

**Reference :** AFFIRMATIVE ACTION  
**Section :** GENERAL  
**Title :** HARASSMENT IN THE WORKPLACE  
**Policy Number :** 05-01-05  
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**Revision Date :**

## **I PURPOSE**

The purpose of this policy is to state the Authority's position on harassment in the workplace, and to ensure that all employees are treated professionally and with dignity.

## **II APPLICABILITY**

This policy applies to all NFTA/NFT Metro employees, contractors, sub-contractors, and vendors doing business with the NFTA. This policy applies to conduct that occurs in the workplace, and to conduct that occurs at any location which can be reasonably regarded as an extension of the workplace, such as any field location, or any business related social function where NFTA/Metro employees are gathered.

## **III POLICY**

### A. Definition

Harassment is a form of employment discrimination that is prohibited by Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act, and the New York State Human Rights Law. Harassment is unwelcome conduct that is based on the following protected characteristics: age, race, creed, color, sex, religion, national origin, disability, predisposing genetic characteristics, marital status, military status, sexual orientation, and/or any other legally protected characteristic or trait.

### B. Prohibited Conduct

Harassing behavior includes but is not limited to the following, when based upon any of the characteristics listed in (A) above.

1. Physical Harassment- physical assault, threats of physical harm, invading an individual's physical space, offensive gestures, or damaging personal property.
2. Visual or Verbal Harassment-threats, insults, name-calling, derogatory letters, jokes, gag-gifts, comments, or pictures, whether written or displayed electronically. Words or actions that demean, intimidate, or stigmatize an individual based upon any of the characteristics listed in (A) above are also prohibited.
3. Sexual Harassment-Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- a. Submission to the conduct is either an explicit or implicit term or condition of employment; or

- b. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the person subjected to the conduct.
- c. The conduct has the purpose or effect of unreasonably interfering with an affected person's work performance, or creating an intimidating, hostile, or offensive work environment.

The harasser can be a co-worker, the victim's supervisor, a supervisor in another department or location, or a vendor, contractor, or sub-contractor doing business with the NFTA.

Petty slights, offhand comments, and isolated incidents will not rise to the level of harassment unless they are extremely serious. To be unlawful, the conduct must create a work environment that is intimidating, interferes with the affected person's work performance, or is hostile or offensive to reasonable people.

#### C. Third Party Harassment

This policy also applies to third party harassment. Third party harassment is unwelcome behavior based upon any of the characteristics listed in (A) above that is not directed at the employee, but is present in the workplace, and interferes with an employee's ability to perform his or her duties.

Harassment in any form will not be tolerated, even in cases where the individual welcomes or accepts the behavior. Individuals witnessing harassing behavior that they find offensive, even though it is not directed to them, may file a formal harassment complaint.

#### D. Reporting Incidents of Harassment

Incidents of harassment should be reported immediately to your supervisor, another management employee in your department, to the Office of Human Resources, or to the Office of Equal Employment Opportunity/Diversity Development, 181 Ellicott Street, Buffalo, NY, 855-7489/7286.

If your immediate supervisor or other department manager is the individual responsible for the harassment, or has failed to satisfactorily address your harassment complaint after being afforded a reasonable period of time to do so, you should contact the Office of Human Resources and/or the Office of Equal Employment Opportunity/Diversity Development about your harassment complaint.

#### E. Complaint Procedure

Complainants are urged to consult with the Office of Equal Employment Opportunity/Diversity Development, to file a formal complaint with this department if believed necessary, and to use informal methods of resolution prior to filing a complaint of harassment with the New York State Division of Human Rights, the U.S. Equal Employment Opportunity Commission, or other outside agency.

The Office of Equal Employment Opportunity/Diversity Development will conduct investigations into allegations of harassment. Confidentiality will be maintained to the extent possible, and will be disclosed only to persons and/or to agencies directly involved in the investigation. At the conclusion of an investigation, the Office of Equal Employment Opportunity/Diversity Development will issue a letter to each Complainant to advise of the outcome of the investigation.

#### F. Prohibition Against Retaliation

An employee may not be terminated, demoted, harassed, or otherwise retaliated against for opposing a discriminatory practice, filing a complaint of harassment, or for participating in an investigation related to a complaint of harassment.

#### G. Penalties

The Authority considers harassment to be a form of employee misconduct. Individuals who engage in harassing behavior, including managerial and supervisory personnel who knowingly allow such behavior to continue, will be subject to disciplinary action, up to and including termination.

Persons who intentionally file false complaints under this policy, or who intentionally provide false information in connection with an investigation into an allegation of harassment may be subject to disciplinary action, up to and including termination.

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