



Anti – Discrimination and Harassment Policy

Purpose

The Ohio Department of Agriculture (ODA) is committed to providing a working environment free from discrimination and harassment of its employees and applicants, including sexual harassment. ODA has implemented this policy to comply fully with applicable federal and state laws, rules, regulations and guidelines as well as current executive orders in the area of non-discrimination, harassment, and retaliation in employment. This policy is not intended to be a complete statement of federal and/ or state law, or an employee's rights regarding discrimination, discriminatory harassment and retaliation. As always, an employee should seek the counsel of an attorney for questions regarding the law and the rights thereby accorded.

Policy Statement

ODA is an Equal Opportunity Employer. ODA prohibits discrimination, discriminatory harassment, and retaliation of applicants, customers, and employees on the basis of race, color, religion, gender, gender identity, national origin (ancestry), disability, age (40 years and older), military status (past, present, or future), sexual orientation, or genetic information in making certain employment decisions. Equal employment opportunity and non-discriminatory commitments include, but are not limited to, the areas of hiring, promotion, demotion or transfer, recruitment, discipline, layoff or termination, rate of compensation, and agency sponsored training.

This policy should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions. In other words, no one should make the mistake of engaging in discrimination or exclusion to avoid allegations of harassment. The law and the policies of ODA prohibit disparate treatment on the basis of sex or any other protected characteristic, with regard to terms, conditions, privileges and prerequisites of employment.

Authority

- a. Section 703 of Title VII, Civil Rights Act 1964 (as amended)
- b. Americans with Disabilities Act of 1990
- c. Ohio Revised Code Chapter 4112
- d. Ohio Administrative Code 123:1-49-02 and 123:1-49-03
- e. Executive Order 2011-05k
- f. DAS Directive HR-D-02

Scope

This policy applies to all ODA officers, employees (full-time or part-time), applicants, contractors, temporary personnel, and other agents of ODA. Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

Definitions



“Discrimination” is defined as adverse treatment of one person or group based on their race, color, religion, gender, gender identity, national origin, disability, age (40 years and older), military status (past, present or future), sexual orientation, or genetic information.

“Harassment” is defined as unwelcome conduct that is based on race, color, religion, sex (including sexual harassment), sexual orientation, genetic information, national origin, disability, age (40 years or older), or military status (past, present or future). Harassment becomes unlawful 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. Harassing conduct includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is placed on walls or elsewhere on the employer’s premises or circulated in the workplace, on company time or using company equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means.

“Hostile Work Environment” is an environment where unwelcome conduct based on a person’s membership in any protected class has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

“Retaliation” occurs when an employer, employment agency, or labor organization takes an adverse action against an individual because he/she engaged in a protected activity.

“Sexual Harassment” is defined as any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a severe nature by a superior, subordinate or peer when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. 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.

Examples of prohibited conduct include:

- Physical assaults of a sexual nature, such as rape, sexual battery, molestation or attempts to commit these assaults, and intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee’s body or poking another employee’s body;
- Unwelcome sexual advances, propositions, or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience;
- Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward;
- Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee’s job more difficult because of that employee’s sex.
- Sexual or discriminatory displays or publications anywhere in ODA’s workplace by ODA’s employees.



Procedures

Reporting

- a. Any employee or applicant, who believes that he/she has been discriminated against, retaliated against or subjected to harassment, including sexual harassment, is encouraged to advise the offending individual that the action is not welcome and must stop.
- b. The aggrieved individual should then report such incident(s) to either his/her supervisor, another supervisor/manager, Equal Employment Opportunities (EEO) Officer, Human Resources Director, or Deputy Director of Operations within thirty (30) days of the most recent incident of alleged discrimination, harassment or retaliation.

Regardless of whether or not a written report is received from the alleged victim, managers and/or supervisors must report such complaints to the EEO Officer within twenty four (24) hours of receiving such notification. Managers shall take any appropriate action to prevent retaliation or prohibited conduct from recurring during and after any investigations or complaints. Managers and supervisors who knowingly allow or tolerate sexual harassment or retaliation, including the failure to immediately report such misconduct to the EEO Officer, are in violation of this policy and subject to discipline.

- c. In addition to or in lieu of the above internal reporting options, aggrieved individuals may file complaints with any or all of the following external agencies:
 - i. Department of Administrative Services, Equal Opportunity Division (EOD) within thirty (30) days of the last incident of alleged discrimination, harassment or retaliation.
 - ii. Ohio Civil Rights Commission (OCRC) within 180 days of the last incident of alleged discrimination, harassment or retaliation.
 - iii. Equal Employment Opportunity Commission (EEOC) within 300 days of the last incident of alleged discrimination, harassment or retaliation.

Handling of Internal and DAS/EOD Complaints

- a. Upon receipt of a complaint, the EEO Officer will review the complaint to ensure it relates to alleged discrimination, harassment, or retaliation based upon the complainant's membership in a protected class or participation in a protected activity. If it does not, the complaint may be rejected and forwarded to the appropriate authority. To ensure the prompt and thorough investigation of a harassment complaint, the complainant should provide as much of the following information as is possible:
 - The name, division, and position of the person or persons allegedly causing the harassment;
 - A description of the incident(s), including the date(s), location(s) and the presence of any witnesses;
 - The effect of the incident(s) on the complainant's ability to perform his or her job, or on other terms or conditions of his or her employment;



- The names of other individuals who might have been subject to the same or similar harassment;
 - What, if any, steps the complainant has taken to try to stop the harassment; and
 - Any other information the complainant believes to be relevant to the harassment complaint.
- b. Upon acceptance of a complaint, the employee shall receive notice in writing that such complaint was accepted. The employee shall also be notified of their right to file with an external agency. The EEO Officer shall ensure both the individual filing the complaint and the accused individual are aware of the seriousness of the complaint, ODA's sexual harassment policy, and investigation procedures regarding the complaint. If criminal activities are alleged, the EEO Officer, after consultation with the Office of General Counsel, shall notify the appropriate law enforcement authorities.
 - c. When appropriate, all efforts will be made to seek an informal resolution of claims (i.e. mediation or alternative dispute resolution).
 - d. The EEO Officer or designee shall conduct a formal investigation of the complaint.
 - e. Within sixty (60) days from the filing of a complaint, the agency shall render a decision of whether or not there was probable cause and the appropriate remedy, if a remedy is required.
 - f. The investigation time may be continued, depending on extenuating circumstances.
 - g. If the complainant is not satisfied with the agency's decision and/or resolution, he/she may request a hearing through the Ohio Department of Administrative Services' Equal Opportunity Division.
 - i. Employees have fifteen (15) days from the initial receipt of a determination to appeal the agency's decision to the Equal Opportunity Division.
 - ii. The Equal Opportunity Division will select a hearing officer to preside over and render a decision on the case.
 - iii. The agency shall have thirty (30) days to act on the decision of the hearing officer, if any action is required.
 - iv. The complainant may request a final review and decision from the Deputy Director/State EEO Coordinator if he/she is not satisfied with the decision of the hearing officer.

Confidentiality and Non-Retaliation

- a. Any complaint or report received cannot be kept strictly confidential, however, information concerning allegations shall be managed discretely and communicated to others only as is necessary to investigate and take appropriate administrative action.
- b. There shall be no retaliation against an employee for filing a complaint, reporting alleged discrimination or harassment, other inappropriate behavior, or for participating as a witness in an EEO investigation. Retaliatory actions will also be subject to investigation and possible discipline.



For further information including addresses on the above-referenced agencies, consult with the EEO Officer.

Consensual Romantic or Sexual Relationships.

ODA strongly discourages romantic or sexual relationships between a manager or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts, including favoritism or bias. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others or, at a later date, by the staff member as having been given as the result of coercion or intimidation. For additional information on the policy on consensual romantic or sexual relationships, please see the DAS directive on Nepotism as located at <http://das.ohio.gov/Portals/0/DASDivisions/DirectorsOffice/pdf/HR-D-02.pdf>.

Penalties

Discrimination, discriminatory harassment, and retaliation will not be tolerated. Any employee who violates this policy either by engaging in the conduct or by allowing the conduct to go unaddressed will be disciplined, up to and including termination. Supervisory employees are advised that they may be subjected to personal liability for acts of discrimination and harassment and may be responsible to provide their own legal defense.

Contact

The EEO Officer as well as the Human Resources Director are available for questions or consultation regarding the provisions of this policy. This policy supersedes any previously issued directive or policy and will remain effective until cancelled or superseded.

Revision History

Date	Description of Change
8/2012	Initial Policy Issued
7/2015	Policy Reviewed

