

JOINT STA/ILA POLICY **CONCERNING HARASSMENT**

I. POLICY STATEMENT

All employees are entitled to work in an environment free of religious, racial, gender or sexual harassment and violence of any kind. These forms of improper conduct have had a devastating impact on victims and coworkers and the employer members of the Steamship Trade Association of Baltimore, Inc. (the “STA”) are committed to preventing and eliminating such misconduct in the workplace. To accomplish these goals, the STA employer members’ unified policy against harassment shall be clearly and regularly communicated to all ILA members, their employees, both supervisory and non-supervisory, through periodic educational programs and training. In addition, this policy shall be implemented through the complaint investigation procedures set forth below.

All complaints of religious, national origin, racial, gender or sexual harassment, or retaliation, shall be promptly and thoroughly investigated. Particular care shall be taken in the course of investigations to protect the confidentiality of all involved. Should it be determined that an employee has committed religious, racial or sexual harassment, immediate and appropriate corrective and/or disciplinary action shall be taken. This may include discharge and/or other forms of discipline as set forth below.

II. POLICY PURPOSE – STATEMENT OF PROHIBITED CONDUCT

Harassment and discrimination in employment based on religion, national origin, race, sex and gender are illegal under federal and state law and shall not be tolerated. Maintenance

of a discriminatory work environment is also prohibited. Every working person has a duty to observe the law and shall be subject to disciplinary action such as discharge for failing to do so.

III. DEFINITIONS OF SEXUAL, RACIAL, GENDER, RELIGIOUS AND NATIONAL ORIGIN HARASSMENT AND VIOLENCE

A. Sexual Harassment Definition.

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication (including displaying sexually explicit materials, making lewd gestures etc.) of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment; or

2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or

3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating, hostile or offensive employment environment.

Sexual Harassment may include but is not limited to:

- (i) Unwelcome verbal harassment or abuse;
- (ii) Unwelcome pressure for sexual activity;
- (iii) Unwelcome, sexually motivated or inappropriate patting, pinching or physical contact,
- (iv) Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment status;

(v) Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment status;

(vi) Unwelcome behavior or words directed at an individual because of gender.

(vii) Non-verbal behavior in the form of sexual graffiti, sexual cartoons, making lewd gestures or facial expressions, crude pranks, catcalls, whistling and gifts or letters of a sexual nature.

B. Racial Harassment Definition.

Racial harassment consists of physical or verbal conduct relating to an individual's race 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 substantially or unreasonably interfering with an individual's work performance; or

3. Otherwise adversely affects an individual's employment opportunities.

C. Gender Discrimination.

Gender discrimination occurs when a person is not judged on the basis of their individual capacities to perform a particular job but rather on the basis of preconceived opinions as to their sex or when adverse employment decisions relating to the hiring, termination, promotion, compensation, job training, or other term, condition or privilege of employment are based on an individual's sex unless otherwise related to a bona fide occupational qualification.

D. Religious and National Origin Harassment Definition.

Religious or national origin harassment consists of

physical or verbal conduct which is related to an individual's religion or national origin 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 substantially or unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

D. Sexual Violence Definition.

Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:

1. Touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
2. Coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
3. Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or
4. Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

E. Racial Violence Definition.

Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

F. Religious or National Origin Violence Definition.

Religious violence or National Origin violence is a physical act of aggression or assault upon another because of, or in manner reasonably related to, religion or a person's national origin.

G. Assault Definition.

Assault is:

1. An act done with intent to cause fear in another of immediate bodily harm or death;
2. The intentional infliction of or attempt to inflict bodily harm upon another; or
3. The threat to do bodily harm to another with present ability to carry out the threat.

IV. REPORTING PROCEDURES

Any person who believes he or she has been the victim of religious, racial or sexual harassment or violence or any person with knowledge or belief of conduct which may constitute religious, racial or sexual harassment or violence toward an employee or other Port personnel should report the alleged acts immediately to an appropriate employer representative designated by this policy (the "employer designate"). The STA employers encourage the reporting party or complainant to use the report form available from the employer's Human Resources Office or at the offices of the STA, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the President of his or her Local or to the President of the STA.

A. Employer Designates or the STA.

Each employer has designated a person responsible for receiving oral or written reports of religious, racial or sexual

harassment or violence. Any employer or STA personnel who receives a report of religious, racial or sexual harassment or violence shall inform the employer designate immediately.

Upon receipt of a report, the employer's investigator must notify the STA immediately, without screening or investigating the report. The STA may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the STA to the appropriate investigator. If the report was given verbally, the employer's designate shall personally reduce it to written form within 24 hours and forward it to the investigator. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the employer's designate. If the complaint involves the employer's designate, the complaint shall be made or filed directly with the STA by the reporting party or complainant.

B. The STA as Recipient Of All Complaints And/Or Reports.

The STA is charged to receive reports or complaints of religious, racial or sexual harassment or violence. If the complaint involves an employee of the STA, the complaint shall be reported directly to Michael I. Collins, Esq., who is appointed by the STA to receive such complaints involving STA employees. The STA shall conspicuously post notice of the employer designates, including their mailing addresses and telephone numbers, as well as a copy of this Policy. The STA and its members reserve the right to change or appoint different, additional or alternative designates from time to time and shall conspicuously post the name of any different, additional or alternative designated, including mailing addresses and telephone numbers if there is any change, addition or alternate designated.

C. Good Faith Reporting.

Submission of a good faith complaint or report of

religious, racial or sexual harassment or violence will not affect the complainant or reporter's future employment or work assignments.

D. Formal or Informal Reports.

Use of formal reporting forms is not mandatory.

E. Privacy Requirements.

The STA and its investigator shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the STA's obligations to investigate, to take appropriate action, and to conform to any discovery or disclosure obligations.

V. INVESTIGATION

By authority of the STA and its member employers, the STA, upon receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by STA officials or by a third party designated by the STA.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In determining whether alleged conduct constitutes a violation of this policy, the STA shall consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the

alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the STA may take immediate steps, at its discretion, to protect the complainant, reporter or other personnel pending completion of an investigation of alleged religious, racial or sexual harassment or violence.

The investigation will be completed as soon as practical. Generally, investigations will be completed within thirty (30) days of the receipt of the complaint. The investigator's decision shall be disclosed to the complainant. If the investigator makes a determination that the complaint was proven by a preponderance of the evidence, the investigator shall make a recommendation for corrective action and/or disciplinary action. The recommendation shall be based on the severity of the offense which shall be determined according to the totality of the circumstances. The intensity, frequency, and duration of the prohibited conduct shall be considered by the investigator. Other factors may include the extent to which the misconduct, however minor, may serve to isolate, limit, intimidate or otherwise increase the difficulties of job performance or atmosphere in the workplace for the complainant. The employer shall take whatever corrective and/or discipline action it deems required, in its sole discretion, including for serious offenses terminating of the offending employee, as set forth below. The STA shall make a written report to the employer upon completion of the investigation. If the complaint involves an STA employee, the report may be filed directly with the STA President. If the complaint involves a bargaining unit employee, the STA will furnish a copy of the report to the District Council and to the President of the Local Union to which the accused employee is a member. The report shall include a determination of

whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

VI. DISCIPLINE

A. Discipline and Sanctions.

Upon receipt of a report, the STA will take appropriate action. Such action may include, but is not limited to warning, suspension, remediation, termination or discharge. STA action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements. However, subject to the just cause, grievance and arbitration provisions of any applicable CBAs, the STA may suspend or terminate any employee found to have seriously violated this Policy against religious, racial or sexual harassment. Any employee found to have violated this Policy with respect to religious, racial or sexual violence will be suspended from employment for a lengthy period or terminated, and will not be permitted to return to work absent successful completion of an STA approved counseling regime, subject to the just cause, grievance and arbitration provisions of any applicable CBAs. Generally, sustained offenses of this policy will result in a suspension of not less than thirty (30) days. Serious offenses will subject the employee to immediate suspension of not less than sixty (60) days and potential discharge, subject to the just cause, grievance and arbitration provisions of any applicable CBAs.

B. Appeals.

There is no appeal process contemplated by this policy except those provided for in the grievance and arbitration provisions of the CBAs.

C. Retaliation Prohibitions.

Retaliation of any kind against anyone who is involved in, reports, complains of, testifies, assists or participates in

an investigation, or who testifies, assists or participates in a proceeding or hearing relating to any claim of harassment or violence, is prohibited and such retaliation shall result in disciplinary action against the retaliator, subject to the just cause, grievance and arbitration provisions of any applicable CBAs.

VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Baltimore City Human Rights Commission on Human Relations or from initiating civil action or seeking redress under state criminal statute and/or federal law.

VIII. DISSEMINATION OF POLICY AND TRAINING

The STA employer members' policy against harassment shall be communicated in writing to all employees and ILA members. The harassment policy shall be conspicuously and continuously displayed in the workplace. Such notices shall advise employees of the right to initiate a harassment complaint through the procedures outlined in this policy as well as the right to initiate complaints with the Baltimore Human Rights Commission and/or the Equal Employment Opportunity Commission.

Each employer shall conduct periodic training to inform employees of the state's policy prohibiting sexual harassment and retaliation and the complaint and investigation procedures set forth herein. Such training shall include the following components:

A. FOR ALL EMPLOYEES:

As part of general orientation, each recently hired employee shall be provided a copy of this policy and shall be requested to read it and sign a statement acknowledging the policy. In addition, supervisory employees shall meet with employees under their authority once each year to advise them of the commitment to eliminate harassment in the workplace, the penalties for engaging in harassment, and the procedures for reporting incidents of harassment.

B. FOR ALL SUPERVISORY EMPLOYEES:

All supervisory personnel shall annually participate in a training session on sexual harassment and other forms of discrimination which includes information about the types of conduct which will not be tolerated in the workplace. Each participant shall be informed that he/she is responsible for knowing the contents of the state's sexual harassment policy and for giving similar presentations to employees.

IX. MISCELLANEOUS

In the event that this policy conflicts with any law, the applicable law shall supercede this policy.

Nothing in this policy supercedes or preempts any provision in any applicable CBA requiring just cause for discipline or discharge of a covered employee. Nothing in this policy limits the right of any employee covered by any CBA to invoke the grievance procedures established by any such CBA.

This policy shall be reviewed annually for compliance with state and federal law.