

Sexual Harassment

Part One in a Series on Workplace Harassment

Which of these four hypothetical situations involve sexual harassment?

◆ Stephen recently asked his co-worker, Jane, if she'd like to join him for a drink after work. Jane felt uncomfortable with the offer and politely declined at first. Stephen has since asked several more times, and has also started asking Jane if she works out. Jane feels that Stephen's comments are inappropriate, and she has asked him to stop, but Stephen persists.

◆ John sits at his desk, listening to a co-worker tell a dirty joke. John is offended and asks to be moved, but his supervisor refuses.

◆ Mary just started a new job. She tried very hard to fit in at first, even joining in the daily exchange of adult humor around the water cooler. But lately, the conversations have crossed the line. Mary asks her co-workers to stop, but they just laugh and continue their conversation.

◆ Dave's boss casually mentions pending office lay-offs, then asks if he'd like to go out with her. Dave's boss hasn't asked for anything explicit, but he worries that he'll be laid off if he rejects her advances.

Each situation raises possible issues of sexual harassment. Sexual harassment affects both men and women, and it takes many forms.

The Congressional Accountability Act (CAA), which is administered by the Office of Compliance (OOC), prohibits all types of unlawful sex discrimination. Under Section 201 of the CAA, the OOC processes charges of discrimination that arise in the Legislative branch of the Federal government. Legislative branch employees may contact the OOC if they feel they have been a victim and may take action through the OOC's dispute resolution process.

"Hostile Environment"

For many, "sexual harassment" conjures images of a leering boss chasing a secretary around her desk. However, sexual harassment is much broader—and often much more subtle—than that. Relevant federal guidelines state that "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" that "has the purpose or effect of unreasonably interfering with an individual's work performance or that creates an intimidating, hostile or offensive working environment" is unlawful sex discrimination.

Sexual harassment is not limited to a leering boss chasing his secretary. The

harasser may not even be a boss or a supervisor. In the first example above, if Stephen's persistence and comments are knowingly unwanted, then Jane is a victim of sexual harassment. Stephen embarrassed Jane with sexual overtures and made comments about her appearance. Such behavior is inappropriate and should not be tolerated.

In certain circumstances, where behavior is so pervasive and offensive that it creates an "intimidating, hostile or offensive working environment," the victim of sexual harassment may not even be the intended target. An employee—such as John in the second example above—working in an environment where sexually explicit jokes,



Frances McDormand as Glory and Charlize Theron as Josey Aimes in Warner Brothers Pictures' *North Country*, a depiction of the first major successful sexual harassment case in the United States: *Jenson vs. Eveleth Mines*. (Image courtesy Warner Bros. Studios)

drawings and photographs are tolerated may be a victim of sexual harassment, even if the behavior is not directed at that particular employee.

Offensive behavior may also be considered sex harassment, even if it is not sexual in nature, but is based on the victim's gender. For example, an individual who is mocked, teased and denigrated based solely on gender may be the victim of sexual harassment. In some rare circumstances, a single event may provide the basis for a claim if it is severe enough to alter the complainant's work experience.

In order for improper behavior to become harassing behavior, it must also be unwelcome. An employee may not be able to prove sexual harassment if the employer can demonstrate that that employee participated in—or contributed to—the behavior. Consider Mary in the third example above. By joining in the lewd behavior around the water cooler and failing to initially report the provocative language to her supervisor, it may be argued that Mary welcomed the inappropriate behavior. Mary may still prove sexual harassment, however, if she has given firm notice that the water cooler comments are no longer tolerated, but the comments have continued.

“Quid Pro Quo”

“Quid pro quo” is Latin for “this in exchange for that.” Quid pro quo sexual harassment arises when someone in a position of authority demands sexual favors from a subordinate in exchange for certain employment benefits, such as in the fourth example above.

If Dave consents and engages in a romantic relationship with his boss, then the “welcomed” issue may arise, just as it may have in Mary's situation described above. But if Dave feels compelled to submit to his boss's demands, he may still pursue a claim of sexual harassment. In order

Look for future Bulletins on other workplace harassment issues:



- ◆ Discrimination based on race, color, or national origin
- ◆ Discrimination based on disability
- ◆ Discrimination based on age

to show that his boss's behavior is unwelcome sexual harassment, Dave may need to demonstrate that he either rejected his boss outright or succumbed to her because of fear or intimidation.

Dealing with Sexual Harassment

If you experience unwelcome sexual behavior, you may tell the harasser that you want the behavior to stop, but you are not required to do so. If the behavior does not stop, report the behavior to your boss or another supervisor, and keep a log of the events and any witnesses. A supervisor who receives a complaint of sexual harassment should take immediate steps to resolve it and conduct an investigation if necessary. An employer who is aware of offensive behavior, yet does nothing to stop it, may also be accused of sex discrimination.

If you see someone else being harassed, you may let the harasser know that the

behavior is unwanted or speak directly with a supervisor. Do not encourage the behavior by laughing with the harasser or mocking the victim, because you may be accused of harassment as well.

Employing offices should publish their policies against sexual harassment and provide employees with viable methods to report, investigate and resolve sexual harassment complaints. Such measures can limit the employing office's culpability if an employee does not utilize the system in response to alleged harassment. A program to educate employees about what sexual harassment is, and to educate managers on how to respond to reports of sexual harassment, may effectively reduce the incidents of sexual harassment, thus protecting potential victims and discouraging potential abusers. Congress offers training courses and other resources to educate managers and employees about preventing and addressing sexual harassment.



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