

EMPLOYEE WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

DIA

HARASSMENT POLICY The School shall take reasonable efforts to prevent harassment and sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment under Title VII, providing training and developing methods to sensitize all concerned.

29 CFR 1604.11(f)

**PROHIBITED
CONDUCT**

Employees shall not engage in conduct constituting discrimination, harassment, sexual harassment or retaliation of other employees or non-employees, including paid and unpaid interns. Employees, including paid and unpaid interns who believe they have been harassed by other employees or non-employees are strongly encouraged to come forward to report the incident to their supervisor, division director or to Human Resources. School administrators shall investigate promptly all allegations of harassment, and the designated School officials shall take prompt and appropriate disciplinary or corrective action against those found to have engaged in conduct constituting harassment. (See DAA)

**OFFICIAL
OPPRESSION**

The School prohibits an employee from intentionally subjecting another employee or non-employee, to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, the submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. The employee would commit a Class A misdemeanor if acting in his or her official employment capacity.

Tex. Penal Code 39.03(a)

**HARASSMENT OF
EMPLOYEES
PROHIBITED**

Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws. The School has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 CFR 1606.8(a), 1604.11*

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders*, *542 U.S. 129 (2004)*

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sundowner Offshore Services, Inc.*, *523 U.S. 75 (1998)*

Firing an employee on the basis of homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. *Bostock v. Clayton County, Georgia*, *17-1618*, 2020 WL 3146686 (U.S. June 15, 2020)

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HOSTILE
ENVIRONMENT

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); Nat'l Railroad Passenger Corp. v. Morgan, 536 U.S. 101 (2002); Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986); 29 CFR 1604.11, 1606.8

QUID PRO QUO

Conduct of a sexual nature also constitutes harassment when:

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

29 CFR 1604.11(a)

SAME-SEX SEXUAL
HARASSMENT

Same-sex sexual harassment constitutes sexual harassment. Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)

NATIONAL ORIGIN
HARASSMENT

The school prohibits harassment of any individual, including that based on national origin. Ethnic slurs and other verbal or physical conduct relating to an individual's national origin is considered harassment when this conduct:

- 1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- 2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- 3) Otherwise adversely affects an individual's employment opportunities.

29 C.F.R. 16065.08(b)

HARASSMENT POLICY

The School will take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. 29 C.F.R. 1604.11(f)

TRAINING

The School shall provide employee training, including information regarding the School's policies and procedures relating to employment discrimination. . (See DMA) Texas Labor Code 21.010

COMPLAINT
PROCEDURE

An employee who believes he or she has been or is being subjected to any form of sexual harassment as defined above shall bring the matter to the attention of the division director or immediate supervisor, in accordance with TSD's complaint procedure. However, no procedure or step shall require an employee alleging such sexual harassment to present the matter to a person who is the subject of the complaint. See DGBA

CORRECTIVE ACTION

The School will take immediate and appropriate corrective action when notified of harassment by employees and nonemployees.

The School may raise the following affirmative defense:

1. That the School exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

3.

29 CFR 1604.11(d), (e), 1606.8(d), (e)

POLICY DISTRIBUTION

A copy of this policy shall be provided to each new employee during New Employee Orientation and again at the beginning of each school year through the School's annual distribution of policies.

TEXAS SCHOOL FOR THE DEAF

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