

# Fact Sheet

# Sexual Harassment

April 2003

---

The Equal Employment Opportunity Commission defines “sexual harassment” as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, or sexually offensive work environment.

## **FACTS:**

- The victim as well as the harasser may be a male or female.
- The harasser can be the victim’s supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- An employer is always liable for harassment by a supervisor that results in a tangible employment action.
- Anyone in the workplace may create a hostile work environment: Supervisor, Co-worker, or Non-employee.
- Intentions do not matter if a person feels harassed or humiliated.
- Different people have different reactions to the same behavior and different interpretations.

## **ELEMENTS OF CLAIM OF SEXUAL HARASSMENT:**

- Conduct is unwelcome,
- May be, but is not limited to members of a protected class,
- Conduct results in tangible employment action or creates a hostile work environment, and,
- There is legal basis upon which to hold the employer liable.

## TWO TYPES OF SEXUAL HARASSMENT:

### *“Quid pro Quo”*

*“Quid pro Quo”* occurs when an individual’s submission to or rejections of unwelcome sexual conduct is used as a basis for employment decisions affecting the individual (such as hiring, firing, promotions, awards, transfers, or disciplinary action). Typical examples of “Quid pro Quo” harassment are when a supervisor coerces an employee into sexual relationship and then rewards the employee with a promotion, or when a supervisor takes disciplinary action or denies a promotion to an employee because he or she rejected sexual advances from the supervisor.

### *“Hostile Environment”*

*“Hostile Environment”* occurs when unwelcome sexual conduct unreasonably interferes with an individual’s job performance or creates an intimidating, hostile, or offensive working environment. This form of harassment, whether engaged in by a manager or an employee, can constitute discrimination, even if there are no tangible economic job consequences. Typical examples of misconduct which may constitute evidence of a hostile environment are: displaying “pinup” calendars or sexually demeaning pictures; making sexually oriented jokes or offensive remarks; or subjecting another employee to unwelcome sexual advances or touching.

This form of harassment, whether engaged in by a manager or an employee, can constitute discrimination, even if there are no tangible economic job consequences.

## SEXUAL HARASSMENT LIABILITY:

Liability for Hostile Environment Harassment by a co-worker:

Employer is liable if management **knew or should have known** about the harassment and failed to take immediate and appropriate corrective action.

Liability for Hostile environment harassment by a non-employee:

Employer is liable if management **knew or should have known** about the harassment and failed to take immediate and appropriate corrective action within its control.

If you think that you or someone else may have been a victim of sexual harassment, you should immediately notify the office supervisor, or other appropriate management official. You may also contact the NRCS, Civil Rights Staff at (301) 504-2181 or (301) 504-2439 TTY.