



CWEALF Publications

Sexual Harassment in the Workplace

Introduction

Sexual harassment on the job is a form of sex discrimination. Although it is illegal and costly to the employer and the employee, it persists as a problem for American workers. Women workers, in particular, may lose jobs, promotions, and opportunities because of sexual harassment.

In this booklet, we define sexual harassment, explain the law, and suggest ways that managers, supervisors, and victims can rid the workplace of discriminatory harassment. We offer strategies that can prevent sexual harassment problems, from informal conflict resolution to formal grievance procedures and lawsuits.

Like federal and state laws, the information in this booklet is gender neutral and applies equally to men and women.

What is Sexual Harassment?

Sexual harassment is a form of sex discrimination. It is unwanted sexual conduct that affects employment decisions such as whether to hire, fire, or promote a worker, or the determination of wages and other work conditions. Sexual harassment can take the form of outright sexual demands in exchange for work benefits or the form of more subtle behavior that creates a sexually hostile environment.

Sexual harassment can include, but is not limited to: sexual propositions or threats; lewd comments or jokes, unwanted or inappropriate touching such as patting, pinching, or hugging; sexual gestures; use or display of pornographic materials (e.g., calendars and pictures); obscene noises or leering.

Sexual harassment is often an abuse of power that is expressed sexually. It can occur between a supervisor and a subordinate, between co-workers, and between an employee and a customer or client. It is not an act of friendliness or flirtation. On the contrary, it is often used intentionally to embarrass, intimidate, or humiliate the victim, sometimes for the purpose of forcing him or her out of a particular job or field of work. In many cases, sexual harassment is an expression of sexist stereotypes about, or hostility toward, women.

Myths about Sexual Harassment

Many myths place the blame for sexual harassment and the responsibility for ending it on the victim instead of on the harasser. Such beliefs may be held by both men and women. Sometimes, these myths make it more difficult for a person who is being sexually harassed to talk about it. The following are illustrations of common misconceptions.

Myth: Some people ask for it. They invite sexual harassment by their behavior or dress.



Fact: This clearly places the blame on the victim, as though the harasser had no choice but to harass her or him. If a worker, male or female, dresses or behaves inappropriately in the workplace, standard methods of supervision and discipline can correct the problem. Sexual harassment is never justified. Sexual harassment is an abuse of power.

Myth: Some people have no sense of humor. They misinterpret behavior that is meant as a harmless joke.

Fact: There is nothing funny in being embarrassed or intimidated, especially in front of co-workers. There is a dramatic difference between a friendly workplace and one where workers are uncomfortable because of sexual innuendos, pressure, or touching. Sexual harassment undermines a person's ability to work. It is a frustrating and degrading experience.

Myth: Some people will make a false charge of sexual harassment to get even or get ahead.

Fact: Filing a sexual harassment complaint can be a time consuming or embarrassing process that is sometimes met with hostility or disbelief. While false charges are possible, they are rare. The standard protections afforded an accused individual under the laws prohibiting employment discrimination should protect people against false or frivolous claims.

Myth: People who remain on the job after being sexually harassed have no right to complain. Maybe they really enjoy it.

Fact: There is no joy in being the victim of sexual harassment. People remain at work because they need to work, want to work, and lack opportunities that might make it easier to switch jobs. No one should have to give up her or his job because of harassment.

Myth: Men cannot be sexually harassed.

Fact: Although women make up the majority of victims of sexual harassment, it is possible for men to be harassed as well. However, men are much less likely to report incidents of harassment.

All of these myths incorrectly place the blame for sexual harassment on the victim. People sometimes remain silent rather than report their experiences because myths such as these make them feel guilty, ashamed, embarrassed, or responsible for the harassment.

Are There Laws that Prohibit Sexual Harassment?

There are both state and federal laws that prohibit sexual harassment.

Connecticut Law

Connecticut and federal laws consider sexual harassment in the workplace to be illegal sex discrimination.

Connecticut Fair Employment Practices Act



Connecticut law prohibits sex-based employment discrimination and specifically forbids employers and those acting for employers to sexually harass employees at work. This law applies to all public employers, labor organizations, employment agencies, and private employers with 3 or more employees. It prohibits discrimination in hiring, firing, or in the terms or conditions of employment, such as compensation, training, promotions, fringe benefits and seniority, and membership in labor unions. C.G.S. §46a-60(8).

Under Connecticut law, illegal workplace sexual harassment is any unwelcome sexual advance or request for sexual favors, or any conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

In addition, Connecticut law requires an employer having 3 or more employees to post its sexual harassment policy in an accessible location. This policy or statement must include the illegality of sexual harassment and the remedies available to victims of sexual harassment. C.G.S. §46a-54(15)(A).

The same law also requires employers with 50 or more employees to provide to all supervisory employees two hours of training and education on the state and federal laws pertaining to sexual harassment, including the remedies available to victims. CWEALF can provide this training at your workplace.

Some instances of sexual harassment can also constitute assault, battery, or intentional infliction of emotional distress, depending on the behavior and the damage this behavior causes the victim. A victim may consider whether these claims should be brought along with a discrimination claim under Connecticut and federal law.

An employee who brings a claim of sexual harassment under state law may be entitled to receive damages for economic losses, reinstatement, damages for emotional distress, and attorneys' fees.

Federal Law

Title VII of the Civil Rights Act of 1964 (Title VII)



This federal law also prohibits sex-based employment discrimination in the workplace. The word sex has been interpreted to include sexual harassment. This law applies to public and private employers, including employment agencies, with 15 or more employees, and labor unions with 15 or more members. 42 U.S.C. §2000e-2(a)(1).

Civil Rights Act of 1991

In 1991, Title VII was amended to expand certain rights of employees who are subjected to discrimination, including sexual harassment, in the workplace. One of the most significant provisions of the law is that it allows an employee, who proves that she/he is the victim of workplace discrimination, to recover compensatory damages (i.e., actual damages, like lost pay, as well as emotional distress) and punitive damages (i.e., damages to punish a non-governmental employer, if the employee proves that the employer acted with malice or reckless indifference), in addition to back pay, reinstatement and attorneys' fees. 42 U.S.C. §1981a

The law placed caps on the total amount of compensatory and punitive damages that an employee who proves discrimination may recover. This maximum amount varies depending upon the size of the employer with a maximum amount of \$50,000 for the smallest employers and up to \$300,000 for the largest.

To determine the number of employees that a company has, the court looks at 20 or more calendar weeks in the current or preceding calendar year. The person bringing suit also has the right to ask for a jury in any case where compensatory or punitive damages are being sought. However, the jury cannot be told the maximum amount of damages that are available.

Equal Employment Opportunities Commission Guidelines

The Equal Employment Opportunity Commission (EEOC) is the federal agency responsible for investigating Title VII violations. It issues Guidelines to help interpret the laws against discrimination. 29 C.F.R. 1064.11. Like the Connecticut law, these Guidelines provide that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are illegal sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment, 29 C.F.R. §1604.11(a).



The EEOC has also issued Guidelines interpreting other aspects of Title VII. Although the EEOC Guidelines are not law, courts often look to them for guidance, and these Guidelines have been cited by the United States Supreme Court in a number of sexual harassment cases.

Are there protections for LGBT individuals?

Yes. The EEOC has also found that discrimination based on sexual orientation or sexual stereotyping and discrimination against transgender employees are protected under Title VII. In addition, Connecticut has laws that prohibit discrimination against employees on the basis of sexual orientation and gender identity and expression.

How can I file a sexual harassment complaint with the state or federal government?

To file a sexual harassment complaint against your employer in Connecticut, you would file a complaint with the Commission on Human Rights and Opportunities (CHRO). To file a complaint with the federal government, you would file with the EEOC. Connecticut has a work sharing agreement with the EEOC. This means if you file a complaint with the CHRO that alleges a violation of federal law, the CHRO will file your complaint with the EEOC as well if you indicate to them that you would like to cross-file. The EEOC follows the same procedure if they receive a complaint that alleges a violation of Connecticut state law. Contact CWEALF for information about procedures and deadlines for filing with both agencies.

What precautions can employers take to safeguard against sexual harassment?

The best way for an employer to stop sexual harassment is to prevent it. By instituting written policies, the employer can protect employees from the emotional anguish associated with sexual harassment and save the organization costly and time consuming legal problems. A policy, coupled with education and awareness programs, can foster a work atmosphere free of sexual harassment.

Best practices for an employer to prevent sexual harassment are the following:

1. Create a grievance procedure to quickly and effectively resolve sexual harassment complaints. The procedure should be tailored to the specific workplace.
 - The grievance procedure should maintain multiple entry points for the complainant. A number of different people within the organization should be identified as those to whom employees can complain. It should also include a clear timetable for investigating and resolving complaints and adequate due process protections for all parties.

2. Publish and regularly distribute a written policy against sexual harassment that includes:
 - A clear definition of sexual harassment, and examples;
 - Provisions barring sexual harassment by management, supervisors, co-workers, and non-employees over whom the employer exercises control;
 - An explanation of the grievance procedure; and
 - Possible sanctions that may result for violation of the policy.
3. Provide training and information to all levels of management, and if all possible, all employees, about preventing and stopping sexual harassment.
4. Provide training and information to all employees about the grievance procedure and conduct investigations.
5. Investigate sexual harassment complaints promptly and thoroughly.
6. Take swift corrective action on sexual harassment complaints as soon as they are investigated.
7. Document all sexual harassment claims, investigations, and corrective actions.
8. Maintain a policy that retaliation for having filed a complaint will not be tolerated.

What should I do if I am sexually harassed at work?

First of all, remember that you are not alone. It is often helpful to discuss what your options are in confronting sexual harassment.

Informal and Internal Measures

First, consider the options you have that do not require legal action.

- Try to get the harassment to stop.
- Consider confronting the harasser about the behavior if you feel safe doing so. Let him/her know that his/her actions are unwelcome and will not be tolerated. It is best if this can be done at the time of the harassment. If you plan to confront him/her at the time of the incident, do not do it alone. Have someone with you for support and to act as a witness. Be firm, and make it clear that you expect the harassment to end.
- Document everything. Note when the harassment occurred, who harassed you, what happened, your response, and if there were any witnesses. Such documentation is extremely useful should you later decide to file a complaint. Keep these notes outside of work.

- Consider writing a letter to the harasser. The letter should be straightforward and contain two specific parts:
 - A detailed description of the facts, including what happened, with dates.
 - A description of what you would like to happen next.
- This letter should be delivered or mailed to the harasser personally. If it seems necessary, bring a witness or supporter with you. Keep a copy of the letter.
- If the harassment continues, consider reporting the behavior to a manager and/or filing a complaint within your company. Understand that if you report the conduct to a manager, that manager may have a duty to report it to the company, whether you want to file an official complaint or not.

External Measures:

If you have considered or pursued the informal and internal options, and are still dissatisfied with the response or outcome, you may consider filing a formal complaint. To file a complaint with the Commission on Human Rights and Opportunities and/or the Equal Employment Opportunity Commission, visit our website for more information. You may also wish to consider speaking to an attorney who handled employment discrimination claims. To find a referral to an attorney in your area, call CWEALF's Information & Referral Line at 800-479-2949 or 860-524-0601.

Remember:

- Sexual harassment is an abuse of power
- It is not invited by the person that is being harassed
- There are federal and state laws that guard against sexual harassment
- Your employer can help prevent sexual harassment in your workplace