SEXUAL HARASSMENT

Antonette Sewell
Regional Attorney
Atlanta District

Sexual Harassment

Are we missing something?

What is Sexual Harassment?

- Unwelcome verbal or physical conduct of a sexual nature
- A form of sex-based discrimination under Title VII of the Civil Rights Act
- Alters conditions of employment
<table>
<thead>
<tr>
<th>Is the Behavior “Unwelcome”?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(regarded as undesirable, unwanted)</td>
</tr>
<tr>
<td>- Is there equal initiation and participation between me and the person I’m interacting with?</td>
</tr>
<tr>
<td>- Would I want my actions to appear in the company newsletter or on the evening news?</td>
</tr>
<tr>
<td>- Would I want someone else to act this way toward a person that I’m in a relationship with?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Types of Harassment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hostile Work Environment</strong></td>
</tr>
<tr>
<td>Creates an intimidating, hostile, or offensive work environment</td>
</tr>
<tr>
<td>Can be committed by a manager/supervisor, co-worker, or non-employee</td>
</tr>
<tr>
<td><strong>Standard:</strong> severe or pervasive</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Types of Harassment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tangible Employment Action</strong></td>
</tr>
<tr>
<td>- action taken to alter condition of employment</td>
</tr>
<tr>
<td>- Examples include:</td>
</tr>
<tr>
<td>Hiring</td>
</tr>
<tr>
<td>Firing</td>
</tr>
<tr>
<td>Demoting</td>
</tr>
<tr>
<td>Reducing pay</td>
</tr>
<tr>
<td>Denying promotion</td>
</tr>
<tr>
<td>Retaliating</td>
</tr>
<tr>
<td><strong>Committed by a supervisor or manager</strong></td>
</tr>
</tbody>
</table>
Employer Liability
*Where Harasser is a Manager or Supervisor*

- If tangible employment action (i.e., termination, demotion, etc.) is involved, agency is strictly liable for the harassment

- If tangible employment action is **not** involved, the agency can avoid liability only if:
  - (a) the agency exercised reasonable care to prevent and correct promptly any harassing behavior; **AND**
  - (b) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the agency or to avoid harm otherwise.

Employer Liability
*Where Harasser is Co-worker*

- Employer is liable for prohibited harassment by a co-worker where the agency knew or should have known of the harassment and failed to take prompt and effective corrective action.

Examples of Sexual Harassment

- Inappropriate touching, groping, cornering, grabbing & pinching.
- Sexual advances or pressure for dates.
- Comments, jokes or innuendos of a sexual nature.
- Comments about a person’s clothing, anatomy, or looks.
- Requests for sexual favors.
- E-mails, texts, pictures, letters, calls, gestures or any other materials of a sexual nature.
Picture this...

Stigma = Silence

Most sexual harassment goes unreported.

Why the Under-Reporting?

- Humiliation
- Disbelief
- Ostracism
- Blame
- Damage to Reputation
- Inaction
- Damage to Career
- Retaliation
Common Responses to Harassment

- Endure the behavior
- Avoid the harasser
- Downplay the gravity of the situation
- Seek support from family & friends
- Leave the job, if one can

Job Turnover

Job turnover is potentially the largest single component of the overall cost of harassment.

Preventing & Addressing Harassment

- Committed and engaged leadership;
- Consistent and demonstrated accountability;
- Strong and comprehensive harassment policies;
- Trusted and accessible internal complaint procedures; and
- Training.
The EEOC offers Harassment Prevention and Respectful Workplaces Training.

For more information contact terrie.dandy@eeoc.gov or www.eeotraining.eeoc.gov

Accountability?

Proactive Measures

- Adopt an Anti-Harassment Policy
- Communicate policy to all employees
- Provide training
- Establish internal complaint procedure
- Monitor enforcement of policy
Anti-Harassment Policy

- Be written and well disseminated
- Defines workplace harassment
- Establishes a complaint procedure
- Creates multiple paths in the complaint procedure
- Provides corrective action
- Ensures confidentiality
- Protects against retaliation

Responding to a Harassment Complaint

- Take Complaints Seriously
- Stop Harassment Immediately
- Conduct an Investigation
  - Be prompt,
  - fair, and
  - effective in your response
- Protect Against Retaliation
- Provide Appropriate Relief

Best Practices

- Adopt, communicate, and enforce EEO policies
- Train managers and supervisors
- Establish neutral and objective policies
- Avoid subjective decisions based on stereotypes, assumptions, and biases
**Best Practices**

- Avoid inconsistent application of policies or practices
- Review employment practices and policies
- Don’t ignore problems/harassment
- Take complaints seriously and respond in a timely fashion

**Best Practices**

- Take performance evaluations seriously
- Engage in an interactive process for accommodations.
- Document, Document, and Document
- Protect against retaliation
- Consult HR or legal counsel

**EEOC Resources**

- [www.eeoc.gov](http://www.eeoc.gov)
- Annual Seminar – Aug 23 & 24 in Atlanta
- Small Business Resource Center
- Publications and Guidance Materials
- On-site Training for Employers
- Free Outreach
- Mediation Program
- Contact EEOC: 1-800-669-4000
  1-800-669-6820 (TTY)
SAVE THE DATE

EEOC Two-Day Seminar
August 23 and 24
in Atlanta, GA.


QUESTIONS

THANK YOU!

ANTONETTE SEWELL
Regional Attorney
Atlanta District
100 Alabama Street, NE
Suite 4R30
Atlanta, GA 30303
Antonette.sewell@eeoc.gov
404-562-6818
1-800-669-4000