

COMMISSION ON LEGAL COUNSEL FOR INDIGENTS POLICY REGARDING SEXUAL AND OTHER UNLAWFUL HARASSMENT

A. GENERAL PROVISIONS

The Commission seeks to ensure a work environment free of sexual and other unlawful harassment. Sexual and other unlawful harassment is a form of discrimination prohibited by Title VII of the Civil Rights Act of 1964 and Section 14-02.4-01 of the North Dakota Century Code, and is prohibited by the Commission. Any employee who is guilty of sexual or other unlawful harassment is subject to disciplinary action up to and including termination.

The Commission also prohibits retaliation against any individual who reports harassment or who participates in an investigation, proceedings, or hearing related to such reports. Retaliation will constitute a separate violation of this policy and will be processed using the same procedures established for reporting and investigating an allegation of sexual or other unlawful harassment. Any employee who is guilty of retaliation will be subject to disciplinary action up to and including termination.

B. DEFINITIONS AND EXAMPLES

Sexual harassment is defined by the federal Equal Employment Opportunity Commission as unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct or communication of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of the 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 unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. These behaviors may include but are not limited to:

- * unwanted sexual advances or requests for sexual favors

- * sexual jokes and innuendo
- * verbal abuse of a sexual nature
- * leering, massaging, or touching
- * comments about a person's body, sexual prowess, or sexual deficiencies
- * displaying or showing inappropriate pictures or sexually suggestive objects in the office, on a computer screen
- * other physical, verbal, or visual conduct of a sexual nature

Harassment on the basis of any other protected characteristic is also prohibited. Conduct that unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment constitutes unlawful harassment. Unlawful harassment can be verbal, non-verbal, or physical conduct or communication that shows hostility or aversion towards an individual because of race, color, religion, sex, age, national origin, disability or other protected status. Examples may include, but are not limited to: epithets, slurs, jokes, negative stereotyping, written or graphic materials, pin-ups, posters, calendars, photographs, cartoons, etc.

C. PROCEDURES

Early reporting and intervention are critical and have proven to be the most effective method of resolving actual or perceived incidents of harassment.

1. Employee Responsibilities

All employees are responsible for preventing sexual and other unlawful harassment in the workplace. Employees are obligated to immediately report any perceived incidents of harassment or retaliation regardless of the person's position or identity. If an employee observes or experiences offensive conduct, the employee may promptly advise the offender directly that the conduct is unwelcome and offensive and request that the offender stop the conduct. If the employee has confronted the offender and the offensive conduct has not stopped, or if the employee feels uncomfortable confronting the offender, the employee must notify their supervisor, or the Director or

Deputy Director. If the alleged harasser is the employee's supervisor, the employee must notify a supervisor from another office, or the Director or Deputy Director, who will then initiate an investigation.

2. Supervisor's Responsibilities

It is the supervisor's responsibility to continually monitor the work environment for sexual or other unlawful harassment. If a supervisor observes an incident that may constitute sexual or other unlawful harassment, or if an employee reports an incident of harassment, the supervisor has an obligation to act. The supervisor must immediately document and report the incident to the Director or Deputy Director, who will initiate an investigation.

Failure to report incidents of sexual or other unlawful harassment will subject the supervisor to disciplinary action, up to and including termination.

D. INVESTIGATION AND RESOLUTION

Once a complaint is made, a thorough investigation will follow. After the investigation has been completed, a determination will be made regarding the resolution to the case. The complainant, accused, and any other appropriate individuals will be apprised of the outcome of the investigation.

An employee who is found to have intentionally made a false accusation of sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination.