or written warnings up to and including termination may be administered.

5. Remedial Action for the Affected Employee.

If harassment has occurred, the following actions must be taken in an effort to make the employee whole.

- a. Appropriate action must be taken to remedy the employee's loss, if any, resulting from the harassment, discrimination, or retaliation. Such actions may include promotion or monetary payment and/or the restoration of the employee's employment record if it was unjustly diminished.

b. Action must be taken to prevent any form of retaliation against the employee for having complained, both on a managerial and a co-worker level.

c. Action must be taken to protect the employee and other potential victims from future harassment. Such actions must not be taken as a form of retaliation against the employee for having complained.

G. Limited Confidentiality:

To the extent permitted by law, proceedings under this Policy and Procedure and all reports and records filed and prepared shall be kept confidential. Reasonable efforts shall be made to protect the privacy interests of the parties. Information will be given only to those who have a need to know.