NECA Safety 2019 San Antonio

NECA SAFETY PROFESSIONALS CONFERENCE 2019

Workplace Behavior & Respect 2.0
Policy - Regulations - Culture

Keith Wheeler, SPHR
President & CHRO
May 2019

Informational purposes only - not legal advice
Disclaimer

Information and materials provided in this presentation are based on professional experience and knowledge in the field of human resources and should not be considered legal advice.

Due to the complexity of various federal and state employment-related laws, participants may need to discuss individual situations with their legal counsel.

• Expected take-away:
  • Importance of being aware of obligations
  • Importance of changes & updates

Agenda

1. Employment Law Overview
2. EEOC Activity
3. Women, Construction & PPE
4. Promising Practices
5. Recap and Q&A
6. Additional Materials
Quick Scan – “How Many........”

• Have 1 or more employees?
• Have 11 or more employees?
• Have 15 or more employees?
• Have 20 or more employees?
• Have 50 or more employees?
• Have 100 or more employees?
• Are considered a Federal Contractor/Subcontractor?

1+ Employees

• **FLSA**
  • Establishes minimum wage; overtime pay; recordkeeping; child labor

• **Equal Pay Act**
  • Prohibits sex-based wage discrimination between men and women

• **IRCA**
  • Requires employers to collect and document an employee’s identity and employment eligibility on Form I-9

• **New Hire Reporting**
  • Requires employers to report information on newly hired employees to a designated state agency

• **Additional Regulations/Laws:**
  • Occupational Safety & Health Act (OSH Act)
  • Employee Polygraph Protection Act
  • Uniformed Services Employment & Reemployment Act (USERRA)
  • National Labor Relations Act & Labor-Management Relations Act (Taft-Hartley Act)
  • Fair Credit Report Act (FCRA) & Fair & Accurate Credit Transactions Act (FACTA)
  • Health Insurance Portability & Accountability Act (HIPAA)
  • Employee Retirement Income Security Act (ERISA)
  • And others........
11+ Employees

- OSHA Reporting
  - Most employers with more than 10 employees are required to keep a record of serious work-related injuries and illnesses

- NOTE:
  - Certain State Thresholds for certain EEO Regulations for:
    - Indiana: 6+ employees
    - Kentucky: 8+ employees

15+ Employees

- Title VII Civil Rights Act (Equal Employment)
  - Prohibits employment discrimination based on race, color, religion, sex, or national origin

- Americans With Disabilities Act (ADA)
  - Prohibits employment discrimination against qualified individuals with disabilities

- Pregnancy Discrimination Act
  - Prohibits sex discrimination based on pregnancy, childbirth, or related medical conditions

- Genetic Information
  - Prohibits discrimination against applicants, employees, and former employees on the basis of genetic information
20+ Employees

- Age Discrimination in Employment Act (ADEA)
  - Prohibits employment discrimination against persons 40 years of age or older
- C.O.B.R.A.
  - Provides employees and their family members the right to continue group health benefits under certain conditions when coverage would otherwise end (i.e. employment separation, reduction in hours worked, death, divorce, and other life events)

50+ Employees

- Family/Medical Leave Act (FMLA)
  - Entitles eligible employees to take unpaid, job-protected leave for specific family (including military exigency reasons) and medical reasons with continuation of group health benefits under the same conditions.
- Harassment Training (certain state requirements - various employee thresholds)
  - California
  - Connecticut
  - Delaware
  - Maine
  - New York
  - Encourage (9):
    - Colorado
    - Hawaii
    - Maryland
    - Nevada
    - New Jersey
    - Ohio
    - Pennsylvania
    - Vermont
    - Wisconsin
100+ Employees

- Worker Adjustment & Retraining Notification Act (WARN Act)
  - 60 notice of covered plant closing and/or covered mass layoff

- EEO-1 Reporting
  - The Employer Identification Report (EEO-1 Report) requires that certain employers report on the number of employees by race, ethnicity and gender for each of ten job categories.
  - All Private employers that are subject to Title VII and have 100 or more employees. (Due 5/31/19)
  - All Federal contractors with 50 or more employees that have either a contract, subcontract, or purchase order of $50,000 or more (Due 5/31/19)
  - New: Pay Reporting 2017 & 2018 (Due 9/30/19)

Federal Contractors

- Covered Employers: Prime and subcontractors who have:
  - Contract(s) that have a value of at least $10,000 triggering the applicability of EO 11246
  - Contract(s) that have a value exceeding $15,000 for applicability of Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793
  - Contract(s) that have a value of $150,000 or more for applicability of Section 402 of the Vietnam Era Veterans’ Readjustment Assistance Act, 38 U.S.C. § 4212
  - Companies that have at least 50 employees and a contract valued at $50,000 or more triggering the requirement for written affirmative action plan
Affirmative Action

• A proactive method of hiring (and promoting) that encourages employers to seek out members of historically oppressed groups, including individuals of minority races and women, for *qualified positions* in their companies.

Affirmative Action (continued)

• **Key Steps (Federal Contractors & Subcontractors):**

  • Covered Employers must:
    • Take affirmative action to *recruit and advance qualified minorities, women, persons with disabilities, and covered veterans*
    • Employers with written affirmative action programs must implement them, keep them on file and update them annually

  • Insure affirmative actions include training programs, outreach efforts, and other positive steps – incorporate procedures into the company’s written personnel policies

    • **Document – Systems, Policies, Procedures**
    • **Provide Equal Opportunity**
Affirmative Action - Culture

• **Affirmative Action requires a change in:**
  - How we think about equal employment for applicants
  - How we approach equal employment for candidates
  - How we practice equal employment internally

• **Under Affirmative Action – the journey means:**
  - You may end up hiring the same person you would have without an AAP, just using a slightly different path, or
  - You may find a minority candidate that is as qualified or even a better choice.

Why This Topic?
In the context of civil rights law:

- **Unlawful discrimination** refers to unfair or unequal treatment of an individual (or group) based on certain characteristics, including:
  - Age
  - Sex (including pregnancy)
  - Race/Color
  - Religion
  - Disability
  - National Origin
  - Genetic Information

### Why This Topic?

**DISCRIMINATION**

**Reason 1: EEOC Discrimination Data**

- Based on EEOC’s Preliminary FY’18 Data:
  - EEOC received **76,418 charges** of alleged discrimination
  - EEOC resolved **13,777** through **Merit Resolution**
  - EEOC recovered nearly **$354M victims of discrimination** through Merit Resolution
    - Average: **$25,688**
  - EEOC filed **217 lawsuits**; 156 suits resolved with the EEOC recovering $54M for the alleged victim
    - Average: **$343,590**

Source: [https://www.eeoc.gov/eeoc/statistics/](https://www.eeoc.gov/eeoc/statistics/)

---

Informational purposes only - not legal advice
Why This Topic?

**Based on EEOC’s Preliminary FY’18 Data:**

- **24,655** of these were sex-based charges of discrimination – a 5% increase over FY’17
- EEOC filed **217 lawsuits**; 41 included sexual harassment allegations (50% increase in suits charging sexual harassment over FY’17)
- **15% Increase** over FY’17 in charges filed with EEOC alleging sexual harassment
- EEOC recovered nearly **$149M for victims of sex-based discrimination** through merit resolution in FY’18 – up from $135M in FY’17
- **Average: $30,808**

**Source:** https://www.eeoc.gov/eeoc/statistics/

---

A Toxic Culture?

**How would your customers react to similar claims against your organization?**

Victims of harassment (or discrimination) in the workplace now can tell their stories in any number of places other than (or in addition to) a lawsuit:

- Twitter
- LinkedIn
- Facebook
- Tumblr, and
- Other Outlets (i.e. EEOC, Media, etc.)

**Source:** https://www.navexglobal.com/blog/article/high-profile-sexual-harassment-claims-show-a-toxic-culture-can-be-a-product-defect/
Women in Construction

Women In Construction

22

Informational purposes only - not legal advice
Women in Construction 2017-2018 Breakout

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>Change in numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Women</td>
<td>(%)</td>
<td>Women</td>
</tr>
<tr>
<td>Construction Tradeswomen</td>
<td>235,590</td>
<td>3.0%</td>
<td>276,998</td>
</tr>
<tr>
<td>Laborers</td>
<td>64,218</td>
<td>3.3%</td>
<td>78,070</td>
</tr>
<tr>
<td>Painters, construction &amp;</td>
<td>35,640</td>
<td>6.6%</td>
<td>43,704</td>
</tr>
<tr>
<td>maintenance</td>
<td>29,722</td>
<td>2.2%</td>
<td>30,250</td>
</tr>
<tr>
<td>Carpenters</td>
<td>13,200</td>
<td>2.2%</td>
<td>22,435</td>
</tr>
<tr>
<td>Pipayers, plumbers,</td>
<td>21,425</td>
<td>2.6%</td>
<td>21,288</td>
</tr>
<tr>
<td>pipefitters, and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>steamfitters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electricians</td>
<td>19,170</td>
<td>3.0%</td>
<td>22,190</td>
</tr>
<tr>
<td>First-line supervisors</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction and Building</td>
<td>9,078</td>
<td>10.2%</td>
<td>15,120</td>
</tr>
<tr>
<td>Inspectors</td>
<td>79,994</td>
<td>7.4%</td>
<td>78,617</td>
</tr>
<tr>
<td>Women Construction Managers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Women in the</td>
<td>972,972</td>
<td>9.1%</td>
<td>1,106,919</td>
</tr>
<tr>
<td>Construction Industry</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: [ iwpr.org/publications/women-jobs-construction-underrepresented/](https://iwpr.org/publications/women-jobs-construction-underrepresented/)

Women’s Share of Jobs in Construction Occupations Highest in Twenty Years

Source: [ iwpr.org/publications/women-jobs-construction-underrepresented/](https://iwpr.org/publications/women-jobs-construction-underrepresented/)
Women Face Challenges Working in Male-Dominated Workplace Cultures

Women working in male-dominated industries face a variety of challenges, including:

- Pervasive stereotypes, such as that of the “caring mother” or office housekeeper.
- The view that women are outsiders and threaten the norm.
- Work/life demands may delay women’s time to PhD, impacting the number of publications that are so important for promotions in academic science and STEM fields.
- Fewer mentoring opportunities, which women reported as being important for their success.
- Sexual harassment.

Women use various mechanisms to cope with working in male-dominated work environments, such as:

- Distancing themselves from colleagues, especially other women.
- Accepting masculine cultural norms and acting like “one of the boys,” which exacerbates the problem by contributing to the normalization of this culture.
- Leaving the industry.

Source: Catalyst, Quick Take: Women in Male-Dominated Industries and Occupations (August 23, 2018)

Personal Protection Equipment (PPE)

OSHA Safety and Health Regulations for Construction

1926.28(a):

- The employer is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions or where this part indicates the need for using such equipment to reduce the hazards to the employees.

1926.28(b):

- Regulations governing the use, selection, and maintenance of personal protective and lifesaving equipment are described under Subpart E of this part.

Best Practices:

- In addition to compliance with the OSHA regulations, whenever employers are required to purchase PPE, they should purchase these items in size ranges suitable for women. Employers should maintain a directory of PPE manufacturers and suppliers on hand, identify a wide selection of size ranges for PPE, keep appropriate size ranges in stock, and ensure direct accessibility, as required. Remember: One size does not fit all!
- In addition to compliance with OSHA regulations, employers should provide separate bathrooms for male and female workers and also, a container of hand sanitizer and if the work is at night, maintain bathroom facilities in an open area that is well illuminated.

Source: http://blog.buildersmutual.com/women-in-construction-finding-the-right-personal-protective-equipment
OSHA & NAWIC

December 2017: OSHA and the National Association of Women in Construction Renew Alliance to Protect Safety and Health of Female Construction Workers

- The five-year alliance will focus on hazards of particular concern to women in the construction industry, including:

  - Personal protective equipment selection,
  - Sanitation, and
  - Workplace intimidation and violence.

Source: https://www.osha.gov/news/newsreleases/trade/12152017

Personal Protection Equipment (PPE)

Risks

- Most of today’s standard PPE was developed for a predominantly male workforce.
- Women in the industry often find themselves wearing gear that is too large or disproportionate for their body types.
- When equipment is too large, it no longer protects the wearer and can also pose new safety risks:
  - Poorly fitting coveralls and gloves can reduce mobility and dexterity.
  - Baggy clothing and ill-fitting shoe covers raise the risk of catching on equipment and increase the likelihood of tripping or falling.
  - Hard hats are often too large for women and slip forward, obstructing vision, or too-large hard hats fall off entirely, leaving women subject to head injuries.

Source: http://blog.buildersmutual.com/women-in-construction-finding-the-right-personal-protective-equipment
Improper Fitted PPE

The risks of not providing properly fitting PPE are twofold –

- The employee’s safety
  - The risks to the employee are fairly obvious – an employee may be injured due to an ill-fitting safety harness, get debris in their eye due to poorly fitted eye protection, be injured if too loose of work clothing gets caught in equipment

- Liability to the employer
  - Significant risks including OSHA complaints, citations and penalties, increased injuries and worker’s compensation premiums, and liability under state and federal employment discrimination laws.

  *Example - as occurred to NASA, the PPE could not be safely used.*

Source: [https://laborandemploymentlawupdate.com/category/osha/](https://laborandemploymentlawupdate.com/category/osha/)

Another Quick Scan – “How Many........”

- Have a Harassment Policy (or Anti-Harassment)?
- Have distributed the policy to ALL employees?
- Have trained managers/supervisors within the last 12 months?
- Have trained ALL employees within the last 12 months?
- Have received a harassment complaint within the last 12 months?
Should sexual harassment be an OSHA issue?

Anne R. Godoy, an in-house attorney for OSHA*

Godoy urged employers to think of sexual harassment and assault as not just an EEO issue, but also a workplace safety issue. There shouldn't be an acceptance that for some positions, it just "comes with the job."

"This is something employers should be taking seriously and looking at from a health and safety perspective," she said. They should be asking themselves what they can do to abate this hazard, "and I don't know that under Title VII that's necessarily the viewpoint." Ask yourself, she said: "What can we do to reduce or eliminate this hazard?"

*San Francisco 2018: Panel discussion at the American Bar Association's Labor and Employment Law Section annual conference
EEOC - Promising Practices

EEOC's Select Task Force - Study of Harassment in the Workplace ("Report") identified five core principles that have generally proven effective in preventing and addressing harassment:

1. Committed and Engaged Leadership
2. Consistent and Demonstrated Accountability
3. Strong and Comprehensive Harassment Policies
4. Trusted and Accessible Complaint Procedures; and
5. Regular, Interactive Training Tailored to the Audience & the Organization

*EEOC: Although these practices are not legal requirements under federal employment discrimination law, they may enhance employers’ compliance efforts.

Source: [https://www.eeoc.gov/eeoc/publications/promising-practices.cfm](https://www.eeoc.gov/eeoc/publications/promising-practices.cfm)

1. Promising Practices: Leadership

Highlights - Commitment From Senior Leaders That Includes:

• 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 Operational Framework
• Allocating Sufficient Resources For Effective Harassment Prevention Strategies
• Allocating Sufficient Staff Time For Harassment Prevention Efforts
2. Promising Practices: Accountability

Highlights – Senior Leaders Exercise Oversight, Including:

• Evaluating Effectiveness of Strategies To Prevent and Address Harassment
• Ensuring Concerns or Complaints Regarding Policy, Complaint System, and/or Training Are Addressed
• Directing Staff to Periodically Test Complaint System To Determine If Complaints Are Received And Addressed Promptly
• Ensuring Any Necessary Changes to Harassment Policy, Complaint System, Training, or Related Policies, Practices, and Procedures Are Implemented and Communicated To Employees
• Seek Feedback About Anti-harassment Efforts –
  • Conducting Anonymous Employee Surveys Regularly To Access Whether Harassment Is Occurring, Or Is Perceived To Be Tolerated

3. Promising Practices: Harassment Policy

Highlights – A Comprehensive Policy Includes, for example:

• Statement That The Policy Applies To Employees At Every Level, As Well As To Applicants, Clients, Customers, and Other Relevant Individuals
• Unequivocal Statement That Harassment Based On Any Legally Protected Characteristic Is Prohibited
• Easy To Understand Description of Prohibited Conduct, Including Examples
• Description Of The Organization’s Harassment Complaint System, Including Multiple, Easily Accessible Reporting Avenues
• Statement That Employees Are Encouraged to Report Conduct They Believe May Be Prohibited Harassment – Even If Not Sure Conduct Violates Policy
• Statement Employer Will Provide a Prompt, Impartial, and Thorough Investigation

Informational purposes only - not legal advice
4. Promising Practices: Complaint System

Highlights – Effective Harassment Complaint System Includes:

- Fully Resources, Enabling Organization To Respond Promptly, Thoroughly, and Effectively to Complaints
- Translated Into All Languages Commonly Used By Employees
- Provides Multiple Avenues Of Complaint – Including Avenue To Report Complaints Regarding Senior Leaders
- Responsive To Complaints By Employees and Other Individuals On Their Behalf
- Provides Prompt, Thorough, and Neutral Investigations
- Protects Privacy of Alleged Victims, Individuals Who Report, Witnesses, Alleged Harassers, and Other Individuals To Extent Possible
- Process To Determine Whether Alleged Victims, Individuals Who Report, Witnesses, Other Relevant Individuals Are Subjected To Retaliation
- Process To Ensure Alleged Harassers Are Not Prematurely Presumed Guilty Or Prematurely Disciplined For Harassment
- Process To Convey Resolution Of The Complaint To The Complainant and Alleged Harasser

(continued)

Employees Responsible For Receiving, Investigating and Resolving Complaints or Otherwise Implementing The Harassment Complaint System:

- Are Well-trained, Objective, and Neutral
- Have The Authority, Independence, and Resources Required To Receive, Investigate, and Resolve Complaints Appropriately
- Take All Questions, Concerns, and Complaints Seriously, and Respond Promptly and Appropriately
- Create and Maintain An Environment In Which Employees Feel Comfortable Reporting Harassment To Management
- Understand and Maintain Confidentiality Associated With The Complaint Process

Appropriately Document Every Complaint –

- From Initial Intake to Investigation to Resolution
- Use Guidelines To Weigh The Creditability Of Relevant Parties
- Prepare Written Report Documenting Investigation, Findings, Recommendations, and Disciplinary Action Imposed, And Corrective Action Taken
5. Promising Practices: Effective Training

Highlights – Most Effective If:

• Championed By Senior Leaders
• Repeated and Reinforces Regularly
• Provided To Employees At Every Level and Location
• Provided In Clear, Easy To Understand Style and Format
• Provided In All Languages Commonly Used By Employees
• Tailored To The Specific Workplace and Workforce
• Conducted By Qualified, Live, Interactive Trainers
  • If Not Feasible – Designed To Include Active Engagement By Participants
• Routinely Evaluated By Participants and Revised As Necessary

Session Objectives - Sample

EMPLOYEES & SUPERVISORS

• ALL Employees (Part 1)
  • What Harassment Is
    • including sexual harassment
  • Harassment & The Law
  • Company's Commitment
  • Preventing Harassment
  • Responding to Harassment
  • Taking Personal Responsibility

Minimum 1 Hour

Managers & Supervisors (Part 2)

• Why Topic Is Important
• Review Part 1:
  – Harassment & The Law
  – Company Harassment Policy
• Recognizing Liability Issues
• Investigating Claims
• Addressing Retaliation

Minimum 1 Hour
Managers & Supervisors

- Additional Training
- “Part 2”

Employer Liability

An employer is responsible for the acts of its supervisors (agents of employers)

*Note:* Employers subject to vicarious (explicit) liability for unlawful harassment by supervisors.

Employers should be encouraged to prevent harassment. Employees should be encouraged to avoid or limit the harm from harassment.
Supervisor Responsibility

NOTE: If a manager or supervisor is aware that discrimination, harassment or retaliation is occurring, or receives information that discrimination, harassment or retaliation might be occurring, he or she must take immediate action to address the problem!

• If a supervisor becomes aware of questionable behavior, even if there is no complaint, the supervisor must:
  • Take immediate and corrective action
  • Notify HR – take a partner
  • Document any action taken
  • Communicate actions to the employee
  • Explain what the employee should do if the problem should occur again
  • Maintain confidentiality to the extent possible
  • Information about the incident should only be shared on a need to know basis

What’s in it for Supervisors/Managers?

• Supervisors can be personally named in lawsuits if you:
  • Are the harasser
  • Overlook a complaint or mishandle it

• Supervisors may be liable for sexual harassment under certain circumstances:
  • When a complaint is made to them
  • When they see or hear about behavior that is offensive
  • When they see or hear about sexual harassment
  • When they engage in harassment
  • When they delay in taking action
  • When they fail to take appropriate action
Investigating a Claim

- **Take every allegation seriously** – even if the person says they don’t want you to do anything!
- Supervisors/Managers should take a partner – don’t investigate on your own.
- Immediately involve Human Resources
- Investigate every complaint *by trained individual*.
- Interview the complainant, alleged harasser, and any witnesses. If advisable, get written, signed statements from all involved.
- Take notes; ask questions; keep an open mind; get all the facts.
- Document all your meetings and actions in writing. Keep good notes.
- Ask the complainant what she/he wants done.

**Policy – Understanding - Commitment**

**EMPLOYEE ACKNOWLEDGEMENT**

**TRAINING – Part 1:**

**ALL Employees**

- What Harassment Is
  - *including sexual harassment*
- Harassment & The Law
- Company’s Commitment
- Preventing Harassment
- Responding to Harassment
- Taking Personal Responsibility

*Minimum 1 Hour*
Obligations – Understanding - Commitment

MANAGERS/SUPERVISORS ACKNOWLEDGEMENT

TRAINING – Part 2:
Managers & Supervisors

* Why Topic Is Important
* Reinforce Part 1:
  – Harassment & The Law
  – Company Harassment Policy
* Recognizing Liability Issues
* Investigating Claims
* Addressing Retaliation

**Minimum 1 Hour**

Avoiding Harassment Claims

**Wrap-up**

- **Communicate** with your staff (discuss all policies with them)
- **Listen** and observe what is happening in your area (department, shop, etc.)
- **Immediately** address any problems – call HR or legal department (take a partner!) – take every complaint seriously!
- Help HR or Legal document complaints and investigations
- Follow all Company Policies
- Don’t make extra work for yourself – err on the side of caution!
Promising Practices Recap & Close

**EEOC’s Five Core Practices:**

1. Committed and Engaged Leadership
2. Consistent and Demonstrated Accountability
3. Strong and Comprehensive Harassment Policies
4. Trusted and Accessible Complaint Procedures; and
5. Regular, Interactive Training Tailored to the Audience & the Organization

*Questions?*

---

**Contact Information:**

**Keith Wheeler, SPHR, SHRM-SCP**
President & CHRO
HR Resources of the Carolinas, LLC
9789 Charlotte Hwy
Suite 400, Box 149
Fort Mill, SC 29707
803-984-7325
keith@hrresourcesofthecarolinas.com
www.hrresourcesofthecarolinas.com
Additional Sample Material

The materials on the following pages are provided for informational purposes only.

Leadership & Accountability

“Calling All CEOs: Corporate Culture Is Your Best Defense Against Sexual Harassment Claims”
– Catherine Mattice Zundel (Forbes Council; 22-February 2018)

1. Build a strong “see something, say something” culture
2. Live the company’s core values
3. Actively change the culture
4. Address all bad behavior, even when it’s not illegal
5. Conduct a culture assessment
6. Hold managers accountable for a positive work environment by measuring them on it
7. Reinforce and reward good behavior
8. Communicate that you will not tolerate any bad behavior, and then actually don’t tolerate it
9. Provide training on respectful workplace behaviors for the entire company – and on creating a positive culture for managers
10. Designate multiple channels to receive harassment complaints
11. Commit to being an example, and challenge your senior team to do that same

Your Harassment Policy States:

Company – Harassment Policy - SAMPLE

The Company is **committed to maintaining** a work **environment** that is **free from, discrimination or harassment** on the basis of race, color, national origin, religion, age, sex, gender, genetics, disability, or any other **legally protected characteristic**.

Your Harassment Policy - CONTINUED

**All employees** are **responsible** for helping to enforce the policy against harassment. Ultimately, the policy should address the fact that:

- **All employees**...
- must **share the responsibility of** understanding and
- **preventing** discrimination and harassment.
Company Reporting Steps - Example

Any employee who has been the victim of prohibited harassment or who has witnessed such harassment must immediately notify his or her supervisor or member of management so the situation can be promptly investigated and remedied.

Specifically, employees who believe they have been the victim or witness a violation of this policy are expected to:

Report such conduct immediately to their supervisor, – or –

Human Resources or another member of Management

Note: Employees may by-pass anyone in their normal line of supervision to make a report

There will be no retaliation against a person who files a bona fide complaint or participates in any way in the investigation of a bona fide complaint.

Don’t Punish the Victim

The Law:

An employee who:

• complains about a violation of law
• or participates in a charge or case contesting a violation of law (even if it’s not substantiated)

Cannot be retaliated against for their efforts to contest the alleged illegal actions.

Think about:

• Timing & Basis of Decision
• Consistency of Treatment
• Ability to Defend Action
Sexual Harassment

• Sexual harassment can occur in a variety of circumstances, including but not limited to:
  • 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.
  • 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.
  • Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

What Constitutes Harassment?

Conduct that may be harassment, includes but is not limited to:
• Comments
• Jokes
• Touching / Brushing
• Flirting / Request for Dates
• Threats / Attacks
• Pictures / Compliments

*Also give examples of what behaviors are expected/accepted!
Workplace Bullying - Examples

Disrespectful Forms of Bullying Behavior Can Include:

- Constant and unfair criticism
- Social bantering and teasing
- Yelling, shouting and screaming
- Insults and behind-the-back put-downs
- Hostile glares and other intimidating gestures
- Malicious gossiping
- Monopolizing supplies and other resources
- Aggressive e-mails or notes
- Overt threats and aggression or violence

You can make a difference when a particular behavior or interaction is inappropriate, consider the following:

- Be Aware
  - Learn to recognize harassment that violates the policy
- Be Responsible
  - Support others to recognize and speak up when they are being harassed or witness harassment
- Be Empowered
  - Have the courage to speak out against harassment and/or report it
- Know Your Resources
  - Engage resources (co-workers, supervisors, HR, management) to help prevent and/or report harassment
References