


<b>Policy Title:</b>	<b>Anti-Discrimination and Harassment-Free Workplace</b>		
	<b>OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER</b>	<b>Category</b>	Anti-Discrimination and Harassment-Free Workplace
		<b>Administrative Policy #</b>	
		<b>Revision #</b>	
		<b>Review Frequency</b>	As Needed – no less frequently than triennially
<b>Administrative Division</b>	Human Resources	<b>Reviewed By</b>	Chief Administrative Officer, General Counsel, Human Resources Director
<b>BOWC Approval</b>		<b>Last Reviewed/Update Date</b>	
<b>Implementation Date</b>			

## 1. AUTHORITY

- 1.1. Under the authority established by the Elliott-Larsen Civil Rights Act of Michigan, Persons with Disabilities Civil Rights Act of Michigan, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Pregnancy Discrimination Act of 1978, the DWSD has established this policy to remain in compliance with Federal, State, and Local law.

## 2. OBJECTIVE

- 2.1. To set forth guidelines for appropriate conduct, and investigating and addressing violations of discrimination, harassment, and sexual harassment.

## 3. PURPOSE

- 3.1. The purpose of this policy is to provide DWSD employees with a safe and welcoming work environment that is free from discrimination, harassment and sexual harassment in accordance with applicable regulations, state, federal, and local laws. This policy defines prohibited conduct and reflects DWSD's intolerance for harassment and discrimination in the workplace.

## 4. DEFINITIONS

“Appropriate corrective action” means action that is calculated to ensure that the discrimination or harassment ceases and will not recur.

“Complaint” means any mention of prohibited conduct that is suspected or perceived to be discriminatory, harassment or retaliation by a member of management. This definition applies regardless of whether the information comes from the perceived victim or a witness and regardless of whether the reporting party conveys that the conduct was inoffensive.

“Disability” means 1 or more of the following:

- (i) A determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual's ability to perform the duties of a particular job or position or substantially limits 1 or

- more of the major life activities of that individual and is unrelated to the individual's qualifications for employment or promotion;
- (ii) A history of a determinable physical or mental characteristic described in subparagraph (i); and/or
  - (iii) Being regarded as having a determinable physical or mental characteristic described in subparagraph (i).

"Discrimination" means to fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to his/her compensation, terms, conditions, or privileges of employment based upon such individual's actual or perceived race, color, religion, sex (including pregnancy), national origin, height, weight, familial status, marital status, or disability; or to limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise affect his/her status as an employee based upon an individual's actual or perceived race, color, religion, sex, national origin, height, weight, familial status, marital status, or disability.

"Discrimination based on sex" includes sexual harassment.

"Harassment" is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where: (a) enduring the offensive conduct becomes a condition of continued employment; or (b) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

"Management" means the Public Servant who exercises management or supervisory authority and responsibility over the operations for a group of units, supervisors, and/or employees.

"Retaliation" means unwelcome conduct in response to that employee's: (a) opposing employment practices the employee reasonably believes discriminates against individuals; (b) informing a supervisor or any management employee of perceived harassment or discrimination; (c) filing any type of harassment or discrimination complaint allowed under the law; and/or (d) testifying or participating in a harassment or discrimination investigation or proceeding.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature under the following conditions: (a) submission to the conduct or communication is made a term or condition either explicitly or implicitly to obtain employment; (b) submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting the individual's employment; or (c) the conduct or communication has the purpose or effect of substantially interfering with an individual's employment.

"Third Party Harassment" means harassment by a vendor, customer or non-DWSD employee that is (a) targeted at an employee; and (b) has the purpose or effect of unreasonably interfering with the employee's work performance; or (c) has the purpose or effect of creating an intimidating, hostile or offensive work environment for the employee. Such conduct is harassment regardless of whether the target of the prohibited conduct is a willing participant in or is not offended by that conduct.

## **5. SCOPE**

- 5.1. This policy applies to all DWSD employees, contractors, student interns, and all other persons employed by DWSD.

## **6. RESPONSIBILITIES**

### **6.1. Human Resources**

- 6.1.1. The Human Resources Director publishes this policy; communicates this policy to all employees; reviews, approves and publishes divisional standard operating procedures; and updates this policy as necessary.
- 6.1.2. The Human Resources Division conducts investigations to make determinations of alleged violations of this policy.
- 6.1.3. The Human Resources Division determines appropriate consequences, up to and including termination, for employees who violate this policy.

### **6.2. Management**

- 6.2.1. Management should be familiar with, understand, and act in full compliance with this policy.
- 6.2.2. Management conducts themselves in a professional manner while performing their job responsibilities. All Management staff are expected to refrain from discriminatory or harassing behavior with employees, customers, vendors, and contractors.
- 6.2.3. Management creates an atmosphere free of discrimination and harassment and implements this policy within their area.
- 6.2.4. Management notifies all reports of alleged harassment or discrimination to the Human Resources Division. Failure of management to report such allegations to the Human Resources Division shall be subject to disciplinary action, up to and including immediate termination.
- 6.2.5. Management has a legal obligation to respond appropriately to any suspected or identified harassment or discrimination. This duty exists even if: (a) based on their observation and no employee registers a complaint; (b) an employee reporting harassment or discrimination requests that no investigation occur; (c) an employee reporting harassment or discrimination was not a direct or intended target of the harassment or discrimination; or (d) an employee situation giving rise to the harassment or discrimination complaint has been resolved.
- 6.2.6. Management shall cooperate in any harassment and discrimination investigation. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

### **6.3. Employee**

- 6.3.1. Employees should be familiar with, understand, and act in full compliance with this policy.
- 6.3.2. Employees will conduct themselves in a professional manner while performing their job responsibilities. All employees are expected to treat each other with respect and are expected to refrain from discriminatory or harassing communication and interactions with co-workers, customers, vendors, and contractors.

- 6.3.3. Any employee who experiences or witnesses conduct that violates this policy has a responsibility to report the incident immediately to his or her supervisor, Management and/or Human Resources Division.
- 6.3.4. Absent extenuating circumstances that prevent it, an employee who has experienced sexual harassment or who feels he/she is being subjected to a hostile work environment is encouraged to inform the person committing the conduct that the action(s) is not wanted ("unwelcome") and/or to report it to a supervisor and/or Human Resources Division, to eliminate the perception or misunderstanding that the situation is consensual.
- 6.3.5. All employees are expected to cooperate with any investigation. Failure to cooperate in an investigation may result in disciplinary action up to and including termination.

## **7. POLICY**

### **7.1. Compliance with All Laws**

- 7.1.1. This policy is not intended to substitute for or alter DWSD's obligations under Federal, State and local laws regarding discrimination or harassment. If Management or employees have questions regarding compliance with or interpretation of discrimination or harassment laws, they are encouraged to contact the DWSD Office of General Counsel or Human Resources Division.

### **7.2. Commitment to Creating a Safe Work Environment**

- 7.2.1. DWSD is committed to maintaining a culture that encourages and supports positive, collaborative work efforts to ensure a productive and effective work environment free from discrimination and harassment. DWSD will not tolerate discrimination or harassment in the workplace.

### **7.3. Discrimination**

- 7.3.1. DWSD prohibits discrimination of any kind, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy.

### **7.4. Harassment**

- 7.4.1. DWSD prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy.

### **7.5. Prohibited Conduct – Sexual Harassment**

- 7.5.1. Sexual harassment of any person is prohibited.
- 7.5.2. Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:
  - 7.5.2.1. Physical sexual harassment, including stalking, physical assault, coerced sexual activity, unwelcome touching.
  - 7.5.2.2. Verbal sexual harassment innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse.

7.5.2.3. Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and Internet postings; or other forms of communication that are sexual in nature and offensive.

## **7.6. Exception**

7.6.1. This policy does not cover offensive references that unavoidably arise in the course of business (i.e. required transcription of conversations containing offensive references, processing or material evidence containing offensive material, review of reports of offensive conduct and other related activities).

## **7.7. False Accusations**

7.7.1. It shall be a violation of this policy for an individual to harass an employee, contractor, or student intern by filing a complaint with knowledge of its falsity or with reckless disregard for its truth or falsity. Intentionally submitting a false accusation is subject to discipline up to and including termination.

## **7.8. Retaliation**

7.8.1. Retaliation against any employee making a complaint under this policy, or retaliation against witnesses assisting in an investigation of a complaint, is expressly prohibited and is subject to discipline up to and including discharge.

7.8.2. Before Management takes any action with the intention or attempt to insulate or protect a complainant by changing the complainant or alleged violator's work environment, schedule, duties, or by transferring to another work area, Management should consult with the Human Resources Division.

7.8.3. Any act of retaliation will be treated as a separate and distinct incident regardless of the outcome of a complaint for discrimination or harassment.

## **7.9. Confidentiality**

7.9.1. All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. DWSD will make all efforts to conceal the identity and retain the confidentiality of the complainant; but should the identity become known, DWSD will take adequate steps to ensure the complainant is protected from retaliation during and after the investigation, which may include reassigning the complainant or the alleged violator(s) to another location. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the Human Resources Division.

7.9.2. Employees who disclose details of an investigation, without express instruction or legal obligation to do so, may be disciplined, up to and including discharge.

## **7.10. Legal Action**

7.10.1. Nothing in this policy prevents the complainant from pursuing formal legal remedies or resolution through local, state or federal agencies or courts for discriminatory or harassing conduct.

### **7.11. Reasonable and Necessary Accommodations**

- 7.11.1. Management may take reasonable and necessary actions to accomplish the intent of this policy.

## **8. PROCEDURE**

### **8.1. Complaint and Reporting Process**

- 8.1.1. Any Management member or employee who suspects or becomes aware that harassment or discrimination has occurred, or is occurring in the workplace, must immediately report the incident to the Human Resources Division for investigation.

### **8.2. Response to Harassment Complaint**

- 8.2.1. The Human Resources Division shall inform the person making the report that:
  - (a) DWSD takes such matters seriously and has a legal obligation to investigate;
  - (b) all efforts will be made to maintain confidentiality; and
  - (c) information about the investigation will be released only on a need-to-know basis or when required by law.

### **8.3. Investigating Harassment Complaints**

- 8.3.1. The Human Resources Division will, in a timely manner, make an initial determination whether the alleged conduct, if true, violates this policy or law and determine the nature of the discrimination or harassment investigation to be conducted. This assessment will vary depending upon the nature of the complaint, its formality and complexity, the number of potential witnesses and the seriousness of the charges. Human Resources Division may consult with General Counsel.
- 8.3.2. If it is determined that the alleged conduct violates or may violate this policy, Human Resources will conduct an investigation and administer corrective action as necessary to ensure uniform enforcement of this policy. During this time, one or more of the involved parties may be temporarily reassigned pending completion and result of the investigation. General Counsel may participate in the investigation.
- 8.3.3. Human Resources will prepare an incident report detailing the nature of the allegation(s), parties involved, summary of investigation conducted and outcomes.
- 8.3.4. If it is determined that the conduct does not violate this policy, Human Resources will so notify the complainant. Complainant may also pursue legal remedies through federal, state and local agencies and courts.

### **8.4. Corrective Action**

- 8.4.1. If the investigation concludes that discrimination or harassment occurred, the Human Resources Division will determine the appropriate corrective action. Appropriate corrective action may range from corrective counseling and up to and including discharge. This determination will vary depending on: (a) the seriousness of the charge; (b) the employee's disciplinary history, particularly with respect to related misconduct and; (c) the likelihood that the proposed discipline will discourage future harassment.
- 8.4.2. All formal discipline for discrimination or harassment must be documented and placed in the employee's personnel file.

## **8.5. Informing the Complainant of the Outcome**

- 8.5.1. Once the discrimination or harassment investigation is complete, a letter of determination shall be issued to the complainant, which will advise complainant: (1) whether the charges were sustained; and (2) if so, whether corrective action will ensue.
- 8.5.2. DWSD will not disclose specific information regarding corrective action taken towards any employee.