

# [EMPLOYER NAME] SEXUAL HARASSMENT POLICY

Effective [Date]

[Employer name] is committed to providing a workplace that is free from all forms of discrimination, including sexual harassment. [Employer name's] policy on sexual harassment is part of its overall efforts to provide a workplace free from discrimination and retaliation, pursuant to local, state and federal laws prohibiting discrimination based on age, race, color, creed/religion, national origin, honorably discharged veteran and military status, marital status, disability, sexual orientation, gender identity or expression, and sex, or any other characteristic that is protected by law. This policy is also part of [Employer name's] commitment to diversity and inclusion, and a workplace that is free from harassment, disrespect, and divisiveness.

Sexual harassment and retaliation are prohibited by the Civil Rights Act of 1964, as amended in 1991, and the Washington State Law Against Discrimination, RCW 49.60.

## **Policy General Provisions**

- This policy applies to all employees, applicants for employment, executives, owners, board members, managers, supervisors, interns and volunteers (whether paid or unpaid), contractors, vendors, customers and all persons conducting business with [Employer name]. This policy applies to all persons regardless of their immigration status. In the remainder of this document, the term “covered persons” refers to this collective group.
- Sexual harassment will not be tolerated. Sexual harassment includes harassment on the basis of sex (including pregnancy, related medical conditions, and breastfeeding, gender identity or expression, sexual orientation, or any other category protected by applicable local, state or federal laws). Any person covered by this policy who engages in sexual harassment or retaliation will be subject to corrective action, up to and including termination from employment.
- Sexual harassment is offensive, is a violation of our policies, can be unlawful, and may subject [Employer name] to legal liability. Harassers may also be individually subject to liability, as can supervisor and managers who fail to take action. Covered persons who engage in sexual harassment, including owners, executives, managers, and supervisors, will be subject to corrective action for such misconduct. Owners, executives, managers, and supervisors will be subject to corrective action if they fail to take appropriate action when they receive a complaint of, observe, or otherwise become aware of sexual harassment.
- [Employer name] has an obligation to investigate and conduct a prompt and thorough investigation that ensures a fair process for all parties, whenever [Employer name]

receives a complaint about sexual harassment, or otherwise becomes aware of possible sexual harassment. [Employer name] will keep the complaint and investigation confidential to the extent possible. When there is a determination that it is likely that sexual harassment occurred, effective corrective action will be taken. All covered persons are required to cooperate with any internal investigation of sexual harassment.

- Harassing behavior does not need to be illegal harassment in order for [Employer name] to take corrective action. [Employer name] will strive to create a workplace free from disrespect, divisiveness, incivility, and inappropriate behavior. Therefore, behavior that could create a harassing environment should the behavior continue or escalate will not be tolerated, and will lead to corrective action.
- Retaliation is prohibited: [Employer name] will not tolerate retaliation against anyone who reports or provides information about possible sexual harassment. Any owner, executive, manager or supervisor who takes retaliatory action against anyone who has reported sexual harassment or who has provided information about possible harassment will be subject to corrective action. Anyone covered by this policy who engages in retaliatory harassment will be subject to corrective action.
- There will be no barriers to accessing the policy or participating in enforcement. All employees will receive training on this policy and the policy will be made available in a variety of languages when necessary so that it can be used and understood by all employees. The policy will also be communicated orally to any person who does not read.

### **Sexual Harassment Definition**

Sexual harassment is defined as unwelcome language or conduct of a sexual nature, or language or conduct that is because of sex, when:

- Such language or conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment (this can happen even if the complaining party is not the intended target of the sexual harassment);
- Such conduct is made either explicitly or implicitly a term or condition of employment; or,
- Submission to or rejection of such conduct is used as the basis for employment decisions.

Sexual harassment includes, but is not limited to, derogatory comments, jokes, or statements; sexual advances; sexually explicit language or stories; or visual, verbal or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes gender-based harassment of a person even when the harassment is not sexual in nature, but rather is

because of the person's gender. Sexual harassment can include language or conduct against a person of the same sex as the harasser.

Any sexually harassing conduct or language will be addressed under this policy, even if it is not a violation of the law. The list below is of examples of harassing behavior; however, it does not cover every type of harassment that will be considered to be a violation of this policy.

#### Examples of Language and Conduct that is Considered Prohibited Harassment

- Physical conduct including but not limited to: sexual assault; grabbing, poking, pressing or intentionally brushing up against another person's body; blocking someone's movement or invading their space; touching someone's breast, buttocks, or between their legs; or any other unwanted and intentional physical contact.
- Visual conduct including but not limited to: leering; sexual gestures; displaying of sexually suggestive objects, pictures, cartoons, posters, screen-savers, or websites.
- Verbal conduct including but not limited to: sexually derogatory comments, epithets, slurs and jokes; verbal abuse of a sexual nature; graphic verbal comments about an individual's body; derogatory comments related to gender or stereotypical gender roles; subtle or obvious pressure for unwelcome sexual activities; sexually suggestive or obscene letters, notes, emails, or texts; conversations, stories, comments or jokes about a person's sexuality or sexual experience; unwelcome questions about a person's sexuality or gender identity or expression.
- Asking a co-worker on a date multiple times if the request was unwelcome;
- Verbal abuse or joking concerning a person's gender characteristics such as vocal pitch, facial hair or the size or shape of a person's body.
- Offering an employment benefit (such as a raise, bonus, promotion, assistance with one's career or better working conditions) in exchange for sexual favors, or threatening an employment detriment (such as termination, demotion, worse working conditions, or disciplinary action) when a person refuses to engage in sexual activity.
- Sending sexually related, sexually derogatory, or sexually suggestive text messages, videos or messages via social media.
- Physical or verbal abuse concerning an individual's gender or the perception of the individual's gender.
- Making or threatening retaliatory action after receiving a negative response to sexual advances.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or expression, or the status of being transgender, such as:
  - Interfering with, destroying or damaging a person's work, workstation, tools or equipment, or other interference with the individual's ability to perform the job;
  - Ignoring or ostracizing them;
  - Yelling or name-calling.

- Degrading comments in the form of sex stereotyping, which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how persons of a specific sex should act or look.
- Other actions not listed above could constitute sexual harassment and/or a violation of this policy and be subject to corrective action.

#### Location and Timing of Behavior

Sexual harassment is not limited to the physical workplace. It can occur during travel, at events sponsored by [Employer name], or via phone, email, text, or social media. Such behavior can also occur outside of scheduled work time. Covered persons who engage in sexually harassing conduct outside of the workplace or outside of work hours will be subject to corrective action.

#### **Responsibilities of Persons Covered by this Policy**

- Each covered person has the responsibility to refrain from sexual harassment that impacts the workplace. The harasser will be subject to corrective action up to and including termination from employment in accordance with [Employer name's] disciplinary policy.
- Any covered person who believes they have been the target of sexual harassment or witnesses sexual harassment, is encouraged to follow [Employer name's] Reporting Procedure to report the sexual harassment.
- The covered person does not need to confront the harasser in order for a complaint, investigation, and corrective action to take place. A covered person who experiences sexual harassment may, if they choose to and can do so safely, inform the harassing person that such conduct is unwelcome and offensive and must stop.
- Employees shall familiarize themselves with this Policy and the Reporting Procedure, and attend all required sexual harassment trainings.

#### **[Employer name] Responsibilities**

- [Employer name], including owners, executives, managers, and supervisors, are ultimately responsible for maintaining a workplace free from sexual harassment.
- Owners, executives, managers and supervisors must take sexual harassment seriously, and take prompt and effective action when they receive a complaint, observe harassment, or otherwise become aware of possible harassment. All management and supervisory personnel will follow [Employer name's] Investigation Procedures, and all management and supervisory personnel will cooperate with an investigation.
- Managers and supervisors are required to follow [Employer name's] Investigation Procedures when they receive a complaint, see possible harassment, or otherwise become

aware of possible harassing behavior. In such circumstances where a person discloses sexual harassment but does not want to make a formal complaint, or when the complaining party changes their mind and retracts the complaint, the manager or supervisor is still obligated to act upon the information and follow the Investigative Procedures.

- Retaliation against those who report sexual harassment or who participate as a witness to a complaint is prohibited. If a supervisor or manager sees any retaliation or retaliatory harassment toward an employee, they must report this conduct to [the appropriate person or entity who receives and investigates complaints]. If an owner, executive, supervisor, or manager engages in retaliation, they will be subject to corrective action.
- Owners, executives, managers, and supervisors shall familiarize themselves with this Policy and the Reporting Procedure, and attend all sexual harassment training for managers and supervisors. Owners, executives, managers, and supervisors shall be able to understand and recognize sexual harassment, and should be able to provide information and direction to employees regarding sexual harassment, the Policy, and the Reporting Procedure.

### **Distribution of Policy**

This Policy and Reporting Procedure shall be distributed annually to all employees and will be provided to employees upon hire and promotion. This Policy and Reporting Procedure will be distributed and displayed in multiple languages when necessary for the policy to be understood and used by everyone, and provided orally to persons who cannot read.

Reporting information will be prominently posted in all work locations, shall be posted in [any applicable areas, such as the break room, locker room, etc.], and will be available on line at [website address].

### **External Process**

Reporting harassment to employer does not stop a covered person from also making a complaint in a different forum. All covered persons have the right to file a discrimination, harassment, and/or retaliation complaints with outside agencies, such as the Washington State Human Rights Commission (WSHRC) and the United States Equal Employment Opportunity Commission (EEOC). There may also be applicable local laws preventing harassment and county or city agencies that can investigate claims of harassment.

WSHRC [www.hum.wa.gov](http://www.hum.wa.gov) 1-800-233-3247

EEOC [www.eeoc.gov](http://www.eeoc.gov) 1-800-669-4000, 1-844-234-5122 (ASL Video Phone)

## **Retaliation**

Retaliation is unlawful under federal, state and applicable local laws. The Washington State Law Against Discrimination (RCW 49.60) protects any individual who has engaged in “protected activity”. Protected activity occurs when a person has:

- Made a complaint of sexual harassment, either internally, with an administrative anti-discrimination agency, or filed a lawsuit about harassment;
- Provided information, testified or assisted in a proceeding involving sexual harassment;
- Opposed sexual harassment by making an oral or informal complaint to management, or by simply informing a supervisor or management of harassment; or
- Reported that another employee has been sexually harassed.

Employees are protected from retaliation and retaliatory harassment from all persons covered by this Policy. Even if the alleged harassment does not rise to the level of a violation of law or of this Policy, the individual is protected from retaliation if the person who engaged in protected activity believed that the behavior was unlawful or a policy violation. However, someone who makes a complaint of harassment that they know is false may be subject to discipline.

Retaliation is any action that could discourage an employee from coming forward to make or support a sexual harassment claim. The action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence for reporting sent via social media or outside of work hours).

Examples of retaliation include but are not limited to:

- Termination or demotion;
- A decrease in hours, removing work, or denying a promotion;
- Being given more work, more difficult work, or undesirable tasks;
- Isolation or transfer to a less desirable location;
- Hyper scrutiny by a supervisor or manager or poor performance reviews;
- Threatening messages sent via social media or text;
- Retaliatory harassment by supervisors or managers, or by co-workers when the harassment is reported to or witnessed by a supervisor or manager. Examples are:
  - Leaving the person out of meetings or work-related events;
  - Refusing to communicate with the person;
  - Spreading rumors about the person;
  - Interacting with the person in a hostile manner that is different from interactions prior to the complaint;
- Disciplinary action based on pretextual reasons;
- Threatening the safety or livelihood of the complaining party’s family members;
- Taking a purposefully unreasonable amount of time to investigate the complaint;
- Giving a negative reference.

## [Employer name] Sexual Harassment Reporting Procedure

To ensure a workplace free from sexual harassment, everyone should take collective responsibility for ending sexual harassment in the workplace, and is encouraged to report sexual harassment. [Employer name] will not be able to prevent or correct sexual harassment unless it is aware of what is happening.

Please review the Policy and definition of sexual harassment found within it. All references to “sexual harassment” below are based on that definition.

### **Reporting Methods**

1. If an employee feels that they are being sexually harassed or witnesses sexual harassment by another employee, owner, executive, manager, supervisor, or any other person covered by this Policy, they are encouraged to immediately contact one of the following to make a complaint:
  - a. [supervisor/ human resources/other job title at telephone number/email]
  - b. [supervisor/ human resources/other job title at telephone number/email]
  - c. [Names and titles and phone numbers/emails of additional contact persons. It is a best practice to include multiple avenues for reporting, one of which is outside of the company]
  - d. [800 complaint line, drop box, or on-line complaint reporting method] An employee can make an anonymous report. Anonymous reports will be investigated with the same procedure and timeliness as other reports. However, [Employer name’s] ability to investigate and respond to allegations and to provide feedback may be limited in a situation involving an anonymous complaint.
2. Any owner, executive, manager, supervisor, or human resources representative can also receive the complaint.
3. All complaints of sexual harassment, including an oral complaint, or a complaint in a language other than English, will be investigated. [Employer name] will make a complaint form available for employees to report and file complaints. However, a complaint will still be investigated when the form is not used.
4. Any complaining party or witness who believes that they are being retaliated against for making a complaint or participating in an investigation is encouraged to follow the Reporting Procedure set forth above to make a complaint of retaliation.