

Metro | *Policies and procedures*

Subject Discrimination and Harassment
Section Human Resources
Approved by Martha Bennett, Chief Operating Officer; MERC Commission

POLICY

Metro is committed to promoting and maintaining a work environment that is free from all forms of discrimination, harassment, intimidation, hostility and offensive behavior.

Applicable to

All employees, elected officials, interns, volunteers, visitors, contractors and vendors.

Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.

Definitions

Discrimination: An act having adverse effect on one or more individuals because of race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status, disability or perceived disability, or any other status protected by law. It may be intentional or unintentional.

Harassment: Behavior which is reasonably perceived by the recipient as unwelcome and includes, but is not limited to, the use of verbal/written derogatory or discriminatory statements, denigrating jokes, unwelcome touching, offensive remarks, put-downs, epithets, slurs or negative stereotyping, displays, objects or materials which create an offensive work environment. Harassment has the purpose or effect of creating an intimidating, hostile, abusive or offensive work environment; unreasonably interfering with an individual's work performance; or otherwise adversely affecting an individual's employment and employment related opportunities.

Harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, offensive, fails to respect the rights of others, lowers morale, and/or interferes with work effectiveness.

Unlawful Harassment: Any harassment as defined above that is based on a protected class status or singles someone out because of their protected class, and where: 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Retaliation: Treating someone negatively or differently because that person has filed a complaint under this policy, exercised his or her rights under state or federal law, or participated in a harassment investigation.

Protected Class: Any individual or group of individuals for whom there is an established law prohibiting discrimination, harassment, or retaliation. Examples of protected classes are race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status or disability.

Guidelines

1. Any practice or behavior which acts to discriminate against or harass an employee, intern, volunteer or applicant because of his or her race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status, disability or perceived disability, or any other status protected by law, is in direct conflict with Metro's commitment to ensuring a discrimination and harassment-free work environment. Such behavior, or tolerance of such behavior, on the part of management or employees violates Metro's policy and may result in disciplinary action up to and including termination, even if the conduct does not necessarily constitute a violation of the law.
2. This policy applies to all conduct on any of Metro's premises and to conduct off Metro's premises that has an effect on an employee's work environment.
3. No employee, elected official, intern, volunteer, visitor, contractor or vendor may engage in any of the following conduct (this list represents examples and is not intended to be all-inclusive):
 - a. Making unwelcome sexual advances, requesting for sexual favors, or engaging in other inappropriate verbal or physical conduct of a sexual nature.
 - b. Making stereotypical offensive comments, jokes, innuendo or threats about a person's protected class status (e.g. race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status or disability).
 - c. Bringing suggestive or offensive objects or pictures, cartoons, or graphics onto Metro premises, either electronically or otherwise.
 - d. Making suggestive or insulting sounds or obscene gestures, leering, staring, or whistling.
 - e. Making unwanted physical contact with others, such as touching, grabbing, pinching, brushing the body, neck or back rubs, coerced sexual intercourse or assault.
4. Management and elected officials must demonstrate by their own conduct that they support and enforce Metro's policy. For example, managers must take prompt action when they observe inappropriate conduct or when a complaint is made, and are expected to provide leadership in carrying out the policy's intent. If a manager learns of any potential discrimination or harassment in the workplace, they must immediately contact the Metro Human Resources department.

Procedures

Complaint Procedure

1. Any employee, intern, volunteer or elected official subjected to discrimination or harassment is encouraged to proceed under the Complaint Procedure in this policy. Individuals who observe or who are aware of situations involving discrimination or harassment should immediately notify their supervisor, the Human Resources Director, or any other manager at

Metro. Discretion will be used during the investigation in order to maintain as much confidentiality as is possible without compromising the ability to effectively complete the investigation.

- a. If a complaint, whether informal or formal, is concerning a Councilor, the complaint shall be forwarded to the Council President or Human Resources Director. If the complaint, whether informal or formal, is about the Council President, the complaint shall be forwarded to the Deputy Council President or Human Resources Director.
 - b. If a complaint, whether informal or formal, is about the Chief Operating Officer, the complaint shall be forwarded to the Council President or Human Resources Director.
 - c. If a complaint, whether informal or formal, is about the Auditor, the complaint shall be forwarded to the Chief Operating Officer or Human Resources Director.
 - d. If a complaint, whether informal or formal, is concerning the Human Resources Director, the complaint shall be forwarded to the Chief Operating Officer.
 - e. If a complaint, whether informal or formal, is about the Metro Attorney, the complaint shall be forwarded to the Council President or Human Resources Director.
2. Formal Complaint Procedure: A formal complaint alleging an act of discrimination or harassment by an employee, elected official, intern, volunteer, visitor, contractor or vendor may be submitted in writing to the Human Resources Director.
- a. A written complaint should include the following information:
 - i. the complainant's name and protected class status (e.g., race, religion, sex, national origin, disability, age, veteran status, sexual orientation, etc.) if applicable;
 - ii. the nature of the complaint, the date the alleged violation occurred, the name of the person who is the subject of the complaint, and the names of any witnesses present; and
 - iii. if the complaint is in regard to a vendor, contractor or subcontractor, the name of that organization.
 - b. The Human Resources Director or his or her designee shall:
 - i. thoroughly investigate the complaint and establish a file of findings;
 - ii. submit the findings with a recommendation to the Department Director or his or her designee;
 - iii. inform the alleged harasser of the determination and any action to be taken; and
 - iv. notify the complainant that the investigation has been completed and relevant avenues of appeal, if appropriate.
3. Informal Complaint Procedure: Some individuals alleging an act of unlawful discrimination or harassment may wish to go through an informal process. The following informal procedure is established to address that need; however, a person making a complaint is not required to use this procedure either in lieu of or prior to proceeding with a formal complaint.

- a. Any person alleging an act of discrimination or harassment by another employee, elected official, intern, volunteer, visitor, contractor or vendor has occurred, may verbally request an informal investigation of the allegation by either his or her Manager/Director, or the Human Resources Director.
 - b. The Manager/Director, or Human Resources Director or his or her designee shall, after appropriate investigation of the complaint, determine what informal remedial action, if any, shall be taken. The Manager/Director, or Human Resources Director or his or her designee shall inform the complainant and alleged harasser of the determination and any action to be taken. The details of any disciplinary action taken against the alleged harasser will not be disclosed to the complainant.
 - c. If the complainant does not feel that the informal procedure satisfactorily resolves his or her complaint, or if the complainant does not want to initiate the informal procedure, he or she may proceed with the formal complaint procedure described above.
 - d. All management and supervisory personnel who have received a report or complaint of discrimination or harassment shall immediately inform Metro's Human Resources Director. The Human Resources Director shall make arrangements for the prompt and proper investigation of such report or complaint.
 - e. Discretion will be used during the investigation in order to maintain as much confidentiality as possible while still being able to effectively complete the investigation.
4. Job Applicant Complaint Procedure: Any individual who has made application for employment and alleges that an act of unlawful discrimination has occurred may file a complaint in writing to the Human Resources Director as set forth in the formal procedure outlined above.

Retaliation

5. An employee, intern or volunteer who files a complaint of discrimination or harassment, participates in the investigation of a complaint, or reports or opposes harassing or discriminatory behavior shall not be subject to adverse treatment as a result of such activity. In addition, any individual who is the subject of, or is aware of, a complaint must refrain from taking any retaliatory actions against the person who complained, or against others participating in the investigation.
6. Any form of retaliation related to a discrimination or harassment complaint may result in discipline up to and including termination.
7. Any employee, intern or volunteer who believes he or she has been retaliated against for filing a complaint or otherwise participating in any investigation under this policy should immediately report the circumstances to the Human Resources Director.

Responsibilities

Employee/Intern/Volunteer:

- Demonstrate support of the policy by your own conduct; refrain from engaging in behaviors which constitute harassment, discrimination or retaliation.

- If you are comfortable doing so, tell employees or other individuals who violate this policy to stop the offensive behavior.
- Immediately notify your supervisor, Human Resources Director or any Metro manager if you observe or are aware of situations involving discrimination, harassment or retaliation in the workplace.

Director/Manager/Supervisor:

- Monitor and ensure that the work environment is free from discrimination, harassment and retaliation.
- Demonstrate support and enforcement of the policy by your own conduct, and provide leadership in carrying out this policy's intent.
- Take all complaints of discrimination or harassment seriously.
- Immediately notify Human Resources if you learn of any actual or potential discrimination, harassment or retaliation in the workplace.

Human Resources:

- Upon notification of potential discrimination, harassment or retaliation in the workplace, immediately conduct a thorough investigation.
- Take appropriate action in order to end discrimination, harassment or retaliation in the workplace.

References

Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended, 42 U.S.C. § 2000e *et seq.*

ORS 659A.030

2013 Oregon Laws Ch. 379 (House Bill 2669)

Additional information can be obtained from the Oregon Bureau of Labor and Industries (www.boli.state.or.us) or the Equal Employment Opportunity Commission (www.eeoc.gov).