



What Law Covers Sexual Harassment?

Title VII of the Civil Rights Act of 1964 (Title VII) is a federal law that bans workplace discrimination based on certain “protected” categories or traits, including race, color, religion, national origin, and sex. Workplace sexual harassment, is a form of discrimination based on sex that violates Title VII. Title VII prohibits sexual harassment against both men and women, and whether the harasser is the same or a different sex than the person being harassed.

Additionally, most states have their own laws that prohibit workplace discrimination based on sex. These laws generally bar the same types of discriminatory conduct but often provide broader protection than what is available under Title VII. For example, State laws may protect individuals from discrimination based on a broader range of individual characteristics, like gender identity, sexual orientation, marital status, or genetic history. Additionally, state anti-discrimination laws often apply to employers with fewer than 15 employees.

What is Sexual Harassment?

Sexual harassment at work is a form of unlawful sex discrimination. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or based on sex that affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

There are two forms of sexual harassment recognized by the law:

- (1) *Quid pro quo sexual harassment* - This type of harassment that involves the conditioning of specific employment benefits on sexual favors or behavior. For example, if you are fired or assigned a less favorable shift because you reject a sexual advance by your employer.
- (2) *Hostile work environment* - This type of harassment does not relate directly to economic benefits. Instead, it creates a hostile or offensive working environment. To create a hostile work environment, the conduct must be of the nature that a “reasonable person” of your sex would feel intimidated or offended in similar circumstances. Generally, an isolated incident or comment may not be enough to



constitute harassment unless the isolated incident is severe, such as assault. Incidents that occur frequently or over time may add up to sexual harassment if they negatively affect your work environment.

Behaviors that constitute sexual harassment come in many different forms and can be verbal, physical or visual. Some examples include:

- Lewd comments or sex-based slurs
- Gossip about someone's personal relationships or sex life
- Displays of pornography
- Talking about someone's gender in a derogatory way
- Sexual gestures
- Leering or staring inappropriately
- Unwanted touching

Can My Employer Punish Me for Complaining About Sexual Harassment?

Employers covered by the Federal or State laws prohibiting sexual harassment are required to take reasonable steps to prevent and promptly correct sexual harassment that occurs on the job after they are notified.

In addition to prohibiting discrimination and harassment, Title VII also prohibits retaliation. Thus, an employer cannot retaliate against, or punish, an employee for opposing any practice that violates Title VII or for exercising her rights under the law, such as by complaining about sex discrimination in the workplace.



What Should I Do?

Every situation is different and there is no one best thing to do. The information contained within this document is not legal advice, but some tips and options to consider include:

- Tell the person that their behavior offends you. If the harassment doesn't end promptly, put your request in writing and keep a copy of this written communication.
- Contact ROC for peer support and guidance. Dealing with sexual harassment at work can be incredibly difficult, but you do not need to do it alone. We are available to help you sort through your options and connect with peers in the industry.
- Write down what happened. Include dates, places, times, and possible witnesses to what happened. Keep these records in a safe place.
- Report the harassment to your supervisor or Human Resources. It is best to put your complaint in writing.
- Start a paper trail. When you report the sexual harassment to your employer, do it in writing. Describe the problem and how you want it fixed. Keep copies of everything you send and receive from your employer.
- Find out about your employer's grievance procedures. You may be able to use these procedures to stop the harassment and resolve the problem. At the very least, following your employer's complaint procedures (if any exist) will show that you did what you could to make the employer aware of the harassment.
- File a discrimination complaint with a government agency, such as the Equal Employment Opportunity Commission (EEOC) at www.eeoc.gov or 1-800-669-4000
- Be aware of deadlines! Try not to delay reporting the problem to your employer, if it is possible to do so. Under federal law, you have 300 days from an act of sexual harassment to file a complaint with the EEOC. Under your state's fair employment law, if one exists in your state, you may have as few as 180 days to file a complaint. You may lose your ability to bring a lawsuit against your employer if you have not filed a timely complaint with the EEOC or the agency that enforces your state's employment discrimination laws.