



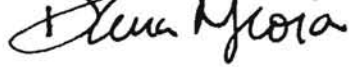
NATIONAL ENDOWMENT FOR THE ARTS

The Nancy Hanks Center
1100 Pennsylvania Avenue NW
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Office of the Chairman

March 9, 2007

MEMO

FROM: Chairman Dana Gioia 

TO: All Endowment Employees

RE: POLICY AND PROCEDURES FOR PREVENTING AND ELIMINATING HARASSING CONDUCT IN THE WORKPLACE

Purpose. This policy is intended to assure that the National Endowment for the Arts (NEA) is taking all necessary steps to prevent all forms of harassing conduct in the workplace, and to correct harassing conduct that does occur before it becomes severe or pervasive. It also updates the NEA's long-standing policy on sexual harassment in light of the Supreme Court's decisions in *Faragher v. Boca Raton*, 524 U.S. 775 (1998), and *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998).

Definition of Harassing Conduct in the Workplace. For the purposes of this policy, harassing conduct is defined as any unwelcome verbal or physical conduct based on any characteristic protected by law, including race, color, gender (both sexual and non-sexual), age, national origin, disability and religion, when:

- The behavior can reasonably be considered to adversely affect the work environment; or
- An employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Policy and Procedures. The NEA does not permit harassing conduct by anyone in the workplace. It is the policy of the agency to maintain a work environment free from the harassing conduct described above.

The NEA has determined that the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under Title

VII of the Civil Rights Act of 1964, as amended. A hostile environment claim under Title VII usually requires showing a pattern of offensive conduct. The NEA will not wait for such a pattern to emerge. Rather, the NEA will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. In the usual case, a single utterance of an ethnic, sexual, or racial epithet that offends an employee would not be severe enough to constitute unlawful harassment in violation of Title VII; however, it is the agency's view that such conduct is inappropriate and must be stopped.

The goal of this policy is to allow for management to take immediate and appropriate corrective action pursuant to NEA Directive 2752 (Discipline and Adverse Action) or other applicable guidance, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct technically violated the law. The NEA cannot correct harassing conduct, however, if the conduct is not known. Employees are responsible for coming forward and promptly reporting any behavior they view as harassment before it becomes a pattern of misconduct so pervasive and offensive as to constitute a hostile environment.

Any person who believes that he or she has been the subject of an incident of harassing conduct in violation of this policy should report this matter pursuant to procedures set forth in NEA Directive 2771 (Grievance System). To the extent such misconduct rises to the level of harassment actionable under Title VII, it shall be referred to the agency's Office of Civil Rights/Equal Opportunity (CR/EEO) for action. The agency will not tolerate retaliation against any employee for making a good-faith report of harassing conduct under this policy, or for assisting in any inquiry about such a report. Complaints of such retaliation also shall be handled through the NEA Grievance System. All information will be maintained on a confidential basis to the greatest extent possible, in compliance with the Privacy Act, 5 U.S.C. § 552a.

For further information regarding this policy, please contact the Office of Human Resources, at (202) 682-5405, or Office of Civil Rights, at (202) 682-5454.