

What is **SEXUAL HARASSMENT** on the job?

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WHAT IS SEXUAL HARASSMENT?

Sexual harassment is

- unwanted sexual attention or sexual pressure of any kind in the workplace.
- more than a personal violation – it can threaten a person's livelihood and make the workplace less productive.
- a form of sex discrimination.

Sexual harassment can come from

- men or women against those of the opposite sex or those of the same sex.
- peers as well as supervisors.

Sexual harassment is illegal under both State and Federal law.

- Article 49B, Annotated Code of Maryland, prohibits discrimination in employment on the basis of sex with respect to compensation, terms, conditions or privileges.
- Article 27, Sections 464 B and C, Annotated Code of Maryland, prohibits coercive sexual demands or contact against the will and without the consent of the other person.
- Title VII of the Civil Rights Act of 1964, as amended (1991), prohibits discrimination on the basis of sex in all terms, conditions or privileges of employment.

"QUID PRO QUO" OR "HOSTILE ENVIRONMENT"?

Sexual harassment is unwelcome conduct of supervisors, co-workers, customers, vendors, or anyone with whom the employee interacts on the job. The U.S. Supreme Court has defined two categories of sexual harassment:

1) *Quid Pro Quo* ("This for That")

This category of sexual harassment results directly in an employment action.

- The employee's submission to the unwelcome behavior is made explicitly or implicitly a term or condition of employment.
- The employee's submission to or rejection of the unwelcome conduct is used as a basis for employment decisions affecting the employee.

Examples of *Quid Pro Quo* sexual harassment would be a supervisor threatening to fire an employee because he or she will not comply with sexual demands, or an employee not receiving a promotion because he or she rejected the unwelcome conduct.

2) Hostile Environment

To prove that a hostile environment exists, these requirements must be met:

- The unwelcome conduct has the purpose or effect of unreasonably interfering with work performance.
- The conduct creates an intimidating, hostile or offensive work environment.
- The conduct must be "severe or pervasive" enough that a reasonable person would find it hostile or intimidating.

BEHAVIORS THAT CREATE A "HOSTILE ENVIRONMENT":

Following are examples of behaviors that courts have determined create a hostile environment:

- Discussing sexual activities
- Telling off-color jokes
- Unnecessary touching
- Commenting on physical attributes
- Using demeaning or inappropriate terms, such as "Babe"
- Sabotaging the victim's work
- Granting job favors to those who participate in consensual sexual activity
- Using crude or offensive language.

IF YOU ARE ACCUSED OF OR VICTIMIZED BY SEXUAL HARASSMENT, WHAT SHOULD YOU DO?

If you believe that you are the victim of sexual harassment, call the Maryland Commission on Human Relations to speak with an Equal Opportunity Officer. The EOO can advise you of your options.

If you are accused of sexual harassment, cooperate with the investigation and be open to resolving the problem. The Commission has often been able to help parties settle disputes without resorting to litigation.

Responsibilities of the Victim:

The person bringing a complaint of harassment must show that she or he took advantage of any preventive or corrective opportunities provided by the employer to avoid harm from sexual harassment, such as promptly reporting the incident to a proper party.

If you experience unwelcome gender-based conduct:

- Tell the offender specifically what you find offensive.
- Don't send "mixed signals" that could be misinterpreted as "playing along" (flirting, accepting or suggesting lunch dates, wearing provocative clothing, etc.).
- Use the employer's sexual harassment process to report the offensive conduct immediately to your supervisor or human resources department.
- Document incidents carefully.

Is it Really Sexual Harassment? The MCHR may find sexual harassment has occurred if:

- *The conduct in question was severe, pervasive and frequent.*
- *The conduct was unwelcome. (The recipient did not initiate it and regards it as offensive.)*
- *The conduct was threatening or humiliating – not just offensive.*
- *The conduct unreasonably interfered with the work performance of the person.*
- *The harasser was a superior in the organization.*