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Harassment Prevention:

A Commonsense Approach for Employees



EMPLOYEE
VERSION
Study Guide

Harassment Prevention

A Commonsense Approach

**Study Guide
Employee Version**

Produced by
Kantola Training Solutions

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Version: 9 August 2019

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Introduction

The opening scene in the course, *Harassment Prevention: A Commonsense Approach for Employees*, shows an example of unwelcome conduct that involves two coworkers discussing and sharing images from the workplace on social media, causing distress to a third coworker.



This is just one example of the various kinds of harassment, bullying, and uncivil behavior that can occur in the workplace. This kind of behavior can cause harm, create stress, and distract everyone from doing their jobs efficiently and well.

In this course, we'll talk about laws that prohibit harassment in the workplace and protect our rights as individuals. But we'll also talk about civility and respect. We'll show how you can become more sensitive to the issues, help protect your coworkers from unwelcome behavior, and contribute to maintaining a respectful workplace.

In fact, it is your responsibility to follow your employer's policies and do your part in keeping your workplace free from unlawful conduct like discrimination and harassment.

Remember: If coworkers get along and treat each other with respect, your workplace will be more pleasant for everyone, and your job will be easier and more successful.

Quid Pro Quo

There are two types of unlawful workplace harassment. The first type is “quid pro quo” sexual harassment.

This occurs when someone in a position of power or influence in the workplace takes a tangible employment action for or against an employee who either agrees, or refuses, to go along with a request for sex or romantic activity.

Quid pro quo is a legal phrase taken from Latin. It translates as “this for that” or “this in exchange for that.” In many areas of business and law, quid pro quo can be used as a fairly neutral term describing an even exchange.

Quid pro quo = this for that

In the context of harassment, it’s not an even exchange. When sexual favors are demanded in return for workplace benefits, or to avoid negative consequences, there is an increased likelihood of a claim of quid pro quo harassment.



Quid pro quo harassment is considered to be so serious that even one occurrence is unlawful and the consequences can be quite costly for both harassers and their employers.

However, some situations are not that clear.



In the scene “Meeting the VP,” the new hire clearly feels pressure to go along with suggestions that are too personal, too soon.

Now, some might think that the manager has done no wrong. It’s true that his intentions may be entirely innocent. But they may not be. When an incident of quid pro quo harassment is found to have occurred in the workplace, it is not unusual to discover a prior pattern of the wrongdoer having engaged in “testing” behaviors that started with small, but escalating requests.

Anti-harassment laws are set up to protect individuals in situations like this, whether or not they are comfortable speaking up. The executive in our scene, being in a position of power, is the one who needs to:

- Keep things professional
- Notice her discomfort
- Immediately back off, once he realizes what is happening

Remember: you have a right to express your personal boundaries. You do NOT have to go along with suggestions or requests that make you feel uncomfortable. We’ll talk more about how to speak up and where to go for help as we continue through the course.

Hostile Work Environment

The second type of unlawful workplace harassment is called hostile work environment harassment. Hostile work environment harassment is defined as unwelcome behavior related to a legally protected characteristic that is ongoing, pervasive or severe, or unreasonably interferes with an individual's ability to do their job.



In our video example, a couple of coworkers clearly offended several others with their “joking around” that included insulting comments and sexual innuendos.

But it is not only verbal behavior that can cause offense in the workplace. Unwelcome behavior that leads to harassment can also be visual, or physical – which is usually considered the most serious of all.

Forms of harassment

- **Verbal**
 - **Unwelcome jokes**
 - **Slurs**
 - **Offensive nicknames**
- **Visual**
 - **Gestures**
 - **Photos**
 - **Posters**
 - **Cartoons**
 - **T-shirts**
- **Physical**
 - **Unwelcome touching**
 - **Blocking someone's path**

Generally, it takes a pattern of behavior to reach the level of a hostile environment. For example, one stray comment, unless exceedingly severe, would usually not be enough.

But even a stray comment here and there can start adding up. Most employer policies prohibit any inappropriate comments or other unwelcome conduct, even when it happens infrequently. Such conduct can contribute to a bad atmosphere that feeds on itself and gets ever worse.

Remember: Behavior that offends even one coworker, especially if it would offend a “reasonable person” in that coworker’s situation, should stop.

Welcome vs Unwelcome

What is “unwelcome conduct”? Unwelcome conduct is behavior that is not wanted, not requested and/or not willingly reciprocated.

Unwelcome conduct is behavior that is:

- **Not wanted**
- **Not requested and/or**
- **Not willingly reciprocated**

This means that a person doesn’t like it, didn’t ask for it, and is not freely participating in it.

Notice that the focus is on the recipient or observer of the behavior, not on the person who is doing it. It is the recipient or observer who determines whether conduct is welcome or unwelcome.

It may be obvious to recognize who is the recipient or target of unwelcome behavior. But observers can also be subject to harassment if they witness behavior they find to be unwelcome, even if the behavior is not directed at them. This is true even when others are willingly joining in on the offensive behavior, and the instigator genuinely did not intend any harm.

If the recipient or observer finds it unwelcome and if a “reasonable person” in their situation who received or witnessed this behavior would agree, then the behavior needs to stop.



In our example, two female coworkers are having a conversation that a male coworker finds unwelcome. The mention of pregnancy itself is not the problem here, but the sexually explicit details they are sharing that cross the line for this observer.

Remember: Inappropriate conversations, especially if they persist, are a common reason for observers to claim harassment. These conversations

can cover sexual activities or any other sensitive topic that should be left out of the workplace, including inappropriate discussions about race, religion or comments about other people's disabilities.

Social Media

Workplaces have long been faced with the challenge of potentially inappropriate materials brought in from the outside world. Over the years, many employers have had to deal with t-shirts, calendars, mugs, greeting cards, and other items carrying borderline or even obviously offensive messages or images.

But now the near universal presence of mobile devices has made this challenge even more difficult. With tweets, texts, photos, recordings and emails, borderline or even downright offensive comments and jokes can go just about anywhere.

Most employees spend a lot of time online and may regularly witness offensive behavior there. This can lead to a lack of awareness of what is appropriate at work.

**It doesn't matter if inappropriate content is initiated outside of the workplace or on personal devices.
Once it enters the workplace,
it must be addressed.**



If your employer has specific policies about using your personal devices at work, make sure you follow them. And even if your workplace does not have specific policies, be aware that content you bring with you on your phone, tablet or laptop is subject to the same standards that apply to any other potentially offensive content or behavior that you might bring to work. It's not OK if it causes offense. Everyone is protected from unwelcome behavior that affects the workplace, even if it is brought in by personal electronic devices.

Offending employees may ask, “What about my First Amendment right to free speech?”

The First Amendment right to freedom of speech applies specifically to individuals and their government. However, in the workplace, this right becomes subordinate to an employer’s responsibility to maintain a discrimination- and harassment-free environment.

In general, employers can regulate personal expression in the workplace, especially if such expression makes anyone in the workplace reasonably feel that they are being harassed.

Remember: Make sure you understand organizational policies that apply to electronic communications in your workplace. It’s your responsibility to comply with these policies and not cause offense to your coworkers due to your online activities.

Reasonable Person Standard

Not every instance of questionable behavior is harassment. Lots of behavior can fall into a gray area that is somewhere in between.

When it comes to conversations, it's usually a matter of degree. While people at work often share what is going on in their lives, everyone needs to think about how far these conversations can go before they start making others uncomfortable.

One way to judge a conversation is by using the "reasonable person standard" that we have mentioned earlier. Ask yourself: "Could a reasonable person in this situation be offended or made uncomfortable?" If so, then it would be best to change the subject.

Another way to judge behavior is to consider that it exists along a continuum, from conduct that would offend no one, all the way up to conduct that would offend just about anyone. While mild behavior may not reach the level of harassment, it's not the case that "the majority rules." If even one individual in a group is, or could be, offended, the activity should stop.

Evaluating Conduct



If you observe conduct that is relatively inoffensive but still sounds disrespectful or uncivil, it's OK to speak up. Saying something like, "Come on, everyone. You know that's not appropriate," might be enough to get your coworkers back on track.

However, if participants in the behavior don't stop — or this behavior escalates or is starting to become routine — the situation has climbed higher on the scale. Be sure to get help from your manager or HR so they can step in before the behavior becomes even worse.

Physical boundaries are important and need to be respected

Just as there are conversational norms, physical boundaries are important and need to be respected. Observing a certain behavior does not give someone permission to repeat it. A hug or touch can be welcome from one person or in a certain circumstance but not welcome or even unsuitable from

a different person or in a different circumstance. It is the perception of the person impacted, not the intent that is the relevant issue.



If you like to consider yourself to be a "hugger," expressing that part of your personality may not be suitable at work. It can be hard to tell who likes to be hugged and who doesn't, because people might not want to hurt your feelings or appear to be a bad sport. On the other hand, hugging might be just fine at some workplaces. But you still need to be sure that the people you are hugging want to participate.

If you are the recipient of unwanted hugs, it's OK to keep your distance or just say you don't feel like a hug. Get help from your manager or HR if this doesn't stop the hugs, especially if you experience any kind of inappropriate touching.

Remember: You are protected if you reasonably feel that you are being harassed, and you have a right to object to any inappropriate conduct at work.

Unwanted Romantic Attention

Most of us spend a large part of our waking hours at work. And workplaces often provide opportunities for meeting others. We can even make lasting friendships there.

But asking for dates, or otherwise trying to create personal or romantic relationships at work, can be problematic. It may even be discouraged or against policy in some workplaces.

Workplace relationships are complicated by the fact that we all have jobs to do, and the need to get things done adds an extra pressure that doesn't apply to non-work relationships.

Besides, things can go wrong and misunderstandings can occur that cross the line into harassment.

Just because someone is being sociable and responding conversationally, that should not be interpreted as a green light to persist with romantic attentions.

“No” means no. “Maybe” means no.

Persisting after being turned down is not OK. If a coworker tells another that they aren't interested in a personal relationship—or otherwise indicates disinterest through body language or other non-verbal signals—that refusal must be honored.

Unwanted romantic interest can be a form of harassment if it persists when someone is clearly not interested or has asked for it to stop.



Whether it happens on the job or off-site, the same protections and standards for proper conduct apply if the setting can be considered “related to the workplace.”

Remember: You have a right to ask for your employer's support if you experience unwanted romantic attention in the workplace or any work-related setting.

Other Protections

Harassment is a form of discrimination because it can lead to a work environment that makes getting a job and keeping it more difficult, unpleasant, or downright unhealthy for certain individuals.

The federal law that underlies the workplace protection against discrimination is Title VII of the Civil Rights Act of 1964. In this legislation, the government prohibited discrimination based on race, color, sex, religion, and national origin.

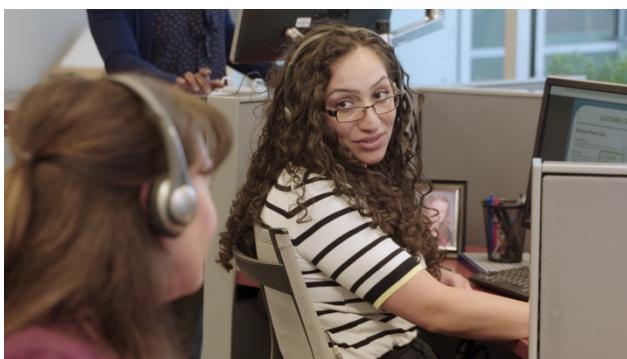
Enacting the Civil Rights Act of 1964 did not change workplaces overnight. But there has been gradual change. And, as society's awareness has continued to evolve, additional laws have been passed, protecting additional characteristics.

Today, the list of federally protected characteristics includes:

**Race
Color
Religion
National Origin
Disability
Sex (including pregnancy)
Age
Veteran Status
Citizenship Status
And More**

Harassment of an individual may fall under any of these "protected characteristics" or more than one characteristic.

Over the years, many states have added characteristics to the list of those receiving legal protection within that state. Some cities and counties have added their own protected characteristics, as well.



You might wonder how you can keep track of these characteristics, especially because they can change over time. Here are a few simple guidelines:

- Understand that both discrimination and harassment based on protected characteristics are illegal.
- Understand your personal biases and work to overcome them, dealing with each coworker as an individual rather than as a member of a group.

Remember: If you treat every coworker with a consistent level of courtesy and respect, it is very unlikely that you will find yourself in a situation of causing offense or being accused of workplace harassment.

Bullying / Abusive Conduct

Sexual harassment and hostile work environments don't just spring up out of nowhere. They often start in an atmosphere of bullying and disrespect.

Bullying and abusive conduct in the workplace cause serious harm, and cost organizations billions of dollars annually. Bullying reduces productivity and morale, increases absenteeism, causes frequent turnover, and increases medical and workers' compensation claims.



And although bullying by itself may not be against the law, bullying conduct can be a very slippery slope that leads to a claim of harassment if a protected category is involved. Bullying will almost always violate your employer's policies, and may even cause those who engage in this kind of behavior to lose their jobs.

Examples of bullying behavior:

- Repeated infliction of verbal abuse
 - Derogatory remarks
 - Insults
 - Epithets
- Verbal or physical conduct that is
 - Threatening, intimidating or humiliating
 - Intended to sabotage a person's work performance

If you don't want to be considered a bully, you'll need to avoid raising your voice in anger, interrupting others before they've had a chance to finish their thought, scornfully dismissing others' ideas (or claiming them as your own), sending abrasive email messages (especially with a "Reply All"), and delivering put-downs in the form of sarcastic comments designed to be hurtful.

Generally speaking, bullying requires a pattern of conduct. A single act is not usually considered bullying unless it is severe and egregious. But again, it's

a slippery slope. Once negativity takes hold, it can poison a workplace and lead to worse behavior over time.

Remember: While you may have experienced bullying in the workplace, and perhaps even outside of the workplace — it's not OK. If you find yourself acting that way, stop. And be sure to get help from your manager or HR if you feel that you are being targeted by a workplace bully.

Bystander Intervention

One of the best ways to stop harassment is for fellow employees to stick up for each other and intervene if they see a coworker being harassed. This is called "bystander intervention."

When you stand up to defend a coworker, your coworker is no longer alone. The harasser is now up against two people. And this kind of strength and peer pressure can often make the difference and even change workplace culture for the better.



Sure, it can be difficult to speak up. And it's understandable if you hesitate to get involved. You may not like the idea of confrontation. You might worry that you will be seen negatively by others on the team. You might feel like you are too busy.

However, helping your coworkers can have an important effect. Especially if you take action early, rather than late. And it doesn't have to involve directly confronting the harasser—there are other options. A useful framework for remembering some different ways of intervening are the Four D's:

1. **Distract.** If a conversation is heading in the wrong direction, try striking up an unrelated conversation to change topics.
2. **Delay.** Consider waiting for the offending party to leave and then check in with your coworker, ask how they feel, and offer support.
3. **Direct.** Ask the individual directly to refrain from their unwanted behavior, if you feel comfortable and safe doing so.
4. **Delegate.** Get help from others with authority, like your manager or HR or other designated resources in your organization.

If you try any of the first three options without success, then use option 4 right away. Your employer will want to know what is going on so they can step in and fix the situation before it gets worse.

Remember: Intervention is not just about one event. It's about "having someone's back." It's about letting them know they're not alone and you are there to help them. Listen to your coworker if they want to talk. Accompany them to HR if they want the support. Be the friend that you would want to have if you were in their situation.

If You've Been Targeted

What if you are the recipient of harassing behavior? What can you do to stop harassment if you feel that you are a victim of it?

If you are comfortable doing so, speak up. Ask for the behavior to stop.

As you learned earlier, it doesn't matter what the harasser thinks. What matters is how a reasonable person might think. It matters what YOU think.

If you do feel comfortable speaking up, here are some things you could say

- *"I find this topic to be inappropriate. Let's change the subject."*
- *"I don't like it when you use that kind of language."*
- *"Why do you think it's OK to say that to me?"*
- *"I'm sure that you don't mean to make me uncomfortable, but you do. Can you please not refer to how I dress?" (after unwelcome compliments)*

Sometimes, you need to be even more clear.

- *You're out of line — let's keep this professional*
- *I am not OK with this*
- *I do not consent to this*
- *Do not touch me!*



Keep in mind that you, as the recipient or observer of unwanted attention or comments, do not have the sole responsibility to warn someone that their behavior is making you uncomfortable. Your employer has resources

in place, ready to help. Especially if the behavior continues after you ask for it to stop.

>Get help if you want help

>Get help if you feel that your wishes are being disregarded

Remember: Reporting something doesn't suddenly make it a bigger issue; it just means that your manager or HR can help you rectify a situation that is making you feel uncomfortable.

Complaints / Protection from Retaliation

Your employer will appreciate your bringing any concerns to their attention. They will want to fix anything bad that may have happened and do their best to make sure it doesn't happen again.



What happens if you file a complaint?

- Once a complaint is filed, an investigation will take place to establish the facts, and then a determination will be made.
- Those receiving and investigating your complaint may not be able to promise confidentiality, but will attempt to be as discreet as possible.
- Your employer will also want to protect you from any retaliation for objecting to unwelcome behavior. Retaliation is against the law.
- Be sure to let your employer know about any retaliation you believe you are experiencing.

Retaliation is unlawful because it can have the effect of discouraging people from exercising their rights to object to harassing behavior in their workplace.



Don't participate in any form of retaliation yourself, even if someone complains about you. That includes obvious forms of retaliation as well as subtle forms, such as shunning coworkers who have complained, or refusing to speak to them. You don't have to be "best friends" after a complaint, but you do have to treat each other with common courtesy. Focus on your work and cooperate with any investigation so that your employer can take care of the problem and make things right again.

Remember: Retaliation is unlawful and brings consequences of its own, even if the initial complaint is not found to have met the threshold of unlawful harassment.

Civility

As mentioned before, harassment and hostile work environments don't just spring up out of nowhere. Organizations where people do not respect each other and where the common courtesies have started to slip are especially at risk.

When a culture starts to take hold that tolerates abusive behavior and intimidation, there can be real problems down the road.



Let's take a moment to rate yourself on the following behaviors. Are you part of the problem or the solution?

Do you ever?

- Make crude remarks **yes / no**
- Interrupt people; not listen to people **yes / no**
- Email or text during meetings **yes / no**
- Pass judgment on others who are different **yes / no**
- Neglect to say please or thank you **yes / no**
- Put others down either privately or publicly **yes / no**
- Not treat everyone with respect **yes / no**
- Not acknowledge others' contributions **yes / no**
- Make belittling comments **yes / no**
- Not greet and acknowledge others **yes / no**
- Not seek and welcome feedback **yes / no**
- Not speak up when others are being uncivil **yes / no**

Certainly, we've all made mistakes. But those mistakes are important. We need to learn from them.

It is important not to let incivility get a foothold in your work group. It can lead to a downward spiral that is difficult to stop.

Incivility is contagious, but spreading goodwill and kindness is also contagious. Be that person; the person who makes a positive impact. You

will be happier and more productive, and that will help your coworkers to be happier and more productive, too.



Remember: Goodwill and good manners can be as contagious as bad behavior. Be the person who makes a positive impact.

Conclusion

We've covered a lot of material, all focused on supporting a workplace environment where unwelcome and harassing behavior is not acceptable. And where everyone can thrive and contribute to the success of your organization.

While it's important to know the legal definitions of the various forms of discrimination and harassment that we've covered, it's even more important to think about the practical examples you've seen... How harassment can creep into a workplace... And what you need to do to prevent or stop it.

**Workplaces that tolerate harassment have more of it.
Workplaces that do not tolerate harassment have less of it.**

Remember: Your manager, HR department and other company resources are there to help.



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