

NORTHERN MORAIN WASTEWATER RECLAMATION DISTRICT

Policies Prohibiting Harassment and Sexual Harassment

Introduction

The Northern Moraine Wastewater Reclamation District (the “*District*”) is committed to maintaining an environment free from discrimination and harassment of any kind by or relating to any employee, supervisor, elected official, vendor, client, customer or other person interacting with the District. To that end, the District has established specific policies prohibiting harassment and sexual harassment in accordance with the policies and requirements set forth in the Illinois Human Rights Act, 775 ILCS 5.

Policy Prohibiting Harassment

The District is committed to maintaining an environment free from discrimination and harassment. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, the District expects that all relationships among persons in the office will be business-like and free of bias, prejudice, and harassment.

This policy forbids any employee, supervisor, elected official, vendor, client, customer, or other person to harass any employee of the District.

- Definition of Harassment

This policy adopts the definition of harassment as stated in the Illinois Human Rights Act, which currently defines harassment as:

Any unwelcome conduct on the basis of an individual's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, citizenship status, or work authorization status that has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment. For purposes of this definition, the phrase “working environment” is not limited to a physical location an employee is assigned to perform his or her duties.

775 ILCS 5/2-101(E-1). This policy further prohibits harassing conduct or other workplace discrimination based on an employee's protected status under state and federal law, including gender, creed, political affiliation, or other any other legally protected status.

The District will not tolerate harassing conduct that has the purpose or effect of interfering unreasonably with an individual's work performance, affecting an individual's tangible job benefits, or creating an intimidating, hostile, or offensive work environment. The District's policy prohibits harassment based on an individual's protected status, even if it does not rise to the level of a legal violation.

- Prohibited Conduct

Harassing conduct includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts and language; denigrating jokes; written or graphic material that degrades or shows hostility or aversion toward an individual or group; and disparagement or taunting of employees, including making false statements about employees. Written or graphic material in the workplace that may violate this policy include being placed on walls or elsewhere on the employer's premises or circulated in the workplace, on work time or using District equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means, including requests for service or records made by any individual to the District.

- Responsibility

All employees have a responsibility for keeping the work environment free of harassment. Every employee is expected to avoid any behavior or conduct that could reasonably be interpreted as prohibited harassment under this policy. No employees, not even the highest-ranking people in the District are exempt from the requirements of this policy.

Employees are encouraged to inform others in the workplace whenever their conduct is unwelcome, offensive, inappropriate, or in poor taste. In addition, employees should come forward with complaints about alleged problems or violations of this policy at any time. Employees are expected to come forward promptly and report any problems pursuant to this policy before the alleged offending behavior becomes severe or pervasive. The employee experiencing or witnessing what he or she believes to be harassment must not assume that the employer is aware of the conduct.

- Reporting

An employee who either observes conduct the employee believes to be harassment or believes herself/himself to be the object of harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending employee or a supervisor. It is not necessary for harassment to be directed at the person making the report.

Any employee may report conduct which is believed to be harassment through any of the following avenues:

- *Electronic/Direct Communication.* If there is harassing behavior in the workplace, the harassed employee can directly and clearly express her/his objection to the employees engaged in the behavior that the conduct is unwelcome and request that the offending behavior stop. This communication can be verbal, or in writing in a note or a memo. The District recognizes that, when harassing conduct of non-employees occurs, the dynamic of such relationship may make direct communication ineffective or otherwise untenable; in such instances, communication of the harassing conduct to supervisory personnel is essential.
- *Contact with Supervisory Personnel.* At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to: the immediate supervisor of the person making the report; a department head; a director of human resources; an ethics officer; the District Manager; or the chief executive officer of the District. Each supervisor must immediately report to the District Manager any complaint or observation of conduct which may violate this policy.

This policy does not require reporting harassment or discrimination to any individual who is creating the harassment or discrimination. Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

- *Resolution Outside District.* The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the District. However, all District employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities within 300 days of the alleged incident(s) unless it is a continuing offense:

Illinois Department of Human Rights
100 W. Randolph St., Suite 10-100
Chicago, IL 60601
(312) 814-6200

Equal Employment Opportunity Commission
500 West Madison Street, Ste. 2800
Chicago, Illinois 60661-2511
(312) 353-2713

It is critical in establishing a workplace free of harassment that an individual who experiences or witnesses an incident perceived as being harassing has access to a mechanism for reporting such incidents. At the same time, the purposes of this policy against harassment in the workplace are not furthered where a complaint is found to be false and frivolous and made to accomplish some other end than stopping harassment. A complaint that is determined to be false and frivolous can result in a severe level of discipline or discharge. A false or frivolous complaint does not refer to complaints made in good faith that cannot be proven.

- Investigation and Response

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the District. However, because of the difficulties associated with investigating anonymous complaints where the ability to obtain additional information is limited, the District's ability to respond to an anonymous complaint may be limited. To facilitate an appropriate and effective response to complaints, the District relies on a reporting employee's willing cooperation in the investigation.

Confidentiality cannot be guaranteed during an investigation, but will be protected to the extent possible. The District will take appropriate action once the report has been thoroughly investigated. That action may be a conclusion that a violation occurred, as explained immediately below. The District might also conclude, depending on the circumstances, either that no violation of the policy occurred or that the District cannot conclude whether or not a violation occurred.

If an investigation reveals that a violation of this policy or other inappropriate conduct has occurred, then the District will take corrective action, including discipline up to and including dismissal, as is appropriate under the circumstances, regardless of the job positions of the parties involved. The District may discipline an employee for any inappropriate conduct discovered in investigating reports made under this policy, regardless of whether the conduct amounts to a violation of law or even a violation of policy.

If the person who engaged in the inappropriate conduct is not employed by the District, then the District will take whatever corrective action is reasonable and appropriate under the circumstances, including, but not limited to, restricting the manner and opportunities for the individual to interact with the District and its employees. This may include barring the individual from attending public District meetings in person and rejecting requests of persons that made in violation of this policy.

Policy Prohibiting Sexual Harassment

- Prohibition on Sexual Harassment

It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of the District to prohibit harassment of any person by any District official, agent, employee, contractor, consultant, person performing services for the District pursuant to a contract, agency, or office ("***District Personnel***") on the basis of sex or gender. All District Personnel are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

- Definition of Sexual Harassment

This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual 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 has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Conduct which may constitute sexual harassment includes:

- (1) Verbal: sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy, or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other persons, even outside of their presence, of a sexual nature.
- (2) Non-verbal: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking," or "kissing" noises.
- (3) Visual: posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) Textual/Electronic: "sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The District will assess sexual harassment by a standard of what would offend a "reasonable person."

- Procedure for Reporting an Allegation of Sexual Harassment

Any District Personnel who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending person, and her/his immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

Any District Personnel may report conduct which is believed to be sexual harassment, including the following:

- (1) *Electronic/Direct Communication.* If there is sexual harassing behavior in the workplace, the harassed person should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) *Contact with Supervisory Personnel.* At the same time direct communication is undertaken, or in the event the District Personnel feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the District manager, or the chief executive officer of the District.
- (3) The District Personnel experiencing what he or she believes to be sexual harassment must not assume that the District is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the District will not be presumed to have knowledge of the harassment.
- (4) *Resolution Outside District.* The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the District. However, all District Personnel have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for

information regarding filing a formal complaint with those entities. A complaint with the IDHR or the EEOC must be filed within 300 days of the alleged incident(s) unless it is a continuing offense.

Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the District. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

- Prohibition on Retaliation for Reporting Sexual Harassment Allegations

No District Personnel shall take any retaliatory action against any other person due to their:

- (1) Disclosure or threatened disclosure of any violation of this policy,
- (2) The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance or participation in a proceeding to enforce the provisions of this policy.

For the purposes of this policy, retaliatory action includes, but is not limited to, reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any District Personnel that is taken in retaliation for their involvement in protected activity pursuant to this policy. Retaliation is prohibited even if the report is unsubstantiated, so long as the report was made in good faith. In addition, any witness will be protected from retaliation.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for a person who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation,
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee, or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (740 ILCS 174/15(b)).

According to the Illinois Human Rights Act (775 ILCS 5/6-101), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

Any District Personnel who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge within 300 days after the alleged retaliation, or otherwise in accordance with the procedures established by the relevant agency.

- Consequences of a Violation of the Prohibition on Sexual Harassment

In addition to any and all other discipline that may be applicable pursuant to District policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in 5 ILCS 430/5-65, may be subject to a fine of up to \$5,000 per offense, applicable discipline or discharge by the District and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the District shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

- Consequences for Knowingly Making a False Report

A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment, but does not include a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable District policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation.

Policy Against Retaliation

As further provided herein, the District has a strict anti-retaliation policy and all employees should be advised that retaliation will not be tolerated against any person who has filed a complaint in regards to harassment, discrimination or retaliation; or who assists or cooperates in an investigation of a complaint by someone else, whether internally or with an external agency; or who files a charge of discrimination or harassment or retaliation; or who otherwise provides information in a proceeding, including in a court, administrative or legislative hearing, related to violations of discrimination or harassment laws. Examples of the types of retaliation that are prohibited include intimidation; discrimination; verbal or physical abuse; adverse actions with respect to pay, work assignments, and other terms of employment; termination of employment; or threats of any such actions. Retaliation is prohibited even if the report is unsubstantiated, so long as the report was made in good faith. In addition, any witness will be protected from retaliation. Retaliation will result in severe discipline, up to and including termination. Anyone experiencing or witnessing any conduct he or she believes to be retaliatory should immediately report such conduct using the complaint process in the District's Policies Prohibiting Harassment and Sexual Harassment.