

MEMORANDUM

TO: DFC Staff

FROM: Scott Nathan, Chief Executive Officer

DATE: Sept 29, 2022

RE: Maintaining a Non-Hostile Workplace Free of Discriminatory Harassment

This is to affirm DFC's responsibility to maintain a workplace free from harassment (including sexual harassment which is a form of discrimination based on sex) and retaliation, and to ensure that all employees are aware of my personal commitment to this goal.

The U.S. Equal Employment Opportunity Commission (EEOC) requires agencies to remove every form of prejudice or discrimination from personnel policies, practices, and work conditions (29 C.F.R. §1614.102(a)(3)). A hostile work environment is one that allows ridicule, abuse, insults, or derogatory comments that are directly or indirectly based on race; color; religion; sex, (including pregnancy, sex stereotyping, gender identity, gender expression or transgender status); national origin; sexual orientation; physical or mental disability; age (40 or older); protected genetic information; status as a parent; marital status; or political affiliation. A hostile work environment also can be created by reprisal or retaliation for exercising rights under these criteria. It is further defined as an offensive or intimidating environment that unreasonably interferes with work performance or that otherwise adversely affects employment opportunities. Personal conversations that can be overheard by other employees who consider the conversations offensive also can create a hostile environment.

DFC follows guidance established by EEOC and standards set by the U.S. Supreme Court in two landmark decisions: *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998) and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). In these decisions, the Supreme Court made clear that employers are subject to vicarious liability for unlawful harassment by supervisors. Liability is premised on two principles:

- 1) an employer is responsible for the acts of its supervisors; and
- 2) employers should be encouraged to prevent harassment and employees should be encouraged to avoid or limit the harm from harassment.

Managers and supervisors are responsible for maintaining a non-hostile work environment, one that is free from discriminatory harassment (both sexual and non-sexual). They can be held accountable for their own behavior and that of their employees. If an employee makes abusive or derogatory comments to another employee and the matter comes to a manager's or supervisor's attention, the manager or supervisor must take prompt action. It is very important to demonstrate to concerned employees that their allegations are taken seriously, and that management will not

conduct. The person who initiates the conduct, i.e., the alleged harasser, does not ultimately determine whether such conduct constitutes sexual harassment.

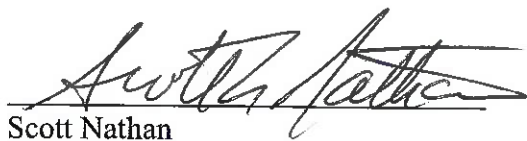
In *Meritor Savings Bank v Vinson*, 477 U.S. 57 (1986), the U.S. Supreme Court has ruled that sexual harassment is proven if the offensive conduct is based on the employee's sex, is unwelcome, and is sufficiently severe or pervasive to interfere with the employee's job performance or to create an abusive work environment. EEOC has stated that a complaint may be filed by anyone offended by such conduct, even if the employee is not the person at whom it is directed.

Offended individuals are encouraged to initiate actions to resolve harassment issues at the earliest possible stage. When the situation permits, the offended individual should inform the offending individual that their conduct is considered intimidating, hostile, or unwelcome. The immediate supervisor will often be the first level of resolution for harassment issues. However, employees also may directly contact HRM. Supervisors shall inform HRM whenever they become aware of any situation that could have harassment implications.

In some situations, DFC will conduct an investigation in order to determine if an employee or anyone else has engaged in inappropriate conduct or illegal harassment. DFC will initiate any such investigation within ten (10) days of the report of inappropriate conduct or illegal activity. DFC is also committed to conclude any investigation as quickly as possible, taking into account the complexity of the facts, the number of witnesses, and the issues arising out of the investigation. DFC will keep complaining witnesses informed of the status of the investigation, recognizing that some information may not be disclosed if the disclosure would violate the privacy rights of someone else.

When an individual feels that it is necessary to consider filing an EEO complaint, the individual should contact an EEO Counselor or the EEO Director within forty-five (45) calendar days of the alleged inappropriate conduct or illegal harassment at eeo@dfc.gov or (202) 977-5062. The complaint will be processed in accordance with 29 C.F.R., Part 1614. If an EEO complaint is to be pursued, the individual will then work with an EEO Counselor to try to resolve the matter prior to filing a formal EEO complaint.

It is DFC's intention to discourage harassment (including sexual harassment) and retaliation from occurring and, if it does occur, to take firm and immediate action.


Scott Nathan