

Sexual Harassment

This course offers education for both employees and supervisors. Students select their role within an organization at the beginning of the course to receive education specific to their needs.

(NOTE: You may wish to add-on your organization's anti-harassment policy and complaint procedure.)

Lesson 1: Objectives

At the completion of this course, you will be able to:

- ❖ Define, prevent, and report sexual harassment and
- ❖ Identify how your organization responds to and corrects harassment.

Introduction

Although harassment is against the law and violates Title VII of the Civil Rights Act of 1964, it remains a problem in American workplaces. Harassment involves discriminatory (or unfair) treatment towards an individual on the basis of race, color, sex (including pregnancy, gender identity, and sexual orientation), religion, national origin, age (40 or older), disability, genetic information, or towards an individual who has complained about discrimination, filed a charge of discrimination or participated in an employment discrimination investigation or lawsuit. It is against the law for an employer to hire, fire, or alter other aspects of an individual's employment, such as compensation, terms, conditions and privileges, based on discriminatory reasons. The U.S. Equal Employment Opportunity Commission (EEOC) enforces these federal laws and has the authority to investigate and file charges of discrimination.

In 1980 sexual harassment became a violation of Title VII of the Civil Rights Act and criteria was established for determining when unwelcome conduct of a sexual nature signified sexual harassment, circumstances under which an employer may be held liable (or responsible) and steps an employer should take to prevent sexual harassment. Title VII applies to employers with 15 or more employees, including local, state and federal governments, employment agencies and labor organizations. Individuals who work for smaller employers are usually protected by similar state anti-discrimination laws.

Quiz Question:

Sexual harassment is a violation of Title VII of the Civil Rights Act.

***True** or False

Lesson 2: Sexual Harassment Defined

Sexual attraction may often play a role in the day-to-day social exchange between employees. Federal law does not prohibit simple teasing, offhand comments, or isolated incidents. The law does, however, prohibit sexual harassment which includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct openly or secretly is a term or condition of an individual's employment, used as a basis for employment decisions, unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Sexual harassment can occur in a variety of circumstances. The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or even a person outside of the organization, such as a client or customer. Both the victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex. The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.

Quiz Question:

Place each action under whether it is OR is not prohibited under Federal Law.

Federal Law Prohibits

- *Unwelcome sexual advances**
- *Requests for sexual favors**
- *Verbal conduct of a sexual nature that is used as a term of employment**
- *Physical conduct of a sexual nature that is used as a basis for employment decisions**
- *Verbal conduct of a sexual nature that interferes with an individual's work performance**
- *Physical conduct of a sexual nature that creates an intimidating working environment**

Federal Law Does Not Prohibit

- *Simple teasing**
- *Offhand comments**
- *Isolated incidents**

Lesson 3: Prevention of Sexual Harassment for Employees

Prevention is the best tool to eliminate sexual harassment in the workplace. Your organization takes all steps necessary to prevent sexual harassment including the enforcement of its anti-harassment policy, anti-retaliation policy and complaint procedure or grievance system. Sexual harassment will not be tolerated. Remember, sexual harassment is determined by the perception of the victim. Therefore, be cautious because you may not always know whether or not something you do or say is considered harassing and you may end up in court defending yourself, paying high attorneys' fees and, if found guilty, a large amount of money out of your own pocket.

Lesson 4: Reporting and Correction of Sexual Harassment for Employees

If you become a victim of sexual harassment you are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Communicating your feelings of discomfort can prevent what is inappropriate, yet innocent, behavior from becoming harassing and overly offensive. You should also promptly use your organization's complaint procedure or grievance system before the harassment becomes severe or frequent. Telling a co-worker about a harassing situation is not sufficient notice to your employer of the problem.

When your organization receives a complaint or otherwise learns of possible sexual harassment in the workplace, it will investigate promptly and thoroughly so that it can be determined whether inappropriate sexual conduct occurred. Your organization will look at the nature of the conduct and the context in which the alleged incidents took place. A determination will be made from the facts, on a case by case basis. Confidentiality during the investigation is ensured as much as possible.

Your organization will take immediate and appropriate corrective action by doing whatever is necessary to end the harassment, make you whole by restoring lost employment benefits or opportunities, and prevent the misconduct from recurring. Disciplinary action against the offending supervisor or co-worker, ranging from reprimand to termination, may be necessary. The corrective action will reflect the severity of the conduct. Once the investigation is complete, all parties will be informed of the results and whether corrective action was taken, however the employee who made the complaint will usually not be told the details of the disciplinary actions. Your organization will also make follow-up inquiries to ensure the harassment has not resumed and you and other witnesses have not suffered retaliation (or revenge). If you are a victim of retaliation, you must report this immediately. Retaliation will be subject to discipline, up to and including termination.

Quiz Question:

When your organization receives a complaint or otherwise learns of possible sexual harassment in the workplace, it takes the appropriate steps. Place the steps in order.

- 1. *Investigate promptly and thoroughly**
- 2. *Take immediate and appropriate corrective action**
- 3. *Inform all parties of the results and whether corrective action was taken**
- 4. *Make follow-up inquiries to ensure the harassment has not resume and no one has suffered retaliation**

Lesson 5: Prevention of Sexual Harassment for Supervisors

Your organization is committed to the prevention and correction of sexual harassment including the enforcement of its anti-harassment policy, anti-retaliation policy and

complaint procedure or grievance system. Prevention is the best tool for the elimination of sexual harassment. Your organization takes all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under title VII, and developing methods to sensitize all concerned. Your organization's policies should contain, at a minimum, a clear explanation of prohibited conduct; assurance that employees who make complaints of harassment or provide information related to such complaints will be protected against retaliation; a clearly described complaint process that provides a prompt, thorough, and impartial investigation and is designed to encourage victims to come forward and report harassment before it becomes severe or frequent and offers accessible avenues to complain including individuals outside an employee's chain of command and details the time frames for filing charges with the EEOC or state fair employment practice agencies; assurance that the employer will protect the confidentiality of harassment complaints to the extent possible; and assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred.

Quiz Question:

Your organization takes all steps necessary to prevent sexual harassment from occurring. Select the correct word from the dropdown to describe each step.

affirmatively ***raising** the subject

expressing ***strong** disapproval

developing appropriate ***sanctions**

informing employees of their right to raise the issue of harassment under ***Title VII**

developing ***methods** to sensitize all concerned

Lesson 6: Reporting and Correction of Sexual Harassment for Supervisors

As a supervisor or manager, you must understand your responsibilities under the organization's anti-harassment policy, anti-retaliation policy and complaint procedure or grievance system, including documentation requirements. You must address or report to appropriate personnel complaints of harassment regardless of whether you are officially designated to take complaints and regardless of whether a complaint was framed in a way that follows the organization's complaint procedure. Furthermore, management must correct harassment regardless of whether an employee files an internal complaint if the conduct is clearly unwelcome. If an employee informs you as their supervisor of an alleged harassment but asks to keep the matter confidential and take no action, your inaction could lead to employer liability. While it may seem reasonable to let the employee determine whether to pursue a complaint, the employer must exercise its duty to prevent and correct harassment. One of the biggest mistakes you as a supervisor can make is to ignore or improperly respond to sexual harassment.

Remedial or corrective measures are designed to stop harassment, correct its effects on the employee, and ensure that the harassment does not recur. These measures may include the restoration of leave taken because of the harassment; removal of negative evaluation(s) from the employee's personnel file that arose from the harassment; reinstatement; apology by the harasser; monitoring the treatment of the employee to ensure that he or she is not subjected to retaliation by the harasser or others in the workplace because of the complaint; and correction of any other harm caused by the harassment.

Quiz Question:

Remedial measures are designed to:

- a. stop the harassment
- b. correct the harassment's effect on the employee
- c. ensure that the harassment does not recur
- d. ***all of the above**

Lesson 7: Employer Liability

Employers are subject to vicarious liability for unlawful harassment by its supervisors. An individual qualifies as an employee's "supervisor" if he or she has authority to undertake or recommend tangible employment decisions such as hiring, firing, promoting, and demoting or has authority to direct the employee's daily work activities. In some circumstances, an employer may be subject to vicarious liability for harassment by a supervisor who does not have actual authority over the employee. An employer is always liable for harassment by a supervisor that ended in a tangible employment action. If the harassment did not end in a tangible employment action, the employer may be able to avoid liability or limit damages if it exercised reasonable care to prevent and promptly correct any harassing behavior, and the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

In addition to costly lawsuits, sexual harassment harms business operations and can cause lost productivity time due to absenteeism, turnover and employee dissatisfaction. The employer's reputation in the community may suffer as well resulting in the loss of business opportunities and good job applicants.

Quiz Question:

An employer is always liable for harassment by a supervisor that ended in a tangible employment action.

***True** or False

Lesson 8: Conclusion

(NOTE: You may wish to display the contact information for the appropriate personnel within your organization.)

Your organization is committed to the prevention and correction of sexual harassment. And it takes your help! If you have any questions about sexual harassment, including your organization's anti-harassment policy, anti-retaliation policy, complaint procedure or grievance system, contact the appropriate personnel for guidance and assistance.

Test Questions (10 questions Pre-Test or 5 questions Post-Test)

Pool 1 (6 or 3 questions)

MULTIPLE CHOICE

1. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when the conduct:
 - a. Affects an individual's employment.
 - b. Interferes with an individual's work performance.
 - c. Creates an intimidating, hostile, or offensive work environment.
 - d. All of the above.

2. It is appropriate to fire an individual based on:
 - a. Race.
 - b. Sex.
 - c. Age.
 - d. None of the above.

3. _____ is the best tool to eliminate sexual harassment in the workplace.
 - a. Protection
 - b. Prevention
 - c. Firing
 - d. Promoting

4. It is against the law for an employer to _____ based on discriminatory reasons.
 - a. Hire
 - b. Fire
 - c. Alter other aspects of an individual's employment such as compensation
 - d. All of the above

5. The harasser can be:
 - a. The victim's supervisor.
 - b. A supervisor in another area.
 - c. A co-worker.
 - d. All of the above.

6. Which statement below is FALSE in regards to sexual harassment?
 - a. Both the victim and the harasser can be either a woman or a man.
 - b. The victim and harasser can be the same sex.
 - c. The victim must be the person that was directly harassed.
 - d. The harasser can be the victim's supervisor.

Pool 2 (4 or 2 questions)

TRUE/FALSE

7. Sexual harassment is a violation of Title VII of the Civil Rights Act.
8. Telling a co-worker about a harassing situation is sufficient notice to your employer of the problem.
9. Harassment remains a problem in American workplaces.
10. It is lawful for an employer to hire, fire, or alter other aspects of an individual's employment based on discriminatory reasons.
11. Federal law does not prohibit simple teasing, offhand comments, or isolated incidents.
12. If you become a victim of sexual harassment you should inform the harasser directly that the conduct is unwelcome and must stop.
13. Retaliation can be subject to discipline, up to and including termination.
14. The victim of sexual harassment can be anyone affected by the offensive conduct.
15. Sexual harassment will not be tolerated.
16. When your organization receives a complaint or otherwise learns of possible sexual harassment in the workplace, it must investigate promptly and thoroughly.