

What Is Sexual Harassment?

Sexual harassment is...

sexual or related to sex



and...

unwelcome

and...



either...

trying to use a **reward or punishment** to get a sexual favor

or...

creating a **hostile work environment** with severe or frequent harassing conduct.



Common Examples of Sexual Harassment



Trying to Use a Reward or Punishment to Get a Sexual Favor

- Promising a promotion, pay raise, or better assignment in exchange for a sexual favor
- Threatening to punish someone if they don't provide a sexual favor
- Punishing someone for refusing to provide a sexual favor



Creating a Hostile Work Environment

Physical Conduct

- Whistling or staring at someone
- Standing too close or blocking someone's way
- Following or stalking someone
- Unwanted touching, including hugs and kisses
- Sexual assault, including rape

Verbal Conduct (including by email, text, and social media)

- Talking about sex
- Commenting on someone's physical characteristics or appearance
- Sexual compliments, innuendos, or jokes
- Insults, degrading comments, or slurs
- Asking questions about dating or sex
- Pressuring someone to date or have sex
- Lying or spreading sexual rumors about someone

Visual Conduct

- Displaying or circulating sexual or insulting images on paper or electronically
- Making sexual gestures
- Exposing private body parts

➤ This conduct could harm the person targeted and witnesses even if harm isn't intended.

➤ Some conduct listed here is illegal in the workplace. Other conduct is legal but inappropriate. Employers must take steps to stop both types of conduct.

➤ No one—not a supervisor, coworker, customer, vendor, supplier, or anyone else—is allowed to do these things in the workplace.

Equal Employment Opportunity Commission (EEOC). You don't have to delay filing until your employer's investigation is complete.

Sexual assault (unwanted sexual touching), including rape, is a criminal offense. If you believe you were assaulted at work, consider filing a police report.

➤ **But I'm afraid my employer will retaliate.**

You have the legal right to file a complaint to stop sexual harassment. You also have the right to talk to an investigator as a witness in a harassment investigation. It's illegal for your employer to retaliate, or punish you for doing either of these things. If you believe your employer retaliated against you, contact your local DFEH or EEOC office.

You can also take steps to protect yourself against retaliation:

- Take notes about the harassment and everything related to it. If you speak to your employer, write down when you met, who was there, and what was said.
- Get help. Contact a community organization to learn your rights.

Understand • Respond • Stop
Sexual Harassment

This information is not intended as legal advice. It was developed by the Department of Industrial Relations and its Commission on Health and Safety and Workers' Compensation, with assistance from the Labor and Occupational Health Program at the University of California, Berkeley.



September 2018



Sexual Harassment at Work Is Illegal

Every California worker has the right to work without being sexually harassed or assaulted.

➤ **What is sexual harassment?**

Sexual harassment, a type of sex discrimination in employment, is unwelcome conduct – that is, speech or actions – related to sex.

Who is involved? Anyone – a worker, supervisor, or member of the public – can be a harasser, and anyone can be a victim. The harasser and the victim may be of different sexes or the same sex.

When and where does it happen? Sexual harassment can happen anytime and anyplace workers are present.

How can conduct be related to sex? Conduct can be related to sex when it

- is sexual.
- targets someone because of their sexual orientation.
- targets someone because of their gender expression (dressing or acting like a man or a woman).
- represents women as inferior to men.
- is related to pregnancy.
- targets a woman or women in a traditionally male job.

What types of conduct are illegal? Two types of unwelcome or unwanted conduct related to sex can be sexual harassment:

- (1) **Quid pro quo** (“this for that”) **harassment** is using or trying to use a reward or punishment to get sexual favors. Some examples:
- **Offering a job benefit:** Your supervisor tells you he’ll give you a promotion if you have sex with him.
 - **Threatening punishment:** Your supervisor tells you she’ll fire you if you don’t go to dinner with her.
 - **Punishing:** You refuse to date your supervisor, so he cuts your pay by cutting your overtime hours.

- (2) **Hostile work environment harassment** is conduct that interferes with a worker’s job performance or creates an intimidating, hostile, or offensive work environment. It can affect the target of the conduct and others who observe it.

Types of conduct that can create a hostile work environment:

- Physical conduct such as touching someone, blocking their movement, or sexual assault, including rape
- Verbal conduct such as talking or joking about sex, commenting on someone’s appearance, sending sexual text messages, starting rumors, or using insults or slurs
- Visual conduct such as leering, making sexual gestures, displaying sexual objects, or posting sexual or insulting pictures

To be illegal, this conduct has to be severe OR pervasive (frequent). A single act may be severe enough to be illegal.

➤ What can I do about it?

File a complaint with your employer. You can tell your supervisor, another supervisor, Human Resources, or an Equal Employment Opportunity officer about the harassment orally or in writing.

The law requires employers to take reasonable steps to prevent and promptly correct harassment. An important step is investigating each complaint to find out the facts before deciding what to do.

Your employer’s investigator may

- interview you,
- ask the accused person about events in the complaint,
- ask witnesses about the events, and
- gather and review documents.

Your employer may not tell you the outcome of the investigation or even when it’s over, but you can ask about its status.

File a complaint with a government agency. Regardless of whether you file a complaint with your employer, within three years of the harassment you can file one with the California Department of Fair Employment and Housing (DFEH) or, within 300 days, with the federal

Resources for Addressing Sexual Harassment and Assault

Government Agencies

California Department of Fair Employment and Housing (DFEH)

- *English:* (800) 884-1684; dfeh.ca.gov
- *Español:* (800) 884-1684; www.dfeh.ca.gov/informacion-en-espanol/
- *Other languages:* (844) 821-3465; language.access@dfeh.ca.gov
- *TTY:* 800-700-2320

U.S. Equal Employment Opportunity Commission (EEOC)

- *English:* (800) 669-4000; eeoc.gov
- *Español:* eeoc.gov/spanish/
- *Other languages:* eeoc.gov/languages/
- *TTY:* 800-669-6820
- *ASL videophone:* 844-234-5122



Private Nonprofit Organizations

Rape, Abuse, & Incest National Network (RAINN)

- National Assault Hotline: (800) 656-HOPE or (800) 656-4673
- *Español:* centros.rainn.org y hotline.rainn.org/es/
- Go to rainn.org for a nationwide list of organizations.

California Coalition Against Sexual Assault (CalCASA)

- Go to calcasa.org for a list of organizations in California.

**Safe and Respectful Workplaces:
Preventing Sexual Harassment and Abusive Conduct**

Evaluation of Training for Janitorial Supervisors

After attending this training:

1. Are you able to list the main elements of the legal definition of sexual harassment?

- No
- I'm not sure
- Yes

2. Are you able to give examples of sexual harassment and abusive conduct at work?

- No
- I'm not sure
- Yes

3. Are you able to describe how sexual harassment and abusive conduct impact workers?

- No
- I'm not sure
- Yes

4. Do you know more about how employers and supervisors should prevent and address harassment and abusive conduct?

- No
- I'm not sure
- Yes

5. Do you know more about how to respond to reports of sexual harassment?

- No
- I'm not sure
- Yes

6. Do you know more about the legal responsibilities of employers and the liability of harassers under state and federal law?

- No
- I'm not sure
- Yes

7. Did you find this training useful? Why?

8. What would you add to or change about this training?







