

[COMPANY]'s Sexual Harassment Policy

[*Note:* This sample sexual harassment policy is a template for employers who want to implement or revise their sexual harassment policy. This sample policy is divided into six topics with an explanation before each section. Should you use this model policy as a template, all six topics are designed to be incorporated into one harassment policy. It is important to keep in mind that while this model policy covers only one form of unlawful harassment it may be adapted to cover harassment based on any protected class.]

Policy Statement

[**Company**] is committed to maintaining a respectful and safe environment. This policy applies to exempt and non-exempt employees, applicants, managers, supervisors, executives, board members, owners, interns and volunteers (paid or unpaid), contractors, vendors, customers, and all persons conducting business with [**Company**]. This policy applies to all persons regardless of their immigration status. No one shall be unlawfully harassed on the basis of race, creed, religion, color, sex, sexual orientation, gender identity, national origin, mental or physical disability, age, marital status, honorably discharged military or veteran status, or other protected status or activity in accordance with applicable law.

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[*Note:* Cultural norms and personal experiences inform this area of law whereby employees bring their diverse experiences and expectations to the workplace. Therefore, it is important to establish a baseline for what qualifies as sexual harassment.]

Sexual Harassment Defined

[**COMPANY**] does not tolerate sexual harassment. Sexual harassment is defined as either quid pro quo or hostile work environment. Quid pro quo is either a request for a sexual favor in exchange for an actual or promised benefit, or an express or implied threat that the refusal of a sexual advance will result in an adverse action. Examples of an adverse action may include but are not limited to: termination, demotion, refusal to promote, adding or removing job duties, denial of leave request, a decrease in hours scheduled, excluding person from meetings or work-related events, or interacting with the person in a threatening or hostile manner.

Sexual harassment that creates a hostile work environment is conduct that is *unwelcome or unwanted, and relates to a protected characteristic around gender, gender identity, sex, sexual orientation or is of a sexual nature*. This can be unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. The unwelcomed act must be severe or pervasive. A one-time act can be severe enough to create a hostile work environment. An act is pervasive when it is

repetitive and causes someone to be uncomfortable in the workplace.

Intent is irrelevant when it comes to sexual harassment. Harassment is viewed from the perspective of the harassed person, as well as from the perspective of a reasonable person. The harassed person does not need to express that the conduct is unwelcomed or unwanted. Conduct can be unwelcome even where there appears to be consent. Severe or pervasive sexual harassment can affect anyone, regardless if they are the intended target of the harassment. Unlawful harassment may occur even if the person affected does not miss work or lose any wages as a result.

Sexual Harassment Examples

Examples of prohibited conduct of a sexual and gender based nature includes conduct such as the following:

- sexual advances, or innuendoes;
- unwelcome requests for date, or repeated requests to spend time together;
- unwelcome touching;
- unwelcome gifts;
- visual conduct, such as leering or making sexual gestures;
- displaying objects, printed or electronic materials of a sexual nature;
- telling jokes (e.g., stereotyping, slang, vulgar names);
- discussing your own or others' sexual experiences;
- spreading rumors or gossiping about a co-worker's sexual experiences;
- making derogatory comments about a person's gender or any individual's sexual orientation or gender identity;
- use of obscene and/or vulgar language; and
- use of **[COMPANY]** computers, phones, internet, or other communications systems to access, send, receive or store material that is sexually suggestive or derogatory.

Sexual harassment is not limited to the above list. Remember, harassment is viewed from the perspective of the harassed, as well as from the perspective of a reasonable person. As a result, it may be irrelevant if others are not offended by certain conduct.

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[\[Note: Upon receiving a harassment complaint, an employer is obligated to conduct an immediate and thorough investigation of the harassment. Depending on the size of the company and the complexity of the allegations, the employer will need to decide whether to conduct the investigation internally or retain an outside third party. It is imperative for an employer to establish clear and easy to follow complaint procedures when an alleged act of sexual harassment occurs. This includes but is not limited to designating a company investigator who will conduct the harassment policy investigations. It is highly recommended that the designated investigator has experience conducting workplace investigations, or received training on how to conduct workplace](#)

investigations. When an employer follows its established investigative procedures, litigation exposure is reduced, employees' morale increases, and there is overall confidence in the workplace.]

Investigation Procedure

[COMPANY] will promptly investigate the facts and circumstances of any reported claim of discrimination and/or harassment. If you experienced harassing conduct, the harassment must be reported to a supervisor. **[Company's Designated Investigator Name/Title]** can also be contacted at **[insert contact information]**. To the extent possible, [COMPANY] will endeavor to keep the investigation confidential, but confidentiality cannot be guaranteed. During the investigation, [COMPANY] generally will:

- a. interview the complainant and/or the harassed, and the alleged harasser;
- b. conduct further interviews as necessary;
- c. document [COMPANY]'s findings regarding the complaint;
- d. document recommended follow-up actions and remedies, if warranted;
and
- e. inform the complainant and/or the harassed of [COMPANY]'s findings.

The purpose of the investigation is to determine whether harassment, as defined under this policy, has occurred; and, what corrective action, if warranted, should be taken. Upon completion of the investigation, [COMPANY] will take prompt corrective measures against any person who has engaged in conduct in violation of this policy. The corrective action may include, but are not limited to, counseling, suspension, demotion, transfer to another position and/or location, or immediate termination. Anyone, regardless of position or title, whom [COMPANY] determines has engaged in conduct that violates this policy will be subject to discipline, up to and including termination. [COMPANY] will not disclose the corrective action, if any, that is given to the other party.

See Appendix A for a sample of a complaint procedure form.

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[*Note:* It is illegal for any person to face retaliation for asserting their rights to be free from employment discrimination, including reporting harassment. Retaliation occurs when adverse actions are taken that directly affect the terms and conditions of the employee's work. Examples include reducing an employee's salary, demotion, failure to promote, or termination. When an employer includes anti-retaliation language in its policy, the employer is promoting a safe workplace culture that encourages employees to report sexual harassment without fear of reprisal.]

Retaliation

[COMPANY] will not retaliate against anyone who in good faith makes a report of discrimination or harassment, nor will it permit any manager or employee to do so. Retaliation is unlawful and a serious violation of this policy that should be reported immediately. Any person found to have retaliated against an employee for making a discrimination or harassment complaint or providing information during an investigation will be subject to disciplinary action, up to and including termination.

Retaliation includes any action that could discourage someone from coming forward to make or support a sexual harassment claim. Some examples of retaliation may include: termination, demotion, a decrease in hours scheduled, adding or removing job duties, denial of leave request, excluding person from meetings or work-related events, or interacting with the person in a threatening or hostile manner. This is a non-exclusive list of examples.

Retaliation protects any individual who in good faith has engaged in “protected activity.” In the context of sexual harassment this includes, making a complaint of sexual harassment to an administrative agency or by filing a lawsuit; providing information, testimony, or assisting in an employment investigation or other proceeding; opposing sexual harassment by making an informal or formal complaint to the employer; or reporting that another person has been sexually harassed at the workplace.

[Note: Early and repeated training for managers and supervisors, and for the Company employees, may serve as the best anti-harassment preventative measure. Managers and supervisors should receive training not only in sexual harassment, but also on how to respond to discriminatory behavior that the supervisor has either observed or experienced. The training should incorporate “bullying” in the workplace and bystander training. All attendees should be required to sign in for the training, and the Company should keep records of the training completion for all of its employees (e.g., sign-in sheet or certificate). The below language serves as a starting point as you think about your own approach to preventative sexual harassment training.]

It is also important to note that beginning January 1, 2020, all employers in retail, the hotel, motel, security and property service contractor industries (i.e., janitorial services) who have employees that are employed as janitors, security guard, hotel or motel housekeeper or room service attendant, and where the employee spends a majority of working hours alone, or whose primary responsibility involves working without another coworker present, will be required to adopt a harassment policy and provide mandatory sexual harassment training to managers, supervisors, and employees.

Harassment Prevention Training

It is **[the COMPANY]**'s policy that all of its employees are required to undergo a

minimum of ___ hours of harassment prevention training every ___ year[s]. It is **[the COMPANY]’s** policy that within ___ months of a supervisor or manager’s hire or promotion date, the supervisors and managers are required to participate in harassment prevention training.

Outside Contact Information

If you believe to have faced discrimination, harassment and/or retaliation, you have a right to file a discrimination, harassment, and/or retaliation complaint with an outside federal, state, or local agency. Below is the contact information for the agencies that cover Washington State.

(Federal) Equal Employment Opportunity Commission (“EEOC”): 1-800-669-4000; 1-844-234-5122 (ASL Video Phone); www.eeoc.gov.

(State) Washington Human Rights Commission (“HRC”): 1-800-233-3247; www.hum.wa.gov.

Many larger cities also conduct employment discrimination complaints through their own agencies, and this may be another option.

Appendix A

Sample Complaint Procedure Form

Name of investigator:

Date of alleged harassment:

Name of complainant:

Date of investigation:

Questions for complainant:

- Describe in detail what happened.
- What was said or done before the conduct? Who said or did it? When did this happen?
- Where did it occur?
- What was said or done after the conduct?
- Was anyone else involved in this other than the harasser?
- Collect any written documentation.
- Provide investigation timeline.

Questions for alleged harasser:

- Describe in detail what happened.
- Was there anyone else involved in this incident?
- Provide investigation timeline.

Other Witnesses:

- Interview relevant witnesses. Ask specific questions about what they have observed, are aware of or have personally experienced. If the witnesses are not workers of the employer, the investigator should make reasonable efforts to interview those witnesses.

Findings:

Next steps:

- Investigator should remind the involved parties that the Company will not tolerate retaliation, and if an involved party believes to be retaliated against the person should report it to the investigator or supervisor immediately.