

APPENDIX D

HARASSMENT-FREE WORKPLACE POLICY

Purpose and Scope

The purpose of this policy is to foster a safe and productive work environment by encouraging courteous communications and professional demeanor within the Agency. The Onondaga County Resource Recovery Agency will not condone or tolerate any conditions of a discriminatory, harassing nature. This policy applies to all employees, applicants for employment, interns, contractors and persons conducting business with the Onondaga County Resource Recovery Agency.

Policy Statement

It is the policy of the Onondaga County Resource Recovery Agency to prohibit harassment or other discrimination on the basis of race, sex, religion, color, national origin, disability, age, marital status, sexual orientation, gender identity or expression, familial status, military status, arrest or conviction record, predisposing genetic characteristics, or if they are a victim of domestic violence. This policy is meant to deal with discriminatory harassment that might occur against Agency employees and interns, customers and contractors who do business with Agency employees and Agency visitors, in any location where Agency business is conducted. Employees are encouraged to freely raise issues and concerns on an individual basis with their supervisors or with members of management as to any matter that they find offensive, inappropriate, or unacceptable in our Agency workplace. Discriminatory harassment can be based on race, sex, religion, color, national origin, disability, age, marital status, sexual orientation, gender identity or expression, familial status, military status, arrest, or conviction record, predisposing genetic characteristics, or if they are a victim of domestic violence. The Agency will not tolerate any discriminatory verbal or physical conduct by any Agency employee that harasses, disrupts, or interferes with the work performance of another Agency employee, customer, contractor, or visitor, or which creates an intimidating, offensive or hostile work environment. Any such discriminatory harassment will be considered employee misconduct and a violation of the Agency's Work Rules. Failure by an Agency employee to adhere to this strict policy against discriminatory harassment may be grounds for immediate termination. The Agency will also not tolerate third party harassment in which any of our employees are subjected to harassment by a customer, client, or visitor to the Agency. Discriminatory harassment by an Agency employee or by others may be a violation of the New York State Human Rights Law as well as the Federal Civil Rights Act of 1964, which can subject a violator to stiff disciplinary action and/or legal sanctions.

Note: The Agency's internal discrimination harassment complaint procedure does not interfere with or supersede the right of Agency employees to file complaints with the New York State Division of Human Rights (DHR), the U.S. Equal Employment Opportunity Commission (EEOC) or any other authorized government agency.

Complaints with the DHR may be filed at any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the Human Rights Law

(HRL), **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to OCRRA does not extend your time to file with DHR or in court. The one to three years is counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after the hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, NY 10458, (718) 741-8400, in Syracuse: 333 E Washington St., Rm 543 Syracuse, NY 13202, (315) 428-4633, or www.dhr.ny.gov

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized, and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 Federal Civil Rights Act (codified as 42 U.S.C. §2000e et seq.) An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in Federal Court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in Federal Court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov

If an individual filed an administrative complaint with DHR, DHR will also file the complaint with the EEOC to preserve the right to proceed in Federal Court.

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department or call 911.

What is Harassment Under This Policy?

Sexual harassment includes deliberate or repeated unsolicited verbal innuendoes or comments, gestures or physical contact of a sexual nature which are unwelcome. Displays of sexually explicit or suggestive objects, pictures or material; sexually degrading words used to describe an individual, lewd jokes, acts of aggression, intimidation, hostility, rudeness, name calling and other types of abusive conduct which create an intimidating, hostile, or offensive environment can be sexual harassment. Unwelcome sexual advances; flirtations or propositions; requests for sexual favors; graphic or suggestive comments about an individual's dress or body; or requiring an Agency employee to submit to verbal or physical conduct of a sexual nature as an explicit or implicit term or condition of employment can also be sexual harassment. Similarly, sexual harassment may include conduct that has the purpose or effect of substantially interfering with an affected employee's work performance or creating an intimidating, hostile or offensive work environment. Sexual harassment, as defined above, can also be perpetrated on an Agency employee by a customer, client or visitor. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are travelling for business or at employer sponsored events or parties. Calls, texts, emails and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises or not during work hours.

Racial and national origin harassment or discrimination are defined as racial or ethnic slurs, racial or ethnic jokes or other intimidating, hostile or offensive verbal or physical conduct relating to a person's race or national origin. The term race shall include traits historically associated with race, including but not limited to, hair texture and protective hairstyles. The term "protective hairstyles" shall include, but not be limited to, such hairstyles as braids, locks, and twists.

Religious harassment or discrimination is defined as religious slurs, jokes, comments or ridicule which is antagonistic towards one's religious beliefs, preferences or affiliation. It may also involve religious inducement or any mandatory religious activity. Examples of religious harassment include, but are not limited to, harassment of an employee because they wear religious clothing, such as a cross around the neck, continual mocking of an employee's religious convictions or intentionally using offensive language in order to mock one's religious beliefs.

Age harassment or discrimination involves slurs, jokes, comments or ridicule of a harassing or humiliating nature that is aimed at an employee's age. Age discrimination may include comments regarding an employee's ability to perform his/her work due to age or causing literature to be continuously received by an employee which is related to one's age and may cause hostility or humiliation.

Disability harassment or discrimination is defined as actions or comments of a harassing, humiliating or discriminatory nature which target an employee's physical handicap or disability.

Sexual orientation harassment or discrimination is defined as comments of a harassing nature, jokes, or other intimidating, hostile or offensive verbal or physical conduct relating to a person's sexual orientation.

Gender identity or expression harassment or discrimination is defined as comments of a harassing nature, jokes, or other intimidating, hostile or offensive verbal or physical conduct relating to a person's gender identity or expression.

Military status harassment or discrimination includes comments or action of a derogatory or discriminatory nature relating to employee's participation or service in the military service of the United States, New York State or the National Guard or Reserves.

Familial status harassment or discrimination is defined to include discrimination or harassment against any person who is pregnant or is in the process of securing legal custody of a child under the age of 18.

Predisposing genetic characteristic harassment or discrimination includes discrimination or harassment against an individual whose genetic makeup may predispose them to disease, disability, mental illness or physical development problems.

Harassment or discrimination against a victim of domestic violence can occur when an employee who is a victim of an act which would constitute a family offense is harassed or discriminated against.

Marital status harassment or discrimination means harassment or discrimination based upon an employee's marital status.

Arrest or conviction record discrimination is discrimination in hiring, based upon an individual's arrest or conviction record unless that record is directly related to the requirements or responsibilities of the job in question or the hiring of an individual with such a record would create an unreasonable risk to the safety of people or property.

Retaliation Prohibition

No person covered by this policy shall be subject to adverse employment actions including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of harassment, provides information, or otherwise assists in any investigation of a harassment complaint. OCRRA will not tolerate such retaliation against anyone who, in good faith complains or provides information about suspected harassment. Any employee of OCRRA who retaliates against anyone involved in a harassment investigation will be subject to disciplinary action, up to and including termination of employment. Any employee, paid or unpaid intern, or non-employee working in the workplace who believes that they have been subject to such retaliation should inform the Personnel Analyst or a supervisor, the Business Officer or the Agency Executive Director. Any employee, paid or unpaid intern or non-employee who believes they have been a victim of such retaliation may also seek compensation in other available forums outlined above.

OCRRA EMPLOYEE'S HARASSMENT COMPLAINT REPORT FORM

Complete and submit to your supervisor, department head, Personnel Administrator, Deputy Director, Confidential Internal Control Compliance Officer, Executive Director, OR Agency Legal Counsel Jim Gascon at 315-422-1152.

- If you have any questions about completing this form, please contact the Personnel Administrator or a Human Resource representative for assistance.

Name of Employee _____ Date Submitted _____

Job Title _____ Work Area _____

Supervisor _____

Please check the applicable box:

I hereby complain that I have been subjected to harassment or discrimination based on:

- | | |
|--|--|
| <input type="checkbox"/> age | <input type="checkbox"/> disability |
| <input type="checkbox"/> sex | <input type="checkbox"/> third-party sexual harassment |
| <input type="checkbox"/> racial | <input type="checkbox"/> national origin |
| <input type="checkbox"/> religion | <input type="checkbox"/> sexual orientation |
| <input type="checkbox"/> marital status | <input type="checkbox"/> familial status |
| <input type="checkbox"/> military status | <input type="checkbox"/> my arrest or conviction record |
| <input type="checkbox"/> being a victim of domestic violence | <input type="checkbox"/> a predisposing genetic characteristic |
| <input type="checkbox"/> gender identity or expression | |

Nature of Complaint:

Date of the event _____

Parties Involved _____

Please explain what happened _____

Complainant's Signature _____

Office Use Only

Date Received _____

Receiver's Initials _____

AGENCY PROCEDURES FOR COMPLAINTS OF HARASSMENT

Any employee who believes that the actions or words of a supervisor, fellow employee, third party customer, client or visitor constitute harassment on the basis of race, sex, religion, color, national origin, disability, age, marital status, sexual orientation, gender identity or expression, familial status, military status, arrest or conviction record, predisposing genetic characteristics, or if they are a victim of domestic violence harassment should report such conduct to his or her supervisor, department head, Personnel Analyst, Business Officer or to the Executive Director of the Agency as soon as possible. Management and supervisors are required to report any complaint that they receive, or any harassment that they observe, to either the department head, the Personnel Analyst, the Business Officer or Executive Director.

An employee may make a complaint by taking any of the following steps:

1. **Make a Verbal Report of Harassment:** Persons wishing to report suspected harassment under this policy may make a verbal report of such conduct to his or her supervisor, department head, Personnel Analyst, Business Officer or to the Executive Director of the Agency. Persons receiving verbal complaints of harassment should request the reporter to complete a written complaint as described below but remain obligated to investigate the complaint whether or not a written complaint is filed.
2. **Complete a Harassment Complaint Report Form:** This should be filled out within ten working days of the event or your discovery of the event that is related to the complaint. (The form may be obtained in your local office's break room).
3. **Submit the Complaint Form:** Complaint may be filed with any of the following individuals: your supervisor, department head, Personnel Analyst, Business Officer or the Executive Director of the Agency.

Investigation

OCRRA will conduct a prompt, thorough and, to the extent possible, confidential, investigation of all complaints of harassment in a manner that affords due process to all parties. Effective corrective action will be taken whenever harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any investigation of harassment.

While the process may vary from case to case, investigations should be conducted in accordance with the following steps:

- Upon receipt of complaint, [person or office designated] will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- Determine whether the complaint should be investigated internally or whether it is necessary to have a third party conduct the investigation. This determination should be made with consideration of the parties involved in the complaint, the nature of the alleged harassment and any other factors that could impact confidence in the investigation process.
- If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create a written investigation report (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents.
 - A list of names of those interviewed, along with a detailed summary of their statements.
 - A timeline of events.
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination (whether the complaint was sustained or not).
- Implement any corrective actions identified in the investigation report.
- Provide the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Disciplinary Procedure

Following an investigation, any department head, supervisor, agent or other employee found to have engaged in any type of harassment of another employee in violation of the Agency's Policy shall be subject to disciplinary action according to Agency Work Rules, up to and including termination.

If a complaint alleges third party sexual harassment by a customer, client or visitor to the Agency, immediate and corrective action that may be available will be taken to eliminate such conduct.

Review of Agency Decision

If the complaining Agency employee is not satisfied with the outcome, the employee may request within ten workdays of the completion of the investigation a review of the investigation by the Agency's Executive Director. The Executive Director shall promptly review the investigation and may, if requested, meet with the employee to discuss the findings, determination, and, to the extent appropriate and consistent with Agency policies and procedures and applicable law and collective bargaining agreements, any corrective action taken by the Agency because of the investigation.