

MANAGER TRAINING

Sexual Harassment ... Do You “Know it When You See it”?



What is sexual harassment?

Sexual harassment is any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment;
2. Submission to such conduct by any individual is used as the basis for employment decisions affecting that individual;
3. Such conduct substantially interferes with an individual’s work performance; or
4. Such conduct creates a hostile work environment.

Is this sexual harassment?

Using the above definition, can you identify which of the following scenarios is sexual harassment?

X-Y, Inc. only has male employees. Throughout the workday, the employees tell bawdy jokes. Gregory, a long-term employee, regularly tells these jokes and, oftentimes, his jokes are among the most crass. One day, Gregory complains to HR about the jokes – claiming that he is being sexually harassed.

This is an example of potential sexual harassment.

Even though Gregory has been a willing participant in the conduct, allowing employees to tell vulgar jokes in the workplace can create a hostile work environment that makes employees uncomfortable. Gregory’s complaint should be investigated and those employees who are found to have engaged in the behavior should be disciplined and should receive sexual harassment training. If it is found that the problem is widespread, company-wide training may be appropriate.

Until recently, Harry, a supervisor at Caff-Me Shoppe, was dating Sally, one of his subordinates. Two weeks ago, Harry “dumped” Sally. Sally is now claiming that Harry has been sexually harassing her for months.

This is an example of potential sexual harassment.

Even though Harry and Sally were dating, there is a possibility that Sally felt pressured to date Harry (i.e., Sally may have believed that she would lose her job if she did not date Harry). Therefore, Sally’s complaint should be investigated.

Workplace relationships can cause a lot of problems for employers – especially after the relationship ends. The best defense is to develop policies addressing relationships in the workplace. The policies can range from prohibiting workplace relationships altogether to requesting that employees who are involved in a workplace relationship complete a “Love Contract.”

Romeo, the Plant Manager at Star-Crossed Glass, is engaged to Juliette, a recently-promoted Team Lead. HR has received several complaints that Juliette’s promotion was the result of sexual favoritism (e.g. that Juliette only received the promotion because she is involved with Romeo).

This is likely not an example of potential sexual harassment.

Even if Romeo didn’t show favoritism towards Juliette, an isolated instance of favoritism toward a paramour may be unfair, but it does not constitute sexual harassment.

That being said, the employees’ complaints should still be thoroughly investigated because if the investigation reveals that Romeo has a practice of “rewarding” employees who date him, that practice of sexual favoritism may create a hostile work environment for other employees. If favoritism based upon the granting of sexual favors is widespread in a workplace, that can create a hostile work environment for both male and female employees – especially if it sends the message to other employees that the only way to “get ahead” is to date the boss.