

Sexual Harassment Awareness

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What is Sexual Harassment?

- ▲ **Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964**
- ▲ **Definition (abbreviated)**
 - ✓ Unwanted sexual advances or visual, verbal, or physical conduct of a sexual nature



EEOC Definition


EEOC (Equal Employment Opportunity Commission) Definition

Unwanted sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, or



EEOC Definition



2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment

Expanded Definition

- ✓ The victim as well as the harasser may be a woman or a man
- ✓ The victim does not have to be of the opposite sex
- ✓ The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee
- ✓ The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct
- ✓ The harasser's conduct must be unwelcome



2 Types of Sexual Harassment

➤ **Quid Pro Quo**
“This for That”

➤ **Hostile Environment**

Comments, actions, objects or things that are sexual in nature that a reasonable person would find offensive

➤ **Non-Employee Harassment**
Third party harassment an employer could prevent



Hostile Environment

- A hostile environment exists when any work environment is “anti-male” or “anti-female”
- Hostile environment is no longer limited to sexual issues alone
- Speech can be punished as workplace harassment if it is "severe or pervasive" enough to create a "hostile or abusive work environment" based on:





Hostile Environment

- Race, religion, sex, national origin
- Age, disability (including obesity)
- Military membership, veteran status
- Sexual orientation, marital status
- Transsexualism or cross-dressing
- Political affiliation, criminal record
- Prior psychiatric treatment, occupation
- Citizenship status, personal appearance
- Tobacco use outside work, receipt of public assistance
- Dishonorable discharge from the military

Unacceptable Behaviors

- ▲ **Physical contact that includes touching, pinching, patting, kissing, rubbing up against, fondling, groping, grabbing or assault**
- ▲ **Interfering with or blocking movement**
- ▲ **Verbal sexual advances or propositions**
- ▲ **Suggestive or obscene letters, notes, invitations or email received at work or at home**
- ▲ **Making or using sexual derogatory comments, slurs, or jokes**



Unacceptable Behaviors

- ▲ Leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons or posters
- ▲ Verbal abuse of a sexual nature, including graphic comments about an individual's body or sexually degrading words to describe an individual
- ▲ Unwanted sexual advances
- ▲ Repeated unwanted attention



Unacceptable Behaviors

- ▲ **Sexual rumors**
- ▲ **Obscene or suggestive sounds**
- ▲ **Obscene or suggestive gifts**
- ▲ **Frequent discussions of sexual acts and exploits**
- ▲ **Repeated face-to-face, telephone or email invitations after being refused**



Communicate Clearly

Communicate clearly what behaviors are unwanted:

- ✓ “I’m offended by that remark.”
- ✓ “I’m not comfortable with this conversation.”
- ✓ “I don’t think my spouse would be comfortable with this conversation.”
- ✓ “I would rather not talk about personal things at work.”
- ✓ “Please don’t tell jokes like that in front of me.”
- ✓ “I prefer to keep things on a professional level at work.”

***** Don’t label people, jump to conclusions, or engage in any rude behavior *****



Five Remedies After Incident

- ▲ **Internal Complaint**
- ▲ **File Complaint with the State**
- ▲ **Contact EEOC**
- ▲ **Civil Litigation/Lawsuit**
- ▲ **Criminal Lawsuit**



Employer Obligations

- ▲ **The main objective should be to get the behavior to stop**
- ▲ **Employers are not obligated and should not disclose the discipline the offender received**
- ▲ **Employers are not obligated to fire or transfer the offender unless the offense warrants it (FBOR would kick in)**



False Claims

- ▲ **False sexual harassment claims hurt everyone**
- ▲ **Don't use sexual harassment claims as a form of revenge**
- ▲ **Don't use sexual harassment claims as a retaliation for performance issues**
- ▲ **Never make false accusations**
- ▲ **You can be counter-sued for false claims**
- ▲ **Sexual harassment is a serious issue and false claims are just as serious!**



Work With PRIDE

- ▲ If you work from a position of PRIDE, you won't have to worry about sexual harassment, discrimination, or hostile environment

- ✓ **P**rofessionalism

- ✓ **R**espect

- ✓ **I**ntegrity

- ✓ **D**ecency

- ✓ **E**xcellence





Supervisors

The Rise of Sexual Harassment Claims

- **Most people became acutely aware of the term sexual harassment in 1991 when Anita Hill testified against Supreme Court Justice nominee Clarence Thomas**
- **That year the number of sexual harassment cases reported in corporate America increased 58% and have climbed steadily ever since**




The Rise of Sexual Harassment Claims

- **Employer costs for harassment and discrimination has doubled in the last five years!**
- **The average jury award is now \$1.8 million and the average out of court settlement is now \$300,000.**
- **Managers can be named as codefendants in harassment lawsuits**



Employer Responsibility

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- **In the past employers unaware of acts of harassment committed by its workers would be protected from liability as long as it acted quickly to deal with the problem as soon as it was discovered**

Employer Responsibility

- **Now an employer needs to show that it took prompt and effective action once it learned of the harassment**
- **AND that its policy discourages acts of harassment**
- **AND makes it clear that such conduct is outside the scope of employment of any employee**
- **AND encourages reporting of such acts**
- **AND provides an effective way of dealing with the allegations**



Employer Liability

There are two conditions that determine liability for employers in cases of hostile environment sexual harassment:

- 1) The employer knew or should have known about the harassment, and
- 2) The employer failed to take appropriate corrective action

An employer can be held liable for the creation of a hostile environment by a supervisor, by non-supervisory personnel, or by the acts of the employer's customers or independent contractors if the employer has knowledge of such harassment and fails to correct it.



The Role of Supervisors

- ▲ **An attitude of zero tolerance should be conveyed**
- ▲ **Incidents should be investigated immediately**
- ▲ **Support people who bring complaints to your attention and take it seriously**
- ▲ **DO NOT IGNORE HARASSMENT**
- ▲ **You can take action without believing every single unsubstantiated claim**
- ▲ **Provide ongoing training for all personnel**
- ▲ **Educate workforce on complaint procedures**
- ▲ **Be a role model**



The Higher Risks

- ▲ **The larger the organization, the higher the risk**
- ▲ **Employees dating each other/supervisors**
- ▲ **The more out-going and affectionate people**
- ▲ **The coarse jokers in the workplace**



Third Party Sexual Harassment

- **Third-party sexual harassment describes sexual harassment of employees who are not themselves the target of the harassment**
- **Quid pro quo third-party sexual harassment occurs when employees who are not themselves harassed lose potential job benefits to other less qualified employees who submit to harassment**
- **Hostile environment third-party sexual harassment occurs when employees who are not themselves harassed must work in an atmosphere where such harassment is pervasive**




Employer Liability and Spam

- **Employers have been found liable for allowing raunchy / sexually explicit spam to go through**
- **If employers are aware of sexual spam, they are expected to install filters to prevent it**
- **EEOC declared librarians in Minneapolis were subjected to hostile work environment by being exposed to sexually explicit material brought up by patrons on unfiltered computers**



Retaliation

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- **Retaliation against an employee who opposed sexual harassment or made a charge or participated in an investigation is prohibited under Title VII. Employee behaviors that are protected include:**
 - ✓ **Resisting advances**
 - ✓ **Registering a complaint of sexual harassment**
 - ✓ **Supporting the claim of another employee**
 - ✓ **Picketing**
 - ✓ **Notifying law enforcement authorities**

 - **Retaliation might include:**
 - ✓ **Dismissal**
 - ✓ **Demotion**
 - ✓ **Transfer**
 - ✓ **Negative evaluation**

Questions?

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Contact the EEOC

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