

# PHILADELPHIA DISTRICT ATTORNEY'S OFFICE ANTI-HARASSMENT POLICY



Effective Date: December 2018

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## **OBJECTIVE**

The District Attorney's Office ("Office") is committed to providing a safe work environment for all of its employees, contract employees, interns, and volunteers, as well as those who come in contact with the Office (collectively, "employees"). The Office also will not tolerate discrimination or harassment, whether committed against employees or non-employees by visitors or others who interact with employees of this office to the extent that it affects the work environment or interferes with the performance of work functions.

To accomplish this objective, the Office adopts this policy to define sexual harassment and other forms of workplace harassment, prohibit it in all forms, to provide procedures for lodging complaints and investigating claims, and for the enforcement of appropriate disciplinary measures when violations occur.

The office will not engage in or tolerate unlawful discrimination (including any form of unlawful harassment or retaliation) on account of a person's sex/gender, pregnancy, age, race, color, religion, creed, sexual orientation, gender identity, gender expression, genetic information, marital status, familial status, civil union or domestic partner status, nationality or national origin, ancestry, citizenship, immigrant status, military status, veteran status, handicap, disability, medical condition, atypical hereditary cellular or blood trait, victim of domestic crime or stalking or membership in any "protected group" under federal, state or local law.

Under no circumstances will the Office tolerate behavior which creates an unacceptable working environment. Individuals found to have engaged in misconduct constituting sexual or other discriminatory harassment will be subject to discipline, up to and including discharge from employment.

## **SCOPE**

This policy applies to all personnel performing work of any kind on behalf of the Office. All employees, including attorneys, staff, supervisors and managers, will be subject to discipline, up to and including discharge, for any violation of this policy. This policy also applies to nonemployees who come into contact with employees in this office – whether those individuals are reporting harassment or are suspected of engaging in harassment.

## **DEFINITIONS**

**Harassment** is verbal or physical conduct that denigrates or shows hostility or aversion toward any person or group on the basis of gender, sexual orientation, gender identity, race, color, national origin, religion, age, disability, protected activity, or any other characteristic protected by law, and that:

- (i) has the purpose or effect of creating an intimidating, hostile, or offensive work environment or consists of quid pro quo harassment;
- (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (iii) otherwise adversely affects an individual's employment opportunities.

**Sexual Harassment** is unwelcome conduct of a sexual nature that is sufficiently persistent or offensive such that it interferes with an employee's job performance or creates an intimidating, hostile, or offensive working environment. Sexual harassment is defined by the Equal Employment Opportunity Commission Guidelines as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (iii) 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.

Sexual harassment can be physical or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not. All Office employees are prohibited from harassing other employees, whether or not the incidents of harassment occur on Office premises and whether or not the incidents occur during working hours.

### **Examples of Prohibited Conduct**

Though harassment encompasses a wide range of conduct, examples of prohibited conduct include the following:

- (i) Intentional, non-consensual physical contact that is, or could reasonably be construed as, sexual in nature;
- (ii) Unwelcome sexual advances, propositions, or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience;
- (iii) Displays of sexually suggestive objects or pictures;

- (iv) Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting, or attempting to solicit any employee to engage in sexual activity for compensation or reward;
- (v) Subjecting, or threatening to subject, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex;
- (vi) Sexual or discriminatory displays or publications anywhere in Office's workplace by Office employees; and
- (vii) Retaliation against anyone who has complained about, been a witness to, or resisted harassment or discrimination. Examples of retaliation include: arbitrary discipline, unwarranted change of work assignments, providing inaccurate work information, or failing to cooperate or discuss work-related matters, intentionally pressuring, falsely denying, lying about, or otherwise impeding investigations into prohibited conduct.
- (viii) Linking/conditioning any employment decision, benefits, etc. to a subordinate's submission or refusal to submit to sexual advances;
- (ix) Demanding or requesting sexual favors;
- (x) Requesting a date from someone after the recipient of the request has declined by saying "no" to a prior request;
- (xi) Providing preferential treatment to someone with whom the employee is having a romantic or sexual relationship;
- (xii) Sexually assaulting another individual;
- (xiii) Engaging in unwelcome and/or inappropriate physical contact, such as petting, pinching, or brushing against another person's body;
- (xiv) Engaging in sexual banter, jokes or teasing;
- (xv) Making gender biased or stereotypical comments, jokes or communications;
- (xvi) Stereotyping or offensive comments that denigrate or insult someone because of sexual orientation or gender identity, including misgendering a person, intentionally or consistently outing a person;
- (xvii) Making verbal commentaries about an individual's body, sexuality, or sexual orientation
- (xviii) Making disparaging, stereotyping, or other negative commentary about the pregnancy of another or pregnant co-workers generally;
- (xix) Using sexually degrading words to describe another individual or otherwise using slurs or inappropriate comments to describe their sexual or other protected status;

- (xx) Transmitting, showing or describing pornographic or other obscene materials or using DAO technology to transmit messages, jokes, photos, videos or other material that is sexual in nature, or accessing material that is sexual in nature in violation of the IT acceptable use policies and may be observed by others;
- (xxi) Engaging in verbal or nonverbal innuendo of a sexually suggestive nature;
- (xxii) Using obscene, hostile language of a sexually suggestive or otherwise biased nature.

## **OTHER FORMS OF HARASSMENT PROHIBITED**

All forms of harassment listed above, as well as any harassment based on any characteristic protected by federal, state or local law if also a form of discrimination which can have a negative impact on the Office's work environment.

## **OTHER HARASSMENT DEFINED**

For the purposes of this policy, other harassment is defined as verbal, visual or physical conduct that denigrates or shows hostility or aversion toward an individual based on his/her race, color, gender, gender identity, sexual orientation, religion, national origin, ancestry, age, disability, or any other characteristic protected by law, and that:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

### **Examples of Other Harassment include:**

1. Use of epithets, slurs or other negative stereotypes;
2. Threatening, intimidating, or engaging in hostile acts that relate to a protected characteristic, including purported jokes/pranks;
3. Display of written or graphic material that denigrates or shows hostility or aversion toward a person or group because of a protected characteristic.

### **Retaliation**

Retaliation against individuals lodging a complaint against this policy, in any form, is prohibited by this policy and may result in additional sanctions. Fear of retaliation should not be a barrier to reporting incidents of harassment. Retaliation in all forms is a serious violation of this policy and will not be tolerated. Any incidents of retaliation should be reported immediately. The reporting and investigation of allegations of retaliation will follow the procedures set forth in this policy. Any person found to have retaliated against an individual for reporting sexual or discriminatory harassment will be subject to the Office's disciplinary procedures.

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under local, state, or federal law.

## **RECORDS**

Records concerning reported harassment will be kept in a confidential investigative file, separate from personnel files.

## **RESPONDING TO HARASSMENT**

The Office strongly encourages the prompt reporting of all incidents of sexual or other discriminatory harassment. The procedures for doing so are described below. Employees may report any of the above forms of workplace harassment and they will likewise be investigated according to the below procedures.

Any person who feels harassed or knows of harassment or suspected harassment, should report it to any supervisor, the Director of HR or a First Assistant.<sup>1</sup> Similarly, if you have any question as to whether certain conduct is unlawful discrimination, retaliation or harassment, you are encouraged to speak with any of the above listed individuals. Employees are not precluded from reporting harassment activity to federal, state and local agencies they wish to report to in addition to this Office.

Employees wishing to make an anonymous complaint may do so by emailing: [DAOAntiHarassment@phila.gov](mailto:DAOAntiHarassment@phila.gov). Anonymous complaints will be documented but not investigated.

All complaints made under this policy will be investigated promptly. The Office will take appropriate action based on the results of the investigation. Any employee found in violation of this policy will be subject to appropriate disciplinary action, up to and including termination of employment. Appropriate action will also be taken concerning nonemployees found in violation of this policy where possible.

If you are not entirely satisfied with how your complaint has been handled, you may appeal your complaint to the First Assistant District Attorney, or HR Director and are encouraged to do so as soon as possible. Employees also are encouraged to report ongoing or new conduct or possible retaliation that occurs in addition to any conduct already being investigated or for which an investigation has concluded.

## **QUESTIONS REGARDING POLICY**

Any questions concerning this Policy should be directed to the Director of Human Resources.

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<sup>1</sup> \*When an employee feels that he or she has experienced sexual harassment, but chooses not to report it, his or her legal rights may be affected by that decision under certain circumstances.