

# Big Bend Community Based Care Policy & Procedure

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**Series:** 1100: Human Resources

**Policy Name:** Non-Discrimination and Harassment

**Policy Number:** 1102

**Origination Date:** 2/17/2009 **Revised:** Board Meeting of 12/13/2018

**Regulation:** CFOP 60-10  
CFOP 60-15  
CFOP 60-16

## Referenced Documents:

1100-1102 x 1, Complaint Resolution Form  
1100-1102 x 2, Complaint Resolution Appeal Form

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## Policy

It is the policy of Big Bend Community Based Care, Inc. (BBCBC), to maintain a work environment in which all individuals are treated with respect and dignity and respect each employee's right to work in an atmosphere that promotes equal opportunities and prohibits discriminatory practices.

## Procedure

- A. Equal Employment Opportunity Employer.** BBCBC is an equal employment opportunity employer which does not discriminate against qualified applicants or employees on the basis of race, sex, color, religion, age, marital status, national origin, handicap (disability), veteran status, sexual orientation or any other characteristic or activity protected by federal, state or local law.
- B. Accommodating Individuals with Disabilities.**
1. BBCBC will provide equal employment opportunity in employment, recruitment, selection, compensation, benefits, promotions, lay-off, termination and all other forms and conditions of employment with BBCBC.
  2. BBCBC will take affirmative action to ensure equal opportunity for all persons in the filling of its positions.
  3. BBCBC prohibits any and all discrimination against a qualified individual with a disability. This includes, but is not limited to, discrimination with respect to:
    - a. Hiring;
    - b. Assignment;
    - c. Transfer;
    - d. Promotion;
    - e. Discharge;
    - f. Compensation;
    - g. Benefits;
    - h. Training.

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4. BBCBC prohibits any discrimination against an employee because the employee has a family member with a disability.
  - a. BBCBC group benefits are made available to all employees on an equal basis without regard to an individual's disability.
5. BBCBC complies with the Americans with Disabilities Act (ADA), and does not discriminate in hiring or employment on the basis of disability. BBCBC complies with the ADA by:
  - a. Using the same criteria for the employment of persons with disabilities as it does for employment of persons without disabilities.
  - b. Using the same criteria for promotion for employees with or without disabilities.
  - c. Making reasonable accommodations for employees with disabilities.
  - d. Educating staff that it is unacceptable to discriminate against individuals with disabilities.
  - e. Taking steps to make its buildings and other facilities barrier-free and accessible according to state and federal law.
  - f. Prominently posting notices explaining the provisions of the ADA and employees' rights under the law.
6. BBCBC seeks reasonable accommodations for qualified individuals with disabilities that do not result in undue hardship on its business operations.
  - a. Examples of some of the factors to be considered in determining whether a proposed accommodation creates an undue hardship are:
    - i. The nature and cost of the accommodation;
    - ii. The overall financial resources of the facility at which the reasonable accommodation is necessary;
    - iii. The number of persons employed at that facility;
    - iv. The overall financial resources of BBCBC. Other factors also can have bearing on whether an accommodation would create an undue hardship.
  - b. The CEO or designee and Executive Management will review and determine whether an accommodation creates an undue hardship.
7. BBCBC's employees and job applicants will not be placed in positions where they would create a direct threat to the safety or health of themselves or others.
  - a. All employees will comply with safety rules at all times.
  - b. BBCBC will make every effort to place applicants and employees in positions for which they are qualified.
  - c. The determination an individual poses a direct safety or health threat will be confirmed in writing from a physician or other appropriate professional.
8. Any applicant or employee who believes that there has been a violation of BBCBC's procedure or any applicable law relating to disability discrimination should immediately contact the CEO or designee.
  - a. Complaints are promptly investigated.
  - b. Individuals are expected to cooperate with an investigation.
  - c. Information obtained in the course of an investigation is held in confidence, and only disclosed to individuals who have a need for the information.

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9. The CEO or designee will review each job description annually to ensure essential functions of a position are updated and accessible.

## **C. Harassment.**

1. BBCBC will not tolerate harassment or intimidation of its personnel on the basis of race, sex, color, religion, age, marital status, national origin, handicap (disability), veteran status, sexual orientation or other characteristics protected by federal, state or local law, whether it is by a co-worker, supervisor, consumer, consumer family or vendor.
2. BBCBC expects all relationships among BBCBC employees and other contacts and will be businesslike and free of bias, prejudice and harassment.

## **D. Sexual Harassment.**

1. BBCBC will not tolerate sexual harassment in any form.
  - a. Sexual harassment constitutes discrimination and is illegal under federal, state and local laws.
  - b. Sexual harassment is defined in the Equal Employment Opportunity Commission's Guidelines as deliberate or repeated behavior of a sexual nature that is unwelcome, any unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when:
    - i. Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment;
    - ii. Submission to or rejection of such conduct by an individual is based on the basis for employment decisions affecting the individuals;
    - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
2. BBCBC considers the following conduct to be improper:
  - a. Any unwelcome or improper touching or advance of another employee;
  - b. Suggesting or implying in any way to another employee that sexual favors will or may result in the employee's promotion, advancement, or increased benefits or wages;
  - c. Suggesting or implying in any way that an employee's refusal to provide sexual favors may result in the employee's discipline, termination, or in any way have an effect on the employee's employment with BBCBC;
  - d. Making jokes or other forms of humor concerning sex or gender specific traits, suggestive comments or sexual innuendo;
  - e. Making slang names or labels which are demeaning, contain sexual innuendo or are otherwise offensive;
  - f. Displaying or circulating sexually explicit graffiti, posters, calendars, cartoons, or other pornographic or inappropriate materials;
  - g. Discussing details of intimate personal relations with an employee of the opposite or same sex;
  - h. Talking about, teasing, or calling attention to another employee's body or sexual characteristics in a negative or embarrassing way;
  - i. Tolerating or condoning employees engaged in harassing or disruptive behavior based on gender toward a fellow employee or otherwise creating a hostile working environment;
3. Any activities such as those described above or any other sexually harassing conduct or discriminatory acts WILL NOT be tolerated and WILL result in immediate discipline, up to and including dismissal.

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4. Harassment of BBCBC employees by clients and visitors WILL NOT be tolerated.
5. BBCBC employees who believe they are being harassed are required to inform BBCBC of the perceived harassment, and should also promptly notify the offender that his or her behavior is unwelcome.
  - a. When notifying BBCBC of the perceived harassment, the employee should promptly complete the Complaint Resolution Form Initial Written Statement and provide it to their supervisor. If the supervisor is the source of the complaint the employee can provide the form to a member of senior management (including the CEO) or HR for attention. In the event that the employee believes he or she is being harassed by the CEO, that employee can report this harassment to the board of directors or HR.
  - b. If an employee is a witness to or in any other way becomes aware of any discriminatory behavior or any activity which might be considered to be harassment in violation of this policy, it is the employee's responsibility to immediately report such conduct to the CEO or their designee.
6. Supervisors will refrain from dating and developing close relationships with employees under their supervision.
7. If a supervisor develops a romantic relationship with a subordinate employee, the supervisor will bring it to the attention of the CEO or their designee so BBCBC can confirm that the relationship is consensual.
8. BBCBC's employees in a supervisory role have an obligation to report harassment even if it involves someone outside their area of responsibility.
  - a. Any supervisor who becomes aware of any harassment or has reason to believe that harassment is taking place must immediately report it to BBCBC.
9. The CEO or their designee will promptly, thoroughly, and impartially investigate all claims, with due regard for the privacy of the individuals involved.
  - a. The complaint will be handled with sensitivity, and confidentiality will be maintained throughout the investigatory process.
  - b. The investigation report will be reviewed by the CEO.
  - c. Immediate and appropriate corrective action will be taken when BBCBC determines that harassment has occurred.
  - d. Anyone found violating this policy will be disciplined appropriately, up to and including discharge.
  - e. If a party to a complaint does not agree with the resolution, that party may file a complaint with the CEO.
10. BBCBC will not tolerate retaliation against an individual for reporting harassment or assisting in providing information relevant to a claim of harassment.
  - a. Any employee who retaliates against an employee who has reported workplace sexual harassment, sex discrimination or has assisted in providing information relevant to a claim of sexual harassment will be subject to immediate disciplinary action, up to and including discharge.
  - b. Acts of retaliation should be reported immediately to the CEO.
  - c. All complaints of retaliation will be promptly investigated.
11. False and malicious complaints of harassment may be subject to appropriate disciplinary action.