

*“Sexual Harassment Part 1:  
Hostile Work Environment”*

**PROGRAM INFORMATION HIGHLIGHTS**

## DEFINITION

Hostile Environment (Environmental) Sexual Harassment is:

- Unwelcome verbal, visual or physical conduct
- Sexual in nature or gender related
- Conduct in the workplace, which includes employer sponsored activities
- Offensive, intimidating or demeaning to a reasonable person
- Frequent or severe enough to impede work performance
- Non-work related conduct

## KEY CONCEPTS

- Sexual harassment is defined by impact not intent
- People sometimes consent to unwelcome conduct
- Conduct impacts everyone in the environment who sees or hears it
- Sexual harassment laws apply regardless of background or personality
- The majority doesn't rule when conduct is illegal or against policy

## THE LAW

Sexual Harassment is illegal under Title VII of the 1964 Civil Rights Act as part of gender discrimination. Title VII also outlaws harassment on the basis of:

- Race
- Color
- Religion
- National origin

Other state and federal laws prohibit other forms of discrimination, including, but not limited to:

- Age
- Physical or mental disability
- Sexual orientation
- Ethnicity
- Ancestry
- Pregnancy
- Marital status
- Veteran status

## EXAMPLES

Common forms of Hostile Environment Sexual Harassment:

### Verbal

- Unwelcome sexual advances, language, banter, innuendoes
- Offering threats if sexual favors are not provided
- Lewd, off-color sexually oriented comments, teasing, or jokes
- Foul or obscene language
- Offensive whistling
- Comments about appearance or body parts
- Sexually oriented or explicit remarks, including written or oral references to sexual conduct, gossip regarding one's sex life, body, sexual activities, deficiencies, or prowess
- Questions about one's sex life or experience
- Using office status to request dates
- Repeated requests for dates
- Demeaning nicknames (e.g. "honey", "cutie")

### Visual

- Hanging suggestive or sexually explicit pictures, posters, calendars, or cartoons on company premises
- Offensive or inappropriate e-mails, screen savers, downloads
- Wearing sexually suggestive or offensive messages on clothing
- Writing unwanted or obscene letters, comments, notes, or cards

### Physical

- Hugging, kissing, squeezing, grabbing, groping or fondling in a forcible manner
- Sitting, gesturing, or posing in a sexually suggestive manner
- Back or bottom slapping, knee patting
- Violating someone's "personal space"
- Neck or shoulder massages
- Touching in a sexually suggestive manner
- Leering, staring, or stalking
- Initiating sexual assault or rape

## **EMPLOYEE COMPLAINT PROCEDURE**

Most companies give employees 3 options for letting management know about possible sexual harassment:

- Speak to their direct supervisor or manager
- Speak to anyone in management
- Go directly to Human Resources

In most instances, you do not need to follow a formal chain of command when filing a complaint of harassment or discrimination, and you may report your complaint directly to Human Resources.

**Check out your complaint procedure in your company's sexual harassment policy, or ask Human Resources about it.**

## **LEGAL DUTY OF MANAGERS AND SUPERVISORS**

- Those in positions of authority or supervision are agents of the corporation
- The corporation is legally responsible for the conduct of its agents
- The company and its agents have a mandatory, no exception legal duty to take IMMEDIATE, APPROPRIATE REMEDIAL ACTION if they know or should have known harassment MAY be occurring
- Agents have a duty to take action even if an employee who comes to them with a problem asks them not to

**Recommended immediate, appropriate action:**

- NOTIFY Human Resources immediately and document your action (Human Resources has the expertise to lawfully investigate, resolve and monitor sexual harassment complaints)
- Gather as much information as possible
- Assure the employee information will be kept as confidential as possible
- If retaliation is feared, assure them retaliation is illegal, in violation of company policy and will not be tolerated

## MANAGER AND SUPERVISOR PERSONAL LIABILITY

Managers and supervisors MAY, under some STATE laws, have personal liability for certain actions, including, but not limited to:

- Failing to take immediate, appropriate action when they know or should have known about possible harassment
- Aiding, abetting, or engaging in sexual harassment
- Retaliating against an employee for making a complaint

## CONFIDENTIALITY

- Managers cannot promise strict or absolute confidentiality to employees
- Managers can promise information will be kept as confidential as possible and only shared with those who need to know in order to resolve the situation, such as Human Resources

## THE HUMAN SIDE

Remember “Arturo”, the Manager at EveryCo, telling about his niece’s experience, and how it changed his thinking? Things are much more real when they’re personalized. When deciding if your own conduct might be unwelcome, offensive or inappropriate, personalize it. Ask yourself these questions:

- Would I be comfortable having this conduct discussed at a staff meeting, or on the evening news?
- Would I do this in front of family?
- Am I OK with this happening at work to someone I care about?
- Does this conduct seem to make others feel uncomfortable? Does it seem like others want me to stop or change my behavior?
- Does the other person have equal power, authority, seniority? Is intimidation a factor?
- Could a reasonable person of the other person’s gender find this offensive?
- Could this create any risk for the company? My co-workers? My family? Myself?