

SEXUAL HARASSMENT

Questions and Answers

Q: What is sexual harassment?

Form of gender discrimination prohibited by law and board policy

- Unwelcome sexual advances or touching
- Requests for sexual favors
- Can also be a work environment where gender is an issue in some way or another
- Conduct that affects the victim's work performance or creates a "hostile environment"

Q: What is "quid pro quo" sexual harassment?

Term that means "this for that"

When someone with supervisory authority takes action or promises or threatens to take action against a subordinate based on the victim's willingness to accept or go along with the harasser's sexual advances

SCENARIO 1

Barbara has been the account manager at a district high school for 5 years. The school has a new principal this year named Mr. Collins. Barbara was surprised by the way Mr. Collins behaved when he started at the school. She found him to be somewhat flirtatious and she didn't know how to react to his comments about her appearance. But she was really taken aback one day when Mr. Collins said that he would like to get to know her better and asked her out for a drink after work. Barbara politely declined the offer.

Q: What does this look to you and why?

Q: What should Barbara do at this point, if anything?

Mr. Collins continues his flirtatious behavior and off-color comments to Barbara and other female employees. Barbara decides that she is going to have a talk with Mr. Collins. She tells him that she would prefer to keep things professional in the workplace. Shortly thereafter, Mr. Collins wrote Barbara up for excessive tardies

and eliminated additional duties for which she had received overtime pay in the past. When she asked him about it, he said that he was trying to clean up the budget.

Q: What does this look like to you and why?

Q: What would you advise Barbara to do at this point?

Q: Does all sexual harassment involve promises or threats?

No. Not all sexual harassment involves promises or threats. The courts have held that sex-based conduct that is sufficiently severe and pervasive may create a “hostile environment” that is prohibited under Title VII and state law. Such conduct is also prohibited by our Board Policy.

Q: What type of conduct may create a “hostile environment”

- Off color comments
- Sexual jokes and innuendo
- Unwanted touching
- Sexual imagery — drawings, pictures, etc.
- Unwanted flirtation
- Sexual slurs or derogatory comments based on sex
- Sexual banter

SCENARIO 2

Josh is a new teacher at an elementary school. The teacher’s lounge can get pretty raucous sometimes. Colleagues occasionally use off-color language and there is sometimes gossip of a sexual nature. This makes Josh uncomfortable and he files a complaint with H.R.

Q: Can women sexually harass men?

Yes. The laws were written to prohibit certain types of conduct in the workplace. They are meant to protect everyone. According to the EEOC, about 14% of sexual harassment complaints are filed by men.

Q: Do you think that Josh is being subjected to a hostile work environment?

Conduct must be sufficiently severe and pervasive to alter the terms of the victim's employment and create an abusive work environment.

Do you think that a single incident could give rise to a valid claim for sexual harassment?

Isolated incidents generally will not create a "hostile environment" unless very serious.

How do you think the courts would make a decision in this scenario based on how Josh reacted to the atmosphere in the teacher's lounge?

The courts will generally look at the situation from the viewpoint of a "reasonable person", that is, is the conduct in question sufficiently severe and pervasive to create an abusive work environment for a "reasonable person".

SCENARIO 3

One of Josh's female colleagues flirts with him on a regular basis. He has mentioned to her several times that he has a girlfriend, but she just doesn't seem to get the message.

Q: Do you think the school district would be held liable for a hostile work environment based on this scenario? Why or why not?

What about if Josh tells the principal that he wishes Kaitlyn would stop flirting with him and the male principal says, "most guys would love to be in your shoes".

Q: Will the district be liable in this case? Why or why not?

What if Josh and Kaitlyn meet cute at work and start dating, but things don't go well. Josh is really angry when Kaitlyn breaks up with him and files a complaint against her claiming that he has been subjected to a hostile work environment because Kaitlyn constantly flirted with him at work?

Q: Is this a valid complaint? Why or why not?

SCENARIO 4

You have a friend named Pam who is a teacher at another school. Pam confides in you that she feels that she is being sexually harassed by the A.P. of her school. She says that when he comes to her classroom for observations he frequently engages her in conversations about non-work related topics and gossip about the sex lives of other colleagues. Pam says that she has not encouraged any of this and it makes her uncomfortable, but she is also uncomfortable about filing a complaint.

Q: What do you tell her?

Tell her that she needs to tell the A.P. that she would prefer to keep things professional and is not comfortable with the topics of discussion. Alternatively, she should talk to the principal about her concerns. Encourage her to write down a description of the harassment, with dates, locations and witnesses, if at all possible, and to bring any other evidence she might have to bolster her complaint, for example e-mail or text messages.

Q: Say the AP and Principal are very close and Pam is very nervous about making a complaint to the principal about the A.P.

Pam should go to network executive director or H.R.. The victim never has to report to the alleged harasser first.

Q: What will happen if Pam does make a complaint?

Every employee has the right to work in a healthy, productive workplace free of any type of harassment or bullying. Complaints of sexual harassment are taken very seriously.

H.R. will conduct an investigation, that will include taking statements from the alleged harasser, victim and any witnesses and collecting any other relevant evidence. The investigator will prepare a written summary and make a recommendation to the Chief of H.R. within 30 days of when the complaint is received in H.R.

Q: Will the investigation be confidential?

The district can't guarantee confidentiality because there must be some disclosure in order to conduct an investigation. However, H.R. reps make every possible effort to ensure confidentiality to the extent possible.

Q: What happens if H.R. concludes that the principal's conduct was inappropriate?

If there is reasonable cause to believe that the A.P.'s conduct violated Board policy, H.R. will schedule a "due process conference" during which the principal will have an opportunity to present evidence and respond to the charge against him.

Q: What happens next?

H.R. reps will review and assess all of the evidence presented and make a determination as to whether the principal violated the district's sexual harassment policy or any other district policies. H.R. will make a recommendation to the Superintendent who will make the final decision regarding discipline.

The discipline could be anything from a reprimand and sexual harassment training to termination.

If the principal is not terminated, it is likely that he would be re-assigned so that Pam does not have to work with him anymore.

Q: The A.P. was terminated. He was very popular in the school community and now everyone is angry at Pam for complaining, and at you for helping her. Should you be worried about your job?

No. You should be more worried about your job if you know about any type of harassment and don't do anything to stop it.

Retaliation against Pam for making a complaint is strictly prohibited by law and Board policy. Likewise, retaliation against any employee for participating, in any way, in the investigation of a complaint is prohibited and will not be tolerated.