

Non-Discrimination and Anti- Harassment

The AIDS Law Project of Pennsylvania (“ALPP”) is committed to maintaining an environment that encourages and fosters appropriate conduct among all persons and respect for individual values. Accordingly, ALPP is committed to enforcing this Non-Discrimination and Anti-Harassment Policy and Complaint Procedures at all levels in order to create an environment free from discrimination, harassment, retaliation and/or sexual assault. Discrimination or harassment based on race, gender and/or gender identity or expression, color, creed, religion, age, national origin, ethnicity, disability, veteran or military status, sex, sexual orientation, pregnancy, genetic information, marital status, citizenship status, or on any other legally prohibited basis is unlawful and undermines the character and purpose of the agency. Such discrimination or harassment violates ALPP policy and will not be tolerated.

ALPP prohibits discrimination, harassment (including sexual/gender harassment), sexual assault and retaliation against employees, interns, contractors and other third-parties conducting business with the agency.

These are considered forms of employee misconduct and sanctions will be enforced against individuals engaged in such misconduct. While this Policy applies to all employees of ALPP, the agency specifically expects management level personnel to serve as models of appropriate conduct for other employees, and will hold them to a higher standard of accountability. Management personnel must not only refrain from actions that violate this Policy, but also refrain from any activity that would give the appearance of impropriety or convey a casual approach to the enforcement of the Policy.

Any form of retaliation against anyone who has complained of or reported discrimination, harassment (including sexual/gender harassment), or sexual assault, or has participated in an investigation of such a complaint, regardless of whether the complaint relates to the complaining person or someone else, will not be tolerated, violates both this Policy and applicable law, and may result in discipline.

Policy and Policies

I. DEFINITIONS

A. Discrimination is adverse treatment of any employee based on the employee’s actual or perceived membership in a protected class or category of persons to whom he/she belongs, rather than on the basis of his/her individual merit with respect to the terms, conditions, or privileges of employment including, but not limited to hiring, firing, promoting, disciplining, scheduling, training, evaluating, or deciding how to compensate that employee.

B. Harassment prohibited by applicable discrimination laws is unwelcome verbal or physical conduct directed toward, or differential treatment of, an employee because of their membership

or perceived membership in a protected group or on any other prohibited basis (e.g., race, gender and/or gender identity or expression, color, creed, religion, age, national origin, ethnicity, disability, veteran or military status, sex, sexual orientation, pregnancy, genetic information, marital status or citizenship status). The harasser can be the employee's supervisor, a supervisor in another area, a coworker, or someone who is not an employee of ALPP, such as a client.

Examples of such conduct include, but are not limited to:

- Offensive or degrading remarks, verbal abuse, or other hostile behavior such as insulting, teasing, mocking, degrading or ridiculing another person or group;
- Racial slurs, derogatory remarks about a person's accent, or display of racially offensive symbols;
- Unwelcome or inappropriate physical contact, comments, questions, advances, jokes, epithets or demands;
- Physical assault or stalking
- Displays or electronic transmission of derogatory, demeaning or hostile materials; and
- Unwillingness to train, evaluate, assist, or work with an employee.

A hostile work environment results from harassing conduct that has the purpose or effect of unreasonably interfering with an employee's work performance, or creates an intimidating, hostile, offensive or objectionable working environment.

Sexual/gender harassment is a specific form of discriminatory harassment and constitutes employee misconduct. Sexual/gender harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender and occurs under this Policy and under the law when an employee is being treated “less well” than other employees because of his or her sex/gender by being subjected to unwelcome verbal or physical conduct of a sexual nature. It can be caused by, for example, unwanted touching, offensive and suggestive gestures or comments, asking about a person’s sex life or telling sexual jokes. Generally, sexual/gender harassment is described as either “hostile environment” or “quid pro quo.” Sexual/gender harassment which creates a “hostile environment” consists of words, signs, jokes, pranks, intimidation or physical conduct, which are of a sexual nature, or which are directed at an individual because of that individual’s sex/gender. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace, which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient’s job performance.

Quid pro quo sexual/gender harassment is another form of sexual/gender harassment which occurs when a person in authority makes sexual demands or request for sexual favors are made in exchange for job benefits, continued employment, or as a basis for making any other employment decision. A person in authority for this purpose is someone who can affect or

impact an employee's terms, conditions, or privileges of employment because he/she can take or impact action such as hiring, firing, promoting, disciplining, scheduling, training, evaluating or deciding how to compensate that employee.

A single incident of inappropriate sexual behavior may be enough to rise to the level of sexual/gender harassment under this Policy. Conduct that a reasonable person would consider nothing more than “petty slights” and/or “trivial inconveniences” may not amount to sexual/gender harassment under this Policy. However, such conduct may still violate other expectations for appropriate/professional employee conduct set by ALPP and, accordingly, may result in discipline as determined appropriate by the agency. What is “reasonable” or what amounts to “trivial inconveniences” or “petty slights” will depend on the circumstances and the parties involved, as well as the nature and duration of the conduct. This Policy is not intended to be a civility code but to prevent prohibited discrimination and harassment.

Sexual/gender harassment is not limited to the physical workplace and can occur at related ALPP activities off premises and while traveling on ALPP business. Activity by cell phone, emails, text messages and social media, for example, even if they occur away from the workplace premises, not during work hours or involve personal devices, can also constitute harassment prohibited by this Policy.

Examples of Sexual/Gender Harassment

Sexual/gender harassment is unwelcome verbal or physical behavior based on a person’s gender; it can include unwanted touching; offensive and suggestive gestures or comments; asking about a person’s sex life or making sexualized remarks about a person’s appearance; sexualizing the work environment with imagery or other items; or telling sexual jokes. Examples of prohibited conduct and the types of acts that may be unlawful sexual harassment:

- Physical assaults of a sexual nature, such as: rape, sexual battery, molestation or attempts to commit these assaults
- Intentional or unintentional physical conduct which sexual in nature, such as touching, pinching, patting, grabbing and brushing against another employee’s body or poking another employee’s body.
- Adverse action or treatment after someone refuses sexual advances;
- Unwanted sexual advances, propositions or other sexual comments, such as: requests for sexual favors accompanied by implied or overt threats concerning the employee-complainant’s job performance evaluation, a promotion, or other job benefits or detriments;
- Subtle or obvious pressure for unwelcome sexual activities;
- Sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as: displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning, pornographic in the workplace or on computers, emails, cell phones, social media or similar physical or digital locations.

C. Sexual assault is a sexual act against the will and without the consent of the employee complainant or where the employee-complainant is incapable of giving consent. This includes conduct that would be considered criminal under the Commonwealth of Pennsylvania Crimes Code.

D. Retaliation is any adverse action taken against an individual (applicant or employee) because he or she filed a charge of discrimination or harassment (including sexual/gender harassment), complained to ALPP or a government agency about discrimination or harassment (including sexual/gender harassment) on the job, or participated in an employment discrimination proceeding (such as an internal investigation or lawsuit), including as a witness. Retaliation also includes adverse action taken against someone who is associated with the individual opposing the perceived discrimination, such as a family member. Examples of retaliation include termination, demotion, refusal to promote, or any other adverse action that would discourage a reasonable person from opposing perceived discrimination.

Discrimination, harassment (including sexual/gender harassment), retaliation, and sexual assault are unacceptable in the workplace. This behavior violates ALPP policy even when it does not constitute a violation of law. Employees who violate this Policy will be subject to appropriate discipline, which may include dismissal.

II. REPORTING DISCRIMINATION, HARASSMENT, RETALIATION, OR SEXUAL ASSAULT TO ALPP

Any employee who believes that they have been subjected to discrimination, harassment (including sexual/gender harassment), retaliation or sexual assault prohibited by this Policy, or any employee who has witnessed such discrimination, harassment (including sexual/gender harassment), retaliation or sexual assault, should immediately report the circumstances in accordance with the procedure set forth below. ALPP may investigate any conduct that violates this Policy, even in the absence of a complaint, and take remedial action where appropriate.

An employee may make a complaint to the ALPP Executive Director, Board President, Managing Attorney or Deputy Managing Attorney. ALPP encourages prompt reporting of complaints so that it may respond appropriately and conduct an investigation while the matter is freshest in witnesses' memory and other evidence is most likely to be available. There is no fixed deadline for reporting discrimination, harassment, retaliation or sexual assault complaints to ALPP.

It is imperative that managers and supervisors not only adhere to but enforce this Policy. Managers and supervisors have a special obligation not to engage in discrimination, harassment, retaliation or sexual assault. All management and supervisory personnel have an affirmative duty and are required to promptly report any discrimination, harassment, retaliation or sexual assault that they observe, learn about from others, or reasonably suspect has occurred with respect to an employee. Managers and supervisors who knowingly allow discrimination, harassment (including sexual/gender harassment), sexual assault, and/or retaliation to continue will be disciplined.

A. ALPP INVESTIGATION AND DISPOSITION OF COMPLAINTS

1. The Investigation

ALPP will conduct a prompt, thorough and impartial investigation of a complaint as necessary and appropriate. ALPP will make every effort to complete its investigation within forty-five (45) days of a report of discrimination or harassment and will keep the investigation confidential to the extent possible. The investigator may find it necessary to extend the time period for completing an investigation in some circumstances. The investigator will provide the complainant and the alleged wrongdoer with notice of any extension and where necessary and appropriate, give them a new timetable for completion of the investigation.

Where a complaint alleges a potential violation of the Policy, the investigation will include an interview with both parties, as well as the person who made the initial report, if different than one of the parties, and/or any other person who may have information regarding the incident, each of whom is expected to cooperate with any investigation. The investigator may also review relevant documents. Both parties will have an opportunity to be heard and present information.

2. Findings and Recommendations

The investigator will report their findings to both parties, relevant managers and supervisors and the ALPP Board President as may be appropriate. Where the investigator concludes that a violation of this Policy has occurred, the Executive Director or Board President will take prompt and appropriate remedial action, including disciplinary action. Depending on the circumstances, disciplinary action may include (but is not limited to): reprimand/verbal counseling, training, censure, removal of privileges, letters of warning or suspension, and dismissal. Discipline for a violation of this Policy need not be progressive, so a first violation of this Policy may warrant suspension or discharge depending on the nature and severity of the conduct.

3. Responsibilities of Management

In cases where an investigation confirms a violation of this Policy, the Executive Director or the Board President must ensure that appropriate remedial action, which may include disciplinary action, is implemented. Managers must provide confirmation to their HRO within 14 days that the appropriate action has occurred. Management is also responsible for regular monitoring to ensure that all remedial and/or disciplinary steps are completed and no further discrimination or harassment occurs in the work environment.

4. The Investigatory File

Every complaint will trigger the creation of an investigatory file. The investigatory file will consist of the initial complaint, the final investigative report, including a record of the remedial action to be taken, if any, and any documents created or used during the investigation.

B. CONFIDENTIALITY

ALPP will maintain the confidentiality of the complaint, and the privacy of the persons involved, to the greatest extent possible, consistent with its goal of conducting a thorough and complete investigation and to the extent permitted by law.

C. NON-RETALIATION

ALPP will not in any way retaliate against an individual who reports a perceived violation of this Policy, participates in any investigation, or otherwise opposes perceived discrimination, harassment (including sexual/gender harassment), or retaliation, including as a witness. It will also not retaliate against anyone associated with the individual who engages in such protected conduct, such as a family member.

Furthermore, ALPP will not tolerate retaliation by any employee. Retaliation against anyone who complains of, testifies in, or assists in an investigation or proceeding involving discrimination, harassment (including sexual/gender harassment), sexual assault, or retaliation is a serious violation of this Policy, as well as federal, state, and local law. Anyone who believes they have been subjected to retaliation should report the matter immediately according to the same procedure provided in this Policy for making complaints of discrimination, harassment (including sexual/gender harassment), or sexual assault. Any person found to have retaliated against another individual will be subject to the same disciplinary action provided under this Policy for other violations.

Approved by the AIDS Law Project Board of Directors
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