

Characteristics and Types of Sexual Harassment



There is a wide divergence of perceptions in our society as to what words or actions constitute sexual harassment. Due to the complexity of human behavior, it is difficult to pinpoint what exact behavior will be perceived as harassment by an individual.

It becomes very difficult to draw a clear line between acceptable and unacceptable behavior in the workplace. For example, an arm around the shoulder may be perceived as a gesture of affection by an individual, the same gesture may be offensive to another person. Hence if a person finds certain behavior personally offensive, he/she may consider it to be sexual harassment. Behaviors may be subtle or obvious, verbal or nonverbal.

Following are the characteristics and types of Sexual Harassment at Workplace.

- Unsolicited and Unwelcome:

Unwelcome – Primary identifying factor in sexual harassment incidents is that it is unsolicited and unwelcome to the complainant. We need to know the difference between invited, uninvited but welcome, offensive but tolerated and flatly rejected sexual advances. This distinction is very important because sexual conduct becomes unlawful only if it is **unwelcome**.

At workplace, the perception of whether a behavior is unwelcome or objectionable or inappropriate is from the subjective standpoint of the woman/man aggrieved. It is the **victim's perception** which is very important and not what is the intention of the perpetrator.

Victim's past conduct – complainant's use of foul language or sexual innuendo in a consensual setting does not waive her legal protection against sexual harassment. Just because an employee is prepared to engage in a banter, flirtation or even sexual activity with one or more fellow employees does not mean that the employee is required to accept the same conduct from everyone. It must be noted that some comments or activity may be welcome from one person, while entirely unwelcome from another person. Employee has a right to choose those with whom he or she is prepared to let down some of the defenses and with whom he or she is not prepared to.

What is consent?

The usual perception is that unless a woman protested, resisted or if a woman was not modestly dressed, she was deemed to have consented. Silence, passiveness or ambiguous conduct constituted consent which is NOT TRUE!

No means No. Yes means Yes and **Silence means “NO”**

Law also assumes absence of consent if the submission is due to force, fear, threat, fraud or exercise of authority.

Furthermore, to establish unwelcomeness or unwantedness, complainant is not required to prove that she had verbally protested or said “No” or conveyed in any other way that his behavior was unwelcome. It is enough for the complainant to establish that she by her conduct or body movement or body language conveyed to the perpetrator her disapproval of his advances. Moving away, not laughing, not participating, avoiding, change of topic, showing disinterest etc. are some of the body language signs depicting NO consent.

- Persistent and Repeated: depends on the nature of sexual harassment. Minor ones like verbal or nonverbal sexual behaviors involving comments, prepositions, staring etc. may occur repeatedly before the behavior may be identified as sexual harassment. However, in case of major/serious forms of sexual harassment such as those involving physical assault need not occur more than once in order to be considered as sexual harassment. The more severe the harassment, the less need to show a repetitive series of incidents. This is particularly true in case of physical sexual harassment.
- Encouraging some behavior does not mean all kinds of behavior is welcome
- Actual physical contact is not necessary to constitute sexual harassment. Sexual advances whether implied or explicit is sexual harassment especially if it is unwelcome.
- Sexual harassment is not justifiable by the reference to the victim's dress or demeanor.

Following are the different types of Sexual Harassment at Workplace

Verbal sexual harassment

Below are listed examples of unacceptable verbal behaviors that may constitute sexual harassment.

- > Continuous idle chatter of sexual nature and graphic sexual description
- > Sharing Sexual jokes
- > Comments of sexual nature about looks, weight, body shape, size or figure, dress, appearance
- > Staged whispers or mimicking of sexual nature about the way a person walks, talks, sits etc.
- > Derogatory/double meaning comments
- > Sexual innuendoes or taunting
- > Sexual Remarks
- > Inquiries or comments about an individual's sex life, relationship with sexual partner, sexual practices etc.
- > Sexual threats and abuses
- > Telephone calls with sexual overtones
- > Persisting and unwelcome flirting
- > Repeated unwanted social invitation for drinks, dinner, movies
- > Relentless proposal for physical intimacy beginning with subtle hints which may lead to overt requests for dates/sexual intercourse
- > Sexual propositioning
- > Lewd gossips and rumor creating hostile work environment at workplace

Non-verbal sexual harassment

Gestures and non-verbal behavior do not involve physical contact. Some gestures are intended only to get the attention of the victim, while others are intended to provoke a reaction from the receiver.

Listed below are the examples of unacceptable gestures and non verbal behavior that may constitute sexual harassment.

- > Sexual looks such as staring, leering, ogling with suggestive overtones
- > Sounds such as whistling, kissing sounds etc
- > Lewd gestures such as hand or sign language to denote sexual activity
- > Display of pornographic or other offensive, derogatory, sexually explicit pictures, photographs, magazines, cartoons, drawing, symbols and other materials
- > Showing of pornographic or sexually explicit movies or slides
- > Sexual exposure of one's body parts

- > Sending personal or inappropriate messages/videos/pictures over email, sms, or any forms of social media
- > Writing letters/notes/stickies etc. with sexual content or inappropriate messages at workplace
- > Indulging in sexual graffities on walls, restrooms, desks
- > Stalking – both physical stalking and digital stalking
- > Taking inappropriate videos/pics without consent

Physical Sexual Harassment

Any physical touch that is inappropriate such as patting, pinching, stroking or brushing up against the body

- > Hugging,
- > Cornering
- > Invading personal space
- > Attempted or actual kissing or fondling
- > Physical assaults
- > Coerced sexual intercourse
- > Attempted rape or rape, gangrape

Quid pro quo sexual harassment

When employment decisions are taken by people in authority or power based on acceptance or rejection of sexual favours is quid pro quo sexual harassment. The key elements of quid pro quo sexual harassment are-

- 1) demand for sexual favours (subtle/implicit or explicit)
- 2) the threat of adverse job consequences if the demand is refused

Some examples:

- > Hiring or firing based on acceptance or rejection of demand for sexual favour (either subtle/implicit or explicit)
- > Salary hikes or stall of hike
- > Promotion or Stall of promotion
- > Rise or reduction in rank/responsibilities/authority
- > Offering or removal of employment benefits like onsite travel
- > Making the job easy or tough
- > Giving frequent off from work/work from home options or stalling of the same
- > Nominating for rewards and recognition or stalling of the same
- > Showering lots of gifts or punishing

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