



# **NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

## **I. PURPOSE**

The John F. Kennedy Center for the Performing Arts (the “Center”) is committed to maintaining high standards of conduct in the workplace and fostering a work environment based on mutual respect. The Center strives to protect employees and applicants for employment against any form of discrimination, harassment, or retaliation and such conduct will not be tolerated. This policy sets forth the Center’s prohibition against discrimination, harassment, and retaliation, defines conduct which constitutes discrimination, harassment or retaliation, and outlines roles and responsibilities for reporting, investigating and remediating prohibited conduct.

## **II. SCOPE**

This policy applies to all Center applicants, employees (Trust and Federal), and contractors.

## **III. AUTHORITIES**

- A.** Title VII of the Civil Rights Act of 1964, as amended
- B.** The Equal Pay Act of 1963, as amended
- C.** The Age Discrimination in Employment Act of 1967, as amended
- D.** Title I of the Americans with Disabilities Act of 1990, as amended
- E.** Sections 501 and 505 of the Rehabilitation Act of 1973, as amended
- F.** The Genetic Information Nondiscrimination Act of 2008
- G.** The Pregnant Workers Fairness Act of 2022
- H.** Title V of the United States Code, Section 2303
- I.** Title XX of the Code of Federal Regulations, Chapter XIV

## **IV. DEFINITIONS**

### **A. Discrimination**

Employment or management decisions including but not limited to: hiring and recruitment; appraisal; promotions; training; and career development based on race, color, religion, sex (including pregnancy, gender identify, and sexual orientation), parental status, national origin, age, disability, genetic information (including family medical history), political affiliation, military service, or other non-merit based factors when making employment or management decisions.

## **B. Harassment**

Harassment is unwelcome verbal or physical conduct that denigrates or shows hostility toward an individual because of their race, color, religion, sex (including pregnancy, childbirth or related medical conditions), national origin, age, disability, sexual orientation, gender identity or expression, citizenship status, marital or parental status, genetic information, military or veteran status, citizenship status, political affiliation, reprisal, or any other legally protected characteristic, which has the purpose or effect of:

- creating an intimidating, hostile, or offensive work environment;
- unreasonably interfering with an individual's work performance; or
- adversely affecting an individual's employment opportunity.

Harassment can take many forms. Examples include, but are not limited to:

- verbal harassment such as epithets, derogatory comments, demeaning jokes, slurs;
- physical harassment such as assault, unnecessary and unwanted touching, impeding or blocking movement, physical interference with normal work movement; or
- visual harassment such as written or graphic material (such as demeaning or derogatory posters, cards, cartoons, graffiti, drawings, gestures, etc.) that denigrates or shows hostility or aversion toward an individual or group and that is placed on Center premises or circulated in the workplace.

## **C. Sexual Harassment**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature and becomes unlawful when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- submission to or rejection of such conduct by an individual is used as the basis for decisions regarding that individual's employment service; 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 be physical, verbal, or nonverbal. It may result from the actions of supervisors, co-workers, contractors, or non-employees. It may occur both on and off the job site, and may victimize members of either sex. It may include conduct that the recipient reasonably perceives to be harassment, even though the person responsible does not intend the conduct to be harassing. Sexual harassment may include a range of subtle and not so subtle behaviors, and may involve individuals of the same or different gender. Examples of prohibited behaviors include, but are not limited to:

- verbal harassment or abuse;
- unwanted sexual advances or requests for sexual favors;
- repeated requests for dates;
- sexual jokes and innuendo;
- commentary about an individual's body, sexual prowess or sexual deficiencies;
- leering, whistling, touching, patting or pinching;
- suggestive, insulting or obscene comments or gestures;
- display in the workplace of sexually suggestive objects or pictures, in paper, electronic, or any other format; and
- offering job advantages in return for sexual favors.

Although isolated incidents or singular comments may not rise to the level of illegal sexual harassment, the Center takes all sexual harassment seriously. Sexual harassment is prohibited regardless of whether it constitutes unlawful conduct.

#### **D. Retaliation**

Retaliation occurs when an employer takes adverse action against an employee for engaging in protected activity. Protected activity is defined as actions which assert rights protected by Equal Employment Opportunity (EEO) and other anti-discrimination and non-harassment laws. Protected activity includes:

- participating in the EEO complaint process and investigations of workplace discrimination, harassment, or retaliation;
- participating matters before the Equal Employment Opportunity Commission or lawsuits alleging workplace discrimination, harassment, or retaliation;
- communicating with management regarding employment discrimination, harassment, or retaliation;
- refusing to engage in discriminatory, harassing, or retaliatory conduct;
- requesting reasonable accommodations; and
- resisting sexual advances or intervening to protect others.

Adverse actions can include:

- reprimand;
- lower performance evaluation;
- increased scrutiny;
- transfer, demotion, or termination;
- making an employee's work more difficult;
- verbal or physical abuse;
- threats; and
- harassment.

## V. POLICY STATEMENT

Discrimination, harassment, and retaliation in the workplace is both unlawful and in violation of the Center's Non-Discrimination and Anti-Harassment Policy. All managers, supervisors, employees, and contractors of the Center are prohibited from engaging in discriminatory, harassing, or retaliatory conduct against other employees, interns, volunteers, contractors, vendors, visitors, or other member of the public.

As leaders within the organization, managers and supervisors must set an example of respectful and professional conduct in the workplace and promptly address any prohibited conduct they witness or reported to them. Managers and supervisors must take immediate and appropriate action, including appropriate disciplinary action, to remediate discriminatory, harassing, or retaliatory conduct at the earliest possible stage. The Office of Human Resources is responsible for providing advice and guidance to supervisors and managers regarding reports of prohibited conduct and leading investigations where appropriate.

### A. Reporting Procedures

Employees who believe they have been subject to or witness discrimination, harassment, or retaliation are encouraged to report the prohibited conduct immediately. Reports should be directed to the employee's direct or second level supervisor, or by contacting the Center's Compliance Officer through the Compliance Hotline at [compliance@kennedy-center.org](mailto:compliance@kennedy-center.org) or (202) 416-8184. Under no circumstances is an employee required to report discrimination, harassment, or retaliation to an individual they are accusing of such conduct.

### B. Complaint Processing Procedures

1. A manager, supervisor, Human Resources representative, or Compliance Officer that receives a report of, witnesses, or otherwise becomes aware of potentially discriminatory, harassing, or retaliatory conduct must ensure that the allegations are documented in writing and acknowledge receipt of the report, if applicable, within **one (1) business day**.
2. If complaint processing is initiated by an employee's manager, supervisor, or Compliance Officer, the manager, supervisor, or Compliance Officer must coordinate with the Office of Human Resources, or the Office of General Counsel if Human Resources is implicated in the allegations, in order to determine the appropriate course of action including: investigation, disciplinary action, and notification to security and/or law enforcement. If the complaint processing is initiated by a Human Resources representative, the Human Resources representative must similarly coordinate with the employee's manager or supervisor unless the manager or supervisor is implicated in the allegations. If this is the case, the Human Resources representative should coordinate with the employee's most immediate manager who is not implicated in the allegations. Coordination should occur within **three (3) business days**.

3. Investigations should be initiated within **five (5) business** days and completed as soon as practicable. If conducting an internal investigation presents a conflict of interest or the appearance thereof, a neutral third party investigator may be retained by the Center to conduct the investigation.
4. At the conclusion of the investigation, the Center will take immediate and appropriate disciplinary and/or corrective action and within **thirty (30) days**, provide notification to the complainant. Employees found to be in violation of the Center's Non-Discrimination and Anti-Harassment Policy are subject to disciplinary action, up to and including termination.
5. The Office of General Counsel should be consulted as needed to provide advice and guidance regarding investigations and proposed disciplinary actions.

### C. Other Forms of Redress

Nothing in this Policy shall preclude an employee from seeking redress for discriminatory, harassing, or retaliatory conduct through the Equal Employment Opportunity complaint process or written grievance (if represented by a bargaining unit).

*Aswathi Zachariah*

Aswathi Zachariah  
General Counsel

November 27, 2023

\_\_\_\_\_  
[Vacant]  
SVP for Human Resources