

Sexual Harassment Awareness & Prevention Training

A 9to5 HANDBOOK

Conducted by

9T05, NATIONAL ASSOCIATION OF WORKING WOMEN

www.9to5.org



Winning
Justice *for*
Working
Women

The materials in this booklet have been adapted from the expanded, updated edition of *The 9to5 Guide to Combating Sexual Harassment*, by Ellen Bravo and Ellen Cassidy. To order, send \$15 plus \$5 for shipping and handling to 9to5, 207 East Buffalo Street, Suite 211, Milwaukee, WI 53202.

For more information on the book or any of 9to5's trainings and consulting services, call 414-274-0925 or visit our website at www.9to5.org.

For assistance in dealing with a problem on the job or for information on membership, call 9to5's toll-free Job Survival Helpline, 1-800-522-0925.

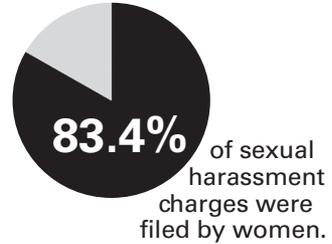
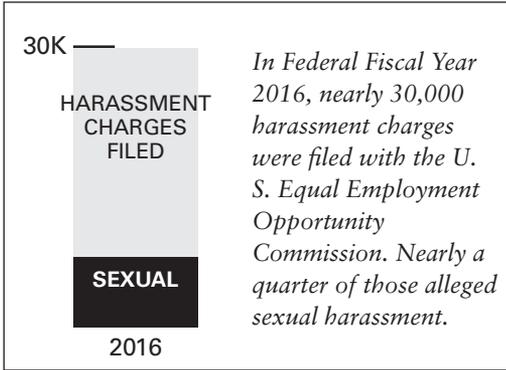
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Sexual Harassment: Where Are We?

Sexual harassment is widespread. At least 25 percent and as many as 85 percent of women surveyed report they have been sexually harassed at work. The majority of students report unwanted sexual attention at school.



*A December 2017 survey by CareerBuilder.com found that seventy-two percent of respondents who said they had been sexually harassed at work **had not reported the harassment.***

Those who did **not** report the sexual harassment they experienced said they didn't want to be labeled a troublemaker, said it was their word against the other person, or were afraid of losing their job.

Millions of women across the globe have marched for equity, equality and justice in 2017 and 2018. The **#MeToo** movement has inspired millions to speak out about sexual harassment, abuse and assault. **"The Silence Breakers"** were named **TIME's 2017 Person of the Year.**

Introduction

9to5, National Association of Working Women is a national non-profit organization. For 45 years we've worked to improve the lives and status of the nation's working women through education, research, training and activism. Our primary goal is the elimination of all forms of discrimination in the workplace.

We are widely recognized for our expertise on a variety of workplace issues including sexual harassment, valuing diversity, communication skills, balancing the demands of work and family, and office health and safety. We've appeared as experts on such prestigious news shows as the *MacNeil-Lehrer News Hour*, the *Today* show, CNN's *Crossfire*, National Public Radio, *Good Morning, America*, and every major network evening news program. We also appeared in *Newsweek*, *The New York Times*, *Chicago Tribune*, *Los Angeles Times*, scores of local newspapers and nearly every major magazine for women.

9to5 wrote and updated the widely-acclaimed book, *The 9to5 Guide to Combating Sexual Harassment*, heralded by *The New York Times* as "the most accessible" book on the subject. "A no-nonsense manual on how to identify, avoid and combat sexual harassment," said the *Los Angeles Times*. Margaret Crawford, Human Resources Director at Harley-Davidson, described the book as "very useful to both victims of sexual harassment and businesses who want to safeguard against it."

We are frequently invited by policymakers to provide expert testimony on workplace issues. Our staff have served on the Governor's Task Force on Sexual Harassment in New York, the state's Legislative Council on Sexual Harassment in Wisconsin, the Mayor's Task Force on Sexual Harassment in Atlanta, Georgia and the Colorado Pay Equity Commission.

9to5's simple definition of **Sexual Harassment:**

Sexual harassment is conduct of a sexual nature at work or school that is: **Unwelcome**

Offensive

Usually repeated

...and makes it harder to have your job or do your work.



Examples of Offensive Behavior

(Most of these behaviors are always inappropriate at work. Some—for example, massaging a person’s neck or shoulders, telling an off-color joke—may be okay, depending on the participants and the setting.)

Verbal

- Making sexual comments about a person’s clothing, body or looks
- Making sexual comments or innuendos
- Telling sexual jokes or stories
- Turning work discussion to sexual topics
- Asking about sexual fantasies, preference or history
- Asking personal questions about social or sexual life
- Whistling, catcalls, howling, smacking lips

Requests or Demands for Sexual Favors particularly (but not only) when accompanied by implied or covert threats concerning one’s job

- Pressure for sexual activity (subtle or obvious)
- Repeatedly asking for dates when person is not interested

Physical

- Leering, staring, licking lips
- Looking a person up and down
- Making sexual gestures with hands or through body movements
- Following, hanging around, or blocking a person’s path
- Display of sexual cartoons, calendars, pictures, toys
- Touching the person’s clothing, hair or body
- Standing close or brushing up against the person
- Giving a massage around the neck or shoulders
- Hugging, kissing, patting, groping or stroking
- Touching or rubbing oneself sexually around another person
- Physical assault—rape or attempted rape

Unwanted Attention

- Telephone calls of a sexual nature—or of great frequency
- Personal gifts, letters

A Short Hand Test of Your Behavior

Five questions you might ask yourself to make sure your behavior is okay:

- 1 Would I say or do this if my significant other or child were standing here?
- 2 Would I want someone to say or do this to my daughter or someone I love like a daughter?
- 3 Would I want to be seen on national news doing or saying this?
- 4 Would I hang this poster in my living room or small child's bedroom?
- 5 Will I make the person feel good, or uncomfortable, after what I'm about to say or do?

Sexual Harassment: Saying No

Many sexual harassment victims blame themselves for not saying no strongly enough. But saying no directly isn't always easy, especially if the harasser is your boss.

Most people who are sexually harassed communicate their discomfort in dozens of ways—by not saying 'yes' or 'thanks,' by not smiling, by stiffening up or looking perturbed. Chances are the harasser gets the message—in fact, your discomfort may be just what s/he was looking for. S/He simply thinks they can get away with it. Below are some tips on how to let them know they can't:

Say no either verbally or in writing

in any tone that feels right to you. Here are some samples:

"It makes me uncomfortable when you talk to me/touch me/look at me that way. I'm not questioning your intentions, but I would prefer that you not do it again. I hope we can have a good professional relationship."

"As I have indicated on numerous occasions, I am not interested in going out with you. Your requests for dates are making me uncomfortable. If you continue, I will have to bring the matter to the attention of someone higher up."

"I don't appreciate your brushing up against my body. You know that these incidents are not accidental. If



you don't act in a professional way, I will report this harassment."

"If you touch me/talk to me that way one more time, I'll report you so fast you won't know what hit you."

"Why don't we step into the outer office so you can make that request in front of the rest of the staff?"

"Do you think top management would appreciate having to deal with a lawsuit brought on by your behavior?"

"Sure, I can take a joke. What I won't take is sexual harassment. If you don't know the difference, I'll be glad to recommend some reading material."

A written "no" should have three parts: First, a detailed, objective account of the offensive behavior; then a description of how that behavior made you feel; and finally a statement of what you want to happen next. Below is an example:

"Every Monday morning for the past four weeks you've stopped at my desk to tell me about your sexual exploits over the weekend. I am very embarrassed by these comments. It's hard for me to get back to my work, and I find myself trying to avoid having to see you. I want you to stop making these remarks to me."

You don't need to send a copy to anyone besides the harasser at first, but keep a copy (away from the office). If you file a charge later, the harasser may say that s/he had no idea you were uncomfortable with this behavior. Your letter will thwart that defense.

What to Do If You are Harassed

1. **Be Assertive.** Say no clearly. The person may not mean to offend. If they do, you're communicating that you won't tolerate their behavior. You can choose the tone—*polite and businesslike, or blunt.*

You may want to say no in writing. If so, include 3 parts:

- *specific* description of offensive behavior, preferably with dates
- *concrete* statement of how this made you feel and how you indicated that at the time
- *what* you want (the behavior to stop). No need to threaten any further action here.

Keep copies (away from work). You don't have to send to anyone yet, but you do want to verify that it was delivered. A written memo doesn't always work, but it's effective more often than you'd think. It takes away the harasser's defense that they didn't know you were offended.

2. **Be Prepared.** Document every incident in detail. Keep a log (bound notebook) at home and mark the time, date and place of each incident, what the harasser did and your response. List any witnesses. Note any physical or emotional stress experienced related to the incidents.

Keep evidence of your satisfactory work performance, including evaluations.

3. **Don't Blame Yourself.** You are not guilty. Sexual harassment is a way of showing power, not sexual desire. Trust your instincts. This is like the “uh-oh” feeling children are taught about—if it makes you uncomfortable, check it out.

4. **Seek Support.** Find sympathetic and respected women or men in your company and tell them about the problem. Ask their support and help. Look for witnesses and other evidence from coworkers or former employees. Chances are you're not the only one who's been harassed by this person.

5. **Research Company and Union Channels and Use Them.** A government agency will want to see evidence that you've utilized internal channels.

6. **File a Charge with the State or Federal Anti-Discrimination Agency If Necessary.** You don't

need an attorney to do so, but you may want to consult one—the company will be represented. Make your complaint as detailed as possible, but be concise. The remedy can include damages for pain and suffering, as well as any out-of-pocket expenses or lost pay. An attorney can help you determine what to ask for and what are your chances of recovery.

9to5 Guidelines for a Model Company Policy on Sexual Harassment

A good policy must have these elements:

- *Employee involvement* is critical to developing a policy that will be successful.
- The policy must include *education and training for all employees*, not just management. This education should be *ongoing*, not a one-time session. It should be done *on paid time*, to show the company's seriousness about *preventing* sexual harassment as well as dealing with it when it occurs.
- It must be *clear*, designating specifically the complaint procedures—channels to report any suspected violations, the steps that follow, timetables, methods of investigation and follow-up.



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- It must be *flexible*, allowing for several different channels, to maximize options and comfort for the person making the complaint. The procedure should allow for, but not require, the individual to report the problem to their supervisor, as that person may be the harasser.
 - The policy must be *well-publicized*, with noticeable and frequent references (posters, newsletter articles, discussion sessions, etc).
 - If possible, the company should provide an *informal* mechanism for those experiencing harassment to get information and support without having to file a formal complaint.
 - Investigations must be done in a *timely, sensitive* and *fair* manner, with due process for the accused.
 - The policy must make clear that violations will bring *appropriate consequences*, indicating the range of disciplinary actions which can be taken.
 - The company needs a mechanism to *evaluate the investigation process* and skill of investigators.
 - The policy must include a *follow-up mechanism* to ensure that there is no retaliation against the person making the complaint.
 - A good policy includes a *self-evaluation mechanism*—such as an anonymous survey—to determine the extent to which sexual harassment is a problem and to evaluate the organization’s culture. This survey should be repeated periodically.
 - The policy should encourage *ongoing communication* among employees to discuss any behavior that may be offensive. If possible, it should provide training in assertiveness and listening skills, along with *training* for all those involved in the resolution process.
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EEOC Definition of Sexual Harassment

According to the EEOC (Equal Employment Opportunity Commission),

“ Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 or creating an intimidating, hostile, or offensive working environment. ”

In 1977 a federal court upheld the “quid pro quo” (“sleep with me or you’re fired”) type of sexual harassment as a form of sex discrimination at work and hence a violation of Title VII of the Civil Rights Act of 1964. The EEOC guidelines, issued in 1980, also included the “hostile environment” type of harassment. The Supreme Court upheld this in 1986.

The Civil Rights Act of 1991 permits remedies in such cases to include compensatory and punitive damages and attorney fees.

In 1992, the Court ruled that schools receiving federal funds may have to pay damages if sexual harassment has occurred.

An employer is responsible

for the acts of its agents and supervisors regardless of whether the employer authorized or knew of the harassment, especially in cases where the recipient experiences a tangible employment effect. If there is no tangible effect, the employer can make an *affirmative defense* if it took reasonable care to prevent harassment.

The employer is responsible for acts of sexual harassment between employees in cases where the employer knew or should have known of the conduct and failed to take prompt and effective corrective action. An employer may be responsible for the acts of non-employees such as contractors, delivery or repair personnel.



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