

TAG – State Human Resources Policy and Procedure

Sexual Harassment/ Hostile Work Environment

References

Kansas Civil Service Act 75-2925 and 75-2926
K.A.R. 1-9-18(a)
Title VII of the Civil Rights Act of 1964

Policy

Sexual harassment will not be condoned or tolerated. It is the commitment of this agency to provide employees a work environment that respects people, provides equal opportunity for all personnel, and maintains a positive environment that eliminates discriminatory behaviors or practices, free of sexual harassment and of any inappropriate behavior and language that may be hostile, intimidating or offensive. This harassment-free environment also applies to agency customers and vendors.

Definitions

Sexual harassment is defined as unwelcomed sexual advances, requests for sexual favors, as well any verbal, physical or visual conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects and individual's employment, unreasonable interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. This includes, but is not limited to:

- a) sexually demeaning language or harassing conduct;
- b) sexually oriented teasing, kidding or joking;
- c) unwelcomed flirtations or touching;
- d) patting;
- e) hand gestures;
- f) displays of pictures of a sexual nature or that exploit male or female persons;
- g) discussing sexual activities; and
- h) explicit or implicit insinuation that submission to, or rejection of, sexual advances will in any way influence personnel decisions regarding an employee's employment, wages, advancement, assigned duties, shift, or any other conditions of employment or career advancement.

Sexual harassment may occur as a single event or as a series of incidents.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- a) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- b) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- c) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- d) Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

General complimentary remarks of a non-sexual nature, welcomed by the recipient, and non-sexual platonic social relationships between employees of the same rank/level, do not constitute Sexual Harassment.

Procedures

1. If an employee believes he/she is being sexually harassed, the employee is encouraged (but not required) to immediately confront the harasser clearly stating what behaviors are offensive and asking the person to cease those kinds of comments or behavior. If an employee is unable to confront a harasser in person, the employee may write the harasser a letter stating what behavior was offensive, when and where it occurred, that it is to be stopped and how the employee would like to be treated in the future. Employees may also seek assistance from staff noted below in bringing the unwanted/offensive behavior to the attention of a harasser.
2. Employees who believe they have been harassed should immediately report alleged sexual harassment/hostile work environment violations to the agency's Director of State Human Resources (SHR). In the absence of the director, employees may report to the following federal Adjutant General's Department staff knowledgeable in this subject area: State Equal Employment Manager (SEEM), the Judge Advocate General (JAG) or the Inspector General (IG). Employees have the option of reporting directly to the Adjutant General at any time.

3. Likewise, employees who believe they have witnessed unacceptable behavior should document what has been seen or heard and report as designated in no. 2 above.
4. Employees need to keep a record of what has happened, including specific dates, comments, behaviors, lists of possible witnesses and copies of any correspondence to or from the alleged harasser.
5. Supervisors who have incidents of alleged unacceptable behavior reported to them should immediately report such incidents to the agency's Director of SHR. Failure at any supervisory level to immediately forward such reports, or failure to take corrective action as determined appropriate, will be considered condoning sexual harassment and the supervisor may be subject to disciplinary action
6. The agency's Director of SHR is responsible for conducting investigations. A panel may be appointed to assist in the investigation. In the absence of the agency's Director of SHR the Adjutant General will be responsible for the assignment of the investigation.
7. Alleged harassers may be relieved of duty with pay or reassigned while an investigation is being conducted.
8. Confidentiality will be maintained to the fullest extent possible during the investigation. Staff interviewed during an investigation **should not** discuss the investigation with co-workers or the employee(s) being investigated. Likewise, the employee being investigated should not discuss the investigation with co-workers or contact employees that might be involved. Employees that interfere with an investigation, discuss interviews with others or retaliate in any manner may be subject to disciplinary actions, up to and including termination of employment.
9. This policy prohibits any form of retaliation to an employee who without malice or personal revenge, reports an allegation. Any employee retaliating against a reporter or person associated with filing the complaint will be subject to disciplinary procedures as describe in no. 10, following.
10. Employees engaging in any form of sexual harassment, sexually harassing behavior or hostile work environment behavior will be disciplined in accordance with progressive disciplinary measures. This may include verbal or written counseling, letter of reprimand, suspension and/or dismissal. The severity and frequency of incidents will determine the level of any formal or informal disciplinary action. In addition to any disciplinary actions, training to prevent harassing and hostile work environments may also be recommended or required.
11. Sexual relationships between supervisors and subordinate employees have the potential for sexual harassment allegations and are inappropriate. As such, these situations should be avoided between employees and supervisors within their work department or chain of command. Sexual relationships, including dating, between supervisors and subordinates may affect job performance, suggest favoritism, convey unfavorable and unprofessional images or role models, and compromise confidential information. These behaviors may also be the basis for a claim of hostile work environment.
12. A log of reports covered by this policy will be maintained.
13. Training: Employees will annually complete training (including sensitivity training, climate surveys and /or knowledge assessments) related topics to Equal Opportunity, Affirmative Action and Sexual Harassment. Training will be documented and records maintained in SHR.

Responsibilities

Employees: Responsibilities of every employee are to: a) strive to maintain a sensitive, harassment-free work environment, b) treat co-workers and visitors with respect and dignity, c) refrain from inappropriate behavior, d) properly report all allegations of inappropriate behavior and e) adopt an attitude that reporting is important in providing a good working environment.

Supervisors/ Managers: The additional responsibilities of every supervisor and manager are to: a) be alert and pro-active in providing a good working environment for all employees, b) report allegations as directed by this policy, and c) ensure all employees successfully complete the annual training requirements and request consultation or special training as needed.

State Human Resources Director: The additional responsibilities of the director are to: a) ensure employees are provided information and/or training on the agency's sexual harassment policy, b) investigate allegations promptly, c) maintain a log of reports, d) provide or secure training as requested and e) provide consultation and/or technical assistance, including information on filing complaints with enforcement agencies when requested.

