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Sexual Harassment

A GUIDE FOR EMPLOYEES

Objectives

- Learn the definition and types of sexual harassment
- Understand your role and responsibilities
- Learn how recognize, report and react to sexual harassment
- Learn to recognize potential harassment situations

What is Sexual Harassment?

DEFINING AND UNDERSTANDING SEXUAL HARASSMENT

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Definition:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when 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.”

Breaking it Down

Sexual harassment can include different kinds of:

- Behaviors based on sex
- Motivations of a sexual nature
- Harassers
- Victims

Breaking it Down

“Unwelcome sexual advances and requests for sexual favors”

- Behaviors that are not invited or solicited
- Unwelcome conduct not limited to supervisor/subordinate relationship

Breaking it Down

“Verbal or physical conduct of a sexual nature”

- Unwelcome catcalls, whistles, nicknames
- Unwelcome gestures, “elevator eyes”
- Unwelcome compliments or attention
- Unwelcome shoulder rubs, caressing, hugging, standing in someone’s way
- Displaying sexual objects

Breaking it Down

“When this conduct explicitly or implicitly affects an individual’s employment”

- “Quid Pro quo” or “This for that”
- Between a supervisor, manager or employer and a subordinate

Breaking it Down

“Unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment”

- Anyone can be harasser: supervisor, subordinate, peer, customer, vendor, etc.
- Third parties can be victims as well.
 - Jenny may like Bob’s lewd jokes, but Dave in the next cube may find them offensive.
- Judged by the reasonable person standard
- Impact, not intent

Even If...

Sexual harassment is never okay, even if:

- What began as consensual behavior turned into harassment over time
- It occurred at a company event off-site, or outside of normal company hours

When Is It Sexual Harassment?

DETERMINING SEXUAL HARASSMENT

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When is it Sexual Harassment?

Reasonable Person Standard

- Judge from the perspective of the victim, not the harasser.
- Could a reasonable person view this behavior as intimidating, hostile or offensive?

When is it Sexual Harassment?

Intent vs. Impact

- The harasser's intent isn't the standard by which harassment is judged.
- The impact of the behavior—whether intended or not—is what determines sexual harassment.

When is it Sexual Harassment?

When considering conduct, ask:

- Is the conduct based on sex or of a sexual nature?
- Is it welcome or unwelcome?
- How severe is the conduct?
- Would a reasonable person find it intimidating, hostile or offensive?
- Does it involve a supervisor and a tangible employment action?

What's at Stake?

- Harassment negatively impacts morale and productivity.
- Negative Employment Action
 - Training, suspension, demotion, termination
- Civil Liability
 - If you harass one of your co-workers, you may be held personally liable in a lawsuit.

Prevention and Reporting

UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES

Prevention

- Familiarize yourself with your company's sexual harassment policy.
- Err on the side of caution.
- Before you act, ask yourself, “Would I want to see this broadcast on the local news?”

Reporting

- Become familiar with and follow your company's reporting policy.
- Harassment is never okay; you have the right to tell your harasser to stop.
- Report the harassment to your supervisor or human resources.
- Your company will try to keep the details of any investigation as confidential as possible. The company will attempt to keep the details of its investigation as private as possible, but some other people may need to know names and details.

Common Fears

- Fear of retaliation from harasser
 - Fear of being seen as a troublemaker
 - Desire to handle it yourself
 - Embarrassed about being seen as a “victim”
-
- You and all of your co-workers deserve a workplace free from harassment and intimidation.

Case Studies

HOW WOULD YOU REACT?

Questions to Consider

- Is the conduct welcome or unwelcome?
- How severe or frequent is the conduct?
- Who else might the conduct be affecting?
- Would a reasonable person consider the conduct intimidating, hostile or offensive? Did it involve a tangible employment action?
- What would you do?
- How would you react if you encountered this conduct?

1. Discussing the Future

Mike hired Sue straight out of college. He's always been very attentive, commenting on her appearance and telling her how nice her body is. One day, Mike calls Sue into his office and tells her he'd like to go out for drinks after work to discuss a possible promotion. Sue is excited about the possible promotion but politely declines. She tells Mike she'd like to keep their relationship professional.

1. Discussing the Future (cont.)

Almost immediately, the comments stop, but so does any attention from Mike. The promotion ends up going to someone else, and, a couple of months later, she receives a poor performance review.

Is this sexual harassment?

2. A Sense of Humor

Everyone at work seems to like Matt. He's friendly and outgoing, and the lunchroom echoes with laughter at his jokes. Heather doesn't mind the jokes sometimes, but, lately, they've been getting really raunchy and sexually explicit.

2. A Sense of Humor (cont.)

One day after lunch, Heather approaches Matt. She explains that the jokes he's been telling are offensive and they're making her uncomfortable, and she politely tells him to stop. Matt replies that everyone else seems to like them, so he doesn't see what the big deal is. He tells her that they're just jokes, and she needs to develop a better sense of humor.

Is this sexual harassment?

3. Landing the Account

Kevin just heard that he didn't land the big sales account. Once he found out that his co-worker Jack was gunning for the account, he knew he didn't stand a chance. Considering how friendly their supervisor Pam has been with Jack around the office, it seemed inevitable Jack would get the account. The only thing Kevin didn't know was just how friendly Jack and Pam were.

4. Private Area

Jim is one of the most talented, veteran mechanics at the auto shop. He pretty much keeps to himself during the day, preferring to get his work done rather than socialize. Last week, Carole, who was recently hired to work in the parts department, came to Jim's workstation to deliver some parts he'd requested. She was shocked to discover a scantily clad pin-up girl taped to the side of his tool chest.

4. Private Area (cont.)

Carole tells Jim that she finds the calendar incredibly offensive and asks him to take it down. Jim chuckles and shakes his head. He says that he didn't force Carole to look at anything, and, if she doesn't like it, she doesn't have to come over and deliver parts to him. It's his private work area, anyway. So what's the big deal?

Is this harassment? Is Jim right?

5. Didn't Say a Word

Every day, Marcus whistles when Claire passes by his desk. He rarely ever speaks to Claire, but Marcus always seems to have his eyes on her. He stares, bites his lip or grunts. It's begun to make Claire feel very uncomfortable, to the point where she walks all the way to the other side of the office to avoid passing his desk.

Is this sexual harassment?

6. Man Up

Dan has been having a hard time in the warehouse. A couple of weeks ago, Dan accidentally dropped a box he was carrying. Brad, one of his co-workers, joked that Dan was too weak to work it. Since then, other co-workers have joined in on the taunting, calling him “weak,” “girly-man” and “sissy.”

Is this sexual harassment?

7. Just Dinner

Practically every day for the past two months, Marcus has been asking Cheryl out to dinner. At first, it seemed innocent enough, and Cheryl thanked him for the invitation but politely declined. She told Marcus she wasn't interested in pursuing a romantic relationship. She thought that would be the end of it, but, the next day, he asked again.

7. Just Dinner (cont.)

Marcus was persistent, asking her day after day. He's never said anything mean or threatening, but he just won't take "no" for an answer. Marcus is convinced that, eventually, Cheryl will change her mind. After all, he isn't asking for much—just dinner.

Is this sexual harassment?

8. A Big Tipper

Olivia is the newest hire at the restaurant, and, so far, she's been doing a great job. One night, she looks into the dining room and feels her stomach sink.

Greg, a regular, just got seated at one of her tables.

He has been making comments about her body, asking her on dates and touching her when she walks past the table.

Is this sexual harassment?

Summary

WHAT WE'VE LEARNED

Objectives - Revisited

- Learn the definition and kinds of sexual harassment
- Understand your role and responsibilities
- Learn how to report harassment, respond to employee reports and investigate complaints
- Learn to recognize potential harassment situations

Further Resources

- Equal Employment Opportunity Commission (EEOC)
- Human Resources
- Company's Sexual Harassment Policy