

# Sexual Harassment Prevention Made Simple Facilitator's Guide



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For Preview

## Getting Started:

Sexual Harassment is a difficult topic. The subject is embarrassing for most people and therefore it's difficult to discuss. However, it is also a very serious legal topic and it needs to be addressed in every organization. The most important first step to a Sexual Harassment prevention program is to put the participants at ease. They will feel uncomfortable and on edge. Let them know that you understand that the topic is an uncomfortable one, but that it is imperative that it gets discussed.

Before, during and after the training it is crucial that you take the topic seriously. There will be participants who want to tell jokes or belittle the process. Don't get angry but be firm about the policy and never laugh or smile at a joke. The participants will key off you and decide if the organization is serious about stopping Sexual Harassment.

- Put the participants at ease.
- Stress the seriousness of the topic.
- Be firm and don't laugh or smile at jokes. Participants will key off of you!



# Quid Pro Quo and Hostile Environment Sexual Harassment:

## Quid Pro Quo

Quid Pro Quo occurs when a manager or supervisor withholds or awards job benefits on the basis of sexual favors. Quid Pro Quo literally means “This for That” in Latin.

***Question: Ask the participant’s to define Quid Pro Quo Harassment and then list some types of Quid Pro Quo examples.***

Possible answers:

A manager or supervisor offers/denies any of the following based on sexual favors:

- Positive work assignments
- Negative work assignments
- A hiring decision
- Threatens or carries through with termination
- Promotions or demotions
- Positive performance reviews
- Negative performance reviews

Stress to the participants that your organization has a zero tolerance policy towards Quid Pro Quo Sexual Harassment and that they should report any instances to a higher ranking manager or human resources as soon as it occurs.

## Hostile Environment Harassment:

Hostile environment harassment occurs when the conduct unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive working environment.

## Reasonable Person Standard:

The courts have adopted the “Reasonable Person Standard” when addressing Sexual Harassment. In other words, would a reasonable person find the behavior offensive? The fact is that most sexual behaviors when they are continuous and unwanted meet this standard. Some states have actually adopted the “Reasonable Woman’s Standard” after it was found that men and women have a vastly different tolerance for offensive behavior. The safe way to avoid Sexual Harassment is to avoid these behaviors entirely.

***Question: Ask the group to define the “Reasonable Person Standard”?***



## Facts about Hostile Environment Harassment:

Hostile environment Sexual Harassment can occur between:

- Employees of the same gender
- Employees of different genders
- A manager harassing an employee
- An employee harassing a manager
- Employees of the same rank

***Question: Ask your group who can be the harasser and victim of Hostile Environment Harassment. Make sure that they understand that anyone can be a victim or harasser regardless of their sex or position.***

Harassing jokes, comments or other behavior can create a hostile work environment even if they aren't directly targeted at the individual making the harassment complaint. This means that telling jokes and making comments of a sexual nature to others who are not offended can still be considered Sexual Harassment if they offend "bystanders" – co-workers who are not involved in the conversation but are affected by being in the work environment where the behavior(s) occurred.

Sexual Harassment is not limited to just co-workers. Harassment can also occur with individuals not directly employed by an organization.

- Contractors
- Consultants
- Delivery persons

- Vendors
- Customers
- Sales persons

***Question: Ask your group what non-employee groups could be involved in a harassment complaint in your workplace?***

Sexual Harassment can occur anywhere that an employee represents their organization.

- Work parties
- Dinner with clients
- Conferences
- Trade shows
- Sales calls
- Charity events

***Question: Ask the group to list some examples of places and events that Sexual Harassment could occur in your organization.***

**Behaviors that lead to Sexual Harassment:**

***Question: Have your group list as many behaviors as possible and fill in ones that they might have missed?***



## Unacceptable behaviors that could lead to Sexual Harassment

It's important to note that these behaviors all by themselves probably don't constitute Sexual Harassment. The legal standard of Sexual Harassment requires the behaviors to be continuous, unwanted and meet the "reasonable person standard" discussed on the previous page.

- Unwanted flirting
- Repeated requests for dates
- Suggestive whistling
- Leering
- Catcalls
- Long stares and sexually suggestive looks
- Using crude or offensive language
- Making derogatory comments about a person's sexual orientation
- Making jokes or comments about a person's physical attributes
- Inappropriate remarks or jokes about a woman's pregnancy
- Shoulder massages
- Hugging
- Back scratching. (different than video text)
- Gossiping or spreading rumors about sexual topics, or engaging in sexual conversations that are overheard by others
- The use of demeaning or offensive names such as honey, sweetie, hottie, baby, girl, boy or hunk
- Viewing or posting of sexual pictures, magazines, posters, videos or images
- Sending sexually explicit emails
- Viewing sexually-based or pornographic websites
- The use of Social networking sites for sexually-based messages or pictures
- Offensive gender based comments or behaviors that denigrate people simply because of their gender, such as "A woman's place is in the kitchen, not the boardroom."
- Texting or *sexting* sexually explicit messages or pictures via your cell phone

# The Consequences of Sexual Harassment



Sexual Harassment can result in disciplinary actions.

- Written warnings
- Suspension
- Demotion
- Termination

Sexual Harassment can have very serious consequences. Make sure that your employees taking the training completely understand these repercussions.

## Retaliation

It's also illegal to retaliate for a Sexual Harassment complaint. This can also lead to disciplinary actions up to and including termination. Retaliation is an extremely important part of a Sexual Harassment policy. Make sure that you stress that retaliation for a complaint is illegal and unacceptable. Retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII is strictly prohibited by law.

*Question: Ask your group to define and describe instances of retaliation?*

# Prevention of Sexual Harassment



What can you do to prevent Sexual Harassment? It's simple.

- Leave sexually-based behaviors at the door
- Treat everyone with respect
- Speak up when you see harassment.

Studies show that simply asking the harasser to stop will end the Sexual Harassment 90% of the time. Many times the employee has no idea they are offending others. Once they understand how their behavior has affected someone else they will stop.

There are some situations where the harasser should not be confronted.

- The victim feels uncomfortable with confronting the harasser
- The harassment is threatening in nature
- The harassment is aggressively physical
- The harasser has been confronted but has continued the harassing behavior
- The harassment is Quid Pro Quo

In these instances the harassed employee should contact a manager, supervisor or the human resources department. Every organization should provide a complaint procedure for their employees so that they know exactly who to contact when they are harassed.

The best way to confront a co-worker who is engaging in behavior that is offensive is with respect. Without being accusatory or losing your temper, tell your co-worker that their behavior makes you feel uncomfortable or offends you.

For Example: “John, could I talk to you for a moment? I’m a person who is sensitive about my personal space and hugs make me feel uncomfortable.”

***Question: Ask the group to describe a way to confront a co-worker? What would they say?***

Conducting a Sexual Harassment training session is never easy, but if you take it seriously and cover the material thoroughly it will make your workplace a safer, happier and more productive place. Make sure that you provide them with a copy of your organization’s Sexual Harassment policy and that you have them sign a copy for their records. In addition have them sign the acknowledgement of training included in this facilitator’s guide.

## Post-Test Quiz

1. (True / False) Quid Pro Quo Sexual Harassment occurs when a manager or supervisor offers job benefits in exchange for sexual favors.
2. (True / False) Hostile Environment Sexual Harassment can occur even if the victim is not directly harassed.
3. (True / False) Making jokes or comments about a pregnant woman won't get you into trouble because the jokes weren't sexual in nature.
4. (True / False) A delivery driver for another organization cannot be a victim of Sexual Harassment because they do not work for your organization.
5. (True / False) Because a work party is after hours, Sexual Harassment cannot occur there.
6. (True / False) Repeatedly asking a co-worker for a date (despite getting turned down) is not Sexual Harassment if it is done respectfully.
7. (True / False) Only behaviors that occur between men and women can be considered Sexual Harassment.
8. (True / False) Instances of Quid Pro Quo Sexual Harassment should be reported immediately.
9. (True / False) Retaliation for a Sexual Harassment complaint is not illegal.
10. (True / False) The first step in stopping Hostile Environment Sexual Harassment is to tell the individual that you are uncomfortable or offended by their actions.
11. (True / False) The "Reasonable Person Standard" asks if a reasonable person find the behavior offensive and is a term used by the courts when addressing Sexual Harassment.
12. (True/False) Texting a sexually charged joke or picture can result in Sexual Harassment.
13. (True/False) Termination is a possible result of a Sexual Harassment claim.
14. (True/False) Customers are exempt from Sexual Harassment and cannot contribute to a hostile work environment.
15. (True/False) Calling a man a "hunk" or a "stud" is ok because men are rarely offended by these types of labels and are usually flattered by them.

## Post-Test Quiz Answer Key

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## Respuestas de la evaluación posterior

1. (Verdadero / Falso) El acoso sexual quid pro quo ocurre cuando un gerente o supervisor ofrece beneficios laborales a cambio de favores sexuales.
2. (Verdadero / Falso) El acoso sexual por entorno hostil puede ocurrir incluso si la víctima no es acosada directamente.
3. (Verdadero / Falso) Hacer bromas o comentarios acerca de una mujer embarazada no causará problemas porque estos no son de naturaleza sexual.
4. (Verdadero / Falso) Un conductor de entregas de una organización externa no puede ser víctima de acoso sexual, ya que no trabaja para su organización.
5. (Verdadero / Falso) Debido a que las fiestas de trabajo ocurren fuera del horario laboral, no puede haber acoso sexual en ellas.
6. (Verdadero / Falso) Invitar a salir a un compañero de trabajo en repetidas ocasiones (a pesar de haber sido rechazado) no constituye acoso sexual si se hace con respeto.
7. (Verdadero / Falso) Los comportamientos que se dan entre hombres y mujeres son los únicos que pueden ser considerados como acoso sexual.
8. (Verdadero / Falso) Los casos de acoso sexual quid pro quo se deben reportar de inmediato.
9. (Verdadero / Falso) Tomar represalias por una denuncia de acoso sexual no es ilegal.
10. (Verdadero / Falso) El primer paso para detener el acoso sexual por entorno hostil es comunicarle a la persona que se siente incómodo u ofendido por sus acciones.
11. (Verdadero / Falso) La “norma de persona razonable” evalúa si una persona razonable consideraría una cierta conducta ofensiva, y es un término utilizado por los tribunales al tratar el acoso sexual.
12. (Verdadero / Falso) Los mensajes de texto con bromas o imágenes de contenido sexual pueden constituir acoso sexual.
13. (Verdadero / Falso) La desvinculación laboral es un posible resultado de una denuncia por acoso sexual.
14. (Verdadero / Falso) Los clientes están exentos del acoso sexual y no pueden contribuir a un ambiente de trabajo hostil.
15. (Verdadero / Falso) Llamar a un hombre “galán” o “macho” está bien porque los hombres rara vez se sienten ofendidos por este tipo de etiquetas y, por lo general, se sienten halagados por ellas.

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# Sample Sexual Harassment Policy

**Note: This is only a sample policy and has not been reviewed by an attorney. Although, it closely resembles policies in place at many organizations, it is not a substitute for legal advice and should be reviewed by legal council before distribution.**

This organization prohibits sexual harassment of its employees and job applicants by any employee or non-employee. This conduct may result in disciplinary action up to and including termination and this policy covers all employees. This organization will not tolerate, condone or allow sexual harassment, whether engaged in by fellow employees, supervisors, associates, clients or other non-employees who conduct business with the organization.

Sexual harassment is any behavior that includes unwelcome sexual advances and other verbal or physical conduct of a sexual nature when:

- Submission to, or rejection of, such conduct is used as the basis for promotions or other employment decisions
- The conduct unreasonably interferes with an individual's job performance or creates an intimidating, hostile or offensive work environment.

Sexual Harassment is unlawful discrimination and our organization's employees are entitled to work in an environment free from sexual harassment.

No manager or supervisor shall threaten or imply that an employee's refusal to submit to sexual advances will adversely affect that person's employment, compensation, advancement, assigned duties, or any other term or condition of employment or career development. Or, conversely imply that submission will positively affect these same job benefits.

Sexually-based jokes, pictures, emails, texts, comments and any other conduct that denigrates or sexually objectifies employees of either gender are prohibited. In addition, leering, catcalls, suggestive whistling, blocking or impeding movement, unwanted physical contact, repeated requests for dates, long stares and sexually suggestive looks, flirting, gossiping, and any other behaviors of a sexual nature that are unwanted and continuous are also prohibited.

Employees who experience sexual harassment are encouraged to report their complaint to their supervisor. If the supervisor is the perpetrator of the offending conduct, the employee should report the behavior directly to another manager or to human resources. The complaint will be investigated thoroughly and expeditiously. We will keep all reports and investigations of Sexual Harassment as confidential as possible. Any employee who, after a thorough investigation, is found to have engaged in sexual harassment of another employee will be subject to disciplinary action, up to and including termination. If any

party directly involved in a sexual harassment investigation is not satisfied with the outcome or resolution, that individual has the right to appeal the decision. The complaining party should submit their written comments to the Human Resources Department.

The organization as a whole, nor any employee or non-employee representing the organization may not retaliate in any way against any individual who makes a report of sexual harassment or is a witness to the harassment. Retaliation is illegal and is a serious violation of our organization's sexual harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting sexual harassment will be subject to appropriate disciplinary action, up to and including termination.

Employee: (please print)

Employee: (signed)

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Date:

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# Common Questions and Answers about Sexual Harassment from the EEOC:

## 1. When does harassment violate federal law?

Harassment violates federal law if it involves discriminatory treatment based on sex (with or without sexual conduct), or because the employee opposed job discrimination or participated in an investigation or complaint proceeding under the EEO statutes. Federal law does not prohibit simple teasing, offhand comments, or isolated incidents that are not extremely serious. The conduct must be sufficiently frequent or severe to create a hostile work environment or result in a "tangible employment action," such as hiring, firing, promotion, or demotion.

## 2. When is an employer legally responsible for harassment by a supervisor?

An employer is always responsible for harassment by a supervisor that culminated in a tangible employment action. If the harassment did not lead to a tangible employment action, the employer is liable unless it proves that: 1) it exercised reasonable care to prevent and promptly correct any harassment; *and* 2) the employee unreasonably failed to complain to management or to avoid harm otherwise

## 3. Who qualifies as a "supervisor" for purposes of employer liability?

An individual qualifies as an employee's "supervisor" if the individual has the authority to recommend tangible employment decisions affecting the employee *or* if the individual has the authority to direct the employee's daily work activities.

## 4. What is a "tangible employment action"?

A "tangible employment action" means a significant change in employment status. Examples include hiring, firing, promotion, demotion, undesirable reassignment, a decision causing a significant change in benefits, compensation decisions, and work assignment.

## 5. How might harassment culminate in a tangible employment action?

This might occur if a supervisor fires or demotes a subordinate because she rejects his sexual demands, or promotes her because she submits to his sexual demands.

## 6. What should employers do to prevent and correct harassment?

Employers should establish, distribute to all employees, and enforce a policy prohibiting harassment and setting out a procedure for making complaints. In most cases, the policy and procedure should be in writing.

Small businesses may be able to discharge their responsibility to prevent and correct harassment through less formal means. For example, if a business is sufficiently small that the owner maintains regular contact with all employees, the owner can tell the employees at staff meetings that harassment is prohibited, that employees should report such conduct promptly, and that a complaint can be brought "straight to the top." If the business conducts a prompt, thorough, and impartial investigation of any complaint that arises and undertakes swift and appropriate corrective action, it will have fulfilled its responsibility to "effectively prevent and correct harassment."

## 7. What should an anti-harassment policy say?

An employer's anti-harassment policy should make clear that the employer will not tolerate harassment based on sex or gender, or harassment based on opposition to discrimination or participation in complaint proceedings. The policy should also state that the employer will not tolerate retaliation against anyone who complains of harassment or who participates in an investigation.

## 8. What are important elements of a complaint procedure?

The employer should encourage employees to report harassment to management before it becomes severe or pervasive.

The employer should designate more than one individual to take complaints, and should ensure that these individuals are in accessible locations. The employer also should instruct all of its supervisors to report complaints of harassment to appropriate officials.

The employer should assure employees that it will protect the confidentiality of harassment complaints to the extent possible.

## 9. Is a complaint procedure adequate if employees are instructed to report harassment to their immediate supervisors?

No, because the supervisor may be the one committing harassment or may not be impartial. It is advisable for an employer to designate at least one official outside an employee's chain of command to take complaints, to assure that the complaint will be handled impartially.

## 10. How should an employer investigate a harassment complaint?

An employer should conduct a prompt, thorough, and impartial investigation. The alleged harasser should not have any direct or indirect control over the investigation.

The investigator should interview the employee who complained of harassment, the alleged harasser, and others who could reasonably be expected to have relevant information. The Guidance provides examples of specific questions that may be appropriate to ask.

Before completing the investigation, the employer should take steps to make sure that harassment does not continue. If the parties have to be separated, then the separation should not burden the employee who has complained of harassment. An involuntary transfer of the complainant could constitute unlawful retaliation. Other examples of interim measures are making scheduling changes to avoid contact between the parties or placing the alleged harasser on non-disciplinary leave with pay pending the conclusion of the investigation.

## 11. How should an employer correct harassment?

If an employer determines that harassment occurred, it should take immediate measures to stop the harassment and ensure that it does not recur. Disciplinary measures should be proportional to the seriousness of the offense. The employer also should correct the effects of the harassment by, for example, restoring leave taken because of the harassment and expunging negative evaluations in the employee's personnel file that arose from the harassment.

## 12. Are there other measures that employers should take to prevent and correct harassment?

An employer should correct harassment that is clearly unwelcome regardless of whether a complaint is filed. For example, if there is graffiti in the workplace containing racial or sexual epithets, management should not wait for a complaint before erasing it.

An employer should ensure that its supervisors and managers understand their responsibilities under the organization's anti-harassment policy and complaint procedures.

An employer should screen applicants for supervisory jobs to see if they have a history of engaging in harassment. If so, and the employer hires such a candidate, it must take steps to monitor actions taken by that individual in order to prevent harassment.

An employer should keep records of harassment complaints and check those records when a complaint of harassment is made to reveal any patterns of harassment by the same individuals.

**13. Does an employee who is harassed by his or her supervisor have any responsibilities?**

Yes. The employee must take reasonable steps to avoid harm from the harassment. Usually, the employee will exercise this responsibility by using the employer's complaint procedure.

**14. Is an employer legally responsible for its supervisor's harassment if the employee failed to use the employer's complaint procedure?**

No, unless the harassment resulted in a tangible employment action or unless it was reasonable for the employee not to complain to management. An employee's failure to complain would be reasonable, for example, if he or she had a legitimate fear of retaliation. The employer must prove that the employee acted unreasonably.

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# Sexual Harassment Training Acknowledgement

I have attended (your organization name) Sexual Harassment training and I acknowledge the following:

1. I understand (your organization's name) policy on Sexual Harassment.
2. I understand the definitions of Quid Pro Quo and Hostile Environment Harassment and that both are illegal.
3. I will not engage in behaviors that result in either Quid Pro Quo or Hostile Environment Sexual Harassment.
4. I understand that there are very serious employment repercussions if I engage in Sexual Harassment.
5. If I feel that I am being harassed I have the right and am encouraged to file a complaint in accordance with (your organization's name) complaint procedure.

Signature:

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Print Name:

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Date:

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