

“A”
LETTER OF UNDERSTANDING RE
ILWU-PMA EQUAL EMPLOYMENT OPPORTUNITY
POLICY & PROCEDURES

1. POLICY AGAINST DISCRIMINATION, HARASSMENT & RETALIATION

All workers in the longshore industry shall be treated with dignity, respect and courtesy. It has been for decades and continues to be the policy of the Pacific Maritime Association (PMA), its member companies and the International Longshore and Warehouse Union and its Locals (ILWU) that discrimination, harassment, and retaliation of any kind for filing or supporting a complaint of discrimination or harassment, committed by anyone, will not be tolerated in connection with any action subject to the terms of the Pacific Coast Longshore & Clerk's Agreement (the PCLCA or Agreement) (including at work sites, joint dispatch halls, training sites, and other locations, when reasonably related to employment covered by this Agreement).

The policy against discrimination and harassment stated in Section 13 of the Pacific Coast Longshore & Clerk's Agreement shall be administered as described in this document.

2. RESPONSIBILITY FOR FOLLOWING SECTION 13.2

All longshore workers, clerks, walking bosses/foremen, superintendents or managers, outside truck drivers, vendors, contractors and others are required to follow this Policy and shall not engage in any Prohibited Conduct in connection with any action subject to the terms of the PCLCA (including at work sites, joint dispatch halls, training sites, and other locations, when reasonably related to employment covered by this Agreement). It is important not to assume that the Employers, PMA or the ILWU know of particular incidents of discrimination or harassment. Discrimination and harassment can be eliminated from the workplace only if everyone working under the PCLCA who experiences or sees such problems files a grievance using the Special Section 13.2 Grievance Procedures for discrimination and harassment. It is also important if you believe you are a victim of discrimination, harassment or retaliation that you immediately inform the offending party that you find his or her conduct offensive and ask that it be stopped.

3. EXAMPLES OF PROHIBITED CONDUCT UNDER SECTION 13.2

Discrimination and harassment can take many forms. Certain actions or even words can constitute discrimination and harassment. As a general matter, it is a violation of this Policy for anyone to treat another in a way that is threatening, intimidating, embarrassing or offensive, or that denies a person equal treatment and opportunities because of his or her sex, race or other unique characteristics. So-called “good intentions” or “joking around” (as determined by the Arbitrator) does not excuse Prohibited Conduct.

To assist you in recognizing and avoiding behavior which may be considered harassing, discriminatory, or retaliatory, the following examples of Prohibited Conduct are listed:

Physical Harassment: Unwelcome touching or grabbing or sexual assault, blocking someone's movement, standing unnecessarily close.

Verbal Harassment: Racial or sexual jokes, name-calling, using slurs, derogatory terms, belittling remarks, or abusive language related to a person's gender, race or other defining characteristics.

Visual Harassment: Displaying objects, messages, pictures, pornography, graffiti, or drawings of a sexual or racial nature; engaging in offensive and unwelcome personal conduct such as offensive gestures, staring (especially at particular body parts), mooning, leering; showing a lack of respect for privacy in toilet facilities and locker rooms.

Unwelcome Romantic or Sexual Attention: Unwelcome flirting, pressuring another for a date and unwelcome sexual advances; also demanding sexual favors or romantic attention as a condition of any type of employment benefit.

4. SPECIAL SECTION 13.2 GRIEVANCE PROCEDURES FOR COMPLAINTS OF DISCRIMINATION, HARASSMENT & RETALIATION

All registered and casual longshore workers and clerks have the right and responsibility to promptly report any Prohibited Conduct of which they are aware to their Local (through the ILWU business agent or a Union official) and on-the-job supervision (such as the walking boss/foreman or clerk supervisor or management). To correct any incidents of discrimination, harassment (including hostile work environment) or retaliation which violate this Policy, the longshore worker or clerk experiencing the problem must promptly file, within fifteen (15) calendar days of the incident, a grievance under the ILWU-PMA Special Section 13.2 Grievance Procedures For The Resolution of Complaints Re Discrimination and Harassment Under the Pacific Coast Longshore and Clerks Agreement (referred to as the “Special Grievance Procedures”), a copy of which is **included** (Letter of Understanding “B”). Grievances may be filed only by longshore workers, clerks, union locals, PMA and its member companies.

In your grievance, please provide as much detail as you can, including identifying the names of witnesses and of those you believe to be responsible, describing what happened as well as when and where the Prohibited Conduct occurred. Grievances will be addressed and resolved as quickly, fairly and confidentially as reasonably possible.

Upon being notified of any complaint of Prohibited Conduct, the union Business Agent shall, as needed, identify for the grievant the grievance procedure available. Once a walking boss/foreman or clerk supervisor learns of a complaint of Prohibited Conduct, he or she shall immediately report it to management and take other appropriate action.

5. GRIEVANCE PROCEDURES FOR CHALLENGES TO CONTRACTUAL PROVISIONS OR RULES, INCLUDING CLAIMS FOR REGISTRATION OR SELECTION FOR CASUAL STATUS, OR OTHER SECTION 13.3 CLAIMS; AND PROCEDURES FOR REQUESTS FOR REASONABLE ACCOMMODATION OF DISABILITIES

Grievances and complaints alleging that a contractual provision or rule is discriminatory as written or as applied, as well as discrimination claims seeking elevation, registration or selection for casual status, and discrimination claims based on protected family care or medical leave status, veteran status, political affiliation, marital status, membership or non-membership in the Union, or activity for or against the Union or absence thereof, are not to be filed under the Special Section 13.2 Grievance Procedures, but instead are to be filed and processed with the Joint Port Labor Relations Committee (JPLRC) under the grievance procedures in Section 17.4 of the PCLCA.

Likewise, requests for “reasonable accommodation” for disabilities recognized under state or federal law will not be processed under the Special Section 13.2 Grievance Procedures but instead must be brought to the local JPLRC pursuant to separate procedures established for such requests (CLRC Policy on ADA Compliance and Reasonable Accommodation), a copy of which is included.

6. SPECIAL SECTION 13.2 REMEDIES & PENALTIES

Longshore workers, clerks, walking bosses/foremen, superintendents or managers, outside truck drivers, vendors, contractors, or others who violate Section 13.2 of the Agreement, as described in this Policy, by engaging in Prohibited Conduct in connection with any action subject to the terms of the PCLCA (including at work sites, joint dispatch halls, training sites, and other locations, when reasonably related to employment covered by this Agreement) will be subject to discipline or penalties up to and including termination, deregistration or permanent loss of dispatch privileges or loss of access to employer sites.

Likewise, PMA Employers, PMA offices and ILWU Locals are subject to all appropriate remedies for directly violating this Policy, including mandatory training, distribution of notices to employees, and changes in policies and practices found to violate this Policy. Violations of this Policy are subject to the included Guidelines for Remedies & Penalties in Cases of Discrimination, Harassment & Retaliation Under the Special Section 13.2 Grievance Procedures.

Attachments:

Special Section 13.2 Grievance/Arbitration Procedures Re Discrimination & Harassment;
Guidelines for Section 13.2 Remedies & Penalties;
Policy on ADA Compliance and Reasonable Accommodation.