

The SAGE Corporation

**Preventing Sexual Harassment
in the Workplace and in CDL Training:**

**Important Sexual Harassment Training
for SAGE Employees.**



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Preventing Sexual Harassment

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Sexual Harassment: What It Is



Sexual harassment can happen to all kinds of people, in all types of jobs and in every level of work. This kind of harassment may have nothing to do with the way a person is dressed or how someone looks, talks or behaves.

Sexual harassment can be as blatant as inappropriate touching or asking for sexual favors in exchange for job security or promotion. But any gender-related behavior that offends, alarms, humiliates or causes discomfort to others, including verbal abuse such as insults, jokes, and specific remarks about personal appearance, can be sexual harassment. Any sexual behavior that's repeated, unwanted and interferes with people's ability to do their jobs may be considered sexual harassment.

In general, sexual harassment in the workplace is behavior that:

- ◆ Relates to a person's gender, sexual orientation or sexuality
- ◆ Is intentional and/or repeated
- ◆ Is unwelcome
- ◆ Interferes with a person's ability to do his or her job or has an effect on anyone's working conditions.

If a coworker accidentally brushes against you one time, it probably wouldn't be considered sexual harassment. However, if the person repeatedly finds opportunities to touch you, making you feel uncomfortable at work, it may be sexual harassment

IMPORTANT!

Your Company Personnel Policies Prohibit Sexual Harassment of Employees and Students

Read Your Manual for Details!

Sexual Harassing Behaviors

- ❑ Sexual pinups
- ❑ Rude treatment because of gender
- ❑ Sexual comments about appearance
- ❑ Leering
- ❑ Whistling
- ❑ Sexual innuendo
- ❑ Pressure for dates
- ❑ Sexually explicit gestures
- ❑ Unwanted touching or hugging
- ❑ Inappropriate invitations
- ❑ Sexual comments, jokes or cartoons
- ❑ Obscene phone calls
- ❑ Inappropriate gifts
- ❑ Stalking
- ❑ Invasion of one's personal space
- ❑ Making inappropriate sounds
- ❑ Indecent exposure
- ❑ Comments about sexual orientation

Sexual Harassment and the Law

The Equal Employment Opportunity Commission (EEOC) is a federal agency that enforces laws about sexual harassment. These laws require employers to take reasonable steps to provide a workplace that is free from sexual harassment.

Sexual Harassment Is:

- Conduct that interferes with a person's work performance or creates a hostile work environment.
- Expecting an employee to submit to sexual behavior in order to get or keep a job.
- Basing employment decisions on whether an employee goes along with the behavior.

According to the Law

Title VII of the Civil Rights Act of 1964 is a federal law that protects workers against sexual harassment. It gives people the right to speak out against stereotypes and discriminatory practices, including sexual harassment. This law recognizes two types of harassment claims:

1. *Quid pro quo* ("this for that") sexual harassment is when a person in a supervisory role (like a manager or instructor) asks- directly or indirectly – an employee to provide sexual favors in exchange for some benefit, such as a promotion or raise, or threatens retaliation for not complying with his or her advances.
The sexual behavior does not have to be physical. It can be sexual harassment even if the "trade" is never stated but just "understood," as in the case of a supervisor giving better work assignments to those who flirt with him or her.
2. *Hostile Environment* sexual harassment is when a person engages in unwelcome sexual behavior that creates a hostile or abusive work atmosphere for another employee.
An employee who repeatedly makes sexual jokes or innuendoes in front of a colleague could be accused of sexually harassing her for making her feel uncomfortable in a hostile work environment.



Obeying the Law

The law can't prevent people from being attracted to each other, falling in love or dating. But the law does insist that people behave professionally at work. It demands that employment decisions be made on the basis of objective, job-related criteria.

Company policies are intended to avoid situations where harassment might occur. For example, policies that forbid fraternization between co-workers or within the management chain. Employees who ignore these policies may be viewed as having consented to harassing conduct

Employees must notify their employer of any harassing behavior experienced at work and take advantage of any preventative or corrective opportunities offered by the employer.

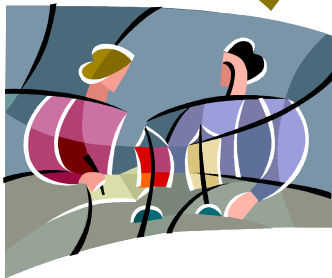
Being Aware of Sexual Harassment

Sexual harassment is a social and business problem that cannot be ignored. Sexual harassment can be prevented with the efforts of everyone in the workplace. Employees who know their work environment protects them from sexual harassment feel happier and safer and are more productive.



Sexual Harassment Facts

- Both males and females can be victims of sexual harassment.
- Both males and females can be harassers.
- A person can complain of sexual harassment even if he or she is not the person at whom the unwelcome behavior is directed.
- Harassment includes behavior directed to someone because of their sexual orientation



Sex Based Harassment

Sexual harassment may also include actions such as aggression, hostility or unequal treatment that are based on a person's gender but are not sexual in nature.

When someone is treated differently because of gender, it is discrimination. Sex discrimination is not limited to hiring and promotion decisions.



The Cost of Sexual Harassment

The cost of sexual harassment is often defined in terms of legal costs. But the real cost is the emotional trauma suffered by the people involved.

Victims suffer from anger, frustration and hurt. If they file a complaint, the accused perpetrator may experience anger, remorse and embarrassment.

Appropriate Behavior in the Workplace:

- ❑ If in doubt, don't say or do it.
- ❑ If in doubt, ask if it's all right.
- ❑ If your behavior is unwanted, stop.
- ❑ Avoid confusing friendliness with sexual interest.

When Someone Complains About Sexual Harassment

Note: the following steps apply to employee and student complaints.



1. Make initial notes. *Take steps to:*
 - Find out the employee's expectations.
 - Inform the employee that the company will do a thorough investigation.
 - Reassure the employee that he or she will be protected from reprisals.
 - Contact the personnel or legal department to determine how the investigation should proceed.
2. Ask the employee for a description of what happened. *Avoid:*
 - Questioning the employee's word
 - Passing judgment on what the employee says.
 - Putting words in the employee's mouth.
 - Trying to interpret the situation.
3. Get the facts, not motives. *Ask:*
 - About the frequency of the alleged abuse.
 - How long it's been going on.
 - What the employee did to let the other person know that the behavior was offensive and should stop.
4. Take action. *Make efforts to:*
 - Talk to the accused harasser and witnesses.
 - Determine appropriate corrective action: transfers, termination, sexual harassment training, etc.

A complaint of sexual harassment must be taken seriously. The response must protect employees' rights while maintaining a productive work environment.

Prevent Sexual Harassment

Do your best to create an atmosphere where harassment is not likely to happen:

- Make it clear that harassment won't be tolerated.
- Read and understand the company policy prohibiting sexual harassment and establishing penalties.
- Set an appropriate example for your employees.

Employer's Responsibilities

- Employers may be responsible for the actions of their supervisory employees.
- Lack of knowledge of sexual harassment doesn't necessarily protect the employer from liability, but it is clearly more difficult for an employer to act or prevent a situation if they have no way of knowing about it.
- An employer is responsible for sexual harassment by coworkers when the employer knows or should have known of the conduct, unless immediate and appropriate corrective action was taken.

Verbal, Physical and Visual Harassment

When a worker is subjected to an unreasonable interference with his or her work performance or an intimidating, hostile or offensive work environment, it can be known as environmental sexual harassment. It comes in the form of:

Verbal Harassment

Examples of Verbal Harassment:

- Foul language
- Inappropriate sexual comments
- Gossip
- Stereotypical mimicking of a person's voice
- Inappropriate jokes, stories or comments
- Whistles, catcalls, groans
- Terms of endearment
- Unwelcome or inappropriate personal compliments

To avoid complaints about verbal harassment:

- ✓ Call people by name
- ✓ Avoid telling jokes based on gender or anything sexual
- ✓ Interrupt a person who's telling an inappropriate joke or story.
- ✓ Use a normal tone of voice.

Physical Harassment

Examples of Physical Harassment:

- Touching
- Groping
- Grabbing
- Hugging

To avoid complaints about physical harassment:

- ✓ Ask permission before touching anyone.
- ✓ If you have to touch someone, do it in a professional manner that can't be misinterpreted.
- ✓ Avoid tight or cramped quarters that may cause you to rub against another person.

Visual Harassment

Examples of Visual Harassment:

- Pictures, posters, calendars, etc., that depict sexual themes.
- Inappropriate e-mail messages
- Inappropriate dress, see-through clothing, open buttons or zippers, etc.
- Inappropriate or sexual touching of oneself in view of others

To avoid complaints about visual harassment:

- ✓ Obey policies that prohibit the display of sexual materials in the workplace.
- ✓ Ask supervisors to walk through periodically to identify offensive materials.
- ✓ Avoid hanging suggestive pictures and calendars.
- ✓ Remove inappropriate materials immediately.
- ✓ Dress appropriately.

The Role of an Instructor: Harassment of Students

Anyone who is an educator (instructor, trainer, teacher or manager of these positions) has a unique relationship with students/trainees. It is important that if you are in this position, you recognize your role and the special considerations that apply, even though the student is not an “employee” at your place of work.

The Instructor’s Implied Authority

- An Instructor is responsible for the student’s learning progress, skill evaluation, grades and, in the case of CDL training, safety. An instructor has to have some control over the students (to keep the classroom orderly, to keep equipment operation safe, to manage grades and evaluations, for example). The instructor may be able to determine whether a student passes or fails.
- This may automatically give students the impression that the instructor is in a position of authority or control.
- The instructor’s implied authority is important when discussing sexual harassment. Why? Because students may be more willing to do something when asked by an instructor. Students may tolerate unacceptable behavior by an instructor. They may be afraid to refuse certain requests by an instructor, or be afraid to complain about behavior when they view the instructor in a position of authority.

Abuse of Position by an Instructor Will Not be Tolerated

- When an instructor uses the authority and control of his/her position to engage in sexually harassing behaviors or other inappropriate behavior, they are abusing their position.
- This conduct is wrong under any circumstances, but it can be even more serious if it is based on an instructor’s position of authority and control.
- Even though the conduct does not occur in an employment relationship between an instructor and the student, it is nevertheless sexual harassment, and will not be tolerated.

Instructor Liability for Sexual Harassment

- Sexual harassment by an instructor can lead to potential employer liability for the actions of the instructor where the employer has been notified of the behavior.
- But the potential liability can also affect the instructor personally and directly.
- A claim of sexual harassment can affect an instructor’s reputation.
- It will usually involve the instructor in a difficult investigation and fact-finding process.
- Improper behavior can result in disciplinary action, including job loss. Future employment could be affected if there is legal action or a record of the behavior.
- Perhaps most important, sexual harassment of a student by an instructor can result in **personal liability of the instructor!** An instructor can be sued or prosecuted personally for sexual harassment behaviors. This could seriously affect an instructor’s personal assets, family, reputation, criminal record and future.

BE A SMART INSTRUCTOR:

DON’T TAKE ANY ACTION TOWARDS A STUDENT THAT COULD BE PERCEIVED AS EXERCISING ANY AUTHORITY OR CONTROL IF THE ACTION COULD BE INTERPRETED AS HARRASSING BEHAVIOR

Examples of Unacceptable Behavior or Comments by an Instructor:

- Referring to students with common terms of affection (babe, honey, sweetie, etc.)
- Comments regarding how a student is dressed; comments regarding how young-looking or attractive a student is
- Dressing in a sexually revealing or provocative manner
- Requesting or suggesting that you and the student become involved personally
- Any comments regarding your own anatomy, sexual history or intimate personal relationships
- Taking a student to a meal; inviting or meeting a student for a personal visit at your home or elsewhere
- Making comments about a student's sexual orientation
- Offering special assistance to a student on your personal time
- Touching a student on the leg or hand while teaching shifting
- Making any sexual innuendos
- Making inappropriate references to the sleeper bunk for sexual or non-training purposes
- Showing students any photos (whether in print or by electronic device) that are sexually explicit or have any sexual connotations
- Cursing or using foul language
- Staring or leering at students in a sexual manner
- Providing any gifts to students
- Suggesting that grades or training progress may suffer unless the student complies with non-training related requests
- Telling off-color jokes that are sexual in nature or are critical of a person's race, gender, religion or ethnicity
- Any telephone calls that are of a personal nature or are not limited to training-related matters
- Yelling or hostile or abusive language and demeanor, even if not sexual in nature
- Any behavior that the student has asked you to stop because it makes them uncomfortable

IMPORTANT:

If a student engages in this type of conduct, tell them to STOP IMMEDIATELY. For your own protection, report the behavior to your school director so the student can be counseled



- ALWAYS BE A PROFESSIONAL
- YOU ARE NOT THE STUDENT'S "BUDDY"
- YOU ARE A MENTOR, A LEADER
- SET A GOOD EXAMPLE
- GET RESPECT BY BEING RESPECTFUL
- AAA RULE: ALWAYS ACT APPROPRIATELY

What to Do If You're Sexually Harassed

If your work environment is not conducive to productivity because you or someone else is being harassed, you need to take action. Many victims of sexual harassment initially respond by trying to ignore the problem. But most of the time the situation gets worse.

If you feel you're being harassed on the job, refer to your organization's policy on the actions you should take. There is a good chance the situation can be rectified informally. If you've been sexually harassed, you have a legal right to report it.

In order to prove that sexual harassment has affected your performance you must show that its frequency created a hostile work environment. You don't have to be fired, demoted or denied a promotion to file a complaint. Generally you should:

- Immediately let the person know that you find the actions or comments offensive and tell him or her to stop. If it occurs again, repeat your objections clearly.
- If you believe you are being sexually harassed, report it immediately.
- Follow grievance procedures outlined in your employee handbook. Talk to your supervisor, the accused harasser's supervisor, the corporate office, or a coworker who might be helpful.
- If your superior is the harasser, notify his or her superior or the corporate office.
- Keep detailed notes describing each incident: what was said, who heard the comments, how you felt and responded and what response you got in return. Keep these notes and any letters, gifts or other items given to you by the accused harasser at home. Report each incident.
- Make note of the dates and times in order to prove frequency.
- Make copies of your documentation and be as accurate as possible.
- Talk to others at work, even though it may be embarrassing. Look for others who will support you.



Legal Options and Resources

Many complaints can be resolved informally using company grievance procedures. If you need additional information, you can contact the Equal Employment Opportunity Commission (EEOC) or the appropriate state or local agency for assistance.

If You're Accused of Sexual Harassment

Sexual harassment is against the law and can make you and your employer liable. Your performance evaluation and continued employment could also be jeopardized.

Most sexual harassment complaints are based on actual or perceived incidents. The actual events may be a matter of interpretation. Conduct that seems harmless or even enjoyable in a social situation can be upsetting at work. Even if you have no intent to harass, sexual harassment is in the eye of the beholder. The impact of the behavior is what's important. Just because someone doesn't object to the behavior, does not mean it is not sexual harassment.

The Investigation

If you're accused of sexual harassment, trained people within your organization, probably from the legal department or corporate office will investigate the complaints.

These resources exist to ensure that your organization defines and follows rules on how employees should be treated. They play a major role in making sure that personnel decisions are made objectively and fairly.

The people investigating the complaints against you will:

- ✓ Set aside any personal biases or beliefs and objectively collect information from alleged victims, perpetrators and witnesses.
- ✓ Evaluate the information from a variety of sources, both orally and in writing.
- ✓ Determine when they need more information or help from other professionals, such as an attorney, before recommending appropriate corrective action.

What to Expect

- ✓ A person investigating the complaint will interview you. Use this opportunity to tell your side.
- ✓ The person conducting the investigation may not be able to reveal the name of the person who made the complaint without consulting legal counsel.
- ✓ Witnesses will be interviewed. You'll be asked to name witnesses as will the person making the complaint.
- ✓ You may be asked to give a written statement about the case.
- ✓ The investigator will determine what happened and decide if it violated company policy.
- ✓ If a violation has occurred, a decision will be made on what action to take. Actions can include discipline, counseling, termination or no action.

After the Investigation

You will learn:

- ✓ Why your company policy on sexual harassment is important.
- ✓ How investigators drew their conclusions.
- ✓ What is expected of those involved in the future.
- ✓ That any disciplinary action taken will most likely be kept confidential.