

SEXUAL HARASSMENT

PREVENT SEXUAL HARASSMENT IN THE WORKPLACE

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is a form of sex discrimination which is a violation of Title VII of the Civil Rights Act of 1964. The EEOC regulations define sexual harassment as: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment where 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.

Sexual harassment can occur in a variety of circumstances. This includes but is not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be one 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.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be unwelcome.

It is helpful for the victim to directly inform the harasser that the conduct is unwelcome and must stop.

COMPANY POLICY & OBLIGATIONS

It is the company's policy that all of its managers, supervisors, employees, vendors, or guests acknowledge their obligation to deter, implement, and abide by our company's rule strictly forbidding any form of harassment and sexual harassment. It is also our company's policy that any kind of harassment made by an employee is unacceptable and grounds for immediate termination. Sexual harassment or harassment, in any form and nature, will be considered a serious violation of our company's policy and will be dealt with accordingly in terms of corrective counseling, suspension, or termination. This company upholds a **ZERO TOLERANCE FOR ALL FORMS OF HARASSMENT AND SEXUAL HARASSMENT IN THE WORKPLACE!**

EMPLOYEE COMPLAINT PROCEDURE

To maintain a strict **ZERO TOLERANCE FOR ALL FORMS OF HARASSMENT AND SEXUAL HARASSMENT** policy, employees are encouraged to immediately report all forms of workplace harassment and sexual harassment to any supervisor or management personnel immediately so that it can be dealt with appropriately.

EMPLOYER LIABILITY

With respect to conduct between fellow employees, an employer is responsible for acts of harassment or sexual harassment in the workplace where the employer (or its agents or supervisory employees) knew or should have known of the conduct, unless the employer can demonstrate that an immediate and appropriate corrective action was taken to resolve the incident. An employer may also be responsible for the acts of non-employees, with respect to harassment or sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knew or should have known of the conduct and fails to take immediate and appropriate corrective action.

PREVENTING WORKPLACE HARASSMENT

Prevention is the best tool for the elimination of sexual harassment in the workplace. Employers are encouraged to take all steps necessary to prevent sexual harassment from occurring. Affirmatively raising the subject, implementing a zero tolerance towards harassment and expressing strong disapproval that any form of harassment will not be tolerated, developing appropriate sanctions, and effectively informing your employees of their rights and how to report or address any concerns any employee may have.

DOCUMENTING HARASSMENT

Documenting the harassment is important for use as evidence in any harassment incident. You should:

- Photograph or keep copies of any offensive materials at the workplace.
- Keep a journal with detailed information on instances of sexual harassment.
- Tell other people, including personal friends and co-workers if possible.
- Obtain copies of your work records (including performance evaluations) and keep these copies at home.

FILING A CHARGE

Any person who is being harassed may file a charge of discrimination with the EEOC. If the person being harassed is afraid of retaliation, another individual, organization, or agency can file on behalf of the person who is being harassed.

To file a charge, a person must provide:

- The complaining party's name, address and telephone number;
- The name, address and telephone number of the employer, employment agency, or union that is alleged to have discriminated, and the number of employees (or union members), if known;
- A short description of the alleged violation (the event that caused the complaining party to believe that his or her rights were violated); and
- The date(s) of the violation(s).

Following are some rules for filing a charge:

- You must file a charge with the EEOC before you can file a private lawsuit in court.
- You must file with the EEOC within 180 days of the alleged violation, however, this deadline is extended to 300 days if the charge is also covered by a state or local anti-discrimination law.

If you believe you have been discriminated against by an employer, labor union or employment agency when applying for a job or while on the job because of your race, color, sex, religion, national origin, age, or disability, or believe that you have been discriminated against because of opposing a prohibited practice or participating in an equal employment opportunity matter, you may file a charge of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC). Charges may be filed in person, by mail or by telephone by contacting the nearest EEOC office. If there is not an EEOC office in the immediate area, call toll free 800-669-4000 or 800-669-6820 (TDD) for more information. To avoid delays, call or write before hand if you need special assistance, such as an interpreter, to file a charge.

QUESTIONS & ANSWERS ABOUT SEXUAL HARASSMENT

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is a form of sex discrimination which is a violation of Title VII of the Civil Rights Act of 1964. The EEOC's guidelines define two types of sexual harassment: "quid pro quo" and "hostile environment."

WHAT IS "QUID PRO QUO" SEXUAL HARASSMENT?

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes "quid pro quo" sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

WHAT IS "HOSTILE ENVIRONMENT" SEXUAL HARASSMENT?

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes a "hostile environment" sexual harassment when 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.

WHAT FACTORS DETERMINE WHETHER AN ENVIRONMENT IS "HOSTILE"?

The central inquiry is whether the conduct "unreasonably interfered with an individual's work performance" or created an "intimidating, hostile, or offensive working environment." The EEOC will look at the following factors to determine whether an environment is hostile: (1) whether the conduct was verbal or physical or both; (2) how frequently it was repeated; (3) whether the conduct was hostile or patently offensive; (4) whether the alleged harasser was a co-worker or supervisor; (5) whether others joined in perpetrating the harassment; and (6) whether the harassment was directed at more than one individual. There is no one determinant factor that controls the determination of a hostile environment. An assessment is made based upon the totality of the circumstances.

WHAT IS UNWELCOME SEXUAL CONDUCT?

Sexual conduct becomes unwelcome only when it is unwelcome. The challenged conduct must be unwelcome in the sense that the employee did not solicit or incite it, and in the sense that the employee regarded the conduct as undesirable or offensive.

HOW WILL THE EEOC DETERMINE WHETHER CONDUCT IS UNWELCOME?

When confronted with conflicting evidence as to whether conduct was unwelcome, the EEOC will look at the record as a whole and at the totality of the circumstances, evaluating each situation on a case by case basis. The

investigator should determine whether the victim's conduct was consensual, or amicable, with his/her assertion that the sexual conduct was unwelcome.

WHO CAN BE A VICTIM OF SEXUAL HARASSMENT?

The victim may be a woman or a man. The victim does not have to be of the opposite sex. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

WHO CAN BE A SEXUAL HARASSER?

The harasser may be a woman or a man. He or she can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

CAN ONE INCIDENT CONSTITUTE SEXUAL HARASSMENT?

It depends. In "quid pro quo" cases, a single sexual advance may constitute harassment if it is linked to the granting or denial of employment or employment benefits. In contrast, unless the conduct is quite severe, a single incident or isolated incidents of offensive sexual conduct or remarks generally do not create a "hostile environment." A hostile environment claim usually requires a showing of a pattern of offensive conduct. However, a single, unusually severe incident of harassment may be sufficient to constitute a Title VII violation, the more severe the harassment, the less need to show a repetitive series of incidents. This is particularly true when the harassment is physical. For example, the EEOC will presume that the unwelcome, intentional touching of a charging party's intimate body areas is sufficiently offensive to alter the condition of his/her working environment and constitute a "hostile environment."

CAN VERBAL REMARKS CONSTITUTE SEXUAL HARASSMENT?

Yes. The EEOC will evaluate the totality of the circumstances to ascertain the nature, frequency, context, and intended target of the remarks. Relevant factors may include: (1) whether the remarks were "humiliating and derogatory"; (2) whether the alleged harasser singled out the charging party; (3) whether the charging party participated in the exchange; and (4) the relationship between the charging party and the alleged harasser.

WHAT SHOULD A SEXUAL HARASSMENT VICTIM DO?

The victim should directly inform the harasser that the conduct is unwelcome and that it must stop. It is important for the victim to communicate that the conduct is unwelcome, particularly when the alleged harasser may have some reason to believe that the advance may be welcomed. However, a victim of harassment need not always confront his/her harasser directly, so long as his/her conduct demonstrates that the harasser's behavior is unwelcome. The victim should also use any employer complaint mechanism or grievance system available, if these methods are ineffective the victim should contact the EEOC office as soon as possible.