



Women Employed

**Presentation to House Sexual Discrimination
and Harassment Task Force**

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It's up to us.

How Sexual Harassment is defined

Unwelcome sexual conduct that is severe or pervasive enough to create an abusive work environment.

Unwelcome

- Unwelcomeness is in the eye of the beholder, regardless of the harasser's motivation, or if others are OK with it. But using a "reasonable person" standard.

Charging Party alleges that her coworker made repeated unwelcome sexual advances toward her. An investigation discloses that the alleged "advances" consisted of invitations to join a group of employees who regularly socialized at dinner after work.

- ✓ The coworker's invitations, viewed in that context and from the perspective of a reasonable person, would not have created a hostile environment and therefore does not constitute sexual harassment.
 - ✓ A "reasonable person" standard also should be applied to whether the challenged conduct is of a sexual nature. In the above example, a reasonable person would not consider the co-worker's invitations sexual in nature, and on that basis as well no violation would be found.
- You can be harassed by someone you once dated but are no longer interested in.
 - Unwelcomeness can be conveyed by saying so, or through a look or gesture-body language, or by telling a supervisor. You do not have to tell the person directly.



Sexual Conduct

- Can be verbal or physical, but must be of a sexual nature. There are other forms of harassment in the workplace, but sexual harassment involves sexual language, references or touching of a sexual nature.
- Sexual harassment is protected under the law as gender discrimination. So, it can also be characterized by repeated derogatory comments about being a woman. This can occur in the context of jokes or “compliments”.
 - There is a difference between appropriate work-related comments on performance or even “like your haircut” versus “great legs.”

Unwelcome Physical Contact

- A handshake is the only acceptable business physical interaction.
- Despite its increasing ubiquity in our society, not everyone wants a hug. Don't wait to be told or feel someone flinch; be mindful of the power dynamic.



Severe or Pervasive Enough

- In a **quid pro quo** situation (this for that) where a supervisor or legislator makes compliance with sexual conduct a term or condition of continued employment or benefits, once is enough to constitute sexual harassment, even if a threat is not acted upon.
- For **hostile environment** sexual harassment, it usually takes more than one instance to create an abusive work environment, but no set number is required. In fact, pervasiveness depends on severity. For example, a cartoon that is posted so that all employees can see it may be pervasive enough although it is one incident.

Abusive Work Environment

- The key elements are **hostile** and/or **intimidating** and/or **offensive** conditions that **interfere** with a person's ability to do their job.
- Harassment that occurs away from work can impact an employee's work, e.g., after work, at a work-sponsored party, or a harasser who calls the employee at home.

Supervisor – Supervisee Dating Not a Good Idea

- Sexual harassment is about exerting power over someone.
- This is why there should be a policy regarding not having a romantic relationship between a supervisor and someone he/she supervises.
 - It could work against the supervisee if the relationship doesn't work out.
- It could also impact co-workers of the couple who are not receiving the same benefits or are uncomfortable being around the couple, i.e., Third Party Harassment.
 - The same reason there are anti-nepotism policies.
- The supervisee should not get a worse assignment if this does occur.



Retaliation

- There must be a clear and unequivocal commitment that retaliation is prohibited, and that reporting or participating in an investigation will not in any way adversely affect the complainant's job, career or treatment in the workplace.
- This commitment must be evidenced by actions and leadership.

Prevention is the Best Tool to Combat Sexual Harassment

- A legislator can stop a situation before the person who is harassed may feel the need to file a complaint.
- Victims of SH want the harassment to stop without jeopardizing their jobs.
- Taking action right away when a situation arises is the best step - instead of ignoring it.

Best Practice Recommendations

The EEOC's Select Task Force on the Study of Harassment in the Workplace identified five core principles that have generally proven effective in preventing and addressing harassment:

1. Committed and engaged leadership;
2. Consistent and demonstrated accountability;
3. Strong and comprehensive harassment policies;
4. Trusted and accessible complaint procedures; and
5. Regular, interactive training tailored to the audience and the organization.



Best Practice Recommendations cont.

We would also like to highlight and emphasize these particular practices:

- Employees should be trained to recognize sexual harassment, and to step in as active bystanders.
- Employers should keep records on complaints and their outcomes, include evaluating supervisors' responses to complaints.
- Employees should be regularly surveyed anonymously to assess the effectiveness of the policies and their implementation and enforcement.
- While the current law requires the Inspector General to receive complaints, we recommend someone independent who doesn't have to report to the legislators e.g. an ombudsperson

Goal Should be to Prevent SH – Strive Not To Offend

- People may be bigoted, but they usually know better than to tell racist jokes in the workplace.
- Attitudes might not change, but behavior must in order to keep your job. For those who think they can no longer socialize with members of the opposite sex, or mentor or hire them, or say anything more than “Good morning,” just behave professionally – or like you behave in public like at your gym.
- Can talk about personal things like your weekend, your family, sports – but add “sex” to topics to stay away from like religion and politics.
- Don’t treat anyone else **or allow other employees** to treat anyone else in a manner you would object to if it were your mother, your spouse, or your child.