



New York State Sexual Harassment Prevention Training

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What is Sexual Harassment?

- Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law.
- Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
- Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:
 1. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
 2. Such conduct is made either explicitly or implicitly a term or condition of employment; or
 3. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.
- **There are two main types of sexual harassment- "Hostile Environment" and "Quid Pro Quo"**

What is a Hostile Environment?

- A hostile environment on the basis of sex may be created by any action previously described, in addition to unwanted words, signs, jokes, pranks, intimidation, physical actions or violence, either of a sexual nature or not of a sexual nature, directed at an individual because of that individual's sex.
- Hostile environment sexual harassment includes:
 - o Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic.
 - This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
 - This also includes sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience.
 - o Hostile actions taken against an individual because of that individual's sex, such as:

- Rape, sexual battery, molestation or attempts to commit these assaults.
- Physical acts of a sexual nature (including, but not limited to, touching, pinching, patting, grabbing, kissing, hugging, brushing against another employee's body or poking another employee's body)
- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling, name-calling.

What is "Quid Pro Quo" Sexual Harassment?

- Quid pro quo sexual harassment occurs when a person in authority trades, or tries to trade, job benefits for sexual favors.
- Quid pro quo is a legal term meaning a trade.
- This type of harassment occurs between an employee and someone with authority, like a supervisor, who has the ability to grant or withhold job benefits.
- Quid pro quo sexual harassment includes:
 - o Offering or granting better working conditions or opportunities in exchange for a sexual relationship
 - o Threatening adverse working conditions (like demotions, shift alterations or work location changes) or denial of opportunities if a sexual relationship is refused
 - o Using pressure, threats or physical acts to force a sexual relationship
 - o Retaliating for refusing to engage in a sexual relationship

Who can be the Target of Sexual Harassment?

- Sexual harassment can occur between any individuals, regardless of their sex or gender.
- New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace.

Who can be the Perpetrator of Sexual Harassment?

- The perpetrator of sexual harassment can be anyone in the workplace:
- The harasser can be a coworker of the recipient
- The harasser can be a supervisor or manager
- The harasser can be any third-party, including: a non-employee, intern, vendor, building security, client, customer or visitor.

Where Can Workplace Sexual Harassment Occur?

- Harassment can occur whenever and wherever employees are fulfilling their work responsibilities, including in the field, at any employer-sponsored event, trainings, conferences open to the public and office parties.
- Employee interactions during non-work hours, such as at a hotel while traveling or at events after work can have an impact in the workplace.
- Locations off site and off-hour activities can be considered extensions of the work environment.
- Employees can be the target of sexual harassment through calls, texts, email and social media.
- Harassing behavior that in any way affects the work environment is rightly the concern of management.

What is Sex Stereotyping?

- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of either sex should act or look.
- Harassing a person because that person does not conform to gender stereotypes as to "appropriate" looks, speech, personality, or lifestyle is sexual harassment.
- Harassment because someone is performing a job that is usually performed, or was performed in the past, mostly by persons of a different sex, is sex discrimination.

What is a Protected Activity?

- Any employee who has engaged in “protected activity” is protected by law from being retaliated against because of that “protected activity.”
- “Protected activities” with regard to harassment include:
 - o Making a complaint to a supervisor, manager or another person designated by your employer to receive complaints about harassment
 - o Making a report of suspected harassment, even if you are not the target of the harassment
 - o Filing a formal complaint about harassment
 - o Opposing discrimination
 - o Assisting another employee who is complaining of harassment
 - o Providing information during a workplace investigation of harassment, or testifying in connection with a complaint of harassment filed with a government agency or in court

What is Retaliation?

- Retaliation is any action taken to alter an employee’s terms and conditions of employment (such as a demotion or harmful work schedule or location change) because that individual engaged in any of the above protected activities. Such individuals should expect to be free from any negative actions by supervisors, managers or the employer motivated by these protected activities.
- Retaliation can be any such adverse action taken by the employer against the employee, that could have the effect of discouraging a reasonable worker from making a complaint about harassment or discrimination.
- The negative action need not be job-related or occur in the workplace, and may occur after the end of employment, such as an unwarranted negative reference.

What is Not Retaliation?

- A negative employment action is not retaliatory merely because it occurs after the employee engages in protected activity.
- Employees continue to be subject to all job requirements and disciplinary rules after having engaged in such activity.