

FACT SHEET
SEXUAL HARASSMENT

WHAT IS SEXUAL HARASSMENT?

The Equal Employment Opportunity Commission (EEOC) has determined that "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- A. "submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- B. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment."

Further, the Office of Personnel Management (OPM) issued the following policy statement and definition of sexual harassment. It is important that you become familiar with both.

"Federal employees have a grave responsibility under the Federal code of conduct and ethics for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance of the Government's business and the maintenance of confidence of the American people. Any employee conduct which violates this code cannot be condoned.

"Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes in the work productivity of its victims and coworkers.

"Sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to

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performance, such as the taking or refusal to take a personnel action, including promotion of employees who submit to sexual advances or refusal to promote employees who resist or protest sexual overtures.

"Specifically, sexual harassment is deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome.

"Within the Federal Government, a supervisor who uses implicit or explicit coercive sexual behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, an employee of an agency who behaves in this manner in the process of conducting agency business is engaging in sexual harassment.

"Finally, any employee who participates in deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome and interfere in work productivity is also engaging in sexual harassment.

"It is the policy of the OPM that sexual harassment is unacceptable conduct in the work place and will not be condoned. Personnel management within the Federal sector shall be implemented free from prohibited personnel practices and consistent with merit system principles, as outlined in the provisions of the Civil Service Reform Act of 1978. All Federal employees should avoid conduct which undermines these merit principles. At the same time it is not the intent of OPM to regulate the social interaction of relationships freely entered into by Federal employees."

IS SEXUAL HARASSMENT AGAINST THE LAW?

Sexual harassment is a form of sex discrimination under Title VII of the Civil Rights Act of 1964. There may be other causes of action under state law in addition to those found under Federal and local civil rights laws. These include: assault and/or battery, intentional infliction of emotional distress, wrongful discharge, and negligence. Some advances may warrant resort to criminal charges such as sexual assault or rape.

WHAT IS THE EMPLOYER'S RESPONSIBILITY?

HUD is responsible for creating a working climate free from unsolicited and unwelcome sexual overtures. The law states, "... an employer is responsible for acts of sexual harassment in the work place where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the work place, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action."

MUST AN INDIVIDUAL BE FIRED IN ORDER TO HAVE A CLAIM OF SEXUAL HARASSMENT?

No. An employee may have a claim of sexual harassment when his/her advancement or job security depends on giving in to sexual advances or when unwelcome sexual advances, requests for sexual favors or other physical or verbal conduct of a sexual nature creates a hostile working environment.

DOES AN EMPLOYEE HAVE A VALID CLAIM OF SEXUAL HARASSMENT IF SHE/HE GIVES IN TO A SUPERVISOR'S OR CO-WORKER'S DEMANDS?

Yes. Even if an employee "voluntarily" gives in to a supervisor's or co-worker's demands, she/he may have a claim if those demands were unwelcome.

WHAT SHOULD YOU DO IF YOU ARE BEING SEXUALLY HARASSED?

If you believe that you are being sexually harassed, you should take these steps:

1. Clearly communicate to the harasser(s) that the "attention" is unwanted and uninvited.
2. Keep a written record of what happened:
 - who said what? did what? when?
 - were there witnesses? who?
 - what was your response?

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--how did you feel about it?
(angry, humiliated, sick, etc.)

--who did you tell?

3. If you suspect that other workers may have been treated similarly, talk to them; joint action may be possible. If you can, discuss the problem with coworkers so that they are aware of what is occurring and that you are upset about it. (Suffering in silence may backfire, if later action rests only on your word against the harasser's.)
4. Report the problem to whoever supervises or is superior to the harasser, asking that the harassment stop.
5. Use one of the many internal/external complaint systems, or if you are represented by a union, consult with their representative. File a formal complaint.
6. Or, consult with one of the Federal Women's Program Coordinators or the Federal Women's Program Manager.
7. You may file a complaint with the Office of Inspector General (OIG) or with the Merit Systems Protection Board (MSPB) through the Office of Special Counsel. However, neither office provides for appeal rights if you are dissatisfied with the action taken on your complaint. For appeal rights, you must file your complaint of sexual harassment either with the Department's Equal Employment Opportunity Director (the Assistant Secretary for Fair Housing and Equal Opportunity) or, if a member of a bargaining unit, through the union's grievance procedure.