

Promising Practices for Preventing Harassment

Harassment has become a more and more pervasive employment issue over the past year. In particular, the media's constant release of new sexual harassment issues in organizations throughout the nation has been very eye opening to all employers. As many employers recognize, adopting proactive measures may prevent harassment from occurring. Employers implement a wide variety of creative and innovative approaches to prevent and correct harassment.

As a quick refresher, harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA). Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

The Equal Employment Opportunity Commission (EEOC) has identified five core principles that have generally proven effective in preventing and addressing harassment:

- ▲ Committed and engaged leadership;
- ▲ Consistent and demonstrated accountability;
- ▲ Strong and comprehensive harassment policies;
- ▲ Trusted and accessible complaint procedures; and
- ▲ Regular, interactive training tailored to the audience and the organization.

A. LEADERSHIP AND ACCOUNTABILITY

The cornerstone of a successful harassment prevention strategy is the consistent and demonstrated commitment of senior leaders to create and maintain a culture in which harassment is not tolerated. This commitment may be demonstrated by, among other things:

- ▲ Clearly, frequently, and unequivocally stating that harassment is prohibited;

- ▲ Incorporating enforcement of, and compliance with, the organization's harassment and other discrimination policies and procedures into the organization's policies;
- ▲ Allocating sufficient resources for effective harassment prevention strategies;
- ▲ Providing appropriate authority to individuals responsible for creating, implementing, and managing harassment prevention strategies;
- ▲ Allocating sufficient staff time for harassment prevention efforts; and
- ▲ Assessing harassment risk factors and taking steps to minimize or eliminate those risks.



In particular, the EEOC recommends that senior leaders ensure that their organizations:

- ▲ Have a harassment policy that is comprehensive, easy to understand, and regularly communicated to all employees;
- ▲ Have a harassment complaint system that is fully resourced, is accessible to all employees, has multiple avenues for making a complaint, if possible, and is regularly communicated to all employees;
- ▲ Regularly and effectively train all employees about the harassment policy and complaint system;
- ▲ Regularly and effectively train supervisors and managers about how to prevent, recognize, and respond to objectionable conduct that, if left unchecked, may rise to the level of prohibited harassment;

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- ▲ Acknowledge employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated and promptly reporting, investigating, and resolving harassment complaints; and
- ▲ Impose discipline that is prompt, consistent, and proportionate to the severity of the harassment and/or related conduct, such as retaliation, when it determines that such conduct has occurred.

In addition, it is recommended that senior leaders exercise appropriate oversight of the harassment policy, complaint system, training, and any related preventive and corrective efforts, which may include:

- ▲ Periodically evaluating the effectiveness of the organization’s strategies to prevent and address harassment, including reviewing and discussing preventative measures, complaint data, and corrective action with appropriate personnel;
- ▲ Ensuring that concerns or complaints regarding the policy, complaint system, and/or training are addressed appropriately;
- ▲ Directing staff to periodically, and in different ways, test the complaint system to determine if complaints are received and addressed promptly and appropriately; and
- ▲ Ensuring that any necessary changes to the harassment policy, complaint system, training, or related policies, practices, and procedures are implemented and communicated to employees.

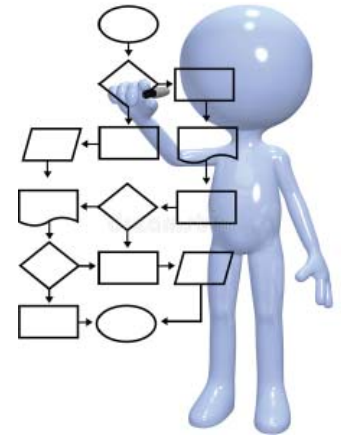
B. COMPREHENSIVE AND EFFECTIVE HARASSMENT POLICY

A comprehensive, clear harassment policy that is regularly communicated to all employees is an essential element of an effective harassment prevention strategy. A comprehensive harassment policy includes, for example:

- ▲ A statement that the policy applies to employees at every level of the organization, as well as to applicants, clients, customers, and other relevant individuals;
- ▲ An unequivocal statement that harassment based on, at a minimum, any legally protected characteristic is prohibited;
- ▲ An easy to understand description of prohibited conduct, including examples;
- ▲ A description of any processes for employees to

informally share or obtain information about harassment without filing a complaint;

- ▲ A description of the organization’s harassment complaint system, including multiple (if possible), easily accessible reporting avenues;



- ▲ A statement that employees are encouraged to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy;
- ▲ A statement that the employer will provide a prompt, impartial, and thorough investigation;
- ▲ A statement that the identity of individuals who report harassment, alleged victims, witnesses, and alleged harassers will be kept confidential to the extent possible and permitted by law, consistent with a thorough and impartial investigation;
- ▲ A statement that employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment;
- ▲ A statement that information obtained during an investigation will be kept confidential to the extent consistent with a thorough and impartial investigation and permitted by law;
- ▲ An assurance that the organization will take immediate and proportionate corrective action if it determines that harassment has occurred; and
- ▲ An unequivocal statement that retaliation is prohibited, and that individuals who report harassing conduct, participate in investigations, or take any other actions protected under federal employment discrimination laws will not be subjected to retaliation.

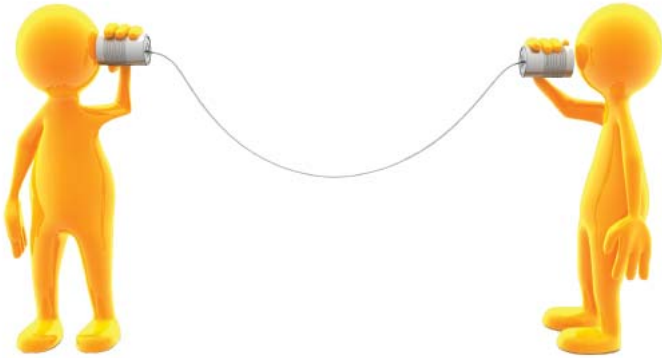
In addition, effective written harassment policies are, for example:

- ▲ Written and communicated in a clear, easy to understand style and format;
- ▲ Translated into all languages commonly used by employees;

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- ▲ Provided to employees upon hire and during harassment trainings, and posted centrally, such as on the company's internal website, in the company handbook, near employee time clocks, in employee break rooms, and in other commonly used areas or locations; and
- ▲ Periodically reviewed and updated as needed, and re-translated, disseminated to staff, and posted in central locations.



C. EFFECTIVE AND ACCESSIBLE HARASSMENT COMPLAINT SYSTEM

An effective harassment complaint system welcomes questions, concerns, and complaints; encourages employees to report potentially problematic conduct early; treats alleged victims, complainants, witnesses, alleged harassers, and others with respect; operates promptly, thoroughly, and impartially; and imposes appropriate consequences for harassment or related misconduct, such as retaliation.

For example, an effective harassment complaint system:

- ▲ Is fully resourced, enabling the organization to respond promptly, thoroughly, and effectively to complaints;
- ▲ Provides multiple avenues of complaint, if possible, including an avenue to report complaints regarding senior leaders;
- ▲ Is responsive to complaints by employees and by other individuals on their behalf;
- ▲ Provides prompt, thorough, and neutral investigations;
- ▲ Protects the privacy of alleged victims, individuals who report harassment, witnesses, alleged harassers, and other relevant individuals to the greatest extent possible, consistent with a thorough and impartial investigation and with relevant legal requirements;

- ▲ Includes processes to determine whether alleged victims, individuals who report harassment, witnesses, and other relevant individuals are subjected to retaliation, and imposes sanctions on individuals responsible for retaliation;
- ▲ Includes processes to ensure that alleged harassers are not prematurely presumed guilty or prematurely disciplined for harassment; and
- ▲ Includes processes to convey the resolution of the complaint to the complainant and the alleged harasser and, where appropriate and consistent with relevant legal requirements, the preventative and corrective action taken.

D. EFFECTIVE HARASSMENT TRAINING

Leadership, accountability, and strong harassment policies and complaint systems are essential components of a successful harassment prevention strategy, but only if employees are aware of them.

Regular, interactive, comprehensive training of all employees may help ensure that the workforce understands organizational rules, policies, procedures, and expectations, as well as the consequences of misconduct. Part of effective training includes information on bystander intervention and educating the workforce on how to safely stand up to harassment should they come across someone being victimized.



Harassment training may be most effective if it is, among other things:

- ▲ Championed by senior leaders;
- ▲ Repeated and reinforced regularly;
- ▲ Provided to employees at every level and location of the organization;
- ▲ Provided in a clear, easy to understand style and format;
- ▲ Tailored to the specific workplace and workforce;
- ▲ Conducted by qualified, live, interactive trainers, or, if live training is not feasible, designed to include active engagement by participants; and
- ▲ Routinely evaluated by participants and revised as necessary.