

Anti-Sexual Harassment Model Policy

The attached anti-sexual harassment policy was drafted by the State Bar of Wisconsin Anti-Sexual Harassment Implementation Committee per the recommendations outlined in the President's Working Group on Sexual Harassment in the Legal Profession Final Report approved by the State Bar of Wisconsin Board of Governors in 2019.

Excerpt from the report:

*Recruit subject matter experts to develop materials for law firms and other legal organizations that want to implement training and **policies** to prevent and address sexual harassment, to be available through Practice 411.*

Please note: Employers are strongly encouraged to implement policies with broad anti-harassment policies including, but not limited to: race, sex, religion, ancestry, age, sexual orientation, disability, gender identity, national origin.

This policy is intentionally written to focus on sexual harassment in the legal profession and not to be used as the only anti-harassment policy for your organization.

This model policy is intended for general information purposes only and is not intended to constitute legal advice. The contents may not reflect all recent legal developments and may not apply to the specific dynamics of individual law firms or legal offices. You should consult with qualified legal counsel before acting on any of the information contained herein or adopting an anti-sexual harassment policy for your workplace.

**State Bar of Wisconsin
Anti-Sexual Harassment Oversight Committee
Model Anti-Sexual Harassment Policy**

Anti-Sexual Harassment Policy¹

Policy Purpose

This policy addresses [Firm]'s commitment to providing a work environment that is free from sexual harassment. In furtherance of this goal, [Firm] adheres to all relevant federal, state, and local laws and regulations regarding sexual harassment. ²

Scope

The [Firm] does not tolerate sexual harassment in any form. This policy prohibits acts of sexual harassment and sexual violence at workplaces, at sanctioned or affiliated events, and where off-duty conduct affects another employee of [Firm]. This policy applies to all employees, as well as others with whom Employees come into contact in the course of their work for the [Firm] Employees can be subject to discipline for sexual harassment that occurs off [Firm] premises and outside work hours.

Sexual Harassment is Prohibited

”Sexual Harassment” includes unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome physical contact of a sexual nature, or unwelcome verbal or physical conduct of a sexual nature, including when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual; and (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.. It can be unwelcome actions taken by a person of the same or opposite gender.

By way of example, no supervisor or other employee shall threaten or insinuate, either explicitly or implicitly, that another employee's or applicant's refusal to submit to sexual advances will adversely affect that person's employment, work status, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. Similarly, no employee shall promise, imply or grant any preferential treatment or employment opportunities in return for sexual favors.

¹ Wisconsin Rules of Professional Responsibility further provides that it is professional misconduct for a lawyer to engage in conduct that is harassment or discrimination on the basis of sex, sexual orientation, gender identity in conduct related to the practice of law. RPC 8.4(i).

² This model policy is based upon federal law (which applies to employers with 15 or more employees) and Wisconsin law. Different State's laws may vary. Please consult the relevant laws of your jurisdiction before adopting this model policy.

“Unwelcome verbal or physical conduct of a sexual nature” includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature or the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes. Sexual harassment also includes any unwanted physical or verbal conduct, whether or not repeated, that directly or indirectly affects a term or condition of employment, or creates an intimidating, hostile, or offensive work environment.

While sexual harassment encompasses a wide range of conduct, some examples of prohibited conduct include:

- Verbal conduct such as offensive jokes or comments, slurs, or unwanted sexual advances, invitations, or comments;
- Visual displays such as offensive or sexually-oriented posters, photography, drawings, or gestures;
- Physical conduct including assault, unwanted touching, and intentionally blocking normal movement;
- Threats and demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors;
- Retaliation for reporting or threatening to report sexual harassment; and
- Communication through electronic media of any kind that includes any conduct that is prohibited by state and/or federal law, or by [Firm] policy.

Reporting

If you believe that you have been subject of harassment or other prohibited conduct, you should immediately report such conduct to [Designated Managing Partner/HR] or if you prefer, to [include alternate avenue for reporting]. [Firm] encourages all employees to report any incidents of harassment or other prohibited conduct forbidden by this policy immediately so that complaints can be resolved quickly and fairly.

Anti-Retaliation

[Firm] ensures that employees who complain about sexual harassment, oppose any practice involving sexual harassment, or participate in the investigation of such complaints are protected against retaliation.

[Firm] does not discourage or obstruct anyone from filing complaints with the Equal Employment Opportunity Commission (“EEOC”) or the Wisconsin Equal Rights Division of the Department of Workforce Development (“ERD”). However, [Firm] prefers that employees report internally first, and employees should be aware that filing a complaint with either the EEOC or ERD before reporting internally to [Firm] could limit or preclude a claim filed with either or both.

No adverse employment actions are taken against employees because a complaint is filed or for opposing any actions involving sexual harassment or participating in the investigation of

complaints. Employees also are protected against retaliation for talking about sexual harassment not on their own initiative when responding to questions during internal investigations.

Confidentiality

[Firm] management will do its best to protect private information related to a reported harassment claim; however, the firm cannot guarantee privacy or anonymity.

Discipline

Violating the Anti-Sexual Harassment Policy may result in disciplinary action up to and including unpaid suspension and/or discharge from employment.

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