

# SEXUAL HARASSMENT

Sexual harassment is illegal and very costly, to both individuals and institutions. It creates an unproductive and disruptive environment that has far reaching negative impacts. The following information is designed to help with recognition and prevention of sexual harassment, as well as provide strategies for individual and institutional responses.

## WHAT IS SEXUAL HARASSMENT

Sexual harassment is unwanted sexual or gender-based conduct that interferes with an individual's ability to perform or advance, especially in a work or school setting. Sexual harassment can be committed by someone of the opposite sex, or by someone of the same sex. Victims can be either male or female.

It is an illegal form of sex discrimination, which is prohibited by Title VII of the Federal Civil Rights Act of 1964 (42 USC § 2000e), Title IX of the Federal Education Act of 1972 (20 USC § 1681a), and Kentucky's Civil Rights Act (KRS 344).

Sexual harassment laws are violated when submission to or rejection of this conduct

- ◇ explicitly or implicitly affects an individual's employment or education,
- ◇ unreasonably interferes with an individual's performance or promotion, or
- ◇ creates an intimidating, hostile, or offensive work or learning environment.

## EXAMPLES OF SEXUAL HARASSMENT

- ◇ Letters, phone calls, emails, or other visual or non-visual materials of a sexual nature
- ◇ Sexual advances or requests for sexual favors
- ◇ Offering employment or academic benefits in exchange for sexual favors
- ◇ Touching of an intimate nature, such as patting, groping, or bra snapping
- ◇ Sexual gestures or insinuations
- ◇ Sexual or "dirty" jokes, comments, rumors, or ratings
- ◇ Displaying or distributing of sexually explicit drawings, pictures, or written materials
- ◇ Intimidation by cornering or pinching
- ◇ Rape or other direct unwanted sexual contact
- ◇ Any other verbal or physical conduct that is unwanted and unwelcomed, and is directed at an individual because of her or his sex
- ◇ Making sexist or derogatory comments and/or jokes about the opposite sex
- ◇ Making decisions based on gender stereotyping, such as refusing to promote a woman because she doesn't wear makeup

## TYPES OF SEXUAL HARASSMENT

◇ **HOSTILE ENVIRONMENT** - when one is subjected to unwelcome repeated sexual comments, innuendos or touching, which alter conditions or interfere with school or employment performance, or access to opportunities. A claim can be based on a single incident that is particularly severe or outrageous.

◇ **QUID PRO QUO** ("This for That") - when the harasser demands sexual favors in return for something (e.g. sex for a promotion or passing grade), or retaliates against one who objects to or reports harassment.

## IMPORTANT NOTE TO EMPLOYERS

Employers can be held responsible for the behavior of their employees, regardless of whether or not they encouraged the behavior. Ultimately, the employer is liable for any wrongful conduct involving sexual harassment.

## IMPORTANT NOTE TO SCHOOLS

School districts can be held liable for many forms of sexual harassment, including student-on-student harassment when personnel have knowledge of the harassment and do not take action to stop it. For more information, see the United States Supreme Court's decision in the case of *Davis v. Bd. of Educ.*, 526 US 629 (1999).

## GOVERNMENT ENFORCEMENT AGENCIES

Equal Employment Opportunity Commission (EEOC)  
1-888-669-4000      [www.eeoc.gov](http://www.eeoc.gov)

U.S. Department of Education, Office of Civil Rights  
(215) 656-8541      [www.ed.gov/ocr/](http://www.ed.gov/ocr/)

Kentucky Commission on Human Rights  
1-800-292-5566      [www.ky.gov/agencies2/kchr](http://www.ky.gov/agencies2/kchr)



## IF YOU ARE AN EMPLOYER OR EDUCATIONAL INSTITUTION

- ◇ Remember that failure to prevent and/or stop harassment can result in liability and penalties.
- ◇ Develop a clear sexual harassment policy, to be distributed to all personnel and students/parents.
- ◇ Establish and publicize a confidential grievance procedure.
- ◇ Train key personnel on how to identify, report, and address sexual harassment.
- ◇ Include information about sexual harassment in all orientation trainings, as well as in other settings.
- ◇ Include information about sexual harassment in routine or periodic trainings and publications.
- ◇ Prominently post guidelines prohibiting sexual harassment.
- ◇ Respond swiftly to all complaints, formal and informal.
- ◇ Consistently apply consequences to perpetrators and send the message that harassment absolutely is not tolerated.
- ◇ Provide adequate supervision and security.
- ◇ Promote discussions of sexual harassment and bullying.
- ◇ Ask other workers and students to report.
- ◇ Promote collaboration between victims' service providers and Title IX officers or Equal Employment Opportunity Commission (EEOC) officers.

## IS SEXUAL HARASSMENT A CRIME?

While there is no specific criminal charge called "sexual harassment," behavior that constitutes sexual harassment may violate other criminal laws. Possible criminal charges include:

- ◇ Stalking
- ◇ Assault
- ◇ Harassing communications

Thus, in addition bringing a civil action against an employer, school, and/or individual, targets of sexual harassment may also find it helpful to file reports with law enforcement officials and assist with prosecutions.

## IF YOU EXPERIENCE OR WITNESS SEXUAL HARASSMENT

- ◇ It is important to act quickly, as complaints to government enforcement agencies (see previous page) must generally be filed within 180 days.
- ◇ Say "NO!" Clearly tell the harasser to stop. If possible, do so both verbally and in writing.
- ◇ Let the harasser and others know that the conduct is offensive. This may be especially important if you did not previously object to the behavior.
- ◇ Know your business' or school's sexual harassment policy, which should outline how complaints are to be made and to whom. **THIS IS CRITICAL!**
- ◇ Tell the harasser that you will report the behavior to an authority figure, such a supervisor, teacher, EEOC officer, personnel department, or human resources.
- ◇ Report the behavior and/or file a formal complaint according to your organization's policy. **THIS IS ESSENTIAL**, as failure to do so can prohibit further civil claims against the organization. Be sure to keep a copy.
- ◇ If it continues, keep reporting and/or filing complaints.
- ◇ If necessary, move up the "chain of command," especially if the harasser is a supervisor or if your supervisor is not helpful.
- ◇ Keep a diary or log of the harassing behavior and efforts to stop it. Include dates, times, situations, comments or gestures, witnesses, and any other relevant details. Be sure to keep any written communications and, if possible, record any calls.
- ◇ Document how authority figure(s) responded (i.e., steps taken or not taken after they were notified).
- ◇ Be prepared for retaliation by the harasser or others. Carefully document and report retaliatory acts.
- ◇ Get support from family, friends, and/or a local Rape Crisis Center.
- ◇ File a criminal complaint if the harassment includes criminal conduct, such as sexual or physical assault, stalking, or harassing communications.
- ◇ Contact an attorney to discuss civil legal remedies against the harasser, employer, and/or school.
- ◇ File a complaint with or get more information from an agency that enforces harassment laws. Note: Most complaints must be filed within 180 days. If a complaint is made to the EEOC, you may have up to 360 days from the date of harm.

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