



# **Stopping Sexual Harassment Before It Starts**

**A Business & Legal Perspective  
Federal Government Edition**

**Mike Deblieux**

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Harassment Before  
It Starts:  
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# Stopping Sexual Harassment Before It Starts: A Business and Legal Perspective Federal Government Edition

Mike Deblieux

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Arthur Bauer

Todd McDonald

Editor in Chief

Karen Massetti Miller

Designer

Gayle O'Brien

Cover Design and Illustration

Kevin Zdenek

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## Introduction

Sexual harassment is one of the most complex workplace issues of our time. It is at once a legal issue, an emotional issue, a civil rights issue, and a very personal issue. It can be both easy to define and impossible to define. It can result from innocent actions or from criminal behavior. It can take place in a few seconds or require several years to develop. It can be a very public matter or an extremely private issue.

But one thing is clear about sexual harassment. It must be taken seriously by all employers. Large and small organizations across the United States are being held accountable for incidents of sexual harassment. Every employer has the duty—and the responsibility—to provide a harassment-free work environment by establishing clear policies against sexual harassment and by training executives, managers, supervisors, and employees to prevent, recognize, and report all incidents of sexual harassment. Just as important, managers also must take steps to ensure that vendors, visitors, and customers comply with their company's sexual harassment policies.

This book was written to help you understand why preventing sexual harassment is such an important work issue. It includes examples to illustrate both inappropriate and appropriate behavior as well as exercises to help you better understand how you and your organization can prevent sexual harassment. It shows what you can do to make sure the people you work with can come to work and do the job they were hired to do in an environment free of all forms of harassment.

Thank you for buying this book. More importantly, thank you for investing your time to learn more about this important topic.

## About This Book

We have written and designed this book to make it easy for you to apply the information you learn to your particular job.

- ◆ Each chapter begins with *Chapter Objectives* that explain what you will learn when you read and study that chapter.
- ◆ *What Do You Think?* vignettes at the beginning of each chapter serve as short stories about workplace incidents to help you visualize how they can cause or prevent sexual harassment.
- ◆ *For Your Information* boxes are included throughout the book to expand on selected topics with key information or additional resources.
- ◆ *Take a Moment* exercises provide brief exercises or assignments to help you learn even more about sexual harassment.
- ◆ *Self-Check* reviews at the end of each chapter let you test your understanding of the information and reinforce what you've learned.

## What You Will Gain from Reading This Book

Regardless of your role in the workplace, you have the potential to be a leader. This book will help you improve your leadership skills. It will help you plan your workday and your interactions with coworkers to ensure that you treat them with respect and dignity. At the same time, it will help you set an example for the people around you and avoid costly grievances and lawsuits that may result from inappropriate workplace behavior.

As a result of reading, studying, and reflecting on the information in this book, you should be able to:

- ◆ Explain why sexual harassment is both a legal issue and a productivity issue in the workplace.
- ◆ Explain why sexual harassment is a discrimination issue.
- ◆ Take steps to prevent intentional and unintentional sexual harassment.
- ◆ Avoid behavior that might be interpreted as a misuse of your authority as a supervisor to gain sexual favors from employees.
- ◆ Establish behavioral expectations for employees, visitors, and customers that will ensure that your workplace is free of all forms of harassment.
- ◆ Implement effective policies and procedures to prevent, recognize, and report all incidents of sexual harassment.
- ◆ Cooperate with human resources, legal, and management staffs to investigate and resolve all reported incidents of sexual harassment.

## Acknowledgments

The author wishes to thank Art Bauer, Todd McDonald, and Karen Massetti Miller at American Media for their help, support, and assistance in writing this book. Thanks and appreciation also are extended to Lee Paterson, attorney at law, and to Teri Tracy, attorney at law, for their roles as mentors and friends. Special thanks also go to Karen Nichols for a never-failing helpful hand in juggling my calendar, travel arrangements, workshop materials, and business commitments.

This book is dedicated to my very special daughters, Nicole and Danielle, in the hope that the workplace they enter will be free of the discrimination, harassment, and sexual harassment that permeated my first workplace in 1971. It also is dedicated to the thousands of people who have attended my workshops, asked me questions, and shared stories that have raised my own consciousness on this important issue.

## About the Author

Mike Deblieux, a nationally recognized human resources management trainer and consultant, is president of Mike Deblieux Human Resources in Tustin, California. He designs and presents training programs on human resources-related issues such as documenting discipline, writing performance reviews, interviewing, preventing sexual harassment, equal employment opportunity, affirmative action, and workplace violence. Mike presents more than 100 such programs each year to organizations of all sizes.

Mike also is an instructor for the University of California, Irvine, Extension Human Resources Management Certificate Program, and has received the Extension's coveted Distinguished Instructor Award. He serves as Course Leader and Blue Ribbon Speaker for the American Management Association (AMA), as well as course leader for The Employers Group and the Professionals in Human Resources Association (PIHRA).

Mike also has written *Documenting Discipline* and *Legal Issues for Managers: Essential Skills for Avoiding Your Day in Court* for American Media Publishing. American Media has produced two training videos, *How to Legally Document Employee Discipline* and *Legal Issues for Managers*, based on his books. The books and videos may be ordered by calling 1-888-776-8268. Mike can be reached by phone at 714-669-0309 or by e-mail at [mike@deblieux.com](mailto:mike@deblieux.com). You may visit his website at [www.deblieux.com](http://www.deblieux.com).

## A Note on Gender and Ethnic References

The workplace in the United States has become increasingly diverse. Men and women representing a wide a variety of life experiences enter this workplace every day. In writing this book, I've tried to reflect this great diversity in a number of ways. The book includes examples that reflect the many different roles women and men play in today's workplace. In some examples, a man is cast as a manager; in others, a woman has that role. In still other examples, the text is gender neutral to reflect the fact that both men and women can be victims of sexual harassment.

In some instances, the text uses the phrase "he or she"; in others, it uses "she or he." Likewise, Native American, Hispanic American, Asian American, and African American workers appear in a variety of roles in the illustrative examples to reflect their important roles in the workplace.

It's my hope that this approach will increase your appreciation of the rich diversity of our collective workplace, as well as the increasingly complex nature of sexual harassment.

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# Chapter *One*

## *Why Is Sexual Harassment an Issue?*

### Chapter Objectives

- ▶ Explain why sexual harassment is a workplace issue.
- ▶ Describe how the Civil Rights Act and sexual harassment relate to each other.
- ▶ Explain how some old, accepted workplace behaviors are, in fact, sexual harassment.
- ▶ Explain how the use of formal and informal power can both prevent and create sexual harassment.

### What Do You Think?



It was Friday night. Angelica walked in the door at home. She had alternated between tears and anger on the drive from work. Now she just wanted to lock the door to her apartment and shut out the world. But she couldn't do that. Antonio would be home in less than an hour. They had tickets for a concert by one of their favorite musical groups. They had looked forward to this concert for months. She had to go. She had to have a good time.

In the bedroom, Angelica slumped onto the bed and began to relive her day for the twentieth time. Her coworkers could be so mean sometimes. She worked just as hard as they did. She had more education than most of them and traveled more miles per year than any of them. She had also been Inspector of the Year for the past two years.

Just before five o'clock, Mr. Camping announced that Angelica had been chosen Inspector of the Year for the third year in a row. For a moment, she felt so proud. Then she heard Willie say under his breath, "Body of the year would be more like it." She had

ignored the remark before, but this time it hurt. Teasing was one thing, but this wasn't teasing. She wasn't sure she could go back to work Monday morning. She wasn't even sure she could tell Antonio. She knew she could never tell her parents.

Is Angelica a victim of *unlawful* workplace sexual harassment? Was the law broken? The answer is *maybe*. It depends on a number of things—such as whether incidents like this have occurred before and how they affect her role in the workplace. Ultimately, if she files a lawsuit, it will depend on how a court views the evidence in her case.

Let's ask a different question about Angelica. Is she a victim of inappropriate workplace behavior? Here the answer is clearly yes. Read her story again, and you will see that she has been victimized in many different ways. Angelica has been psychologically attacked. Willie's comments have tarnished, if not destroyed, her reputation among her coworkers. She has been associated with a tired, old stereotype that says women get ahead by sleeping around, not by being good at their jobs. Most importantly, her family life has also been affected. Her regular safety net is not available to her. She cannot comfortably talk to her family about the problem without worrying about how they will perceive her from that point forward.

So is Angelica a victim of sexual harassment? The answer is yes. Is she a victim of unlawful sexual harassment? The answer is maybe. It depends on what an objective investigation of the facts reveals about other incidents, the impact on her work, and the effect on her work environment. In any case, this incident is cause for her employer to be concerned. The employer should take steps to ensure that an incident like this doesn't occur in the future:

- ◆ It must adopt and enforce a clear sexual harassment policy.
- ◆ It must train managers, supervisors, and employees to understand, recognize, and prevent sexual harassment.
- ◆ It must discipline employees who violate the policy.
- ◆ It must recognize and reward employees at all levels who treat others with respect and courtesy.

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**Angelica has been psychologically attacked.**

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**The company should take steps to ensure that an incident like this doesn't occur in the future.**

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## ● Why Is Sexual Harassment an Issue?

**Sexual harassment will not go away without careful and deliberate efforts to make it go away.**

### Why Is Sexual Harassment a Workplace Issue?

In the workplace, sexual harassment will not go away without careful and deliberate efforts to make it go away. It is a workplace issue for several important reasons:

- ◆ The law
- ◆ The diversity of the workplace
- ◆ Initiation rites and past practices
- ◆ Familiarity
- ◆ Female and male perspectives
- ◆ Employee productivity

Any one of these issues could make sexual harassment an important concern, but this unique combination makes it one of the most important business and social problems of our time. Let's look at each issue to better understand the impact of sexual harassment on your workplace environment.

### Sexual Harassment and the Law

- "Have you heard about the latest human resources department seminar?" asked George. "I mean, here we go again. Another sexual harassment 'don't touch, don't say, don't breathe' lecture by the do-gooders! When are they gonna realize just how out of touch they are? We're just trying to have a little fun around here. They need to get a life."

In 1964, the Civil Rights Act changed the workplace forever. It placed a spotlight on how people relate to each other at work. It opened a national discussion about the roles of minorities and women at work. For the first time, it empowered people to speak out against practices, beliefs, and stereotypes that had existed in the workplace for centuries.

### Did You Know?

The Civil Rights Act of 1964, as amended, prohibits discrimination in the workplace on the basis of sex. Sexual harassment is a form of sex discrimination and is therefore prohibited by law.



The Civil Rights Act was not passed to stop sexual harassment. It does, however, prohibit discrimination on the basis of sex. Over time, and as a result of a number of Equal Employment Opportunity Commission and court decisions, it has become clear that sex discrimination is not limited to hiring and promotion decisions. Sex discrimination also extends to the way people are addressed, thought of, and treated in the workplace.

When a person or group is treated differently because of their sex, they may be a victim of discrimination. If the discrimination has a sexual connotation—such as sexual jokes, unwelcome touching, or demands that an employee sleep with his or her boss in order to keep a job—it is sex discrimination in the form of sexual harassment. In addition to the Civil Rights Act, a number of other federal and state laws prohibit discrimination in the workplace. In some cases, state laws go beyond the scope of federal law and impose higher standards, wider coverage, and greater penalties.

**When a person or group is treated differently because of their sex, they may be a victim of discrimination.**

These laws are widely publicized and have resulted in a firestorm of lawsuits. As society has become more aware of bias and prejudice in the workplace, employees increasingly have been empowered to complain to human resources departments, state agencies, and the courts about discriminatory experiences at work. As a result, employers understand better than ever their overwhelming responsibility to create and maintain a discrimination- and harassment-free workplace. Although substantial progress has been made, we still have a long way to go. Discrimination, harassment, and sexual harassment continue to exist. Reading this book and implementing the ideas you learn from it will help you minimize the possibility of unfair treatment in your workplace.

## ● Why Is Sexual Harassment an Issue?



### Take a Moment

Check the equal employment posters in your workplace. In addition to the categories we've discussed, list others that are protected by your state and/or community.

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## Sexual Harassment and the Diversity of the Workplace

- “I was so embarrassed,” thought Mina. “In my country, a man would never ask a woman to do those things.”

Diversity has long been a part of the workplace. Historically, it was based primarily on national origin. At the start of the twentieth century, people from many different European countries were represented in the workforce. Some groups were stronger than others. Some had more power than others. The majority ruled, and the minority conformed to their wishes. In theory—if not in practice—the idea was that over time, everyone would blend together. In fact, the term *melting pot* was coined to illustrate how people were expected to shed their national origin and adopt the practices and beliefs of the majority.

For a long time, the same assumption applied to the workplace. Women and minorities were expected to blend in with the men who came to the workplace before them. However, as an increasing number of women and minorities joined the workforce, they sought to retain their own identities.

Women, for example, sought to shed the stereotype that said they were best suited for clerical or secretarial work and began to pursue jobs in other professions and settings. They began to question previously accepted assumptions that allowed women to be addressed as “sweetheart,” “honey,” or “babe” at work.

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**As an increasing number of women and minorities joined the workforce, they sought to retain their own identities.**

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They began to openly question men who propositioned, touched, or pursued them at work when they were simply trying to do their jobs. As their numbers in the workplace increased and new laws were enacted to protect them, women were better able to express their concerns about the ways they were being treated.

Over time, women and minorities found that they did not in fact have to “melt” into the society or workplace that came before them. Rather, they sought instead to maintain their own identities. In doing so, women learned that they did not have to accept unwelcome sexual advances, innuendoes, jokes, or stories as a normal part of workplace behavior.

In short, diversity has changed the operating assumptions of the workplace. When the majority of people in the workplace were men, their rules determined what was and was not acceptable. But in a diverse workplace, men and women of many colors and cultures establish rules and policies that allow everyone to be treated with respect.

**Diversity has changed the operating assumptions of the workplace.**

### Take a Moment

We all contribute to the “diversity salad” of today’s workplace. Have you thought about your own diversity? What personal and cultural characteristics do you bring to the workplace? List some of the experiences in your life that define who you are and what is important to you.

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## ● Why Is Sexual Harassment an Issue?

### Sexual Harassment and Initiation Rites and Past Practices

- “I don’t know what she’s complaining about. Hey, it happened to me when I was new. Why shouldn’t she go through it?” said George. “My first boss took me to every topless bar in town. If she can’t take it, she shouldn’t be trying to compete in a man’s world.”

**Today’s workforce is much less tradition bound than in the past.**

George seems to think that everyone should have the same experiences he had climbing the corporate ladder. Because he survived it (or maybe even enjoyed it), he thinks everyone else should have to earn their “stripes” in the same way.

George is operating under old rules. Today’s workforce is very different and much less tradition-bound than it was when he started working. Many of George’s coworkers did not share his experiences. In fact, they might be offended that he thinks they should have.

A very public example of a workplace initiation rite occurred in 1996 with a major league baseball team. One of the team’s best pitchers was a rookie from Korea. During one game, some of his teammates cut the legs off of the pants he planned to wear on the flight home and left him a shirt and coat that didn’t match. Many of his teammates had been victims of a similar prank when they were rookies—they simply thought he should have the same experience. They expected him to understand that this initiation rite meant that he had been accepted by the team. They were shocked when he expressed humiliation and remained distant from them. Apparently in his culture, such a prank was not the way to show respect and camaraderie. Instead, it hurt him personally and publicly embarrassed the team.

Just like that baseball player, female employees do not always appreciate or respect the traditions of those who came before them. A few examples of such past practices include:

- ◆ Getting together for a lunchtime or after-work drink
- ◆ Playing golf
- ◆ Meeting in a hotel room rather than in a meeting room
- ◆ Doing personal errands for the boss to increase your chances of promotion
- ◆ Using sports analogies in every business discussion

These male-dominated practices of the past are slowly giving way to a variety of other practices that take into account the interests and needs of all people in the workplace.

### Take a Moment

Think of some popular Hollywood comedies that have explored male-female differences in the workplace—movies such as *Working Girl*, *9 to 5*, and *Tootsie*. What are some of the old-school initiation rites and past practices that they satirized?

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## ● Why Is Sexual Harassment an Issue?

### Sexual Harassment and Familiarity

- “Ivorenne, we work together every day,” said Tom. “You’re somebody I can talk to easily. I’ve told you about my problems at home. Last night was the worst. I just kept thinking about how much better it would be if I were at your house and we were just talking and sharing like we do every day.”



#### For Your Information

Depending on who is involved, people can see sexual harassment very differently. In one workshop, a participant told me that people were just too sensitive at work these days, and that all this sexual harassment stuff had ruined the workplace.

I asked him whether he had any daughters. He told me he had four daughters. I asked him what he would do if one of his daughters came home and told him that a man at work had groped her, called her “cutie,” and suggested that she spend the night with him.

He rose from his seat and said, “I’d go down and kill the !@\*!”

The old saying “familiarity breeds contempt” applies here. When we work side by side with someone every day, we have a tendency to assume that we can say almost anything to that person. Sometimes, because they have shared things with us about their personal lives, we assume we can be more open with them than we are with others.

Many people—but not all—want to be a friend and help in any way they can when a coworker is having personal problems. But for all of us, there is a line at which we say, “I just don’t want to get that involved in your personal life.”

Many sexual harassment claims result from one person assuming that a friendly coworker is ready, willing, and able to get involved in their personal life. Recently, a human resources manager told me that when she had analyzed sexual harassment claims in her company, she was surprised to learn that the one constant in every case was that the perpetrator was a man who

was experiencing problems at home or who was going through a divorce. In each case, the man shared his problems with a female coworker. When the coworker showed concern, the male employee mistook it as an invitation to pursue her on a personal or romantic basis. When that line was crossed, the female “friend” saw the behavior as harassment.

### Sexual Harassment and Female and Male Perspectives

More and more literature suggests that men and women sometimes see things differently. We often do the same things in different ways. We even communicate differently. For example, in sexual harassment workshops, I often go through the following sequence with participants:



Mike	I know this will surprise you, but I have observed that women sometimes tell dirty jokes.
Participants	(Nervous laughter)
Mike	Who do many women tell their jokes to?
Participants	(Pause) Other women.
Mike	Which other women?
Participants	Their close friends.
Mike	And where do they often tell these jokes?
Participants	In private!
Mike	Who do men tell dirty jokes to?
Participants	(Loud and unanimous) Everyone.
Mike	And where do they tell them?
Participants	(Louder) Anywhere!!!

## ● Why Is Sexual Harassment an Issue?

These differences often go unnoticed until it is too late. We use convenient excuses like, “Oh, that’s just the way he (or she) is,” to overlook what someone says or does. We use these excuses, that is, until the behavior crosses the invisible line beyond which we suddenly consider the behavior inappropriate or intolerable. Then we avoid the person or even complain about him or her to someone else. Here are a few examples:

### **The Greeting Hug**

Men sometimes see women hugging when they greet and assume that both of the women like to be hugged. But when a man tries to hug one of the women, he often finds that his assumption is wrong. Likewise, a woman may assume that a hug shows a man he’s part of her group. He, however, may read the hug as an invitation to pursue her romantically. He may also be offended.

### **The Term of Endearment**

Some men use terms like “sweetheart” or “honey” when they talk to women. These men may see such terms as complimentary, but many women see them as put-downs or condescending. Likewise, when women sometimes use a term like “hunk” to describe a man, some men hear the term as an invitation to pursue a personal relationship with the woman.

### **The Personal Compliment**

Personal compliments can get us into all kinds of trouble at work. For example, a man might say, “Magaline (pause, breath), you really look nice today.” Magaline may be thoroughly offended by this comment. She might interpret it as suggestive or sexual. The complimenter would probably be surprised. If he had listened carefully, however, he probably would have found that when Magaline’s female friends compliment her, they are very specific. For example, they might say, “Magaline, that’s a lovely dress. Is it new?” To Magaline, there is a world of difference between the two compliments. She took the first one as a comment about her as a person; she took the second as a compliment about her wardrobe.

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Many women see terms like “honey” or “sweetheart” as put-downs.

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The difference between how men and women see things is probably one of the greatest contributors to incidents of workplace sexual harassment. One way for us to reduce sexual harassment claims is to increase education and discussion on the differences and similarities between how men and women see things. By sharing and learning, we can anticipate the impact of our comments and behaviors and prevent them from being misinterpreted.

### The Productivity Problem

- “This is a really important project,” thought Lee. “I need to concentrate on it 110 percent. But how can I concentrate when she keeps hitting on me? Besides, her management bonus depends on this project getting in on time and under budget. How can I get any help when every time I go in there, she tells me to sit on her desk and puts her hand on my leg? I hate it. Each time it happens, I can’t work for the next 30 minutes.”

Today’s jobs require employees to be creative and innovative and to possess both customer service skills and technical knowledge. They demand careful, deliberate thinking on the part of every member of the workforce. If the workplace is tainted by harassment or sexual harassment, people often find it difficult to concentrate and focus. An organization that creates and maintains a positive, harassment-free environment will reap generous returns from its workforce.

Most employees want to do a good job. They come to work willing and able to do even more than they’re asked to do. Then it happens. A dirty joke is told, a term of endearment is used, a suggestive remark is made, or an unwelcome touch is taken. A seed has been planted. The recipient becomes a little more cautious and a little less receptive with each encounter thereafter.

Men may see such comments and behaviors as friendly and harmless; women may see them as offensive or suggestive. When the behaviors go unchallenged, men often assume that they’re acceptable or even encouraged. Many women would not say anything for fear of reprisal, ostracism, or appearing to be “a complainer.”

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**If the workplace is tainted by harassment or sexual harassment, people often find it difficult to concentrate and focus.**

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## ● Why Is Sexual Harassment an Issue?

Each time we are offended at work, we (male or female) become a little more skeptical and wary. The more it happens, the more we think about it. The more we think about it, the less productive we become. Eventually, one of three things happens: We find another job and leave, we become a poor performer, or we file a sexual harassment claim. In all three scenarios, both the organization and the employee lose.



### Take a Moment

Most of us do not even realize it when our behavior offends others. Ask a family member of the opposite sex if they can tell you about something you do that might be viewed as offensive to someone of their gender.

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**The proper use of power in the workplace can prevent sexual harassment. Its misuse can create it.**

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## Abuse of Power and Sexual Harassment

There is one other issue we must consider before we explore the topic of sexual harassment in more depth. That issue is power. The proper use of power in the workplace can prevent sexual harassment. Conversely, its misuse can create it, as in the following example:

- “It was a long day,” said Addie. “Matrone is the best manager I’ve ever had. He’s fair, and he’s always concerned about how I’m doing. I didn’t even think twice when he asked me to stop for a drink on the way home. I just couldn’t believe it when he leaned over, put his arm around me, and told me that if I went to a motel with him it would help get me promoted. I’ll never be able to look at him in the same way again. I can’t trust him, and I don’t want to be alone with him.”

Matrone has confused his role as a supervisor with his personal interests. He has sexually harassed Addie by linking her job (“help get me promoted”) with a request for sexual favors (“join me at a motel”).

Power can be formal, such as a policy—something that sets the parameters for expected behavior. A policy tells people what the organization believes is right and wrong.

Formal power also comes with a job title or position. The mere fact that a person has a title gives them the power to tell others what to do. For example, most people would say that it is more difficult to confront or walk away from a supervisor telling a dirty joke than it is to walk away from or confront a coworker.

Power can also be informal. Informal power is built on relationships. When we like someone and trust them, we tend to defer to them and their wishes, regardless of the position they hold. When we are intimidated by someone, we tend to accept the informal power they exercise by avoiding them or even by doing what they want to avoid any more discomfort or humiliation.

As you read this book, you will see that sexual harassment is as much about power as it is about sex and the law. When a supervisor schedules a meeting at or near a hotel in hopes of enticing a female employee to have sex with him, he is using his formal power for personal gain. When a coworker constantly tells rude, crude, and offensive sexual jokes in the warehouse, she is using informal power to try to gain the acceptance of others.

In both cases, the use of power creates a form of sexual harassment. The question of sexual harassment and power is not a “chicken or the egg” discussion: The power comes first, and the sexual harassment comes second. If you want to prevent sexual harassment, you have to make sure that both formal and informal power are used fairly for business purposes, not personal gain.

Employers can use formal and informal power to prevent sexual harassment and create a workplace environment where everyone can be productive.

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**Sexual harassment is as much about power as it is about sex and the law.**

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## ● Why Is Sexual Harassment an Issue?

### Chapter Summary

When you look at the many issues discussed in this chapter, you can see that sexual harassment is a workplace issue. History, business practice, and social change have combined to make the workplace one of the most important parts of our everyday lives. And when the environment in that workplace is uncomfortable, we are not productive.

Preventing sexual harassment is a priority in today's workplace. In order to do that successfully, an employer must be proactive:

- ◆ It must adopt and enforce a clear sexual harassment policy.
- ◆ It must train managers, supervisors, and employees to understand, recognize, and prevent sexual harassment.
- ◆ It must discipline employees who violate the policy.
- ◆ It must recognize and reward employees at all levels who treat others with respect and courtesy.

Organizations that take these responsibilities seriously will save countless dollars on legal expenses. At the same time, they will be able to take pride in their productive workforces.

## Self-Check: Chapter One Review



Now that you have read Chapter One, use this space to review what you have learned. If you are unsure of an answer, just refer to the text. Suggested answers appear on page 88.

1. True or False?  
The Civil Rights Act of 1964, as amended, prohibits sexual harassment.
  
2. True or False?  
All sexual harassment is unlawful.
  
3. List two reasons why the diversity of the workplace has contributed to the growing importance of sexual harassment as a workplace issue.
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  
4. At one time, most workers were men. List two practices that were accepted in a male-dominated workplace that could lead to sexual harassment charges in a gender diverse workplace.
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  
5. Give one example of how the use of formal power can prevent sexual harassment.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Chapter *Two*

## *Sexual Harassment as Discrimination*

### Chapter Objectives

- ▶ List a variety of laws that prohibit discrimination and harassment.
- ▶ Explain the three primary forms of workplace discrimination.
- ▶ Avoid treating others in ways that they may perceive as workplace discrimination.



### What Do You Think?

**G**arnette sat at her desk in the lobby. She loved her job as receptionist because it always kept her busy and let her meet a lot of people. Most of all, she liked being able to leave the job behind at the end of the day. That left her time to concentrate on her schoolwork. With luck, she would earn her degree in another year.

But on this day, her usual thoughtful smile slipped from her face when she looked out the front window and saw Bill Sorentino get out of his car. He was a manager. Although she had been told that a person's title didn't make any difference, she knew she had to be careful with him. Maybe, just maybe, he would pass by her this morning without saying anything. But it was Monday, and Monday never passed without his saying something. He stepped through the door and called out, "Hey, sweetheart. How was your weekend? Did you score with any of those young hunk friends of yours? Don't forget now—my bedroom is always open for you!"

She smiled and looked the other way. "Why does he do this to me?" she thought. "I wonder if he does this to any of the other women around here. I should ask some of them."

Is Garnette a victim of discrimination? Is she being sexually harassed?

Sexual harassment is a form of sex discrimination, and sex discrimination is prohibited by the federal Civil Rights Act of 1964. Discrimination occurs when one person (or a group) is treated differently from another person (or group). Unlawful discrimination occurs when the reason for the difference in treatment is related to membership in a protected group (e.g., race, sex, religion, etc.). In the example at the beginning of this chapter, Garnette is being treated differently; it's unlikely that Bill would have made those same comments to a man. At the very least, his comments make Garnette uncomfortable. They seem to occur on a regular basis; therefore, they probably create an offensive work environment for her and cross the line into unlawful sexual harassment.

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**Discrimination occurs when one person (or a group) is treated differently from another person (or group).**

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### Harassment as a Form of Discrimination

The Civil Rights Act of 1964, as amended, prohibits employers with 15 or more employees from discriminating on the basis of:

- ◆ Race.
- ◆ Sex.
- ◆ Religion.
- ◆ National origin.
- ◆ Color.
- ◆ Pregnancy and related medical conditions (added in 1978).

A variety of other federal laws prohibit employment discrimination. For example:

- ◆ Section 501 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of physical or mental disability by the Executive and Judicial branches of the federal government. The Americans with Disabilities Act, as amended, which also prohibits discrimination on the basis of mental or physical disability, prohibits discrimination by the Legislative Branch of the federal government.

## ● Sexual Harassment as Discrimination

- ◆ *The Age Discrimination in Employment Act of 1967* prohibits employers with 20 or more employees from discriminating on the basis of age beginning at age 40.
- ◆ *The Family and Medical Leave Act of 1993* prohibits employers with 50 or more employees from discriminating against employees who request or take time off for their own serious illness or the serious illness of a parent, spouse, or child. Adoption and foster care are also covered under FMLA.
- ◆ *The Equal Pay for Equal Work Act of 1963* prohibits employers from discriminating on the basis of pay between men and women who perform substantially similar work.
- ◆ *The Immigration Reform and Control Act of 1986* and the *Immigration and Naturalization Act of 1990* prohibit employers from discriminating on the basis of citizenship.

Many states have adopted laws that mirror these and other federal laws. Some also have adopted laws that prohibit discrimination on the basis of other categories, such as:

- ◆ Sexual orientation
- ◆ Marital status
- ◆ Height and weight
- ◆ Matriculation
- ◆ Sterilization and abortion



### Did You Know?

When you belong to a group, you are often more sensitive to comments or behaviors that slight the group even if the group is not protected by a law. For example, in a workshop a participant asked if it would be okay to tell jokes about motorcycle riders. Before the instructor could answer another participant answered, “Not unless you can run faster than I can ride.” He made a good point. Many cases of discrimination never result in a complaint. They do create hard feelings and animosity for the victim.

Discrimination in the workplace based on any of these categories or other categories protected by federal or state law is unlawful. Harassment is a form of discrimination. It can involve any of these protected categories. Sexual harassment is one form of sex discrimination.

Discrimination is not limited to hiring and firing decisions. Discrimination can occur as a result of actions taken by coworkers, visitors, suppliers, and even customers.

### Take a Moment

Most people think that discrimination laws apply only to a small segment of the population. Make a list of your family members who are covered by one or more workplace discrimination laws. You will probably be surprised at the number of people in your family alone who receive some sort of protection from these laws.



## Types of Discrimination

Discrimination occurs in many different forms. In fact, we “discriminate” every day. When you choose between a domestic and a foreign car, you discriminate. In this case, the law does not affect your choice; you are free to discriminate based on your own beliefs, assumptions, and biases about cars.

When you have two job applicants and only one job opening, you discriminate by hiring one person instead of the other (or by hiring neither of them). If you use job-related criteria to make your decision, you are discriminating, but your discrimination is not unlawful. However, if you base your decision on the applicant’s membership in a protected group, you are discriminating unlawfully. Unlawful discrimination is usually defined in three categories:

- ◆ Disparate treatment
- ◆ Disparate impact
- ◆ Retaliation

## ● Sexual Harassment as Discrimination

In order to understand harassment and sexual harassment, you must first understand these general categories of discrimination.

### Disparate Treatment Discrimination

- Enrique and Molly apply for the same job and are interviewed by Dominique. Dominique asks Enrique ten questions during his interview. She asks Molly the same ten questions plus an eleventh question: “Do you have children?”

**Disparate treatment discrimination is intentional.**

Molly is being treated differently than Enrique. The treatment is based on her membership in a protected group—her sex (or gender)—and it is intentional. Molly is therefore a victim of *disparate treatment discrimination*.

Remember, sexual harassment is a form of sex discrimination. Some forms of sexual harassment are intentional. If a man walks up to a woman, reaches around her back, and puts his hand under her arm to touch the side of her breast, he is acting intentionally. If a woman is asked to stop calling a man “honey” and she continues to do it, she is acting intentionally.

### Disparate Impact Discrimination

When most people think of discrimination, they think of disparate treatment discrimination. In fact, you will often hear people say something like, “I don’t discriminate; I treat everyone the same.” But what they really should say is, “I don’t intentionally treat people differently based on their membership in a protected group.” Despite their best intentions, their behaviors or decisions may result in *disparate impact discrimination*, which is unintentional.

**Disparate impact discrimination is unintentional.**

*Disparate* means “different”; *impact* means “result or effect.” When used together, the words mean that, regardless of intentions, if the result of a behavior, decision, or action is detrimental or negative to a person or a group of people, those people are victims of discrimination. For example, prior to the Civil Rights Act of 1964, many fire departments required job applicants to be at least 5' 10" tall and weigh at least 165 pounds. Their “intention” was to hire people who were strong. The theory was that firefighters had to carry ladders, move injured people, and operate heavy fire hoses.

Most people would agree that firefighters *should* be able to perform such tasks as a routine part of their job. However, the problem is that not everyone who is at least 5' 10" tall and 165 pounds is strong, and not everyone who is shorter or smaller is weak. The policy, which on the surface seems innocent and harmless, kept most women and many Hispanics, Asians, Filipinos, and other minorities from being considered for the job, even if they were strong enough to do typical firefighter tasks.

Whether fire departments meant to discriminate or not, the impact or result of their policy (i.e., hiring people who were at least 5' 10" tall) was that other people who were also qualified weren't given an opportunity to do the job. The people who were not considered were victims of disparate impact discrimination.

Just as discrimination can be unintentional, so can sexual harassment, as in the following example:

- Sean and Manfred are standing in the hallway at work, leaning against a workstation partition. Michael, a gay coworker, is sitting at his workstation on the other side. Sean and Manfred do not know that Michael is at his desk. This is not the first time they have stood at this spot in the hallway to talk and share jokes. Several of their jokes are about women.

As on other mornings in the past, Sean ends the litany of jokes with, "Okay. One more, then I have to get back to work. Did you hear about the gay guy who . . ."

"Okay, you guys," Michael interrupts. "That's enough. I'm tired of your morning parties."

"Oh, don't be so sensitive," says Sean. "We're not talking about you."

"That doesn't make me feel any better," Michael says. "Why can't you guys just respect other people as people? Why do you always have to pick on people who are different from you?"

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**Just as  
discrimination  
can be  
unintentional,  
so can sexual  
harassment.**

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## ● Sexual Harassment as Discrimination

Whether Sean and Manfred mean to have an impact on Michael is not entirely clear. But regardless of their intentions, their behavior at the very least creates an uncomfortable work environment for him. If the behavior continues, it will very likely create an intimidating, hostile, offensive, or uncomfortable work environment. In short, they are unintentionally discriminating against Michael by perpetrating environmental sexual harassment.



### For Your Information

Sometimes people try to justify their sexually offensive remarks or behaviors by claiming that they have “freedom of speech” rights to say or do as they please. They forget that freedom of speech was never intended to give one person the right to hurt another person. Defamation, libel, and slander lawsuits protect people from being hurt by another person’s words. In addition, when we take a job, we do it voluntarily. Part of taking a job is agreeing to do the assigned work and follow the rules of the organization. One of the rules is that discrimination, harassment, and sexual harassment will not be condoned.

**Retaliation occurs when one person holds against another person her or his right to complain about discrimination.**

### Retaliation

The third common type of workplace discrimination is retaliation. *Retaliation* occurs when one person holds against another person her or his right to complain about discrimination. Retaliation can take many forms. It can be subtle, as when coworkers avoid a person who filed a complaint, or overt, such as spray painting a vengeful message on the locker door of the person who filed a complaint.

Retaliation may be directed at an alleged victim of discrimination, at a witness, at someone who is investigating a discrimination or harassment claim, or even at a friend who helps the victim file the complaint.

- Morgan is an account clerk who is known throughout the office as a friendly, cheerful person. One day, while she is in the break room getting a cup of coffee, Harvey also walks into the room for coffee. Morgan's back is to him, but when he sees her standing there, he says, "Hey sweetheart, how are you today?"

Morgan turns around and says, "Harvey, I really wish you wouldn't call me sweetheart."

"Oh, don't be so sensitive," Harvey says. "I'm just trying to be friendly."

"Harvey, I'm really serious. If you call me that again, I'm going to talk to human resources about it," Morgan says.

"Okay, sweetheart. I'll work on it," Harvey says with a smirk on his face.

Later that day, Morgan does complain to human resources about Harvey's behavior, and he is called in and asked for his side of the story. He is told not to discuss the matter with other employees. Morgan does not tell anyone about the complaint.

The next day, many of Morgan's coworkers are cold toward her. After work, she finds the word "Fink" written on the driver's-side window of her car.

Although it is not clear that Harvey is the person who wrote the word on the window, it appears that the message is intended to make a point about Morgan's complaint—to retaliate against her. The point it makes is that it would be unwise for Morgan to continue to exercise her rights under the law.

### Chapter Summary

Most people know and agree that discrimination is wrong. When we think of discrimination, we tend to think of the protected categories that have received the most attention—those based on race and color. But discrimination affects nearly everyone in one way or another. We all have an age, a gender, a color, and a race. Many of us also have a disability. When these things are used against us, we take it personally and very seriously.

**We often fail to recognize that harassment and sexual harassment are forms of discrimination.**

What we often fail to recognize is that harassment and sexual harassment are forms of discrimination. The Civil Rights Act of 1964, as amended, prohibits employment discrimination (which includes harassment and sexual harassment) on the basis of:

- ◆ Race
- ◆ Sex
- ◆ Religion
- ◆ National origin
- ◆ Color
- ◆ Pregnancy and other related conditions

We also know that harassment and sexual harassment both involve intentional and unintentional behaviors. But in reality, we make decisions about our behaviors toward each other every day. When workplace decisions and behaviors are based on (or are the result of) gender, they can cross the line into sexual harassment in the form of:

- ◆ Disparate treatment discrimination
- ◆ Disparate impact discrimination
- ◆ Retaliation

We have learned to take discrimination in the workplace very seriously. As our knowledge and understanding of discrimination grow, supervisors and managers must continue to learn more about the many forms it can take in order to protect employees against unfair and inappropriate behaviors.

### Self-Check: Chapter Two Review



Now that you have read Chapter Two, use this space to review what you have learned. If you are unsure of an answer, just refer to the text. Suggested answers appear on page 88.

1. True or False?  
The Sexual Harassment Prevention Act of 1975 prohibits sexual harassment in the workplace.
2. Discrimination, harassment, and sexual harassment can be created by the actions of:
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
  - d. \_\_\_\_\_
  - e. \_\_\_\_\_
  - f. \_\_\_\_\_
3. Disparate treatment is (circle one)  
intentional / unintentional.
4. Disparate impact is (circle one)  
intentional / unintentional.
5. Is this retaliation? Yes / No

Curtis walks up behind Chaquille and pokes her under each arm with his fingers. This is the only time Curtis has done something like this to Chaquille or any other coworker.

# Chapter *Three*

## *Actional Sexual Harassment*

### **Chapter Objectives**

- ▶ Understand how the misuse of power by a supervisor or manager can lead to a sexual harassment claim.
- ▶ Identify a variety of manager and supervisor behaviors that lead to sexual harassment claims.
- ▶ Take steps to create working relationships between supervisors and employees that are free of sexual harassment.



### **What Do You Think?**

**J**uan is a Team Leader on the 3–11 shift. Lydia is on his team. Juan’s job includes signing time cards, and making recommendations to the department manager on hiring, discipline and training issues. Their employer has a well-written sexual harassment policy. All employees, including Juan and Lydia, have attended sexual harassment training.

Juan is single. Before becoming a team leader, he worked on the day shift. Back then, he often went dancing in the evening after work. His second shift hours have cut into his social life and his dancing.

Lydia is married. Her husband works days in a warehouse. Working different shifts has put a strain on their relationship.

One night a few months ago, the main production line was down for almost two hours. Juan talked with his team about how best to use the time. They agreed that it would be good to clean up their work area. By working together, they got the job done in about an hour and 15 minutes. Juan thanked them for their efforts and told them to take a break. Lydia stayed behind. Juan could tell something was wrong. When he asked her about it, she told him that she didn’t think her marriage was going to last much longer. Juan’s immediate reaction was, “Great! When you get rid of him, we can go dancing.” Lydia was shocked. She’d never thought of

dating Juan—or anyone else, for that matter. She wasn't sure what she wanted to do right now, but she didn't want to get involved in another relationship. She just stared at Juan and walked to the rest room, where she sat and cried for 20 minutes until Ayashi came and got her.

After that day, Juan had trouble keeping his eyes off of Lydia. He went out of his way to talk to her. He frequently put his arm around her and told her how special she was. Many times, he told her how he could hardly wait for her to be “free” so they could “get it on.” Lydia asked him several times to stop. She was quiet, but firm. There were never any witnesses. Lydia knew others were aware of the problem because they had said things to her. Ayashi tried to talk her into going to human resources. Lydia refused.

Three months after the first incident, a great opportunity came up for someone from Juan's and Lydia's team to join the employee architectural committee. Lydia told Juan that she was really interested in the assignment. He told her, “Getting on that committee takes a lot of extra effort. You have to be willing to put yourself out, if you know what I mean.” Lydia told him in no uncertain terms that she would not “put out” for him. Three days later, Sarah got the committee assignment.

Is Lydia a victim of sexual harassment? Yes. Her team leader, a person who has the authority to make career decisions that affect her, has made it clear that the only way she will get ahead is to go out with him. In fact, it sounds like she will need to sleep with him in order to get special assignments. In short, sex—not performance—has become the criteria for his personnel decisions. This form of sexual harassment is called actionable sexual harassment. The word actionable indicates that the employee may file a claim because the supervisor has misused his authority by introducing a sexual factor that works against the employee into her employment relationship.

## ● Actional Sexual Harassment

It is inappropriate for a manager or supervisor to introduce sexual behavior into the workplace or to in any way link an employment decision with a sexual favor or request.

### Understanding Actionable Sexual Harassment

For many years, sexual harassment by a supervisor or manager was referred to as quid pro quo (e.g., “this for that” or “in exchange for.”) The concept of quid pro quo sexual harassment, was based on a supervisor or manager requesting, or demanding sexual favors in exchange for some employment benefit such as keeping a job the person already occupies, a future promotion, a pay increase, a satisfactory performance review or some other employment benefit or decision. Under this theory, a statement such as “I’ll bet you are good in bed” would not have been quid pro quo sexual harassment. A statement such as “I’ll bet you are good in bed. If you want that promotion bad enough you’ll show me I’m right” would have been considered quid pro quo sexual harassment.



### Voluntary vs. Unwelcome

The concept of sexual harassment is based on unwelcome behavior. We often confuse unwelcome behavior with voluntary behavior. For example, in some households it is common for a parent to ask a child to wash the dishes following a meal. When visitors are present, the child stands, smiles and says “I will be happy to wash the dishes for you and our visitors.” The child’s behavior looks completely voluntary and the request seems welcome.

However, if we could look through a hidden camera in the kitchen, we would most likely see a very different picture. The camera might show the child being less than gentle with the dishes. Under her or his breath, the child might be complaining that being asked to wash the dishes is completely unfair and inappropriate. While agreeing to wash the dishes in the dining room looked voluntary, the behavior in the kitchen makes washing the dishes look very unwelcome.

Sexual harassment works much the same way. People do things in the workplace that appear to be voluntary on the surface, but upon closer inspection are extremely unwelcome. It is not unusual for an employee to keep quiet over boorish or inappropriate sexual behavior by a supervisor in order to protect their job or avoid falling out of favor with the boss. Just because the employee goes along with the behavior does not mean that she or he welcomes it.

More recently, however, the requirement to tie the request or demand to a tangible employment benefit has been removed. Under this updated approach a supervisor is no longer protected by omitting a reference to an employment benefit. When a supervisor introduces sexual innuendos or other suggestive sexual behaviors into the workplace, he or she is making inappropriate use of his or her supervisory authority. The employee may take action against the supervisor whether or not the behavior is tied to an employment benefit. As with other forms of discrimination, actionable sexual harassment can be intentional or unintentional. It can be direct or indirect.

Although it can take many different forms, there are generally five elements that make sexual behavior by a supervisor or manager inappropriate:

1. **The employee belongs to a protected group.** All discrimination claims start with the question of whether or not the victim belonged to a group protected by the law. In the case of sexual harassment the protected group is “sex.” The protection comes from the Civil Rights Act of 1964 (and similar state laws). Since “sex” includes both men and women, either can be victims of sexual harassment.
2. **The employee was subject to unwelcome sexual harassment.** The question of whether or not a particular act or relationship was “unwelcome” can be very difficult to answer. For example, let’s assume a supervisor and an employee go to dinner at the end of a long day. The purpose of the dinner is to summarize the things that occurred during the day and to talk about upcoming business issues. During the dinner, the supervisor leans over and touches the leg of the employee. The employee does not react and does not say anything. Is the behavior welcome or unwelcome?

At first, you might assume that the hand on the leg is welcome. But if you think about it a little further, you will see it is more complicated than that. The hand belongs to the boss. How will the boss react if the employee asks for it to be removed. Will the boss say, “I’m sorry. I shouldn’t have done that.” and never do anything again. Or, will the boss remember the incident and write on the next performance review, “Pat was team player, but has recently become less

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**The question of whether or not a particular act or relationship was “unwelcome” can be difficult to answer.**

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## ● Actional Sexual Harassment

cooperative.” Pat may not say anything out of concern that the boss would make a comment or take an even more serious action that would affect Pat’s employment relationship. In other words, the hand appears welcome because nothing was said. But, it may be very unwelcome. In the end, the more important question is why would a boss, in the middle of a business dinner, ever touch an employee on the leg or thigh in the first place?

3. **The harassment complained of was based on sex.** Harassment can occur in many forms other than sexual harassment. If the behavior is not sexual, it may be inappropriate because it is based on race, religion, color, national origin or some other protected category.
4. **The behavior was connected directly or indirectly to the workplace or the job.** A supervisor has a wide range of influence over the professional life of an employee. That influence carries a significant responsibility to create an environment where the employee can function effectively without concern about sexual matters. When a supervisor makes suggestive remarks, or gropes an employee at a party, the behavior has an effect on the employee’s ability to return to work the next day.
5. **It is the employer’s responsibility to set the example and prevent inappropriate sexual behavior by managers and supervisors.** Sexual harassment is not a new issue in the workplace. It has been widely discussed since the mid 1980’s. Managers and supervisors can no longer use the excuse that they did not know that it is inappropriate for them to use sexual behavior in the workplace. It is their responsibility to set an example through what they say and do to prevent sexual harassment. It is expected that they will make personnel decisions and interact with employees in a job related manner that is free of discrimination and harassment.

If sexual harassment by a supervisor is discovered, the employer and, in many cases, the offender can be held strictly liable for the actions. In other words, the organization cannot defend itself by saying that it didn’t know it was supposed to prevent the behavior. Likewise, the supervisor cannot use the excuse that he or she didn’t know that the behavior was inappropriate.

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**Quid pro quo sexual harassment occurs when there is a link—direct or indirect—between the behavior and the job.**

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If a manager or supervisor carries out a threat against an employee for not granting sexual favors, he or she is openly misusing authority for personal reasons. Even though the employer has not authorized and did not know about his or her actions, the employer is liable for those actions because the role of supervisor has placed him or her in a unique position of representing the company. This liability makes it extremely important for employers to carefully select and train supervisors who understand the importance and value of treating all employees with respect and dignity.

**If a manager or supervisor carries out a threat against an employee for not granting sexual favors, he or she is openly misusing authority for personal reasons.**

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### Take a Moment

Making the transition from employee to supervisor requires you to reevaluate many of your past actions and behaviors. If you are a new supervisor, you should sit down and think about how you interact with others. Ask yourself if there is anything you do that an employee might interpret as a request for sexual favors. For example, is there a coworker you are close to whom you have always teased about the way she or he looks? Do you have a “friend” whom you hug every morning? Do you join in when others are sharing jokes or stories? You must be sure that your behavior in the workplace is above question. You must be sure that none of your actions can be interpreted as requesting a sexual favor from an employee.



## ● Actional Sexual Harassment

### Examples of Actional Sexual Harassment

Regardless of the form it takes, actionable sexual harassment involves the inappropriate use of supervisory power. It involves a supervisor behaving in a way that can be perceived as a threat to an employee in the workplace.

Let's look at a few examples of supervisory behavior that could lead to a claim of actionable sexual harassment:

#### Sick or Refusing to Cooperate?

- A female employee was fired for calling in sick one night. Male employees who called in sick were not fired. The employee claimed that she was fired because she refused to submit to the sexual demands of another supervisor who was a friend to her supervisor. She claimed that the other supervisor had threatened her with termination if she did not comply. The two supervisors discussed the termination either prior to or shortly after the termination.

Is this actionable sexual harassment? While a complete investigation is needed, based on the facts we have here, it appears that the employee has a legitimate claim. She is a member of a protected group (female). The advances she alleges by the other supervisor appear unwelcome. They appear to be related to the workplace (termination). It is inappropriate for supervisors to place employees in such a predicament.

#### Holiday Party Fun or Sexual Harassment?

- Discount room rates are made available at the annual holiday party so that people do not have to drink and then drive themselves home. Friends and family are invited as well as employees.

Fred Camping, is the Senior Manager in the office. He is anxious for everyone to have a good time. He appreciates the hard work everyone does, but he also expects them to show their appreciation for his open and supportive management style.

After a few drinks, Fred maneuvers himself over next to Barbara. He puts his arm around her back and allows his hand to slide inside of her arm around to the side of her

breast. He pulls her toward him. He whispers in her ear, “Barbsie, you do great work. I’ve got you in mind for taking charge of the new branch in Saranac Lake. I haven’t made up my mind yet. You could improve your chances by meeting me in Room 1049 around 11 tonight.”

Is this sexual harassment? Based on the facts you just read, it sounds like Mr. Camping better get on the phone to talk with his attorney. Barbara has a very strong argument that he has misused his authority and that she has been harassed. His suggestive behavior immediately changes her relationship with him. She can no longer interact with him on a purely professional basis without concern for his use of a sexual innuendo. Whether she gets the job or not, his behavior is a misuse of his management authority.

### **Sour Grapes or “Once You Start, You’d Better Not Stop”?**

- Ryan is a senior accountant. He has worked for LaGayle, the senior manager of finance, for five years. She is married. He is a single father. Three years ago, they entered into a consensual relationship. During the relationship, they went on frequent dates and traveled together on business trips. They also met at a local hotel on numerous occasions after work and on weekends. Throughout the three years, LaGayle promised Ryan that she would leave her husband, get a divorce, and marry him. Despite LaGayle’s promises, she did not seem to be taking any action.

During the relationship, Ryan received numerous “special” pay raises. One day, after a particularly romantic weekend with LaGayle, he arrived at work to find a brand-new state-of-the-art computer at his desk. On another occasion, LaGayle called Ryan into her office and announced that she had talked the site manager into giving him his own laser printer so he didn’t have to use the shared one that everyone else had to use.

After three years, Ryan walked into LaGayle’s office and told her that he had decided to start seeing other women. LaGayle became furious and threatened to withhold Ryan’s next pay raise. Ryan started looking for another job. He did not find one, and he was increasingly frustrated with LaGayle’s attitude. Eventually, he decided to resign and live off his retirement funds until he could find another job. LaGayle did not attend his going-away lunch.

## ● Actional Sexual Harassment

Ryan applied to receive his retirement funds as a cash payment. After several weeks of waiting for his money, he called human resources. They told Ryan that they had been instructed to refer him to LaGayle. When Ryan called LaGayle, she told him she had his check and that if he wanted it, he could meet her at their old hotel for a “nooner.”

Is this sexual harassment? The relationship started out as consensual. However, LaGayle’s actions appear to have moved it very quickly from a personal relationship to one based on their employee-employer relationship. Ryan can make a strong argument that he quit because LaGayle misused her management authority to make his life so miserable (constructive discharge)

### Who Can Create Actional Sexual Harassment?

Employers and their supervisory employees can misuse management authority and therefore create actionable sexual harassment.

An employer is generally the organization that writes the pay check. However, in today’s complex workplace, an employer can include more than just the employer that writes the check. For example, many employees work for a temporary help agency. Although the agency is the employee of record, the company they are assigned to is responsible for their work assignments and in many cases, their continued employment. This *co-employer* relationship can create liability for both employers. A similar situation can exist when one employer assigns an employee to work at the location of another employer to do training, consulting or collaborative work with the second employer.

The question of who is a supervisor can get rather complicated. A supervisor is usually someone who has the authority to hire and fire other employees. A supervisor is usually responsible for performance reviews, recommending pay raises, meting out discipline and making other day-to-day decisions about employees. Since actionable harassment involves misusing authority, the perpetrator must be someone who can make employment decisions.

### Supervisory Actions That Prevent Sexual Harassment

An employer can prevent sexual harassment by adopting a comprehensive policy, requiring attendance at periodic sexual harassment training programs, and by conducting timely and thorough investigations into complaints. Without a doubt, however, the most important step an employer can take is to require senior managers to set a positive example of respect toward everyone in the workplace through the language they use, the behaviors they exhibit and the decisions they make.

#### For Your Information

Sexual harassment incidents are not limited to the employee's office or primary work location. For example, an Inspector is often at a client location. For conferences and planning meetings, the workplace might be a hotel or resort. A restaurant can be the workplace for lunch or dinner meetings. When a supervisor or manager attends a party at an employee's house, the employee's house may become the workplace.

Managers and supervisors need to be aware that wherever they go with employees, it is their responsibility to support and uphold the sexual harassment policies of their organization.



### Keep Personal and Business Relationships Separate

Some employers have adopted policies that prohibit managers and supervisors from dating other employees. Others just prohibit supervisors from dating people who report to them. Still others are silent on the subject, and some even encourage married couples to work together.

Regardless of the employer's policy, it makes good business sense for a supervisor to keep personal issues separate from work. Many of us have worked for someone who had personal problems at home and brought them to work. It probably made working for the person difficult because you never knew if that person was "up" or "down."

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**Regardless of company policy, it makes good business sense for a supervisor to keep personal issues separate from work.**

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## ● Actional Sexual Harassment

Supervisors should not get involved in personal relationships at work. They need to be sure that all employees have access to them. They must be sure that everyone on their team sees them as being fair and equitable. If they are especially close to one person or a small part of a group, others may begin to feel that they are playing favorites. This is not to say that supervisors cannot have friends at work. But if they do have friends, they must be sure that those friendships do not make others feel uncomfortable or left out.

### **Make Objective Personnel Decisions**

The single most important legal concept to emerge with the passage of the Civil Rights Act of 1964 is probably job-relatedness. Simply put, *job-relatedness* refers to making decisions about people that are based on the job and how the job is done. It seems like a simple principle, but it is amazing how many times it is forgotten.

An effective supervisor makes every personnel decision on the basis of objective, job-related criteria. Hiring decisions are based on a careful comparison of defined job qualifications and the applicants' backgrounds. Performance reviews are written based on specific examples of work performance. Discipline is based on an objective investigation of the facts to determine whether a rule has been violated or a performance standard not met.

When a supervisor ties a personnel decision to a personal relationship or a sexual favor of any sort—whether directly or indirectly—he or she is immediately outside of the box of job-relatedness and is moving quickly into the box of quid pro quo sexual harassment.

All personnel decisions and actions must be job related. Supervisors must work to separate their own personal feelings and beliefs from their professional responsibilities.

### **Consider the Cost vs. the Benefit**

The cost of sexual harassment is often defined in terms of big-dollar court settlements. However, the real cost is usually much greater than that. In fact, the vast majority of cases never even make it to court; most are resolved internally, through an

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**The single most important legal concept to emerge with the passage of the Civil Rights Act of 1964 is probably job-relatedness.**

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administrative agency, or prior to a trial. The *real* cost is the emotional trauma suffered by the people involved. The victim suffers through hours of frustration, hurt, and anger as she or he struggles with the inappropriate suggestions or actions of the supervisor. If and when she or he files a complaint, the perpetrator experiences tremendous anguish and remorse as his or her reputation is questioned or permanently tarnished. Coworkers suffer through the many embarrassing moments that occur when one person tries to gain power over another. The productivity that is lost to hallway gossip alone can be immeasurable. The organization suffers from the time, effort, and energy it takes to investigate and resolve claims.

### Avoid Compromising Situations

“Think ahead” would be a great title for a supervisory handbook on sexual harassment. The more a supervisor anticipates problems, the less likely they are to have them. Before doing anything that might be interpreted as inappropriate, a supervisor should think about whether or not it will be interpreted as having a link to the job security of employees. Whenever possible, a supervisor should meet with groups of people in open or public settings, leave office and conference room doors open and greet people with a handshake, not a hug.

If a supervisor travels with an employee, the supervisor should schedule meetings in public places like a hotel lobby or restaurant. When on a plane or traveling by car, the supervisor should keep the conversation focused on work or other non-personal topics.

### Set the Example

More than one supervisor has been saved from a frivolous sexual harassment claim by other employees coming forward to say that they had never observed inappropriate behavior by that supervisor. Conversely, many supervisors have found themselves with serious legal problems because after one person came forward to complain, others lined up to tell similar stories. It is important for supervisors to understand that everything they say and do is open to scrutiny. It is their job to set the example. The more positive their image, the less likely it is that they will be accused of inappropriate behavior.

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**The more you anticipate sexual harassment, the less likely you are to have it.**

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**Quid pro quo sexual harassment is about power.**

### Power Is the Issue

When a supervisor puts an employee in the position of having to choose between loss of job security and sex, the supervisor is misusing the power that comes with the responsibility of leadership. When a manager ends a relationship with an employee and then withholds pay raises, the manager is misusing power. The circumstances, the situations, and the examples may change, but the one thing that remains constant is the misuse of power.

A supervisor should:

- ◆ Never be in a position in which it might appear that a decision or action is in any way tied to sex, sexual behavior, or sexual relations with one or more employees.
- ◆ Always use objective information and make bias-free decisions.

### Chapter Summary

Actional sexual harassment is often the most visible form of sexual harassment. Political leaders have fallen because of it. Movies and television shows have been made of it. Newspapers and magazines all across the country report on it every day. It is certainly no secret that it is against the law, yet it continues to occur.

The fact that people are sexually attracted to each other will not go away just because somebody passes a law. People will still be attracted to one another, fall in love, and enter into and fall out of relationships. The law cannot prevent that. The law can, however, insist that people behave professionally at work. It can demand that employment decisions be made on the basis of objective, job-related criteria. It can insist that managers, supervisors, and team leaders use their power to make decisions fairly and equitably.

The managers and supervisors who avoid sexual harassment claims, treat each and every person in the workplace with respect. Their every word, action and behavior sends signals that:

- ◆ Assure open access for business related support, information and guidance.
- ◆ Personal and professional issues are separate and distinct.
- ◆ Personnel decisions are made on the basis of objective job-related criteria.
- ◆ Meetings are to be held in an appropriate business environment.
- ◆ Sexual remarks or behaviors of any sort are inappropriate in their presence.



### Self-Check: Chapter Three Review

Now that you have read Chapter Three, use this space to review what you have learned. If you are unsure of an answer, just refer to the text. Suggested answers appear on page 89.

1. Define *actional sexual harassment*.
2. True or False?  
Sexual harassment must be unwelcome and involuntary.
3. Is this sexual harassment?  
Yes / No (circle one)

A male employee is invited to dinner with a supervisor and a client. The client and the employee are both female. During dinner, the conversation focuses on family and children. The supervisor is single and talks about wanting to have children some day.

4. A supervisor can usually avoid potential claims of sexual harassment by (pick one):
  - a. Being friends and going out drinking with the entire work team.
  - b. Dating an employee but keeping the relationship quiet.
  - c. Keeping his or her personal and business lives separate.
  - d. Prefacing suggestive remarks with, “Now remember, this doesn’t have anything to do with your job, but . . .”

## **Notes**

# Chapter *Four*

## *Environmental Sexual Harassment*

### Chapter Objectives

- ▶ Define environmental sexual harassment.
- ▶ Identify a variety of behaviors that result in environmental sexual harassment.
- ▶ Take steps to avoid and prevent environmental sexual harassment.



### What Do You Think?

Joan knew this was going to be an awful flight even before the plane left the gate. She loved her job as a flight attendant, but on some flights, it was difficult to remember why. This flight was one of them. It started with the vegetarian passenger who was offended by the smell of a hamburger brought onboard by a seven-year-old. It turned even stranger when a passenger tried to carry on two suitcases and a king-size pillowcase filled with clothes. When Joan told the passenger that she could have only two regulation-size carry-ons, the passenger argued that the pillowcase didn't count!

Then Mr. Loud and Mr. Obnoxious showed up. As frequent fliers, they sat in the first-class cabin where she was working. When Mr. Loud stepped onto the plane, he exhorted, "Charlie, we got a real babe for a stew tonight." Mr. Obnoxious never missed a beat. He responded, "Hey, sweetheart, are you going to take goooooood care of us tonight?" His eyes roamed up and down her body. "What can you do?" thought Joan. "They're frequent fliers, the best customers we have. At least it's only a three-hour flight."

Is Joan a victim of sexual harassment? Yes. The airplane is Joan's workplace. The attitudes, comments, and behaviors of the people in her workplace (coworkers, customers, vendors, and suppliers) contribute to her environment. Although it is clear that Joan is a victim of environmental sexual harassment, it is not yet clear if she is a victim of *unlawful* environmental sexual harassment.

### What Is Unlawful Environmental Sexual Harassment?

*Unlawful environmental sexual harassment* is defined by the EEOC guidelines as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when . . . 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.<sup>2</sup>

Interpreted literally, the EEOC guidelines could be read to say that no sexual conduct or behavior is allowed in the workplace. However, notice that the criteria for determining whether the behavior is unlawful is that it creates either:

- ◆ An unreasonable interference with the individual's work performance.

OR

- ◆ An intimidating, hostile, or offensive working environment.

<sup>2</sup>EEOC Guidelines on Sexual Harassment 29 CFR §1604.11

## ● Environmental Sexual Harassment

**Environmental sexual harassment can be created by a single incident or by a series of incidents.**

In a perfect world, we would create a workplace in which there is no foul language. There would never be a slip of the tongue or an inappropriate comment about how another person looks. People would not talk about each other or start rumors. The EEOC guidelines seem to recognize that this will probably never happen. They set a fairly high standard by using words such as *unreasonable*, *intimidating*, *hostile*, and *offensive*. There is a fair amount of room between innocent mistakes and the standard set by the guidelines.

Environmental sexual harassment can be created by a single incident or by a series of incidents. A coworker sitting at his desk with his zipper undone and no underwear creates an offensive working environment. A coworker who calls someone “sweetheart” once would not; a coworker who calls someone “sweetheart” on a regular basis would.



### The XXX Truck

At one company, an independent trucker backed his tractor-trailer up to the loading dock. When the forklift operator drove the first pallet into the truck, she was shocked to see that it was wallpapered with obscene pictures. She backed out of the trailer and went to her team leader. He told the driver to remove the pictures. The driver told him to “get a man to do a man’s job.” The team leader responded with, “She’s a member of our team. Either she loads it, or no one loads it.” The driver drove his truck to the end of the parking lot and removed the pictures.

A number of factors come into play in determining whether environmental sexual harassment has occurred. Some of the most important are:

- ◆ Whether unwelcome physical conduct such as touching, groping, grabbing, or hugging took place.
- ◆ Whether offensive visual materials such as pictures, posters, screen savers, or wall drawings were displayed in the workplace.
- ◆ Whether there were inappropriate verbal comments—such as references to another person’s body, shape, or appearance—or jokes, stories, or suggestive or lewd comments.
- ◆ How often the behavior took place.
- ◆ Whether the person who exhibited the behavior was a supervisor or coworker.
- ◆ How blatant or offensive the behavior was.

As you can already see, the question of whether environmental sexual harassment has occurred is a complex one. Each case is unique and involves at least two sides to the story. There is only one way to prevent environmental sexual harassment, and that is to set high standards of interpersonal conduct between coworkers and the people they contact during the workday.

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**The question of whether environmental sexual harassment has occurred is a complex one.**

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The *reasonable person standard* considers how a reasonable man or woman would view the victim's experience.

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### The Reasonable Person Standard

One of the most critical sexual harassment issues is deciding whether a particular behavior or series of behaviors was intimidating, hostile, or offensive. Normally, when a person files a formal complaint, that person believes that he or she has been subjected to intimidating, hostile, or offensive behavior. But some people are so sensitive that they consider nearly everything said to them offensive, especially if they dislike the speaker.

Other people are the exact opposite. They are not offended by even the most vulgar comments or behaviors. In fact, when someone else says or does something that most people would find offensive, they contribute examples of their own that are even more vulgar than the first comment.

To deal with these different standards for offensiveness, some courts have developed the *reasonable person standard*. They decide cases on the basis of how a “reasonable” woman or man (depending on the gender of the victim) would view the victim's experience. The reasonable person standard seeks to eliminate the extremes that may exist between individuals who are too sensitive or too insensitive to the problems of sexual harassment.

### Types of Environmental Sexual Harassment

Environmental sexual harassment can occur in many different ways. The three most common are:

- ◆ Verbal
- ◆ Physical
- ◆ Visual

### Environmental Sexual Harassment Based on Verbal Harassment

The word *verbal* means words. Words can appear in two forms—spoken and written. Words can be complimentary, they can be neutral, or they can hurt. Words can mean one thing to one person and a completely different thing to another. Some people

are too word-sensitive. Others are almost totally insensitive to the words they hear and use.

Verbal harassment can also include a variety of sounds. Whistling, grunting, groaning, moaning, and other suggestive noises can create environmental sexual harassment. Let's examine some of the ways that words can create environmental sexual harassment.

### Words as Labels

Words can create environmental sexual harassment when they are used as labels. Throughout our lives, we are labeled in many different ways—with our given name by our parents at birth and then later perhaps with a nickname. We are referred to as young or old, short or tall, male or female, and a lot of other things. Most of these labels are simply part of everyday life—we accept them for what they are and don't spend our time worrying about them.

We are also given labels at work. You may be labeled as an associate, an employee, or a team member. You may be labeled as a computer programmer, a pipeline maintenance engineer, a trainee, or a trainer. Again, we usually accept these labels as part of having a job and don't spend a lot of time thinking about them.

In addition to the commonly accepted labels we have discussed so far, some people are labeled with words that can take on a whole different meaning in the workplace. For example, you might also be labeled as “honey,” “cutie,” “hunk,” “old timer,” or “available.” Instead of recognizing your contributions to the organization, these words label you on very personal criteria.

Personal labels in the workplace create a variety of problems. First and foremost, they stereotype people. If a female employee is constantly referred to as “honey,” her image can quickly change from that of a business professional to something approaching a sexual plaything. Most women would say that if they are to be called “honey” at all, it should only be by the closest of family members.

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**Personal labels in the workplace stereotype people and create confusion for coworkers.**

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## ● Environmental Sexual Harassment

Another problem with labels is that they create confusion for coworkers. If Nicole hears Alison call Aziz a “hunk,” Nicole may assume that Aziz likes the label and start to use it herself. Soon others pick up on it. Pretty soon, Aziz is uncomfortable because so many people who are not close to him are calling him “hunk.”



### For Your Information

Is calling a person “honey” or “hunk” unlawful environmental sexual harassment? Probably not by itself. But remember, people rarely file complaints about a single incident. Rather, things accumulate. For example, Joan begins to notice that she is being called “honey.” Next she is on the phone with a customer when Juan and Eric tell a joke on the other side of her partition. Finally, Marquis whistles at her as she walks through the warehouse. Eventually, she goes to human resources to file a complaint—not just because of “honey,” but because of the accumulation of incidents.

Labels can also mean different things to different people, depending on where they grew up, when they grew up, and their cultural experiences and beliefs. For example, in some parts of the United States, the label “darling” has traditionally been very much a part of the culture. In other parts of the country, it would be considered offensive. For most African American men, the label “boy” would be seriously offensive because of its historical use as a label for slaves. A Filipino American man, however, might consider the term “boy” a normal and appropriate nickname.

A label that generates a great deal of discussion in most work groups is “girls,” as in, “Get one of the girls to take care of this.” Some women are not bothered by the label “girls.” Others are quite upset by it. Some older women might consider the term a compliment. Some professional women consider it a label that stereotypes them as second-class, subservient members of the work team.

### Avoiding Inappropriate Labels

Regardless of the word, labels can and do contribute to an overall workplace environment that is hostile, intimidating, or offensive. The best way to avoid inappropriate labels in the workplace is to use the other person's name or job title. If you need to refer to a group of people, refer to them as "the staff" or "the finance group" or some other neutral label. If you need to refer to people based on their gender, use terms such as "men and women" and "his or hers" and include references to both genders whenever possible.

As a supervisor, you should set a positive example for others by calling employees, customers, vendors, and others by their names, job titles, or other positive terms. Insist that others follow your example. If you hear someone in the workplace use a label that may be offensive to the person being labeled or to others, ask them to be more considerate of their fellow workers.

If others use words to label you, you should correct them; if they continue, express your concern in stronger terms. If your requests are not honored, report the other person's behavior to your manager and/or human resources department. In very serious cases, it will be necessary for you to report the inappropriate behavior the very first time you experience it.

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**Set a positive example for others by calling employees, customers, vendors, and others by their names, job titles, or other positive terms.**

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**A derogatory comment is one that puts a person or a group down in a negative way.**

### Words as Derogatory Comments

A *derogatory comment* is one that puts a person or a group down in a negative way. The workplace abounds in such terms. For example, when someone makes a mistake, a coworker might say, “You dummy!” Depending on how it was said, who said it, and most importantly how it was received, the comment “You dummy!” can be taken as funny or as seriously offensive. On the other hand, if someone were to say, “You dumb bitch!” most people (men and women) would view the comment as inappropriate for the workplace under any conditions.

Derogatory comments are often a sign of disrespect. Putting someone down with a negative statement can be hurtful and have a long-term negative effect on the individual and his or her relationships with others. When people inadvertently make derogatory comments without thinking, an immediate apology should be given. But when a derogatory put-down is intentional, disciplinary action should be taken immediately to reinforce the policy that such comments are unacceptable.

Men and women sometimes view derogatory comments very differently. For example:

- Danielle is meeting her friend Fauntelle for lunch. They have not seen each other for five years. Danielle notices that Fauntelle has gained a lot of weight since they last saw each other. What do you think Danielle would say?
  - A. “My, you’ve really put on weight!”
  - B. “Oh, I just love your dress!”
  - C. “I guess the old days of trying to look like Barbie are behind us!”

Danielle probably would pick “B.” Even though she’s surprised by the changes in Fauntelle, she would find a way to compliment her friend.

Let’s look at a similar example between two men.

- Ray is meeting his friend Brent for lunch. They have not seen each other for five years. Brent has lost most of his hair since they last saw each other. What do you think Ray would say?
  - A. “Whoa, chrome dome. Let me get out my sunglasses to beat back the glare!”
  - B. “Hey, what a great shirt!”
  - C. “I guess the good old days of trying to look like Elvis are long gone!”

Ray probably would pick “A.” He’d consider the teasing as a sign of friendly camaraderie.

Danielle and Ray see derogatory comments in very different ways. Fauntelle and Brent see them differently too. When derogatory comments are made between men and women or between women and men, they often are sent and received with very different intentions and interpretations.

### Words as Jokes or Stories

Jokes and stories can often be offensive. For example, not long ago, a whole series of “blonde” jokes circulated in the workplace. Most of these jokes were aimed at blonde women, and all of them were derogatory. Other jokes based on gender, sexual prowess, or sexual orientation can be equally offensive in the workplace. Offensive jokes and stories can create an intimidating, hostile, or offensive work environment.

**Offensive jokes and stories can create an intimidating, hostile, or offensive work environment.**



### For Your Information

Jokes and stories are among the most misleading of environmental sexual harassment behaviors. People often laugh at jokes instinctively. Or they may laugh because the people around them are laughing or because they want to fit in with the group.

The person who tells the joke often interprets the laughter as a sign of support. In fact, it may encourage them to tell similar jokes and stories in the future. Many times, they do not know that their assumptions are wrong until someone files a complaint about them.

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**A *slur* can occur when a word is pronounced indistinctly or is used to disparage someone or put someone down.**

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### Words as Slurs

Words also can be used as slurs. A *slur* can occur when a word is pronounced indistinctly or is used to disparage someone or put someone down. Here are a few workplace examples:

- ◆ A man talking like a woman to mimic or pantomime her.
- ◆ A man or woman lisping to imply, usually in a negative way, that a man is gay.
- ◆ A man saying under his breath as a woman walks by, “Man, look at those (you fill in the blank). Don’t they just make you want to take the afternoon off and slip between the sheets?”
- ◆ A woman saying to a friend as a man walks by, “Honey, every time he walks that pretty little butt by my desk, it ruins my productivity for 20 minutes.”

Whistles, catcalls, grunts, and groans directed at employees all fall into the category of inappropriate slurs.

### How to Avoid Verbal Sexual Harassment

As you consider our discussion of verbal communication, you will likely conclude that the real issue is respect. Labeling people based on their gender (or their membership in another protected category), no matter how well-intended, is usually disrespectful. Putting someone down by using a slur or a derogatory term shows little or no respect for the other person.

Most people work hard to qualify themselves for a job. They work hard to meet or exceed the expectations of their employer, customers, and coworkers. When your work is met by negative comments, stereotypical labels, or disparaging remarks, you are naturally frustrated and hurt. If it happens repeatedly, you will probably start looking for someone to talk to about it.

So, to avoid complaints about verbal sexual harassment:

- ◆ Call people by name, job title, or other positive term.
- ◆ Avoid telling jokes or stories that are based on gender, sexual prowess, or sexual orientation. If another person tells such a joke, refuse to laugh or smile. Politely tell the other person that you do not approve of such jokes or stories.
- ◆ Use a normal tone of voice unless there is a legitimate business reason for doing otherwise. When other people yell or use derogatory terms toward another person, express your disapproval and ask them to treat you and others with respect.
- ◆ Make it clear by your own words, actions, and behavior as a supervisor that you expect everyone in your department to treat others with respect.

**Labeling people based on their gender, no matter how well-intended, is usually disrespectful.**

### Environmental Sexual Harassment Based on Physical Harassment

For many, physical harassment is among the worst behaviors that can create an intimidating, hostile, or offensive working environment. Most people do not arrive at work expecting their body to be touched in an inappropriate or offensive manner. When it is, they feel hurt or violated. In some instances, one inappropriate touch is enough to create an intimidating, hostile, or offensive working environment. In others, it may take a series of incidents to cross the threshold into environmental sexual harassment.

#### The Hug

One form of touching that can create environmental sexual harassment (and spark a good debate) is hugging. Some people just love to hug. Whenever they see you, they want to hug you. When they are introduced to someone new, they naturally give the person a hug to show that they accept them into their circle of friends. Most of us can shrug off one unwelcome hug, but if a coworker or an important customer expects a hug every morning or upon each meeting, it quickly can become unwelcome.

#### The Exploratory Touch

- Ron is with his coworker Leticia at a lunch that was planned to give them time to coordinate their approach to solving a complicated software programming problem. Both are single. They have worked together for three years and have shared many important professional moments together. The booth where they are seated has a long pink tablecloth hanging over the table that covers their legs. Ron is enamored with Leticia's appearance, voice, and intelligence. He moves his leg toward hers under the tablecloth. When Leticia pulls her leg away, he moves his leg toward hers again. She says, "Ron, what are you doing? Don't ruin a good thing here, okay?"

Ron is not Leticia's supervisor, so he has no control over her job. But is he potentially creating an intimidating, hostile, or offensive working environment for her by trying to touch her leg under the table?

Let's look a little closer. The two are at lunch on their own time, and you might think that workplace rules would not apply. But are they really on their own time? The lunch was planned for work-related discussions, so in a very real sense, they are working. Letticia has told Ron that she does not appreciate his attempts to touch her leg. If he stops right there and their relationship continues as it has in the past, her environment has not become intimidating, hostile, or offensive. However, if he continues to try to touch her, or if he begins to make her job difficult or refuses to cooperate with her, he may well be crossing the threshold into environmental sexual harassment.

### “Let Me Take a Look at That”

Another type of seemingly innocent touch that can create workplace discomfort takes place when one person comes to the aid of another. For example:

- Cheryl is sitting at her computer working. When something goes wrong on the computer, she blurts out, “Why did it do that?” Roberto walks up behind her to see if he can help with the problem. He places his right hand on her shoulder and leans over so that his left hand is on the table near her monitor. As he leans forward to see the computer screen, his face comes close to Cheryl's, and his fingers press against the front of her shoulder.

Whether he means to or not, Roberto is touching Cheryl in a way that opens him up to a charge of environmental sexual harassment based on touching. In the first place, he does not really need to touch her at all. He could pull up a chair and ask Cheryl to move over so they could both see the screen. Second, Roberto may not appreciate just how unwelcome his hand is on Cheryl's shoulder. Although he may see it as sign of friendship, she may see it as nothing more than a “cheap feel.” She also may see it as a first step to bolder advances in the future.

### The Close Quarters Brush

- Mickey and Neil are together in the coffee room—a small alcove off the conference room barely wide enough for one person. Neil is already in the room pouring a cup of coffee when Mickey shows up. She wants to get into the refrigerator but must pass between Neil and the wall to get there. She walks toward him and says, “Hey, handsome, let me squeeze by you here.” Neil pushes forward but is unable to provide enough clearance for Mickey to get by without brushing her body against his. As she moves past him, she says, “Ooh, I’ll bet you thought that was exciting.” Neil is embarrassed but says nothing; he just picks up his coffee cup and leaves the room. Mickey wonders whether she has hurt his feelings.

Open file cabinet drawers, narrow passages, small work cubicles, and a host of other workplace space constraints often cause us to come close to each other at work. But with a little bit of thought and courtesy, we can usually find a way to avoid unnecessarily touching another person. For instance, Mickey could have waited a few moments while Neil finished pouring his coffee. All she needed to say was, “Hi, Neil. How are you today? I need to get into the refrigerator when you’re done.”

### Horseplay

- Barry was in the shower after a long day of loading chemicals into trucks. He was the newest crew member. He tried hard, but sometimes he reached for the wrong valve or read a number wrong.

Barry’s coworker Maria always helped and encouraged him, but Mark and Tiemo were another story. They loved to pick on even the smallest hesitation. The more they picked on Barry, the harder it was for him to learn and do his job.

Barry preferred showering at home, but the company required all employees to shower before they replaced their uniforms with their own clothes. He was almost done when Tiemo and Mark came around the corner. Barry hoped they would leave him alone, but he knew they wouldn’t. They approached with big smiles and their hands behind their backs. Before Barry knew it, Tiemo had him in a headlock. Mark’s hands were reaching for his buttocks.

“Hey rookie, are you ready for your initiation?” asked Mark.

Some might say that Barry is just going through what a lot of guys have gone through. They might say it is all in fun and part of being one of the guys. Barry's attorney would probably advise Mark and Tiemo to get used to sitting in depositions and court hearings. What used to be just "boys being boys" is very likely environmental sexual harassment today. The fact that all three participants are of the same gender does not change the fact that the behavior was:

- ◆ Unwanted.
- ◆ Based on Barry's gender.
- ◆ Intimidating, hostile, or offensive to a reasonable person.

### For Your Information

In one case, a male employee was constantly approached by his female supervisor. He was happily married, had three children, and was not interested in an affair. She was ten years younger, single, and obviously interested in him.

At the end of a sexual harassment workshop, he asked me if we could talk. He told me that his supervisor always sat next to him in meetings and used every possible excuse to touch his leg. She brought him presents for every special holiday or event, including Flag Day. She even brushed against him in the hallway.

When I asked if he had reported the problem to his human resources department, he began to cry. He told me that they would never believe him and that it would make him a laughingstock among the men in the company.

His case is a needed reminder that men can also be and are victims of sexual harassment.



## ● Environmental Sexual Harassment

### How to Avoid Physical Environmental Sexual Harassment

The best way to avoid complaints about physical environmental harassment is to:

- ◆ Touch others only when you are invited to do so. When you do touch others, do it in a professional manner that cannot be misinterpreted, such as with a handshake.
- ◆ Stay away from tight or cramped quarters that may cause you to have to rub up against another person.
- ◆ Ask permission before touching another person in any way.
- ◆ At work, set an example for others. For instance, indicate to a person who approaches you with a hug that you prefer a handshake by extending your hand.

**Ask permission before touching another person in any way.**

### Environmental Sexual Harassment Based on Visual Harassment

If anything symbolizes sexual harassment in the workplace, it is the pinup poster or calendar. The pinup is not new; it has been around for a long time. It was popularized during World War II when soldiers taped pictures of movie stars, girlfriends, or their wives in their lockers. After the war, these same pictures found their way into the workplace. Some companies followed suit by providing free calendars with pictures of nude, seminude, or scantily clad women to advertise their products.

Today, we view the pinup as crude and inappropriate when it is displayed in the workplace. In fact, most companies have banned them. Advertisers from tool manufacturers to beer companies have had to rethink their use of these pictures to attract customers.

Pictures, posters, and calendars that depict sexual themes can create an intimidating, hostile, or offensive working environment. Let's look at a few examples to understand how a simple picture can create a legal nightmare for your company.

### “She’s My Wife, For Goodness Sakes”

- A manager received a very special present from his wife on Valentine’s Day—a picture of her taken at a “boudoir studio.” It showed his wife lying on a bearskin rug wearing a see-through negligee. He brought the picture to work and placed it behind his desk. When his assistant complained about it, he told her that he was entitled to have a picture of his wife in his office.

Was the manager right? No. The office is not actually his office—it is a place that has been assigned to him to do his work and to interact with other employees. It is a place where he and his visitors (male and female) should be comfortable talking and making important decisions. The picture clearly has a sexual connotation. His assistant has complained about it. The best thing for the manager to do is to take the picture home and enjoy it there.

**A simple picture can create a legal nightmare for your company.**

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### “It’s Just a Screen Saver”

- Some employees at a field office bought a screen saver for the control room computer. It depicts attractive young women in thong bikinis. Several female employees have complained about the screen saver. The men counter that the screen saver was programmed to come on after 45 minutes or computer inactivity—something that rarely happens.

Were the men right? No. The control room computer is a piece of workplace equipment. It is there for the use of the entire staff (male and female). The fact that the screen saver comes on after 45 minutes may minimize the harm, but it does not eliminate it. Again, the employer is responsible for creating a harassment-free workplace. The screen saver should be removed.

### The Bathroom Library

- A senior manager decided to get into step with the times. His remote office location and male dominated work team had allowed him to ignore the changing workplace for many years. After a visit to the regional office and a workshop on harassment, he decided it was time to take the men’s magazines off of his coffee table. He just couldn’t completely part with them though. He picked up a magazine holder at a local office supply store, brought in his own drill and screwdriver and mounted it to the back of the door in his private bathroom.

## ● Environmental Sexual Harassment

Is this sexual harassment? At first glance, you might conclude that it is not visual harassment. You might say that the manager is the only person to use the restroom. However, keep in mind that the goal is to prevent discrimination and harassment. It won't take long for word to get out that the magazines are behind the door. Maybe a female custodian will see them at night. Maybe a male employee will use the restroom and be offended by them. Word will likely spread quickly that the manager does not support the sexual harassment policy.

Here's some good advice for the manager. Take the magazine rack down and take the magazines home. They send a message that management does not take its own policies seriously.

Other forms of sexual harassment based on visual materials include drawings on bathroom walls, posters of scantily clad models (female or male) and paintings that depict sensual or sexual scenes. E-mails that include sexual or suggestive language or jokes and visits to adult Internet sites may also be considered to create visual, environmental harassment.

### **How to Avoid Visual Environmental Sexual Harassment**

Of all the forms of sexual harassment, visual sexual harassment is probably the easiest to prevent. It is fairly easy to publish a policy that prohibits the display of sexual materials in the workplace. It is also easy for supervisors to walk through employee work areas periodically to identify materials that could be considered objectionable and make sure they are removed. If they reappear, disciplinary action should be taken against the people who display them. Here are other steps you can take to prevent visual sexual harassment:

- ◆ Communicate to employees that a high standard of appearance is in place to project an image of professionalism for all who work and visit.

- ◆ Explain to vendors and suppliers that suggestive pictures and calendars are unacceptable and will be returned.
- ◆ Ask managers and supervisors to apply a higher standard to the pictures and items in their offices and to set a positive example for others.

### Chapter Summary

Environmental sexual harassment—whether verbal, physical or visual—must be addressed and stopped as quickly as possible. Supervisors have the power to prevent environmental harassment by:

- ◆ Interrupting a person who is beginning to tell an inappropriate joke, and explain that it would be better to save the joke for another time outside of work or to refrain from telling it at all.
- ◆ Counseling employees who make minor transgressions to help them avoid more serious mistakes.
- ◆ Taking serious disciplinary action against individuals who commit major violations.
- ◆ Personally removing inappropriate visual materials.

Supervisors can also help staff to stop environmental sexual harassment by asking them to talk with each other about what they consider to be appropriate and inappropriate workplace behavior. They can encourage employees to speak up when someone does something offensive and to ask the person not to repeat the behavior.

Most importantly, supervisors can send a strong message that they want to hear about sexual harassment problems when they occur. When someone approaches a supervisor with a concern, they should listen to the concerned employee carefully and get help from human resources or the legal department and resolve the issues as quickly as possible.



### Self-Check: Chapter Four Review

Now that you have read Chapter Four, use this space to review what you have learned. If you are unsure of an answer, just refer to the text. Suggested answers appear on page 89.

1. Define environmental sexual harassment.

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2. Environmental sexual harassment can be created by (check those that apply):

- Coworkers
- Vendors
- Suppliers
- Customers
- Managers
- Repair people

3. True or False?  
Environmental sexual harassment is a problem only because some people are just too sensitive.
4. True or False?  
Advertising materials are exempt from sexual harassment requirements because they help companies generate business.

## Notes

# Chapter *Five*

## *Preventing Sexual Harassment*

### Chapter Objectives

- ▶ Assist your organization in implementing steps to help employees prevent sexual harassment early in their work experience with you.
- ▶ Take steps to reinforce the importance of an antiharassment policy, and support it in conversations with employees and other managers.
- ▶ Respond to comments from others who question the value or seriousness of your organization's sexual harassment policy.



### What Do You Think?

**F**rank was driving home from work. His wife, Wilhelmina, had started a new job that morning. She had quit her last job because her boss would not stop making suggestive remarks to her. She had been out of work for three months. It had put a dent in their family finances, but Frank fully supported her decision. He was glad that she was back at work because he knew that it was important to her. He wondered how her first day on the new job had gone.

Wilhelmina's car was already in the driveway when Frank drove up to the house. The only other time she had ever gotten home before him was the day she quit her old job. He didn't know if it was a good sign or a bad sign for her to be home first tonight. He got out of the car hoping for the best. Wilhelmina came out to meet him in the driveway. They hugged each other for an unusually long time.

“Don’t keep me waiting,” he said. “Tell me how your first day went! Did you make the right decision? Is it going to be a good situation for you?”

Wilhelmina smiled at him. “You won’t believe it,” she said. “First off, my boss met me at the door this morning. He spent the first two hours talking to me about my job. He asked me lots of questions and took time to listen to what I had to say. He introduced me to everybody. At 10 o’clock, he took me to the break room. All my new coworkers were there. They were wearing name tags. They actually threw a small party for me. Even the senior manager was there. She stood up without notes and told everyone about my job history and what I’m going to be doing in my new job. I felt like I had been her friend for years.”

“Wow! That sounds great,” said Frank.

“You haven’t heard the best part yet,” Wilhelmina said. “After the party, I was introduced to Nicole, one of my coworkers. She’s been assigned to help me get used to my new surroundings. She took me to lunch. She told me that she has worked there for five years. She plans to stay as long as she can. She told me she has never worked in a place where there is so much respect for people. She said they have a zero tolerance policy for discrimination, harassment and sexual harassment. She said they go out of their way to help all job applicants and employees to participate in the workplace on an equal footing. If half of what she said is true, I have found the perfect place to work.

“That is so great,” said Frank. “I’m really happy for you, and for us. I know it’s going to work out for you. I think you did the right thing quitting your old job and taking your time to find this one. Congratulations.”

## ● Preventing Sexual Harassment

**Send a strong message to every employee that sexual harassment is unacceptable.**

### **Sending a Strong Management Message**

The most important step an organization can take to prevent unlawful sexual harassment is to send a strong message to every employee that such behavior is unacceptable. The message must be:

- ◆ Sent early in each employee's career.
- ◆ Delivered on a regular, ongoing basis in many different ways throughout each employee's career.

Let's look at each element of this preventive approach.

### **Conducting the New-Employee Orientation**

A new employee needs to learn many things during the first few weeks and months on the job. One of them is how the organization and his or her supervisor expect people to deal with each other at work. In many organizations, new employees are required to watch a videotape or take a computer-based learning program on sexual harassment during their first day or week on the job. Within the first six months, the new employee is required to participate in a classroom training session on sexual harassment. In addition, during the first week, the supervisor sits down with the employee and talks about how the employee should expect to be treated and how the employee should treat others. The supervisor takes time to explain company policies and her or his personal expectations. The next page shows a checklist for a supervisor to follow for this discussion.

## Discussion Checklist: Employee Respect

**To the supervisor:** This checklist is a handy guide to use when you talk to a new employee about our standards for employee respect in the workplace. Use it as an outline to help each new employee understand how he or she should expect to be treated here and how they should treat others.

**To the new employee:** As part of your orientation to our organization, it is important for you to know how we expect others to treat you as you do your job. It is also important for you to know how we expect you to treat others. This checklist is a guide that you and your supervisor can use to talk about respecting others in the workplace. We encourage your questions about these issues, now and at any time during your career with us.

<b>Discrimination</b>	Discrimination based on race, color, national origin, sex, age, religion, disability, sexual orientation, political affiliation, protected genetic information, limited English proficiency, marital status, and status as a parent, or any other protected category is prohibited. Discrimination includes...
<b>Harassment</b>	Harassment based on race, color, national origin, sex, age, religion, disability, sexual orientation, political affiliation, protected genetic information, limited English proficiency, marital status, and status as a parent, or any other protected category is prohibited. Harassment may be...
<b>Sexual Harassment</b>	Sexual harassment of any type is prohibited. This is true whether it involves a supervisor or manager who directly or indirectly requests or demands sexual favors in exchange for job security, or whether it involves coworkers, visitors, customers, or others who tell sexual jokes or stories, display sexually suggestive materials, make suggestive remarks, or engage in other behavior of a sexual nature.
<b>Retaliation</b>	Retaliation is prohibited. Retaliation occurs whenever a person or a group “gets back at” another person or holds it against that person when he or she exercises the right to file a complaint about discrimination, harassment, or sexual harassment.
<b>Reporting Concerns or Problems</b>	We encourage employees to report their concerns or problems about discrimination, harassment, or sexual harassment. Problems may be reported to your manager, your agency’s ADR office, or an EEO Counselor. Your agency’s civil rights office can provide you with information on how to contact ADR and EEO Counselors. Remember, a complaint alleging discrimination must be filed within 45 days of the last occurrence unless there is a sufficient reason. If you wish to file a discrimination complaint, be sure to do so within the timeframe.

## ● Preventing Sexual Harassment

**Organizations that do the best job of preventing sexual harassment complaints work at it all the time.**

### Ensuring Ongoing Communication

Organizations that do the best job of preventing sexual harassment complaints are the ones that work at it all the time. They find ways to communicate their stand against inappropriate behavior in the workplace on a regular basis. Some of the techniques are:

#### Draft Strong Policies

Policies tell members of the organization what they are expected to do. They establish parameters for behavior. They don't solve problems. They do set the rules.

Organizations that prevent sexual harassment have well-written policies that are easy to understand. Often, they are written in a handbook and then summarized in a somewhat smaller pamphlet or perhaps even in a brochure. The policy is reissued at least once a year to every employee. Supervisors talk about the policy periodically at staff meetings. In short, the policy is an ongoing, active part of the way the organization does business.

An effective sexual harassment policy clearly defines inappropriate behaviors. It encourages employees to come forward with their concerns at an early stage. It provides both a female and a male contact for them to talk to. It makes clear that employees can—but do not have to—go to their supervisor with their concerns. It assures them that there will be no retaliation. Most importantly, it promises a timely, objective investigation.

#### Walk the Talk

These organizations also go out of their way to let employees and others know that they will not tolerate sexual harassment. Their managers and supervisors always go out of their way to call employees by their names; if they do not know a person's name, they ask for it. They also refer to groups of people with gender-neutral terms such as job titles or department names. When they plan employee celebrations, company dinners, and other events, they hold them only in professional environments in which both men and women can participate and feel comfortable.

### Give Feedback on Performance

We tend to do what we are rewarded for doing. Harassment-free organizations reward people who support their values. They celebrate them in many ways. They reinforce specific positive behaviors with performance reviews. They provide employees with opportunities to speak on behalf of the organization. They raise the visibility of such employees throughout the organization.

**Harassment-free organizations reward people who support their values.**

Those same organizations are seriously blunt in dealing with people who do not support their values of fairness and respect. When someone crosses the line and commits an act of sexual harassment, these organizations immediately investigate. The investigation is objective, accurate, and complete. If the investigation shows that the policy has been violated, they take serious corrective action up to and including termination to reinforce the importance of their policies.

### Take a Moment

Training is an important part of an effective program to prevent sexual harassment. It is important to support employees who attend sexual harassment training programs. You should encourage others to clear their calendars so they have time to attend. Meet with them after they attend the program and ask them what they learned. Let everyone know that you support policies against discrimination and harassment.



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### Practice Timely Problem Solving

- “Everyone knew he had a foul mouth, but nobody did anything about it until Keisha complained.”

Organizations that want to prevent sexual harassment do not wait to be told about a problem. They stop behaviors before they become problems. If someone—regardless of what position he or she holds—is behaving in a way that others could interpret as offensive, the organization takes immediate steps to counsel the individual and, if necessary, to discipline or terminate that person.

## ● Preventing Sexual Harassment

If someone does file a complaint, the organization takes it very seriously. Qualified investigators are assigned to the case, and a timely, objective investigation is conducted. In short, appropriate and timely action is taken to stop the inappropriate behavior.

### Encourage Ongoing Communication

Sexual harassment-free organizations find ways to communicate their policies on a regular basis, including:

- ◆ Publishing articles in newsletters
- ◆ Putting up posters in employee break rooms
- ◆ Talking about behavioral expectations at staff meetings and company-wide get-togethers

These organizations publicly reward people who set a positive example of the expected behavior and do not tolerate those who don't.

### Provide Training

Many of the behaviors people must follow to prevent sexual harassment do not come naturally. In fact, sometimes they are totally contrary to what we have observed or been taught as we grew up. They may even be contrary to what we do in other aspects of our lives when we try to be popular or well liked. They are certainly quite different from what we see portrayed on television and in movies. In fact, preventing and avoiding sexual harassment may require us to “unlearn” some old habits.

Training is critical to preventing sexual harassment—training at the time employees join the organization and throughout their careers. It is not unusual for some organizations to repeat the training every two or three years. For the training to be effective, the trainer must present the information in interesting and different ways so that participants will be able to apply what they learn to real-life situations.

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Training is critical to preventing sexual harassment.

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Training can be as simple as handing out a pamphlet, showing a videotape, or using an interactive training program on a computer. It can be done in a classroom setting or at a staff meeting. It can even be done right on the job when a supervisor quietly pulls someone aside to point out an inappropriate behavior and asks that person not to repeat it.

Prevention of sexual harassment does not happen by hoping the harassment will not occur. It happens because the organization develops and carries out a plan. It happens because someone in the organization champions the issue in a way that helps others see how important it is. Their efforts are successful because everyone in the organization sees the business and legal value of finding ways to treat everyone with respect. Over time, respect and consideration become the expected way of interacting with people.

**Prevention of sexual harassment does not happen by hoping the harassment will not occur.**

## Take a Moment

List three things your organization does to prevent sexual harassment.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

List three additional things your organization could do to prevent sexual harassment.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_



### Responding to Excuses

**People often try to justify inappropriate behavior.**

An important part of preventing sexual harassment is responding to the excuses that people sometimes use to justify inappropriate behavior. All too often, people try to justify their inappropriate behavior in the workplace with a witty, sarcastic, or even sexist remark. In some cases, they may be trying to make light of an important subject. In others, they simply may not know any better. In still others, they may intentionally be trying to disparage the company policy on sexual harassment.

These excuses are often made in a group setting. The person who makes them is loud and boisterous. Sometimes the person is an informal leader in the workplace or simply someone whom everyone else is afraid to criticize.

Regardless of where they are made or who made them, these comments can constitute a critical moment in an organization's efforts to prevent sexual harassment. Everyone who hears the comments is waiting for a supervisor or manager to respond. If there is no response, the people in the room are left to wonder how strong the *management's* commitment is to preventing sexual harassment. If the reaction is laughter or—worse—another comment that supports the first remark, they learn quickly that the company does not support its policies at all. But, if the reaction is a calm, logical, but forceful response that harassing comments and behaviors are not condoned in this workplace those in the room will begin to see that the management does indeed support and enforce its policies.

Let's look at a few examples of comments that people make to justify inappropriate workplace behavior:

#### The Hugger

- You are at a staff meeting. Someone makes a comment about people in the office being offended by too much touching. Roy responds by saying, "Melanie and I have worked together for years. She knows me and I know her. And she knows that part of being a good administrative assistant is making the boss happy. If I didn't get a good hug from her every day, I wouldn't be able to do my job."

Roy is making two huge assumptions. First, he is assuming that just because Melanie has not said anything that she is open to his expectation of a hug. Second, he is assuming that because he thinks Melanie is comfortable with a hug, everyone around the two of them is comfortable with it too. He is probably wrong on both counts. What could we say to him? How about something like this:

- “You know what, Roy. Even if Melanie is open to your daily hugs, you’re setting a poor example with your behavior. As a manager, it’s your responsibility to treat all of your staff equally. Whether you intend it or not, your behavior sends the message that, because you get to hug Melanie, she’s a privileged employee in your mind. That goes against many of our equal employment policies.”

### Take a Moment

What would you say to Roy?

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### The Dirty Joke Teller

- The staff is gathering for a meeting. Phil is the last one in the room. As he walks in, he interrupts everyone by blurting out in his loud voice, “Sorry I’m late. I was on the phone with Olga out in the warehouse. She just told me a great story about the unionized house of ill repute. Since there’re no women in here, I can tell you all about it . . .”

It might be interesting to compute the cost of this particular meeting. Phil has delayed everyone by being late. There is a cost for his tardiness and delay. There is also the potential cost of an environmental harassment claim. Phil’s manager needs to interrupt by saying something like:

## ● Preventing Sexual Harassment

- “Phil. Excuse me. I am going to ask you to save your joke for some other time and some other place outside of work. Jokes like the one you want to tell often demean women. As you know, we have all worked hard to create a workplace environment where men and women are welcome and encouraged to participate. You may not mean to offend anyone, but jokes like this one work against our team commitment to a harassment free workplace.”



### Take a Moment

What would you say to Phil?

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### The Fun-Lover

- A group of employees is gathering for a sexual harassment training class. Vernita walks in the room and says, “Well, I guess all the fun is over. The morality police are here. When they finish with us, it won’t even be safe for us to look at each other. They’ll have us wearing blinders, gloves, and muzzles to keep us from saying anything remotely funny!”

Vernita is saying what a lot of people may be thinking. By saying it, she gives us a chance to explain the value of creating a workplace environment where everyone can be comfortable and contribute. How about if we say something like this:

- “You know, Vernita, I think the main reason most of us are here is to do a good job. Part of doing a good job is working with lots of different people. I think a lot of the jokes, the touching, and the looks you’re talking about make more than a few people around here uncomfortable. Most of us have a lot fun with our friends and family without doing those kinds of things. Personally, I’m more concerned about being respected at work for my abilities than I am about being able to have fun at the expense of others.”

### Take a Moment

What would you say to Vernita?

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### The Flag-Waver

- Barry is in the break room reading the newspaper when he leans back in his chair and says, “Look at this story. This poor guy is being sued for sexual harassment, and all he did was call some chick ‘sweetheart,’ ‘honey,’ and ‘babe.’ Boy, whatever happened to freedom of speech in this country?”

Barry has a point. His freedom of speech has been limited with the introduction of sexual harassment rules in the workplace. Whether he likes it or not, Barry needs to learn that, when he is at work, he must follow the rules of the workplace he has chosen. Suppose we respond to Barry with a comment like this:

- “You know, Barry, freedom of speech doesn’t mean that you can say anything you want anytime you want. People get sued every day for libel, slander, and defamation of character. When people come to work, they have a right to be treated with respect. Calling people names like ‘babe’ is disrespectful. Besides, the rules in most organizations, including ours, are pretty clear: Unwelcome sexual behavior crosses the line. That guy you’re reading about probably should have known better.”

### Take a Moment

What would you say to Barry?

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### My Friend Is Being Sexually Harassed

- Amy stopped by the human resources department this morning. Her friend, Shruh Zhuu, called her at home last night for the third time this week. This time she was crying. Her boss just wouldn't take no for an answer. At the end of the day yesterday, he told her to come into his office. He was leaning against his desk with his hands in his pockets. When she walked into his office, he began massaging himself and said, "You know, this would be a lot more fun with your hands and no clothes." She ran out of the office and went home to call Amy. She made Amy promise not to tell. Amy couldn't sleep at all that night. She decided to try something.

Amy asked to see Edward, the human resources manager. She spoke quickly so she would not back down. "I have a friend who works for a guy who's a jerk. He won't leave her alone. He keeps propositioning her. He plays with himself in front of her and everything. She's afraid you won't believe her, and he'll fire her if she complains."

What would you do if you were Edward? You have only a few seconds to respond. Your credibility and the credibility of the organization are on the line. You'd better think fast. But be sure to take time to say the right thing—perhaps something like this:

- "You know, Amy, I'm glad you came to see me today. It gives me a chance to reinforce how strongly we feel about preventing and stopping sexual harassment. We've trained our managers and our employees to prevent sexual harassment. We want to know about your friend because we want to investigate her concerns. She needs to help us by coming in and reporting what happened so we can try to help her. You can come with her, if she prefers. If necessary we can meet away from the office. Or if she'd prefer to talk to Hue, I'll be glad to set up a meeting for her."

### Take a Moment

What would you say to Amy?

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You need to listen carefully to what other people are saying. When you hear something that minimizes, belittles, or questions the seriousness of your sexual harassment policy, you need to speak up. You need to remind people of the policy and why it's important for everyone to understand it and comply with it.

**Preventing sexual harassment is not a one-time effort.**

### Chapter Summary

Preventing sexual harassment is not a one-time effort—it is an ongoing process of communicating workplace values. Every manager and every employee must understand that the organization takes its antiharassment policies seriously.

Organizations can do the following to help prevent sexual harassment:

- ◆ Draft policies to address sexual harassment.
- ◆ Demonstrate by example that policies to prohibit sexual harassment are taken seriously and stringently enforced.
- ◆ Provide early and ongoing training to help employees recognize and prevent inappropriate workplace behavior.
- ◆ Find ways to communicate your sexual harassment policies on a regular basis.

The best way to ensure a harassment-free workplace environment is to reinforce positive behaviors and confront inappropriate ones. Your goal is to prevent sexual harassment and to stop the inappropriate behavior *before* it becomes a sexual harassment complaint.

## Self-Check: Chapter Five Review



Now that you have read Chapter Five, use this space to review what you have learned. If you are not sure of an answer, just refer to the text. Suggested answers appear on pages 89.

1. It is important to communicate the organization's stand on sexual harassment early in the employee's career because (pick one):
  - a. The law requires it.
  - b. It keeps people from filing lawsuits and saves the organization money.
  - c. It establishes an expectation that people will be treated with respect and courtesy.
2. True or False?  
A well-written policy will prevent sexual harassment.
3. A sexual harassment policy is effective only if (pick one):
  - a. The actions of managers and supervisors support it.
  - b. The state has approved it.
  - c. It is signed by each employee.
4. True or False?  
Sexual harassment is a new idea. Once people learn about it, they will stop doing it.
5. Mario thinks that people only file sexual harassment complaints to get rich. What would you say to Mario?

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## *Answers to Chapter Reviews*

### **Chapter One (page 23)**

1. True—The Civil Rights Act prohibits discrimination on the basis of sex. Sexual harassment is a form of sex discrimination.
2. False—The legal standard for sexual harassment is quite high. Although many sexual harassment-type behaviors may not be illegal, they still affect worker comfort and workplace productivity.
3. a. A greater percentage of the workforce is female. With larger numbers of women in the workforce, it's now somewhat easier for women to speak out about the issue.  
b. The *melting pot* theory has been replaced by a belief that people should be able to retain their gender and cultural identities while functioning in a diverse workplace.
4. a. Getting together for a lunchtime or after-work drink.  
b. Meeting in hotel rooms rather than meeting rooms.
5. Formal power can be used to create policies that set the parameters for accepted behavior.

### **Chapter Two (page 33)**

1. False—Sexual harassment is prohibited by the Civil Rights Act of 1964. It's a form of sex discrimination.
2. Discrimination, harassment, and sexual harassment can be created by the actions of:
  - a. Managers
  - b. Supervisors
  - c. Coworkers
  - d. Vendors
  - e. Visitors
  - f. Customers
3. Intentional.
4. Unintentional.
5. No—Retaliation occurs when one person uses something against another person or gets back at them for filing a discrimination or harassment complaint.

### Chapter Three (page 48)

1. Actionable sexual harassment occurs when a supervisor misuses his or her authority by introducing sexual behavior into his or her working relationship with an employee whether or not the behavior has an economic impact on the employee.
2. False – Sexual harassment occurs when the behavior is unwelcome. Just because someone voluntarily (i.e., doesn't speak up or object) goes along with an inappropriate behavior does not mean they welcome the behavior.
3. No. It is likely that the reasonable person would consider this a relatively normal discussion between a group over dinner.
4. c. Keeping his or her personal and business lives separate.

### Chapter Four (page 70)

1. Environmental sexual harassment includes behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, such as name-calling, suggestive comments, and lewd talk and jokes, if such conduct unreasonably interferes with the individual's work performance or has the purpose or effect of creating an intimidating, hostile, or offensive work environment.
2. Coworkers  
Vendors  
Suppliers  
Customers  
Managers  
Repair people
3. False—Environmental sexual harassment is prohibited by the Civil Rights Act of 1964. It also reduces worker productivity and morale.
4. False—Workplace displays of advertising materials with a sexual connotation can contribute to a hostile workplace environment.

### Chapter Five (page 87)

1. c. It establishes an expectation that people will be treated with respect and courtesy.
2. False—A well-written policy will tell people that sexual harassment is prohibited, but the policy still must be enforced, training must be provided, and supervisors must set a positive example in order to prevent sexual harassment.

## ● Answers to Chapter Reviews

3. a. The actions of managers and supervisors support it.
4. False—Sexual harassment has been a workplace issue as long as people have been in the workplace together. It has been considered inappropriate for and a form of discrimination since 1986.
5. “Mario, have you ever thought about what a person goes through to file a sexual harassment complaint? It can be very embarrassing and humiliating. In many ways, the victim must place her or his own job security and peace of mind on the line, and a lawsuit can take years to process and settle. I think most people would stand a better chance of getting rich by buying a lottery ticket.”

# Quick Chapter Reference

1. **Why Is Sexual Harassment an Issue?**
2. **Sexual Harassment as Discrimination**
3. **Quid Pro Quo Sexual Harassment**
4. **Environmental Sexual Harassment**
5. **Preventing Sexual Harassment**
6. **Investigating Sexual Harassment**

When an employee files a sexual harassment complaint, your organization could lose more than just a court case. Avoid lost time, lost productivity, lost profits—and the loss of your company's good reputation—by stopping sexual harassment before it starts.

Mike Deblieux is a nationally recognized human resources management consultant and president of Mike Deblieux Human Resources in Tustin, California.

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