

Sample Employer Bullying, Harassment and Intimidation Policy

Please consult with your own counsel to develop a policy that is most appropriate to your workplace and location. We cannot guarantee the information in this document is accurate due to frequent changes in the law. Further, the law differs from jurisdiction to jurisdiction, and may be subject to interpretation. Many jurisdictions have specific legislation prohibiting sexual and discriminatory harassment. In workplaces where a collective bargaining agreement has been negotiated there may be additional obligations to comply with progressive discipline procedures. This sample policy should be applied taking in to consideration any existing agreement.

Introduction

[Company] is committed to creating and maintaining a workplace environment which fosters mutual respect, integrity, safety, and professional conduct. In keeping with this commitment, [Company] has established this policy and procedures relating to workplace bullying/harassment and intimidation. [Company] will not tolerate bullying, harassment or intimidation in the workplace and will make every reasonable effort to prevent and eliminate conduct which falls within the scope of this policy.

Scope

This policy applies to all employees, directors, officers, freelancers, contractors, and other individuals with whom employees come into contact during the course of their work including customers, vendors, and visitors, all of whom are stakeholders.

This policy applies to all activities on the company's premises (physical or virtual), worksites, or sites which are directly connected to work, and during any employment-related duties or activities, such as conferences, training sessions, travel, and social functions.

This policy also applies to employee calls, texts, emails, and social media usage on personal devices including during non-work hours, even if they occur away from the workplace.

Definition

Bullying, harassment and intimidation are characterized by unwelcome, aggressive, or malicious behavior, or an abuse or misuse of power, that results in a hostile or harmful work environment. The cumulative effect is to threaten, undermine, constrain, humiliate or harm another person's reputation, self-esteem, self-confidence, or ability to perform their job. Bullying, harassment and intimidation may or may not be the result of deliberate intention.

Examples of what may be considered bullying, harassment and intimidation are available at btshelp.org/stopbullying. Note that it is not the intent but the impact of the behavior on others and whether the behavior or pattern of behavior creates a hostile environment for those subjected to or witnessing it, which determines whether bullying, harassment or intimidation may have occurred. If an employee complains they are experiencing bullying, harassment or intimidation then the grievance must be dealt with promptly and according to policy. Each situation will be examined based on its specific facts to determine whether or not bullying, harassment or intimidation has occurred, with equal and fair consideration given to all involved parties.

Bullying, harassment and intimidation do not include:

Any reasonable actions taken by an employer or supervisor relating to the management and direction of workers or the place of employment, including termination, provided they are conducted in a respectful, professional manner and not used to intimidate, coerce, control, undermine, or retaliate.

Disagreements, misunderstandings, miscommunication and/or conflict situations occur in the normal course of work and may not necessarily constitute bullying, harassment and intimidation if the individuals involved remain professional and respectful.

Stakeholder Rights, Roles and Responsibilities

Each stakeholder is expected to support the implementation of this policy by:

- conducting themselves in a professional, respectful manner which honors diversity in the workplace
- respecting everyone's right to personal dignity, privacy and confidentiality
- not engaging in the bullying, harassment or intimidation of others
- not making frivolous or false accusations
- reporting any bullying, harassment or intimidation they experience or **witness** in the workplace
- cooperating fully in any complaint or investigation carried out according to this policy

Management Roles and Responsibilities

Employers and management personnel, and their representatives, have additional obligations to establish and maintain a workplace free of bullying, harassment and intimidation and to monitor and enforce this policy. The behavior of employers and managers is as important as any formal policy. Their responsibilities include but are not limited to:

- ensuring that all aspects of this policy comply with applicable Federal, state/provincial or local laws and regulations
- ensuring that all stakeholders are aware of and have full access to employer policies and procedures on bullying, harassment and intimidation
- providing all stakeholders access to support resources around bullying, harassment and intimidation
- reporting any complaint received or any bullying, harassment or intimidating behavior they witness or become aware of
- ensuring that there are designated individuals who are trained to receive, investigate and resolve complaints: this should include individuals outside the direct reporting structure and who can provide effective representation for the diversity in your workforce
- creating an environment where employees feel safe to report incidents without fear of retribution inside or outside the workplace, and disciplining any stakeholder who retaliates against anyone involved in an investigation
- respecting the rights of all parties to a fair and confidential process for reporting and responding to complaints in a timely manner

Management Roles and Responsibilities *continued*

- enforcing corrective and/or disciplinary measures, where applicable; consistently and according to policy
- implementing, monitoring, reviewing and updating this policy

Procedures for Reporting and Resolving Complaints

Reporting

Complaints may be made verbally or in writing by the bullied/harassed or intimidated party, or witness, to an individual designated by the employer, management, or their representative. The person receiving the complaint must take action or refer it to appropriate individuals in a timely manner. Understand that the reporter likely will be uncomfortable in making the report. It is important to put them at ease.

Investigation

Individuals charged with the investigation of a complaint must:

- review the allegations and initiate the proceedings in a timely manner; consult local or state laws for specific time requirements
- treat all parties with courtesy and respect
- not make any judgements or determinations prior to collection of all evidence
- inform the individual(s) that a complaint has been made against them
- obtain and preserve any relevant documents and electronic communications
- meet separately with the individuals involved and any witnesses to discuss the complaint; listen carefully and ask for additional information as needed
- determine appropriate action(s) and inform the involved parties
- provide the involved parties with an opportunity to appeal
- notify the individual(s) involved they may have legal protections or external remedies
- create detailed written documentation of the investigation
- update the individual(s) involved of the final resolution and any corrective action(s) and make any written determination available to them
- ensure that confidentiality is maintained to the fullest extent possible by all parties involved

Key considerations during an investigation of bullying, harassment or intimidation:

- Do the acts, or pattern of acts, have the effect of unreasonably and substantially interfering with the individual's emotional and mental wellbeing?
- Do the acts, or pattern of acts, reasonably cause or would be reasonably expected to cause the individual to fear for their physical safety?
- Do the acts, or pattern of acts, have the effect of unreasonably and substantially interfering with the individual's performance, opportunities, or benefits?

Resolution

Implement prompt corrective action upon conclusion of the investigation in line with the degree of misconduct. Approaches to resolving complaints include:

Procedures for Reporting and Resolving Complaints

Resolution *continued*

- Discussion to identify the impact the behavior is having
- Mediation to identify a mutually agreed upon solution for all parties
- Counseling for any of the involved parties
- Training for any of the involved parties
- Disciplinary action such as
 - Verbal warning
 - Written warning
 - Restriction
 - Transfer
 - Suspension
 - Termination