

# Preventing Harassment in the Workplace

NAME:

Last year you completed an assignment on Sexual Harassment in the workplace/school, learning what it is and is not. This year, as a second year student you are going to take on the role of a manager or business owner and make your own policy on preventing harassment in the workplace.

While you are reading this document there will be a couple of questions you need to answer to summarize what you have been reading. At the end you will create your own workplace policy.

## The Background

Experiencing uncomfortable situations in the workplace may be more than an offense against an individual. It can be a crime committed against the law. It is very important for everyone to understand laws that protect to promote a safe and healthy workplace environment. Unfortunately, even with laws in place, various forms of harassment are still alive in businesses across the world, so it is necessary for management to help create programs that teach employees to identify harassment and exercise anti-harassment policies.

## The Law

Several federal laws have been enacted to not only protect against harassment, but discrimination as a whole.

### **Title VII of the Civil Rights Act of 1964**

Title VII of the Civil Rights Act of 1964 was enacted so employers could not legally hire, promote, or fire someone due to their race, religion, sex, national origin, or color. This act is enforced to companies that have 15 or more employees. Not only does it refer to current employees, but also job candidates.

As other laws imposed by the Equal Employment Opportunity Commission (EEOC), if an individual or group is a victim of another's violation of the law, they have the right to file a complaint with the EEOC or pursue other legal actions.

### **Age Discrimination in Employment Act of 1967**

The Age Discrimination in Employment Act of 1967 (ADEA) went into effect so employers could not legally hire, promote or fire someone based on their age. This act and its accompanying amendments apply to employers with 20 or more employees and are enforced by the EEOC. Since this Act makes it illegal to discriminate against an individual in the workplace simply because of his or her age, it is equally illegal to harass them because of their age.

When a person or group is in violation of this law, the individual being discriminated against or harassed must plead his or her case to the EEOC. There are a great number of cases filed each year, so EEOC must determine if the case meets its criteria, then add it to its caseload, and aggressively pursue. If not, then the individual may request a right-to-sue letter from the EEOC and take further actions in Federal Court to have their case heard.

### **Americans with Disabilities Act of 1990**

An employee covered under the Americans with Disabilities Act (ADA) reserves the right to work for an employer under accommodations reasonable to his or her disability. In addition, the employer is prohibited from discriminating against the employee because of their disability. This means the employer cannot base hiring, firing or compensation decisions on the nature of one's disability. Employers are also not allowed to discriminate against the employee due to their associations or relationships outside of work (e.g. disabled people support group).

If an employee is a victim of such discrimination, he or she may be entitled to back wages and the amount of attorney fees paid.

## **Genetic Information Nondiscrimination Act of 2008**

This Act may be unfamiliar to some, but still carries as much weight as better-known laws. It states that people cannot be unfairly treated in the workplace because of their genetic makeup.

In other words, they cannot be discriminated against or harassed because of a predisposition to a disease, whether based on the history of their family or an actual genetic test.

Title I of this Act prohibits health insurance companies from using this information to deny coverage to the employee, while Title II is designed to protect employees from being discriminated against in the process of hiring, terminating, promoting, etc.

In the event that one breaks this law, the one being discriminated against can take the same recourse steps as he would in other Act violations, that is present his case to the EEOC or hire an attorney to represent him in court over the matter.

## **Identifying Harassment**

The ability to identify harassment may not be as easy as it sounds. There are obvious forms of harassment, for example, if a person is making racial slurs or homophobic remarks. Sometimes it may not be as dramatic, but still considered a form of harassment.

The motive behind a statement is the determining factor of whether or not it is harassment. For example, the statement 'You look great today' can be a compliment if a co-worker with whom you feel comfortable makes it. On the other hand, if it is made by a co-worker with whom you generally do not feel comfortable or you do not really know, it could make you uneasy, which could signify harassment.

## **Anti-Harassment Policies**

Establishing an effective anti-harassment policy is not only beneficial to individual employees but the company as a whole. It can do the following:

- Lessen the liability load of a company (in terms of being able to use 'reasonable care' as a defense if litigation arises).
- Discourage harassing behaviors before they become out of control.
- Promote a positive company image to the public.
- Help produce a high morale among employees with regard to lessened occurrences of harassment.

Title VII encourages the establishment of anti-harassment policies, as it is a good business practice and a necessity. Employees should be provided with a copy of the company's anti-harassment policy and the procedures for resolving complaints. The document should be updated periodically and redistributed to everyone. To ensure understanding of the rights and responsibilities associated with anti-harassment, companies may want to provide some type of training (e.g. Internet-based, one-on-one or classroom sessions).

## Question 1: Summarize the four (4) laws listed above in your own words.

Title VII:

Age Discrimination Act:

Americans with Disabilities Act:

Genetic Information Nondiscrimination Act:

## Steps to a Healthy Work Place

Regardless of the position one holds at their workplace, all employees have one thing in common---the desire to be safe. It is up to management as well as the company as a whole to ensure each workplace is a safe place to work in with regards to morale and physical safety. This will prove to be beneficial to the employer and employees.

When determining what is necessary for a healthy work place, an employer must consider the following:

- Have a firm grasp on why a healthy workplace is beneficial for employees and their families, the company and the community.
- Clearly define your responsibilities of ensuring a safe and healthy workplace.
- Design a detailed system for implementing a safe work environment.
- Understand the laws and regulations that govern your business.
- Address violations and take corrective action.
- Encourage employees to give their input about how to create and maintain a safe and healthy environment.

## Educating Employees

Your organizations anti-harassment policy is only as good as the ones who develop, practice, and uphold it. This is why it is important for the management team of the company to make sure its entire staff thoroughly understands it, not just a select few.

How can this happen?

- First, employers must provide their workers with a manual or some type of written material that plainly describes the policy, its definition, what it means for the workers, how they can promote it. What they should do if they are victimized by harassment, is one of the more important aspects.
- Second, understand the diversity among individuals. Knowing that people learn in different ways and in order to absorb the information, they must be taught according to their style. While some learn best by reading, others require more dialogue, which can be obtained through face-to-face trainings or one-on-one meetings.
- Third, there should be signs posted throughout the office in places such as the break room or copy center so the policy is reinforced without employees consciously thinking about it
- Finally, change happens. Laws change and these changes should be shared with everyone who is part of the company. Whether this is done through a mass e-mail, a continuing education course, or an updated version of the manual, the management team must find the most efficient way to inform workers of the new rules that have been set in place. This will not only help safeguard employers against discrepancies in the future, but it can also help everyone to fight to eliminate current issues of harassment or potential harassment.

## Employee's Rights and Responsibilities

When one thinks of an anti-harassment policy in the workplace, the first thing that comes to mind may be what the company is required to do in order to protect its employees from harassment, but the fact is, an anti-harassment policy is only effective when the employer and its employees play an active role in upholding it.

The rights and responsibilities for employees include:

- Having a clear understanding of the policy itself and making sure there is full knowledge of employees' rights and responsibilities within the policy.
- Attending all trainings outlined in the policy.
- Avoid conducting any behavior that is prohibited by the policy.
- Informing the proper authority of any hostile conduct seen committed upon others.
- Informing the proper authority of any hostile conduct committed toward you.
- Fully cooperating in the event of an inquiry or investigation

## Employer's Rights and Responsibilities

It is understood that the employer holds many responsibilities when it comes to enforcing anti-harassment policies. In fact, the employer is ultimately responsible for making sure the company and employees abide by them.

The rights and responsibilities for employers include:

- Promote a workplace free of harassment by developing the anti-harassment policy in compliance with state and federal laws.
- Distribute the policy to each employee annually. The employer must also allow for periodic training on policy updates as well as ensuring their understanding of the policy.
- Appropriately respond to violations of the policy in a timely manner.
- Keeping a written record of and securely protecting reports made and actions taken to address breaches of the policy.

**Question 2: Summarize the Rights and Responsibilities for both Employees AND Employers below.**

Employees:

Employers:

## Worksheet: Elements of an Anti-Harassment Policy

Read the following elements of an anti-harassment policy and create one of your own, making sure you include every aspect from the list below.

- Clearly explained policy. Prohibited conduct based on one's race, age sex, religion, etc. must be spelled out in easy-to-understand terms. This should be in compliant with state and federal law. It should also assure employees that they would not be legally retaliated against if they complain of harassment or serve as a witness to an investigation for another.
- Define the rights and responsibilities of the employer and employees with regard to harassment (e.g. Employer will put an end to harassment before it is in violation of federal law or employees must report any and all incidences of harassment before they become extreme.
- Outline the process for complaints. Ensure this process promotes prompt, fair investigations and efficient corrective action if it is determined that harassment has in fact taken place.
- Guarantee employees that their confidentiality is protected when complaints are made.
- Policy should be posted in a public place for all employees to see. Employees should receive training on the policy, a hard copy as a resource, and made aware of any updates of the policy as they occur.

### Final Assignment:

When you have completed reading this assignment, put what you have understood into action by writing your own anti-harassment policy.

**Write your own Anti-Harassment Policy Below.**

For those students not submitting their work through Google Classroom, type in your answers to the following questions, save your work, then print only the last page(s) with your answers on them to turn in. Ask your teacher to help you print only these pages if you need assistance.

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Age Discrimination Act:

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