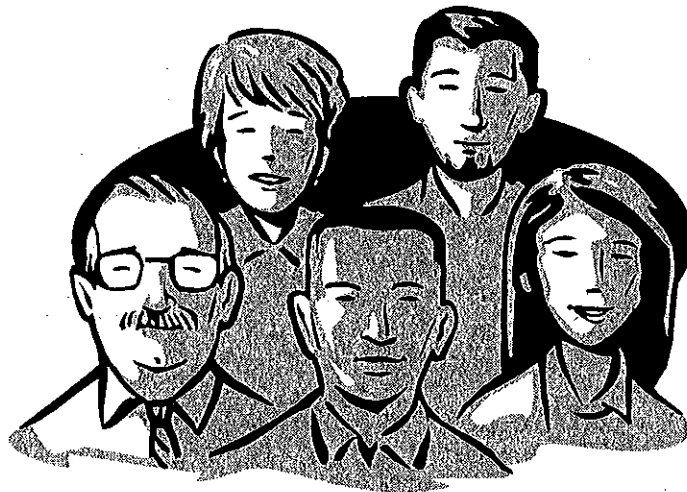


Recognizing and Preventing Sexual Harassment in the Workplace

What you know could help you and your workplace

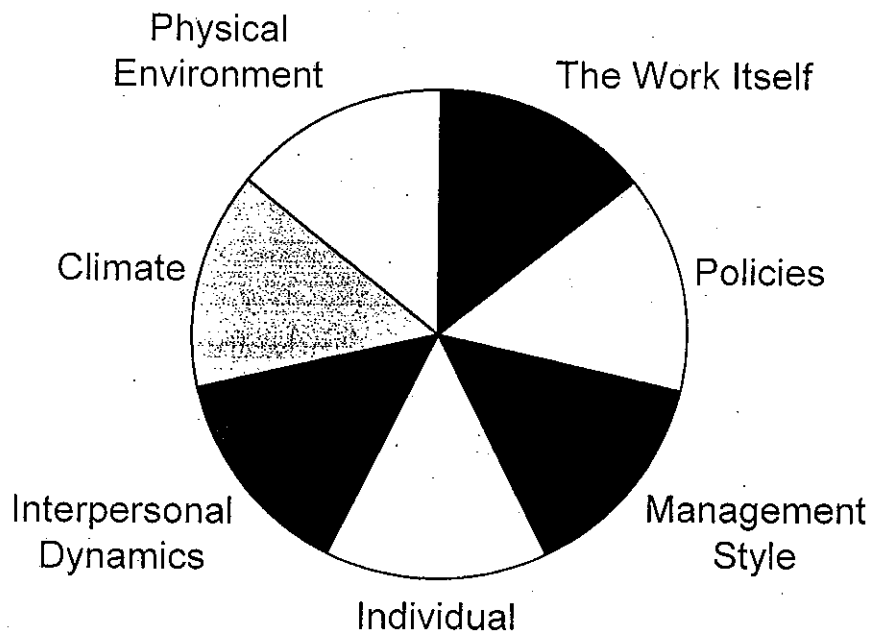


Vermont Department of Human Resources
103 South Main Street
Osgood Building
Waterbury, Vermont 05676
802-241-1120

Part of a series of programs on **Creating and Maintaining Healthy Work
Environments**

Creating a work environment where sexual harassment is prohibited, and where complaints of sexual harassment are promptly and effectively addressed, is one slice of the pie of a healthy work environment.

HEALTHY WORK ENVIRONMENT



Today we will focus on:

- What is sexual harassment?
- The process for reporting sexual harassment.
- Creating a work environment that prevents harassment from occurring.

What is the Difference?

Sexism, Sex Discrimination, Sexual Harassment

Sexism

Sexism is an opinion or belief that one gender is superior to another. Usually these opinions are oversimplified attributing similar characteristics or skills to *all* members of a gender, not recognizing individual variations.

EXAMPLES: Women are too weak mentally and physically to serve in the military. Men should never stay home full time to parent or do jobs like nursing because they are not capable nurturers.

Sex Discrimination

Sex discrimination is a behavior. It occurs when employment decisions are based on a person's sex or when an employee is treated differently because of his or her sex.

EXAMPLES: Only women are hired as managers in a certain departments because they are believed to be the only ones who can manage the female staff members. Only men are given the job assignments in one department that tend to lead to promotions and pay increases.

Sexual Harassment

Sexual harassment is a behavior and a form of sexual discrimination. It is defined as unwelcome and usually repeated behavior of a sexual nature.

There are two kinds of sexual harassment

1. Quid Pro Quo

which means "something for something".

When employment decisions are based on a person's response to requests for sexual favors.

This kind of harassment usually involves supervisors who **threaten** (e.g. give bad performance evaluation or poor assignments to a person who does not go along with sexual advances) or offer **rewards** (promotion, best assignments to someone who does go along).

Even if the employee submits, but considers the advances unwelcome, this is sexual harassment.

This type of harassment is less common, comprising about 20% of sexual harassment cases.

2. Hostile Environment

Repeated actions or objects displayed around the work place which create an "intimidating, hostile, or offensive" work environment and unreasonably interfere with a person's ability to do their work.

Environmental harassment can take many forms:

VERBAL Jokes, comments, language of a sexual nature.

NON-VERBAL Gestures, leering, following a person, displaying sexually suggestive visuals.

PHYSICAL Unwelcome touching, standing too close, etc.



Recognizing Sexual Harassment

VERBAL

Off color jokes or stories

Sexual comments/innuendoes or profanity

Overt reactions to physical appearance (whistling, growling, etc)

Applying terms of endearment to co-workers (honey, babe, dear, etc)

Asking personal questions about a co-workers social or sexual life

Repeatedly asking a person out who is not interested

NON-VERBAL

Leering, licking lips, blowing kisses, etc

Giving or displaying sexually suggestive objects

Sexually suggestive gestures or poses

Physically intimidating behavior: blocking path, following someone....

PHYSICAL

Touching someone who does not want to be touched (hugs, kisses, unsolicited back or neck rubs).

Touching oneself in a sexually suggestive way around another person



Key Points & Legal Issues



Hostile Work Environment

is speech and/or conduct of a sexually discriminatory nature, which was neither welcomed nor encouraged, committed by or permitted by a superior, which would be so offensive and/or pervasive to both the individual and a reasonable person as to create an abusive work environment and/or impair job performance

Intent v. Impact

The impact of one individual's behavior on others is what is looked at when determining if sexual harassment is occurring. Good intentions or lack of bad intentions is not the issue.

Remember what is funny or enjoyable varies greatly from one individual to the next.

Third Party Harassment

An individual can claim a hostile and offensive work environment even if the harassment is not directed at them. An example could include a worker who must regularly endure off color jokes or offensive language because this way of talking is so pervasive in the office.

Supervisor's Unique Role

An employer is liable for sexual harassment between co-workers if he/she knew or should have known it was happening. If a supervisor or manager is the harasser, the employer is generally liable whether they knew or not.

Employees are often more sensitive to the actions of supervisors and may be more easily offended by a supervisors' comments or behavior.

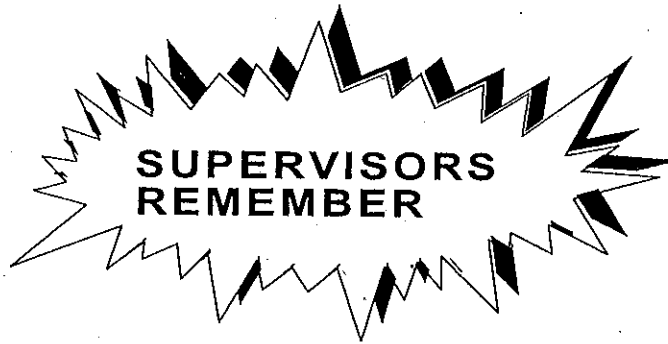
What YOU Can Do

If You Experience Unwanted Sexual Attention or Behavior

- 4 **MAKE YOUR FEELINGS KNOWN.** Clearly state that you find a behavior offensive and you want it to stop. Sometimes people don't realize they are being offensive. If you cannot confront the person offending you, consider writing a letter to him or her to express yourself. This is recommended but not required.
- 4 **KEEP A RECORD.** Write down what happened, when it happened, and who might have witnessed the incident. A written account can help because memories can be unreliable.
- 4 **MAKE A FORMAL COMPLAINT.** Talk with your supervisor, any department manager, the department personnel officer, or a member of the Department of Human Resources Employee Relations staff (828-3454). Once you speak with one of these individuals they are required to take action on your complaint. You may also contact VSEA or the Human Rights Commission.

To Help Prevent Sexual Harassment in Your Work Place

- 4 **KNOW THE STATE POLICY...and follow it.** In recent court decisions individuals who claim they knew the state policy for addressing sexual harassment complaints yet did not follow it, were determined to be unreasonable.
- 4 **EXAMINE YOUR OWN BEHAVIOR, ATTITUDE, & ASSUMPTIONS.** Do you treat all co-workers with respect? Do you consider how someone else might react before you speak or act?
- 4 **DON'T GO ALONG WITH THE CROWD.** If co-workers are involved with offensive behavior you do not agree with, make your opinion known or at least don't pretend you think it is O.K.
- 4 **REMEMBER "NO MEANS "NO"!**



- **You *MUST* take timely and appropriate action.** Once you know of or suspect sexual harassment you must take action, even if the individual allegedly being harassed does not want you to. The first step is to conduct an appropriate investigation.
- **Work with your personnel officer.** Your personnel officer knows the state policy and has probably dealt with similar situations in the past. This area is too sensitive to proceed without expert advice. State policy requires that the personnel officer is informed of sexual harassment when a complaint arises or it is suspected for other reasons.
- **Get back to the charging party.** Acknowledge the complaint in writing as a way to double check your understanding of the situation. Assure no retaliation occurs and watch for this. Once action has been taken to resolve the situation (discipline or a finding of no grounds for harassment), inform the charging party while maintaining appropriate confidentiality regarding personnel issues.
- **Please DO NOT:**
 1. Wait for a complaint. If you know or should know sexually harassing behavior is occurring, you must act on it.
 2. Indicate a complaint can be kept just between you and the complainant. While every effort must be made to maintain confidentiality, the complainant may need to be identified.
 3. Give the person complaining the impression he or she must put up with that behavior.
 4. Force the people involved to go off and work it out themselves. Individuals may choose to resolve these matters without management intervention, but they can not be required to do so.

Questions, Myths, & Facts

Q: What if I am falsely accused of harassment?

False complaints are rare. One study indicated false reports are made less than 1 percent of the time. In fact it is more common for complaints *not* to be made, even when justified. If you feel you are falsely accused, then your past behavior will be your best defense. Talk with your personnel officer about your perspective.

Q: If I ignore the harasser, won't the behavior stop?

Not usually. The most effective way to stop harassing behavior is to express your feelings clearly and directly to the offending individual. Ignoring the behavior may even be seen as agreement or encouragement.

Q: How come I have freedom of speech elsewhere, but not at work?

Freedom of speech is an important right that deserves to be respected, but it is not unlimited. The work place is special because people must go to work and cannot choose not to listen or walk away if speech is intimidating, offensive, or hostile.

Q: There was only one incident. How can it be sexual harassment?

Sexual harassment is defined as unwelcome and ***usually repeated behavior*** of a sexual nature. A single incident, if severe and blatant enough, can be determined to be sexual harassment.

Q: Are sexual harassment policies designed to protect women only?

Sexual harassment laws and policies are designed to protect everyone in the workplace. While the majority of sexual harassment cases have been filed by women against a man, there are cases in which men have filed charges against women. Additionally recent court decisions include same sex sexual harassment under the definition of sexual harassment.

What Do You Think?

Sexual Harassment or Not? Acceptable Behavior or Not?

1. Hanging behind the desk in Bill's office is a postcard of a woman in a very scanty bikini. Whenever Bill's co-worker Linda comes in to Bill's office she must look at the postcard located right behind Bill's head. Linda feels very uncomfortable about the whole situation.
2. Barbara and Tom work together and they share affection for off-color jokes. They realize they should not share these jokes with just anyone, so they usually go to one of their "cubby" office spaces to tell jokes. The office is small however and sound travels easily. Bob has felt quite uncomfortable and quite offended by the conversations he has overheard, though none of this talk is directed at him.
3. Archie has been putting off speaking to his supervisor, Sarah, about taking vacation next month. He likes Sarah, but sometimes she makes him feel uncomfortable, attributing his frequent successes on the job to his youth and good looks, rather than to his ability and good work. Finally getting up the nerve to speak to Sarah, Archie knocks on her door and enters. Marina, another manager and Sarah's friend, is in the office as well. Archie apologizes for interrupting and offers to come back at another time. Sarah insists he come in and asks in a provocative voice, "How may I help you young man?" Stammering, Archie tells Sarah he would like to speak to her when she has a few minutes about taking a vacation. Sarah looks knowingly at Marina and, winking at Archie, says, "Well, weren't you planning on consulting with me first about where we're going?" Archie forces a smile and tells Sarah he'll speak to her another time when she is not busy.
4. Pam spoke to her supervisor about Dave. Over the last four months Dave has been teasing Pam about her love life, telling her offensive jokes, and making whistling sounds as she walks by. The supervisor spoke with Dave and since that discussion Dave has not spoken with Pam. Neither have any of the other men at work. Now when Pam walks through the office her "hi" does not get returned and when most of the office goes to lunch she is not invited.

State of Vermont Personnel Policies and Procedures

Number 3.1

Subject: SEXUAL HARASSMENT

Effective Date: March 1, 1996

***supersedes Policy Dated: November 1, 1993

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont is opposed to and prohibits without qualification the harassment of anyone on the basis of gender.

Sexual harassment violates an individual's basic civil rights, undermines the integrity of the workplace, and adversely affects workers and clients whether or not they are direct subjects of harassment. Sexual harassment is a form of discrimination on the basis of sex and is, therefore, prohibited in the work place by both state and federal law as well as the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc. It is also unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

All employees, including but not limited to staff, supervisors, managers, and appointing authorities, are expected to comply with this policy and take appropriate measures to ensure that sexual harassment does not occur. Disciplinary action, up to and including dismissal, will be taken against any employee who engages in sexual harassment or who otherwise violates this policy.

In addition, every manager and supervisor within the State of Vermont is responsible for providing a work place free from sexual harassment. This duty includes informing and discussing this policy with all employees; ensuring that employees know they are not required to endure sexual harassment; that sexual harassment will not be allowed; that this policy will be enforced; and that charges of sexual harassment will be impartially and immediately investigated. Managers are responsible for ensuring that all new employees receive a copy of this policy; for posting this policy and a poster in prominent and accessible locations in the work place; and ensuring that employees are provided with gender-relations training. Any manager or supervisor who does not deal with sexual harassment complaints consistent with the terms of this policy may be subject to disciplinary action.

DEFINITION OF SEXUAL HARASSMENT:

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- b) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive work environment.

PROHIBITED CONDUCT:

Sexual harassment can be verbal, physical, auditory, or visual. It can be either subtle or overt. Sexual harassment refers to behavior that is not only unwelcome, but which can also be personally offensive, fails to respect the rights of others, lowers morale and interferes with work effectiveness, or violates a person's sense of well-being.

Both men and women can be the victims of sexual harassment and it can occur in situations where one person has authority (or the appearance of authority) over another, and can also occur between equals.

Managers, supervisors, and employees with the appearance of authority shall not threaten or insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual harassment will in any way affect the employee's employment, evaluations, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. Harassment by co-workers is also unlawful and prohibited both by applicable federal and state laws and the collective bargaining agreements, even though the loss to the victim may not involve the tangible benefits outlined above.

Examples of other forms of prohibited sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

Verbal: Sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, threats, unwelcome sexual flirtations, persistent requests for dates, degrading words used to describe an individual, other verbal comments of a sexual nature, and graphic commentaries about an individual's body.

Non-Verbal: Sexually suggestive or offensive objects or pictures, written comments, suggestive or insulting sounds, leering, whistling, obscene gestures.

Physical: Unwanted physical contact, which may include touching, pinching or brushing the body, coerced sexual intercourse, and assault.

REPORTING & RESOLUTION OF COMPLAINTS:*

The State, through this policy, commits itself to quick and effective actions to ensure that sexual harassment does not occur or persist. However, the fulfillment of that commitment will in large part depend on the willingness of employees to report prohibited behavior. A timely response to sexual harassment is essential to protect victims from further unwelcome behavior. It also ensures that the person responsible for objectionable behavior understands its impact on others. A timely report provides the best opportunity for the employer to expeditiously and effectively address the matter with the least possible adverse impact on all parties concerned.

Therefore, all employees should report any incidents of sexual harassment they experience, witness, or know of. Employees are also encouraged, *but not required*, to identify objectionable actions to those responsible for them, and to try to resolve issues informally.

The following process will allow employees to freely report incidents of sexual harassment, free from threats of reprisal, and will protect the rights of all parties involved.

* These Reporting and Resolution of Complaints procedures may be expanded upon by individual departments and agencies. Any specific departmental policies and procedures must first be reviewed and approved by the Department of Personnel.

TO FILE A COMPLAINT:

1. Any employee who believes (s)he has been the subject of sexual harassment shall report the alleged act(s) as soon as possible to any one of the following:

1. the immediate supervisor;
2. any departmental management staff;
3. any departmental personnel officer;
4. any departmental Equal Employment Opportunity (EEO) Officer
5. any member of the Department of Personnel Employee Relations staff, 110 State Street, Montpelier, VT, 802-828-3454.

NOTE: Any employee may consult with the VSEA to request its assistance. (S)he may also file a complaint of sexual harassment in accordance with the grievance procedures prescribed by the contract. The employer shall ensure that complainants and respondents are advised of their right to VSEA representation under the circumstances required by the contract.

TO PROCESS A COMPLAINT:

1. All complaints received by supervisors, managers, EEO officers, or Department of Personnel staff will be referred immediately to the departmental personnel officer. The personnel officer will coordinate with the appointing authority to ensure that a timely and complete review of the complaint is made. A report of any investigation will first be reviewed with the Department of Personnel Employee Relations Staff, and then a copy of the final report will be provided to the appointing authority. The appointing authority will identify and take steps to promptly remedy the harassment and prevent its recurrence.
2. Within five (5) work days, the appointing authority shall issue a written response to the complainant acknowledging the complaint and providing notice, if applicable, that any prohibited activity is expected to cease. An investigation will be done promptly and a written response will be provided to the complainant. The investigation and response will normally be completed within thirty (30) days.
3. Complainants should be notified that confidentiality cannot be guaranteed if a complaint results in a grievance or other litigation of the complainant.
4. The Department of Personnel and appointing authorities shall ensure that an investigation is conducted when any instance of sexual harassment comes to their attention, even in the absence of a complaint.
5. If the appointing authority or any member of the agency/department personnel unit is named in the complaint, the complainant or his or her representative must bring the complaint to the attention of either the Secretary of Administration or the Commissioner of Personnel to determine the appropriate personnel to be responsible for investigating the charge.
6. Any intimidation, harassment, or interference for filing a complaint or assisting in an investigation and/or intentionally filing a false complaint of sexual harassment will be subject to appropriate discipline, up to and including dismissal.

The use of this procedure does not preclude any victim of sexual harassment from pursuing any other legal remedy. To explore other remedies, employees may also contact the following:

Equal Employment Opportunity Commission

1 Congress Street
Boston, MA 02114
617-565-3200 (Voice/TDD)

Complaints must be filed within 300 days of the adverse action.

Vermont Attorney General's Office

109 State Street
Montpelier, VT 05609-1001
802-828-3171 (Voice/TDD)

Complaints should be filed within 300 days of the adverse action.

Vermont Human Rights Commission

135 State Street, Drawer 33

Montpelier, VT 05633-6301

802-828-2480 (Voice/TDD)

Complaints must be filed within 360 days of the adverse action.

Vermont State Employees' Association, Inc.

155 State Street

Montpelier, VT 05601

802-223-5247