

Preventing Sexual Harassment

Miami Dade College
District Office of Employee Relations/Equal Opportunity Programs/ADA Coordinator

U. S. Equal Employment Opportunity Commission Guidelines (EEOC)

Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment/academic performance;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals;
3. or such conduct has the purpose or effect of substantially interfering with an individual's work performance, creating an intimidating hostile or offensive work environment.

Hostile Environment

The threat takes the form of ongoing harassment that interferes with work or school by making the atmosphere intimidating and unpleasant. The actions are generally repeated.

The atmosphere is made hostile or abusive by the unequal treatment of the sexes or individuals.

The harassment is "sufficiently severe or pervasive as to alter the conditions of the victim's employment" or academic performance, and creates an abusive work or educational environment.

A person is denied the equal employment or equal educational opportunities guaranteed by law and the Constitution.

What to Do if You Are in a Consensual Relationship

- A. Consult your institution's policy immediately. It is important to know where it stands on the subject.
- B. Determine if you are in violation of the policy. Be aware, however, that regardless of the institution's policy or lack of one, the fact that a relationship was, at one time, consensual is no defense in the event of subsequent charges of sexual harassment or retaliation.
- C. Determine whether an ethical conflict of interest exists. You may have a direct conflict of interest if you are in a position to:
 - hire or fire the person
 - recommend or refuse to recommend the person for a job, promotion, etc.
 - give or withhold credit for a project
 - evaluate the person's work performance
- D. If a direct conflict of interest does not exist, determine whether there is any sort of indirect conflict which could result in a similar ethical dilemma as that presented by the direct conflict. There may be an indirect conflict of interest if you are in a position to:
 - influence coworkers on behalf of or against the person; or
 - cause others to feel disadvantaged because of your actions on behalf of the person.
- E. Act to remove the conflict of interest immediately. This may be accomplished in a number of ways, including withdrawing from the supervisory position over the person, if possible, or ending the relationship.

If your institution's policy requires it, report the relationship to a supervisor or administrator to ensure that all conflicts have been adequately resolved.

What Everyone Needs to Know About Handling Sexual Harassment

Take the report seriously. Assure the person that the complaint or problem is being taken seriously and that the institution will respond to the problem promptly.

Listen, sympathize, but don't judge. Listen to what the person has to say, sympathize, but make no judgment or commitment regarding the allegations or how the investigation will be conducted. Do assure the person that the institution takes sexual harassment seriously and will not tolerate it.

Don't delay. If you are not the individual designated to process sexual harassment complaints, tell the complainant who is responsible and offer to help contact that person. If that person is not immediately available, tell the complainant you will follow through immediately after this interview. Then do it as soon as possible. Delays of even a few days can make investigations difficult or send a signal to the complainant that the institution is not taking the complaint or problem seriously.

Respond to Concerns. If the complainant expresses or indicates fear, assure the person that the institution will do everything in its power to ensure confidentiality (but make no promises), prevent retaliation and stop further harassment. If you are the person designated to process complaints or investigate them, answer any questions about the complaint process that will not jeopardize the investigation. If you are not the appropriate person to process a complaint, assure the complainant that his or her questions will be answered by the appropriate person.

Document. Write a detailed summary of what the complainant told you, including your observations of the person's demeanor. Submit it to the individual who will be processing the complaint.

Follow up on the complaint. Check with the complainant the next day to ensure that he or she is getting needed assistance.

Avoid using "Dangerous Words," such as "It's just teasing" or "It's no big deal."

Sexual Harassment Investigation Checklist for Managers

- I. Name of Complainant (at least first name, if the person wishes to remain anonymous)
- II. Position
- III. What happened? (questions for the complainant)
 1. Who harassed you? (No name is needed yet, but the role of the person is an important element, for example, supervisor or fellow employee.)
 2. HOW did the harassment take place? (Try to get a very explicit description of the alleged harassing action. This is sometimes quite difficult because the victim is often embarrassed by the event.)
 3. WHERE did it take place?
 4. WHEN did it take place? (date and time, if possible)
 5. If more than once, HOW OFTEN?
 6. How did you FEEL about it? What was your RESPONSE?
 7. In what way does the alleged harasser have POWER over the success (or other well-being) of the harassed?
 8. Were there any WITNESSES? If YES, WHO?
 9. Did you tell anyone about your experience after the incident?
If YES,
WHO?

WHEN?

WHERE?

WHAT DID YOU TELL HER OR HIM?

WHAT WAS HER OR HIS RESPONSE?

10. Do you think there might be OTHER VICTIMS?
11. Do you have, or think that you can discreetly obtain, KNOWLEDGE OF OTHER INCIDENTS of sexual harassment by the alleged harasser?
12. Do you know of (or perceive) any CONSEQUENCES or effects of your response?
 - Were they explicitly stated? How?
 - Implied? How?
13. If some time has elapsed since the incident, have any CONSEQUENCES occurred? What? How?
14. What would you like to have DONE?
 - For you?
 - For others?
 - With respect to the alleged harasser?

IV. Key decisions (for investigators)

Has sexual harassment occurred? (If yes, continue; if no, go to “Options to proceed from here.”)

How severe is the harassment?

Does it warrant emergency action?

Does the matter seem suitable for informal resolution?

What is the potential for retaliation?

Can I protect the complainant? (be realistic!)

How?

How can the complainant protect her- or himself?

What options is the complainant willing to pursue?

V. Consultation/referral/instructions (to the complainant)

Options to proceed from here

-- If there is no harassment—How to counsel the employee

-- If there is likelihood of harassment—

Internally: what can employee do independently; what are the company’s third-party processes?

Externally: legal options outside the organization, I.E., EEOC, State Human Rights/Civil Rights Commissions.