



# Avoiding Legal Action

**Denise Carpenter**

Vice President and Human Resources Leader

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## Meet our team for this HR Teleclass: Avoiding Legal Action

### Your host



**Francine Dillard**  
Director of Learning and Development

### Your SME



**Denise Carpenter**  
Vice President and HR Leader

### Your producer



**Rhett Davis**  
PLAD LMS Administrator



# Welcome!



*Senior Business Human Resources Strategist with over twenty years of HR experience, serving as a strategic business partner, creating collaborative models that drive engagement, innovation and standards of excellence. Leadership roles within behavioral health and human services industries.*

**Denise Carpenter, MBA**

**Vice President and Human Resources Leader, Pathways**



**Every complaint doesn't need to be addressed.**

- A. True
- B. False

**Please select the appropriate response and click Submit.**

## Knowledge of laws helps Pathways to avoid charges and complaints

*There are laws at both the federal and state level that protect employees. In addition to protecting employees from discriminatory practices and harassment, these laws cover hiring and firing, workplace safety, family and medical leave and much more*

## Title VII of the Civil Rights Act of 1964

Federal law that prohibits employers from discriminating against job applicants or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information.

It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

## State Specific Title VII Categories

- Cincinnati and California has joined New York City to become the first states to protect employees from discrimination based on natural hair and hairstyles associated with race
- Martial status- CA, DE, DC, IL, MI
- Gender Identity or Expression- DE
- Political Affiliation- DC, LA
- Family Responsibilities- DC

## Pathways' Policies

Prohibits unlawful discrimination based on:

- race, color, sexual orientation;
- gender, gender identification;
- religion, religious belief or affiliation;
- marital status, same- sex partner status, family status, veteran status, age, genetic information, national origin or ancestry;



## Pathways' Policies

- social origin or condition, ethnic origin, citizenship;
- physical or mental disability, medical condition (including, but not limited to genetic characteristics or HIV/ AIDS status), pregnancy;
- political belief or affiliation;

## Pathways' Policies

- being a victim of domestic violence, being a victim [or subject of] sexual aggression, and/or stalking or being perceived as such;
- or any other consideration made unlawful by federal, state, commonwealth, or local laws



**Is this discriminatory – a supervisory refuses to promote an employee because they will soon go on pregnancy leave?**

- A. True
- B. False

**Please select the appropriate response and click Submit.**

## Pregnancy Discrimination Act

An amendment to Title VII of the Civil Rights Act of 1964

Forbids discrimination based on pregnancy when it comes to any other aspect of employment, including pay, job assignments, promotions, layoffs, training, fringe benefits, firing, and any other term or condition of employment.

Pregnant employees cannot be forced to take leave while they are pregnant as long as they can perform their assigned work tasks.

An employer may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

# Understanding Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

**Quid pro quo** (“this for that”) request for sexual favors in exchange for job benefits or opportunities.

Only a supervisor or manager can commit **quid pro quo** harassment.

**Hostile Environment** is an atmosphere that interferes with an individual’s work and/or academic performance or creates an intimidating hostile, or offensive work environment.

Conduct is severe, pervasive, offensive



**HR shouldn't investigate an employee's complaint that a co-worker sent offensive photos to their personal device outside of work.**

- A. True
- B. False

**Please select the appropriate response and click Submit.**

# Sexual Harassment Policy - Pathways

Remember that our sexual harassment policy prohibits unwelcome sexual conduct in offices, schools, client's homes or other work locations.

Policy applies off premises – as long as person(s) are engaged in company related business and company sponsored events.



# Third Party Harassment

- Under our sexual harassment policy, employees are protected from customers, contractors, vendors, and service providers
- It is the supervisor's duty to monitor interactions between outsiders and employees
- Generally, the employer's liability is directly related to the link between the 3<sup>rd</sup> party and the organization





**A supervisor should tell an employee if their gestures, tight hugging and shoulder massages, are making others uncomfortable.**

- A. True
- B. False

**Please select the appropriate response and click Submit.**

## Avoiding Legal Action – Supervisor's Role

- Treat everyone with respect
- Communicate with your team
- Be consistent
- Make job-related decisions
- Don't punish the messenger
- Understand law and policies
- Take action when necessary



## Case Study

An employee becomes intoxicated at a company holiday party and approaches co-workers in a very disrespectful manner. The employee's behaviors conflict with our sexual harassment policy. Co-workers discuss the event the next day at work and want to submit a complaint.

How would you handle as a supervisor?



*Use your questions panel to type in your answer*

## Protected Category: Disability

Prohibits discrimination against qualified individuals because of their disabilities

- In employment
- Receiving services offered to the public
- Denying access to building or services

Duty to provide a **reasonable accommodation** to qualified individuals. Any change in the work environment or in the way things are customarily done, which is not **unduly burdensome** that enables an individual with a disability to have equal access.



## What is a reasonable accommodation?

- Changes in the work environment or in the way things are usually done
- Request that expresses the need for an adjustment due to a medical condition



## Addressing requests is an interactive process

- Meet with the employee who requests an accommodation
- Request information about the employee's condition and limitations. Ask the employee what he or she specifically wants
- Work with FMLA Source to process ADA request



## Potential Concerns

- Managers/supervisors who question the severity of a disability
- Accommodating without following the proper process
- Not accommodating (because of fear, concern with costs, other administrative concerns)





**Providing accommodations for people with disabilities is expensive.**

- A. True
- B. False

**Please select the appropriate response and click Submit.**





## Employees have many ways to report complaints

- The hotline:
  - You can report compliance concerns to the Compliance Department in one of the following ways:
    - Call Pathways' 24-hour Ethics Hotline at: (844) 629-2894 (you may make anonymous reports here)
    - Report to Ethics Hotline via email: <https://pathways.ethicspoint.com>
    - Send an email to the Compliance Department at: [compliance\\_support@pathways.com](mailto:compliance_support@pathways.com)
    - Contact the Compliance Department directly at: (520) 747-6653
- A member of management including supervisor to reports to HR
- Employee reports to HR directly

## EEOC Responsibilities

- EEOC is the federal agency charged with investigating complaints under federal law
- Has power to investigate, subpoena evidence, conciliate
- Enforce federal anti-discrimination law



## State Agencies

- State can enforce laws of greater protection to workers
- Department of Human Rights, may be charged with investigating complaints.
- Granted authority to investigate employment related discrimination.
- Employee can dual file with state and EEOC



## Retaliation

Under state/federal law, and our company policy, you may not take an adverse action because individual participates in an investigation **OR** files a charge of discrimination, either internally or externally.

Retaliation can be a separate charge and requires a separate analysis.



## Key points to remember

- Treat everyone with respect
- Identify the issues and develop key action steps
- Deal with issues immediately
- Understand laws and policies
- Encourage workers to respect each other's differences
- Respond to any evidence or complaints of inappropriate behavior
- Deal with any complaints of discrimination or policy violations promptly and confidentially





## Questions



***Use your questions pane to type in your questions***





# We are here to support you!

## Human Resources Team

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## Our Next Session – Leave Management

**Course Title:** VRT HR Series: Leave Management

**Course Description:** Employee leave management guidelines and processes can be confusing, frustrating, and even scary at times. Do you know what to do when an employee requests time off for an upcoming surgery, has incurred a work-related injury, or mentions that they have a disability that's affecting their job performance? We'll pull back the curtain as you will learn about the necessary "Ins and Outs" needed to navigate through the leave of absence process.

**Session Faculty:** Tiyauna Walden, Senior HR Business Partner

- **Session Date:** November 21<sup>st</sup>, 2019
- **Session Time:** 2:00pm EST / 1:00pm CST / 12:00pm MST / 11:00am PST
- **Course Duration/Credit Hours:** 1 Hour





**Thank You!**

