

What is Sexual Harassment?

Sexual harassment is a form of sexual discrimination and is illegal behavior prohibited by Title VII of the Civil Rights Act and Chapter 21 of the Texas Labor Code. Sexual harassment is defined as any unwelcome action based on sex that is either made a condition of employment (*quid pro quo*) or is conduct that is severe and/or pervasive and creates a hostile work environment for employees.

Quid pro quo is one type of sexual harassment that occurs when an employee is offered a benefit (such as a job offer, a promotion, salary increase, or better schedule or work assignments) in exchange for sexual favors (including requests for dates, requests with sexual undertones and requests for sexual activity of any kind). *Quid pro quo* is also when job benefits are taken away if sexual advances are rejected.

A **hostile work environment** is when unwelcome sexual conduct is so severe or pervasive as to affect an employee's job performance. Any employee can be affected by and can file a complaint about a hostile work environment, not just the person to whom the conduct is being directed.

Sexual harassment is a violation of a civil statute, but there are times when the conduct may also be a violation of a criminal law, such as indecent assault, sexual assault, or stalking.

How prevalent is sexual harassment?

Studies have shown that between 50–85% of women experience sexual harassment during their academic or working lives. About 5% of these women will make formal complaints, and about 2% will seek outside action.

Although women are more frequently the targets of sexual harassment, it is not uncommon for men to be the focus of sexual harassment.

What can employers do to respond to sexual harassment:

- 1. Provide a prompt, thorough and impartial investigation.** This includes an interview of all parties, and potential witnesses with relevant information. The person accused of causing the harm should have no authority in the investigation.
- 2. Take immediate steps to prevent future harassment.** This might include transferring the person alleged to cause harm to a different office location, putting them on non-disciplinary leave pending the investigation, or making schedule changes to avoid contact between the parties.
- 3. If harassment is discovered, the person who caused the harm should be disciplined immediately and in proportion to the seriousness of the offense.** The person harmed should be restored all leave they were forced to take in connection with the harassment.

What can employers do to prevent sexual harassment:

Have a clear no-tolerance policy regarding sexual harassment, visibly posted in a common space at the workplace and written in accessible language. The policy should define what sexual harassment is, provide clear instructions for how and where to make a complaint, and should designate more than one person to whom employees can take complaints. Supervisors should be trained to respond to sexual harassment appropriately.

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Confronting Sexual Harassment in the Workplace



Examples of harassing behavior:

- Sexual advances
- Sexual comments
- Physical touching or gestures of a sexual nature
- Displays of pornography
- Leering or staring inappropriately
- Unwelcome advances
- Lewd comments, jokes or sex-based slurs
- Requests for sexual favors; may constitute criminal harassment if intent can be proven.
- Gossip about someone's sex life
- Talking about a person's gender in a derogatory way
- Comments about sex or about a person's body

What to do if you are harassed:

1. If you feel safe doing so, tell the person harassing you to stop the behavior.
2. If you do not feel safe communicating with the person harassing you, talk to a supervisor or another person in authority at your workplace.
3. Keep a log with specific dates, times, locations, witnesses, etc.
4. Consider filing a complaint with your employer/supervisor or with the Texas Workforce Commission or Equal Employment Opportunity Commission.

Filing a Complaint

If you have been sexually harassed, you may file a complaint with your employer through internal channels. You may also file a complaint with the Equal Employment Opportunity Commission (EEOC) or the Texas Workforce Commission (TWC). Filing a complaint with the EEOC/TWC will take longer than filing internally with your employer, but it offers a completely objective investigation, separate and apart from your workplace. You should include as many details as you can remember in your complaint, to assist the person conducting the investigation.

You may file a complaint if:

- You were harassed by a supervisor, co-worker, or even a non-employee that is regularly at your workplace.
- You were a victim of or witness to sexual harassment, regardless of your gender, and regardless of the gender of the person who harassed you.
- Your job performance was affected, regardless of whether you were terminated and did not miss any work.

Filing Deadlines

Under Title VII, the employee has 300 days after the last incident in which to file a complaint with the EEOC or the Texas Workforce Commission. Filing a complaint within your company does not extend this deadline.



Rights of Sexual Assault and Stalking Victims

The most extreme forms of sexual harassment are sexual assault and stalking. Workers who are sexually assaulted or stalked by co-workers or in the workplace may have additional rights. For example, victims who quit their jobs for their safety or the safety of their families remain eligible for unemployment benefits.

The Impact of Sexual Harassment

What are the costs of sexual harassment to **the employee?**

- Emotional & physical consequences
- Poor concentration at work
- Stress on personal relationships
- Fear or anxiety
- Depression
- Sleep or weight problems
- Alcohol or drug abuse

What are the costs of sexual harassment to **the employer?**

- Staff turnover
- Increased absenteeism
- Tarnished company reputation
- Increased payouts for sick leave and medical benefits
- Less teamwork
- Vulnerability to hostile confrontations
- Legal & consultant costs
- Lower staff productivity
- Poor staff morale