



WESTCLIFF  
UNIVERSITY  
Educate. Inspire. Empower.



# Sexual Harassment in the Workplace

# Compliance Training Tutorial

- **Note:**

- This tutorial, as presented by Westcliff University, is compliant with California AB 1825
- 12950.1. (a) By January 1, 2006, an employer having 50 or more employees shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005, and to all new supervisory employees within six months of their assumption of a supervisory position.
- The training and education required by this section shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

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**August, 2016**

# Learning Objectives

- Definition of sexual harassment
- Learning the different types of sexual harassment
- Identifying sexual harassment
- Steps to filing a complaint



# Admonishment - Dealing with Workplace Harassment

- Workplace harassment is unacceptable conduct and is not tolerated at any level within Westcliff University. You each have responsibility for maintaining high standards of honesty, integrity, and conduct as faculty and staff members of Westcliff University.
- Any person who believes he or she is a victim of harassment, including sexual harassment, should report the allegation to his/her supervisor, or contact the Westcliff University Human Resources Department.

# **PRE-TEST**

- 1. A hostile environment allows the University to get more work completed. T or F**
- 2. I am not responsible for a hostile environment. T or F**
- 3. Being a male, a female can not cause me to have a hostile environment. T or F**
- 4. Only the supervisor(s) will have to go to court over an allegation of sexual harassment . T or F**

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- Q. What is the most common type of harassment in today's workplace?
- A. Sexual Harassment.

# Sexual Harassment and the Law

- Both the federal and California governments have enacted laws that make it illegal for an employer to allow an employee to be subjected to discrimination, including sexual harassment: the federal Title VII of the Civil Rights Act of 1964, as amended (Title VII), and the California Fair Employment and Housing Act (FEHA)
- Under federal law, the Equal Employment Opportunity Commission (EEOC) prosecutes claims of discrimination. The Department of Fair Employment and Housing (DFEH) handles claims brought under California law. An employee, former employee or independent contractor may go to these agencies and file a complaint, referred to as a “charge,” outlining the general facts supporting his or her claim of harassment. A victim may file a charge with either one or both commissions. Those who have a professional relationship with a business (e.g., vendor, customer or client) may also be classified as victims.
- These agencies—the EEOC and the DFEH—are responsible for investigating the charge and have the option of either taking action directly against the employer on the victim’s behalf or issuing the victim a “right to sue letter.” This letter allows the victim to file a civil lawsuit.

# Definition – Sexual Harassment

- Unwelcome verbal, visual, or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment.



**The prevention/  
elimination of harassment  
is  
EVERYONE'S  
responsibility.**

# “Of a Sexual Nature”

- **Verbal/Written:** Comments about clothing, personal behavior, or a person’s body; sexual or sex-based jokes; requesting sexual favors or repeatedly asking a person out; sexual innuendoes; telling rumors about a person’s personal or sexual life; threatening a person, sending emails or text messages of a sexual nature
- **Physical:** Assault; impeding or blocking movement; inappropriate touching of a person or a person’s clothing; kissing, hugging, patting, stroking

# Breaking down the definition: “Conduct”

- Conduct is NOT sexual harassment if it is welcome. For this reason, it is important to communicate (either verbally or in writing) to the harasser that the conduct makes you uncomfortable and you want it to stop.



# “Of A Sexual Nature”



- **Nonverbal:** Looking up and down a person’s body; derogatory gestures or facial expressions of a sexual nature; following a person
- **Visual:** Posters, drawings, pictures, screensavers, emails or text of a sexual nature

# Of a Non-Sexual Nature

- \*\* Non-sexual conduct may also be sexual harassment if you are harassed because you are female, rather than male, or because you are male, rather than female.
- For example, it may be sexual harassment if you are a woman working as a carpenter on an all-male job, and you are the only one whose tools are frequently hidden by your male co-workers.

# “Severe or Pervasive”

- The conduct of the harasser must be either severe or pervasive to be classified as sexual harassment.
- Although a single unwanted request for a date or one sexually suggestive comment might offend you and/or be inappropriate, it may not be sexual harassment. However, a number of relatively minor separate incidents may add up to sexual harassment if the incidents affect your work environment.

# Questions to ask yourself:



- How many times did the incidents occur?
- How long has the harassment been going on?
- How many others have been sexually harassed?
- Who were witnesses to the harassment?

# **“Affects working conditions or creates a hostile work environment”**

- It may be sexual harassment if the conduct unreasonably interferes with your work performance or creates an “intimidating, hostile, or offensive work environment.”
- For example, it may be sexual harassment if repeated sexual comments make you so uncomfortable at work that your performance suffers or you decline professional opportunities because it will put you in contact with the harasser.

# HOSTILE ENVIRONMENT HARASSMENT

**Courts are likely to find an illegal hostile work environment where there is:**

**Pornography**

**Degrading Comments**

**Vulgar Language**

**Embarrassing Questions**

**Sexual Touching**

**Sexual Jokes**

**Sexual Propositions**

# Sexual Harassment

- Unwelcome
- Can be physical, verbal or nonverbal
- Severe and pervasive
- Unreasonably interferes with an individual's work performance
- Creates a hostile work environment
- Focus is on impact of the behavior, not the intent

# Types of Sexual Harassment

**Quid Pro Quo (i.e.: this for that)**: Making the submission to unwelcome sexual advances or submission to other verbal or physical conduct of a sexual nature a term or condition, implicitly, of an individual's employment. Basing employment decisions affecting the individual on his or her submission to or rejection of such conduct.

**Hostile Environment**: Making unwelcome sexual advances or other verbal or physical conduct of a sexual nature with the purpose of, or that creates the effect of, unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

# When Sexual Conduct is a Violation in the Workplace

- **Title VII** does not proscribe all conduct of a sexual nature in the workplace. **Thus it is crucial to clearly define sexual harassment: only unwelcome sexual conduct that is a term or condition of employment constitutes a violation.** 29 C.F.R. § 1604.11(a).
- The EEOC's Guidelines define **two types of sexual harassment: "quid pro quo" and "hostile environment."** The Guidelines provide that "unwelcome" sexual conduct constitutes sexual harassment when "submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment," 29 C.F.R § 1604.11 (a) (1).
- **"Quid pro quo harassment" occurs when "submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual,"** 29 C.F.R § 1604.11(a)(2).1 29 C.F.R. § 1604.11(a)(3).2

# When Sexual Conduct is a Violation in the Workplace

- Although “**quid pro quo**” and “**hostile environment**” harassment are theoretically distinct claims, the **line between the two is not always clear** and the **two forms of harassment often occur together**. For example, an employee’s tangible job conditions are affected when a sexually hostile work environment results in her constructive discharge.
- Similarly, a supervisor who makes sexual advances toward a subordinate employee may communicate an implicit threat to adversely affect his/her job status if he/she does not comply.
- “Hostile environment” harassment may acquire characteristics of “quid pro quo” harassment if the offending supervisor abuses his/her authority over employment decisions to force the victim to endure or participate in the sexual conduct. Sexual harassment may culminate in a retaliatory discharge if a victim tells the harasser or his/her employer he/she will no longer submit to the harassment, and is then fired in retaliation for this protest. Under these circumstances it would be appropriate to conclude that both harassment and retaliation in violation of section 704(a) of Title VII have occurred.

# Types of Sexual Harassment

- Quid Pro Quo  
("This for that")

A person in a position of authority, typically a supervisor, demands sexual favors as a condition to getting or keeping a job benefit.

# QUID PRO QUO HARASSMENT

## Blatant

### Example:

**A supervisor demands sexual favors in return for better treatment of a subordinate, or threatens the subordinate with firing, demotion, or transfer unless sexual favors are given.**

# Hostile Work Environment

- Verbal, physical or visual forms of harassment, that are sexual in nature, "sufficiently severe, persistent, or pervasive" and unwelcome fall under the category of Hostile Environment Sexual Harassment.
- A single, severe incident, such as a sexual assault, could create a hostile environment. More commonly, a "hostile environment" is created by a series of incidents.

# Examples of Sexual Harassment

- Unwanted jokes, gestures, offensive words on clothing, and unwelcome comments and witty responses.
- Touching and any other bodily contact such as scratching or patting a coworker's back, grabbing an employee around the waist, or interfering with an employee's ability to move.
- Repeated requests for dates that are turned down or unwanted flirting.

# Examples of Sexual Harassment

- Transmitting or posting emails, texts, or pictures of a sexual or other harassment-related nature
- Displaying sexually suggestive objects, pictures, or posters
- Playing sexually suggestive music

# Examples of Sexual Harassment

- sexual jokes, innuendoes and gestures
- unsolicited and unwelcome flirtations or touching
- graphic or degrading comments
- leering
- whistling or cat calls
- unwelcome terms of endearment
- massages
- displays of sexually suggestive or explicit objects
- offering of unwanted gifts
- sexually explicit or intrusive questions
- transmission of suggestive material
- explicit descriptions of sexual experiences
- pressure for sex



# Steps to File a Complaint

1. Let the harasser know that his/her conduct is unwanted and unwelcome.
2. Go to a supervisor and explain the circumstances. Be sure to take with you documented dates, times, and specific occurrences if you have them. Also, report the incident to Human Resources. If the appropriate supervisor is unavailable, or is the offender, report the incident directly to Human Resources.

# Creating a Positive Work Environment

If your attitudes and decisions are shaped by facts based on performance and behavior, you will create a work environment free of discrimination where people are treated with respect based on what they do - not on what they were born into, or how they look. You will have created the kind of place where everyone would like to work.

# Why Respectful Behavior?

- **Studies found 50% of sexual harassment cases co-workers or peers were the alleged harassers.**
- **Only 26 % involved the immediate supervisor.**
- **The 1991 amendment to *Title VII of the Civil Rights Act of 1964* allows victims to recover punitive damages.**
- **Harassment lawsuits usually have personal legal & financial consequences for the harasser.**

# Why Respectful Behavior?

- No one wants to work in an environment where he or she feels harassed and uncomfortable.
- Respectful behavior facilitates more productive employees.
- Disrespectful, harassing behavior can cost the perpetrator their job.

# Prevention of Harassment By Supervisors

- Supervisors must set the tone! Publicize the policy through regular meetings and EEO training activities
- Recognize your obligation to create and preserve a work environment free from sexual harassment
- Report the allegation
- Take immediate action to investigate the allegations
- Seek resolutions and document action(s) taken
- Even if you feel the complaint is groundless - treat it seriously
- Contact EEO Officials for assistance

# Manager's Responsibility

- **Communicate policies**
- **Set standards**
  - **Be a role model, set high standards**
  - **Educate**
  - **Be informed**
  - **Establish guidelines**
- **Observe workplace and behaviors**
  - **Be aware**
  - **Be responsive**

***“Coming together is a beginning.***

***Keeping together is progress.***

***Working together is success.”***

*- Henry Ford*

*Recognize People. Engage People. Treat People like Equals.*

**Training Acknowledgement Form  
Sexual Harassment in the Workplace  
Westcliff University  
2016-2017 Academic Year**

I have watched the PowerPoint entitled "Sexual Harassment in the Workplace".

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*Westcliff University Administration Official Signature*

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*Signature of Faculty/Staff Member*

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Printed Name of Faculty/Staff Member

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*Date*

