



*NEMO WORKFORCE DEVELOPMENT BOARD*

111E. Monroe • Paris, Missouri 65275 • [www.nemowib.org](http://www.nemowib.org) • (660) 327-5125 • Fax (660) 327-5128

**NEMO WDB Issuance 04-2017**

**ISSUED:**

**EFFECTIVE:**

**To: All Program Operators**

**Subject: Harassment and Discrimination Policy**

**Purpose:** The purpose of this issuance is to implement a harassment and discrimination policy in order to prohibit employees and non-employees from harassing or discriminating against staff, customers, and partner employees.

**Background:** The nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA) prohibit discrimination against applicants, beneficiaries, and employees on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I financially-assisted program or activity. The regulations that implement these provisions are published at 29 CFR Part 38.

**Substance:** The NEMO Workforce Development Board (NEMO WDB) and its subcontractors are committed to providing a workplace free of unlawful harassment and discrimination for all employees and customers. Employees assuming an administrative, management, or supervisory role must report all complaints and instances of harassment or discrimination to the NEMO WDB Equal Opportunity Officer immediately.

All complaints, to include unlawful harassment, discrimination, and offensive behavior in general, will be investigated in a timely fashion and will remain confidential to the extent possible.

Employees, as well as non-employees, are prohibited from harassing or discriminating against staff, customers, and partner employees whether or not the incidents of harassment or discrimination occur on employer premises and whether or not the incidents occur during work hours. Behavior covered by this policy may extend beyond the normal work hours and occur at conferences, meetings, or other extra-curricular events. An incident may be considered harassment or discrimination even if the accused party did not intend to be offensive.

## Definitions

**Unwelcome Conduct:** The employee did not solicit or invite the conduct and regarded it as undesirable.

**Power-differentiated Working Relationships:** Any work relationship in which one employee supervises or manages (directly or indirectly) another employee OR makes decisions concerning another employee's terms, conditions or privileges of employment.

**Intimate Relationships:** For the purposes of this policy the NEMO WDB will consider intimate relationships to be those that involve dating, sexual activity and/or romantic involvement. Managers/supervisors participating in this type of relationship with their subordinates or with others where a power-differentiated relationship exists are in violation of this policy. Employees who find themselves involved in situations such as this are responsible for reporting their involvement to their supervisor, manager, director, or Equal Opportunity Officer. The appropriate action will be taken to remove the power component from the relationship.

**Protected Categories:** Categories of individuals protected by law and/or executive order from any form of discrimination such as: Age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).

**Retaliation:** Occurs when an employer takes an action or makes an adverse employment decision because of an employee reporting an incident of harassment or discrimination, or who participates in a related investigation.

### 1. Unlawful Harassment

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Prohibited conduct includes unwelcome conduct, whether verbal, physical, or visual, that is based on or relates to an individual's sex, race, color, religion, national origin, age, disability, or any other status protected by law, and 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.

Examples of prohibited conduct include but are not limited to epithets, slurs, negative stereotyping, written or graphic material, including e-mails that denigrate or show hostility toward an individual, or any other threatening or intimidating act that relates to race, gender, sex, color, religion, national origin, age, or disability.

### 2. Sexual Harassment

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Prohibited behavior may also include any unwelcome behavior of a sexual nature such as: sexual advances and propositions; requests for sexual favors; sexual jokes, comments, suggestions, or innuendo; foul or obscene gestures or language; display of foul or obscene or offensive printed or visual material; physical contact such as patting,

pinching, hugging or brushing against another individual's body; and any other unwelcome verbal, physical or visual conduct of a sexual nature where:

1. Submission to such conduct is an explicit or implicit condition of employment; or
2. Submission to or rejection of such conduct is used as a basis for employment-related decisions such as a promotion, discharge, performance evaluation, pay adjustment, discipline, work assignment or any other condition of employment or career development; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, abusive or offensive working environment.

Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment typically involves a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority can also be found responsible for engaging in prohibited harassment.

Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature.

### **3. Discrimination**

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The NEMO Workforce Development Board and its subcontractors are committed to providing a work environment free from discrimination based on race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or veteran status. Prohibited behavior may include, but is not limited to, discrimination in the provision of employment opportunities and training, benefits, or the creation of a discriminatory working environment.

#### **Reporting Harassment or Discrimination**

Employees who feel they have witnessed or experience behavior prohibited by this policy in connection with their employment with NEMO WDB and its subcontractors, or who have questions, concerns or complaints of discrimination, including a complaint of harassment, should immediately report the circumstances or incident as indicated below:

#### **Employee Responsibilities**

If employees believe they have been subjected to harassment, to include unwanted attention, or discrimination, the following steps should be taken:

1. If possible, make their unease and/or disapproval directly and immediately known to the offending party. Employees can often stop or prevent harassment by immediately and directly expressing their disapproval of any individual's conduct in a professional manner.
2. Make a written record of the date, time and nature of the incident and the names of any witnesses.
3. Immediately report the incident to the Equal Opportunity Officer, their supervisor, or their manager. All incidents of harassment and discrimination should be reported immediately regardless of whether or not the employee addressed the incident with the offending party.
4. To initiate a formal investigation into an alleged violation of this policy, employees must file a Discrimination Complaint Form (DWD-101 or DWD-101-s (Spanish)) with the Equal Opportunity Officer. The Equal Opportunity Officer can assist the complainant in completing the Discrimination Complaint Form (DWD-101 or DWD-101-s (Spanish)). To ensure a prompt and thorough investigation, the complainant should provide as many details as possible.
5. Charges of unlawful discrimination or sexual harassment may also be filed with the Missouri Commission on Human Rights within 180 days of the most recent unlawful act.

#### **Management Responsibilities**

Harassment and discrimination is a violation of federal and state law and cannot legally be ignored or hidden. All managers/supervisors are responsible for:

1. Immediately reporting all incidents of harassment or discrimination to the Equal Opportunity Officer whether or not a written complaint is received.
2. Taking steps to maintain a work environment free of harassment and discrimination and for taking corrective action if such incidents occur.

#### **Equal Opportunity Officer Responsibilities**

Upon receiving a complaint or notification of an incident possibly involving harassment or discrimination, the Equal Opportunity Officer will be responsible for:

1. Ensuring that both the individual filing the complaint and the accused individual are aware of the seriousness of the allegations being made;
2. Explaining the Harassment and Discrimination Policy as well as the investigation procedures to both the complainant and the respondent;
3. Exploring informal means of resolving complaints, depending on the seriousness of the charges;
4. Notifying the police if criminal activities are alleged;
5. Arranging for an investigation of the alleged harassment or discrimination in a timely fashion and the preparation of a written report; and
6. Notifying the complainant of the findings in writing. However, no details about the nature or extent of any disciplinary or corrective actions will be disclosed to the complainant(s) and/or witness(es) unless there is a compelling reason such as the personal safety of the complainant.

### **Remedial Action**

1. Appropriate remedial action will be taken to remove all forms of harassment or discrimination.
2. Violating this policy may result in reprimand, suspension, demotion or dismissal.
3. All employees are required to cooperate with any investigation of situations of which they have knowledge. Any employee who impedes an investigation or provides false information may be subject to disciplinary action.

### **Retaliation**

1. Any employee, who in good faith, reports incidents of harassment or discrimination, or who participates in a related investigation should not experience retaliation as a result.
2. Any employee who believes they have been retaliated against should immediately inform his/her supervisor or the Equal Opportunity Officer.
3. Any employee who retaliates against another employee for filing or participating in an investigation of harassment or discrimination may be subject to disciplinary action.

### **Confidentiality**

1. All inquiries, complaints, and investigations are treated confidentially. Information is revealed strictly on a need to know basis. Information contained in a formal complaint is kept confidential and maintained in secure files.

### **Contact:**

Sheila Jurgesmeyer  
Equal Opportunity Officer  
NEMO Workforce Development Board  
111 E. Monroe | Paris, MO 65275  
[www.nemowib.org](http://www.nemowib.org)

(Email) [sheila.j@nemowib.org](mailto:sheila.j@nemowib.org)  
(Telephone) 660-327-5125  
(Facsimile) 660-327-5128  
Relay Missouri 711

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Resources: [Equal Opportunity Is The Law Notice](#)  
[DWD-101 Discrimination Complaint Form - English](#)  
[DWD-104 General Complaint Form - English](#)  
[DWD-EO-15 WIOA Grievance Procedure Notice](#)

\*\*\* Other languages available at [DWD Equal Opportunity Page](#)

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Diane Simbro, Executive Director  
Northeast Missouri Workforce Development Board