

Course Name: Discrimination, Harassment, Equal Employment and Affirmative Action

Course #: 4250

A. Equal Employment Opportunity

All AXIS companies practice equal employment opportunity as defined below. Discrimination is not practiced or tolerated.

What is Equal Employment Opportunity?

Equal Employment Opportunity (EEO) is a provision of federal, state, and local law which states that a person cannot be discriminated against in employment based on certain protected personal characteristics or attributes.

1. Protected Characteristics and Attributes

The characteristics or attributes which are legally protected from discrimination are:

- race;
- color;
- creed;
- religion;
- sex;
- age;
- national origin;
- marital status;
- disability, or;
- reliance on public assistance.

(note that sexual or affectional preference is not protected under federal or state law but is protected in ordinance for employees of Minneapolis, St. Paul, and State agencies).

2. Protected Groups

The following groups of people are legally protected from discrimination:

- **Individual with a Disability:** any person who has a physical, sensory, or mental impairment which "materially" (Minnesota) or "substantially" (Federal) limits one or more major life activity or has a record of or is regarded as having such an impairment. "Individual with a Disability" does not include an alcohol or drug abuser whose current use of alcohol or drugs renders that individual a direct threat to property or to the safety of others.

- **American Indian or Alaska Native** - a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

- **Black or African American** - A person having origins in any of the black racial groups of Africa.

- **Hispanic or Latino** - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

- **Native Hawaiian or Other Pacific Islander** - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

EEO essentially means that all decisions concerning a person's employment, such as recruitment, hiring, promotion, discipline, layoffs, firing, etc., must be made without regard to these characteristics or attributes. It is a misperception that EEO only protects women, minorities, and people with handicaps. EEO protects everyone from unfair discrimination based on attributes or characteristics. Although, historically, employment discrimination most often occurred against these now protected groups, people typically identified as members of the 'majority' are also protected by EEO laws. For example: a business run by African Americans cannot decide not to hire whites because of their race, a business owned by women cannot decide to exclude men from employment, etc.

B. Affirmative Action

AXIS companies comply with affirmative action requirements. AXIS has an affirmative action plan as defined below.

What is Affirmative Action?

Although equal employment opportunity is now the law and the standard in American employment, we must realize that this type of legal protection is fairly recent. (The Equal Pay Act was passed in 1963, Title VII of the Civil Rights Act in 1964, the Age Discrimination Act in 1967, etc.) There is an extensive history of accepted discrimination of groups of people because of their characteristics.

Affirmative Action was put into place to remedy past discriminative practices which may have resulted in certain groups being under-represented in certain types of employment. While EEO is passive in nature (it requires you not to do certain things), Affirmative Action is active in nature. It requires that employers act in positive, proactive ways to fix past injustices.

Affirmative Action requires that employers analyze their workforces to determine if certain groups are under-represented, and to implement a plan to increase recruitment and identify and remove barriers (not based on specific job requirements) to employing people from those groups. Affirmative Action requires targeted efforts to recruit and retain employees who are members of under-represented protected groups. This is accomplished through community outreach, internships, and other programs such as mentoring and career development activities and support. Affirmative Action also involves getting relevant information to employees through education and training activities, appropriate handling and resolution of discrimination complaints, and ongoing evaluation of compliance in the workplace.

Most of the actual work of Affirmative Action is handled by the personnel or human resources department or director of program services in our agency or program. It is vital, however, that every employee understand that Affirmative Action is not only the right thing to do, it is the law. All employees must understand the reasons for Affirmative Action and comply with all the related policies and employment requirements to assure a fair employment environment for everyone.

C. Cultural Diversity?

AXIS companies attempt to employ individuals from various cultural backgrounds whenever possible.

What is Cultural Diversity?

You may hear people talk about something called cultural diversity. Cultural diversity is a concept which has grown out of EEO and Affirmative Action initiatives. Whereas EEO states that you can't discriminate against a person based on certain characteristics or attributes, cultural diversity celebrates the differences between people and groups and sees them as valuable to the workplace. Instead of expecting everyone to fit into the same mold, we should realize that the different perceptions and values which are held by different identity groups or cultures can enhance the quality of the work we do and the services we provide. Being aware of cultural differences is also very important in working with the people we serve, the persons in our programs.

D. Reasonable Accommodation

AXIS companies comply with the requirements of reasonable accommodation as put forth in the Americans with Disabilities Act.

What is Reasonable Accommodation?

State and federal laws require that employers make job or work place adjustments to accommodate the physical or mental limitations of "otherwise qualified handicapped applicants or employees" unless making the accommodation would impose an undue hardship on the employer. A qualified handicapped individual is a handicapped person who can perform essential functions of the job in question. Reasonable accommodations may include modifying work sites, adjusting work schedules, job restructuring (without changing essential job duties), or providing assistance such as readers and interpreters.

E. Discriminatory Harassment

AXIS companies prohibit discriminatory harassment in any form. See Professional Behavior Policy. Any incident of harassment must be reported to the employee's supervisor or thru the procedure outlined in the Employee Grievance Policies (Grievance Procedure for Union Employees or Grievance Procedure for Non-Union Employees). Substantiated incidents of harassment will be dealt with as per the AXIS Discipline Policy.

What is Discriminatory Harassment?

Harassment is a form of discrimination which typically involves an employee or employees displaying behavior which has the effect of unreasonably interfering with another employee's or employees' work performance, or creating an intimidating, hostile, or offensive work environment. The harassing behavior impacts the person(s) by discriminating against any of the protected characteristics or attributes listed earlier. Examples include intimidating behavior based on sex, race, ethnic origin, age, disability, religion, etc.

E. Sexual Harassment

AXIS companies prohibit sexual harassment in any form. See Professional Behavior Policy. Any incident of harassment must be reported to the employee's supervisor or thru the procedure outlined in the Employee Policies (Grievance Procedure for Union Employees or Grievance Procedure for Non-Union Employees). Substantiated incidents of harassment will be dealt with

as per the AXIS Discipline Policy.

What is Sexual Harassment?

Sexual harassment is a form of sex discrimination. It might consist of sexual advances, requests, contact, or comments from one employee to another, when such behavior is unwelcome or when tolerating such behavior appears to be a condition of employment.

1. Examples of sexual harassment:

- Unwanted sexual compliments, looks, innuendoes, or suggestions about one's clothing, body, or sexual activity.
- Unwanted, unnecessary touching, brushing against one's body, patting, or pinching.
- Demanding sexual favors accompanied by implied or overt threats concerning conditions of employment.
- Displaying in work areas, pictures or objects depicting scantily-clad women or men.
- Use of language implying inferiority of an employee based on sex, such as "girl" or "boy", rather than "woman" or "man".

2. Criteria for Determining Sexual Harassment

Equal Employment Opportunity Commission guidelines provide the following criteria for determining whether an act constitutes sexual harassment:

- if submitting to the conduct is either an explicit or implicit term or condition of employment; or
- if submitting to or rejecting the conduct is used as a basis for an employment decision affecting the person rejecting or submitting to the conduct; or
- if the conduct has the purpose or effect of substantially interfering with the affected person's work performance, or creating an intimidating, hostile or offensive work environment.

3. How to Resolve Concerns About Sexual Harassment

- If you are able, explain to the person causing the harassment that the behavior is objectionable and ask that it cease.
- If the behavior continues, contact your manager (e.g., Program Supervisor), the Director of Program Services or the Director of Human Resources.

4. Retaliation

According to federal and state law, reporting sexual harassment is a protected activity. Employers may not retaliate in any way against an employee who reports sexual harassment either within the organization or company or to outside agencies.