

Sample Sexual Harassment Policy #1

[Company name]'s position is that sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. All employees have the right to work in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive, including sexual harassment. Anyone engaging in harassing conduct will be subject to discipline, ranging from a warning to termination.

What is sexual harassment? Sexual harassment is defined as any unwanted physical, verbal or visual sexual advances, requests for sexual favors, and other sexually oriented conduct which is offensive or objectionable to the recipient, including, but not limited to: epithets, derogatory or suggestive comments, slurs or gestures and offensive posters, cartoons, pictures, or drawings.

When is conduct unwelcome or harassing? Unwelcome sexual advances (either verbal or physical), requests for favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is either an explicit or implicit term or condition of employment (e.g., promotion, training, timekeeping or overtime assignments)
- Submission to or rejection of the conduct is used as a basis for making employment decisions (hiring, promotion, termination)
- The conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment

What is *not* sexual harassment? Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that debilitates morale, and that, therefore, interferes with work effectiveness.

What should you do if you are sexually harassed? If you feel that you have been the recipient of sexually harassing behavior, report it immediately to the owner of [company name] or other supervisor. It is preferable to make a complaint in writing, but you can accompany or follow up your written complaint with a verbal complaint.

If your supervisor is the source of the harassing conduct, report the behavior to that person's supervisor or to the owner of [company name].

Your identity will be protected and you will not be retaliated against for making a complaint.

What happens after a complaint is made? Within [number] of days after a written complaint is made, a supervisor, or other person designated by the owner, will investigate the complaint. The person will speak with possible witnesses and will speak with the person named in your complaint. *Your anonymity will be protected to the extent possible.*

Depending on the complexity of the investigation, you should be contacted within [number plus measure of time (e.g., four days, two weeks, one month)] about the status of your complaint and whether action is being taken.

Sample Sexual Harassment Policy #2

[Company name] believes that you should be afforded the opportunity to work in an environment free of sexual harassment. Sexual harassment is a form of misconduct that undermines the employment relationship. No employee, either male or female, should be subjected verbally or physically to unsolicited and unwelcomed sexual overtures or conduct.

Sexual harassment refers to behavior that is not welcome, that is personally offensive, that debilitates morale and, therefore, interferes with work effectiveness.

Behavior that amounts to sexual harassment may result in disciplinary action, up to and including dismissal.

Definition

[Company name] has adopted, and its policy is based on, the definition of sexual harassment set forth by the Equal Employment Opportunity Commission (EEOC). The EEOC defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of your employment
- Submission to or rejection of such conduct by you is used as the basis for employment decisions affecting you
- Such conduct has the purpose or effect of unreasonably interfering with your work performance or creating an intimidating, hostile or offensive working environment.

Employer's Responsibility

[Company name] wants you to have a work environment free of sexual harassment by management personnel, by your coworkers and by others with whom you must interact in the course of your work as a [company name] employee. Sexual harassment is specifically prohibited as unlawful and as a violation of [company name]'s policy. [Company name] is responsible for preventing sexual harassment in the workplace, for taking immediate corrective action to stop sexual harassment in the workplace and for promptly investigating any allegation of work-related sexual harassment.

Complaint Procedure

If you experience or witness sexual harassment in the workplace, report it immediately to _____. You may also report harassment to any other member of [company name]'s management or ownership. All allegations of sexual harassment will be quickly investigated. To the extent possible, your confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. When the investigation is completed, you will be informed of the outcome of that investigation.

Retaliation Prohibited

[Company name] will permit no employment-based retaliation against anyone who brings a complaint of sexual harassment or who speaks as a witness in the investigation of a complaint of sexual harassment.

Written Policy

You will receive a copy of [company name]'s sexual harassment policy when you begin working for [company name]. If at any time you would like another copy of that policy, please contact _____. If [company name] should amend or modify its sexual harassment policy, you will receive an individual copy of the amended or modified policy.

Penalties

Sexual harassment will not be tolerated at [company name]. If an investigation of any allegation of sexual harassment shows that harassing behavior has taken place, the harasser will be subject to disciplinary action, up to and including dismissal.

Harassment Investigation Guide

Getting the employee to describe the claim:

- ☐ Listen to the charge. Don't make comments like, "You're overreacting."
- ☐ Acknowledge that bringing a harassment complaint is a difficult thing to do.
- ☐ Maintain a professional attitude.
- ☐ Gather the facts; don't be judgmental.
- ☐ Ask who, what, when, where, why, and how. Find out if the employee is afraid of retaliation. How does the employee want the problem resolved?

Conducting an investigation of the claim—general rules to follow:

- ☐ Investigate immediately. Delaying or extending an investigation can make witness testimony increasingly unreliable.
- ☐ Remember that the manner in which the investigation is handled can itself furnish grounds for a hostile environment claim, so carefully document every step.
- ☐ Treat all claims seriously—even those that seem frivolous—until you have reason to do otherwise.
- ☐ Keep the investigation confidential. Emphasize to those involved that your discussions are not to be shared with unconcerned parties. Warn of possible disciplinary action, if necessary.
- ☐ Limit the number of persons who have access to the information. Communicate strictly on a "need to know" basis.
- ☐ Ask questions so that information is not unnecessarily disclosed. For example, instead of asking, "Did you see Paul touch Joan?" ask "Have you seen anyone touch Joan at work in a way that made her uncomfortable?" Remember—the purpose of the investigation is to gather facts, not disseminate allegations.

- ☐ If there is more than one allegation, treat each separately.
- ☐ To avoid defamation liability, never broadcast the facts of a given situation or the results as an example to others or as a training tool.

Interviewing the complainant (Can be done when employee first reports charge):

- ☐ Get specific details.
- ☐ Find out whether there was a pattern of previous episodes or similar behavior toward another employee.
- ☐ Get the specific context in which the conduct occurred. Where? What time?
- ☐ Determine the effect of the conduct on the complainant. Was it economic, non-economic and/or psychological?
- ☐ Determine the time relationship between the occurrence of the conduct, its effect on the complainant, and the time when the complainant made the report.
- ☐ Prepare a detailed chronology.
- ☐ Analyze whether there might have been certain events that triggered the complaint, *i.e.*, promotion, pay or transfer denial.
- ☐ Determine whether there were any possible motives on the part of the complainant.
- ☐ Find out what the complainant wants.
- ☐ Explain to the complainant that the charges are serious, that you will conduct a thorough investigation before reaching any conclusion, and that he or she will not be retaliated against for making the complaint.
- ☐ Don't make any statements about the accused employee's character, job performance, or family life.

Interviewing the accused:

- ☐ Obtain a statement from the accused.
- ☐ Identify the relationship of the accused to the complainant.
- ☐ Was there any prior consensual relationship between the parties? How long have they known each other? Is there a history of group or individual socializing?
- ☐ If the individual was a supervisor, indicate the individual's job title, obtain a copy of the individual's job description, and determine the individual's specific duties at the time of the alleged harassment.
- ☐ Determine whether the accused directed, or had responsibility for the work of other employees or the complainant, had authority to recommend employment decisions affecting others or was responsible for the maintenance or administration of the records of others.
- ☐ You can expect the accused to deny the charges. Observe the reaction. Note whether there is surprise, anger, or disbelief. Describe the details of the allegation and note the areas of disagreement between the testimony of both parties. If the accused denies the allegations, probe further to determine with the accused the background, reasons, and motivation that could possibly trigger the complaint.

Interviewing witnesses:

- ☐ Obtain statements from any witnesses who support or deny any of the complainant's allegations. Be aware that witnesses are often reluctant to come forward out of fear of

reprisal.

- ☐ Assure all witnesses that their cooperation is important, that their testimony is confidential and that they will not be retaliated against for testifying.

Resolving the complaint:

- ☐ Apologize for the incident occurring, *if that is appropriate*.
- ☐ When attempting to remedy the conduct, avoid requiring the claimant to work less desirable hours or in a less desirable location. If you offer to transfer the complainant, try to get the complainant's consent and make sure the transfer position is substantially similar to the complainant's prior position. This helps ensure that the complainant is not being illegally punished for reporting discrimination or harassment.
- ☐ Consider the severity, frequency and pervasiveness of the conduct when imposing discipline on the harasser. There are several disciplinary options available, including:
 - oral and written warning
 - reprimand
 - suspension
 - probation
 - transfer
 - demotion
 - discharge
- ☐ When imposing discipline on the accused, any forms of discipline short of discharge should be accompanied by a warning that similar misconduct in the future may result in immediate discharge. If no discipline is imposed, document the reasons why.
- ☐ Provide remedial counseling and training on sexual harassment, if appropriate. Also take the opportunity to re-communicate your policy.
- ☐ Carefully and fully document the investigation, the discipline imposed, and any remedial steps taken.
- ☐ Conduct follow-up interviews with the parties to inform them of the company's actions.