



Sexual Harassment and Abusive Conduct Prevention Training

Heritage Provider Network
&
Affiliated Medical Groups

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Our Commitment

- We are committed to providing a work environment that is free from harassment, discrimination, and retaliation based on sex, gender, pregnancy, childbirth, breastfeeding (or related medical conditions), race, religion (all aspects of religious beliefs, observance or practice, including religious dress or grooming practices), creed, genetic information, color, national origin or ancestry, physical or mental disability (actual or perceived), medical condition, veteran status, marital or registered domestic partner status, age, sexual orientation, gender identity or expression, political activity or affiliation, or taking or requesting statutorily protected leaves, or any other basis protected by federal or state law, local ordinance or regulation.

Our Commitment

- Discrimination, harassment, and retaliation in violation of this policy violates the spirit of equal opportunity and the rights of the individual, undermines the integrity of the employment relationship, and destroys the morale and commitment of the individuals involved. Such conduct does not have to arise to unlawful conduct to violate this policy.

Our Commitment

- Harassment is a form of unlawful discrimination and is outlawed by federal and state statutes. Individuals who are the object of unlawful harassment based on “protected” characteristics have access to the same legal recourse and remedies as those victimized by sexual harassment.
- Even if an employee’s conduct does not violate local, state, or federal law prohibiting harassment or discrimination, such conduct may be found in violation of our company policy.

Overview of Laws

Age Discrimination in Employment Act (ADEA)

- ADEA prohibits any employer from refusing to hire, discharge, or otherwise discriminate against any individual because of age.

Americans with Disability Act (ADA)

- ADA is designed to protect the civil rights of people who have physical and mental disabilities, in a manner similar to that in which previous civil rights laws have protected people of various races, religions, and ethnic backgrounds.

Overview of Laws

Title VII of the Civil Rights Act (Title VII)

- Title VII protects applicants and employees against discrimination based on race, color, religion, sex or national origin. It does not cover age or disability discrimination, which is covered by the ADEA and the ADA.

The courts have interpreted discrimination based on sex to include sexual harassment.

Agencies that enforce protection against harassment in the workplace:

- The Equal Employment Opportunity Commission (EEOC)

Who is Liable Under Law

- An employer is strictly liable for the unlawful harassment by its supervisors and agents.
- Who can be guilty of sexual harassment? Anyone!
 - Every person in the workplace found to be liable for sexual harassment is personally liable for the damages caused by his or her unlawful actions.

Who is Liable Under Law

- Although the “stereotype” of sexual harassment is male employees making advancements toward female employees, it is not the only scenario of harassment. It is not uncommon for females to sexually harass males, for males to sexually harass other males, and for females to sexually harass other females.
- It is unacceptable to harass persons who are not our employees and may be encountered through, or in connection with, our activities such as visitors, independent contractors, customers, or others.
- Harassment or discrimination based on a protected characteristic is unacceptable in any work-related setting. This also applies to business trips, office outings, parties, and business-related social events.

Who is Protected

Anti-harassment and discrimination policy applies to all persons involved in the business operations, which includes:

- Supervisors
- Managers
- Employees
- Vendors
- Independent Contractors
- Customers
- Any other persons

Harassment Based on Any of These Characteristics is Illegal

Further, Federal law specifically prohibits harassment that is based on these characteristics:

1. Race
2. Color
3. National Origin
4. Sex
5. Sexual Orientation
6. Gender
7. Gender Identity
8. Gender Expression
9. Religious Creed
10. Mental Disability
11. Physical Disability
12. Medical Condition
13. Military/Veteran Status
14. Marital Status
15. Age
16. Genetic Characteristics
17. Ancestry

Definition and Sexual Harassment Conduct

State regulations define sexual harassment as **unwelcome** sexual advances, requests for sexual favors, and other forms of visual, verbal or physical conduct of a sexual nature.

Type of Conduct

Prohibited Conduct Examples

Visual

- Objectionable material of a sexual nature (calendars, posters)
- Pornography (includes Internet)
- Leering or making sexual gestures
- Cartoons or pictures that depict employees of either sex in a demeaning manner
- Being forced by circumstances to observe other individuals engaged in sexual behavior, even of a non-graphic nature.

Sexual Harassment Conduct (cont.)

Type of Conduct

Prohibited Conduct Examples

Verbal

- Demands or repeated requests for sexual favors
- Sexually graphic statements
- Demeaning jokes, comments, epithets, and slurs of a sexual nature
- The description of an employee's anatomy or body in direct sexual or sexually suggestive terms
- Whistling and cat calls

Physical

- Grabbing, patting, or touching a body part, particularly in an area that cannot be explained as innocent
- Standing or sitting too close to an individual
- Neck or shoulder massages
- Kissing an employee
- Encroaching upon an employee's physical space or blocking an employee's movement so that he or she must brush up against another individual to pass

Types of Sexual Harassment

There are two main types of Sexual Harassment in the workplace:

- Quid pro quo (“This for That” or “Something for Something”)
A situation where submission to or rejection of unwelcome conduct of a sexual nature is made a condition of employment or is used as the basis for employment decisions, such as those concerning employment, retention, raises, and promotions.
- Hostile environment
Unwelcome sexual (or other unlawful) conduct that is so severe or pervasive so as to unreasonably interfere with an individual’s work performance or create an intimidating, hostile, or offensive work environment.

Quid Pro Quo Explained

- The essence of a quid pro quo sexual harassment claim is that a supervisor or superior relies on his or her apparent or actual authority to extort sexual favors from an employee/subordinate.
- The threat may be expressed or implied.

Example:

- Jane, Will's supervisor, tells him that she is considering for him for a job promotion. She then suggests that he can encourage this decision if he agrees to engage in sexual acts with her.

Hostile Work Environment Explained

- Anyone can create a hostile work environment, including managers, co-workers and even subordinates.
- Elements of a hostile work environment may include:
 - Requests for sexual favors
 - Demeaning sexual questions and innuendos
 - Regular use of offensive language
 - Verbal or physical conduct of a sexual nature
 - Persistent and unwanted interactions

Example:

- Mark regularly asks Monica on a date; and after being continuously rejected, he began to send her suggestive email messages. Again, after making it clear that she wasn't interested in him, Mark started leaving little gifts her desk.

Quid Pro Quo vs. Hostile Work Environment

What type of sexual harassment could be considered for the following types of behavior?

Types of Behavior

1. Emails poking fun at men or women.
2. Cartoons and jokes of a sexual nature posted in someone's cubicle.
3. Asking a co-worker on a date one time.
4. A boss demanding sexual favors from a subordinate in return for monetary gain.

Answer Choices

Not Sexual Harassment

Quid Pro Quo

Hostile Work Environment

Quid Pro Quo vs. Hostile Work Environment

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Correct Answers

Hostile Work Environment

Hostile Work Environment

Not Sexual Harassment

Quid Pro Quo

Exercise 1

Carl is beginning the process of transitioning at work. From now on, Carl would like to be called Kay, will be wearing clothes that are consistent with an identity as a woman, and prefers the use of feminine pronouns. Terry, one of her co-workers, however, repeatedly and purposely negatively addresses her, and uses the wrong name and pronouns.

What should Kay do?

- Saying nothing will not resolve the issue. Kay can confront Terry regarding the negative comments, but she should also report the incident to her Manager or Human Resources.

Exercise 2

True or False?

- Sexual desire is a key element to any claim for sexual harassment.
- Sexual Harassment can occur between the “same sex”.
- Sexual harassment is ANY activity that is not welcome and/or is inappropriate for the workplace.
- Only the person who is involved directly in the sexual harassment conduct can file a complaint.

Exercise 2

- Sexual desire is a key element to any claim for sexual harassment. **False**
- Sexual Harassment can occur between the “same sex”. **True**
- Sexual harassment is ANY activity that is not welcome and/or is inappropriate for the workplace. **False**
 - Sexual harassment can be considered if the activity is not welcome, inappropriate for the workplace, AND is of sexual nature.
- Only the person who is involved directly in the sexual harassment conduct can file a complaint.
 - **False** - anyone can bring forward a complaint of sexual harassment. Witnesses are expected to bring forward any action against the company’s Code of Conduct, including incidents of harassment and discrimination.

Abusive Conduct

While not all behavior is considered as harassment, it may be considered abusive conduct – which is prohibited by company policy.

Abusive conduct means any malicious conduct of an employer or employee in the workplace that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests.

It may include:

- Repeated verbal abuse (i.e. derogatory remarks, insults, and epithets)
- Verbal or physical behavior that a reasonable person would find threatening, intimidating, or humiliating.
- Gratuitous sabotage or undermining of a person's work performance.

A single act shall not constitute abusive conduct, unless especially severe and egregious.

Effects of Harassment & Abusive Conduct

Harassment and abusive conduct affects far more than just the people involved. Employees can be negatively impacted by the unwelcome atmosphere created by the harasser(s). Some of the effects are:

- Distraction of employees
- Reduced productivity
- Gossip and rumors
- Divisiveness among employees
- Undermining supervisor authority
- An erosion of profitability
- The resurrection of facts and issues regarding prior claims
- Increased stress
- The degeneration of employee morale

Harassment Can Lead To

Unlawful harassments and sexual harassment can lead to the following additional violations of the law and/or claims of:

- Assault
- Battery
- Defamation
- Intentional infliction of emotional distress
- Negligent infliction of emotional distress
- Invasion of privacy
- Stalking
- Workplace violence
- Workers' compensation
- False imprisonment

What if you are harassed?

- Any employee who believes that he or she has been subjected to harassment or discrimination must report the incident to his or her supervisor, any other supervisor, Human Resources or Compliance Officer as soon as possible.
- The company is committed to resolve and prevent situations of sexual harassment; and will not retaliate or take reprisals in any way against an employee who has articulated a good faith concern about harassment or discrimination based on a protected characteristic against him or her or against another individual.
- If an employee thinks he or she has been harassed, or discriminated against or retaliated against for resisting or complaining, he or she may file a complaint with the Federal Equal Employment Opportunity Commission

What if you are accused of harassment?

- Take the complaint very seriously.
- If Human Resources (HR) is not yet involved, notify them immediately.
- Keep HR informed of anything related to the complaint that develops.
- Change the behavior that gave rise to the complaint (even if you don't think it was harassment).
- Avoid taking any retaliatory action against the complainant.
- Maintain confidentiality between you, the complainant, and HR.
- If you have questions on how to continue your duties or being around the person who brought the complaint, consult with HR.

Supervisor's Role

- Knowing how to handle harassment situations and complaints quickly is essential for the well-being of your employees and is critical to protecting the company.
- Supervisors have an obligation to report sexual harassment, discrimination, and retaliation of which they become aware.
- When a report is received, the following steps should be taken:
 - Document the incident
 - Report the incident to Human Resources
 - Assure the reporter that the situation will be dealt with discretely and with as much confidentiality as possible (complete confidentiality cannot be promised).
 - Remind them that they are protected from any form of retaliation, for making the report and cooperating with the investigation.

Investigation & Disciplinary Action

- The company will promptly undertake an effective, thorough, and objective investigation of the allegations.
- While the company will investigate such reports in as confidential a manner as possible, it cannot guarantee confidentiality at the expense of a thorough and effective investigation.
- Effective remedial action, disciplinary action, up to and including termination, will be taken in accordance with the circumstances involved.
- Whatever action is taken against the harasser will be made known to the employee lodging the complaint, and the company will take appropriate action to remedy any loss to the employee resulting from the harassment.

Workplace Relationships

- The law does not prohibit all conduct of a sexual nature in the workplace. For example, voluntary relationships that are entirely consensual and welcome by the participants do not violate the anti-harassment laws. Conduct must be “unwelcome” and “affect a term or condition of employment” to violate the federal law.
- So...what’s the problem? Employers occasionally face harassment claims where relationships that begin as “welcome” and “consensual” degenerate. If the relationship sours, it could potentially transform into some form of harassment and the employer may face legal problems.
- Other employees who are required to observe sexually-charged conduct within the workplace may claim they are being forced to work in a hostile environment.

Workplace Relationships

- Similarly, if one employee is perceived by co-workers as the recipient of favoritism due to a romantic relationship with a superior, the morale of co-workers may suffer. There is also a potential abuse of power when one of the persons is a supervisor.
- We should avoid inquiring about an employee's off-duty activities unless we can show an effect on the employee's work performance. An exception exists where the conduct directly conflicts with the employer's interests or disrupts the company's operations.

Elimination of Unlawful Harassment

In an effort to maintain an environment free of discrimination and harassment, the company requests all employees to:

- Know and comply with our policy and procedures
- Report incidents that you experience directly or witness
- Cooperate with investigations
- Support victims

If you have any questions regarding this training, would like more information on sexual harassment, contact your Human Resources department.



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Please click the link below to start the test.

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