



DISCRIMINATION AND HARASSMENT SOLUTIONS LLC

2021 NE GFOA

Fair Employment & Workplace Practices

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Agenda

- Overview of Discrimination
 - Identifying Protected Classes
 - Sexual Harassment
- Supervisor Responsibilities
- Recent Trends at the MCAD

Forms of Unlawful Discrimination

- Disparate Treatment
- Harassment
 - Sexual or Non-Sexual
- Disparate Impact
- Accommodation
 - Disability, Pregnancy or Religion

Protected Categories

- Age
- Criminal records (inquiries only)
- Disability
- Gender
- Pregnancy and pregnancy related conditions
- Gender identity
- Genetics
- Military status
- National origin or ancestry
- Race or color
- Religion
- Retaliation
- Sexual orientation

Sexual Harassment

- Quid Pro Quo “this for that”
- Hostile Work Environment

Quid Pro Quo

- Submission to or rejection of sexual advances, requests for favors or other sexual conduct is explicitly or implicitly a term or condition of employment
- Submission to or rejection of conduct is a basis for employment decisions

Examples: Hostile Environment Sexual Harassment

- Written or verbal sexual remarks or jokes, including posters, emails, and text messages
- Comments on one's body
- Leering, whistling, brushing against the body, gestures,
- Inquiries into or discussions of sexual activities
- Repeated requests for dates
- Grunts, whistles or catcalls
- Terms of endearment such as “babe,” “honey,” or “sweetie”

Preventing Harassment

- Never assume friendliness equals sexual interest
- Do not assume your behavior is okay just because no one has objected to it.
- If someone indicates your behavior is unwanted, STOP immediately.
- If in doubt, don't say it/don't do it. Err on the side of caution.

Workplace Relationships

- Consensual relationships among coworkers are not unlawful, but can cause liability
- Proceed with extreme caution!

Hostile Environment Harassment: *Other Forms*

- Verbal or physical conduct that unreasonably interferes with an individual's work performance by creating an intimidating, hostile, or offensive work environment based on their membership in a protected category

What is a hostile work environment?

- Does the wrongful conduct involve a protected class?
- Does the conduct effect the individual's ability to perform the job?
- Would a reasonable person find the wrongful conduct to be severe and pervasive?

Recent Trends at the MCAD

- Discrimination by association;
- COVID-19;
- Retaliation, retaliation, retaliation;
- Intellectual Disabilities;
- Rumors

Conclusion

Thank you and I hope this
was helpful!