



**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>











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.

















- 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 ~~is~~ 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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