Preventing and Confronting Workplace Sexual Harassment

Alaska Mental Health Trust Authority

Board of Trustees

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Tim Parker
Training & Development Manager
Division of Personnel & Labor Relations
Alaska Department of Administration

907.375.7702
timothy.parker@alaska.gov
What is illegal sexual harassment?

- The federal U.S. EEOC defines sexual harassment as unwelcome verbal or physical conduct of a sexual nature:
  - When submission to such conduct is made a term or condition of employment;
  - When submission to or rejection of such conduct is used as a basis for employment decisions;
  - When such conduct unreasonably interferes with job performance or creates an intimidating, hostile, or offense work environment.
Quid Pro Quo  -  This for That
Hostile Workplace

Applies to all protected classes
Harassment by co-workers or non-employees

**Co-worker harassment:**

- The State is liable if we knew or should have known of the harassment and failed to take immediate and appropriate corrective action.

**Non-employees:**

- The liability standard for non-employees is the same as for employees; Except consideration is given to the extent of the State’s control over the non-employee.
Sexual Harassment Test

- Sexual Nature
- Unwelcome or Offensive
- Severe or Pervasive
- Reasonable Person
Harassment is SIGNIFICANTLY under-reported

UPWARDS OF 85% OF PEOPLE NEVER FILE A FORMAL LEGAL COMPLAINT

APPROXIMATELY 70% OF EMPLOYEES NEVER FILE AN INTERNAL COMPLAINT.
Why is it under-reported?

- Fear
- Humiliation
- Ostracism
- Damage to reputation or career
- Self-blame
- Don’t want to be the cause of someone being disciplined
- Retaliation
- Shame
- Low or no organizational or manager trust
- Inaction
- Labeled a trouble-maker
- Labeled “crazy”
The business case

- **Direct costs**: legal representation, litigation, settlements, judgments, etc.

- **Indirect costs**: loss of public trust; decreased productivity; failure to meet mission; disengaged workforce and effects on clients/the public; increased turnover; low morale; absenteeism; increased health care and workers’ compensation cost; lose great employees quit and great employees don’t seek work with that employer, etc.
AO 81 – Statement of Policy

- Persons who knowingly engage in or instigate such harassment will be subject to disciplinary actions which may lead to suspension and discharge. Managers and supervisors who knowingly permit harassment activity to occur without further action will be subject to disciplinary action. Where such prohibited activity is perpetrated by a non-employee, the State will take available and appropriate disciplinary action which may include, by way of example, loss of contract.
What managers should NOT say:

- JUST IGNORE HIM.
- Just avoid Her.
- Do you want to file a formal complaint?
- Put it in writing.
- You misinterpreted him.
- He’s going through a rough time.

Do NOT evaluate, mitigate, or speculate.
What should an employee do?

- Clearly communicate to the harasser - verbally, in writing, through a third party, or in some other way - that the conduct is unwelcome.

- The person affected by the conduct should promptly report it or file a complaint if the conduct continues after the perpetrator becomes aware it is unwelcome.
State Employee Complaint Options

- Department’s internal process
- SOA Equal Employment Opportunity Program
- Alaska State Commission for Human Rights
- U.S. Equal Employment Opportunity Commission
- Office of the Ombudsman
- Court
Thank you

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