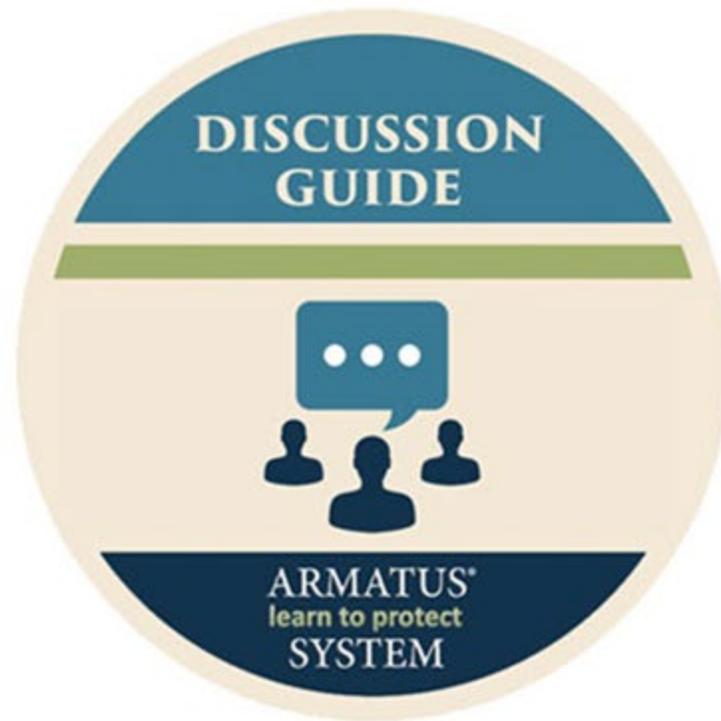


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PREVENTING SEXUAL HARASSMENT:

For Employees in New York

Preparation

Preparing for the Training

Before conducting this training session:

- Read this guide to become comfortable presenting this content to learners.
 - The **Key Content** section contains information for you to know before conducting the training.
 - The **Discuss** section contains content for you to **Say** to and **Discuss** with learners.
- Be prepared to discuss your organization's sexual harassment policies and procedures. You may want to bring copies of the policies to hand out during the training.
- Provide learners with pens and paper/notecards. During the session, they will have the opportunity to write down actions they want to take in the upcoming weeks to put into practice what they have learned.



Goals

After completing this course, learners are able to identify:

- The legal definition of sexual harassment
 - The effects of sexual harassment on individuals and organizations
 - How words and actions can be perceived differently by others
 - Different types of sexual harassment
 - Legal rights for employees in New York
 - Steps to prevent and respond to sexual harassment
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Lesson 1 – Introduction to Sexual Harassment



Goals

After completing this lesson, learners will be able to explain:

- The legal definition of sexual harassment.
- The impact of sexual harassment on employees.
- The impact of sexual harassment on employers/organizations.
- The prevalence of sexual harassment in the workplace.



Key Content

Title VII of the Civil Rights Act of 1964

The Civil Rights Act of 1964 contains Title VII, which outlaws employment discrimination based on race, color, religion, sex, national origin, and other protected categories. It also prohibits retaliation against employees who oppose discrimination. Courts have ruled that sexual harassment is illegal under Title VII.

What Constitutes Sexual Harassment?

Title VII is enforced by the Equal Employment Opportunity Commission (EEOC).

The EEOC states that “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions 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.”

Possible Effects of Sexual Harassment on Individuals

Sexual harassment can cause physical, emotional, social, and personal effects.

- Physical and emotional effects can include emotional and physical distress, post-traumatic stress disorder, anxiety, withdrawal and isolation, and suicidal thoughts or attempts.
- Social effects can include ridicule, humiliation, scrutiny, gossip, and public sexualization.
- Personal effects can include loss of trust, loss of performance and productivity, loss of employment and references, increased absenteeism, and weakening of support network.

Possible Effects of Sexual Harassment on Organizations

Organizations can also be affected when employees are suffering the effects of sexual harassment. Effects can include:

- Disruption in business operations
- Loss of productivity and morale
- Negative workplace atmosphere
- High employee turnover and absenteeism
- Loss of reputation
- Potential lawsuits

Prevalence of Sexual Harassment

Sexual harassment is a widespread problem.

- Studies suggest that up to 70% of women and up to 20% of men have been sexually harassed at work.
- The EEOC reviews approximately 7,000 sexual harassment allegations each year.
- Most sexual harassment claims never reach the EEOC, so the actual number of sexual harassment incidents is even higher than those reviewed.

**Discuss****Say:**

You learned in this course that sexual harassment is illegal under Title VII of the Civil Rights Act of 1964.

Discuss:

How would you describe in your own words how the law defines sexual harassment?

Possible answers:

- *A form of sex discrimination*
- *Unwelcome sexual advance*
- *Requests for sexual favors*
- *Words or actions that create a hostile work environment*

Say:

Sexual harassment can affect people in different ways.

Discuss:

Put yourself in the shoes of a person experiencing sexual harassment at work. How might they be affected physically and emotionally?

Possible answers:

- *Anxiety*
- *Distress*
- *Humiliation*
- *Gossip*
- *Loss of trust*

- *Loss of performance and productivity*
- *Possible suicidal thoughts or attempts*

Say:

A healthy workplace is a non-threatening and safe place where all employees can be productive and successful.

Discuss:

- How can employees contribute to making the workplace healthy and free from sexual harassment?

Possible answers:

- *Know the organization's policies and procedures regarding sexual harassment*
- *Report sexual harassment, even if they are not the target*
- *Do not encourage or participate in sexual harassing behaviors*
- *Be aware of coworkers exhibiting signs of distress due to sexual harassment*

- How can the organization and its leadership contribute to making the workplace healthy and free from sexual harassment?

Possible answers:

- *Establish clear policies and procedures on sexual harassment*
 - *Follow up on reports of sexual harassment*
 - *Provide confidentiality for employees who report*
 - *Provide training on sexual harassment*
 - *Be aware of employees exhibiting signs of distress due to sexual harassment*
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Lesson 2 – Legal Definition of Sexual Harassment



Goals

After completing this lesson, learners will understand:

- The two main types of sexual harassment (Quid Pro Quo and hostile work environment)
- How to raise a complaint about sexual harassment



Key Content

Quid Pro Quo Sexual Harassment

Quid Pro Quo literally translates to “this for that.”

- In this form of sexual harassment, someone asks for a sexual favor in exchange for something else, such as a raise, bonus, or a favorable evaluation.
- This type of sexual harassment may occur between a supervisor and a subordinate or between two coworkers, one of whom has power over the other.

Hostile Work Environment Sexual Harassment

Hostile work environment is a type of sexual harassment in which the work environment includes unwelcome and/or offensive sexually-related conduct or language. Anyone in the office can create a hostile work environment, no matter their rank, job title, or gender. The work environment may include visual harassment, verbal harassment, and/or physical harassment.

What Constitutes Hostile Conduct?

Hostile conduct could include:

- Unwelcome sexual advances
- Sexual verbal comments
- Sexually-related jokes
- Sexual photographs, cartoons, calendars, emails, screensavers, etc.
- Any material, comments, or behavior of a sexual nature

What are the Five Risk Factors?

Five risk factors help contribute to hostile work environments:

- Imbalanced or skewed gendered ratios
- High power differentials between men and women
- Highly sexualized workplace
- Existence of other forms of discrimination
- Largely ignoring the issue of sexual harassment

Who Can Raise a Complaint about Sexual Harassment?

Anyone in the office who experiences a hostile work environment can file a claim of sexual harassment, even if he or she is not the actual target.



Discuss

Say:

You learned about two types of sexual harassment: Quid Pro Quo and hostile work environment.

Discuss

- How would you describe Quid Pro Quo harassment in your own words? What kinds of problems do you think this type of harassment causes in the workplace?

Be prepared to share some specific suggestions for recognizing and avoiding Quid Pro Quo harassment, both for employees and for supervisors. This would be a good time to discuss the organization’s policies regarding relationships between supervisors and employees.

- What do you think causes a workplace to become a hostile work environment?

Possible answers:

- *Unwelcome sexual advances*
- *Displaying sexual images in the workplace*
- *Making sexual comments or jokes*
- *Inappropriate emails*
- *Material, comments, or behaviors of a sexual nature*

Say:

I’m going to read some examples of workplace behavior. Raise your hand if you think the behavior meets the standard of hostile conduct that could create a hostile work environment.

Statement to Read	Answer
1. An employee displays a calendar of famous artworks with nude figures.	YES, this could create a hostile work environment because the images are sexual.
2. An employee frequently teases coworkers about their favorite sports teams.	NO, this is not hostile conduct because it does not involve sexual language or comments.
3. An employee comments that a coworker looks much sexier after losing weight.	YES, this is hostile conduct because the comments are of a sexual nature and are about another person’s body.
4. A group of coworkers start a betting pool to guess the sexuality of their supervisor.	YES, this is hostile conduct because it involves discussing another person’s sexuality.
5. An employee displays a cartoon that mocks a political figure’s official policies.	NO, this is not hostile conduct because the cartoon is not sexual.

Lesson 3 – Varying Perspectives in the Workplace



Goals

After completing this lesson, learners will be able to explain:

- How diverse perspectives affect the ways employees perceive what happens in the workplace
- How to use the “reasonable person” test to interpret actions that may constitute harassment
- How gender-based discussions and jokes can be considered harassment



Key Content

Diverse Workplace

Increased diversity in the workplace can affect the way incidents are perceived by members of different cultures, family backgrounds, national origins, religions, and genders. Research has found differences in the ways that members of different cultures and people of different genders perceive sexual harassment.

The “Reasonable Person” Test

Courts use the “reasonable person” test to determine sexual harassment cases by considering how a reasonable person would perceive an incident.

Differing Perspectives

Men and women may have different perceptions about sexually-related behavior, jokes, comments, generalizations, etc. In addition, jokes, comments, and behavior related to fertility or virility can constitute sexual harassment. Sexual discussions and behaviors don’t belong in the workplace.

Men: Victims of Sexual Harassment

Every year, an increasing number of men report being sexually harassed by their male and female supervisors and peers. Sexual attention, conversation, or remarks can be just as offensive, embarrassing, or threatening to men as they are to women.

Can Men and Women Work Together in a Harassment-Free Workplace?

Both men and women deserve to feel safe at work. The best course of action is always to act and speak respectfully to everyone.



Discuss

Say:

Today’s workplace is very diverse, and people with unique viewpoints and personalities work closely together. Multiple people involved in the same incident may interpret it differently.

Discuss:

- Describe the following situation:
A group of employees are talking in the breakroom when Tom and Mai enter, already in conversation. They are talking about a movie that they had both seen earlier in the week, and Tom is loudly repeating lines from

the movie. The movie lines he is quoting are: “It’s just like we talked about last night at the bar – if you do exactly what I say, you’ll go far in this business, sweetheart.” Mai is pretending to be upset and covering her face with her hands, which mimics the scene in the movie.

- How might the employees in the breakroom interpret the situation differently? How might you interpret that situation?

Say:

The courts use the “reasonable person” test to evaluate sexual harassment cases. They look at the facts of the case and consider how a reasonable person might perceive the incident.

Discuss:

What are some ways you could use the “reasonable person” test to help prevent incidents of sexual harassment from happening in the first place?
Possible answers: consider other viewpoints, listen to other viewpoints, think before I speak or act.

Say:

Sexual discussions and behaviors do not belong in the workplace. We all have a responsibility to contribute to making the workplace a place of respect and safety.

Discuss:

- How can you contribute to a workplace where everyone feels safe and respected?
- What is one action you can take in the next week to improve your workplace using what you have learned so far?

Do:

Allow learners five minutes to write down at least one action they will take in the next week to contribute to making their workplace a place of respect and safety for everyone.

Lesson 4 – Types and Cases of Sexual Harassment



Goals

After completing this lesson, learners will be able to:

- Recognize three categories of sexual harassment (visual, verbal, and physical)



Key Content

Types of Sexual Harassment

Sexual harassment can take many forms, but it can generally be classified into three broad categories:

- Visual sexual harassment involves visual material of a sexual or obscene nature. This can include posters, email attachments, photographs, screensavers, computer wallpapers, calendars, or other images displayed in the workplace.
- Verbal sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal conduct of a sexual nature.
- Physical sexual harassment involves inappropriate and/or unwelcome physical contact.



Discuss

Discuss:

- What actions should you take if you are the target of sexual harassment or if you witness a coworker being sexually harassed?
- How would you handle seeing or hearing sexual harassment in the workplace?
- What would you do if a coworker confronted you about an item in your workspace that they considered visual sexual harassment?

Be prepared to discuss your organization's policies and procedures for handling sexual harassment reports, and provide contact information for company, state, local, and federal reporting options.

Lesson 5 – Is It Sexual Harassment?



Goals



Key Content

After completing this lesson, learners will understand:

- How to evaluate behavior to determine if it constitutes sexual harassment

Company Policies and Procedures

Companies can help protect themselves from sexual harassment claims by establishing and enforcing clear policies and methods for reporting. If the company reasonably responds to all complaints, courts are likely to determine that the company was not responsible for the misbehavior of one employee.

Unwelcome Behavior

Sexually-related behavior can be considered sexual harassment if it is unwanted, unsolicited, and/or unwelcome by the recipient. The harasser's intent does not matter if the action is perceived as unwanted. In other words, "good intentions" do not excuse poor judgment.

Negative Impact

Sexually-related behavior that has a negative impact on the work environment due to being distracting, offensive, or hostile can be considered sexual harassment.

Reasonable Person

The courts generally determine sexual harassment cases by asking if a reasonable person who has reviewed the facts would consider the situation to be harassment.

The Tests

There are several tests that individuals and companies can use to evaluate what is and is not appropriate behavior. These tests are not legal criteria, but they can help everyone make responsible choices in the workplace.

- **The Network News Test:** How would this behavior look if it were profiled on network news?
- **The Parent Test:** How would the alleged harasser's parents feel if they witnessed the behavior?
- **The Respect Test:** Does the behavior convey respect for all coworkers and subordinates?
- **The Zero Tolerance Test:** Does the behavior comply with the organization's "zero tolerance" policy for sexual harassment?

Office Romances

Companies may have policies about dating in the workplace, but if both parties want to date, the relationship cannot be considered sexual harassment under Title VII. However, office romances may lead to a sexual harassment claim in three ways:

- Public displays of affection may offend coworkers, leading to a hostile work environment complaint.
- If the couple breaks up, one person may claim Quid Pro Quo harassment.
- If a supervisor dates a subordinate, he or she may show favoritism, which could lead to discrimination or hostile work environment claims.

Fuzzy Boundaries

Everyone in the workplace is responsible for behaving professionally and maintaining clear boundaries. Even if the company does not have a policy, you should always avoid the following situations:

- Blurring the distinction between friendship and working relationships
- Failing to observe professional behavior at all times
- Treating colleagues with too much familiarity
- Treating coworkers or subordinates like children
- Lacking self-awareness about your own behavior
- Participating in office gossip
- Acting unprofessionally at after-work or off-site gatherings
- Failing to maintain someone else's physical boundaries



Discuss

Say:

People can interpret situations in different ways. What one person might consider an innocent joke or touch, another person might consider sexual harassment.

Discuss:

- What are some tests or standards you can use to determine whether your behavior or another person's behavior is appropriate or might cross the line into sexual harassment? *Possible answers: the Network News Test, the Parent Test, the Respect Test, the Zero Tolerance Test, the Reasonable Person Test, etc.*
- What actions could you take if you are unsure if your or another person's behavior constitutes sexual harassment? *Be prepared to discuss the specific policies and procedures of your organization.*

Say:

Even if the company does not have a specific policy for every situation, you need to establish and follow your own clear boundaries for appropriate and inappropriate interactions with others.

Discuss:

What are ways to keep your boundaries clear with others in the workplace? *Possible answers: Don't treat coworkers with too much familiarity; don't engage in workplace romances; do observe professional behavior at all times; be self-aware about my own behavior at all times.*

Do:

Allow learners five minutes to write down at least one action they can take in the next week to implement clear boundaries at work. They are not required to share this information with anyone, but they can choose to share it with their supervisor in private.

Lesson 6 – Steps to Prevent Sexual Harassment



Goals

After completing this lesson, learners will understand that:

- Sexual harassment is preventable
- Everyone has a role in preventing sexual harassment



Key Content

Preventing Sexual Harassment

Employees can do five things to help prevent sexual harassment:

- Know and understand your company policies.
- Follow the policies at all times.
- Establish clear boundaries for yourself.
- Actively promote an environment of respect.
- Respond to inappropriate behavior, policy violations, and incidents of sexual harassment.



Discuss

Say:

The first two steps in preventing sexual harassment are knowing and following the company policies.

Discuss:

What are actions you can take to know, understand, and follow the company policies on sexual harassment? *Be prepared to discuss the specific policies of your organization.*

Do:

Allow learners five minutes to write down at least one step they will take in the next week to familiarize themselves with company policies on sexual harassment.

Say:

Expectations of professional behavior extend to after-work and off-site gatherings and interactions with vendors, customers, and other people you meet at work.

Discuss:

What are some ways you can maintain and encourage clear boundaries between appropriate and inappropriate behavior during after-work and off-site gatherings? *Possible answers: avoiding inappropriate behavior at office parties, such as physical touch, off-color jokes, flirting, etc.*

Lesson 7 – Responding to Sexual Harassment



Goals

After completing this lesson, learners will understand:

- How to interrupt sexual harassment aimed at them.
- How to interrupt sexual harassment aimed at others.
- How to take action if they believe they have harassed someone else.
- Their obligation to report sexual harassment.



Key Content

If Someone is Sexually Harassing You

If you believe someone is sexually harassing you, consider these three steps:

- Firmly and directly tell them to stop the behavior or remove the offensive material.
- Document the conversation, offending behavior, incidents, etc. in detail.
- Report the harassment.

Legal Rights in New York

Employees should be aware of laws that protect them against sexual harassment in the workplace;

- The New York Human Rights Law protects employees and non-employees, including paid and unpaid interns, contractors, subcontractors, vendors, consultants, and others providing services in the workplace from sexual harassment in the workplace, regardless of immigration status.
- If the NY Human Rights Law has been violated, employees can file a complaint with the NY Division of Human Rights within 1 year of the harassment or with the NY State Supreme Court within 3 years of the harassment.
- Local government agencies may offer additional legal protection from sexual harassment and discrimination.

If Someone is Sexually Harassing a Coworker

If you believe someone is sexually harassing a coworker, consider these three steps:

- Discourage the behavior, avoid smiling or laughing at the behavior, and tell the harasser to stop.
- Report the harassment to your employer.
- Support the victim and encourage him or her to document and report the offensive behavior.

If You Think You Sexually Harassed Someone

If you think you might have sexually harassed someone, consider these four steps:

- Stop the behavior immediately.
- Tell your supervisor.
- Apologize to anyone who was present during the incident.

- Review your organization’s policies on sexual harassment to refresh your understanding of appropriate behavior.

Do You Have to Report?

Reporting sexual harassment is critical so that the company can take all appropriate remedial action.

Can You Report Confidentially?

Your employer should do everything possible to keep your report confidential and to protect you from retaliation. Discuss any concerns about privacy or retaliation with your employer.

Supervisor Responsibilities

- Supervisors must follow the organization’s policies for internal reporting, and they could be subject to disciplinary action if they fail to report suspected harassment or otherwise knowingly allow sexual harassment to continue.
- Just like all employees, supervisors must follow all sexual harassment laws and policies, and they should be aware of state, local, and federal laws that require them to report.



Discuss

Discuss:

- We hope it never happens, but there may be a situation in which you witness a coworker being sexually harassed. What would you do in this situation?
- Why do you think it is so important to report sexual harassment?
- What could potentially encourage or prevent you from reporting if you encounter sexual harassment? How can you address potential roadblocks to reporting in your organization?

Wrap-up

- Wrap up the session by asking if anyone has questions, concerns, or special issues they would like to discuss.