

What Is Sexual Harassment?

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

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- 1) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- 2) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- 3) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- 4) Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- 5) The harasser's conduct must be unwelcome.
- 6) It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.

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.

Source: www.eeoc.gov/types/sexual_harassment.

When An Employee Is Being Harassed

When an employee is being harassed or threatened by a non-employee off-site, the employee should keep a log of all contacts, including phone calls, which includes:

- Time/date
- The person who made contact
- Phone number (if caller ID is in place)
- The gist of the message and contact

If messages are left on answering machine, keep the tape, do not erase it, and keep it with the log.

The employee should put the abuser/harasser on notice that if the behavior doesn't stop. Consider the behavior stalking/harassment and take the appropriate legal action. If that doesn't stop the behavior, the employee should then take the log and supporting documents and tapes and go down to APD or the court and ask for a restraining order. That request should include a restraint against contacting the employee, the employee's place of work and any co-workers. If the restraining order is given, the employee should let their manager know so the worksite can monitor for any contact the abuser/harasser might make w/ the work site.

The employee and manager should also work out a "Safe" plan (in writing) for what to do if the abuser/harasser shows up at the worksite with a potential for violence: Who will detain the person while the employee is able to leave the area safely, where will the employee go and by what route, who will call 911, etc. The Emergency Guidelines should address all of these decisions.

If the restraining order is not given, the employer can put the abuser/harasser on notice (preferably by phone with a follow-up letter) that these actions are disrupting the work place and request the person cease/desist. There is not much legally the employer can do beyond this (if the abuser/harasser is not an employee acting during work hours) that I am aware of except to provide as safe as possible environment while still allowing appropriate access to services for those who need it.

Once a restraining order is obtained, any time it is violated, the employee should note that in the log and call APD. The APD phone call should also be logged.

What Is Stalking?

Stalking in the 1st Degree. A person commits the crime of Stalking in the first degree if: a person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member. There is also Stalking in the second degree and Harassment Per AS 11.41.260 (amended in 2002).