

Sexual Harassment—Where Do You Go?

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Objectives:

Describe Sexual Harassment

Discuss quid pro quo

Discuss how a facility should address sexual harassment

“Hey baby, let’s get together.” Is this sexual harassment? Yes, if it continues or is unwanted. **Sexual harassment occurs when one employee makes continued, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, to another employee, against his or her wishes.** ¹

According to a current issues update from the [U.S. Equal Employment Opportunity Commission \(EEOC\)](#), sexual harassment occurs, “when submission to or rejection of this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment.”

On-the-job sexual harassment is not a recent problem, although it has been only recently that legally liability has made it to the courts. It wasn’t until 1976 that the first sexual harassment case made it to the courts. But the reality is that until Anita Hill charged Clarence Thomas with sexual harassment, it really didn’t get noticed by John Q. Public. Sexual harassment is not new by any stretch of the imagination. When a poll was done by Redbook in 1976, 9 out of 10 women said they had unwanted advances by those they worked with. On the other side of the coin, approximately 15 percent of men stated they had also been sexually harassed while at work.

Companies/facilities don’t get away without suffering consequences as well. Each facility can expect to see losses from low productivity, increased health-care costs, poor morale, employee turnover or absenteeism. A facility’s image can also be damaged beyond repair. When a sexual harassment report is filed, the company can receive bad press which can cause customers to look elsewhere for treat-

ment or product.

Women are the most likely victims but men can also face harassment. People feel humiliated, suffer a loss of dignity, psychological and occasionally physical injury and feel a loss of self esteem as well as damage to their reputation. Sometimes the victims must choose between their work and their feelings of self worth. If the harassment continues, the involved person may even have to leave their job in order to preserve their safety.

What are some of the things that constitute sexual harassment?

- ◆ Unwanted jokes, gestures, offensive words on clothing, and unwelcome comments and repartee.
- ◆ Touching and any other bodily contact such as scratching or patting a coworker’s back, grabbing an employee around the waist, or interfering with an employee’s ability to move.
- ◆ Repeated requests for dates that are turned down or unwanted flirting.
- ◆ Transmitting or posting emails or pictures of a sexual or other harassment-related nature.
- ◆ Displaying sexually suggestive objects, pictures, or posters.
- ◆ Playing sexually suggestive music.

Federal law currently recognizes two different sets of legal grounds for claiming sexual harassment under Title VII.

Quid pro quo harassment is the most commonly recognized form of sexual harassment. It occurs when (1) job benefits, including employment, promotion, salary increases, shift or work assignments, performance expectations and other conditions of employment, are made contingent on the provision of sexual favors, usually to an employer, supervisor or agent of the employer who has the authority to make decisions about employment actions, or (2) the rejection of a sexual advance or request for sexual favors results in a tangible employment detriment, a loss of a job benefit of the kind described above.

This is legalize for: **I will move you from night shift to day shift if you sleep with me.**

- B. Hostile work environment harassment under the Equal Employment Opportunity Commission (EEOC) occurs when unwelcome comments or conduct based on sex, race or other legally protected characteristics unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment. Anyone in the workplace might commit this type of harassment – a management official, co-worker, or non-employee, such as a contractor, vendor or guest. The victim can be anyone affected by the conduct, not just the individual at whom the offensive conduct is directed. In other words, if you feel you have to continually look over your shoulder to see if your harasser is around, this will affect your work performance, or if you are present when this treatment is being done to someone in your presence, this constitutes harassment.

An employer's obligations with regard to sexual harassment arise before any act of sexual harassment occurs. The EEOC requires that employers take reasonable steps to prevent harassment before it occurs. Every employer has an obligation under Title VII to post a general discrimination prevention poster.

An important component of harassment prevention is the creation and dissemination of a sexual harassment prohibition policy and reporting procedure. This policy is critical because under federal case law, an employer fulfills its obligation if it takes all reasonable steps to prevent harassment before it occurs, and to take effective steps to remedy harassment after it takes place. If an employer demonstrates those attempts at prevention and remediation, it might not be found liable for the act of harassment itself. Other states, such as Cali-

ifornia, impose a "strict liability" test, where employers are liable for the conduct of their supervisors and managers regardless of their best efforts to prevent and to remedy harassment. In other words, every facility is required to present to their employees a policy that addresses sexual harassment; what it is, what penalties will be set upon the employee for sexual harassment, how to file a grievance, who can be contacted for additional information and discuss how committed the facility is to following thru on **every** complaint no matter what. Staff members must see, from their employer, there will be no retaliation for the victim.

Sexual harassment has to be treated seriously and any complaint must be treated seriously. In addition, every facility must make sure that any personnel assigned to the follow-up of a complaint has the training to ensure a competent and complete investigation with the documentation to show the steps taken to follow up with the complaint. Remember that not every complaint will be voiced immediately after the harassment. Women particularly will wait to see if the harassment goes away or if the harasser moves on. Just because the situation has been brought under control, the facility should still monitor the matter in order to ensure the continued compliance of the party/parties involved. Sexual harassment in the workplace presents an ongoing and growing risk to both facilities and businesses. Preventing it is the smart thing to do as well as the right thing to do.

References:

1. Article__"Sexual Harassment in the Workplace: A Primer" Barry Roberts & Richard Mann



Sexual Harassment 1st quarter
Post-test

- 1. Sexual Harassment occurs when the behavior creates an intimidating, hostile or offensive work environment.
True False
- 2. In 1986, the first sexual harassment case made it to the courts.
True False
- 3. Women are the most likely victims but men can also be harassed.
True False
- 4. People can feel loss of self esteem as well as damage to their reputation.
True False
- 5. Quid pro quo is not common but can happen.
True False
- 6. The victim does have to be the target of sexual harassment.
True False
- 7. A hostile work environment harassment under EEOC, occurs when unwelcome conduct based on sex, unreasonably interferes with the worker's work performance.
True False
- 8. The employer must take reasonable steps to prevent harassment before it occurs.
True False
- 9. Under federal case law, an employer fulfills its' obligation if it does nothing to prevent sexual harassment.
True False
- 10. Every complaint of sexual harassment will not be voiced immediately.
True False



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