



Discrimination and Harassment Guidelines

For Local Lodges



Benevolent and Protective Order of Elks

INTRODUCTION

Federal and state equal employment opportunity laws prohibit sexual harassment and other discriminatory practices in the workplace. The Benevolent & Protective Order of Elks embraces these laws.

These guidelines define, explain and outline the various forms of harassment, including suggested forms of “Guidelines Against Harassment” to be adopted by the Local Lodges. Also included are suggested procedures for investigating a harassment complaint.

Each Lodge should have “Guidelines Against Harassment.” These guidelines may need to be amended occasionally to stay current with changing laws.

It should be kept in mind that employment laws vary by state, which precludes a definitive explanation or analysis of such laws in these guidelines.

DISCLAIMER

The B.P.O. Elks of the USA (Grand Lodge) has prepared these Discrimination and Harassment Guidelines to assist the Local Lodges of this Fraternal Order.

Each of these Local Lodges is an independent corporation or other type of entity formed within the state in which it resides. The Grand Lodge of the Order has no control over the day-to-day operations or the personnel practices of these entities and does not undertake any responsibility for the enactment of the recommendations in this manual or for any inspection, monitoring or enforcement of the described recommendations.

The Grand Lodge acts as a resource to assist Local Lodges. This manual may be used by Local Lodges to establish its discrimination and harassment guidelines. The manual may be adopted in whole or part and may be copied to meet the needs of the particular Local Lodge.

STATEMENT OF PHILOSOPHY

The Elks are proud of their tradition of maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in an atmosphere which promotes equal opportunity and prohibits discriminatory practices including sexual harassment.

We embrace strict guidelines prohibiting unlawful harassment in any form (*i.e., verbal, physical and visual harassment*). Such conduct is also prohibited whether it affects either an individual's work performance or creates an intimidating, hostile or offensive work environment. Specifically forbidden is harassment of a sexual, racial, ethnic or religious nature. Any employee, management or non-management, who violates these guidelines can incur disciplinary action which may include termination.

HARASSMENT DEFINED

An action may be considered harassment when such conduct is based on a person's race, color, gender, religious affiliation, national origin, age, disability, sexual orientation, political beliefs, or other protected class status.

Many forms of harassment are defined by various laws. Some examples of harassment include, but are not limited to:

VERBAL: Epithets, derogatory comments, threatening remarks, use of patronizing terms or remarks, verbal abuse, racial or ethnic slurs, even in the guise of humor, name-calling, belittling, sexually explicit or degrading words to describe an individual, sexually explicit jokes, comments about an employee's anatomy and/or dress, sexually oriented noises or remarks, questions about a person's sexual practices, and graphic verbal commentaries about the body.

PHYSICAL: Any physical interference with normal work or movement when directed at an individual. Touching, pushing, pinching, patting, grabbing, brushing against, or poking an employee's body. Hazing or initiation. Requiring, requesting, or suggesting that an employee wear sexually suggestive clothing.

VISUAL: Threatening gestures, derogatory posters, cartoons, or drawings. Displaying derogatory or sexual pictures, writing, or objects, obscene letters or invitations, staring at an employee's anatomy, leering, sexually oriented gestures, unwanted letters or notes.

SEXUAL: Unwanted attention or advances including those which condition an employment upon exchange of sexual favors. Continued requests for dates. Any threat of demotion, termination, etc., if requested sexual favors are not given. Making or threatening reprisals after a negative response to sexual advances.

Complaints and investigative information should be considered company confidential. While the Lodge will conduct investigations discreetly and strive to protect the privacy of the individuals involved, one should be aware that complete confidentiality cannot be assured.

LOCAL LODGE GUIDELINES ON SEXUAL HARASSMENT

Following are two forms of a sexual harassment guideline for local lodges, either one of which the Lodge may use or design its own.

Following the guidelines is a suggested form that all employees should sign, acknowledging that the Lodge has such guidelines in effect and that they have read and are aware of its contents. A copy of the policy should be made available to all employees.

SEXUAL HARASSMENT GUIDELINES FOR LOCAL LODGES

STATEMENT OF PHILOSOPHY: _____ Lodge is proud of its tradition of maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in an atmosphere which promotes equal opportunities and prohibits discriminatory practices, including sexual harassment. Sexual harassment is unacceptable and will not be tolerated.

DEFINITION OF SEXUAL HARASSMENT: For purposes of this policy, sexual harassment is defined as unwelcome or unwanted conduct of a sexual nature (*verbal or physical*) when: (1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion or other aspects of employment; and/or (2) this conduct substantially interferes with an individual's employment or creates an intimidating, hostile or offensive work environment.

Examples of sexual harassment include, but are not limited to: threatening adverse employment actions if sexual favors are not granted; promising preferential treatment in return for sexual favors; unwanted and unnecessary physical contact; offensive remarks, including unwelcome comments about appearance, obscene jokes or other inappropriate use of sexually explicit or offensive language; the display in the work place of sexually suggestive objects or pictures; and unwelcome sexual advances by visitors to the offices when such advances are condoned, either explicitly or implicitly by personnel of the Lodge.

These guidelines cover all employees of _____ Lodge. The Lodge will not tolerate, condone or allow sexual harassment whether engaged in by fellow employees, supervisors, directors or by others who have contact with the Lodge.

ENFORCEMENT OF GUIDELINES: The Exalted Ruler shall appoint a Member or a Committee of his choosing for the enforcement of the provisions of these guidelines, and will publish the name of the Member or Members appointed to receive and investigate complaints. The Committee will formulate procedures with respect to their handling

of complaints and report their findings with recommendations for appropriate action. Any person who feels that they have been a victim of sexual harassment shall bring the problem to the immediate attention of the Committee Member or Members. If the complainant is not satisfied with the handling of the complaint by the Committee Member or Members, he or she shall report the matter to the Exalted Ruler for further consideration. Should the incident involve one of the Committee Members, the Exalted Ruler will appoint a replacement Committeeman.

Any allegation of discrimination or harassment that is brought to the attention of the Committee will result in a mandatory, confidential investigation of the incident. It is intended that the privacy of the persons involved will be protected. All reports of sexual harassment shall be kept in confidence, except as is necessary to investigate the complaint and to respond to any legal and/or administrative proceedings arising out of, or relating to, the sexual harassment report.

Individuals who have engaged in such conduct will be disciplined up to and including discharge or, in the case of a Member, such disciplinary action as allowed by the Statutes of the Order.

Retaliation in any form against a complainant who exercises their right to make a complaint under these guidelines is strictly prohibited and will itself be cause for appropriate disciplinary action.

SEXUAL HARASSMENT GUIDELINES FOR LOCAL LODGES

Sexual harassment is a form of discriminatory behavior. No employee shall be subjected to unwelcome verbal or physical advances, or any other on-the-job conduct which could be interpreted as harassment. Harassment based on other types of unlawful discrimination, like race, religion or national origin, is also unacceptable. Everyone in the Lodge is expected to work actively to maintain a work place which is free from discrimination at all levels of employee relations.

Sexual harassment is unwanted verbal or physical abuse or advances, or demands for sexual favors in return for hiring, promotion, or tenure. The EEOC has issued guidelines as to when it will find liability under Title VII. There are at least three basic situations where sexual harassment will be found:

1. Where submission to conduct is an explicit or implicit term or condition of employment.
2. Where submission or rejection is used as a basis for employment decisions.
3. When such conduct interferes with the employee's work performance or creates a hostile or offensive work environment.

Everyone is expected to conduct themselves in their daily activities in such a way as to ensure that no discrimination of any description occurs in any action with respect to compensation, benefits, privileges, layoffs, returns from layoffs, training and social programs.

Any supervisor or other employee who is found, after appropriate investigation, to have engaged in unlawful discriminatory conduct, sexual harassment or other unlawful harassment of another employee or applicant, will be subject to immediate disciplinary action up to and including termination.

If you feel that you have been subjected to any harassment, including without exception sexual harassment, or that another employee has received more favorable treatment due to such discriminatory behavior, notify the Exalted Ruler or one of the Members of the Committee established to review such complaints, immediately. You will not suffer retaliation for reporting such concerns.

Retaliation in any form against a complainant who exercises their right to make a complaint under this policy is strictly prohibited and will itself be cause for appropriate disciplinary action.

[Lodge Letterhead]

**Acknowledgement of
Sexual Harassment Guidelines**

Date _____

I am an employee of _____
Lodge No. _____ of the Benevolent and
Protective Order of Elks. I acknowledge
receipt of the Sexual Harassment
Guidelines as adopted by the Lodge.

Printed Name

Signature

INVESTIGATING A HARASSMENT COMPLAINT

In accordance with the guidelines of the local Lodge and conforming to GLS 16.040, and other applicable Statutes of the Order, a procedure should be established for enforcement of the provisions of the Lodge against harassment.

The Exalted Ruler should designate a Member or Members to investigate allegations of harassment which will result in an immediate mandatory confidential investigation of an incident. The Committee will formulate procedures with respect to their handling of complaints and report their findings with recommendations for appropriate action.

Any person who feels they have been a victim of discrimination or sexual harassment, shall bring the problem to the immediate attention of the Committee Member or Members. If the complainant is not satisfied with the handling of the complaint by the Committee Member or Members, he or she shall report the matter to the Exalted Ruler for further consideration.

If a particular incident should involve the Exalted Ruler, the allegation will be reported directly to the Committee Member or Members for resolution. Should the incident involve one of the Committee Members, the Exalted Ruler will appoint a replacement Committee Member.

If the individual bringing the allegation of harassment is not comfortable discussing it with the Exalted Ruler or his designated Committee Member(s), they should get in touch with the District Deputy who will then inform the appropriate Lodge officials.

Any allegation of discrimination or harassment that is brought to the attention of the Committee will result in a mandatory, confidential investigation of the incident. It is intended that the privacy of the persons involved will be protected. All reports of sexual harassment shall be kept in confidence, except as is necessary to investigate the complaint and to respond to any legal and/or administrative proceedings arising out of, or relating to, the sexual harassment report.

Individuals who have engaged in such conduct will be disciplined, up to and including discharge or, in the case of a Member, such disciplinary action as allowed by the Statutes of the Order.

Retaliation in any form against a complainant who exercises their right to make a complaint under Sexual Discrimination Guidelines is strictly prohibited and will itself be cause for appropriate disciplinary action.

Initial Steps:

1. Listen attentively and take the complaint seriously, even if it appears on the surface to be frivolous. Treat it as valid until the facts have established otherwise. If the employee quits because they felt their complaint wasn't being taken seriously, liability may be compounded. Refrain from comments like: "Maybe you're overreacting," or: "I'm sure they didn't mean anything by it."
2. Set a professional tone for the interview and try to put the complainant at ease. Bringing a harassment complaint is likely to be difficult and stressful for the employee. Acknowledge that fact and try to help the employee understand this is normal. Keep a neutral perspective, and maintain a professional demeanor.
3. Gather facts, don't make judgments. At this stage, it is not your job to determine validity of the complaint. The job at hand is to gather the facts. Be careful not to say anything judgmental like: "Most women would take that as a compliment" or: "Maybe you shouldn't dress that way for work."
4. Get answers to: "who, what, when, where, why and how?" Find out who did what to whom, when did events happen, why and how did they occur, and were there any witnesses? At this stage it would also be wise to ask if the employee is afraid of retaliation.
5. Getting a sense of what the employee feels would be an acceptable outcome may also be important at this stage. What does the employee want to see happen to resolve the problem?

General:

- ✱ While complete confidentiality may not be possible, keep the investigation and the facts under a strict "need to know" basis. Emphasize to all those involved in the investigation, including the complainant, the accused and witnesses, that it is your intent to keep discussions strictly confidential and that disciplinary consequences may result from a breach of this confidence.
- ✱ Limit the number of persons in the organization who have access to information. Do not needlessly disclose information to witnesses. For example, instead of asking: "Did you see Joe touching Joan?" ask: "Have you seen anyone touch Joan at work in a way that may have made her uncomfortable?" The purpose of the investigation is to gather facts, not disseminate allegations.
- ✱ If there is more than one allegation, treat each incident separately.
- ✱ To avoid defamation liability, never broadcast the facts of a given situation or the results of your investigation to others or as part of a training exercise.

Interviewing the Complainant:

- ✱ Elicit specific details regarding the alleged harassment. Include questions on the type and frequency of conduct, what was said or done, where it occurred, where the complainant was touched, the dates that the conduct occurred, the time period over which the conduct occurred, whether there was a pattern of previous episodes and whether the complainant is aware of similar behavior by the accused toward other employees. *(Keep in mind that a complainant may have difficulty remembering exact events and dates. But the investigator must persist in helping the complainant be as specific as possible.)*
- ✱ Get the specific context in which the conduct occurred, including the nature and general description of the work area and location. Did the conduct occur at a work-related function, during working time, or after hours?
- ✱ Determine the effect of the conduct on the complainant. Identify the type(s) of effects *(for example: economic, non-economic and/or psychological)*. Was the conduct received as a joke, was it really unwelcome, did it embarrass, frighten or humiliate the complainant? *(Often, complainants contend that, while they may have voluntarily given in to the demands made of them, they did so out of fear or because they felt threatened. It is important to remember, however, that the real issue is not whether the behavior was voluntary or involuntary, but whether it was unwelcome.)*
- ✱ Determine whether or not persons of the opposite sex from the complainant were subjected to similar conduct or were treated differently by the accused.
- ✱ Determine the time relationship between the occurrence of the alleged conduct, its effect on the complainant, and the time when the complainant made the report. If there was a time lag, find out why the complainant waited so long before reporting the situation. A plausible reason might be fear of retaliation. Prepare a chronology of events. Analyze if certain events may have triggered the complaint, for example, a denial of promotion, pay raise or transfer.
- ✱ Find out what the complainant wants and how the situation might be resolved. Can the complainant continue to work for or with the accused, will productivity be adversely affected, will it be embarrassing or awkward. Ask the complainant if they might need counseling?
- ✱ Explain to the complainant that the charges are serious and you will complete a thorough investigation before reaching any conclusions. Affirm your policy that the complainant will not be retaliated against for bringing the charge and ask the complainant to notify you promptly if retaliation occurs.
- ✱ Make no statements about the accused's character, job performance or family life. This may result in liability for defamation.

Interviewing the Accused:

- ✱ Obtain a position statement from the accused.
- ✱ Identify the relationship of the accused to the complainant. Was the accused an agent of the company, a supervisory employee, a co-worker or a non-employee?
- ✱ Was there any prior consensual relationship between the parties? How long have the parties known each other? Is there a history of group or individual socializing?
- ✱ Determine whether the accused directed, or had responsibility for, the work of other employees or the complainant, had authority to recommend employment decisions affecting others (*for example: hiring, firing, promoting*), or was responsible for the maintenance or administration of the records of others.
- ✱ You can expect the accused to deny the charges. Observe the reaction. Note whether or not there is surprise, anger or disbelief. Describe the details of the allegation and note the areas of disagreement between the testimony of both parties. If the accused denies the allegations, probe further to determine with the accused the background, reasons, and motivation that could possibly have triggered the complaint.

Interview the Accused's Supervisor:

- ✱ Talk with the accused's supervisor to learn about any discipline problems and behavior patterns of either party and to determine if the supervisor had any knowledge of the relationship between the parties.
- ✱ Did the complainant report the conduct to the supervisor? Was the supervisor in a position to observe the conduct? Should the supervisor have been alerted to the conduct? For example, was the conduct discussed in the presence of the supervisor or were there any rumors circulating?
- ✱ Determine if there is any documentation available such as letters, memos, reports or statements that would support the conclusion that the supervisor knew or had reason to know of the conduct.

Interviewing Witnesses:

- ✱ Obtain statements from any witnesses who support or deny any of the complainant's allegations. This evidence is very critical to the investigation. Without it, it is simply the complainant's word against that of the accused. Be aware that often witnesses are reluctant to come forward out of fear of reprisal.
- ✱ Assure all witnesses that their cooperation is important, their testimony is confidential and that they will not be retaliated against for assisting in the investigation.

Resolving the Complaint:

- ✱ When attempting to remedy the conduct, avoid requesting the victim to work less desirable hours or in a less desirable location. If you offer to transfer the complainant, make it voluntary and make sure the position transferred to is equal to or better than the victim's prior position. This helps ensure that the victim is not being illegally punished for opposing harassment.
- ✱ Consider the severity, frequency and pervasiveness of the conduct when imposing discipline on the harasser. There are several options available, including oral and written warnings, reprimands, suspension without pay, probation and, depending upon the severity, transfer, demotion or discharge.
- ✱ Any form of discipline short of discharge should be accompanied with a warning that similar misconduct in the future may result in immediate discharge.
- ✱ Conduct follow-up interviews with the parties to inform them of your actions.

Hard to Resolve Situations:

1. **No witnesses:** Harassment often happens in private with no witnesses. In such cases resolution often centers on the credibility of the parties. If the complainant's account of the conduct is sufficiently detailed and internally consistent it may be believable. An investigation should look for other evidence to support or disprove a claim. Do co-workers have any knowledge of the conduct? Did anyone observe the employee's behavior shortly after the alleged incident occurred? Did the employee discuss the matter with another person such as a counselor, doctor or close friend? Did anyone notice any change in behavior of the employee at work or in the way the accused treated the complainant? Were other employees treated in a similar manner by the accused?
2. **Reluctant Complainant:** If a victim tells a supervisor about lewd or sexually harassing behavior, but doesn't want to make a formal complaint, what obligation does the employer have? Even if the victim is reluctant to pursue a complaint, the employer may be held liable for harassment if it fails to investigate and take any appropriate corrective action. The supervisor should explain the company's duty to act and assure the employee that the matter will be handled as discreetly as possible. The investigation will obviously be hindered. Even if insufficient evidence is available, the company should use this opportunity to affirm its harassment policy and strong desire for a harassment-free environment.



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