

ServSafe Workplace

Sexual Harassment Discussion Guide



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Contents

01	Introduction
01	Using the Activities
02	Training Plan
03	Sexual Harassment Defined
04	Two Forms of Sexual Harassment
05	Intent vs. Impact
06	Impact of Sexual Harassment
07	Recognizing Inappropriate Conduct
08	Employee Rights
09	Reporting Harassment
10	Bystander Intervention

Introduction

Creating and maintaining a harassment-free culture in the workplace takes time and commitment from leaders within the organization. To be truly effective, harassment prevention training must go beyond a single “check the box” event. Ongoing training and discussions with employees are critical components of a holistic, company-wide strategy to prevent sexual harassment in the workplace.

As a manager, you play a crucial role in the training efforts at your company. The activities in this guide are designed to help you keep sexual harassment training fresh and relevant for your employees by reinforcing emotional connections between employees and the content.

Each activity addresses a topic related to sexual harassment in the workplace. The activities are designed to enable you to provide quick refresher training that can be completed in 10-20 minutes during a regularly scheduled pre-shift, one-on-one, or staff meeting, or as time permits. The activities should serve as short refreshers to reinforce your employees’ existing knowledge and not as their sole source of training.

As part of a comprehensive harassment prevention training program, these activities can help forge a culture of respect and openness in your organization.

Using the Activities

When using the activities, you may wish to establish a schedule to focus on one topic per week or alternate among topics that relate to each other.

If you have 10 minutes:

- Introduce the objectives and learning points of the topic.
- Allow time for questions.
- Show or distribute any takeaways.

If you have 20 minutes:

- Introduce objectives and learning points of the topic.
- Introduce discussion questions and allow time for group conversation.
- Allow time for questions.
- Show or distribute any takeaways.

Training Plan

Before the meeting:

- Prepare to lead an activity by carefully reviewing the learning points and discussion questions included in each.
- Prepare any takeaway materials, such as copies of your workplace sexual harassment policy or reporting tips for employees to review during and after the session.
- Take some time to record additional information that you wish to cover using the space provided.

During the meeting:

- Introduce the learning points to help reinforce your employees' knowledge. You may also want to touch on any additional or company-specific information related to the topic.
- Ask discussion questions to generate group conversation. Be sure to encourage all employees to express their thoughts about the topic.
- Actively listen to what is said and show respect for the ideas and opinions expressed.
- Encourage all employees to behave with respect and civility during group discussion.
- Provide relevant documents for employees to review or take with them following the meeting.
- Allow time for questions before ending the meeting.

After the meeting:

- Encourage employees to call out inappropriate behavior in the workplace or to report the behavior to their manager or designated company representative.
- Model inclusion and respect in all interactions with employees and reinforce these concepts in interactions you observe.
- Ask employees for an active commitment in shaping your workplace culture into a harassment-free and safe environment for everyone.

Sexual Harassment Defined

Objective

Define what sexual harassment is, and what it isn't.

Learning Points

Definition of sexual harassment:

Sexual harassment is unwelcome conduct based on a person's sex, including pregnancy, gender identity, or sexual orientation.

This unwelcome conduct can take many forms:

1. Physical—touching of some sort, like groping, massaging, kissing, or deliberately brushing up against someone.
2. Verbal—using spoken words, such as asking for sex, talking or joking about sex, calling people by sexual slurs, or gossiping about someone's sex life.
3. Nonverbal—using the body or objects to communicate without spoken words or touch. This includes things like blocking someone's path, making lewd gestures, leering, exposing oneself, and showing sexual pictures.
4. Electronic communication—texts, email, and social media posts.

Discussion Questions

There are many misconceptions about sexual harassment. Let's see what you think about some of the following topics.

1. Are women the only people who get harassed, and are men the only people who do the harassing?
Actually, anyone, regardless of gender can be the victim of harassment or the harasser. Women can sexually harass men, and all people can harass others of the same sex.
2. Does sexual harassment occur only when a boss wants something sexual from an employee?
Sexual harassment can come from anyone in the workplace, including coworkers, guests, or suppliers.
3. Does sexual harassment always require physical contact of some kind?
No, sexual harassment can involve more than touching including verbal and nonverbal components.
4. If something was meant as a compliment or a joke, can it still be sexual harassment?
Even though a person might not have meant the conduct to be harassment, it may still be offensive to others. It does not matter if no offense was intended.
5. Will sexual harassment go away if you ignore it?
Unfortunately, ignoring harassment does not make it go away. Sometimes it may make the problem worse.

Takeaways

Display or distribute your company's sexual harassment policy, paying particular attention to the definition of sexual harassment, and answer any questions employees may have about it.

Two Forms of Sexual Harassment

Objective

Understand and be able to define the difference between the two forms of sexual harassment.

Learning Points

There are two types of sexual harassment recognized by federal law—quid pro quo and hostile work environment.

1. Quid pro quo:
 - Means “this for that.”
 - Quid pro quo refers to situations where employment decisions such as hiring, firing, raises, promotions, or favorable scheduling depend on the employee providing sexual favors.
 - It is usually between a boss and an employee but can also occur between hiring managers and job seekers or even between suppliers or guests and employees.
 - *Examples: manager threatens to fire an employee who will not sleep with him or her; manager promises to promote an employee if the employee agrees to go on a date.*
2. Hostile environment:
 - A place where the employee’s work environment is made intimidating, hostile, or offensive due to the unwelcome sexual conduct.
 - The offensive conduct interferes with the employee’s work performance.
 - *Examples: making offensive sexual comments or jokes, discussions about sex, displaying materials that are sexual in nature, bullying someone on the basis of their sex or sexual orientation.*

Discussion Questions

1. Can a single incident create a hostile environment, or does offensive conduct have to be repeated?
If the incident is egregious enough, a single incident can create a hostile environment.
2. What are some behaviors that can contribute to a hostile environment?
Sexual cartoons or pictures, dirty jokes, sexual slurs, texts or emails containing sexual innuendos, repeated touching without the other person’s consent, leering at someone.
3. If a supervisor assigns an employee to a shift that they don’t like, could that be quid pro quo sexual harassment?
Most likely, no, because it is not based on the employee’s sex. Quid pro quo harassment typically involves a threat for refusing sexual advances.
4. If a guest says they won’t leave a tip unless they get an employee’s phone number, could that be quid pro quo sexual harassment?
Yes, the guest is in a position of power over the employee and is asking for sexual favors as a condition of employment.

Takeaways

Display or distribute your company’s sexual harassment policy. Answer any questions employees may have about it.

Intent vs. Impact

Objective

Understand that there is a difference between how conduct is intended versus how it might be perceived.

Learning Points

Have you ever heard the expression, “We judge ourselves by our intentions, but we judge others by their actions”? Good intentions do not make up for negative impact on another individual.

Who decides if something is sexual harassment?

- The person on the receiving end of the conduct or behavior decides if that conduct was unwelcome or offensive, not the person who initiated the conduct.
- Supervisors, HR professionals, and legal advisors value impact over intent when evaluating a potential instance of sexual harassment.
- Saying something like, “I didn’t mean any harm,” “That wasn’t my intent,” “I am not sexist,” and, “I am not homophobic,” does not excuse a person’s actions and the impact they had on the individuals around them.
- You must think about the way your behavior will be perceived, not whether you intend any offense by your conduct.

Discussion Questions

1. Have you ever had your feelings hurt by someone’s unintentional comments (friend, relative, teacher, boss)? Did it make you feel any better knowing they didn’t mean it?
Ask for a few volunteers to share their experiences.
2. Have you ever unintentionally hurt someone’s feelings or made them uncomfortable through an off-hand comment? How did that make you feel? What did you do about it?
Ask for a few volunteers to share their experiences. Guide the discussion to the idea that you can apologize for your actions, but the damage may already be done. It’s advisable to think through what you say and do before you do it to minimize the risk of serious offense.
3. Does the conduct have to be intended for you for it to be sexual harassment?
No, if a bystander encounters something offensive that wasn’t intended for him or her, indirect sexual harassment may have occurred. This could include overhearing a lewd joke, seeing an email or text that was sexual in nature, or coming across sexually explicit pictures. It can also involve a person witnessing someone else being sexual harassed.

Takeaways

Challenge employees to be more mindful about their actions and behaviors in the workplace. Ask them to consider how an action or behavior might be perceived before acting on it.

Impact of Sexual Harassment

Objective

Learn how sexual harassment affects victims, companies, and harassers.

Learning Points

Sexual harassment in the workplace has far-reaching consequences for everyone involved.

People who have been harassed or those who witness harassment may face:

- Undue stress
- Emotional and physical health issues
- Financial costs (healthcare, absences from work, changing their schedule to avoid a bad situation, or even quitting their job)

People who harass others may face:

- Discipline or termination
- Lawsuits and legal fees
- Missed job opportunities

Companies where harassment occurs may face:

- Low employee morale and high turnover
- Negative publicity
- Legal costs

Working together to create a harassment-free culture at our company can help ensure these things don't happen here.

Discussion Questions

1. What are some ways your team or department might be affected if sexual harassment occurs at your workplace?
Interactions will be awkward, people may not want to work with each other, employees might take sides in the dispute, it will be harder to get the work done because trust and collaboration will be lost.
2. How might guests react upon learning that sexual harassment occurred at your company?
Guests might lose trust in the company or brand and choose not to frequent your establishment. Bad publicity will cost the company money, and hours or positions might get cut.
3. Can an employee who sexually harasses someone face criminal charges?
Yes, if the harassment involves assault or another crime. This could mean jail time or probation for the individual.

Takeaways

Challenge employees to think about the costs of sexual harassment that are not readily apparent. Too often harassment is not reported due to shame or fear. But even harassment that's not reported can cause lasting damage for individuals and companies.

Recognizing Inappropriate Conduct

Objective

Define conduct that is appropriate and not appropriate in the workplace.

Learning Points

To help you in determining whether a behavior is acceptable in the workplace or might be considered sexual harassment, think about behavior using a traffic light as your guide.

Red light—Inappropriate and needs to stop immediately. May even be illegal.

Examples: Asking for sexual favors in exchange for job-related benefits; touching someone without their consent

Yellow light—Risky and has a high potential for offending someone. Could contribute to a hostile environment.

Examples: Making sexual jokes or showing sexual pictures; commenting on someone's body; telling someone to dress sexier; making comments about someone's sexual orientation or gender identity

Green light—Not likely to be misunderstood and most people would not find unwelcome.

Examples: Smiling at someone; giving someone an occasional compliment; giving feedback about performance; mentoring another employee

Discussion Questions

1. What happens if the inappropriate conduct is coming from a guest and your tip depends on it? Should you ignore it?
You have the right to work in an environment free from harassment, and that includes harassment from guests and other third parties. If a guest is behaving inappropriately, you should report the behavior to your supervisor.
2. Does the person being harassed have to tell the harasser to stop?
No, it's not required. If they feel comfortable telling someone to stop, they can. In any case, they should still report the harassment to their employer right away.
3. Imagine this situation: One of your coworkers is a big flirt and often makes sexually suggestive comments to the other employees. Everyone thinks it's a big joke and even seem to enjoy the attention. You, however, find the coworker's behavior offensive. Because no one else has a problem with it, could it still be harassment?
Yes, this situation could still be sexual harassment. A reasonable person would most likely find this employee's behavior offensive. The other employees may be going along with the behavior because it's easier than saying something.

Takeaways

Remind employees that “behavior in the workplace” extends beyond the confines of your physical building. Anything that happens at off-site company events, including training or company-sponsored parties, can also qualify as sexual harassment in the workplace. Electronic communication, such as email and social media posts, may also fall under the workplace category depending on whether the communication was posted during work hours.

Employee Rights

Objective

Understand your right as an employee to report inappropriate conduct without being subjected to retaliation.

Learning Points

As an employee, you have certain legal rights when you report harassment. You are protected under federal discrimination laws when you:

- Complain or express intent to complain about harassing conduct
- Resist sexual advances or intervene to protect others from such conduct
- Participate in an investigation about harassing conduct

Retaliation from a manager or an employer might take the form of:

- Reprimands, threats, or verbal or physical abuse
- Performance evaluations lower than they should be
- Making a person's work environment more difficult
- Cuts in hours or changing work schedules to conflict with family responsibilities

Reporting harassment or participating in an investigation about harassing conduct does not protect employees from all punishment or discharge. Employers may still discipline or terminate employees if the reasons are not related to the complaint.

Discussion Questions

1. Why do you think employees might hesitate to report inappropriate sexual conduct?
They might be worried that the harasser will make their lives more difficult; that coworkers will single them out or treat them poorly; that a supervisor will dismiss their complaint or punish them in some way for bringing it up; that they will lose money (in tips or more desirable shifts) or lose their jobs entirely; that everyone will find out and they will be ridiculed.
2. Imagine this situation: You complain to HR that your supervisor is creating a hostile environment by telling sexual jokes and allowing other employees to do that same. Your boss suddenly starts to act more professionally towards you and is not friendly like before. Is this retaliation?
No, only changes that negatively affect your employment are considered retaliation. In this situation, the supervisor may be attempting to correct inappropriate behavior.
3. Imagine the same situation as before, except this time after you complain to HR, you receive a poor performance review from your supervisor. Could this be considered retaliation?
Possibly. You have the right to talk to your supervisor or HR to find out the reasons for the poor performance review and to ask specific questions. Your supervisor should be able to justify any performance rating with documentation.

Takeaways

Display or distribute your company's policy on retaliation. Answer any questions employees may have about it.

Reporting Harassment

Objective

Learn the options for reporting sexual harassment in the workplace.

Learning Points

If you experience or witness sexual harassment, there are several things you can do.

- Call 911 if anyone is in immediate danger.
- Document what happened:
 - Date
 - Time
 - Individuals involved, including witnesses (if any)
 - Evidence such as emails, text messages, photos, voicemails, etc.
- Follow company procedures to report the incident.
**Discuss the reporting options listed in your company policy.*
- Your information will be kept as confidential as possible and will only be shared with those who need to know, such as human resources or legal representatives.
- Reasonable efforts will be made to keep the person reporting harassment and the alleged harasser separated while the claim is investigated.

Discussion Questions

1. What should you do if you don't feel comfortable reporting sexual harassment to your supervisor?
*You can tell another manager, your supervisor's boss, or human resources. *Include any other options your company offers, such as a confidential tip line or something similar.*
2. What if you tell a coworker about the harassment you've experienced—are they required to report it?
There is no federal law that requires victims, confidantes, or witnesses to report instances of harassment. Managers, however, are obligated to report harassment once they become aware of it, and the employer must take steps to promptly end the harassment.
3. How can you support someone who is experiencing sexual harassment in the workplace?
People who experience sexual harassment often feel isolated and ashamed. If you witness crude jokes or inappropriate behavior, you can intervene on the person's behalf. Asking coworkers to "knock it off" or letting them know their comment made you uncomfortable can help prevent the behavior from escalating.

Takeaways

Display or distribute your company's options for reporting sexual harassment. Answer any follow-up questions employees may have.

Bystander Intervention

Objective

Understand how to intervene if you encounter an instance of sexual harassment in the workplace.

Learning Points

Reporting sexual harassment is always better than letting it go unchecked. But early intervention can help prevent sexual harassment from growing into an even bigger problem. Bystanders—particularly men—can change the culture around sexual harassment by speaking out when they witness inappropriate conduct in the workplace.

- **Speak Up**—If you feel comfortable doing so, tell the harasser that what they are saying or doing is not okay. This can be a simple comment, such as, “That’s not funny,” or, “Please don’t talk about sex at work. It makes people uncomfortable.”
- **Create a Distraction**—If a conversation is making you or others uncomfortable, you can change the subject. If you witness someone in a bad situation, create a diversion that allows them to get away from a harasser. You might do this by walking into a room, dropping something, or simply making eye contact letting the harasser know that they’ve been seen.
- **Get Help**—Ask a coworker to support you in voicing your concerns. For example, if you call out inappropriate behavior, it helps to have a coworker amplify your message by saying, “I agree,” or, “Me too.” You can also ask a manager or HR representative to intervene on your behalf.
- **Follow Up**—If immediate intervention or confrontation is not possible, you can send an email or speak to the person who was being harassed and ask them if they’re okay or need support. Even if they say they don’t want your help at the time, they will know they have an ally if they later decide to report. You can also speak to or send a written message to the harasser after the incident, letting them know in a less confrontational way that what they did was inappropriate.

Discussion Questions

1. What if you know that stepping in is the right thing to do, but you are still finding it hard to do?
Many people have these thoughts. They may be unsure of what to say or are afraid to cause a scene. They may even think that someone else will step in. But it’s important to realize that your actions can have a big impact, not only on the people involved in a particular situation, but also on your workplace culture.
2. How do you know when to intervene?
It can be difficult to decide when to step in. Trust your instincts, and if something doesn’t seem right, speak up.
3. How can you support someone who has been sexually harassed?
Remain calm; listen carefully without judgement; and do not blame the victim. Let the person make decisions about next steps. You can’t force someone to report, but you can offer your support if they choose to do so.

Takeaways

Challenge employees to be part of the solution in preventing sexual harassment in the workplace. Through safe and responsible intervention, we can help create a respectful workplace environment for everyone.