

Remedies and Penalties

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LETTER OF UNDERSTANDING RE GUIDELINES FOR REMEDIES AND PENALTIES IN CASES OF DISCRIMINATION, HARASSMENT & RETALIATION UNDER THE SPECIAL SECTION 13.2 GRIEVANCE PROCEDURES

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 the ILWU-PMA Equal Employment Opportunity Policy & Procedures (referred to as the Policy), by engaging in discrimination or harassment (including hostile work environment) in connection with any action subject to the terms of the PCLCA (understood to include work sites, joint dispatch halls, training sites, and other locations, when reasonably related to employment covered by this Agreement) based on race, creed, color, sex (including gender, pregnancy, sexual orientation), age (forty or over), national origin, or religious or political beliefs, or by engaging in retaliation of any kind for filing or supporting a complaint of such discrimination or harassment (referred to generally as “Prohibited Conduct”) 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.

The minimum discipline for any individual found guilty of violating this Policy shall be seven (7) days off work, and attending Diversity Training without pay. The minimum discipline for any individual found guilty of retaliating against someone for complaining of Prohibited Conduct or retaliating against someone for assisting another who complained, or for quid pro quo harassment (for example, demanding sexual favors for dispatch or job assignments) or for physical harassment shall be one month off work and attending Diversity Training without pay. Remedies may also include reassignment from a location where the victim works; time off without pay for longer periods (for example, thirty (30) days, ninety (90) days, one year); permanently being ineligible from supervisory and/or dispatcher positions; loss of steady positions; or other remedies as deemed appropriate in cases processed under the Special Section 13.2 Grievance Procedures. Anyone found guilty shall, prior to returning to work, be required to review an approved training video (such as “EEO Shapes”), without pay, and sign a statement agreeing to abide by the Policy and not to engage in Prohibited Conduct in the future.

Pursuant to the Special Section 13.2 Grievance Procedures, the Arbitrator is to consider all relevant factors in determining the appropriate remedy, including the nature and severity of the Prohibited Conduct, the degree of physical and/or mental harm, the weight of the evidence and testimony, whether there was a continuing course of conduct or a single incident, whether the accused previously committed Prohibited Conduct of any kind, and any mitigating circumstances. Where appropriate, given the nature of the violation and the parties' desire to prevent and promptly remedy discrimination and harassment, the Special Section 13.2 Grievance Procedures are to be used to punish misconduct as well as educate and provide an opportunity to correct behavior, consistent with principles of progressive discipline. However, serious penalties shall be imposed for serious violations of this Policy, and the maximum penalties of job termination, deregistration or permanent loss of dispatch privileges may be imposed on guilty employees, supervisors and managers, where found appropriate under the Special Section 13.2 Grievance Procedures. In determining penalties, a prior offense that predates by five years or more the dates of the current offense shall not be considered.

Executed on August __, 2001, in San Francisco, California.

For the Union For the Employers

