

## **703 Sexual and Other Unlawful Harassment**

The Clerk's office is committed to providing a work environment that is free from all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive, including sexual harassment. The Clerk's office will not tolerate any actions, words, jokes, or comments based on age, disability, gender, gender identity, genetic information, lifestyle, marital status, national origin, pregnancy, race/color, religion, sexual orientation, veteran status, or any other characteristic protected by law. The Clerk's office provides a minimum of one (1) hour of sexual harassment training (which includes other unlawful harassment) each year to ensure employees have the opportunity to work in an environment free of sexual and other unlawful harassment as required by Senate Concurrent Resolution Number 107.

Unwelcome sexual advances (either verbal or physical), requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; (2) submission or rejection of the conduct is used as a basis for making employment decisions; or, (3) the conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment.

Prohibited workplace harassment may take either of two forms. It may entail "quid pro quo" harassment, which occurs in cases in which employment decisions or treatment are based on submission to or rejection of unwelcome conduct, typically conduct of a sexual nature. Workplace harassment may also consist of offensive conduct based on one or more of the protected groups above that is so severe or pervasive that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as being fired or demoted).

The Clerk's office policies and procedures promote prompt recognition, reporting, and remedying of harassing workplace conduct with the goal of eliminating such conduct quickly and effectively, even in cases in which the reported conduct may not be severe and pervasive so as to constitute a violation of federal law.

The information below provides a brief explanation of workplace harassment, how to recognize it, and both the responsibilities of an employee who has witnessed or been subjected to workplace harassment and the responsibilities of Department Heads, Human Resources, or Melissa R. Henry, St. Tammany Parish Clerk of Court.

The two basic types of unlawful harassment are Quid Pro Quo Harassment - "This for that", and Hostile Work Environment Harassment.

### **Quid Pro Quo Harassment - "This for That"**

Quid pro quo harassment generally results in a tangible employment decision based upon the employee's acceptance or rejection of unwelcome sexual advances or requests for sexual favors, but it can also result from unwelcome conduct that is of a religious nature. This kind of harassment is generally committed by someone who can effectively make or recommend formal employment decisions (such as termination, demotion, or denial of promotion) that will affect the victim.

Examples are:

- \* Supervisor who fires or denies promotion to a subordinate for refusing to be sexually cooperative;
- \* Supervisor requires a subordinate to participate in religious activities as a condition of employment;
- \* Supervisor offers preferential treatment/ promotion if subordinate sexually cooperates or joins supervisor's religion;
- \* Offering employment benefits in exchange for sexual favors;
- \* Making or threatening reprisals after a negative response to sexual advances.

### **Hostile Work Environment Harassment**

A hostile environment can result from the unwelcome conduct of Deputy Clerks, Department Heads, Human Resources Administrators, Melissa R. Henry, St. Tammany Parish Clerk of Court, customers, contractors, vendors, other agencies or anyone else with whom the victim interacts on the job, and the unwelcome conduct renders the workplace atmosphere intimidating, hostile or offensive.

Examples of behaviors that may contribute to an unlawful hostile environment include:

- \* Unwanted sexual advances;
- \* Verbal sexual advances or propositions;
- \* Discussing sexual activities;
- \* Verbal conduct that includes making or using derogatory, demeaning or inappropriate comments, epithets, slurs, or jokes concerning race, sex (gender stereotyping), disability, or any other protected bases;
- \* Physical conduct that includes touching, assaulting, or impeding or blocking movements;
- \* Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations;
- \* Visual conduct that includes leering, making sexual gestures, or displaying of sexually suggestive objects or pictures, cartoons or posters or racially insensitive pictures;
- \* Demeaning, inappropriate or indecent gestures;
- \* Using crude language or using language of a filthy nature;
- \* Sabotaging the victim's work or reputation in the workplace;
- \* **Gossiping about an employee's sex life, sexuality, sexual orientation or gender identification, marital status, relationships, or any other personal business;**
- \* Engaging in hostile physical conduct;

**\* Workplace bullying - defined as repeated and persistent attempts by one or more individuals to torment, wear down, humiliate, frustrate or get a reaction from another individual. It is treatment which persistently provokes pressures, frightens, intimidates, or otherwise discomforts another individual and includes insults or put-downs;**

\* 3rd party harassment - is a person or persons affected by the harassing behavior of another, even if the harassment was meant or intended for someone else. Example: One employee was making derogatory, sexually charged comments about another employee in the presence of other employees. The other employees present to hear and experience the behavior would be considered 3rd party harassment;

**\* Making derogatory, demeaning or inappropriate comments, epithets, slurs, or jokes concerning race, sex, disability, or gossiping about an employee's sex life, sexuality, sexual orientation or gender identification, marital status, relationships, or any other personal business on SOCIAL MEDIA (Snapchat, Instagram, Facebook, Twitter, or via email, other forms of social media, blogs, or public forums) during or outside of business hours is forbidden and is HARASSMENT.**

All allegations of sexual harassment, hostile work environment or other unlawful harassment are taken seriously.

Any employee who engages in sexual harassment, hostile work environment, or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

Courts have ruled that the **RESULT** not the **INTENT** as being important in a victim's case. "I was just joking" is not an excuse.

#### **WHEN HARASSING CONDUCT VIOLATES THE LAW**

First, unlawful harassing conduct must be unwelcome *and* based on the victim's protected status. Second the conduct must be:

- \* Subjectively abusive to the person affected; and
- \* Objectively *severe and pervasive* enough to create a work environment that a *reasonable person* would find hostile or abusive.

Whether an instance or a pattern of harassing conduct is *severe or pervasive* is determined on a case-by-case basis, with consideration paid to the following factors:

- \* The frequency of the unwelcome discriminatory conduct;
- \* The severity of the conduct;
- \* Whether the conduct was physically threatening or humiliating, or a mere offensive utterance;
- \* Whether the conduct unreasonably interfered with work performance;
- \* The effect on the employee's psychological well-being; and

- \* Whether the harasser was a superior within the organization.

Each factor is considered, but none are required or dispositive. Hostile work environment cases are often difficult to recognize, because the particular facts of each situation determine whether offensive conduct has crossed the line from "ordinary tribulations of the workplace, such as the sporadic use of abusive language . . . and occasional teasing" to unlawful harassment.

### **WORKPLACE BEHAVIOR TO AVOID**

To avoid gray areas set professional boundaries:

- \* Avoid inappropriate communications;
- \* Inappropriate self-disclosure or personal exposure;
- \* Inappropriate relationships;
- \* Inappropriate visual displays;
- \* Inappropriate dress or attire;
- \* Inappropriate touching;
- \* Gender stereotyping.

### **SOLUTIONS TO SEXUAL HARASSMENT OR HOSTILE WORK ENVIRONMENT**

The first step is to tell the harasser to stop! Sometimes the harasser is not aware that their behavior is upsetting or degrading!

**If an employee experiences or witnesses sexual or other unlawful harassment at work, he or she should report it immediately to the Department Head. If the Department Head is unavailable or the employee believes it would be inappropriate to discuss it with their Department Head, he or she should immediately contact the Human Resources Department or any other member of management. If the harassing behavior is coming from their Department Head, report the incident to Human Resources, another Department Head or Melissa R. Henry, St. Tammany Parish Clerk of Court.**

Normal workplace friction between coworkers, reprimands or instructions in the line of work duties from a Department Head is NOT harassment.

There will not be retaliation or reprisal if an employee reports sexual harassment or hostile work environment or ask questions or raise concerns about it.

All allegations of sexual harassment or hostile work environment will be quickly and discreetly investigated.

When filing a complaint as a victim, be prepared to do the following:

- \* Cooperate with any investigation fully;

- \* Answer questions;
- \* Define the harassing behavior;
- \* State when the harassment took place and how frequently;
- \* Identify any witnesses;
- \* Acknowledge if others have been subjected to this same behavior.

To the extent possible, an employee's confidentiality and the confidentiality of any witnesses and the alleged harasser will be protected against unnecessary disclosure. All parties involved in harassment allegations are held to the strictest confidentiality (i.e., do not discuss) so a proper investigation can be conducted. When the investigation is completed, the complainant will be informed of the outcome of the investigation.

### **WHAT IF I WITNESS SEXUAL HARASSMENT OR HOSTILE WORK ENVIRONMENT?**

The intent of the Clerk's office is to provide a process for addressing incidents of unwelcome conduct long before they become severe and pervasive enough to create a hostile work environment under the law. The Clerk's office recognizes that the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under the law. The goal of this policy is to eliminate harassment before it becomes severe and pervasive enough to violate the law.

Therefore, for the purposes of this policy harassing conduct is defined more broadly as "any unwelcome verbal or physical conduct based on any characteristic protected by law when: (1) the behavior can reasonably be considered to affect the work environment; or (2) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct." Conduct that "adversely affects the work environment," even though it may not be "severe or pervasive" as required under federal law, is prohibited by this policy. Examples include those listed above, as well as less severe or more isolated incidents, such as derogatory name calling, use of epithets, and unnecessary touching.

- \* **ALL** employees are required to and are responsible for reporting harassment;
- \* If appropriate, tell the harasser to stop;
- \* Report the harassment to your Department Head, another Department Head, Human Resources Administrator or Melissa R. Henry, St. Tammany Parish Clerk of Court;
- \* Cooperate fully with any investigation and report any retaliation.

Any member of management who becomes aware of possible sexual or other unlawful harassment must immediately advise the Human Resources Department or Melissa R. Henry, St. Tammany Parish Clerk of Court, so it can be investigated in a timely and confidential manner.

Any employee who engages in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

Management must take prompt, remedial action to investigate and eliminate any harassing conduct. All information will be maintained on a confidential basis to the greatest extent possible.

Individuals who report harassment or are involved in the investigation of a harassment complaint will not be subject to reprisal or retaliation. Retaliation is regarded as a very serious violation of this policy and should be reported immediately.

Retaliation is a taking any materially adverse employment action because an employee participated in a protected activity, meaning the employee participated in a complaint or opposed discrimination; retaliation is **ILLEGAL**. Retaliation can be in the form of demotion, failure to promote, termination, or any action that might dissuade a reasonable person from engaging in a protected activity.