

Manager Workplace Sexual Harassment Prevention Toolkit
Your guide to preventing and addressing sexual harassment in the workplace.

Frequently Asked Questions

Question:	Answer:
What is sexual harassment?	<p>Sexual harassment is an unwelcome request for sexual favors or other verbal or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none"> 1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment; 2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or 3. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
What are unwelcome sexual advances?	<p>Unwelcome sexual advances constitute sexual harassment when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.</p>
What law(s) are violated by sexual harassment?	<p>Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies, labor organizations, and the federal government.</p>
What course of action should a manager take if a sexual harassment claim is brought to him or her?	<p>As a manager, you must initiate an immediate administrative inquiry process. Contact your employee relations contact who will assist in an investigation to determine what action, if any, should be taken. This information is not intended for legal or criminal prosecution.</p>

Question:	Answer:
<p>What course of action should a manager take if a sexual harassment claim is brought against him or her?</p>	<p>If a harassment claim is brought against you, your behavior will be under increased scrutiny. To avoid exacerbating the situation, you should not engage in the behavior cited in the complaint. The National Institutes of Health (NIH) is committed to promote and maintain a work environment free from discrimination and retaliation. Reprisal for participation in the EEO process is prohibited. Therefore, any retaliation against the complainant is barred. It is strongly advised you avoid behaviors that could be perceived as retaliatory. Support and cooperate in resolving the issue and maintain a record of relevant communications and events.</p>
<p>What course of action should a manager take if the victim elects to not pursue the complaint?</p>	<p>The NIH is legally obligated to investigate potential allegations of harassment once the agency is notified of its existence. Once management is made aware of potentially unlawful behavior, it is duty bound to investigate, regardless of the victim's wishes.</p>
<p>What course of action should a manager take if they witness sexual harassment?</p>	<p>Any manager who witnesses an act of potential unlawful harassment must initiate an immediate administrative inquiry process. Find your Employee Relations Specialist who will assist in an investigation.</p>
<p>What course of action should a manager take if they learned of the sexual harassment via informal channels such as gossip or rumors?</p>	<p>To prevent harassment in the workplace, management must take a proactive, not reactive, stance. Being proactive means adopting the NIH's zero tolerance harassment policy. Managers must investigate all allegations of harassment regardless of how they were made aware of the allegations.</p>

Examples of Sexual Harassment

To prevent it, you must be able to identify it.

Verbal:	Visual:
<ul style="list-style-type: none">• Sexual jokes• Whistling, kissing sounds, and smacking lips• Repeatedly asking someone to make romantic plans, a date• Sexual comments regarding someone's person	<ul style="list-style-type: none">• Staring• Looking someone up and down• Displaying images of a sexual nature• Winking, blowing kisses, licking lips

Written:	Physical:
<ul style="list-style-type: none">• Electronic forms of written communication such as e-mails, texts, electronic posts of a sexual nature• Hard copy forms of written communication such as letters and graffiti of a sexual nature	<ul style="list-style-type: none">• Touching someone's person• Touching oneself in a sexual manner while near another person• Blocking or crowding someone

Manager Workplace Sexual Harassment

Area:	Key Points:
Manager	<ul style="list-style-type: none"> • Managers are responsible for the quality of the work environment and must ensure individuals are free from harassment. This means being responsible for your own actions and the interactions of other individuals in your workplace. • Managers must take immediate and appropriate action(s) to stop harassment and ensure it never happens again.
Victim	<ul style="list-style-type: none"> • The victim should notify a supervisor, management official, or EEO representative of harassment. An agency cannot correct harassing conduct if a supervisor, manager, or other agency official does not become aware of it. • The victim can be the person harassed or anyone affected by the offensive conduct.
Harasser(s)	<ul style="list-style-type: none"> • The harasser(s) can be the victim's supervisor, a supervisor in another area, a co-worker, an agent of the NIH, another NIH employee, or a non-employee who has a business relationship with the NIH.
Action(s)	<ul style="list-style-type: none"> • Unlawful harassment can occur without economic injury to or discharge of the victim. • The harasser's conduct must be unwelcome. • The unwelcome conduct must be severe or pervasive under a reasonable person standard, • NIH has the legal right to perform administrative inquiries based on the right to manage the workforce and respond to allegations of sexual harassment and incidents of misconduct that can lead to disciplinary action.

What You Should Know, but Probably Don't

- The NIH is automatically liable for sexual harassment that results in a significant change in an individual's employment status (hiring, firing, promotions, demotions, undesirable reassignment, etc.) regardless of upper management's level of knowledge.
- A victim's submission to sexual activity is not a defense to avoid agency liability.
- Sexual harassment is an abuse of power. It is not an expression of sexual attraction.
- The NIH is liable if it knew or should have known of hostile work environment harassment and failed to take immediate and appropriate action.
- Agency knowledge is assumed if:
 - The victim complains about harassment;
 - The conduct occurred in the presence of the supervisor; or
 - The conduct is widespread.

How to Prevent Workplace Sexual Harassment

Failure to prevent workplace sexual harassment can impact a manager's performance rating and can subject the manager to disciplinary action. Therefore, managers must:

- Post the NIH's EEO policy in a highly visible physical or electronic location.
- Disseminate the NIH's EEO policy to everyone, often.
- Firmly and consistently enforce the NIH's EEO policy.
- Regularly review the agency's policies with staff.
- Encourage a high standard of conduct.
- Monitor behavior. Acquire a sense of what is normal and abnormal workplace behavior for your employees.
- Support employees in reporting harassment.
- Document your actions.
- Promptly respond to all allegations immediately and effectively.
- Offer effective solutions to stop harassment.
- Never fail to act when aware: promptly conduct an administrative inquiry.
- Develop partnerships with EDI and OHR.
- Treat all complaints seriously, consistently, and confidentially.
- Only communicate information on a "need to know" basis.
- Be sensitive, but neutral.
- Follow up with both the harasser(s) and the victim to make sure the harassment does not recur.
- Avoid even the appearance of retaliation. For example, if an employee must be removed from the workplace, do not remove the alleged victim unless it is their request.

Case Examples

Topic:	Case:
Substantial employment change employer automatically liable	<u>Faragher v. City of Boca Raton 1998</u>
Substantial employment change employer automatically liable	<u>Burlington Industries, Inc. v. Ellerth 1998</u>
Voluntary does not necessarily mean welcome	<u>Meritor Savings Bank v. Vinson</u>

Contacts:

Who to ask about what.

[Resolutions and Equity](#)

[Employee Relations Contacts](#)

[Identify Your Formal Complaints Specialist](#)

[Guidance Contact](#)

[NIH Ombudsman contact](#)

Resources:

Where to go for more information.

[Title VII of the Civil Rights Act of 1964](#)

[29 C.F.R. Section 1604.11](#)

[EEOC Facts About Sexual Harassment](#)

[NIH Procedures for Handling Allegations of Sexual Harassment](#)

[Facts about Discrimination in Federal Government Employment Based on Marital Status, Political Affiliation, Status as a Parent, Sexual Orientation, or Transgender \(Gender Identity\) Status](#)