



Mindful

Continuing Education

Sexual Harassment Prevention

only yes
is
yes

Introduction

Despite being illegal, sexual harassment is pervasive in the workplace. There are many costs of sexual harassment. The targets suffer the most, but sexual harassment is also bad for business.

Section 1: What is Sexual Harassment, and Why Does It Matter?

Case Study 1

Carmen and Jason work for the same company. They get to know each other pretty well when they work on a project together. Carmen asks Jason to go out for coffee. He agrees and they start dating. After a few months, Jason stops responding to calls and messages. Carmen figures out that he isn't interested in pursuing a relationship anymore.

After a few months, Jason changes his mind and asks Carmen to go out again. Carmen declines. Jason perseveres. He continues asking for dates and sexual contact. After several weeks of this, Carmen files a complaint.

Jason agrees to stop asking Carmen for dates or sexual contact, but he's hurt and angry. Jason starts telling some of their colleagues about the relationship and the sexual harassment complaint. As the conversation progresses, he divulges personal details about his sexual experiences with Carmen.

Carmen notices some of her male colleagues have stopped including her in projects. Eventually she asks if there is a problem with her work. She finds out that her male colleagues feel uncomfortable now that they know the personal information Jason shared.

Case Study 2

Aaron and Jesse work together. They eat lunch at the same time with some other co-workers. There is polite conversation during lunches. When Aaron gets involved in a new relationship with Martin (another man) he talks about the restaurants they try and the movies they see over the weekend. One day Aaron shares that he and Martin have decided to move in together.

Jesse always liked Aaron, but when he started talking about his relationship with Martin, Jesse got very uncomfortable. He is “fine with homosexuality” as long as it isn’t “thrown in his face.” Jesse tells Martin that the conversations about his homosexual relationship at lunch make him uncomfortable and respectfully asks him to stop. Aaron politely reminds Jesse that when Jesse was in a romantic relationship, they discussed it frequently at lunch. Jesse counters that that was different because it was a “normal” relationship and no one said they were uncomfortable. Aaron says he disagrees.

The next day Aaron, Jesse, and several other co-workers are eating lunch together. Aaron says that he and Martin have found an apartment and plan to move into their new place next month. Jesse is disgusted and outraged that Aaron is completely disregarding his feelings. He complains to a supervisor that Aaron is continuing to share inappropriate details about his relationship despite being told that they are making Jesse uncomfortable.

The human resources department interviews Aaron about the “inappropriate conversation” in the break room. Aaron files a counter-complaint alleging that he is being sexually harassed by Jesse.

Case Study 3

Jeremy and Lisa are out for lunch with a potential client. During the lunch, Jeremy notices that the client is paying lots of attention to Lisa. He’s agreeing with everything she says and he reached over to pat her hand at one point in the conversation.

After lunch, the potential client calls Jeremy. He agrees to sign a contract, but only if he can work exclusively with Lisa. Jeremy talks to Lisa and tells her the client requested to work with her exclusively. Lisa agrees to try this arrangement out. Lisa does recall feeling a little uncomfortable at the lunch, but it could have been her imagination. Working with this client would be a good career move.

After a few months of working with Lisa, the client tells Lisa he wants a sexual relationship. She says she isn’t interested. The client tells Lisa that he will pull his business from the company if she doesn’t comply. Lisa ends the conversation.

The next day, the client pulls his business from the company. Lisa tells Jeremy what happened. They agree that this client wasn’t worth it—good riddance. A few days later an executive finds out that this client left the company. He demands to see Lisa and Jeremy. He asks what happened. He finds out that Lisa was working with the client exclusively and that when she refused his sexual advances, the client left.

Jeremy backs up her story. The executive says that this was Lisa's client, so it was her responsibility to keep that business. He fires Lisa.

Case Study Summary

Each of these cases demonstrates sexual harassment in the workplace. Some types of sexual harassment are clear, but sexual harassment is frequently subtle and hard to identify. As you learn more about sexual harassment in the workplace, consider these case studies and what actions constitute sexual harassment.

Defining Workplace Sexual Harassment

The United States Equal Employment Opportunity Commission (EEOC) defines sexual harassment like this:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when 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 be broken down into 3 main categories: gender harassment, unwanted sexual attention, and sexual coercion. Often gender harassment and unwanted sexual attention are classified as behaviors that create a hostile work environment. Sexual coercion is often referred to as quid pro quo harassment.

Quid pro quo and hostile work environment are the two legally defined types of sexual harassment.

In a quid pro quo situation, there is a tangible employment action exchanged for conduct of a sexual nature. Tangible employment actions include, but are not limited to, termination, hiring, promotion, raise, an official reprimand, recommendation, or bonus payment. Conduct of a sexual nature does not need to be sex acts. For example, demanding an employee go on a date in exchange for a tangible employment action would qualify as quid pro quo harassment. Quid pro quo can be either stated or implied. If an employee has the impression that a tangible employment action is conditional on accepting conduct of a sexual nature, that is quid pro quo sexual harassment.

In a hostile work environment employees experience intimidation, threats, or abuse. If the conduct of a sexual nature is severe, persistent or pervasive to the extent that it affects a person's ability to do their work, the work environment is hostile.

The most frequent scenario is when a person in power or authority harasses someone with less power or authority, but this is not always the case. A hostile work environment can be created by peers or subordinates, customers, or clients.

Sexual harassment can be directed at either men or women, but studies find women are significantly more likely to be targeted than men. Men are more likely to be perpetrators of sexual harassment whether the harassment is directed at men or women. Gender harassment is by far the most prevalent form of sexual harassment. Unwanted sexual attention is less frequent. Sexual coercion, or quid pro quo is the least common form of sexual harassment.

Conduct of a sexual nature is not limited to sex acts. It also includes:

- Unwanted sexual statements like dirty jokes or comments on a person's physical attributes, talking about one's sexual activity, exposing others to sexually explicit drawings, pictures, or written material.
- Unwanted personal attention includes messages, calls, visits, requests for sex acts, and pressure for unnecessary contact.
- Unwanted physical or sexual advances includes touching another person or touching oneself in a sexual way in front of others, sexual assault, or any other sexual activity.

Workplace Sexual Harassment is Illegal

1. Title VII of the Civil Rights Act of 1964 prohibits any kind of discrimination against any individual because of their sex
2. The Civil Rights Act is a federal law that applies to employers with more than 15 employees.
3. Most states have enacted laws to apply to employers with fewer than 15 employees.
4. Employers can be liable for sexual harassment if they fail to protect their employees from harassment.
5. Some states have enacted more specific or stricter laws regarding sexual harassment in the workplace.
6. The National Conference of State Legislatures provides state-specific information about sexual harassment laws: <http://www.ncsl.org/research/labor-and-employment/sexual-harassment-in-the-workplace.aspx>

Workplace Sexual Harassment Training Benefits Everyone

- The top priority for sexual harassment training is to ensure safety for all workers.
- Sexual harassment training seeks to define sexual harassment. This benefits everyone. Ignorance is not an excuse for sexual harassment. Training puts everyone on the same page.
- In some instances, people may not realize their behavior is offensive. Maybe they think they are being funny or friendly. Training can open people's eyes to the reality that their behavior may be interpreted in a way they did not intend. Many people will change their behavior once they realize this.
- Sexual harassment training gives victims the knowledge they need to report sexual harassment and get help.

Financial Costs of Sexual Harassment

- Lawsuits are the most visible financial cost employers encounter when sexual harassment happens in the workplace. Analysis shows litigation costs employers paid amounts ranging from \$10,000 to 200,000 in court costs and legal fees.
- Targets of sexual harassment are under tremendous stress. This leads to all kinds of workplace expenses. They are sick more often. They are more likely to miss work or be tardy. They are more forgetful and distracted; this leads to more mistakes and less productivity for themselves and their team.
- Harassers are more focused on obtaining power and control than on their work. They make other people uncomfortable, so their teams may be less effective. They are not as productive as focused employees.
- Uncomfortable dynamics in the workplace cause stress to other employees as well. Individuals may feel expressing their perspectives and opinions is too risky in an environment where some people are targeted.
- When victims leave their positions to get away from harassment, employers spend money on recruiting and training new employees.
- Word gets out about hostile work environments. It may be difficult to attract and retain new talent.
- When the public learns about sexual harassment at a company, the brand and profits can suffer from a bad reputation.

Myths and Misconceptions About Workplace Sexual Harassment

- ***Myth:*** Sexual harassment is perpetrated by men against women.
Truth: Any gender can be the victim or the perpetrator of sexual harassment.
- ***Myth:*** Sexual harassment occurs only between people of opposite genders.
Truth: Sexual harassment can be between people of the same gender.
- ***Myth:*** The person who is targeted by the harasser is the only victim in a sexual harassment case.
Truth: A third party, regardless of their gender or level of involvement, can be a victim of sexual harassment if they are aware of, or witness, an incident.
- ***Myth:*** As long as there is no physical action, there is no sexual harassment.
Truth: sexual harassment can be physical, verbal, written, or implied. There is not always a physical element.
- ***Myth:*** Compliments and jokes may be inappropriate, but they do not qualify as sexual harassment because they are not intended to offend or injure anyone.
Truth: Sexual harassment can be unintended. Compliments and jokes can be sexual harassment regardless of their intent.
- ***Myth:*** Sexual desire motivates sexual harassment.
Truth: Sexual harassment is about dominance, power, and control.
- ***Myth:*** Ignoring sexual harassment will make it go away.
Truth: Ignoring harassment rarely makes it go away. Sometimes ignoring it makes it worse.
- ***Myth:*** Sexual harassment can only occur in a relationship where there is a professional power difference between parties.
Truth: sexual harassment can travel in any direction. It can occur between peers. Harassers may have a higher or lower professional position than their victims. Customers and vendors can also be perpetrators of sexual harassment.
- ***Myth:*** A single incident does not qualify as sexual harassment.
Truth: Sexual harassment can be multiple actions or a single action.

Prevalence of Sexual Harassment and Hostile Work

Environments

- An EEOC study revealed that 25-85% of women and 10% of men have been victims of sexual harassment.

- 72% of those who have been sexually harassed in their workplace do not report it.
- The overwhelming majority of sexual harassment includes some type of gender harassment—usually sexist or crude behavior.
- Unwanted touching and sexual coercion are the least frequent types of sexual harassment.
- Surveys show that gender harassment is the most frequently occurring type of sexual harassment, but the most frequently reported types of sexual harassment—and the type most frequently mentioned the media—are unwanted sexual attention and sexual coercion.
- Women of color are harassed more than any other demographic group.
- Two characteristics are consistently associated with higher rates of sexual harassment:
 1. Male-dominated workplaces with few women in leadership.
 2. An organizational climate that is tolerant of sexual harassment in that they do not take complaints seriously and perpetrators do not have any negative consequences.

Potential Examples of Sexual Harassment

- Sharing sexually suggestive or explicit images or videos. This includes directly sending these images via email, text, or other digital communication, putting them in a public place, or displaying them in a place where they can be seen by others including within your “personal” space at work such as a locker or office spaces.
- Touching others unnecessarily, repeatedly, or sexually. This can include placing a hand on another individual’s back or shoulders if the gesture is unwelcome.
- Sexual gestures.
- Anecdotes about person’s sexual experiences or descriptions of sexual experiences.
- Questioning others about their sex life.
- Making sexual comments about the way a person looks or dresses or commenting on a person’s body parts.

- Offensive statements about a person's sexual orientation or gender identity.
- Implying or stating that an individual cannot or should not act in a certain way because of their gender.
- Jokes about sex, gender, sexual orientation, gender identify, or physical appearance.
- Physically imposing on someone's space: blocking them in a room, following someone around, staring, pretending to bump into or brush up against another person.
- Repeated requests for dates or sexual relations after being told no.
- Promising or threatening action based upon an individual's willingness to comply with sexual requests.

Third-Party Sexual Harassment

Sexual harassment in the workplace does not need to come from another company employee. Sexual harassment can come from anyone an employee encounters as a part of their work.

- customers
- clients
- vendors
- suppliers
- partners
- contractors

How to Be Respectful

Many people express fear that they will be accused of sexual harassment. Since there are substantial gray areas, some people engage in sexual harassment without realizing it. Remember, sexual harassment is, by definition, unwelcome. If someone tells you your behavior is offensive or upsetting to them. Respect their viewpoint and stop that behavior.

Asking a colleague out on a date one time and respecting their response would not be considered sexual harassment. It would become harassment if the behavior continued despite being told no, if the subject was brought up repeatedly, if there was retaliation for an undesirable response, if romantic interest was expressed

continually, or if what began as an interest turned in to stalking or other intimidating behavior.

Complimenting a co-worker on their new hairstyle or outfit would not be considered sexual harassment in most circumstances. If the compliment was accompanied by comments of a sexual nature (saying they looked “sexy” or “hot” instead of “nice”) it could be construed as sexual harassment. Frequent compliments related to a person’s appearance, especially if there isn’t a noticeable change in their appearance and it isn’t in someone’s nature to give compliments to everyone, could be viewed as sexual harassment.

Smiling at a co-worker would not be considered sexual harassment. If the smiling is accompanied by staring at part of their body or looking them up and down, that could be sexual harassment. If the smiling is accompanied by a statement with sexual innuendo or gesture, that could be sexual harassment.

Briefly shaking a colleague’s hand, giving a high-five, or tapping them on the shoulder to get their attention would not be considered sexual harassment. Laying a hand on a colleague’s shoulder, rubbing their back, holding their hand longer than necessary or massaging their hand during a handshake could be considered sexual harassment. Many people are comfortable hugging their co-workers on occasion, but other people prefer not to hug. The safest practice is to ask before hugging and keeping hugs brief. If a co-worker looks uncomfortable when you touch them or asks you not to touch them. It’s important to respect their wishes.

Participating in an office gift exchange, contributing to a gift basket for a special occasion or buying treats for a meeting would not be considered sexual harassment. If your office gift exchange gift for one individual is outside of the recommended price guidelines, includes sexual innuendo, is derogatory toward a particular gender or sexual orientation, or contains sexual imagery, that could be considered sexual harassment. Giving co-workers gifts that are not welcome, especially if you’ve been asked not to give gifts could be sexual harassment. Giving gifts “just because” on a regular basis could be interpreted as harassment, especially if the gifts are expensive and only presented to select people.

Laughing awkwardly about an unfortunate auto-correct that created an unintended message in an email would not be sexual harassment. Bringing the incident up multiple times, or taking the unintended message to the next level, might be offensive. Purposefully sending messages with sexual language or derogatory comments could contribute to a hostile work environment. Telling jokes that poke fun at gender or sexual orientation can contribute to a hostile work environment.

Telling colleagues about your personal life—an upcoming vacation, a movie you saw, your new relationship, your spouse’s job, or other polite conversation—is not sexual harassment. Telling colleagues about your sexual experiences (or the lack thereof), fantasies, or asking about theirs is not appropriate in the workplace and may be viewed as sexual harassment.

Section 1: Summary

The EEOC defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when 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.

There are two main categories of sexual harassment: quid pro quo (when a person has positive or negative employment-related consequences, or believes they will have consequences, for accepting or declining sexual attention) and hostile work environment (created by a wide range of inappropriate behavior that makes people uncomfortable as a result of their gender or sexual orientation.)

Sexual harassment occurs in every industry and can happen to people of any gender, race, sexual orientation, or position. Harassment can be directed at someone who has a higher, lower, or equal professional standing than the harasser. Harassers may be employed by the same company as their victims, or they may be customers, clients, vendors, or suppliers.

Stopping sexual harassment is not just the law. It benefits all workers and the company as a whole.

Section 1: Key Concepts

- Sexual harassment is very common.
- The work relationship between the harasser and the victim does not matter. Sexual harassment occurs at every level of employment and travels in every direction.
- Gender harassment is the most common form of sexual harassment.
- Quid pro quo and hostile work environment are the two main categories of sexual harassment. Quid pro quo sexual harassment is the easiest to identify, but it isn't nearly as common as a hostile work environment. Gender

harassment, which falls in the hostile work environment category, is the most common type of sexual harassment.

Section 1: Key Terms

Quid pro quo: something for something; one thing in exchange for another

Hostile work environment: a work environment where comments or behavior related to gender or sexual orientation interferes with other employees' work performance or creates an environment that is offensive or intimidating.

Personal Reflection Question

As you reflect on your past experiences, are there any incidents that you did not recognize as sexual harassment that you now see differently?

Section 2 - Identifying and Reporting Sexual Harassment

Risk Factors

Sexual harassment is more common in workplaces with certain characteristics:

- A worker who is in the minority in a largely homogeneous staff is at risk for sexual harassment. They may seem isolated and vulnerable. This is true where a company as a whole is homogeneous or where the workforce is segregated and the majority of workers in one division or department are homogeneous.
- Workplaces with high numbers of young employees have higher rates of sexual harassment. This may be in part because younger workers are not aware of laws and may not know what they ought to expect in the workplace. They also may feel more intimidated by more established employees and may not know what to do if they are targeted. Alternatively, younger workers may be more likely to harass co-workers because they lack maturity and experience. They may not realize how their behavior impacts others.
- Sexual harassment is more likely in places with large divides between supervisors and subordinates or between high-level and low-level employees. This is particularly true when low-ranking employees are primarily one gender or race and high-ranking employees are primarily a different gender or race.

- Isolated workplaces where the supervisor or manager is absent most of the time. When there are only a few workers, perpetrators have easy access to their victims; victims may not be able to avoid their harassers using methods victims would use in less isolated places—altering their schedule or routines to avoid places where they feel unsafe. Victims don't have the support of "safe" colleagues, and there aren't any witnesses to support the victim's claims.
- Workplaces where the workforce is less diverse have higher rates of sexual harassment. This includes places where workplaces where a diverse workforce is highly segregated.
- When a company has a "star employee" who disregards policies and rules, sexual harassment is more likely. If particular employees have "high value" management may choose to protect them rather than their target. They may think their special status entitles them to behave however they like.
- Places that employ lots of immigrants have high rates of sexual harassment.
- When employee success, and compensation, are closely tied to customer service and client reviews are have more sexual harassment problems.
- Workplaces where alcohol is present and employees have the opportunity (sanctioned or unsanctioned) to imbibe on the clock. Under the influence of alcohol, a harasser's judgment is impaired. Victims may be less able to ward off inappropriate behavior.
- Industries that are dominated by low-wage workers appear to have more sexual harassment. Minority women in service industries in particular are frequent targets. Women in food services and retail, according to the EEOC file three times more claims than women in higher-paying fields. Between 2005 and 2015, a full 25% of sexual harassment claims came from service industries. One poll showed 40% of women in fast food experience sexual harassment. These industries employ high numbers of minority women who face more harassment than any other group.
- Women in blue-collar jobs face high rates of sexual harassment and retaliation for reporting harassment. In these jobs, it is sometimes viewed as a condition of employment. In many cases unions do not protect women from sexual harassment.

The most effective way to prevent sexual harassment is to have a diverse workforce with an equal balance of men and women.

Identifying Sexual Harassment in the Workplace

Sexual harassment can occur in any workplace. While sexual harassment is more prevalent in some fields, especially those that are male-dominated, it can happen in any field at any level. Sexual harassment often happens in private, so it can be difficult to identify or prove. Pay attention to warning signs. In summary, take note when a person's work performance and their public standing are out of alignment.

These signs could indicate quid pro quo sexual harassment:

- Unexplained raises, bonuses, and promotions.
- Preferential treatment like preferred hours, shifts, projects, or other perks.
- Unexplained loss of pay, benefits, raises, or promotions.
- Less desirable hours, shifts, or projects.
- Threatening or promising changes in benefits, pay, position, shifts, hours, and project assignments.

These signs could indicate a hostile work environment:

- Repeated, unwanted advances like asking for dates.
- Repeated jokes or stories with explicit sexual language.
- Derogatory comments or insults that are sexual or gender-based about a person or a group of people.
- Displaying sexual imagery like cartoons, photos, or videos.
- Sexual touching.

Inappropriate, sexually-based comments, requests, jokes, or images can be in any form—verbal, notes, memos, emails, text messages, or videos.

The perpetrator's intent is not usually relevant to whether or not harassment occurred. In other words, "I was just joking," is not an excuse for inappropriate behavior.

The Reasonable Person Standard:

Ninety-eight percent of companies say they have a sexual harassment policy. If a company does not have a clear policy to apply to a situation, use the "reasonable person standard." If another reasonable person was in the same or a similar situation,

would they find the behavior in question offensive, hostile, intimidating, or abusive? If so, then the situation in question is probably sexual harassment.

What To Do If You Experience Sexual Harassment

- Before reporting sexual harassment, make sure you have copies of your personnel file and performance reviews. If you do not have copies, request them. Retaliating against a person who makes a complaint about sexual harassment is illegal. If your file is changed in any way after you make the complaint, this will help you prove retaliation. If there is a sudden change in your job performance records, demotion, reduction of hours, or other action, this will help you prove retaliation.
- Collect evidence and documentation. Keep detailed notes that include dates, times, witnesses, and your reactions. If there are emails, notes, or images, save those. If you can't save originals, you can take pictures.
- Tell the perpetrator of sexual harassment to stop. This may be uncomfortable, but it is very important. If it is too difficult to do this in person, you can send an email or leave a note. Document what you said and the reaction you got. Sometimes this is the most effective way to get the harassment to stop. Telling the harasser to stop is usually most effective before it escalates beyond comments on your appearance or off-color jokes. Be sure to clearly say the behavior is unwelcome and you want it to stop. Sexual harassment, by definition, has to be "unwelcome." For this reason, it is important not to pretend to "go along" with jokes or otherwise engage positively in harassing behavior.
- If the confrontation does not stop the harassment, follow your company's stated policy for reporting sexual harassment. You should be able to find this policy in an employee handbook, manual, or personnel policy. You may not be able to hold your company liable in court if you neglected to utilize their policy to report sexual harassment. If your company does not have a stated policy, ask your supervisor or the human resources department how to make a sexual harassment complaint. If you do not get the necessary information, continue to go up the chain of command. Document each step along the way.
- If you make your complaint in person, you should follow up with a written complaint in a memo or email. Explicitly state the purpose of your written complaint in the subject: formal complaint of sexual harassment. Include information about incidents with dates and names of perpetrators and

witnesses. Include information about the steps you've taken to stop the harassment as well.

- If your company does not resolve the problem, you should file a complaint with a government agency. This is required before you can file a federal lawsuit. Get in touch with the Equal Employment Opportunity Commission (EEOC) or your state fair employment office.
- Do not delay reporting. Federal law requires victims to file a complaint less than 180 days after the incident. The timeline requirement may be extended to 300 days if the action in question is also a violation of state or local law.
- Follow these recommendations whether the harasser is an employee of your organization or not. Harassment can come from clients, customers, associates, suppliers, or anyone else your job requires you to work with.

The Role of the Bystander

- Bystanders have significant power to put a stop to sexual harassment. People with social privileges due to their gender or race can be powerful allies for victims. Perpetrators may respond best if their behavior is called out by a member of their own gender and race.
- In many workplaces, people know who the sexual harassers are. They may warn new employees or interns to avoid this person. They may laugh at jokes or try to ignore the behavior. When this happens, the perpetrator gets the message, "My behavior is acceptable. Most people have no objection to my jokes and behaviors." Harassment is normalized and puts the burden of coping with sexual harassment solely on the victim.
- It's easier to prevent sexual harassment than it is to stop it once it starts. Bystanders can help create a culture where discussions about respectful behavior are normalized. In a place where it is normal to discuss how co-workers treat each other and how respectful behavior improves the function of the team and the company as a whole, it's easier to give negative feedback to an employee who tells an offensive joke.
- If a bystander notices a tense situation, they can disrupt the environment or defuse the situation in subtle ways. They may change the lighting, volume, or seating arrangement of a room. They may also distract the perpetrator or make an excuse to separate the harasser and their target. Humor can also be a helpful tool for handling a situation. Responding to an inappropriate joke with

a comment like, “Hey, 1958 called, they want their jokes back,” or just, “that’s not funny,” can call attention to the inappropriate nature of the joke.

- In some cases, approaching a co-worker privately after an incident to lay out the problem with their behavior can have a lasting impact. Another recommendation is to ask questions to get the individual to evaluate their own behavior, “Did you notice how the women in the room reacted when you said that?”
- Bystanders can always offer support to the victim. Confirming that the behavior witnessed is inappropriate, suggesting victims report the offensive behavior, and offering assistance are all good ways to show empathy and support for the victim.

Section 2: Summary

Sexual harassment thrives in workplaces that have particular characteristics including primarily homogeneous and segregated workplaces, and places with large power differentials between employees.

If you experience sexual harassment, you should collect as much documentation as possible. Document each incident. Include dates, times and witnesses in your documentation. Make sure you have copies of your performance reviews and personnel files before you issue a complaint. This will help you prove your case if there is an effort to retaliate against you for making a complaint. You should be sure you clearly tell your harasser that their behavior is unwelcome and you want it to stop. Be sure to follow your employer’s policy for reporting. If your employer fails to take your claim seriously or end the harassment, you can file a complaint with the EEOC. You need to file a formal complaint less than 180 days after the incident or less than 300 days after the incident if the behavior also violates state law.

Bystanders, especially those with social privilege, can be powerful allies for victims of sexual harassment. They can disrupt the environment, distract the harasser, help the victim get away, call out inappropriate behavior, and give the victim emotional support.

Section 2: Key Concepts

- Sexual harassment thrives in workplaces that have particular characteristics including a primarily homogeneous and segregated workforce and large power differentials between employees.

- Pay attention to unusual work situations that could be signs of sexual harassment: an employee gets overlooked for a promotion that they seem to deserve, an employee gets a promotion they don't seem to deserve, displays of sexual imagery in public places, jokes about people with a different sexual orientation, male-bashing or female-bashing. These situations are red flags that could indicate sexual harassment.
- Bystanders can help stop and prevent sexual harassment.

Section 2: Key Terms

- **Bystander:** a person who is present when sexual harassment occurs. They are not the target or the perpetrator.
- **Documentation:** a log of incidents including names, dates, and detailed descriptions; photos or artifacts like notes, emails, or images that have inappropriate content.
- **Retaliation:** seeking revenge or trying to “get back at” someone for reporting sexual harassment or refusing sexual advances.
- **Segregated:** when employees of one race, gender, or other qualifier dominate a particular team or department

Personal Reflection Questions:

Consider your current workplace. What risk factors are present? Have you seen any red flags that could indicate sexual harassment? Have you ever been in a bystander position? What interventions, if any, could you, as a bystander, implement comfortably?

Section 3: Case Studies Revisited

Looking back at the case studies presented in the beginning, what types of sexual harassment do you see? How should these individuals respond?

Case 1: Carmen and Jason

Carmen and Jason met at work. They had a romantic relationship for a few months, then the relationship ended. After a few weeks, Jason decided he wanted to rekindle the relationship, but Carmen declined. Jason continued to pursue Carmen despite being explicitly told she did not want his attention. Carmen, in accordance with

company policy, reported his behavior. Jason agreed to stop pursuing Carmen. He complained about the situation to co-workers. The co-workers, after hearing personal details about the relationship, began excluding Carmen from projects.

Question:

Carmen already reported a problem with Jason and HR took action. What are the next steps?

Answer:

This situation did not begin as sexual harassment. Carmen and Jason engaged in a consensual relationship. When the relationship ended, and Jason decided he wanted to rekindle it, that behavior was acceptable. The behavior evolved into sexual harassment when Jason did not respect Carmen's wishes and continued to pursue her.

Carmen's initial complaint to HR is justified. She made it clear his attention was unwelcome. HR instructed Jason to stop, and he agreed. He shared his problem with his co-workers. His behavior crossed the line again when he shared specific sexual information with his co-workers.

Although HR did not resolve Carmen's problem, they did make an initial effort. The next step would be for Carmen to make a follow-up complaint. If the company does not realize how the problem has evolved, they need an opportunity to address the new problem. It is not time yet to file a complaint with the EEOC because Carmen's employer is working with her.

Further Thought:

How could the bystanders have mitigated this problem?

When Jason's complaints about Carmen started making these bystanders uncomfortable, they could have gently told Jason work was not the time or place for this conversation. They could also have reflected on their own feelings and recognized that avoiding Carmen was not an appropriate response to their discomfort. By changing their behavior toward Carmen because of Jason's actions, they have become unwitting accomplices in this sexual harassment.

Case Study 2: Jesse and Aaron

Jesse and Aaron are co-workers. Aaron is a homosexual. When he begins a new relationship, he engages in casual conversation about dates he goes on and how the relationship is progressing. He doesn't discuss any details about his physical relationship with this other man. Jesse doesn't like hearing about Aaron's

relationship. He thinks Aaron should keep his private life private. Jesse files a complaint. HR approaches Aaron about his behavior. Aaron files a complaint because he is being harassed for his sexual orientation. There was no problem when there was a casual conversation about other relationships over lunch. The only difference in this instance is that this is a same-sex relationship.

Question:

Is Jesse justified in his complaint? Is Aaron?

Answer:

Jesse's complaint is not justified. It is not reasonable to expect someone to refrain from casual workplace conversations about their relationship. As long as the conversation was not of a sexual nature (which it was not) this conversation is perfectly acceptable. In this instance, a conversation about relationships is a commonly accepted practice that Jesse does not object to in other circumstances.

Jesse filed a complaint. Speaking with HR and being put in a position where he needed to defend himself put Aaron in a situation that any reasonable person would be upset about. It also took away from his work. In this instance, we don't know what Jesse said when he went to HR. Was he dishonest about the situation, or did HR fail to do a proper interview? If HR jumped to a conclusion about Aaron's behavior without asking appropriate questions, they are confronting Aaron unnecessarily. If HR was given false information, then Aaron's claim is justified because his co-worker is giving false information about him as a direct result of his sexual orientation.

Case Study 3: Lisa and Jeremy

Jeremy and Lisa are trying to get a new client for their company. There are a few awkward moments at lunch, and the client asks to work exclusively with Lisa. Jeremy and Lisa agree to the client's odd request, but after a few months, the client tries to coerce Lisa into engaging in sexual relations. He says he will stop working with the company if Lisa refuses. Lisa walks away. Jeremy supports Lisa, but when an executive finds out, he fires Lisa.

Question:

What recourse does Lisa have in this situation?

Answer:

Lisa can file a complaint with the EEOC. The EEOC will review her case and probably issue a "right to sue" letter. At that point, she can pursue legal action.

Conclusion

Sexual harassment is a serious problem in the workplace. It is widespread. Sexual harassment occurs in every industry, at every level, and in every direction. There are cases of perpetrators and targets of every gender and race. Remember, this training is very general; for specific information, consult your company's policy on sexual harassment and your state's law.

There are some factors that increase the likelihood of sexual harassment. Homogeneous workplaces, workplaces with substantial power differentials in the hierarchy, and places where sexual harassment claims aren't taken seriously or aren't applied uniformly have higher rates of sexual harassment. Workers in isolated places, service positions where customer or client feedback plays a large role in determining income, monotonous workplaces, and places with many young or immigrant workers have higher rates of sexual harassment. The best way to combat sexual harassment is to have a diverse workforce with a good balance of male and female workers at all levels.

There are two legal categories of sexual harassment: quid pro quo and hostile work environment. In quid pro quo cases, targets face consequences or believe they will face consequences (positive or negative) for accepting or declining sexual advances and requests. In a hostile work environment, the most frequently occurring problem is gender harassment. Perpetrators often say their intent is humor or that they were unaware of how their behavior was being received. Perpetrator intent does not abdicate their responsibility. To be successful in stopping sexual harassment, victims should begin by requesting an end to the behavior, if they feel it is safe to do so. They should refer to their company policy and follow proper channels for reporting behavior. They should also keep as much documentation as possible.

Bystanders can play an important role in changing the culture and protecting targets of sexual harassment. They can help normalize an atmosphere where discussions about how co-workers should treat one another and behave are commonplace and respected. They can disrupt sexual harassment when they see it by inserting themselves into situations, changing the subject, or helping the target get out of the situation. Bystanders can also offer emotional support and encouragement to bystanders. When bystanders have social privilege as a result of their gender or race, they may be able to persuade perpetrators to stop their behavior more easily without the threat of retaliation.

Sexual harassment is a violation of the Civil Rights Act of 1974. Victims do have recourse.

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