

Discrimination, Harassment and Retaliation policy

Overview

This policy prohibits workplace discrimination, harassment, and retaliation that is based upon: race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation (including transgender), age, political affiliation, and genetic information. This policy also prohibits retaliation against individuals who file a complaint of discrimination, request accommodations based upon disability or religious beliefs, oppose discriminatory behavior, or participate in investigations under this policy.

Description:

This policy establishes workplace expectations and procedures at the Minnesota Department of Human Services (DHS) to prevent and address discrimination, harassment, and retaliation against individuals because of their protected class(es): race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation (including transgender), age, political affiliation, and genetic information. This policy also prohibits retaliation against individuals who file a complaint of discrimination, request accommodations based upon disability or religious beliefs, oppose discriminatory behavior, or participate in investigations under this policy.

Reason for Policy:

Because of their protected class(es), some individuals may face discrimination and harassment in the workplace, or they may face retaliation for requesting accommodations because of disability or religious beliefs, or for filing a complaint of discrimination. This policy is enacted to protect the workplace rights of those individuals, and to encourage and protect from retaliation all others in the workplace who file discrimination complaints, oppose discriminatory behavior, or participate in investigations of complaints brought under this policy.

Failure to Comply:

Failure to comply with this policy and its procedures may result in disciplinary action, up to and including discharge, the ending of contractor or volunteer relationship with DHS, or other appropriate remedies. DHS will evaluate each situation and determine an appropriate response based on the circumstances and severity of the policy violation.

Policy

I. Discrimination and Harassment based on Protected Class(es) Prohibited

The Minnesota Department of Human Services (DHS) prohibits discrimination and harassment in the workplace that is based on protected class(es): race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation (including transgender), age, political affiliation, or genetic information. Discrimination occurs when, because they are a member of a protected class(es), an individual is treated unfavorably or denied benefits generally available to others, or experiences repeated and on-going unwelcome and offensive behavior that interferes with that individual's ability to perform his/her job.

II. Retaliation

DHS prohibits retaliation against any individual for filing a complaint of discrimination or harassment, engaging in protected activities such as opposing discriminatory behavior or participating in an investigation of alleged discrimination or harassment, or requesting an accommodation based on disability or religious beliefs. Retaliation includes: threats; intimidation; coercion; adverse employment actions, or other negative treatment designed to discourage individuals from exercising their rights under this policy.

III. Right to File a Complaint

All employees and non-employees may file a complaint under this policy if they believe that they have experienced or seen discrimination, harassment, or retaliation based upon race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation (including transgender), age, political affiliation, and genetic information; or if they have experienced retaliation for requesting accommodations because of disability or religious beliefs, for filing a complaint of discrimination, for opposing discriminatory behavior, or for participating in investigations of complaints brought under this policy.

Procedure(s) that Apply:

I. Informal Resolution

Although you have the right to file a formal complaint about discrimination, harassment or retaliation, you are encouraged to attempt to resolve your concerns by any of the following informal methods:

1. You may speak with the person who you believe is responsible for the discrimination, harassment or retaliation, i.e., "the respondent," and ask him/her to stop the behavior.
2. If you are not comfortable confronting the respondent directly, or if the respondent continues the behavior after being asked to stop, you may complain to your supervisor.
3. If your supervisor is the respondent, you may complain to his/her manager, or the next person higher up in responsibility.

4. You may also request a facilitated conversation with the respondent through the Equal Opportunity and Access division (“OEPD Equal Opportunity and Access”).

II. Formal Complaint Procedure

If you are uncomfortable using an informal resolution process, or if that process did not resolve your concerns, you may contact the OEPD Equal Opportunity and Access and file a formal complaint. Discrimination/ Harassment Complaint Form.

1. OEPD Equal Opportunity and Access will first determine if your complaint is based on one or more of the protected classes, i.e., race, religion, age, sex, etc.
2. If the complaint is not based on a protected class, OEPD Equal Opportunity and Access will confer with Human Resources for appropriate action.
3. OEPD Equal Opportunity and Access will notify you and your collective bargaining representative of its decision whether to investigate generally within 10 business days.
4. In some situations when OEPD Equal Opportunity and Access has notice of possible discrimination, it may begin an investigation even if a formal complaint has not been filed.
5. The investigation may include interviews with you, respondent(s) and witnesses. OEPD Equal Opportunity and Access may also request other information and documents that will help with the investigation of your complaint.
6. When the investigation is completed, OEPD Equal Opportunity and Access will give its findings to Human Resources, management, and other appropriate parties.
7. OEPD Equal Opportunity and Access will notify you, the respondent, and others who need to know when the investigation is concluded. This will generally happen within 60 days of the filing of the complaint. Sometimes investigations take longer than 60 days because of the number of witnesses and their availability, the complexity of the issues, or investigation resources.
8. Because of Minnesota data privacy laws, OEPD Equal Opportunity and Access cannot share the findings of the investigation with you, the complainant. You will, however, receive a notice telling you that the investigation has been concluded. Minnesota Statutes section 13.43.
9. If the investigation concludes that this policy has been violated, OEPD Equal Opportunity and Access will recommend that appropriate action be taken.
10. If the investigation concludes that there was no policy violation, OEPD Equal Opportunity and Access may make recommendations to Human Resources and management as to how to resolve any outstanding issues or concerns.

III. Filing a Complaint Outside of DHS

Any person covered by this policy has the right to file a discrimination complaint with the [Minnesota Department of Human Rights](#), the [U.S. Equal Employment Opportunity Commission \(EEOC\)](#), or through other legal channels. Complaints made to the above agencies or other legal channels must be filed within certain time limitations. Please contact the agencies listed above for further details about options for filing a complaint.

IV. Responsibilities of Employees

All employees are expected to conduct themselves in a non-discriminatory manner when performing their job duties and when representing DHS. They should:

1. Promptly report to supervisor, or OEPD Equal Opportunity and Access any complaints regarding discrimination, harassment or retaliation.
2. Cooperate with investigations by providing truthful, accurate and complete information.

V. Responsibilities of Non-employees

All non-employees are expected to conduct themselves in a non-discriminatory manner in the DHS workplace. They should:

1. Promptly report to DHS supervisor, Human Resources, or OEPD Equal Opportunity and Access any complaints regarding discrimination, harassment or retaliation.
2. Cooperate with investigations by providing truthful, accurate and complete information.

VI. Responsibilities of Supervisors (all levels of management)

All supervisors are expected to conduct themselves in a non-discriminatory manner, and model appropriate behavior when performing their job duties and when representing DHS outside the workplace. They should:

1. Take prompt and appropriate action to protect persons covered by this policy from unlawful discrimination, harassment and/or retaliation in the workplace.
2. Receive reports of alleged discrimination, harassment or retaliation and promptly refer such matters to OEPD Equal Opportunity and Access. Any supervisor who receives a complaint but fails to report it to OEPD Equal Opportunity and Access may be subject to disciplinary action.
3. Consult with OEPD Equal Opportunity and Access to determine if the complaint is related to discrimination, harassment or retaliation and determine a plan of action.
4. If an investigation finds that discrimination, harassment or retaliation has occurred, take prompt disciplinary and/or other remedial action as appropriate. Any supervisor who fails to take appropriate corrective action when OEPD Equal Opportunity and Access has substantiated that discrimination, harassment or retaliation has occurred may be subject to disciplinary action.
5. Cooperate with any investigation by providing truthful, accurate and complete information.

VII. Responsibilities of Chief Equity Officer or designee

1. Implements and promotes the letter and spirit of this policy.
2. Ensures that all persons covered are aware of this policy.

VIII. Responsibilities of OEPD, Equal Opportunity and Access Division

1. Implements and promotes the letter and spirit of this policy.

2. Counsels supervisors and persons covered by this policy regarding discrimination, harassment, and/or retaliation issues and complaints.
3. Receives and evaluates complaints of discrimination, harassment and retaliation.
4. Refers complaints to alternate resources for resolution of concerns as appropriate.
5. Consults with Chief Equity Officer and Legal Management Office, as needed.
6. Promptly, thoroughly and impartially investigates complaints when investigation is warranted.
7. Makes recommendations to management regarding appropriate actions to be taken in response to discrimination, harassment, or retaliation.

IX. Responsibilities of Human Resources

1. Refers complaints received regarding discriminatory, harassing or retaliatory behavior based on protected class to OEPD Equal Opportunity and Access.
2. As appropriate, meets with OEPD Equal Opportunity and Access to determine if immediate steps should be taken to address the complaint prior to the conclusion of the investigation.
3. Reviews recommendations from OEPD Equal Opportunity and Access at the conclusion of the investigation, and ensures that appropriate action is taken in response to investigative findings.

Forms that Apply:

- [Discrimination Harassment Complaint Form \(AgileApps\)](#)
- [Employee Request for Reasonable Accommodation](#) (DOC)

Related Policies and Reference(s):

- [Sexual Harassment](#)
- [Respectful Workplace Policy](#)
- [Reasonable Accommodation](#)
- [Affirmative Action](#)

Training:

[OEPD Equal Opportunity and Access Training](#)

Legal Authority:

Minn. Stat. §43A.01, Subd. 2 (nondiscrimination in state employment); Minnesota Human Rights Act, Minn. Stat. §363A.01 et seq.; Title VII of the Civil Rights Act of 1964 (Title VII); Equal Pay Act (EPA); Age Discrimination in Employment Act (ADEA); Americans with Disabilities Act (ADA); Genetic Information Nondiscrimination Act of 2008 (GINA); and all other relevant state and federal laws.

Standards:

State of Minnesota Accessibility Standard

Definition(s):

Adverse Employment Action: An adverse employment action is an action directed toward an employee in which the employee suffers some significant workplace harm or loss, such as disciplinary action, discharge, less favorable working conditions or assignments, demotion, or other significant negative circumstances that can be directly linked to the filing of a complaint, participating in protected activity such as opposing discriminatory behavior or participating in a related investigation, or requesting a reasonable accommodation based on disability or religious beliefs. Such harm or loss must be more than a mere inconvenience or minor change in working conditions.

Age Discrimination: Age discrimination means treating an employee or an applicant less favorably because of age.

Applicant: An applicant is any person who applies for an employment, volunteer, internship, or contract position with DHS.

Community Board Member: A community board member is any person who serves on a board, commission, or committee operated by DHS.

Complainant: A complainant is any person who alleges discrimination, harassment or retaliation prohibited by this policy.

Contractor: A contractor is a subset of non-employees who performs services for DHS because of a contract, memorandum of understanding, or memorandum of agreement.

Disability: Disability means:

- a physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- a record of such impairment; or
- being regarded as having such an impairment.

Discrimination: Discrimination is treating someone unfavorably or denying them benefits generally available to others based on protected class(es). Discrimination may include an adverse employment action, discriminatory harassment, sexual harassment, or retaliation.

Discriminatory harassment: Discriminatory harassment is repeated or on-going offensive and unwelcome conduct based on a protected class where:

- enduring the conduct is a condition of continued employment; and/or

- the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets, name calling, physical assaults, threats, intimidation, ridicule, mockery, insults, put-downs, offensive objects or pictures, and interference with work performance. Petty slights, minor annoyances, and isolated incidents, unless severe, do not rise to the level of discriminatory harassment.

Employee: All persons, regardless of classification or status, appointed pursuant to Minnesota Statutes Chapter 43A whose work assignment is with the Minnesota Department of Human Services.

Gender Expression: Gender expression means external appearance, characteristics or behaviors typically associated with a specific gender.

Gender Identity: Gender identity means an innate sense of one's own gender.

General Harassment: General harassment is harassment that is not based on any protected class but which is an obviously offensive repeated or persistent pattern of verbal, psychological, social or physical action, which results in intimidation, ridicule, entrapment, degradation, coercion or harm with the purpose or the effect of unreasonably and substantially interfering with and/or jeopardizing an individual's employment, or unreasonably creating an intimidating, hostile or offensive work environment.

Genetic Information: Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history).

Marital Status: Marital status means whether a person is married, single, remarried, divorced, separated or a surviving spouse, and includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

National Origin: National origin means the place of birth of an individual or of any of the individual's lineal ancestors, or culture or linguistic characteristics common to a specific ethnic group.

Non-Employees: Individuals, other than employees, who are stationed at DHS, routinely present, or assigned to conduct business with DHS in the workplace, such as: contractors; persons assigned from other government agencies; unpaid interns; community board members; applicants; or volunteers.

Protected Activity: A protected activity includes any of the following:

- opposing discrimination or harassment that a person reasonably believes is prohibited by this policy;
- participating in a complaint process, whether internal or external, concerning discrimination or harassment, for example, filing a discrimination or harassment complaint, charge or lawsuit; serving as a witness regarding a complaint of discrimination or harassment; and/or otherwise cooperating with an investigation concerning discrimination or harassment; or
- requesting a reasonable accommodation based on disability or religious beliefs.

Protected Class: Protected class refers to the characteristics or identities that are protected under law. This policy covers the following protected classes: race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation (inclusive of being transgender), age, political affiliation, and genetic information.

Public Service Environment: A location that is not the official workplace location, but where DHS is conducting business or public service is being provided. Examples include off-site meetings, or places visited or contacted by employees or non-employees while conducting business on behalf of DHS.

Reasonable Accommodation:

- **Disability.** A reasonable accommodation with respect to disability is any change or adjustment to a job or job procedures or practices, or the work environment that makes it possible for a qualified individual with a disability to satisfactorily perform the essential functions of the job and to enjoy equal benefits and privileges of employment.
- **Religious Beliefs and Practices.** A reasonable accommodation with respect to religious beliefs and practices means reasonable adjustments to the work environment that will allow an employee to practice his or her religion, without causing too much of a burden for the employer.
- **Respondent:** A respondent is a person whom a complainant alleges engaged in discrimination, harassment, or retaliation.
- **Retaliation:** Retaliation is an adverse employment action or other negative action taken against an employee or non-employee because the person has engaged in a protected activity or because the person has associated with a person or persons of a different protected class engaged in protected activity. Retaliation includes: threats; intimidation; coercion; denial of benefits generally available to others; demotion; denial of hiring or promotion, tenure, compensation, terms, conditions, or privileges of employment; adverse employment actions; or other negative treatment designed to discourage individuals from exercising their rights under this policy. Retaliation includes the term “reprisal” within the meaning of the Minnesota Human Rights Act, Minn. Stat. §363A.15.

Sex Discrimination: Sex discrimination includes but is not limited to, sexual harassment, and/or adverse employment actions based on pregnancy, childbirth, or disabilities related to pregnancy and childbirth.

Sexual Harassment: Sexual harassment is a form of sex discrimination that includes unwelcome behavior of a sexual nature, requests for sexual favors or other verbal or physical conduct of a sexual nature where the following occurs:

- Submission to the unwelcome sexual conduct is explicitly or implicitly made a term or condition of employment;
- Submission to or rejection of the unwelcome sexual conduct is used as a factor in decisions affecting that individual's employment; or
- The unwelcome sexual conduct has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidating, offensive, or hostile work environment.

Sexual Orientation: Sexual Orientation means whether a person is heterosexual (“straight”), homosexual (“gay” or “lesbian”), bisexual (“bi”), transgender, or the perception of any of the foregoing.

Supervisors: A subset of employees that includes all who have supervisory and managerial responsibilities.

Transgender: Transgender means having a gender identity or gender expression that differs from societal expectations based on gender assigned at birth.

Unpaid Intern: An unpaid intern is any person who performs services or undertakes program activities for DHS without monetary compensation for educational course credit for the purpose of gaining practical work, professional or programmatic experience.

Workplace: The physical, electronic, or virtual environs in which DHS’ business is conducted.

Policy Contact(s):

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This policy and its procedures remain in effect until rescinded or updated.