



**CAMBRIDGE**  
PROPERTY & CASUALTY

## **HARASSMENT TRAINING**

### **MINI OUTLINE**

#### **I. Introduction**

#### **II. Why this Training?**

- A. Harassment and discrimination in the workplace are illegal
  - 1. United States law
  - 2. Michigan law
- B. Harassment and discrimination in the workplace can and must be prevented
- C. Costs to the individual
- D. Costs to the Company

#### **III. What the Employer's Policies Prohibiting Harassment Say**

- A. No form of harassment will be tolerated
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    - a. Definition of Harassment
    - b. Examples of Harassment
    - c. Definition of Sexual Harassment
    - d. Examples of sexual harassment
  - 2. Who can engage in harassment?
    - a. employees, temporary or permanent
    - b. non-employees
      - 1. Independent contractors
      - 2. Clients
      - 3. Vendors
      - 4. Visitors
      - 5. Other
    - c. Someone of the same sex
    - d. Someone of the opposite sex
  - 3. Where can harassment occur?
    - a. In the workplace
    - b. At work-sponsored or work-related events
    - c. At any other place where conduct is tied to work
- C. Multivenue Complaint Procedure
- D. Investigation procedures
- E. Confidentiality to the extent possible

- F. Resolving complaints
  - 1. Substantiated complaints
  - 2. Unsubstantiated complaints
  - 3. If no determination possible
- G. No retaliation policy  
The Company will not permit retaliation against those who pursue complaints or assist in an investigation

## **DETAILED OUTLINE**

### **I. Introduction**

- A. Sign in
- B. Training is not legal advice
- C. Content may be offensive
- D. Content is not intended to be humorous – harassment is a serious issue
- E. Please ask questions

### **II. Why this Training?**

- A. Harassment and discrimination in the workplace are illegal
  - 1. United States law
    - a. Civil Rights Act (42 USCA 2000e et seq) provides that it is illegal for an employer to discriminate against an individual because of race, color, religion, sex, or national origin.
    - b. The Americans with Disabilities Act (42 USCA 12101 et seq) outlaws prohibits unlawful discrimination against persons with disabilities
    - c. The Age Discrimination in Employment Act (29 USCA 621 et seq) prohibits discrimination on the basis of age against employees or applicants age 40 or older.
  - 2. Michigan law
    - a. Elliot Larsen Civil Rights Act (MCL 37.2101 et seq) provides that it is illegal to discriminate because of religion, race, color, national origin, age, sex, height, weight, or marital status. Through the Eliot Larsen Civil Rights Act, Michigan law recognizes that, in employment, freedom from discrimination because of sex is a civil right, and discrimination because of sex includes sexual harassment:
    - b. Persons with Disabilities Civil Rights Act prohibits unlawful employment discrimination against persons with disabilities.
- B. Harassment and discrimination in the workplace go against the company's values
- C. Harassment and discrimination in the workplace can and must be prevented
- D. Costs to the individual
  - 1. Emotional/psychological/health  
Anxiety and stress produced by harassment can negatively impact the physical health, confidence, morale and performance of the person experiencing it
  - 2. Economic  
An example is loss of wages due to taking unpaid leave
  - 3. Career  
Short and long term damage to career prospects can occur if harassed person is forced to change jobs
- E. Costs to the Company
  - 1. Economic

- Absenteeism
- Low productivity
- Employee turnover
- Disrupts workforce and takes time
- 2. Morale
  - Affects performance of those experiencing and witnessing it, disruptive, distracting
- 3. Public relations
  - Tarnishes company's image as good place to work
  - Tarnished image if cases end up in court

### III. What the Employer's Policies Prohibiting Harassment Say

- A. No form of harassment will be tolerated
  - 1. Harassment because of religion, race, color national origin, sex, age, height, weight, handicap, disability, marital status or other legally protected status is unlawful discrimination and is prohibited by federal and state law and the Employer. The Employer will not tolerate any form of harassment.
  - 2. The Employer does not condone, either explicitly or implicitly, and will not tolerate, harassment of any kind by anyone in the organization or others including clients, vendors, independent contractors, applicants for employment or visitors to the workplace.
- B. Defining Harassment
  - 1. What is Harassment?
    - a. Definition of Harassment
 

“Harassment” means unwelcome verbal communication or physical contact because of religion, race, color, national origin, sex, age, height, weight, handicap, disability, marital status or other legally protected status, which unreasonably interferes with a person's work performance or which creates an intimidating, hostile or offensive work environment.
    - b. Examples of Harassment
 

Examples of harassment may include one or more of the following. This list is not exhaustive:

      - 1. Physically touching an Employee in an offensive manner;
 

*Example: Gary, a new company employee, has come to dread going into his new job because he is offended by his supervisor, Gail's, “touchy-feely” approach with him, which includes putting her arm around him and rubbing his back.*
      - 2. Making suggestive or derogatory comments or gestures about a person's religion, race, color, national origin, age, sex, height, weight, handicap, disability, marital status or other legally protected status;
 

*Examples:*

        - *Jim sends an email to John, addressing him as “Pops” because of his age, making John feel uncomfortable*
        - *Sally, who has a neurological disorder that affects her muscle movement, avoids a group of colleagues at work because she has seen them make derogatory gestures related to the way she walks.*
        - *Samir is uncomfortable because Sue frequently teases him about his accent and often imitates the way he speaks.*

3. Displaying magazines, cartoons or jokes which are derogatory about a person's religion, race, color, national origin, age, sex, height, weight, handicap, disability, marital status or other legally protected status;

*Examples:*

- *In the mailroom where Lois worked as a file clerk, she feels embarrassed because Tom, her supervisor and company employee of 15 years, displays a calendar at his workstation of scantily clad women in sexually suggestive poses.*
- *Phil, who is Polish, is bothered by his co-worker, Tim's, "page-a-day" calendar of "Polish" jokes.*

4. Telling jokes which are derogatory about a person's religion, race, color, national origin, age, sex, height, weight, handicap, disability, marital status or other legally protected status.

c. Definition of Sexual Harassment

"Harassment" includes "sexual harassment," which means unwelcome sexual advances, unwelcome requests for sexual favors and other unwelcome verbal or physical conduct or communication of a sexual nature. It can fall into two categories:

1. "Quid pro quo" sexual harassment ("this for that")

- i. Submission to such conduct or communication is made either explicitly or implicitly a term or condition of the individual's employment;
- ii. Submission to or rejection of such conduct or communication by an individual is used as a basis for employment decisions affecting such individual

*Example: Sam, who is Kelly's supervisor, says to Kelly: "Why don't you and I go out for a nice dinner and we can talk about your performance review and how much of a raise you might get?"*

2. Hostile work environment

- iii. Such conduct or communication has the purpose or effect of unreasonably interfering with an individual's employment or creating an intimidating, hostile or offensive work environment.

*Example: Each day, Brenda calls her subordinate, Carl, into her office and asks him to "model" his suit so she can admire how he looks. Brenda has told Carl several times that he should wear more tight fitting suits to show off his body. Carl is embarrassed by this situation.*

d. Examples of sexual harassment

Examples of sexual harassment may include one or more of the following:

1. Repeated and unwelcome requests for dates after work;
2. Sending letters which make romantic suggestions;
3. Sexual advances or propositions or threats;
4. Continuing to express interest after being informed that the interest is unwelcome;
5. Suggestive or insulting comments or sounds, including whistling;
6. Commentary about an individual's body;
7. Display of sexually suggestive objects, pictures or letters;
8. Obscene gestures;

9. Unwanted physical contact, including touching, pinching, brushing the body, impeding or blocking movement, unwanted sexual intercourse or other unwanted sexual acts, sexual assault or battery.
2. Who can engage in harassment?
    - a. Employees, temporary or permanent
 

*Example: Cheryl is frightened by the conduct of Sam, a new temporary "IT" person who has been working on the computer system in the office. On several occasions, Sam has stepped in front of Brenda and blocked the hallway so she could not get through, saying he "won't take no for an answer" to his request for a date.*
    - b. Non-employees
      1. Independent contractors
      2. Clients
      3. Vendors
      4. Visitors
      5. Other
 

*Example: Robin is worried and distracted because of the sexual advances toward her by one of the company's largest clients. His advances are unwelcome, but Robin is worried that the company will lose the account – and her job will be affected - if she does not "give in."*
    - c. Someone of the same sex
    - d. Someone of the opposite sex
  3. Where can harassment occur?
    - a. In the workplace
    - b. At work-sponsored or work-related events
 

*Examples:*

      - *Joe tells some "dirty" jokes to Jane at the Company's holiday party, causing her to become upset.*
      - *At a work-sponsored bridal shower, Denise gives Nell a pack of playing cards featuring Chippendale dancers.*
    - c. At any other place where conduct is tied to work

C. Multiavenue Complaint Procedure

Any person who feels that he or she has been subjected to harassment, who is aware of conduct prohibited under this policy, or who feels that he or she has been retaliated against for having brought a complaint of or having opposed harassment an/or for having participated in the complaint process is encouraged to bring the matter to the attention of his or her supervisor, the human resources department, or the President.

*Examples:*

- *Linda has always had a good working relationship with her supervisor, Bob. Pursuant to the Company's "open door policy," Linda has always communicated with Bob openly regarding any workplace concerns which may arise. However, recently, Linda is troubled by Bob's repeated requests for drinks after work. She is worried that her reluctance to go for drinks after work with Bob will negatively affect her performance review. Linda goes to the Human Resources Director with her complaint. Was it appropriate for Linda to bypass Bob and go to Human Resources with her concern?*
- *David complains to Human Resources about his supervisor, Larry's, repeated derogatory comments about his weight. Human Resources interviews David's co-worker, Mary, during the investigation, and Mary confirms that Supervisor Larry makes a lot of negative comments about David's weight. The next week, Larry dramatically cuts Mary's hours on the schedule and transfers her to the night shift.. Mary feels that by reducing her hours and giving her the undesirable transfer, Larry is retaliating against her*

*for participating in the complaint investigation. She brings her concern to the Human Resources Department.*

D. Investigation procedures

The Employer will conduct a prompt, thorough and impartial investigation using the following procedures:

1. Interviewing the complainant, both at the time the complaint is initially presented and at the time the complaint is reduced to writing;
2. Interviewing all witnesses identified by the complainant and reducing their statements to writing, either by requesting that the witnesses do so or by reducing their statements to writing to be signed or otherwise acknowledged by the witnesses;
3. Reviewing any documentary or other evidence submitted by the complainant;
4. Interviewing the alleged harasser and reducing his or her statement to writing;
5. Interviewing all witnesses identified by the alleged harasser and reducing their statements to writing, either by requesting that the witnesses do so or by reducing their statements to writing to be signed or otherwise acknowledged by the witnesses;
6. Interviewing other potential witnesses who may have observed the conduct alleged or who may possess knowledge regarding the allegation under investigation and reducing their statements to writing, either by requesting that the witnesses do so or by reducing their statement to writing to be signed or otherwise acknowledged by the witnesses;
7. Reviewing any documentary or other evidence submitted by the alleged harasser;
8. Informing all witnesses including the complainant and the alleged harasser of the confidentiality of the investigation;
9. Completing a written determination of the validity of the complaint.

E. Confidentiality to the extent possible

To protect the interests of the complainant, the person complained against, witnesses, any other person who may report an incident of harassment and all other persons affected, confidentiality will be maintained to the extent practicable and appropriate under the circumstances.

F. Resolving complaints

1. Disciplinary action for substantiated complaints

If, as a result of an investigation, it is determined that a violation of this policy has occurred, the Employer will take prompt and appropriate remedial action to eliminate the policy violation and ensure that it does not reoccur. Such remedial action may include:

- a. Disciplinary action of the harasser up to and including termination;
- b. Restoration to an individual of any employment benefits or employment status impaired as a result of the harassment or the exercise of the right to make a complaint of harassment, to oppose harassment or to participate in an investigation under this policy;
- c. Removal from the individual's personnel record or other records of the Employer of any documents containing adverse or negative references to the complainant flowing from the policy violation;
- d. Other appropriate measures to assure that any individual adversely affected by the filing of a complaint, participation in any complaint proceeding or opposition to harassment is restored to the position held prior to the policy violation;
- e. Removal of the effects of the policy violation in the workplace, such as the removal of offensive graffiti or posters or similar objects of harassment, the elimination of unwanted physical contact or verbal communication;

- f. Other appropriate measures to assure that this policy, and the Employer's commitment to enforcing this policy, is reiterated in the workplace, such as republication of the policy and in-house training relating this policy.
  2. Resolving unsubstantiated complaints

If as a result of the investigation, it is determined that no violation of this policy has occurred, the Employer will:

    - a. Inform the complainant and the alleged harasser of the results of the investigation and the reasons for its finding of no policy violation;
    - b. Advise the complainant and the alleged harasser that the Employer is committed to the enforcement of this policy and will not tolerate harassment or retaliation of any sort;
    - c. Notwithstanding the determination that no policy violation has occurred, advise all individuals that there will be no retaliation for making a complaint of harassment, opposing harassment or participating in an investigation under this policy;
    - d. Advise the complainant to provide additional information relating to any policy violations in the future;
    - e. Take appropriate measures to assure that this policy, and the Employer's commitment to enforcing this policy, is reiterated in the workplace, such as republication of the policy and in-house training relating to the policy.
  3. If No Determination Possible

If, as a result of the investigation, it is determined that there is insufficient information from which to make a determination whether a policy violation has occurred, the Employer will:

    - a. Inform the complainant and the alleged harasser of its finding that no determination can be made;
    - b. Advise the complainant and the alleged harasser that the Employer is committed to the enforcement of this policy and will not tolerate harassment of any sort;
    - c. Notwithstanding the determination that there is insufficient information from which to determine that a policy violation has occurred, advise all individuals that there will be no retaliation for making a complaint of harassment, opposing harassment or participating in an investigation under this policy;
    - d. Advise the complainant to provide additional information relating to any policy violations in the future;
    - e. Take appropriate measures to assure that this policy, and the Employer's commitment to enforcing this policy, is reiterated in the workplace, such as republication of the policy and in-house training relating to the policy.
- G. No Retaliation Policy

The Company will not permit retaliation against those who pursue complaints or assist in an investigation.