

Sexual Harassment

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What is Sexual Harassment?

According to EEOC any unwelcome verbal or physical advance request for sexual favors or other verbal or physical conduct of a sexual nature when:

- Submission to the conduct is a condition of employment,
- Submission to or rejection of conduct is used as a basis for employment decisions; or
- Conduct creates intimidating, hostile, or offensive working environment

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Sexual Harassment Depends On;

How the person(s) are affected,
NOT on the harasser's intent!!

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The Problem

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Why is Sexual Harassment Prohibited?

- It is a violation of the Civil Rights Act of 1964 which prohibits discrimination
- It is a prohibited personnel practice when it results in personnel decisions for or against an employee on the basis of conduct not related to performance
- It is a conduct issue covered by the Department of Agriculture's conduct regulations

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TYPES OF HARASSMENT

- ♦ **Quid Pro Quo**
 - A Latin phrase meaning “something for something”
- ♦ **Hostile Environment**
 - The deciding factor is not the intent of the harasser, but the impact of the harasser's action upon the victim

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Examples of Conduct or Behaviors that Constitute Sexual Harassment

1. **Physical** - Unwelcome touching, leaning over, cornering, pinching, patting/rubbing against, stroking, neck massages, or other physical contact of a sexual nature.
2. **Verbal** - Unwelcome teasing, insults, innuendoes, jokes, remarks, comments, questions, or stories of a sexual nature

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Examples of Conduct or Behaviors that Constitute Sexual Harassment (cont'd)

3. **Nonverbal** - posters, calendars, cartoons, or other material of a sexual nature
 - Making unwelcome facial expressions
 - Displaying sexually explicit pictures, videos, or computer displays.
 - Giving unwelcome personal gifts

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How Can Sexual Harassment Harm:

1. The Victim
2. The Agency
3. The Harasser

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Effects on the Victim

- Feelings of alienation and guilt
- Feelings of humiliation, embarrassment, and intimidation
- Deteriorating family relationships
- Loss of wages from frequent absences
- Loss of income if fired or decision is made to resign
- Physical symptoms, e.g. chronic fatigue, headaches, nausea
- Psychological symptoms e.g. depression, nervousness, sleeplessness
- Decrease in self-esteem and motivation
- Medical bills

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Effects on the Agency

- Loss of productivity
- Low morale
- Forming of cliques
- Poor management and supervision
- Absenteeism
- Job turnover
- Reputation as a poor place to work
- Loss of Agency funds

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In the current climate, employers could be liable for sexual harassment damages

- if the victim never complained to the company;
- if the harasser is a coworker, not a supervisor;
- if the harasser is a customer;
- if the harasser and the victim are the same sex;
- if the investigating supervisor did not pursue the investigation out of respect for the victim's request for confidentiality;
- if the victim perceives their own opportunities impeded by a manager's sexual harassment of, or legitimate consensual relationship

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Common Responses

- ♦ Just ignore it
- ♦ Blame yourself
- ♦ Grin and bear it
- ♦ Fight fire with fire
- ♦ Quit your job

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The Solution

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“To defend themselves, employers would have to show that they exercise reasonable care to prevent or promptly correct any sexually harassing behavior.”

Federal Supreme Court, Friday June 26, 1998

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What should you do if harassed?

1. Confront the harasser
2. Keep a record
3. Notify a supervisor or management official
4. Contact other sources of help

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Advice for Supervisors

- ♦ Make sure everyone knows your sexual harassment policy
- ♦ Never ignore sexual harassment
- ♦ Treat every incident seriously
- ♦ Don't hesitate to seek help
- ♦ Let each person know what action will be taken
- ♦ Weigh your options carefully
- ♦ Always keep matters confidential

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Food For Thought

- ♦ Would I engage in this behavior if the person I am in a relationship with were here?
- ♦ Would I want the person I am in a relationship with, my sibling, child, or parent subjected to my behavior at his/her place of employment?
- ♦ Would I engage in this behavior if my supervisor or Division Director were here.
- ♦ Would I want my behavior to be published in a newspaper.

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Sexual Harassment Depends On;

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Prevention is a Shared Responsibility

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Authorities that Prohibit Sex Discrimination and Sexual Harassment

♦ Civil Service Reform Act (1978)

This law draws upon the intent of Title VII of the Civil Rights Act of 1964, as amended, by prohibiting personnel practices which discriminate on the basis of race, color, religion, sex, or national origin. Sexual harassment, being a form of sex discrimination which is prohibited by Title VII, is therefore illegal behavior under this law.

♦ 29 CFR 1614

This EEOC regulation sets forth Federal agency requirements for carrying out Title VII, as amended. It mandates that each Federal agency provide explicit procedures for processing complaints of discrimination, including complaints of sexual harassment

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Authorities That Prohibit Sex Discrimination and Sexual Harassment

♦ Department of Agriculture Policy Prohibiting Sexual Harassment

Each Federal agency, including the Department of Agriculture, is required to publish an annual policy statement on the prevention of sexual harassment in the work place. The Secretary of Agriculture issues a policy statement and plan for the prevention of sexual harassment as part of the agency's Affirmative Employment Program Plan for Minorities and Women.

♦ NRCS General Manual, Title 230, Part 401

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Authorities That Prohibit Sex Discrimination and Sexual Harassment

♦ NRCS Policy Statement on the Prevention of Sexual Harassment

NRCS annually issues a policy statement on the prevention of sexual harassment. The policy statement:

- Defines sexual harassment
- Describes the effects of sexual harassment on the NRCS workforce
- Outlines employee, manager, and supervisor responsibilities in preventing sexual harassment.

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Authorities That Prohibit Sex Discrimination and Sexual Harassment

♦ 29 CFR 1604

This EEOC regulation sets forth the Federal agency guidelines prohibiting discrimination because of sex. The guidelines establish criteria for determining when unwelcome conduct of a sexual nature constitutes sexual harassment, defining the circumstances under which an employer may be held liable, and suggesting affirmative steps an employer should take to prevent sexual harassment. The EEOC also defines the two types of sexual harassment, "quid pro quo" and "hostile environment."

♦ Equal Pay Act (1963)

Prohibits sex discrimination in payment of wages and fringe benefits to women and men performing substantially equal work in the same establishment. (Note: the law does not apply to sex-based discrimination in hiring, job assignment, discipline, or promotion practices).

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Authorities That Prohibit Sex Discrimination and Sexual Harassment

- ◆ **Title VII, Civil Rights Act (1964 as Amended)**

Prohibits discrimination based on race, color, religion, sex, or national origin in all aspects of employment. Because the EEOC has affirmed that sexual harassment is a form of sex discrimination, sexual harassment is covered under Title VII, as amended, and is therefore illegal behavior under this law. Also, it is unlawful to retaliate against any applicant or employee who opposes unlawful employment practices, or attempts to exercise rights under the Act.

- ◆ **Equal Employment Opportunity Act (1972)**

Amended Title VII of the Civil Rights Act of 1964 to extend coverage to federal, state, and local government employees. The Office of Personnel Management was charged with ensuring all Federal Government actions were free from discrimination.

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Authorities That Prohibit Sex Discrimination and Sexual Harassment

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- ◆ **Civil Rights Restoration Act of 1991**

Made several significant changes affecting EEO law and litigation. The Act allows, for the first time, the federal sector to be sued for intentional discrimination. It established that the burden of proof for claims of disparate impact is to be on the employer rather than the complainant. The Act also provides for awards of compensatory damages, and the right to jury trials for intentional victims under Title VII.

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