

Maricopa Special Health Care District Policies	Subject: Workplace Professionalism: Avoiding Harassment and Discrimination	Number: HR2406 Issue Date: 9/22/04
Approved CEO:	Initiating Department: Human Resources Department	

I. PURPOSE

This Administrative Personnel Procedure clearly reaffirms the Maricopa Special Health Care District's position against any form of Employment Discrimination and/or Unlawful Harassment. It further establishes an environment of "zero tolerance" whereby Employment Discrimination and Unlawful Harassment are proactively prevented before they occur, and establishes a formal procedure for all District employees, applicants, customers, citizens or others who feel they have been subjected to Employment Discrimination and/or Unlawful Harassment to pursue redress of their complaints.

II. DEFINITIONS

- A. **Appointing Authority:** An elected official, the single administrative of a District department, or the designated representative authorized to act in this capacity.
- B. **Employment Discrimination:** An unlawful employment practice under Federal or State law which generally prohibits an employer from discharging, failing or refusing to hire, or otherwise discriminating against an individual with respect to the individual's compensation, terms, conditions or privileges of employment because of such individual's race, color, religion, sex, national origin, age, or disability. Employment discrimination includes harassment because of an individual's race, color, religion, sex, national origin, age or disability.
- C. **Retaliation:** An unlawful employment practice under Federal or State law in which an employer subjects an employee to an adverse employment action because the employee engaged in an activity protected by Federal or State discrimination laws; e.g., filing a charge of Employment Discrimination with the Equal Employment Opportunity Commission (the Federal agency charged with investigating complaints of Employment Discrimination).
- D. **Unlawful Harassment:** An unlawful employment practice under Federal and State law in which an employer fails to investigate, and eliminate conduct which is so severe and pervasive as to alter an employee's working conditions, and create a hostile working environment based on race, color, religion, national origin, sex, age, or disability.

One type of Unlawful Harassment is Sexual Harassment, which is an unlawful employment practice under Federal and State anti-discrimination law which constitutes unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature or gender-based nature when:

- 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3. Such conduct is sufficiently severe or pervasive, which in the view of a reasonable person of the same immutable characteristics, would alter the conditions of the victim's employment and create an abusive working environment.

These types of Sexual Harassment are referred to as "Quid Pro Quo" and "Hostile Environment" Sexual Harassment.

- E. **Workplace:** The place(s) in which District services are provided and the places where work-related activities occur.

III. POLICY GUIDELINES TO PREVENT EMPLOYMENT DISCRIMINATION AND/OR HARASSMENT

- A. The District adheres to all Federal and State laws prohibiting Employment Discrimination and/or Unlawful Harassment, and therefore prohibits any type of Employment Discrimination and/or Unlawful Harassment in the Workplace.
- B. It is the responsibility of each employee, supervisor, manager, and department director/elected official to actively promote the establishment and maintenance of a professional Workplace within the District, free from Employment Discrimination and/or Unlawful Harassment.
- C. All incidents of alleged Employment Discrimination and/or Unlawful Harassment involving District employees, applicants, customers, citizens, and/or others participating in, or providing District services should be reported promptly to the individuals identified in the complaint and investigation section of this procedure so that an immediate investigation or other appropriate action can be taken quickly. Failure by a supervisor or manager to take appropriate action may be grounds for disciplinary action.
- D. Supervisors and managers shall ensure that all employees are aware of this Administrative Personnel Procedure and the consequences of any violations. As part of this awareness, supervisors and managers should encourage their employees to attend the District's regularly scheduled training programs regarding Employment Discrimination and Unlawful Harassment.
- E. Discipline for violations of this procedure should be implemented to stop any current Employment Discrimination and/or Unlawful Harassment, and to prevent such behavior from recurring. Depending upon the severity and pervasiveness of the behavior, the Appointing Authority may determine that termination is the appropriate level of discipline.

IV. COMPLAINT AND INVESTIGATION PROCEDURES

An employee, applicant, customer, citizen, or other individual subjected to alleged Employment Discrimination and/or Unlawful Harassment is not required to directly confront the individual believed to be engaging in the discriminatory or harassing behavior towards him or her. However, such individuals may certainly choose to advise the person exhibiting the unwanted behavior that the behavior is inappropriate, unprofessional, or making them uncomfortable, and that they wish the behavior to stop. If this approach is chosen, the complainant may wish to have a witness present, to document the confrontation, and the behavior(s) that led to the confrontation.

Employees, applicants, customers, citizens, or others (herein after referred to as "complainants") who feel they have been subjected to Employment Discrimination and/or Unlawful Harassment in the Workplace should promptly take the following action(s): (**NOTE:** Complaints not related to Employment Discrimination and/or Unlawful Harassment should be handled via the District's Employee Concerns Resolution Program HR2405.)

- A. COMPLAINT PROCEDURE
 - 1. How a complaint is made:

- a. Employees are encouraged to formalize their complaints in writing so that an investigation can begin promptly and be conducted thoroughly based on the written information provided by the complainant.
 - b. To ensure efficiency in responding, a complainant is encouraged to use the attached "Allegation of Employment Discrimination and/or Unlawful Harassment" form (Attachment B) as the vehicle to raise a complaint. Upon completion, the form should be submitted immediately to the Appointing Authority or designee (with a copy to the Human Resources Director) for review and investigation by appropriate departmental and/or Human Resources Department staff.
 - c. If an employee's complaint is made orally to one of the designated individuals listed in the next section, it is recommended that the person receiving the complaint use the "Allegation of Employment Discrimination and/or Unlawful Harassment" form as a means to document the information in writing. It is also recommended that the employee making the complaint be asked to review and sign the form upon completion to confirm the accuracy of the information. **NOTE:** Even if an individual complaining about alleged Employment Discrimination and/or Unlawful Harassment states that he/she "just wants some advice" or "doesn't want any action taken," the person receiving the complaint should advise the complainant that he/she is obligated to record the information on the form so that the District can take appropriate action.
2. To whom should a complaint be made:
In addition to, or in lieu of confronting an individual directly, the complainant should forward a complaint in writing or verbally regarding the alleged Employment Discrimination and/or Unlawful Harassment, to one of the following individuals:
 - a. Immediate supervisor, if the supervisor is not involved in the alleged incident(s); or
 - b. Next level of supervision or division head; or
 - c. Appointing Authority; or
 - d. Human Resources Director (or designee).
 3. Time limits for complaints:
Complaints generally must be brought within 300 days after the date on which the last event of alleged Employment Discrimination and/or Unlawful Harassment occurred. Complaints filed more than 300 days after the date on which the last incident(s) occurred will be reviewed on a case-by-case basis by the Human Resources Department to determine what action will be taken.
- B. INVESTIGATION PROCEDURE:**
1. Investigation Process:
 - a. Upon receipt of a complaint, a prompt and thorough investigation to the extent appropriate will be conducted. Depending on the nature of the complaint, the investigation may be conducted by the Human Resources Department, designated individuals within the department of the complainant, or through a joint effort between the complainant's department

and Human Resources. Every effort will be made to attempt to resolve the problem at the lowest possible level depending upon the nature of the complaint.

Supervisors, managers, and others serving in lead roles must take appropriate action immediately to ensure that discriminatory or harassing behavior, if it is occurring, is stopped and cannot continue or rise to the

level of a violation of Federal or State law. Supervisors and managers may be subject to disciplinary action for failure to take appropriate action to ensure that employees are not subjected to a discriminatory or harassing work environment.

- b. When Human Resources Department staff members are involved in the investigation process, their role shall be to give assistance in the fact-finding process and to provide technical expertise, consultation and resources to the department. All disciplinary decisions regarding alleged Employment Discrimination and/or Unlawful Harassment shall be made by the Appointing Authority after consulting with the Human Resources Department and/or other members of the investigation team.

During the investigation process, the person who allegedly engaged in the discriminatory or harassing behavior will have an opportunity to present his/her side of the story, normally following a review of the allegations made by the complainant and his/her witnesses. In some cases, management may choose to remove an employee from the Workplace during the period of time necessary to complete the investigation. If that option is selected, the accused employee is placed on Administrative Leave with Pay as provided in the Employee Leave Plan, Section VIII.D.3.

- c. Supervisors and managers should not relocate, reassign or transfer a complainant who has filed a discrimination and/or harassment complaint under any circumstances, even if the victim requests the transfer, without first consulting with the Human Resources Department.
- d. Every employee has an obligation to provide information or other assistance that may be needed in order to ensure that a prompt, complete, and fair investigation can be conducted.

2. Confidentiality:

Complaints of Employment Discrimination and/or Unlawful Harassment will be handled in a manner to ensure confidentiality, to the greatest extent possible. Normally, a limited number of individuals will be given any detailed information regarding the complaint. Individuals with a need to know may include Human Resources Department, District employment counsel, or departmental staff members involved in the investigation process and/or those members of management involved in the ultimate disciplinary decision following the investigation.

- a. Investigative information is not shared with coworkers or others not deemed appropriate or who are not part of the investigation or disciplinary process.
- b. Individuals who are interviewed as part of an investigation are expected to keep the discussions confidential and may be subject to disciplinary action for leaking information.
- c. Individuals who have been interviewed in conjunction with an investigation may also, in some cases, be called to testify at a Merit System

Commission hearing resulting from disciplinary action, or as a result of an outside agency's (e.g., the Equal Employment Opportunity Commission - EEOC; or the Arizona Civil Rights Division - ACRD) investigation, or pursuant to a lawsuit..

3. **Results of the Investigation:**
As stated above, when Human Resources Department staff members are involved in the investigation process, their role shall be to give assistance in the fact-finding process and to provide technical expertise, consultation and resources to the department. Once the investigation process is completed, those individuals involved in the investigation process will meet with the Appointing Authority to summarize the findings of the investigation; and to consult with the Appointing Authority regarding appropriate disciplinary action to stop any improper conduct found, to eliminate any future improper conduct, and to discuss how individuals will be informed of the results of the investigation. A designated member of the investigative team will make every effort to keep the complainant apprised of the progress and outcomes of the investigation. However, specific disciplinary information regarding another employee(s) will not be disclosed. Materials maintained as part of the investigatory progress will be treated as confidential to the extent permitted by law.

4. **Retaliation:**
Retaliation toward any complainant, witness, or other employee, applicant or other individual(s) involved in an investigation process is strictly prohibited. Individuals who feel they have been subjected to Employment Discrimination and/or Unlawful Harassment shall be free from retaliation for having come forward with a complaint as long as their complaint is made in good faith.

Appropriate disciplinary action will be taken against individuals who, after review of the allegations, are found to have made a complaint in bad faith or for retaliatory reasons.

5. **Additional Review:**
If the complainant is dissatisfied with the actions of his/her department and/or the investigation team, or the final results of the investigation, he/she may request in writing a final review of the process by the Human Resources Director.

ATTACHMENT A

Below is a non-inclusive list of behaviors, which, if allowed to continue, could constitute Employment Discrimination and/or Unlawful Harassment, which are prohibited in the District's workplace. These examples have been provided as guidance for managers and supervisors regarding this Administrative Personnel Procedure. As stated in the procedure, discriminatory and/or harassing behavior (including but not limited to the examples given below) will not be tolerated in the Workplace; and employees choosing to engage in these behaviors will receive appropriate disciplinary action.

- I. **DISCRIMINATORY EMPLOYMENT DECISIONS** such as making promotional, hiring decisions, RIF selections, etc. based on inappropriate criteria/factors which are not job-related, such as age, disability, gender, etc. Taking disciplinary action against a complainant, witness, or other participant in a discrimination complaint or investigation because of his/her participation. Romantic relationships between managers/supervisors/lead employees and their employees resulting in preferential treatment.
- II. **OFFENSIVE or DEROGATORY COMMENTS** such as ethnic slurs; sharing inappropriate stories depicting individuals of various ages in a negative manner; harassing an employee for not participating in holiday festivities (e.g., Christmas) that may conflict with his/her own religious beliefs or practices; rude or abusive treatment of one gender more than the other; or behavior directed toward a person of the same gender, or a person of the opposite gender, including foul language, sexual innuendoes, derogatory or suggestive comments, rumors, slurs, "code words" with sexual meanings, sexual propositions, requests for sexual favors, graphic commentaries, suggestive or insulting sounds; and refusing to take "No" when requests for social interaction are refused.
- III. **UNWELCOME PHYSICAL CONDUCT** including sexual assault; touching; pinching; and brushing parts of the body. Impeding or blocking movement of another; violation of an individual's "personal space."
- IV. **VISUAL (non verbal) or GRAPHIC HARASSMENT** such as derogatory or suggestive pictures, posters, cartoons or drawings; or sexually suggestive objects. Making obscene gestures, leering, drawing attention to suggestive or pornographic materials or medium (i.e. on the Internet).
- V. **JOKES** related to an individual's religion or religious practices; making fun of an individual's religious wardrobe; racial or national origin based jokes; making jokes about an individual's age or abilities because of their age; jokes or verbal behaviors aimed at "making fun" of an individual with a disability; demeaning jokes or stories based on someone's gender, jokes or inappropriate comments about a woman's body during pregnancy; and jokes of a sexual nature.
- VI. **USING STEREOTYPES OR ASSUMPTIONS** about people based on religion, race, color, national origin, gender, age, or disability.
- VII. **EXCLUSION/OSTRACISM** of persons involved in an Employment Discrimination and/or Unlawful Harassment complaints or the investigation process; ignoring or ostracizing an individual with a disability from work-related activities; excluding one gender more than the other from participation in workplace activities.

**Maricopa Special Health Care District
Policies**

Subject: Workplace Professionalism:
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ATTACHMENT B

Maricopa Special Health Care District complies with the Americans with Disabilities Act (ADA). Please contact the District's ADA office if you require a reasonable accommodation or alternative format to complete this form.

TO: _____ **CC:** Human Resources Director
Appointing Authority Human Resources Department
 (of Employee's Department)

FROM: _____ (Employee's Name)
 (Please print or type)

DATE: _____

SUBJECT: ALLEGATION OF EMPLOYMENT DISCRIMINATION AND/OR UNLAWFUL HARASSMENT

(1) If your allegation is based on Employment Discrimination and/or Unlawful Harassment, please indicate the type of discrimination/harassment you are alleging:

- | | | | |
|-------|---|-------|-----------------|
| _____ | Age (over 40) | _____ | National Origin |
| _____ | Color | _____ | Race |
| _____ | Disability (ADA) | _____ | Religion |
| _____ | Gender | _____ | Retaliation |
| _____ | Harassment (check one): _____ Sexual; or _____ Other (state type):
_____ | | |

(2) Date the incident(s) being alleged last took place: _____

(Note: Complaints filed more than 300 days after the date of the last incident will be reviewed on a case-by-case basis by the Human Resources Department to determine what action will be taken.)

(3) What happened? Please state the facts, and include all relevant information such as:

- (a) When did the alleged incident(s) happen? If there was more than one event, what was the chronology/timetable of the event(s)/action(s)? (Use additional pages if necessary.)
- (b) What specific incident of Employment Discrimination and/or Unlawful Harassment is being alleged?
- (c) Who was involved? Please include name(s), job title(s), and department(s)/employer(s). Are you accusing someone of one or more of the above actions? Please indicate the person's name, title and department.
- (d) Were there any witnesses? _____ Yes _____ No
 If "Yes," include name(s), job title(s), and department/employer:

- (e) Where did the alleged incident(s) happen?
- (f) Have you told anyone else about the alleged incident(s)? If so, please provide the person's name, title, and the date you told him/her.

(g) Do you have additional documentation (notes, calendars, etc.)?
 _____ Yes _____ No. If "Yes," please attach.

(4) What remedy are you requesting?

Employee's Signature: _____ **Date:** _____

Department/Company Name:

Contact Phone Number(s): (work) _____ **(home)** _____

 If this form has been completed by someone other than the person filing this complaint, please indicate name and department of person completing this form below, and date completed:

Name: _____ Department: _____ Date

Employee's Acknowledgment that above information has been completed accurately:

Employee's Signature: _____ Date:

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Thank you for your time and effort to complete this form completely. The District takes all allegations of Employment Discrimination and/or Unlawful Harassment very seriously. As a result, the above written information will assist us greatly in our investigation. Although all allegations will be promptly and thoroughly investigated; including those received orally, we suggest that you submit any allegation of Employment Discrimination and/or Unlawful Harassment in writing to us on this form to facilitate a prompt response.

For HR Use Only	
Received by HR Director's Office: _____	Date: _____
Received by Employment Services/Employee Programs: _____	Date: _____