

# Preventing **SEXUAL HARASSMENT** in the Workplace

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# What is SEXUAL HARASSMENT

Sexual harassment is a form of unlawful sex discrimination that violates TITLE VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees, including local & federal governments. It also applies to employment agencies and labor organizations.

U.S. Equal Employment Opportunity Commission (EEOC)

# EEOC GUIDELINES

SECTION 703 (a) (1) of Title VII, 42 U.S.C. § 2000e-2(a) provides that:

It shall be an unlawful employment practice for an employer  
..to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms conditions or privileges of employment, because of individual's race, color, religion, sex, or national origin [.]

U.S. Equal Employment Opportunity Commission (EEOC)

# EEOC GUIDELINES

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding or litigation under Title VII.

# DEFINITION OF SEXUAL HARASSMENT

- Unwelcome Sexual advances
- Requests for sexual favors
- Verbal or physical conduct of a sexual nature
- Explicit or implicit conduct
- Affects an individual's employment
- Unreasonably interferes with an individual's work performance or
- Creates an intimidating, hostile or offensive work environment

# FORMS OF SEXUAL HARASSMENT

- **Quid Pro Quo:** Supervisor conditions the granting of an economic benefit upon receipt of sexual favors from a subordinate or punishes the subordinate for refusing to submit to his/her request(s).
- **Hostile Work Environment:** Atmosphere infused with unwelcome sexually-oriented conduct than an individual's reasonable comfort or ability to perform is affected. Usually requires multiple offensive acts or a pattern of offensive conduct.

# CHARGE STATISTICS in Fiscal Year 2008

- EEOC received 13,867 charges of sexual harassment.
- 15.9% of those charges were filed by males.
- EEOC resolved 11,731 sexual harassment charges & recovered \$47.4 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation)

# Prevention of Sexual Harassment

The most effective weapon against sexual harassment is **prevention in the workplace**. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring.

- Harassment does not disappear on its own. In fact, it is more likely that when the problem is not addressed, the harassment will worsen and become more difficult to remedy as time goes on.

# Employer Responsibilities

- Clearly communicate to employees that sexual harassment will not be tolerated
- Provide training
- Establish an effective complaint or grievance process
- Take immediate and appropriate action when an employee complains

# Employer Responsibilities

- Burden of preventing sexual harassment in the workplace
- Providing their employees with a work environment that does not discriminate and is free of harassment.
- Required by law to take steps to prevent and deal with harassment in the workplace.

# Employer Responsibilities, more on

- Make it clear that this is a workplace where harassment will not be tolerated.
- Provide education and information about harassment to all staff on a regular basis.
- The circulation of information, open communication and guidance is of particular importance in removing the taboo of silence which often surrounds cases of sexual harassment.

# Employer Responsibilities, more on

- Information sessions, personnel meetings, office meetings, group discussion and problem-solving groups can prove very effective in this respect.
- Staff should also be informed of the best way of coping with aggression by means of guidelines and staff development programs on sexual harassment at work.

# Training, Information and Education.

- Develop an anti-harassment policy together with employees and managers
- Communicate the policy to all employees
- Make sure that all managers and supervisors understand their responsibility to provide a harassment-free work environment.
- Ensure that all employees understand the policy and procedures for dealing with harassment - new and long-term employees alike

# Training, Information and Education.

- Make sure that all managers and supervisors understand their responsibility to provide a harassment-free work environment.
- Ensure that all employees understand the policy and procedures for dealing with harassment - new and long-term employees alike - this involves training, information and education.

# Training, Information & Education

- Show you mean it - make sure the policy applies to everyone, including managers and supervisors.
- Promptly investigate and deal with all complaints of harassment.
- Appropriately discipline employees who harass other employees.
- Provide protection and support for the employees who feel they are being harassed.

# Training, Information & Education

- Take action to eliminate discriminatory jokes, posters, graffiti, e-mails and photos at the work site.
- Monitor and revise the policy and education / information programs on a regular basis to ensure that it is still effective for your workplace.
- Employers should provide a mechanism for addressing sexual harassment in a confidential and sensitive manner after a grievance has been filed.

# Training, Information & Education

A well constructed and well-implemented plan within an organization may stop inappropriate conduct **BEFORE** it creates a problem for individual employees or the company.



# Employee Responsibilities

- In addition to the employer's responsibility to provide a non-discriminatory and non-violent workplace atmosphere, employees must also assume an active role in the prevention of sexual harassment. Employees should commit to do the following:
  - **Understand**
  - **Observe**
  - **Examine**
  - **Confront**
  - **Resolve**

# Employer Liability - Review

Legally responsible for sexual harassment against their employees

Liable to them for damages;

However, liability depends on the type of harassment, and who committed it.

# Employer Liability - Review

## 1. Harassment by a supervisor:

If the harassment results in an employment action against the victim (such as firing, demotion, or unfavorable changes in work assignments), the employer is liable.

The employer can also be liable if the harassment creates a hostile work environment. However it has a possible defense if the employer can show that it took *reasonable* steps to prevent and promptly correct the problem, and the employee *unreasonably* failed to take advantage of the company's preventive or corrective measures.

# Employer Liability - Review

## **2. Harassment by a co-worker:**

The employer is liable if it knew, or should have known, about the harassment. However, the employer is not liable if immediate and appropriate corrective actions were taken to remedy the problem.

Sources: 1, 3, 14, 20, 21, 22, 47, 65, 70

# Breaking News in CNN & Associated Press

- The U.S. House Judiciary Committee voted 29-0 to impeach retired U.S. District Judge Samuel Kent of Galveston, TX, who has been convicted of lying about sexual assaults of 2 female employees to the FBI twice & to Judge Department officials.
- Kent is the first sitting federal judge to face sex crime charges.

# OBJECTIVES

- Understand the law on Sexual Harassment
- Understand our roles and liability as employers
- Gain knowledge on the actions required to minimize the liability to our companies
- Become better equip to provide our employees with a work environment conducive to maximum productivity that is free of harassment

# THANK YOU

- OPEN FOR QUESTIONS

