

# Chicago Harassment Prevention for Supervisors and Manager Responsibilities



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- It is imperative that attendees and their employers properly document that this training has been received.
- It is the responsibility of the employer to ensure compliance with all applicable training requirements under the law.
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- The material here is related to training recommended and/or required as of September 4, 2022.
- The material here is exclusively for Supervisor Personnel (managers and supervisors only).

# We Will Discuss And Cover:

- Company's and Manager's/Supervisor's Responsibilities
- Retaliation
- Scenarios

# Company's and Manager's Responsibilities

# Sexual Harassment Defined under the Law

- Sexual Harassment. Under the Chicago Ordinance, “sexual harassment” means:
- (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or
- (ii) requests for sexual favors or conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or
- (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.
- For purposes of this definition, the phrase “working environment” is not limited to a physical location an employee is assigned to perform his or her duties.

# Examples of Inappropriate Conduct

- Pressure for sexual favors or to go out on a date.
- Deliberate touching, leaning over, or cornering another person.
- Sexual looks or gestures or whistling at someone.
- Sending letters, telephone calls, emails, texts, or other materials of a sexual nature.
- Sexual teasing, jokes, remarks, or questions.
- Referring to another as a “girl, ” “hunk,” “doll,” “babe, ”honey, ” “tootsie”,etc...
- Actual or attempted rape or sexual assault.

# Examples of Sexual Harassment May include:

- Turning work discussions to sexual topics.
- Asking about sexual fantasies, preferences, or history.
- Sexual comments, sexual innuendos, or sexual stories.
- Sexual comments about a person's clothing, body, or looks.
- Kissing sounds, howling and smacking lips.
- Telling lies or spreading rumors about a person's sex life.
- Massaging neck, shoulders, etc.
- Touching another employee such as their clothing, hair, or body.

# Supervisor & Management Obligations

## Avoid Risk to Dudek & Bock & Yourself

- You are also personally liable for your actions and decisions.
- You can face discipline and even discharge when your actions or decisions put **Dudek & Bock** at risk.
- Your role as a supervisor requires you to ensure the following:
  - Work gets done appropriately, timely and according to workplace policies & procedures.
  - Workplace missions and objectives are accomplished.
  - A safe work environment. This means no tolerance of sexual harassment, and an appropriate response to harassment complaints.
  - Good morale amongst the team (a workplace of respect).



# Supervisor & Management Obligations

## Create a Workplace of Respect

- As a supervisor, you are legally required to say something when you see unacceptable behavior, and you are legally required to have sexual harassment allegations investigated
- Coming forward to report inappropriate or harassing conduct may be difficult. It's hard to come forward, but only when we speak up can we change the culture of our workplaces to not tolerate uncivil and harassing behavior.

# Keys to Avoiding Discriminatory Conduct

- Treat similarly situated employees similarly under similar circumstances.
- Consistently administer and enforce reasonable workplace rules and policies.
- Base all employment actions (positive or negative) on a legitimate non-discriminatory business reason – and document those non-discriminatory business reasons for your actions!

# Supervisory Responsibilities

- All supervisors or managers who receive a complaint or information about suspected discrimination, harassment or retaliation, observe behavior that may violate this policy or for any other reason to suspect that discrimination, harassment or retaliation is occurring, are required to report such suspected conduct to Human Resources.
- In addition to being subject to discipline for engaging in discrimination, harassment or retaliation themselves, supervisors and managers will be subject to discipline (up to and including termination) for failing to report suspected discrimination, harassment or retaliation or otherwise knowingly allowing such conduct to continue.

# Supervisor & Managers Reporting Obligations

- With respect to Discrimination or Harassment, you must take action – especially reporting to HR or your manager – if you:
  - Witness it
  - Hear about it
- Let HR decide if the incident is worthy of further action

# Responding to Complaints of Harassment & Discrimination

## KNOW WHAT YOUR RESPONSIBILITIES ARE.

- RULE NO. 1: Take all complaints and incidents of harassment seriously.
- RULE NO. 2: Follow the chain of command mechanism. Do NOT attempt to handle a harassment situation by yourself. Get help.
- RULE NO. 3: Act promptly and effectively. Do NOT wait. Separate the parties if necessary and get help immediately.

# General Checklist for Investigations

- Each complaint is seriously investigated and reviewed on a case-by-case basis
  - Even if the employee asks you not to investigate, your duty is to proceed with an investigation anyway.
- The complaining employee will be interviewed for more details, witnesses, etc.
- The alleged harasser(s) will be interviewed, and any applicable documentation will be reviewed. The alleged harasser(s) will not have any direct control over the investigation.
- After speaking with the employee who made the complaint and alleged harasser, IF NECESSARY, any witnesses will be interviewed.
- To the extent possible, any information or materials obtained during the course of the investigation will be kept confidential with HR.
- Retaliation will not be tolerated against those individuals making honest good faith complaints or against those who participate in any investigation

# Prompt Remedial Action

- If harassment/discrimination occurs, you must take prompt remedial action.
- Unless the complainant has requested it, do not transfer the complainant. A transfer may be construed as a negative employment action taken against the complainant that risks liability for retaliation.
- Several factors should be considered in fashioning a punishment for the harasser:
  - Egregiousness of the conduct
  - Position of the harasser and complainant (i.e., supervisor/subordinate)
  - Harasser's disciplinary record, especially with respect to other occasions of harassment
  - Suggested punishment elicited from complainant
  - Punishment given for similar offenses

# Corrective Measures, Not Recommended

These changes may not be appropriate and should only be considered at the request of the victim.

- Change in the worksite of the victim
- Change in the victim's work hours
- Change in the victim's job duties



# Consequences and Liability for Unlawful Harassment and Discrimination And Protection Against Retaliation

- Any **Dudek & Bock** Employee, including any Supervisor or Manager, who is found to have engaged in unlawful harassment or discrimination is subject to disciplinary action up to and including discharge from employment.
- Applicable law also prohibits retaliation against any Employee by another Employee or by **Dudek & Bock** for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding or hearing conducted by **Dudek & Bock** or a federal or state enforcement agency.
- If **Dudek & Bock** determines that retaliation has occurred, appropriate action will also be taken to deter any future retaliation. **Dudek & Bock** will not retaliate against any Employee for filing a complaint and will not knowingly permit retaliation by Management, Employees or coworkers.
- **Dudek & Bock** prohibits behavior creating a hostile work environment whether or not this behavior meets the legal definition of harassment. Aggressive, abusive behavior such as swearing, intimidation, threats, conduct demeaning others or other forms of bullying should be reported through the channels outlined above.

# What is the Cost of Harassment/Discrimination?

- Emotional distress/stress
- Increased absenteeism
- Low morale
- High turnover
- Decrease in growth and creativity
- Decrease in productivity
  
- LITIGATION FEES, COSTS & HEADACHES!

# Supervisor Actions that Lead to Charges and Claims

- PITFALL

- Being **inconsistent** when disciplining employees (suggests that something else motivated the decision)
- Excluding people who aren't "like you" from networking or mentoring opportunities
- Diversity awareness by all employees is crucial
- When in doubt, follow The Golden Rules!
  - Singling out the person who complained about you
  - Suddenly enforcing a "rule" you haven't previously enforced

- PITFALL

- Expressing anger or threatening someone's job because s/he complained

- PITFALL

- Threatening or intimidating a witness

- PITFALL

- **Relying on stereotypes** when making a decision
  - Having kids, no travel
  - Being older, can't learn
  - Having disability, can't do job
  - People of a certain race should do certain jobs

It's the appearance that matters!

# What To Do If You Are Personally Accused of Harassment

- Take the allegation seriously
  - Listen carefully to the complaint
  - Respect the complainant's feelings and cease the behavior
- Notify your manager or Human Resources
- NO retaliation

# Is It Harassment?

- Monica's boss asks her to join him for dinner after work to discuss her new project.
- Frank has found a magazine clipping on his desk that negatively discusses his religion.
- Valerie's boss offers her a promotion if she agrees to sexual favors. Valerie accepts and as a result receives the promotion that two other women were striving for.
- Robert and Joanne constantly talk to each other in a suggestive manner. Robert remarks about how lovely Joanne looks each day while Joanne tells Robert how she enjoys watching him play volleyball on the company team.

# Retaliation

# Avoiding Retaliation

- Practical tips:
  - Don't change the way you treat someone (e.g., cold shoulder)
  - Make sure your actions are (and appear) fair & consistent
  - Watch what you say – DO NOT GOSSIP
  - Never discourage someone from engaging in protected activity
- **PITFALL**
  - Punishing someone for accusing you of harassment or discrimination
    - Discipline or discharge
    - Stop helping them or remove support
    - Giving the cold shoulder
    - Penalizing with scheduling shifts

# Case Studies



# Case Study – Receipt of Harassment Complaint

- A few weeks after the office Holiday party, one of your subordinates, Rosie, comes into your office and says she needs to tell you something in confidence. You say, “Sit down. What’s up?”
- She tells you that Rick, her coworker, followed her into the parking lot after the party, grabbed her, and kissed her. Rosie says she let it slide at the time because everyone was drinking a bit and having a good time.
- But since then, Rosie claims that Rick has been coming by her station, rubbing her shoulders, and making comments about how good she looks in certain sweaters and skirts. Rosie asks you over and over not to do anything. She just wants you to know what’s going on in case it gets any worse.
- After talking with Rosie, you call Sam, Rick’s supervisor. Sam says Rick is one of his best employees and he finds it very hard to believe that he would behave that way. “Besides,” he adds, “I heard that Rosie made up a story just like that at the last job she had.” You have heard that about Rosie as well.

# Case Study – Review

## What should you do?

- Take Sam at his word and give Rick a pass?
- Investigate further and discipline Rick, if warranted?
- Honor Rosie's request and leave things alone unless they get worse?

## INVESTIGATE!

- Every complaint is taken seriously!
- Even if what Sam says (and you heard) about her prior employment claim is true, that doesn't mean Rosie wasn't harassed now
- Rick's good performance is irrelevant to whether or not he harassed Rosie and he should be treated no differently than anyone else

# Case Study – Review (cont'd)

What about Rosie's request?

- While you may want to honor her request to do nothing, you must investigate
- Tell Rosie that as a manager you have a duty to protect her and all employees against harassment
- Assure her that you will keep the information confidential and only share it on a “need to know” basis
- Follow up with Rosie so that she knows her issue is being resolved
- Even if you conclude that Rick did not (yet) violate the harassment policy, review the policy with him (give him a copy) and caution him that repeated conduct of this nature could lead to discipline

# Case Study – Harmless Banter?

- In Monday meetings, the male employees typically gather to swap stories about their weekends, sometimes tell dirty jokes, and say things about women like, “they shouldn’t let those women drivers on the road.”
- Three of these reports are women: Carla, Rebecca, and Diane. Carla typically joins in the fun and tells an occasional joke of her own. Rebecca will laugh along with the group, but never tells jokes on her own. Diane sits quietly on her own and doesn’t react (either way).

# Case Study – Review

## What should you do?

- You know what's going on, but aren't always there to hear it
- No one has ever complained to you about it
- No one seems bothered by it

## STOP THE BANTER!

- Never assume people aren't bothered because nobody complains
- Inappropriate behavior is inappropriate - It's neither more nor less inappropriate just because someone complains (or doesn't)
- Stop the inappropriate conduct before it leads to a harassment complaint

# Summary

- Be consistent in your treatment of all employees, including discipline
- Do not date your subordinates.
- Do not touch employees, guests and/or vendors.
- Take all complaints of harassment or discrimination seriously.
  - The complaint does not have to be in writing!
- When you witness harassment or receive a complaint, act promptly!
- Never retaliate against an employee who may have complained about you.
- When in doubt, contact HR.

# CERTIFICATION

**Thank you for completing the 2023 Supervisor Training**

You **MUST** certify that you completed the training by clicking this link and filling out the form:

<https://www.surveymonkey.com/r/LRBM8HV>

Wednesday, October 5, 2022



Thank you for joining us!

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