

## 14.12 Anti-Discrimination, Unlawful Harassment & Retaliation

It is the firm policy of The Virgin Islands Water and Power Authority that employees shall not be subjected to unlawful discrimination, harassment or retaliation. Accordingly, we will promote a work environment free from all forms of unlawful discrimination, harassment and retaliation, and insist that all employees be treated with dignity, respect and courtesy. The Authority maintains a “zero tolerance” policy regarding unlawful discrimination, harassment and retaliation. The Authority prohibits not only actions which are sufficiently severe to be unlawful, but also prohibits conduct and comments which are not severe enough to violate federal or territorial law yet are still inappropriate in our workplace. Unlawful discrimination, harassment or retaliation occurring in the workplace, at a work-related event or function, or in connection with work-related activities that take place “in the field” or at facilities or offices of other agencies or entities, is counterproductive to the Authority and will not be tolerated. All employees should also be mindful that discrimination, harassment or retaliation that occurs outside the workplace, including any conduct that occurs during or in conjunction with any virtual work meetings or events, or conduct directed towards an employee or applicant outside the workplace that impacts work-related interactions, will be addressed in accordance with this policy. In addition, conduct consisting of communications made through any form of social media that target employees of the Authority or other individuals because of their protected status and thereby impact the work-related activities of the Authority’s employees, will be addressed in accordance with this policy.

### Guidelines

The following discussions of what constitutes discrimination, sexual harassment and unlawful harassment are simply guidelines. Be mindful that they are not exhaustive definitions. Employees are encouraged to consult with the Human Resources Department concerning any questions regarding discrimination, harassment or retaliation.

**Discrimination** generally involves treating one Employee or applicant differently from another in connection with terms or conditions of employment such as hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation and training because of that employee or applicant’s gender, color, race, age, national origin, pregnancy, ancestry, marital status, veteran status, disability, religion, sexual orientation or other legally protected status where there is no bona fide occupational qualification or legitimate business reason for the differing treatment. It also could involve a failure to make a reasonable accommodation in certain circumstances, and where doing so would not involve an undue burden.

**Sexual and other unlawful harassment** is a violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, as well as territorial law. Harassment based on a characteristic protected by law, such as race, color, ancestry, national origin, gender, sex, sexual orientation, gender identity, marital status, religion, age, disability, veteran status, or other characteristic protected by territorial or federal law, is prohibited.

It is Authority’s policy to provide a work environment free of sexual and other harassment. To that end, harassment of the Authority’s employees by management, supervisors, coworkers, or nonemployees who are in the workplace is absolutely prohibited. Further, any retaliation against an individual who has complained about sexual or other harassment, or retaliation against individuals for cooperating with an



investigation of a harassment complaint, is similarly unlawful and will not be tolerated. The Authority will take all steps necessary to prevent and eliminate unlawful harassment.

**Definition of Unlawful Harassment.** “Unlawful harassment” is conduct that has the purpose or effect of creating an intimidating, hostile, or offensive work environment; has the purpose or effect of substantially and unreasonably interfering with an individual’s work performance; or otherwise adversely affects an individual’s employment opportunities because of the individual’s membership in a protected class.

Unlawful harassment includes, but is not limited to, epithets; slurs; jokes; pranks; innuendo; comments; written or graphic material; stereotyping; or other threatening, hostile, or intimidating acts based on race, color, ancestry, national origin, gender, sex, sexual orientation, marital status, religion, age, disability, veteran status, or other characteristic protected by state or federal law.

**Definition of Sexual Harassment.** While all forms of harassment are prohibited, special attention should be paid to sexual harassment. “Sexual harassment” is generally defined under both state and federal law as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where:

- Submission to the conduct is made (implicitly or explicitly) a term or condition of employment;
- Employment decisions affecting an individual are based upon the individual’s submission to or rejection of such conduct; or
- The conduct has the purpose or effect of unreasonably interfering with the individual’s work performance or creating an intimidating, hostile or offensive work environment.

Other sexually oriented conduct, whether intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating, or humiliating to workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct that, if unwelcome, may constitute sexual harassment depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Physical contact, such as hugging, kissing, grabbing, pinching, patting, brushing against, touching or blocking one’s path or egress;
- Implicit or explicit sexual propositions, requests, demands or other forms of pressure for sexual favors or dates;
- Sexually suggestive or degrading remarks, including sexual innuendoes, jokes, kidding or teasing;
- Unwelcome verbal or physical flirtation, sexual gestures or comments, or comments about another person’s body or appearance;
- Vulgar or obscene language;



- Display of sexually explicit or offensive printed or visual material, including but not limited to photographs, cartoons, e-mails, drawings or notes.

**Other Unlawful Harassment** includes but is not limited to the following:

- Unwelcome conduct, whether verbal, physical or visual;
  - That is based on an Employee's gender, color, race, age, national origin, ancestry, disability, marital status, veteran status, pregnancy, religion, sexual orientation or other legally protected status, and either
    - i. affects tangible job benefits; or
    - ii. unreasonably interferes with an Employee's work performance; or
    - iii. creates an intimidating, hostile or offensive work environment.

As an illustration, some examples of conduct that may be regarded as unlawful harassment based on a hostile or offensive work environment include:

- Epithets, slurs, negative stereotyping, disparaging remarks or intimidating acts based on any of the protected categories listed above;
- Telling or forwarding jokes directed to someone's protected status, such as racial or ethnic jokes, regardless of whether "everyone tells them back and forth";
- Posting, forwarding, showing or displaying in any manner cartoons, "memes" or other images or videos that make fun of any group, religious belief, sex, or individual because of his or her protected status;
- Forwarding offensive e-mails, text messages, or other electronic communications, printing them out or displaying them in any manner.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment and retaliation against individuals for cooperating with an investigation of sexual harassment complaint is unlawful and will not be tolerated at the Authority.

**No Retaliation:**

The Authority will not tolerate unlawful retaliation directed against employees who make complaints of discrimination, report discrimination, harassment or retaliation they observe, or provide information relating to such complaints or reports. It is the right of the employee to bring the complaint or concern to



the attention of the Authority. That is why the Authority maintains a “zero tolerance” policy against any such retaliation. Employees should promptly report any retaliation through the channels detailed above.

This guideline covers all employees, supervisors, vendors, independent contractors, co-workers or clients whose conduct may occur at the workplace or impact upon the workplace or an agent or employee of the Virgin Islands Water & Power Authority. All employees who violate this policy will be subject to disciplinary action up to and including termination. In fact, the Authority may discipline an employee for any inappropriate conduct discovered in investigating reports made under this policy, regardless of whether the conduct amounts to a violation of law or even a violation of this policy. Action also will be taken against all other violators as deemed necessary or as regulated by law.

### **Reporting Procedure**

Any employee who believes he or she has been subject to or witnessed illegal discrimination, including sexual or other forms of unlawful harassment, is requested and encouraged to make a report. You may report directly to your immediate supervisor or department manager, the HR Department, or any other member of management with whom you feel comfortable reporting information about such concerns. Similarly, if you observe or learn about acts of discrimination toward or harassment of another employee, you are requested and encouraged to report this to one of the individuals listed above.

Note: All members of the Authority’s management team, to include front line supervisors, are required to immediately report any employee claims of harassment to the Human Resources Department.

The Authority will promptly investigate reports of discrimination, harassment or retaliation, and will treat information obtained during an investigation as confidentially as possible consistent with an appropriate investigation. The Authority will take prompt remedial and/or disciplinary action as is appropriate under the circumstances. Employees are expected to cooperate with the Authority’s efforts to investigate such reports.

If the investigation confirms conduct contrary to this policy has occurred, the Authority will take immediate, appropriate, corrective action, including disciplinary measures when justified, to remedy all violations of this policy. Disciplinary action may include termination.

The Authority encourages internal reporting, so that concerns may be addressed as soon as practical. However, a complaint may be filed with one of the following external entities:

#### **Virgin Islands Department of Labor**

##### **Division of Labor Relations**

54 A&B Kronprindsens Gade

St. Thomas, VI 00802

(340) 776-3700

[www.vidol.gov](http://www.vidol.gov)

#### **Equal Employment Opportunity Commission**

[www.eeoc.gov](http://www.eeoc.gov)

525 F.D. Roosevelt Ave.

Plaza Las Americas, Suite 1202

San Juan, Puerto Rico 00918-8001

(800) 669-4000

#### **Office of Civil Rights Commission**

(340) 774-5666

\*Please refer to the division’s website for the most current contact information.

