

## **HARASSMENT**

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Harassment is a form of discrimination. It is a prohibited form of discrimination covered by Title VII of the Civil Rights Act of 1964, the Fair Housing Act, the Wisconsin Fair Employment Act, the Wisconsin Open Housing Law, and Madison General Ordinance 39.03, the Equal Opportunities Ordinance, on the basis of membership in the following protected classes: sex, race, religion, color, national origin or ancestry, age, disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status<sup>1</sup>, domestic partners<sup>2</sup>, refusal to disclose social security numbers<sup>1 & 2</sup>, the fact that a person is a student, or retaliation.

<sup>1</sup> Applies to housing issues

<sup>2</sup> Applies to public accommodations issues

## **HARASSMENT IN THE WORKPLACE, HOUSING OR PUBLIC ACCOMMODATIONS**

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Harassment, whether it is based on sex or any other protected class, is conduct that is uninvited, unwelcome and creates a hostile environment. Examples include:

- Material that is publicly displayed, circulated, put in someone's work space or belongings, on a computer or fax machine that are offensive or attack a person or group because of their membership in any protected class.
- Verbal comments that put down or stereotype people generally, or an individual particularly because of their membership in any protected classes.
- Unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature; including sexual or offensive gestures.
- Jokes based on membership in a protected class.
- Ignoring, isolating or segregating a person or group because of their membership in a protected class.

## **HARASSMENT BECOMES ILLEGAL WHEN**

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1. Submission to such acts or behaviors is made an implicit or explicit term or condition of employment, housing or to gain access to or receive services; or
2. Submission to or rejection of acts or behaviors is used as the basis for an employment or housing decision or to access or receive services; or
3. The acts or behaviors interfere with or create an intimidating, hostile or offensive work environment, interferes with the enjoyment or access to housing or public accommodations.

## **GENERAL HARASSMENT**

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Subjecting employees, tenants or clients to jokes, insults, graffiti, photos or other materials that stereotype, demean or offend because of their membership in any protected class; or subjecting them to a higher level of criticism, terms and conditions of employment or housing or for receiving services or gaining access to public places of accommodations may be considered harassment.

In the area of employment, the behavior must be more severe than a few isolated incidents or casual comments. It implies a pattern of abusive and degrading behavior directed at a person or group of people because of their membership in one or more protected classes, which is significantly frequent and severe enough to interfere with your work or create a work environment that is hostile or offensive. In the areas of housing or public accommodations, the behavior does not have to be as severe as the standard for employment.

## **SEXUAL HARASSMENT**

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There are different forms of sexual harassment, some are obvious and others are subtle. The most common two forms:

1. Quid Pro Quo ("this for that"): occurs when employment decisions or expectations (such as hiring, promotions, salary increases, work assignments, benefits, performance evaluations, etc.), housing decisions or

expectations (such as lease renewal, repairs, rent fees, etc.) or decision regarding access to goods or services are based on the willingness of the employee, tenant or client to grant or deny sexual favors.

*Example of Quid Pro Quo: Terminating, demoting or transferring an employee after he/she refuses to go out on date with supervisor or refused other favors of sexual nature. Offering to reduce the rent of a tenant in exchange for sexual favors. Offering special discounts or access to service in exchange for sexual favors.*

2. Hostile Environment: When the behavior in the workplace or housing is severe enough to interfere with victim's work and creates a work environment that is hostile, intimidating or offensive or interferes with a tenant's ability to enjoy their housing. In a place of public accommodation, the behavior must be open, evident and patently offensive.

*Examples of Hostile Environment: Unwanted, unwelcome or inappropriate touching, e-mails, messages, notes or conversations of a sexual nature. Refusing to make needed repairs to housing unit. Obscene comments/gestures or "wolf whistles" to customers by employees of a place of public accommodations.*

## **HERE'S A FEW IMPORTANT FACTS**

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The victim of harassing behaviors does not always have to confront the alleged harasser in order to establish that the behavior is unwelcome. Expressing an objection is not required where any reasonable person would find the behavior offensive. However, in employment, the victim has to report the behavior to a member in management in order for the employer to be liable if the situation is not corrected. Or the victim must be able to demonstrate that the employer knew or should have known about the harassment (these requirements may also apply to housing or public accommodations).

Offenders can be supervisors, co-workers, owners, or third party individuals (associates, vendors, delivery persons, clients). A person that consents to the advances may still be a victim of harassment if subsequently he/she rejects the advances or refuses to participate in the behaviors. Non-sexual, abusive, hostile or rude treatment of one individual or group may still constitute harassment.

## **FEAR OF LOSING YOUR JOB**

When the harasser is a supervisor or a member of management, and the victim is afraid of reporting the harassment, the victim should or must be able to present a valid reason that will justify his/her fear; for example the fact that she was afraid of losing her job because she was aware of other victims that were terminated or their complaints ignored (these requirements may apply to housing or public accommodations).

## **AM I PROTECTED AGAINST RETALIATION?**

It is illegal for a person or any other entity covered by the ordinance to retaliate against anyone that has opposed any discriminatory practice under the Madison Equal Opportunities Ordinance or because he/she filed a complaint, testified or assisted in any proceeding under the Madison Equal Opportunities Ordinances (MGO 39.03(9)). Individuals who believe that they have been retaliated against should contact the EOD immediately.

### **Some of the consequences of harassment in the workplace, housing and public accommodations are:**

- Annoyance;
- Embarrassment;
- Humiliation;
- Fear;
- Absenteeism; and
- Increased cost (it impacts the personal growth and respect of the employees).

### **Harassment can take its toll in the form of:**

- Mental and emotional stress;
- Loss of income, business, and rental referral; and
- Reduction in employee performance, staff morale, employee and tenant turnover.

### **To prevent harassment, companies should have a policy that includes:**

- A statement defining harassment;
- A commitment to create an environment that values people and is free from harassment;
- An outline of the responsibilities of executive, management and supervisors that fosters a harassment-free environment;
- A commitment to prompt action when harassment is alleged;
- A commitment to prevent and protect people from retaliation;
- A list of contact points of who employees, customers or tenants can confidentially discuss a problem with; and
- A statement about employee, customer or tenant responsibility in preventing harassment.

## **WHAT TO DO?**

**It is suggested that each instance of harassment be reported. Each person should know their company's policies on harassment and follow them whenever they have been harassed unless they have a valid reason not to.**

Remember sexual harassment is an act or behavior that any reasonable person would find offensive and sexual in nature. The interpretation of an act of harassment is in the eye of the beholder. What may not be offensive to you may be deeply offensive to another.

The Madison Equal Opportunities Division is committed to ensuring that individuals are free from discrimination in any form where they work, live, shop and recreate. You can visit our website at [www.cityofmadison.com/dcr](http://www.cityofmadison.com/dcr) for a copy of the Equal Opportunities Ordinance and other related information.

# Harassment

It's harmful and it's prohibited in the city of Madison.

City of Madison Department of Civil Rights

# DCR

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If you need an accommodation in order to access this service or need materials in Braille, large print or an alternate format, please contact our office.