

## **APPENDIX H**

### **POLICY ON SEXUAL HARASSMENT AND DISCRIMINATION**

#### Section I Statement of Policy

Painters District Council No. 30, the Finishing Contractors Association of Illinois, and all Employers signatory to the Collective Bargaining Agreement (jointly, “Parties”) prohibit discrimination and harassment of any kind, including sexual harassment, sexual discrimination, and sexual misconduct. The Parties are committed to ensuring safe, harassment-free workplaces for all workers.

The Parties will operate a zero-tolerance policy committed to the principle of equal employment opportunity for all Employees and to providing Employees with a work environment free of sexual harassment, discrimination, and sexual misconduct (generally referred to throughout as “sexual harassment”). While the Parties perform business and associate in the State of Illinois, and are accountable to anti-discrimination provisions of the State and Federal Government, as well as local/municipal ordinances covering harassment and discrimination based on actual or perceived race, ethnicity, color, age, religion, disability, national origin, ancestry, sex, sexual orientation, gender, gender identity and gender transitioning status, citizenship status, veteran status, military status and unfavorable discharge from the military, pregnancy, marital status, family or parental status, and other categories, this Policy is intended to address sexual harassment, sexual discrimination, and/or sexual misconduct, which may pertain to one or more of the following protected categories: sex, gender, sexual orientation, gender identity, gender expression, gender transitioning status, marital status, family or parental status, and pregnancy (“protected categories”).

No Employee, regardless of the protected categories, should be subjected to unsolicited or unwelcome sexual overtures or conduct in the workplace. It is the responsibility of all supervisors to ensure that the work environment is free from sexual harassment. Further, this Policy represents a general conviction that an occurrence of sexual harassment, discrimination,

and misconduct on a jobsite is equally as hazardous to our tradesworkers and our industry as a physical safety hazard regulated by OSHA due to distraction, stress, fear, and/or bodily harm.

## Section II

### Education and Preventative Measures

This Policy provides for a rigorous response to complaints of sexual harassment; however, it is the earnest desire of the Parties to prevent such complaints by encouraging a culture of accountability and continuous education. Signatory Employers, Employees, and Union and Association leaders are committed to participating in formal training programs and encouraging increased understanding and appreciation for the adverse impacts on individuals and the industry of sexual harassment. Bystander intervention and intentional efforts by the Parties to educate Employers, Union officers and members, employees of Union-affiliated organizations, Association members, and employees of the Association, are essential to this objective.

#### **A. Roll of Bystanders**

Bystanders can play a vital role in developing and preserving a safe and supportive environment for Employees. When behavior has occurred that could reasonably cause a complaint under the terms of this Policy, bystanders may take it upon themselves to address the behavior before it causes direct harm to an individual. Bystanders can also play a role in reducing harm and providing a means for victims to recover from sexual harassment. Bystanders are encouraged to report any activities overheard or witnessed that they believe has harmed, is harming, or may harm individuals covered by this Policy, including suspected instances of retaliation and instances when the target of the harassment is not present or directly subjected to the harassment. Bystanders are encouraged to serve as allies in work environments, intervening on the spot when they see inappropriate behavior, unless doing so would risk the bystander's physical safety.

The Parties also encourage bystanders to engage with victims of sexual harassment, to assist them in understanding their options for addressing sexual harassment, and the various potential

outcomes that may occur through the mechanisms of this Policy. If bystanders do not feel comfortable addressing the behavior directly with the individual engaging in prohibited behavior, they should feel empowered to report the misconduct or encourage the individual adversely affected by the behavior to report the misconduct. Prohibited behavior can occur even in the absence of an aware victim bringing forward a complaint. In such cases, the bystander may determine it necessary to notify an Employer or Policy Administrator of the behavior. Bystanders will be protected from retaliation.

This Section is included to generate awareness of bystander responsibilities; it does not mandate bystander actions. Bystanders will not be held accountable before, during, or after investigations if they were witness to prohibited behavior and chose not to come forward with information.

## **B. Harassment & Discrimination Training**

The hallmark of a comprehensive sexual harassment policy is education. In an effort to provide a workplace free of improper and unlawful harassment, and to promote an environment in which all Employees feel safe, welcomed, and treated fairly, the Parties are committed to exposing all individuals covered by and affiliated with this Agreement to sexual harassment awareness and anti-discrimination training. Such training shall have as its purpose to educate participants on how to prevent sexual harassment, how to respond to sexual harassment if it occurs, and what bystanders should do if they witness sexual harassment. This training shall be interactive and participatory, completed in person, and offered in English and Spanish. Individuals shall be provided multiple opportunities to participate in such training throughout the year.

This education/training programming shall also be sufficient to meet training requirements mandated by state and federal law applicable to Employers doing business in Illinois and apprenticeship programs registered with the U.S. Department of Labor (Illinois Public Act 101-0221 and Apprenticeship Regulation 29.30), requiring Employers to annually train their Employees on preventing sexual harassment and apprenticeship programs to maintain programs that are free from harassment, intimidation, and retaliation.

## Section III

### Complaints and Prohibited Behavior/Definitions

This Section defines what a complaint is under this Policy and various forms of prohibited behavior this Policy is intended to address. A complaint under this Policy is an expression of concern and appeal for corrective action by a person covered by this Agreement (a “complainant”) that alleges that one or more persons (“respondent”) engaged in, or are engaging in, one or more prohibited behaviors listed below, or behaviors that a reasonable person would classify within the categories below. The complainant does not need to be person to whom the prohibited behavior is directed for the expression of concern and appeal for corrective action to be considered a complaint. Depending on the severity, one incident, or a series of incidents, can constitute sexual harassment.

#### **Harassment**

Generally, harassment under the Illinois Human Rights Act (“IHRA”) is defined as unwelcome conduct on the basis of an individual’s actual or perceived protected status under the IHRA that has the purpose or effect of substantially interfering with the individual’s work performance or creating an intimidating, hostile, or offensive working environment.

#### **Sexual Harassment**

According to the IHRA, sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature when;

1. submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment,
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

## **Sexual Discrimination**

It is discrimination for an Employer or Employee in a position of leadership, to base any decision regarding the terms or conditions of employment on this Policy's protected categories. When the term "sexual harassment" is used generally in this Policy, this Policy intends to include sexual discrimination as a type of behavior prohibited by the Policy.

## **Sexual Misconduct/Unacceptable Behavior**

Sexual misconduct and unacceptable behavior under this Policy includes threatening, intimidating, or hostile acts on jobsites, within the Union offices, or at any Union- or Association-sponsored events, including:

1. Verbal behavior such as sexual innuendos; suggestive comments; insults; use of epithets, slurs, negative stereotyping; humor and jokes about sex, anatomy, or gender-specific traits; sexual propositions; threats; repeated requests for dates; or statements about other Employees, even outside their presence, of a sexual nature.
2. Non-verbal behavior such as suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls," "smacking," or "kissing" noises.
3. Written/visual documents/objects such as posters, signs, pin-ups, or slogans of a sexual nature placed on walls, bulletin boards, computer screens, and/or cell phones; or circulated in the workplace, including through electronic means, regardless of media platform and application.
4. Physical behavior such as touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual intercourse, physical assault, or the threat of assault.

When the term "sexual harassment" is used generally in this Policy, this Policy intends to include sexual misconduct/unacceptable behavior generally described above as types of behavior prohibited by the Policy.

## **Retaliation**

Consistent with provisions of the Illinois Human Rights Act and Federal law, this Policy prohibits a person or for two or more persons to conspire to retaliate against a person because they have opposed that which they reasonably and in good faith believe to be sexual harassment; and/or because they have made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Policy. Retaliation includes adverse treatment of a complainant or individual capable of offering material support for a complaint that is arguably atypical for the Employer or Union representative and related in some manner to the complaint, such as schedule changes or reduction of hours, reassignment, hostility from an Employer or Union representative, blocked promotions or benefits given to other Employees, blacklisting or poor reviews, disciplinary proceedings, and/or termination of employment. When the term “sexual harassment” is used generally in this Policy, this Policy intends to include retaliation as a type of behavior prohibited by the Policy.

## **Section IV Employer Responsibility**

For this Policy to be effective, all Parties recognize that all forms of sexual harassment must be identified, addressed, and resolved in some affirmative and proactive manner. Complaints of sexual harassment will be investigated in a prompt, safe, and effective manner. Employers will take preventative, corrective, and/or disciplinary action against Employees for any behavior found to violate this Policy.

Each Employer is responsible for maintaining the working environment free from sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of Employee misconduct. Employers who knowingly allow or tolerate sexual harassment or retaliation are in violation of this policy and may be subject to charges from the Joint Trade Board.

If an Employer, or individual in a supervisory role, is accused of sexual harassment, they shall not play any role in administering or making decisions under this Policy. If an Employer or individual in a supervisory role is determined to have engaged in sexual harassment, the Parties agree that appropriate corrective action will be taken promptly, and appropriate sanctions will be imposed.

Liability may be based on such things as an Employer or organization's responsibility to maintain a certain level of order and discipline, its level of tolerance of sexual harassment in the working environment, or its (or e.g. a supervisor's) response, or non-response to a complaint of sexual harassment. As such, Employers must act quickly and responsibly to minimize liability.

Whether or not a complaint is verbal, informal, written, or formally presented, managers and supervisors must take the complaint seriously, immediately report it to the designated Policy Administrator, and confer with the Policy Administrator regarding appropriate action to prevent retaliation against the complaining Employee or continuation of the prohibited conduct.

All Employees and Employers, particularly those in a supervisory or management capacity, are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes.

## Section V

### Officers & Representatives

A Policy Resource Representative shall be established by each Party – the Union and the Association. Policy Resource Representatives will be responsible for:

- a. Retaining copies and maintaining accurate understanding of the Policy.
- b. Increasing awareness of the Policy among target audiences and answering questions about sexual harassment and the options available to victims or the required actions of Employers under the Policy.
- c. Assisting individuals in completing the steps involved in submitting an informal or formal complaint or following the investigation processes outlined in the Policy.

An essential commitment of the Parties is that individuals who believe they have experienced, or are experiencing, sexual harassment have access to multiple options with which to register a complaint or consult others about behavior they believe is prohibited by this Policy. The Policy Resource Representatives shall serve as an additional avenue through which an individual may come forward with a complaint or seek guidance on an incident of workplace sexual harassment. For guidance purposes, PDC 30 members shall be instructed to contact the Union's Policy Resource Representative, and Signatory Employers can contact the Association.

Training for Policy Resource Representatives will be made available under the auspices of the PDC 30 Labor Management Industry Development Fund (LMIDF), which shall include a suitable level of training to permit an Policy Resource Representative to offer guidance through the mechanisms of this Policy.

Managers and Supervisors in need of information regarding their obligations under this policy or procedures to follow up on receipt of a complaint of sexual harassment should contact the Employer's designated Policy Administrator. The Policy Administrator is responsible for the following:

- a. Explaining this Policy and investigation procedures to the parties involved.
- b. Exploring informal options for resolving the complaint.
- c. Notifying the police if criminal activities are alleged.
- d. Arranging for an investigation of the incident, either on their own or by an independent third party.
- e. Preparing a written report summarizing the result of an investigation and making recommendations to designated company officials.
- f. Notifying the complainant, the respondent, and the Union of the corrective actions to be taken, and administering those actions.
- g. Arranging for and monitoring the annual training of all Employees pursuant to the requirements of the Illinois Workplace Transparency Act.



## Section VI

### Registering a Complaint

An essential commitment of the Parties is that individuals who believe they have experienced, or are experiencing, sexual harassment have access to multiple options with which to register a complaint or consult others about behavior they believe is prohibited by this Policy. Individuals are encouraged to contact their Employer following any instance of sexual harassment on a jobsite. Individuals may also register a complaint or seek guidance in the following forms:

- Apprentices may come forward to the Apprenticeship Director, or an Instructor
- Union members may come forward to a Union leader, business representative, or other Union office staff member
- Employees may come forward to a jobsite supervisor, or coworker
- Individuals may come forward to an Association leader or staff member
- Individuals may come forward to a Policy Resource Representative, acting on behalf of the Union or the Association

All Parties commit to immediately referring any individual who seeks to register a complaint or seek guidance with an agent of their organization (supervisor, office manager, Union representative, Association representative, complainant's coworkers, etc.) to a Policy Administrator or the Union's resource representative. All Parties agree that they will make good faith efforts to educate their workforce, particularly those in leadership, supervisory, or representative roles, about this obligation to refer complaints. If there is any doubt as to whether an inquiry constitutes a complaint under this Policy, those in leadership, supervisory, or representative roles will refer the individual expressing concern to their respective organization's Policy Administrator or resource representative.

## Section VII

### Information Sharing

#### **Notification**

The Parties agree that, once a Policy Administrator has received a complaint and understands that a complainant expects the Policy Administrator to address the complaint through the mechanisms of this Policy, the Policy Administrator shall notify Union's Policy Resource Representative.

In the event that an individual(s) allegedly engaging in prohibited behavior is employed by an Employer not covered by this Agreement, the Policy Administrator receiving the complaint shall notify the Union's Policy Resource Representative. Employers of a complainant, regardless of the employment status of the individual allegedly engaging in prohibited behavior, may determine they must take action to protect the welfare of their Employee.

In the event that a complaint involves specific complainants and/or respondents working for more than one Employer, and those other complainants and/or respondents are described within the details of the complaint, the Policy Administrators of the Employers of those other complainants and/or respondents must also be notified by the Policy Administrator receiving the complaint.

Policy Administrators shall notify the Union's Policy Resource Representative no less than 24 hours from the time they receive a complaint alleging behavior described in this Policy. For complaints alleging physical behavior described in this Policy, notification shall occur no less than 24 hours from the time they receive a complaint. If Policy Administrators learn that alleged prohibited behavior/misconduct outlined in this Policy is under investigation by an external state or federal agency, or law enforcement agency, or that an incident and/or complaint is the subject of active litigation, provided there is no legal impediment to disclosure of such information, they shall notify the Policy Resource Representatives no less than 24 hours after they learn of the external investigation or litigation.

Written notification may be delivered electronically, is subject to the timelines above, and shall include the following:

- a. That a complaint has been made by a complainant alleging prohibited behavior/misconduct by a respondent.
- b. The employment status of the complainant(s) and the respondent(s) (i.e., the complainant is a Journey Worker represented by PDC 30 and the respondent is an Employee of the company who is not represented by PDC 30).
- c. A technical description of any protective actions taken up to that point to address the complaint (i.e., the respondent has been reassigned and will not be working at the same jobsite as the complainant while the complaint is being addressed).

The Parties agree that the written notification does not need to include the names of the complainant or respondent, or details of the alleged behavior.

The obligation to notify also includes an immediate willingness to discuss the alleged behavior and how the Employer is classifying the behavior, in accordance with this Policy and any assessment conducted concerning conflicts of interest. All Parties agree that this discussion is of the utmost importance and shall occur as soon as practicable.

For clarification purposes, this obligation to notify commences only once a complaint is received by a Policy Administrator. Informal inquiries by individuals who may file a complaint, individuals who may become respondents to a complaint, third-parties whose assistance may be requested in an investigation, a Union representative, Association representative, and/or Signatory Employer invoke the obligation to refer, but not to notify.

### **Information Sharing/Data Collection**

Information sharing, reporting, and data collection between the Parties should be coordinated and monitored through the LMIDF, who shall also report aggregated data on Policy usage to the LMIDF Board of Trustees no less than annually. Such data shall not include company names or identification of complainants or respondents, but may describe the nature of complaints and findings, and shall be used solely to assess the effectiveness

of the Policy and respond with nonbinding improvement recommendations. Employers are individually responsible for disclosures of adverse administrative or judicial decisions of sexual harassment and discrimination against them, and/or private settlements that involve sexual harassment and discrimination claims which may be required by state and/or federal law.

## Section VIII

### Complaint and Investigation Procedures

The Parties have established a procedure for the handling of complaints, which is intended to supplement and/or precede, not to replace or supersede, the procedures available to Employees under any other applicable federal, state, or municipal fair-employment-practices law.

Complainants are encouraged to come forward with a complaint at the earliest possible point. Complainants should not wait to report harassment until it becomes severe and pervasive. All Parties are committed to stopping sexual harassment even if the conduct has not risen to the level that would be deemed by other agencies to be a violation of law.

Individuals are not required to complain directly to the individual they believe has engaged in prohibited behavior, but they may respond to the prohibited behavior in a way that demonstrates that the behavior is unwelcome if they feel comfortable doing so, unless doing so would, in their view, risk their physical safety.

The procedures for dealing with complaints of sexual harassment are as follows:

#### **Informal Reconciliation**

Upon the receipt of a complaint, the Policy Administrator receiving the complaint will take the following steps:

1. The Policy Administrator shall record in writing what they learn from the complainant. This record will include the details provided by the complainant, names of all parties, the date, and the time that the report was provided. The Policy Administrator shall provide the complainant with a copy of this Policy and explain generally what steps will be taken.

2. The Policy Administrator shall follow the notification protocols outlined in this Policy, including any actions they recommend to protect the welfare of the complainant and respondent during the proceedings.
3. The Policy Administrator shall ascertain the views of the complainant as to what outcome they hope to achieve. After consulting with the complainant, if the Policy Administrator believes that reasonable measures can be taken to address the complaint without conducting an investigation, the Policy Administrator will share with the complainant the option of a reconciliation process of some form that can be proposed to the respective Employer, Employee, and/or the Union. The complainant must agree to a reconciliation plan. Any reconciliation meeting is not a hearing and no recording of it will be made; no questioning of witnesses will occur unless agreed to by both the complainant and the respondent; and only a general description of the complaint and agreed-upon resolution shall be reduced to writing.
4. If informal reconciliation is achieved, the Policy Administrator shall notify the Policy Resource Representative that the matter that was the subject of the prior notification has been resolved through reconciliation. This notification should follow closely any agreed-upon documentation of the reconciliation agreement, and should be carefully executed to protect the privacy interests of the complainant and respondent who have agreed that further investigation of the complaint is not necessary.
5. A complainant may withdraw their complaint at any time before reconciliation is achieved or before a formal investigation begins. If withdrawal occurs before or in lieu of reconciliation, the Policy Administrator will notify the Union that the complaint was withdrawn and no further action will occur.

## Formal Investigation

If informal reconciliation is not appropriate or successful, and/or if the complainant request an investigation, such an investigation will occur as outlined below. Any employment action taken by the Employer during any step in this process is within the exclusive purview of the Employer. Under the guidance provided by this Policy, the Employer will be encouraged to take any immediate protective measures, which may include suspension of the respondent with or without pay, and await the results of the process before taking any final employment action, which may include various progressive discipline actions and/or termination.

1. The Policy Administrator will conduct the investigation, which may include meeting with the complainant, the respondent, and other individuals who may have relevant information and/or reviewing any relevant documents/evidence. The investigation will be conducted promptly, thoroughly, impartially and in as confidential a manner as is possible.
2. At the conclusion of the investigation, the Policy Administrator shall produce findings, which shall make a determination of whether the complaint is “founded” or “unfounded,” outline the facts known to them that support the finding and how those facts were acquired, and provide recommendations to the relevant Employer.
3. Copies of findings and recommendations shall be made available to the Union’s Resource Representative, the complainant, and the respondent.
4. If the investigation establishes that the complaint is “founded,” the Parties agree to take prompt, appropriate, and meaningful action to address the prohibited behavior. This may include corrective action designed to end and remedy the harassment and to prevent it from reoccurring. Action may include imposition of discipline on the respondent, ranging from reprimand, progressive discipline, to discharge.

5. If the respondent is a member, officer, or delegate to the District Council or Local Union, or otherwise would be subject to disciplinary procedures under the PDC 30 constitution or bylaws, disciplinary procedures called for within those separate bodies of law may be invoked.
6. If an investigation finds sufficient evidence to support a complaint under the terms of this Policy against an Employee of a vendor, consultant, an Employee of another contractor on a jobsite, or any other employing entity not bound to the terms of this Agreement, the Parties may inform that employing entity of the investigation and findings, and request further investigation and/or disciplinary actions be taken by that entity.

The Parties agree that the Policy Administrator or Employer of the respondent, or other supervisory authority, shall report any employment actions taken, and do so in writing as soon as practicable. This communication can be shared with the complainant and respondent.

Following the investigation, the Employer and the Policy Administrator will take all possible steps to ensure that the prohibited behavior has not resumed, and that neither the complainant nor any other individual has been subjected to any retaliation, as outlined in this Policy.

## Section IX

### Special Considerations

Workplace sexual harassment can also involve a third-party/non-employee harassing an Employee and vice versa. A third-party/non-employee is a person who is not otherwise an Employee of the Employer. It can include contractors, consultants, and individuals from other trades working alongside parties protected by this Policy.

In addition to workplace protections, the Parties are committed to addressing prohibited behavior that occurs at Union meetings; within the PDC 30 building; during training sessions; at Employer- or Association-sponsored events; and/or at Union-sponsored events by any Union member, Union officer, Union employee, Association employee, Signatory Employer, or any third party/

non-employee. All Parties are responsible for taking steps to prevent third party non/employees, applicants, family, vendors, volunteers, consultants, and/or visitors from being harassed or otherwise discriminated against in violation of this Policy. Likewise, all Parties are responsible for addressing prohibited behaviors by third party non/employees, applicants, family, vendors, volunteers, consultants, and/or visitors. The provisions of this Policy may be applied to such situation if cooperation is possible between complainants and respondents.

Sexual harassment can occur where the Employee regularly works, anywhere the Employee may be assigned to perform work, as well as at a social event where Employees or non-employees may be gathered.

## Section X

### Other Legal Remedies

Sexual harassment is prohibited by the Civil Rights Act of 1964, as amended in 1991, and the Illinois Human Rights Act. Any behavior determined to be sexual harassment is a form of misconduct that may result in disciplinary action up to and including dismissal.

Sexual harassment could also subject the Employer, the Union, and, in some cases, the individual to substantial civil penalties.

The purpose of this Policy is to establish prompt, thorough, and effective procedures for responding to and resolving harassment complaints locally. Individuals, however, also have the right to file a formal complaint with the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC). Complaints with the IDHR or the EEOC must be filed within 300 days.

- Illinois Department of Human Rights  
Chicago: (312) 814-6200  
Springfield: (217) 785-5100  
[www2.illinois.gov/dhr/FilingCharge/Pages/default.aspx](http://www2.illinois.gov/dhr/FilingCharge/Pages/default.aspx)
- Equal Employment Opportunity Commission  
(800) 669-4000  
[www.eeoc.gov/employees/charge.cfm](http://www.eeoc.gov/employees/charge.cfm)



## Section XI

### Questions, Contacts

Questions about this policy and procedure, or requests for additional information concerning complaints of discrimination or harassment, should be directed to the Employer's Policy Administrator or the Union's Policy Resource Representative.