

# Preventing Discrimination, Discriminatory Harassment and Retaliation

# Introduction



- A productive workplace offers an atmosphere where everyone can do their best, free of discrimination and harassment.
- Discrimination is unfair to:
  - Individuals, who need equal opportunities to be productive and do their best
  - Employers, that need all employees' full contribution to be successful
- Employment discrimination including discriminatory harassment, is also illegal. The penalties can be high for individuals and organizations.

# Discrimination is Against the Law:

- Allegheny Valley School is an equal opportunity employer and adheres to all applicable regulations and laws.
- Discrimination, discriminatory harassment and retaliation can deprive employees of equal treatment at work.
- Discrimination includes discriminatory harassment and retaliation.
- Federal and state laws make discrimination, discriminatory harassment and retaliation illegal.
- Laws and policies try to prevent many types of discrimination.



# Discrimination Based on Protected Status

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- As a general rule you cannot consider race; color; religion; religious creed; sex; national origin; ancestry, age; non-job related disability or handicap; use of a guide, service or support animal because of blindness, deafness or physical handicap; membership, applicant for membership, service, applicant for service or obligation for service in a uniformed service of the United States in employment decisions. At work sites governed by a lawful ordinance or statute that so provides, sexual orientation and gender identity are also illegal basis for employment decisions.
- These factors cannot be used as reasons to favor or pass over people when you:
  - Hire
  - Fire
  - Set pay rates and raises
  - Provide training
  - Make job assignments or promotions
  - Offer other benefits
- An additional form of discrimination is failure to make reasonable accommodation that will not put an undo hardship on the conduct of AVS business for religious belief or disability.



# Discriminatory Harassment:



- Any negative conduct or words including, but not limited to intimidation, insult, ridicule, degradation, or belittlement directed against an employee because of the employee's protected status that is so severe, frequent or widespread that it interferes with the employee's work performance or creates a working environment that is intimidating, hostile, offensive or abusive. This is often called Hostile environment harassment.
- The employee's submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment;
- The employee's submission to or rejection of such conduct is used as the basis for employment decisions affecting such employee. These later two are often called quid -pro-quo harassment.
- Discriminatory harassment includes sexual harassment but is not limited to sexual harassment.
- The difference between sexual harassment and other discriminatory harassment is the reason for the harassment.
- Sexual harassment is based upon the victim's sex. Other discriminatory harassment is based upon some other protected status of a victim.
- An employee who constantly uses degrading or vulgar language to a certain employee because she is a woman is sexually harassing the victim.
- An employee who uses the same language to a certain employee because the employee is a member of a particular religion is religiously harassing the victim.

# Discriminatory Harassment:

- Sexual harassment will be discussed in more detail than others because it is most commonly known and complained about.
- The Federal Equal Employment Opportunity Commission (EEOC) defines “illegal sexual harassment” as unwelcome and unwanted
  - Sexual advances
  - Requests for sexual favors
  - Verbal and physical contact of a sexual nature
- Sexual harassment is not limited to conduct of a sexual nature. It includes any intimidation, insult, ridicule, degradation or belittlement directed against an employee because of the employee’s sex that make the workplace intimidating, hostile, offensive or abusive, or unreasonably interferes with work. It may be:
  - Male to female
  - Female to male
  - Male to male
  - Female to female



# Quid Pro Quo ( An Exchange for Sexual Favor):

- This form of illegal sexual harassment refers to something for something. Accepting or declining sexual advances may result in a employment action such as:
  - Hiring or terminating
  - Promotions or demotions
  - Positive or negative performance appraisals
- It is sexual harassment if promises or threats are made:
  - “ I can make it easy for you or I can make it hard for you”.
  - “You can go a long way here if you would just be a little more friendly to me”.

# Hostile Work Environment:

- Physical contact that is unwanted, unwelcome, offensive, and/or intimidating is sexual harassment.
- Physical acts that may be sexual harassment includes:
  - Fondling, grabbing, patting, pinching or stroking
  - Actual or attempted kissing
  - “Accidental” touching, collisions





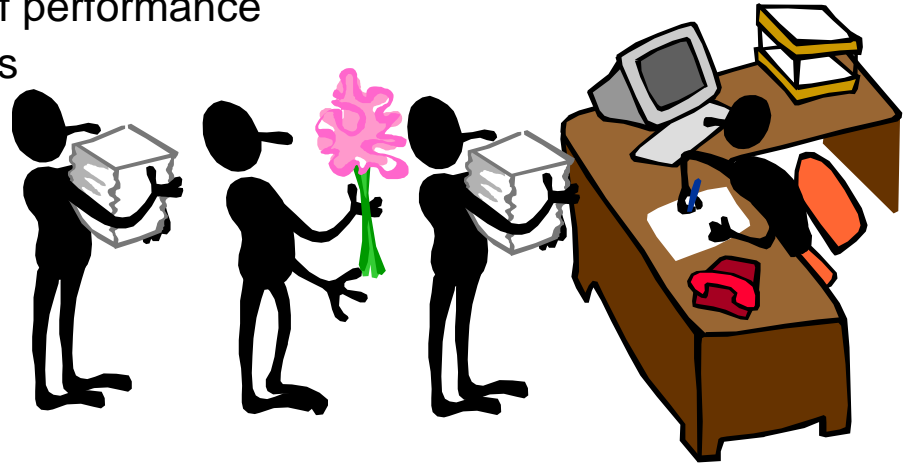
# Hostile Work Environment (continued):

- Repeated words or comments that offend reasonable listeners can be sexual harassment, such as:
  - Ongoing sexual remarks about a person's clothing, body, personal life
  - Frequent sexual teasing
  - Repeated invitations after being told they are unwelcome
  - Posting or circulating sexual materials or pictures (including e-mails)
  - Licking lips, making lewd hand gestures, etc.
  - Sexual practical jokes
  - Comments/questions about sexual practices



# Hostile Work Environment (continued):

- A hostile work environment can result from non-sexual conduct, such as:
  - Public discipline or criticism of performance
  - Selective enforcement of rules
  - Racial slurs or epithets
  - Insults
  - Shouting
  - Physical abuse
  - Hazing



## Examples:

- A supervisor constantly criticizes Hispanic employees in front of coworkers but discusses other employee's performances behind closed doors
- Only caucasian employees receive discipline for tardiness
- A co-worker always criticizes another employee's religious beliefs and practices

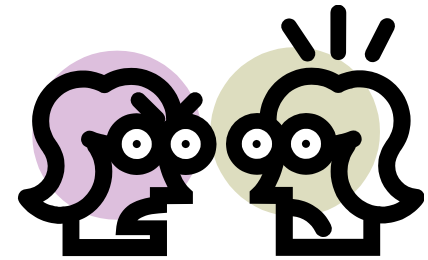
# The Same Behavior Can Be Different Kinds of Harassment:

Example: A male supervisor has 20 female subordinate staff. 15 are white and 5 are Asian Indian.

The supervisor only “hits” on the Asian Indian staff. This could be considered sexual harassment , national origin harassment and color harassment.



# Retaliation:



- Retaliation means: any action against an employee that is harmful to the point that it could well dissuade a reasonable employee from making a complaint about, opposing or reporting discrimination or discriminatory harassment or for participation in any investigation, hearing or other proceeding about violations of the AVS policy or law that prohibits discrimination or discriminatory harassment.

Examples: Denying a day off because an employee has filed a complaint. Switching an employees shift because the employee provides a statement to the EEOC.

## Employees Responsibility to Report Discrimination, Discriminatory Harassment or Discrimination:

- An employee who believes that he or she is being subjected to discrimination, discriminatory harassment or retaliation may inform the discriminator, harasser or retaliator that the conduct is unwelcome and must stop.
- An employee who believes that he or she is being subjected to discrimination, discriminatory harassment or retaliation, and an employee who witnesses discrimination, discriminatory harassment or retaliations shall file an oral or written report.
- The complaint should be filed with the employees' immediate supervisor.
- If the employee believes or witnesses that the immediate supervisor, or any other person higher up in the employee's chain of command is subjecting the employee to discrimination, discriminatory harassment or retaliation, the employee should file a complaint with the Human Resources Manager or Human Resources Director.



## Employees Responsibility to Report Harassment or Discrimination (Cont.):

- If an employee believes that the Human Resource Director is subjecting the employee to discrimination, discriminatory harassment or retaliation, the employee should file a complaint with the President/CEO.
- If the employee is uncomfortable or afraid of filing a complaint to the supervisors in the employee's chain of command, the employee should file the complaint with some other supervisor with whom the employee is comfortable or of whom the employee is not afraid, the Human Resource Manager or Human Resource Director.

# Prompt Reporting is Important:

- An employee who believes that he or she is being subjected to discrimination, discriminatory harassment or retaliation must file a complaint as soon as possible.
  - The sooner Allegheny Valley School knows about the discrimination, harassment or retaliation, the sooner it can be corrected.
  - An employee who believes that he or she is being subjected to discrimination, discriminatory harassment or retaliation may also have rights under statutes, regulations or ordinances.
- Delay or failure to file a complaint under this procedure may have a negative effect on the employee's rights.
- Also, delay in filing a complaint may have a negative effect on the employee's credibility.



# Allegheny Valley School's Responsibility:\*

- Allegheny Valley School prohibits retaliation for filing a complaint of discrimination, discriminatory harassment or retaliation.
- Allegheny Valley School will promptly investigate all complaints of discrimination, discriminatory harassment or retaliation.
- Allegheny Valley School has a duty to take action reasonably calculated to prevent further harassment.
- Any employee at any level who is found after appropriate investigation to have engaged in discriminatory harassment or retaliation against another employee will be subject to appropriate disciplinary action up to and including termination depending on the circumstances.
- The employee filing the complaint will be informed of results and action taken if any is taken.

\*For a complete explanation of Allegheny Valley School's policies on discriminatory harassment and retaliation please refer to the Employee manual.

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