

Sexual Harassment Policy

The Central Florida Tourism Oversight District (the District) is committed to a workplace environment free of unlawful sexual harassment and retaliation. The District will not tolerate sexual harassment occurring in the course of any business, employment, or program activity at the District, and such conduct is strictly prohibited.

This Policy is intended to inform all District employees and representatives of their rights and responsibilities to maintain a harassment-free workplace and to report any and all violations of this Policy to the appropriate officials, so that the District may promptly investigate and remedy such violations as warranted.

1. To Whom Does this Policy Apply?

Persons subject to this Policy (“covered persons”) include all District officers and employees, including full-time, part-time, intermittent, and seasonal employees, as well as all supervisors, managers, directors, executives, and board members. This Policy further applies to independent contractors and subcontractors retained by the District after the effective date of this Policy while in the course of any business, employment, or program activity at the District.

A copy of this Policy shall be provided to all such covered persons upon hiring or upon the initiation of any contracting or agency relationship or other agreement, and yearly thereafter, as well as during any anti-sexual harassment training. Covered persons shall sign an acknowledgment form indicating they have received and understand the policy. Failure to sign the acknowledgment form may be grounds for discipline, up to and including dismissal. Copies of this Policy also shall be made readily accessible to all covered persons online and posted prominently in all District workspaces. Any independent contractor or subcontractor retained by the District after the effective date of this Policy shall agree in writing to adhere to this Policy.

2. What is Sexual Harassment?

- Sexual harassment defined

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or sexual activity when:

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

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may occur even when the intended target of the conduct is not offended, as others may find the conduct to be intimidating, hostile, or offensive. The District prohibits all types of sexual harassment whether or not the intended target finds the conduct to be unwelcome.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, that is personally offensive, and that lowers morale and therefore interferes with work effectiveness.

- Who can be a target?

Anyone, regardless of sex or any other protected status, can be a target of sexual harassment. Incidents of sexual harassment may involve individuals of the same or different sex. The harassment may involve individuals having equal or unequal power, authority, or influence. For example, harassment can occur between a supervisor or manager and a subordinate, or between coworkers with the same job title or level of responsibility in the organization.

- Sexual harassment may include, but is not limited to, the following examples:
 - Unwelcome sexual advances, flirtations, or propositions, or persistent requests for dates;
 - Actual or implied demands for sexual favors in exchange for favorable treatment, continued employment, or to avoid unfavorable treatment;
 - Threats and/or demands to submit to sexual requests in order to obtain or retain any employment benefit;
 - Verbal conduct such as epithets; derogatory or obscene comments; slurs; sexual invitations; sexual jokes; propositions, including repeated and unwelcome invitations to date; comments or jokes about a person's sex life or questions about another's sex life; suggestive, insulting, or obscene comments or gestures; audio productions or reproductions; verbal harassment or abuse; pressure for sexual activity; or other verbal abuse of a sexual nature;
 - Graphic verbal commentary about an individual's body, sexual prowess, attractiveness, or sexual deficiencies;

- Any display or distribution of sexually suggestive objects, pictures, videotapes, films, posters, cartoons, reading material, screen savers, web pages, faxing, e-mail, texts, social media postings or other items;
- A coerced or forced sexual act or assault;
- Uninvited physical contact of a sexual nature such as pinching, grabbing, patting, tickling, cornering, brushing up against, blocking normal movement, hugging, fondling, or kissing another individual, or other unwelcome or inappropriate touching;
- Uninvited leering, whistling, or other sounds or gestures of a sexual nature; or
- Uninvited or unwelcome terms of endearment such as “honey,” “dear,” or “sweetheart.”

Normal, courteous, mutually respectful, pleasant, non-coercive interactions between employees, which are acceptable to and welcomed by both parties, are not considered to be harassment, including sexual harassment.

3. Management and Employee Responsibilities

- Managers and Supervisors

Each manager and supervisor shall be responsible for preventing acts of harassment and discrimination and utilizing this Policy in the event such conduct is reported. These responsibilities include:

- Expressing strong disapproval of all forms of discrimination and harassment;
- Monitoring the work environment for signs that discrimination or harassment may be occurring;
- Informing and reminding, when necessary and appropriate, all employees of the types of behavior prohibited by this Policy and the procedure for reporting and resolving complaints under this Policy;
- Stopping any observed acts of possible discrimination, harassment, or retaliation, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision;
- Reporting any observed acts of possible harassment or retaliation to an appropriate supervisor or other official designated under Section V to receive reports under this Policy;

- Taking immediate, appropriate action to prevent retaliation against the complainant or a participant in an investigation;
- Taking immediate, appropriate action to eliminate any hostile work environment where there has been a report of harassment.

Failure to carry out these responsibilities will be considered in any evaluation or promotional decision and may be grounds for discipline, up to and including dismissal. Each manager and supervisor shall provide assistance to any employee who comes to that manager or supervisor with a report of harassment by documenting and filing the report with an appropriate official designated under Section 4 to receive a report under this Policy.

- Employees

Each employee is responsible for assisting in the prevention of harassment and retaliation by:

- Refraining from participating in or encouraging actions that could be perceived as a violation of this Policy;
- Promptly reporting acts of harassment to an appropriate supervisor or other official designated under Section 4 to receive reports under this Policy;
- Encouraging any employee who confides that he or she is being harassed to report these acts in accordance with Section 4.

4. Reporting

A covered person may report a violation of this Policy to that person's supervisor or any other individual in the person's supervisory chain. However, a covered person is *not required to follow the chain of command* or to make a report to the offending party. A report may also be made to the highest ranking individual in Human Resources at the District, or to the District Administrator.

Upon receiving a report of any violation under this Policy, the official receiving the report shall immediately provide the person making the report a copy of this Policy and advise that person of the remedies afforded them under the Policy.

5. Retaliation

A report of sexual harassment to an appropriate official under this Policy shall constitute a protected disclosure under the District's Whistleblower Policy, Res. 644.

The prohibitions against retaliation outlined in the District's Whistleblower Policy shall apply to any covered person who reports sexual harassment to an appropriate official under this Policy, as well as to any person who participates in an investigation, hearing, or other proceeding conducted by the District or by any state agency or federal government entity authorized to investigate, police, manage, or otherwise remedy conduct reported under this Policy, and to any person who refuses to participate in any adverse action against an individual who made a report under this Policy.

6. Investigation

The District is committed to promptly and thoroughly investigating all complaints of harassment. If, after a thorough investigation, it is determined that harassment has occurred in violation of this Policy, the offender will be subjected to immediate and appropriate disciplinary action, up to and including termination.

- Procedures

A person making a report of sexual harassment may choose to file a written, signed complaint with Human Resources requesting a formal investigation. Within 7 business days of receiving the complaint, Human Resources shall determine whether the allegations, if true, would constitute sexual harassment under this Policy. If the allegations would not meet the definition of sexual harassment under this Policy, Human Resources shall so inform the complainant in writing. If the allegations would meet the required definition, Human Resources shall:

- Notify the person(s) charged (the respondent(s)) that a complaint has been filed against them;
- Initiate an investigation to determine whether there is a reasonable basis to believe the reported violation occurred; and
- Take steps to immediately stop any offending conduct while the investigation is ongoing to include staff reassignment or administrative and/or discretionary leave, when applicable.

During the investigation, the Human Resources Director, or his or her designee will interview the complainant, the respondent, and any witnesses. The investigation may also entail reviewing pertinent documents, e-mail communications, social media pages, photographs, text messages, telephone records and/or any other relevant physical evidence.

For employees covered under a bargaining agreement, there are specific provisions in the Agreement that outline the formal investigation process.

The Human Resources Director or designee shall complete the investigation within 30 business days of the complaint being filed, unless additional time is required. At the conclusion of the investigation, the Human Resources Director or designee shall present a written report of investigative findings to the complainant and the respondent (the parties). Each party shall have 10 business days thereafter to submit a written response to the investigative report. Thereafter, within another 10 business days, the Human Resources Director or designee shall make any adjustments to the findings and/or investigative report as appropriate and submit the final report to the Deputy District Administrator-Administration. The report will state whether the allegations in the complaint were substantiated by a preponderance of the evidence, or unsubstantiated.

The Deputy District Administrator- Administration shall review the investigative report, findings, and conclusions, as well as any response(s) submitted by the parties, and determine what, if any, discipline is appropriate. In making the determination, the Deputy District Administrator-Administration shall consider:

- The frequency, severity, and/or pervasiveness of the conduct;
- Prior complaints and/or findings against the respondent;
- The quality of the evidence; and
- Conformity of any proposed discipline to past precedent for the same or similar conduct.

The Deputy District Administrator- Administration shall append to the investigative report a written statement outlining the disciplinary action to be taken and supporting reasons, and shall provide copies to the parties, the heads of their respective departments, and Human Resources. If the allegation involves the highest ranking official in the department, the Deputy District Administrator-Administration shall provide a copy of the report to the District Administrator. If the allegation involves the District Administrator, the Deputy District Administrator- Administration shall provide a copy of the report to the Board of Supervisors. If the allegation involves an independent contractor or subcontractor, or a member of the Board of Supervisors, the Deputy District Administrator- Administration shall provide a copy of the report to the offices or individuals responsible for determining appropriate penalties in those cases, consistent with Section 10.

In carrying out the requirements of this section, Human Resources may consult with the District's General Counsel. Should Human Resources, in consultation with the General Counsel, determine the nature, number, or complexity of the allegations so warrant, the District may engage an independent third party to conduct or supplement the District's investigation and investigative report. Such an engagement will be subject to the District's procurement and ethics policies.

- Confidentiality

All complaints of violations under this Policy will be promptly investigated in as discrete a manner as practicable and appropriate corrective action will be taken, if warranted, by such investigation. The identity of the person disclosing the violation, and certain other information, shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by law, and in accordance with the law, including, but not limited to the confidentiality requirements and exemptions set forth in Florida Statute Sections 119.0713 and 112.3188, as such may be amended from time to time.

The District also will keep confidential any potential complaint or report from an employee who chooses not to file a written complaint and requests that the record of the potential complaint remain confidential to the extent permitted by law.

7. Conflict Resolution

A covered person making a report under this Policy may choose not to file a formal, written complaint for investigation, and instead seek mediation under the District's Conflict Resolution Policy.

8. Conflict of Interest

An individual accused of a violation of this Policy shall not participate in conducting any investigation or overseeing or administering any conflict resolution procedure related to the alleged violation involving that individual.

9. Penalties

A substantiated charge under this Policy against a manager or employee shall result in disciplinary action up to and including dismissal. A substantiated charge under this Policy against any independent contractor or subcontractor shall result in appropriate corrective action being taken, up to and including termination of the contract or other applicable agreement. A substantiated charge under this Policy against a member of the Board of Supervisors shall be reported to the Florida Commission on Ethics, the Florida Commission on Human Relations, the Executive Office of the Governor, and the Florida Senate, as appropriate.

10. Prompt Reporting

To maintain a workplace free of harassment and discrimination for the benefit of all District employees and representatives, the District must be able to promptly review, investigate, and remedy any potential incidents of sexual harassment under its jurisdiction. Accordingly, to invoke this Policy and its associated remedies, covered persons must file a complaint or otherwise make a report under this Policy within 30 days of the most recent alleged violation.

If more than 30 days have passed since the most recent alleged violation of this Policy, the Human Resources department shall inquire into the circumstances for such delay in reporting the violation and make a determination as to whether the delay was excusable, and if so, how to proceed.

11. False Charges

Any report under this Policy must be made in good faith. Disciplinary action will be taken against any individual found to have knowingly or maliciously made a false report of harassment under this Policy or to have encouraged another individual to do so.

12. Training

All covered persons shall complete anti-sexual harassment training upon hire or upon the initiation of their engagement with the District, and on an annual basis thereafter, and shall so certify in writing to Human Resources. An independent contractor or subcontractor may meet this requirement upon demonstration that it regularly offers and/or undergoes comparable training.

13. Filing a Complaint with EEOC or FCHR

All aggrieved individuals are to take advantage of this Policy in the event they are subject to harassment. Further, individuals protected under federal or state law are advised of their right to file a complaint with the Equal Employment Opportunity Commission or the Florida Commission on Human Relations. Filing a complaint with an agency outside of the District will not affect an individual's rights under this Policy.

Florida Commission on Human Relations (FCHR)

4075 Esplanade Way Room 110
Tallahassee, FL 32399
(850) 488-7082 (phone)
(850) 487-1007 (fax)
fchrinfo@fchr.myflorida.com (email)
<http://fchr.myflorida.com>

For those with communication impairments:

The Florida Relay Service – 711
TDD ASCII (800) 955-1339
TDD Baudot (800) 955-8771

Equal Employment Opportunity Commission (EEOC)

Tampa Field Office
501 E. Polk Street Suite 1000
Tampa, FL 33602
(800) 669-4000 (phone)
(813) 228-2841 (fax)
(800) 669-6820 (TTY)
(844) 234-5122 (ASL video phone)
<https://www.eeoc.gov/>

14. Existing Rights

This Policy is not intended to and should not be construed to diminish the rights, privileges or remedies of any employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies provided by Florida Statute Section 447.401 shall also apply to disclosures under this Policy.