

CHELSEA HOUSING AUTHORITY
WORKPLACE HARASSMENT POLICY

Adopted June 26, 2013

ZERO TOLERANCE FOR WORKPLACE HARASSMENT

The Chelsea Housing Authority (CHA) is responsible for providing a work environment free of unlawful harassment, discrimination or retaliation. All employees have a right to be free from unlawful harassment or discrimination. Any retaliation against any individual who has made a harassment complaint is unlawful. It is the goal of the CHA to promote a workplace that is free of harassment, discrimination, or retaliation. This document explains the CHA's Sexual and Workplace Harassment Policy and Complaint Procedure.

Acts of discrimination or harassment by managers, supervisors, employees, temporary workers, clients, landlords, visitors, contractors, consultants, and anyone working on behalf of the CHA are subject to this policy.¹ CHA clients include applicants, residents, subsidy recipients, vendors, landlords and any other individual interacting with the Authority.

Managers and supervisors have additional duties and responsibilities as described in the Management Responsibilities section of this Policy.

Discrimination and harassment that is based on any of the following characteristics is unlawful:

- Age
- Ancestry
- Color
- Disability/Handicap
- Gender
- Genetic information
- Mental illness
- National Origin
- Race
- Religion or Creed
- Sexual Orientation

This Workplace Harassment Policy applies:

- in the workplace;
- at work-related off-site social events sponsored by the CHA ; and
- during business trips and work assignments away from the workplace.

¹ The CHA Workplace Harassment Policy supersedes the CHA Sexual Harassment Policy.

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WHAT IS EXPECTED OF ALL CHA EMPLOYEES?

CHA employees are expected to contribute to a positive and professional work environment by:

- Respecting the rights of your fellow employees.
- Becoming familiar with the CHA Workplace Harassment Policy.
- Setting a good example through your own behavior.

This guide explains how you can help maintain a work environment free of unlawful harassment, discrimination, or retaliation by:

- Stating the CHA 's policy prohibiting harassment;
- Defining sexual harassment;
- Defining other types of prohibited harassment;
- Recognizing situations where harassment may arise;
- Providing strategies for handling harassment; and
- Providing a complaint procedure to investigate and remedy allegations of sexual harassment and/or other unlawful discrimination or harassment.
- Reporting conduct which you believe to be unlawful.

This policy does not limit the CHA 's authority to take appropriate corrective action for unacceptable workplace conduct. The CHA will exercise its authority to take appropriate action to correct workplace misconduct whether unlawful or not, in accordance with CHA Disciplinary Guidelines and the applicable collective bargaining agreement, if any.

WHAT IS UNLAWFUL DISCRIMINATION OR HARASSMENT?

In Massachusetts, the law states that it is unlawful for employees to be discriminated against in the workplace based on their age, ancestry, color, disability, gender, genetic information, mental illness, national origin, race, religion or creed, or sexual orientation. Employees have the right to be free from discrimination or harassment in the workplace based on membership in any of the groups listed above. Employees also have the right to be free from sexual harassment in the workplace.

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WHAT IS SEXUAL HARASSMENT?

Sexual harassment in the workplace is defined as unwelcome sexual advances, requests for sexual favors, and other nonverbal, verbal or physical conduct of a lewd or sexual nature.

Sexual harassment in the workplace has been found to exist when:

- A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- B. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C. 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.

Sexual harassment may take the form of lewd and suggestive looks or comments, sexually explicit or offensive publicly displayed pictures, magazines, emails, cell-phone texts, or physical contact of a lewd or sexual nature. Sexual harassment need not be intentional to violate this policy.

Generally, sexual harassment in the workplace may take one of two forms:

- 1) *quid pro quo*
- 2) hostile work environment

QUID PRO QUO SEXUAL HARASSMENT

Quid pro quo sexual harassment occurs when an employee is asked to submit to sexual advances or sexual conduct from a supervisor, boss, or manager in exchange for a work-related benefit such as a promotion, a favorable job review, pay increases, or continued employment, or when an employee is fired or otherwise receives disadvantageous treatment as a result of refusing to submit to such requests.

Because employee benefits, raises, promotions, better working hours, etc., must be directly linked to compliance with sexual advances, only a person in a supervisory capacity with actual or apparent authority to grant such benefits can engage in *quid pro quo* harassment.

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– Examples of *quid pro quo* harassment include: (1) a supervisor or member of management promises an employee a promotion, raise or other job benefit in return for a date or a sexual activity; (2) a supervisor or member of management threatens an employee with termination for refusing to engage in sexual activity; or (3) an employee is demoted or loses a job benefit for refusing to agree to a sexual request.

HOSTILE WORK ENVIRONMENT SEXUAL HARASSMENT

Hostile Work Environment sexual harassment can be created by anyone in the workplace, supervisors, other employees, independent contractors, or vendors when sexual advances, requests for sexual favors or verbal or physical conduct of a lewd or sexual nature has the purpose or effect of unreasonably interfering with a person's workplace performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

A hostile work environment occurs when a reasonable person would find the conduct to be hostile or abusive and the particular person who is the object of the harassment actually finds the conduct to be hostile, offensive, or abusive.

A hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with the employee's work performance.

The following are examples of conduct that could contribute to hostile work environment sexual harassment:

- Unwelcome physical contact;
- Unwelcome sexual advances;
- Patting, fondling or brushing up against a person's body in a sexual or lewd manner;
- Unwelcome sexual or lewd references to a person;
- Staring at someone in a sexual or lewd manner;
- Blocking or cornering someone in a sexual or lewd manner;

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- Unwelcome sexual jokes or comments that demean a person due to their gender or sexual orientation;
- Unwelcome asking about a person's sexual activities, sexual fantasies or sexual preferences;
- Wolf whistling or making cat calls at someone or making sexual or lewd gestures or jokes directed toward another person;
- Unwelcome repeated requests for a date or romantic intimacy after the person has refused;
- Displaying or transmitting pornographic or sexually explicit, pictures, posters, e-mail or website materials.

OTHER FORMS OF PROHIBITED WORKPLACE HARASSMENT

In the workplace, employees are also entitled to be free from harassment that is not sexual in nature. Unwelcome conduct that discriminates or expresses hostility toward a person because of the person's race, color, religion, gender, genetic information, national origin, age, ancestry, disability/handicap, sexual orientation, public assistance reciprocity, or military status is unlawful, provided it is intended to:

- create an intimidating, hostile or offensive work environment;
- unreasonably interfere with an individual's work performance;

The workplace behavior called into question must rise to the level of creating a hostile work environment. This means that the behavior must have a negative impact on the person's work environment, adversely alter their working conditions or interfere with a person's ability to perform their job.

Generally, one incident does not constitute harassment, unless that isolated incident is severe.

In brief, the conduct must be sufficiently severe or pervasive so as to alter the working conditions of your employment and create an abusive working environment.

Examples of such workplace harassment behavior include:

- displaying derogatory pictures or materials;
- making epithets, slurs, taunts or jokes;
- mocking an accent or a speech impediment;

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- refusing to interact with an individual because of characteristics listed above;
- displaying cartoons, posters or other pictures showing people of color or of certain national origins in a demeaning manner;
- using words or actions to humiliate or intimidate others based on characteristics listed.

Using CHA equipment, including computers, fax or copy machines, telephones, cell phones, pagers, e-mail, Internet services, computer applications, online forums and CHA sponsored websites to transmit, store, download, display, or printout material that is obscene, illegal, discriminatory, or offensive is strictly prohibited.

CONSENSUAL RELATIONSHIPS

The CHA discourages intimate/sexual relationships between co-workers. When such a relationship ends, however, continued attention that is unwanted by one of the parties may rise to the level of workplace sexual harassment.

The CHA prohibits intimate/sexual relationships between a supervisor and his or her subordinate.

PREVENTING AND REPORTING HARASSMENT

Treat all employees and clients with respect, dignity and in a businesslike manner. Be sure to make clear that you will not tolerate any harassment in the workplace.

When you witness an incident that is offensive or makes someone feel uncomfortable, express your disapproval even if the conduct is not directed at you. Do not be silent: even if you are unsure that what you witnessed is unlawful you are strongly encouraged to report your concerns to your Manager, Department Head, Deputy Director or Executive Director. If you are a manager or supervisor, you must report to the Deputy Director or the Executive Director any perceived instances of discrimination or harassment or if you have any questions or concerns that what you have witnessed or learned is workplace harassment. The Deputy Director or the Executive Director will determine whether an informal or formal approach for resolution of the matter is required.

HOW TO FILE A COMPLAINT OF HARASSMENT?

COUNSELING, ADVICE AND INFORMAL RESOLUTION

This Policy is intended to ensure that unlawful or prohibited conduct is addressed at the earliest possible stage and not permitted to continue.

In most instances, informal discussion, mediation and problem resolution is best to resolve perceived instances of harassment. Problems are often easier to resolve when an informal atmosphere encourages people to identify the difficulty, talk it out, and agree on how to deal with it.

As noted above, the Deputy Director or Executive Director will determine whether a formal investigation is required.

The CHA will provide managers and supervisors with training on the Workplace Harassment Policy. The CHA will make the policy prohibiting sexual and other forms of workplace harassment known through a variety of methods.

FORMAL COMPLAINT PROCEDURE

You have the option of initiating a formal complaint of an allegation of harassment, either initially or in the event that an informal resolution is not reached. At any time an employee, who is a member of a bargaining unit, may request a Union Representative to be present.

If you believe that you or someone else is being harassed, you should attempt to stop the offensive conduct by expressing your disapproval, if possible. You are strongly encouraged to report the incident to the head of your Department or the Deputy Director. If you are a manager or supervisor you are responsible for reporting incidents of perceived discrimination or harassment to the Deputy Director or Executive Director. If you have any questions or concerns that what you have witnessed or learned is harassment you should report to the Deputy Director or Executive Director.

If your complaint involves your Department Head, Deputy Director or Executive Director, you may file a complaint with the CHA Chairman of the Board of Commissioners.

The CHA Administrative Offices are located at *54 Locke Street, Chelsea, MA 02150* and may be contacted at (617) 884-5617. TDD (617)884-0586.

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PROTECTION OF THE PARTIES TO A COMPLAINT

Every effort will be made to protect the complainant from reprisals or retaliation and to protect the rights of the respondent. To retaliate against an employee who makes a good faith complaint of harassment, or has testified or assisted in any proceeding to investigate a complaint of harassment is unlawful.

Proven instances of retaliation or reprisal against the employee bringing the complaint are subject to disciplinary action in accordance with the CHA 's Disciplinary Guidelines and applicable collective bargaining agreement, if any.

Retaliation may occur when a supervisor or employee takes adverse employment action against an employee because he or she has filed, participated or assisted in making a harassment complaint.

INVESTIGATION PROCESS

Once a workplace harassment complaint has been filed, an investigator will be assigned to the matter. Under no circumstances will an individual named in the complaint be involved in conducting or supervising the investigation. The investigation will be conducted under the general supervision of the Executive Director and may include findings, recommendations, intervention (such as mediation), if appropriate and resolution of the matter.

Complaints will be investigated as quickly as possible and will normally include the following steps:

- 1) Compiling written and oral statements from all appropriate individuals;
- 2) Collecting records and documents which may be relevant;
- 3) An interview with:
 - the person(s) filing the complaint;
 - the person or persons alleged to have committed the harassment, and;
 - all other appropriate individuals.

Complaints and other investigatory materials will be kept as confidential as possible and discussed only on a "need-to-know basis" in accordance with applicable law. All persons interviewed in the investigation will be asked to keep the matter confidential. Investigations will be documented. The facts and circumstances surrounding any

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incident will be investigated and an Administrative Investigation Summary detailing its findings will be prepared. The investigator will create and maintain a confidential investigative file which will be kept separate from personnel files

Ordinarily within ninety (90) calendar days from the date on which the formal process was initiated, the designated individual will complete the inquiry and the Administrative Investigation Summary. If additional time is required to complete the investigation, the CHA will notify the parties.

The summary will be forwarded to the Executive Director or Chairman, where appropriate. When the investigation is completed, to the extent appropriate, the CHA will inform the person filing the complaint and the person or persons alleged to have committed the conduct of the results of the investigation.

If a determination is made that unlawful or prohibited conduct has occurred, the CHA will act promptly to eliminate the offensive conduct and take other appropriate action, which may include disciplinary action or other actions such as mediation or counseling.

If a determination is made that the investigation does not yield sufficient evidence to support the allegation of harassment, the CHA will inform the parties of this result. In all cases, a record of the disposition will be retained by the CHA.

REQUESTS TO KEEP COMPLAINTS "OFF THE RECORD"

Complaints cannot be kept "off the record." The CHA is legally responsible for providing a work environment free of sexual and other forms of harassment. The CHA may pursue any complaint of harassment known to it in order to satisfy this legal obligation.

At each step, however, the privacy of individuals involved will be protected, insofar as possible. Both in fact-finding and in final resolution, every effort will be made to carry out all activities on a confidential basis.

INTERIM REMEDIES

While the complaint is under investigation, the CHA may take interim temporary personnel actions, including, but not limited to supervisory changes, a transfer to another location or department, or placement on administrative leave. Interim remedies will be taken in accordance with the CHA's obligations under the law and it will make good faith efforts to ensure that interim remedies will not adversely affect the compensation, tenure, or benefits of employees.

REMEDIES AVAILABLE

When a determination is reached, the complainant and the respondent will be notified in writing of the nature of that determination and of corrective or remedial action, if any.

The corrective or remedial action for harassment depends on the nature of the offense. Corrective or remedial action is subject to the CHA 's Disciplinary Guidelines and applicable collective bargaining agreement, if any.

Imposition of disciplinary action is the responsibility of the Executive Director in conjunction with other appropriate CHA staff and/or Departments. Depending upon the circumstances, appropriate corrective action imposed on an employee found to have committed harassment may include one or a combination of the following:

- a directive to offer an apology to the offended party;
- counseling;
- training;
- a verbal or written warning;
- reprimand;
- probation;
- suspension;
- termination from employment; and/or
- any other form of appropriate corrective action.

CONFIDENTIALITY

Information and documents received during any investigation will be kept as confidential as possible and discussed only on a "need-to-know basis" in accordance with applicable law. The complainant and/or respondent may request documents received during the investigation be shared with the Union representing that individual. Confidentiality is intended to protect both the integrity of the investigation and the privacy of the parties and witnesses.

STATE AND FEDERAL AGENCIES

In addition to filing a formal complaint with the CHA, if you believe that you have been the victim of unlawful harassment you may also file a complaint with either or both of the government agencies listed below. The internal complaint procedure is not a necessary first step before a complaint can be filed at the MCAD or EEOC.

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Each agency, however, has a short period of time for filing a complaint.

Equal Employment Opportunity Commission ("EEOC")
John F. Kennedy Federal Building,
475 Government Center
Boston, MA 02203
(800) 669-4000

EEOC filing period = 300 days after the discriminatory event

The Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:
One Ashburton Place, Room 601
Boston, MA 02108
(617) 727-3990

Springfield Office:
424 Dwight Street, Room 220
Springfield, MA 01103
(413) 739-2145

MCAD filing period = 300 days after the discriminatory event.

MANAGEMENT RESPONSIBILITIES

While a Supervisor or Manager is not responsible for determining whether or not behavior or a particular incident amounts to unlawful harassment, a Supervisor or a Manager is responsible for ensuring that inappropriate behavior is addressed promptly, and reported to the Deputy Director or Executive Director.

CHA Supervisors and Managers should act to:

- Take affirmative steps to prevent unlawful harassment;
- Make sure your employees are not being harassed;
- Promptly address complaints of sexual harassment and unwelcome conduct;
- Make yourself available to discuss problems and complaints;
- Report all complaints and/or suspected or known cases of sexual harassment, unwelcome and inappropriate sexual conduct to the Executive Director or Deputy Director.

MONITORING YOUR WORK AREA

Determining when and how to intervene to prevent workplace harassment is not easy.

Conduct that you "know" about means conduct or comments that you witnessed, overheard, saw or were told about by someone who was present.

"Should know" means conduct or comments that should alert you to the fact that a problem exists in your work area.

Examine your work area and keep your eyes open for inappropriate conduct. If you are in doubt, you may consult either your Department head or the Deputy Director to determine whether the conduct is deemed inappropriate or unlawful.

Ask yourself:

- Are sexual, racial, ethnic, or other discriminatory jokes circulating?
- Is sexually suggestive or lewd language being used?
- Have you seen sexually suggestive or lewd behavior?
- Have you seen pictures, books, magazines, catalogs, screen savers, graffiti, or e-mail messages based on race, color, religion, gender, national origin, age, disability or sexual orientation?

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- Have you seen documents or items with sexual or discriminatory content?
- Have you heard rumors or gossip about an employee's personal or sex life?
- Have you heard language or seen behavior that demeans or belittles people based on race, color, religion, sex, national origin, age, disability, or sexual orientation?
- Are temporary workers, clients, visitors, contractors, consultants or anyone else working on behalf of the CHA behaving in these ways in your area?

HOW SUPERVISORS CAN PREVENT HARASSMENT

Do not engage in or tolerate unwelcome conduct that is sexually degrading, or humiliating.

On a daily basis you can help to prevent harassment by demonstrating behavior that communicates respect and appreciation of the values, culture, background and individuality of each person you supervise or come into contact with.

PREVENTION TIPS

- Maintain an open door policy for your employees.
- Periodically remind employees that harassment is unlawful.
- Keep your eyes and ears open for improper conduct or comments.
- Encourage your employees to report any harassment concerns or other employment issues to you or to the Executive Director or Deputy Director
- Be responsive to employee complaints about sexual harassment or other unwelcome and improper conduct.
- Maintain a work environment that is fair, respectful and inclusive of all employees.
- Demand, demonstrate and promote professional behavior and respectful treatment of all employees.

RESPONDING TO HARASSMENT COMPLAINTS

The way you respond to a complaint of sexual harassment or other harassment goes a long way to making an offended employee feel supported and not further victimized.

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Coming forward to discuss unwanted sexual attention or harassment is frequently an uncomfortable prospect for an employee.

If someone expresses concern about unwelcome sexual conduct or other harassment, respond rapidly.

The following steps will help you guide the employee through this process:

- Treat all complaints seriously.
- Set aside a private place and sufficient time to listen to the employee. Reassure the employee that the matter will be handled confidentially.
- Reassure the employee that CHA does not tolerate retaliation against those who file complaints.
- Listen actively. Ask the employee to describe the unwelcome conduct and to provide details on who, what, when, where, and how often the conduct occurred. Ask for the names of any witnesses. Ask for any written materials.
- Be neutral as you listen. Do not assume the employee's story lacks merit. But also, you should not assume the alleged harasser is guilty.
- Take notes of the entire meeting. It is important to take down the facts as they are recited to you. Do not substitute your words or statements for those of the employee. Do not interpret the facts or evaluate the seriousness of the conduct alleged. Let the facts tell the story. Date your notes.
- Make sure that the employee reads your notes (or listens as you read them) and then ask the employee if there should be any changes, additions or deletions. When the employee is satisfied with the statement of facts, ask the employee to sign the notes.
- If requested by the complainant or respondent, provide the Union with notice and an adequate opportunity to be present when you discuss the complaint with the employee or the person complained of.
- At the end of the meeting, ask the employee how he or she would like the matter resolved. Tell the employee what steps you plan to take. Let the employee know that the matter will be reported to CHA 's Deputy Director or Executive Director .

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- After the meeting has ended, promptly contact the Deputy Director or Executive Director to report the matter. Turn over a copy of your notes and other relevant information so that a full and fair investigation may be initiated.

CONFIDENTIALITY

When an employee approaches you about a harassment concern, advise the employee that the matter should be kept as confidential as possible and should be discussed with those only on a “need-to-know basis” in accordance with applicable law. Encourage the employee not to discuss the matter publicly as this may compromise the integrity of the investigation. Explain also that you will discuss the matter only with those who need to know about the problem so they can address and resolve it. Make sure that you limit your discussions of the complaint to those who need to know.

REQUESTS TO KEEP COMPLAINTS “OFF THE RECORD”

If an employee asks that his or her complaint be kept “off the record,” or asks you not to tell anyone, explain that you cannot do so. Explain that the CHA is legally obliged to inquire into harassment complaints and that you are responsible for reporting known or suspected complaints of unlawful harassment and inappropriate conduct.

HARASSMENT FAQs

1. If I feel harassed, what should I do?

Problems are often easier to resolve when an informal atmosphere encourages people to identify the difficulty, talk it out, and agree on how to deal with it.

Keep in mind that sexual harassment or other unlawful discrimination is unwanted behavior. Tell the harasser to stop. Inform the harasser that his/her attentions are unwanted. Make clear you find the behavior offensive.

2. Who can be a harasser or a victim?

The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex. Men can--and do--sexually harass other men. Women can--and do--sexually harass men and sometimes other women.

The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker or a non-employee. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

The victim and harasser can be from the same, or different, race, gender or ethnic group.

Unlawful sexual and other unlawful harassment may occur without economic injury to or discharge of the victim. The harasser's conduct must be unwelcome. Sexual and other unlawful harassment can occur off business premises.

3. Whose perspective matters?

If the victim reasonably finds the unwelcome words or conduct offensive, it does not matter that the harasser believes the words or conduct are funny or inoffensive. The standard for whether a reasonable person would find that the behavior or conduct rises to the level of harassment. This is called the "reasonable person standard."

4. Does this Policy apply to contractors and visitors?

Yes. Contractors or visitors on CHA premises are responsible for conforming to CHA rules and regulations, including those prohibiting workplace harassment. Employees who feel they have been harassed or discriminated against by a third party are encouraged to report their concerns to their supervisor, site manager, Department head, the Executive Director or Deputy Director, and Office of Civil Rights.

5. What if someone files charges that turn out not to be true?

Sometimes an employee will complain about conduct they think is harassment or discrimination, but an investigation shows they were mistaken. A finding that harassment did not occur, or that insufficient evidence existed to support a complaint does not necessarily mean that the charge was intentionally false. If an employee reasonably believes that the conduct they complain of amounts to harassment, this is not an intentional false charge.

However, if after investigating any harassment complaint, the CHA determines that the complaint was not made in good faith, or that an employee has provided false information regarding his or her complaint, the individual may be disciplined.

6. Not everything that might offend you or your beliefs is workplace harassment

Just because behavior is or is perceived by a particular employee as annoying, unpleasant, offensive or even unfair does not make it prohibited harassment.

For example, supervisors may justifiably ask employees about the status of reports, reassign certain tasks to other employees, or give employees poor performance evaluations. Without something more, such actions do not constitute harassment or discrimination.

Other examples include:

- Conduct that both parties find acceptable, such as an occasional compliment.
- Conduct that a reasonable person, in the same circumstances, would not take as having an unwelcome sexual connotation or be unlawful harassment.

BACKCOVER

Chelsea Housing Authority
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(617) 884-5617

TDD: (617) 884-0586

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