

Anti-Discrimination, Harassment, and Retaliation

Supersedes: 03-12-04
Effective: 06-2008
[BPHC Policy # 103]

I. PURPOSE

The Boston Public Health Commission (“BPHC”) affirms its commitment to maintain a work environment free of discrimination and harassment based on race, color, religious creed, age, national origin, disability, sex, sexual orientation, gender identity or expression, political affiliation or veteran status (in this policy, harassment based on race, color, religious creed, age, national origin, disability, sex, sexual orientation, gender identity or expression, political affiliation or veteran status is referred to as "harassment based on discrimination"). The BPHC affirms its commitment to maintain a work environment free of retaliation based on an employee having complained of or opposed discrimination or harassment based on discrimination, or based on an employee having cooperated or assisted with an investigation into discrimination or harassment based on discrimination.

II. POLICY

The BPHC expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees. Discrimination and harassment based on discrimination are unlawful and will not be tolerated. Retaliation against any employee who has complained of or opposed discrimination, harassment based on discrimination or retaliation or against any employee who has cooperated or assisted with an investigation into such conduct, is unlawful and likewise will not be tolerated.

III. PROCEDURE

A. GENERAL

1. It is BPHC’s policy that all employees, clients and visitors have a right to work and be in an environment free from any type of discrimination, harassment based on discrimination or retaliation.
2. The BPHC shall post notice of the Fair Employment Law pursuant to M.G.L. c. 151B §7 at locations where it posts notices to employees of their rights under federal and state anti-discrimination laws. The BPHC is committed to adhering to applicable federal and state laws regarding discrimination, harassment based on discrimination and retaliation and will investigate and resolve any such complaints.

3. The BPHC prohibits discrimination, harassment based on discrimination and retaliation against employees, clients and visitors in any form. Such conduct will result in disciplinary action against employees up to and including termination. Clients and visitors engaging in prohibited conduct may be barred from BPHC property. Any incident may be referred for legal action or other appropriate measure to assure such activity does not recur.

B. DEFINITIONS & PROHIBITED BEHAVIOR

1. Discrimination, harassment based on discrimination and retaliation is contrary to BPHC policy and may also be against the law. The BPHC defines such conduct as follows:

- a. Conduct that conditions a person's hiring, compensation, terms and conditions of employment, or access to services provided by the BPHC on that person's race, color, religious creed, age, national origin, disability, sex, sexual orientation (which shall not include a person whose sexual orientation involves minor children as a sex object), gender identity or expression, political affiliation or veteran status, unless otherwise permitted or required by applicable law;
- b. Adverse employment decisions or decisions regarding access to BPHC services directed against a person in retaliation for filing a complaint of or opposing discrimination, harassment based on discrimination or retaliation, or for participating in or assisting with an investigation or proceeding related to such; or
- c. Harassing conduct of any type (oral, written, graphic or physical) directed against a person: i) because of his or her race, color, religious creed, age, national origin, disability, sex, sexual orientation (which shall not include a person whose sexual orientation involves minor children as a sex object), gender identity or expression, political affiliation or veteran status OR ii) in retaliation for filing a complaint of or opposing discrimination, harassment based on discrimination or retaliation, or for participating in or assisting with an investigation or proceeding related to such AND which also unreasonably interferes with the person's work or creates a work environment that a reasonable person would find hostile, offensive, humiliating or intimidating.

2. Discrimination, harassment based on discrimination or retaliation can take many forms and deciding whether the definition is met requires looking at all of the circumstances. While it is not possible for the BPHC to list all circumstances that may constitute discrimination, harassment based on discrimination or retaliation, the following are some examples of conduct which may constitute such, depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- a. Directing racial or ethnic slurs at someone;

- b. Telling a person they are too old to understand new technology;
- c. Teasing or mocking a person because of or about that person's disability;
- d. Ridiculing a person's religious beliefs;
- e. Any suggestion that race, color, religious creed, age, national origin, disability, sex, sexual orientation (which shall not include a person whose sexual orientation involves minor children as a sex object), gender identity or expression, political affiliation or veteran status or any protected classification would affect one's job, promotion, performance evaluation, access to services, working conditions or housing;
- f. Employment decisions (such as hiring, firing, promotion, and discipline) based on stereotypes or assumptions about the abilities, traits or performance of individuals of a certain race, color, religious creed, age, national origin, disability, sex, sexual orientation (which shall not include a person whose sexual orientation involves minor children as a sex object), gender identity or expression, political affiliation, veteran status or other protected classification;
- g. Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, color, religious creed, age, national origin, disability, sex, sexual orientation (which shall not include a person whose sexual orientation involves minor children as a sex object), gender identity or expression, political affiliation, veteran status or other protected classification;
- h. Retaliation against an individual for filing a charge or opposing discrimination, harassment based on discrimination or retaliation, or for participating in or assisting with an investigation or proceeding related to such, or for associating him or herself with another who has done so by taking an adverse employment action against that individual, such as termination, discipline, negative performance evaluation, or adverse change in work assignments; or
- i. Denying employment opportunities to an individual because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. A rule requiring that employees speak only English on the job may violate discrimination laws unless the requirement is necessary for conducting business. If such a rule is necessary, employees must be informed when English is required and the consequences for violating the rule.

3. The BPHC also prohibits discrimination, harassment based on discrimination or retaliation by and against a client or visitor of the BPHC. A client is anyone for whom the BPHC renders services. A visitor is anyone authorized to be on BPHC premises such as vendors, contractors and members of the public.

C. RAISING COMPLAINTS OF DISCRIMINATION, HARASSMENT BASED ON DISCRIMINATION, OR RETALIATION

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1. An employee who believes he or she has been the subject of any form of discrimination, harassment based on discrimination or retaliation or has been subject to a hostile, offensive, humiliating, or intimidating work environment, is strongly encouraged to speak with her/his direct supervisor or anyone else identified in Section C(3) below.
2. All complaints of discrimination, harassment based on discrimination and retaliation will be treated with confidentiality to the extent possible consistent with the BPHC's need to investigate complaints and ensure the safety and well-being of the complainant and other employees. Complaints of discrimination, harassment based on discrimination and retaliation shall not result in reprisal or retaliation, in any form, to the informer or complainant.
3. Any complaints of discrimination, harassment based on discrimination or retaliation by an employee, supervisor, client or visitor should be presented as soon as possible. Please be advised that there are time limits for filing complaints with outside agencies (see Section C(5) below). Complaints may be submitted to the complainant's supervisor, anyone else within the chain of command of the complainant's supervisor or any one of the following individuals:

The Executive Director
1010 Massachusetts Ave., 6th floor
Boston MA 02118
617-534-5264

The Director of Human
Resources
1010 Massachusetts Ave., 6th
floor
Boston MA 02118
617-534-5657

The Director of Labor Relations
1010 Massachusetts Ave., 6th floor
Boston MA 02118
617-534-2449

The Human Resources Administrator for Homeless
Services
Long Island Campus Tobin Bldg.
PO Box, 158
Boston MA 02122
617-534-2526 ext. 313

The Chief of Emergency Medical Services
Boston EMS
785 Albany Street
Boston MA, 02118
617-343-2367

In the event that the complaint of discrimination, harassment based on discrimination or retaliation involves any one of the above listed persons, the complaint may be submitted to:

The General Counsel
1010 Massachusetts Ave., 6th floor
Boston MA 02118
617-534-4322

4. In the event of a complaint of discrimination, harassment based on discrimination or retaliation against a visitor involving a vendor or contractor, the BPHC will take action directly with the manager of the vendor or contractor in a timely fashion.

5. Any complaint of discrimination, harassment based on discrimination or retaliation may also be filed with the external agencies listed below. The use of the BPHC's complaint process does not preclude an employee from filing a complaint with these external agencies, nor does it toll the statute of limitations for filing with them. The statute of limitations for filing a complaint with the Massachusetts Commission Against Discrimination or the United States Equal Employment Opportunity Commission is 300 days from the date of the incident.

Director of Affirmative Action
City of Boston Office of Personnel Management
One City Hall Plaza
Boston, MA 02201

The Massachusetts Commission Against Discrimination ("MCAD")
One Ashburton Place
Boston MA, 02108
617-994-6000

The U.S. Equal Employment Opportunity Commission ("EEOC")
One Congress Street
Boston MA, 02114
617-565-3200

D. RESPONSIBILITY AND PROCEDURE FOR INVESTIGATION

1. Any complaint of discrimination, harassment based on discrimination or retaliation is to be taken seriously and treated with sensitivity and discretion.

2. All employees other than "Reporting Employees" (as defined in section D(3) below) who observe, become aware of or receive a complaint/report of discrimination,

harassment based on discrimination or retaliation are strongly encouraged to notify orally or submit a written report to their supervisor or any of the individuals identified in Section C(3) promptly.

3. Certain employees, referred to here as "Reporting Employees," have special reporting duties, as described in Section D(4). Reporting Employees include all employees acting in a supervisory capacity (i.e. employees with authority to direct various aspects of employment of one or more employees such as hiring, firing, discipline, attendance, scheduling, work assignments, evaluation, promotion or transfer) managers, directors and all employees to whom a complaint of discrimination, harassment or retaliation can be made pursuant to Section C(3).

4. Any Reporting Employee who personally becomes aware of or is otherwise notified of conduct which may amount to discrimination, harassment based on discrimination or retaliation shall personally make a written report describing such conduct and shall submit the report to the Director of Human Resources. Reporting Employees must report any personal awareness of possible discrimination, harassment based on discrimination or retaliation as well as any complaints/reports of such conduct received in any form and from any source, including internal complaints or reports made under this policy, union grievances and complaints filed with outside agencies. Reporting Employees shall attach to their reports any written complaints submitted by the complainant or others and shall submit their reports and attachments to the Director of Human Resources before leaving the place of employment on the day of receiving such information, or as soon as practicable, except as provided in Section D(5) below.

5. In the event that the Director of Human Resources or his/her designee is not on duty and it is after business hours, the Reporting Employee shall contact the BPHC's Manager On-Call and shall submit such report in a sealed envelope addressed to the Director of Human Resources. The Manager On-Call shall deliver the envelope to the Director of Human Resources or his/her designee by the end of the following regular business day.

6. Upon receipt of a complaint or report of discrimination, harassment based on discrimination or retaliation, the Director of Human Resources shall inform the complainant of the existence of this policy, provide a copy of the policy if needed and direct the complainant as to how to file an internal complaint.

7. The BPHC's Director of Human Resources or his/her designee will investigate all complaints or reports of discrimination, harassment based on discrimination or retaliation in a timely and impartial manner. The investigation of any such complaints or reports shall be completed within a reasonable time frame of up to 90 days, unless there is good cause requiring additional time.

8. The General Counsel's Office shall be advised of all investigations under this policy and shall provide assistance when necessary.

9. All investigations shall be conducted in such a way as to maintain confidentiality to the extent possible consistent with the need to conduct an investigation and ensure the safety and well-being of the complainant and other employees.

10. While the extent and nature of any investigation will depend upon the circumstances of the complaint, all investigations, to the extent possible, will include the following:

- a. A separate interview with the person filing the complaint;
- b. A separate interview and written statement of each witness and person with knowledge relevant to the complaint;
- c. A separate interview with the person alleged to have committed the discrimination, harassment based on discrimination or retaliation. The person will also be allowed to submit a written statement; and
- d. A review of any material documents identified by the complainant and the person alleged to have committed the discrimination, harassment based on discrimination or retaliation.

11. All employees are responsible for cooperating with an investigation into complaints of discrimination, harassment based on discrimination or retaliation. Any employee who fails to fully cooperate or hinders the investigation may be disciplined.

12. At the conclusion of the investigation, the Director of Human Resources or his/her designee shall prepare a written report of the investigation that shall include findings of fact and an opinion as to whether there has been any violation of BPHC policy.

13. A copy of the report shall be submitted to the Executive Director and the General Counsel. The Director of Human Resources shall maintain all complaints and reports of discrimination, harassment based on discrimination or retaliation and records related to the corresponding investigations. The Director of Human Resources shall notify the appropriate program or bureau director of the results of the investigation.

E. DISCIPLINARY ACTION

If it is determined that discrimination, harassment based on discrimination or retaliation has been committed and a violation of this policy has occurred, the BPHC will take such corrective action reasonably calculated to end such conduct and protect the complainant. Such action may range from counseling to termination from employment and may include such other forms of disciplinary action as the BPHC deems appropriate under the circumstances. If it is determined that a client, visitor, vendor or contractor has violated this policy, appropriate steps will be taken to rectify or prevent the circumstances from recurring.

F. FALSE COMPLAINTS

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Complainants who intentionally or knowingly file a false complaint or any other person providing false information during an investigation conducted in accordance with BPHC policy will be subject to corrective action up to and including termination of employment.