



Sexual Harassment in FLCA is unacceptable behavior[period]

Board Members , Advisory Council members, employees and contractors have an obligation to prevent, investigate, and address [sexual harassment](#). Harassment can take place in nonprofit workplaces, and board rooms. Nonprofit organizations, and potentially [board members](#), can face legal liability for violations of state or federal laws that prohibit sexual harassment. State and federal laws also prohibit [retaliation](#) against someone for complaining about sexual harassment, or other types of illegal discrimination. As discrimination in all forms is antithetical to our nation's recognized public policies, discrimination and harassment have no place in a sector dedicated to "public benefit."

FLCA has a zero Tolerance policy.:

What is sexual harassment?

Sexual harassment, among other types of discrimination, is defined by state and federal laws. The [US Equal Employment Opportunity Commission](#) (EEOC) is the federal agency that regulates and investigates sexual harassment. Here is how the EEOC defines sexual harassment:

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

As the EEOC definition above reminds us, sexual harassment is gender neutral. People of the same sex can sexually harass each other, although for a violation of Title VII (federal law) the harassment must be based on sex. Sexual orientation and gender identity are protected under many states' laws. Additionally, as the above definition stresses, the harasser does not have to be the supervisor of the person claiming

harassment, nor does the harasser even have to be an employee of the nonprofit. This means that preventing harassment requires looking at the workplace in the broadest possible sense. Conduct that occurs out of the office, in the community, by a volunteer (including board members) or even donors – can result in illegal harassment and potential liability for the nonprofit.

What can we do to prevent sexual harassment at FLCA?

There are many things that FLCA leaders can do to prevent sexual harassment. Here are a few.

- **Focus on Culture:** A culture that stresses both respect and accountability is one of the best preventative shields for harassment of any type. Supervisors and co-workers who sincerely respect one another will ask before touching one another; will not use verbally demeaning or offensive language with, or about, one another; and will think twice before sending a co-worker into a situation that may expose the colleague to a hostile work environment. Similarly, a culture that stresses accountability will help empower employees to raise concerns and underscore the nonprofit's commitment to investigate complaints promptly and thoroughly (which includes providing feedback to the person who made a complaint - rather than leaving that person wondering what steps were taken in response to the complaint). Every employee can be held accountable for upholding a culture at work that rejects harassment. Similarly, the entire [board of directors](#) is accountable for the work environment, and the conduct, of the CEO/executive director. As the definition of sexual harassment from the EEOC makes clear, accountability needs to go beyond supervisors. The nonprofit's policy against sexual harassment should hold all individual workers and volunteers accountable to make sure that their own conduct is not unwelcome and does not contribute to a hostile workplace or constitute illegal harassment. Other elements of accountability include defining the consequences for violations of the nonprofit's anti-harassment policy and responding consistently whenever a complaint is brought forward.
- **Training Considerations for FLCA as we grow.** Some harassment occurs because harassers are not sensitive or aware that their conduct is unwelcome. Training can build awareness about prohibited conduct and can also familiarize everyone about the procedures that are in place to protect victims, investigate allegations, and address violations. Team-building exercises and workplace learning programs designed to raise awareness about unconscious bias, diversity, inclusivity, and equity are positive ways to build a more aware and respectful culture in your nonprofit. Raising awareness about what constitutes "unwelcome" conduct (or conduct that creates a "hostile" environment) is often an eye-opening experience that serves as a building block for improved internal communications and more confident interactions between individuals in the workplace. Don't forget to include volunteers and board members in the training opportunities. Sources for training include law firms and human resource firms that specialize in employment law; insurance carriers; and nonprofit-centric educational programs such as those offered by state associations of nonprofits. Since for-profit companies regularly

conduct training for workers, consider using your nonprofit's contacts in the community to ask whether the nonprofit's staff members can participate in a training that is taking place for the employees of a local business.

- Orientation: Board Members are required to read and submit a scanned copy of this policy that they have read and support a zero tolerance for sexual harassment.
- This policy is posted on the FLCA website, About US, sub menu item " general policies"
- FLCA has a "zero tolerance" for sexual harassment, among other forms of discrimination;

Reporting sexual harassment

Board Members, Advisory Council members, employees/ contractors, interns and volunteers who feel they have been sexually harassed should report the incident to two non-involved board members (not involved in the incident). The verbal report must be followed by a written report of the incident by the person registering the harassment complaint. The written report may be anonymous if desired by the complainant.

- FLCA Board and management shall take ALL complaints seriously. Every report whether verbal or in writing must be submitted to 2 board members not directly involved in the incident.
- All supervisors and managers must report all complaints of sexual harassment regardless of the supervisor's opinion of the weight of the report and even if the employee asks the supervisor not to tell anyone.
- All reports/complaints will be investigated and a written report of the incident and action taken. The complainant's anonymity and privacy will be protected from all uninvolved parties, if requested.

Reminder: It is important to respond immediately when an allegation of harassment surfaces, to stop any new acts, and avoid the appearance of apathy, and maintain employees' trust. At the same time, nonprofits are well-advised not to launch into an investigation of harassment without professional guidance. One of your first calls could be to the nonprofit's insurance carrier for Directors' and Officers' Liability insurance to provide "notice of a potential claim." This is a smart move for two reasons: first, if your nonprofit does not provide the insurance company with notice, the company will not have the opportunity to mitigate or address a potential claim. As a result the insurance company has grounds to refuse to cover any resulting liability. Second: usually the

insurance carrier will have an incentive to assist the nonprofit in avoiding legal liability, and may offer resources and expertise, potentially even advice of legal counsel. Another call may be to hire professionals such as a human resource firm or a law firm experienced with conducting investigations of this nature. Alternatively, the nonprofit may decide to conduct the investigation with its own staff but should do so with caution, guided by informed legally sound resources. Investigations should be swift, fair, documented, thorough, and as confidential as possible. Strive for consistency and consider how best to provide “due process.”

- Practice pointers for responding to sexual harassment allegations.

[5 Mistakes Your Nonprofit Doesn't Want to Make](#)

Resources

- [Preventing workplace harassment & protecting victims at your nonprofit](#) (NonprofitHR)
- [Preventing sexual harassment in the workplace](#) (Nolo)
- [How to investigate sexual harassment allegations](#) (SHRM)
- [Five mistakes to avoid in implementing a harassment policy](#) (HR Professionals Magazine)
- [Sexual harassment law](#) (general, succinct background) (Expert law)
- [It's time for nonprofit boards to have a conversation about sexual misconduct](#) (Nonprofit Quarterly)
- [Behaviors that may be sexual harassment](#) (State of California, Department of Fair Employment and Housing)
- [Examples of sexual harassment and non-sexual harassment](#) (the balance)
- [The sexual harassment guide for dummies](#) (graphic depiction of sexual harassment by Diva)
- [Sexual harassment discussion guides](#) (Lean in.org)

Policy read and initialed by all Board Members _____