

Know Your Rights:

Witnessing Sexual Harassment at Work

JANUARY 2019

WHAT IS WORKPLACE SEXUAL HARASSMENT?

Sexual harassment is a type of sex discrimination that violates federal law under Title VII of the Civil Rights Act of 1964. Illegal workplace sexual harassment can happen between people of the same gender, different genders, coworkers, an employee and a client or customer, or an employee and their supervisor, among others. Harassment can occur almost anywhere, including in the workplace, at a work-related event outside of the workplace, or during work travel. There are two types of unlawful workplace sexual harassment:

- ▶ One type is conduct that a worker is forced to endure as a condition of employment. This form of harassment, called “**quid pro quo**” (or “this for that”), may involve a supervisor pressuring or coercing a subordinate to engage in sexual acts in return for continued employment, a promotion, favorable hours or shifts, time off or a positive review.
- ▶ The other occurs when conduct is intentional, recurring, severe and/or pervasive and impacts one’s ability to perform their job. This is called a “**hostile work environment.**” Examples include a colleague making offensive jokes, comments or insults, or sharing offensive images.

What You Need to Know

- ▶ Title VII does not protect everyone. Workers whose employers have fewer than 15 employees, independent contractors, self-employed individuals, farm workers and domestic workers are not protected from workplace sexual harassment by federal law.
- ▶ It is illegal for an employer who is covered by Title VII to retaliate against an employee for filing a claim of sexual harassment or against a bystander for reporting it.
- ▶ If someone witnesses offensive conduct, she or he may be the victim of sexual harassment even if not directly harassed.

WHAT YOU CAN DO IF YOU WITNESS WORKPLACE SEXUAL HARASSMENT

As a bystander or witness to harassment, you can play an essential role. The following tools can be used when you witness harassment in a variety of settings, including sexual harassment in the workplace:

Consider an immediate intervention to support someone who is being harassed.

[The Five D’s](#), developed by the Hollaback! movement and the bystander program Green Dot, provide bystanders with a range of options to respond to witnessing harassment regardless of where it takes place.¹

- ▶ **Direct:** If you feel that directly addressing harassment is safe and may be effective, you can confront the harasser and call out the behavior in the moment. Let them know you find their behavior inappropriate, intimidating or hostile, and ask them to stop. This approach may escalate the situation, so consider whether you and the person being harassed are safe and whether you believe the person being harassed wants someone to speak up.
- ▶ **Distract:** You can stop an incident by simply interrupting it. Rather than focusing on the aggressor or action, this subtler intervention allows you to engage the person being targeted through a distraction – ask a question, start an unrelated conversation, physically interrupt the incident, or find a reason to call the person out of that space.
- ▶ **Delegate:** Find an appropriate third party to intervene, such as a supervisor, human resources officer, security officer or another colleague.
- ▶ **Delay:** If you aren't able or choose not to intervene in the moment, you can still support the person who has been harassed by following up with them afterwards. You can offer acknowledgement and empathy, and can ask whether they need additional support, resources or documentation of the incident. You can also confront the harasser later and let them know that you found their behavior inappropriate.
- ▶ **Document:** Depending on the circumstances and whether other interventions are more urgent, it may be most helpful to document what you are witnessing. If you are able to record an incident or jot down details, be sure to follow up with the targeted individual and ask them what they would like done with the documentation; do not share it without their consent.

A note: *In a workplace, it is important to consider whether you should ensure that someone in human resources or a supervisor is aware of the incident and that the individual who was harassed feels safe and protected from recurring harassment or retaliation. As a bystander, you should follow the lead of the person who has been harassed; strategies provided below may be helpful.*

Report the harassment.

People who experience harassment and bystanders who witness it have the right to report it. It is important to determine what protections you have based on your workplace policies and state and federal law.

- ▶ Read your employer's policy on harassment and follow it to report an incident. If your employer does not have a policy, consider reporting harassment to a trusted supervisor or human resources specialist. Save all written communications and take notes on all conversations.
- ▶ Contact the Equal Employment Opportunity Commission ([EEOC](#)) or your local [EEOC field office](#) to learn more about harassment and your rights.
 - ▶ You can submit a charge of harassment online or in person within 180 days of when the harassment occurs (and you don't need a lawyer to do so). Some states have laws that extend this to 300 days; you can [check here](#) to see if your state has an extended timeline.
 - ▶ Once you have [filed a charge](#), a notice will be sent to your employer, and the EEOC will determine how to proceed. Possibilities include mediation with your employer or an investigation by the EEOC. You can check the status of your claim via the [EEOC Public Portal](#).

- ▶ Bystanders – as well as people who directly experience harassment – who report unlawful harassment to their employer, file a charge with the EEOC, testify, assist or participate in an investigation of harassment are protected from workplace retaliation by Title VII of the Civil Rights Act and cannot be retaliated against by their employers.² For example, employers cannot deny a promotion, give an unwarranted bad performance review or transfer an employee to a less desirable position.

Promote equity and respect in your workplace, and be an ally to someone being harassed.

The most effective way to address harassment is to prevent it.

- ▶ Consider your own biases – especially around gender, sex, race or ethnicity, and privilege – and how they affect your colleagues and workplace.
- ▶ Start conversations with colleagues, supervisors and decision-makers about ways to promote diversity, equity and inclusion in your workplace.
- ▶ Request climate surveys and staff trainings on sexual harassment, bystander intervention, and diversity and inclusion.
- ▶ Practice allyship with your colleagues – particularly those whose backgrounds or identities may be underrepresented in the organization or marginalized in society – by working to ensure their perspectives are heard, their contributions are recognized, and they are treated with respect.

Resources on Sexual Harassment

Many of these resources focus on preventing sexual assault or harassment in a variety of settings, and much of the information is applicable to the workplace:

- ▶ [Workplaces Respond to Domestic & Sexual Violence: A National Resource Center](#)
- ▶ [Bystander Intervention Tips and Strategies](#) (National Sexual Violence Resource Center)
- ▶ [A Bystander Response to Workplace Harassment](#) (Office of Compliance – U.S. Congress)
- ▶ [Your Role in Preventing Sexual Assault](#) (RAINN)
- ▶ [Bystander Resources](#) (HollaBack!)
- ▶ [The Glass Floor: Sexual Harassment in the Restaurant Industry](#) (Restaurant Opportunities Centers United and Forward Together)
- ▶ [Know Your Rights: Sexual Harassment in the Workplace](#) (National Partnership for Women & Families)

¹ Hollaback! *Bystander Intervention Training*. Retrieved October 4 2018, from <https://www.ihollaback.org/resources/bystander-resources/>

² Equal Employment Opportunity Commission. *Facts About Retaliation*. Retrieved 26 September 2018, from <https://www.eeoc.gov/laws/types/facts-retal.cfm>

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at www.NationalPartnership.org.

© 2019 National Partnership for Women & Families. All rights reserved