

Chapter 3: Personnel
Subject: Workplace Harassment and Discrimination
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COA Standard: PA-ETH 4; HR 1.01 (c-e), 5.02
Reviewed/Revised: 7/22/20

Policy

It is the policy of the Court and NRTC that all employees should enjoy a working environment free from all forms of discrimination, including sexual harassment or harassment based on the individual's race, color, national origin, ancestry, ethnicity, religion, sex, gender or gender identity, sexual orientation, marital or pregnancy status, age, disability, handicap, genetic information, political affiliation, status as a veteran, or any other legally protected status. No employee, either male or female, should be subject to unsolicited and unwelcome sexual overtures or conduct, either physical or verbal, or other adverse treatment on the basis of their membership in a protected class. Workplace harassment lowers morale and damages a professional working environment. Therefore, the Court and NRTC will treat sexual and other inappropriate forms of workplace harassment as any other form of serious employee misconduct—it will not be tolerated.

Definition

Sexual harassment is behavior of a sexual nature directed to an employee that is unsolicited and unwelcome and either a) makes acquiescence a term or condition of employment (quid pro quo) or b) is so pervasive as to create a hostile work environment that adversely affects the terms and/or conditions of the employee's job (hostile environment). Sexual harassment can be found whether the offending employee is management, non-management staff, or outside visitors to the Court; it can exist whether the victim or offender is male or female. The offensive behavior can be through physical contact, words, or gestures. Examples of prohibited conduct under this policy include, but are not limited to:

- (1) Sexually suggestive or vulgar language, sounds, whistles or propositions;
- (2) Sexual jokes or innuendos of a provocative or suggestive nature;
- (3) Suggestive or demeaning facial expressions, looks, or "leering," or similar gestures;
- (4) Conduct that creates an intimidating, hostile, or offensive working environment for persons of the opposite or same sex, even if it is not sexual

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or based upon sexual attraction. This includes including "hazing" of a sexual nature;

- (5) Unwelcome fondling, patting, or other touching of a sexual nature;
- (6) Repeated requests for a date or romantic/sexual activity;
- (7) Making acceptance of unwelcome sexual conduct or advances or requests for sexual favors of any nature a condition for hire, promotion, pay increase, favorable evaluation, assignment, or continued employment, or discrimination against the employee in any of these areas for refusal to accept such conduct, advances, or requests. It is also a violation of policy for an employee to receive preferential treatment in exchange for sexual favors or for a person to fabricate allegations of sexual harassment; and
- (8) Any other conduct that meets the definition of "sexual harassment," as defined in this policy.

Workplace harassment and discrimination on the basis of the race, color, national origin, ancestry, ethnicity, religion, sex, gender or gender identity, sexual orientation, marital or pregnancy status, age, disability, handicap, genetic information, political affiliation, status as a veteran, or any other legally protected status, are also prohibited under the Court and NRTC's policy. Such harassment will be subject to complaint, investigation, and disciplinary action as provided in the procedure for claims of sexual harassment.

Recognizing that workplace harassment and discrimination are demoralizing, humiliating, degrading, and harmful to workplace morale, we serve notice to all employees that it will not be tolerated. Moreover, the Court and NRTC's definition of harassment under this policy is more conservative and more restrictive than the legal definition; the Court will make findings about whether this policy was violated without regard to whether any conduct amounted to violations of law.

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Inappropriate Office Items

No employee must place, maintain, or circulate in his or her work area any picture, drawing, writing, or other depiction of a sexually explicit or offensive nature, or which ridicules any racial, religious, or ethnic group or persons with disabilities.

Complaint Procedure

Any employee who has experienced harassment or discrimination as described above must report it through either of the following procedures, at the option of the employee:

- (1) Employees may report the allegations of harassment or discrimination to the Supervisor, Director, Court Administrator, or one of the Court's Judges.
- (2) Employees are directed that they may, and are expected to, bypass the standard chain-of-command in reporting allegations harassment or discrimination when the person to whom the employee would normally report is the individual who engaged in the inappropriate conduct.

False Claims

It is also considered a violation of this policy for an employee to purposefully file a false claim of harassment or discrimination. Such an employee may be subject to disciplinary action. The mere fact that evidence regarding a complaint is inconclusive does not meet the above criteria. There must be affirmative evidence that the claim is false and the employee knew it was false at the time it was made.

Retaliation

The Court and NRTC strictly prohibits any kind of retaliation for filing a complaint or participating in an investigation under this policy.