

EEO Workshop Harassment Scenarios

Offender    Aggrieved party    3rd Party(S)    HR

1G: Respect & Intervention in Pursuit of a Respectful Work Environment.

EEO Consultants & Mediators  
People=Positive  
EXCEL CONFERENCE, 2010

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**Cogs of Culture.**  
We can influence a change of behavior in people by:  
- telling them it is a legal matter and non-compliance has negative consequences.  
Or  
- by addressing their beliefs and creating a new inner desire to do the right thing

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What is the Cost of Harassment?

- ☒ Employees feel victimized
- ☒ Decrease in productivity
- ☒ Attendance problems
- ☒ Loss of employment for those affected
- ☒ Legal fees
- ☒ Settlements
- ☒ Uncomfortable work environment
- ☒ Reputation and Credibility

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**CONDUCT WHICH IS UNREASONABLY OFFENSIVE: REASONABLE PERSON STANDARD**




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- 1. Cartoons/drawings/pictures;
- 2. Insisting on dates when someone is not interested;
- 3. Referring to someone as Babe, doll, hot stuff;
- 4. Showing sexually explicit pictures, cartoons, games, other visuals
- 5. Porno screen savers, e-mails, text messages, twitters.
- 6. Probing into someone sexual experiences;
- 7. Sexual stories or jokes;
- 8. Inappropriate physical touching;
- 9. CONSENSUAL RELATIONSHIP -TWO EE'S ON Company's property.
- 10. Making quid pro quo demands ;
- 11. Making suggestive gestures or body movements;
- 12. Brushing up against a person;
- 13. Making suggestive sounds at a person.

**PROHIBITED CONDUCT- SEXUAL NATURE WITH CLIENTS& COLLEAGUES**




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**SEXUAL HARASSMENT**

**CONDUCT:**

**Based on Sex m/f:f/m:m/m:f/f Unwelcome Unreasonable Offensive Severe or Pervasive**



- 1. Unwanted behavior of sexual advances
- 2. Requesting sexual favors in exchange for employment benefits

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**SEVERE OR PERVASIVE  
Conduct  
(Applies to Sexual, Race, other)**

- 1 Non-Tangible Actions
- 2 Determined by nature and frequency
- 3 Name Calling; Unfulfilled Threats; removal of authority; demeaning behavior; humiliating assignments; unjustified performance reviews.
- 4 Can a reasonable person still come to work under these conditions?
- 5 Do we have an intimidating, hostile or offensive work environment?
- 6 Is this occurring because of harassment or because the aggrieved party filed a complaint, or both?
- 7 Was this reported, and what happened?
- 8 Mgt. must Investigate, Stop & Correct any potential violation!



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**FIRST ELEMENT-PROACTIVE  
PREVENTION**

- 1 A well defined strong anti-harassment/retaliation policy which defines the scope of anti-harassment/retaliation behavior and consequences for harassment.
- 2 Defines a 'user friendly' method for filing complaints.
- 3 Policy affirmatively promoted through periodic training and employee handbooks.
- 4 Train employees & managers to recognize inappropriate conduct.
- 5 Require employees to acknowledge they are aware & understand company policy.

REVIEW AGENCY'S EEO Policy & Procedures.....



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**FIRST COMPONENT-AFFIRMATIVE DEFENSE**

- 1 Confidentiality where possible
- 2 Investigate all complaints
- 3 Interview the complainant and all witnesses.
- 4 Interview the alleged harasser and ALL WITNESSES.
- 5 Other Neutral Witnesses
- 6 Interview former employees of alleged Harasser
- 7 CREATE A FILE, AND OBTAIN STATEMENTS FROM ALL PARTIES.
- 8 Determine Appropriate Action
  - (1) policy violation occurred;
  - (2) no clear violation;
  - (3) claim not substantiated.

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# HARASSMENT IS NOT WELCOMED!



Thank You!  
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Tony Mitchell, People Positive,  
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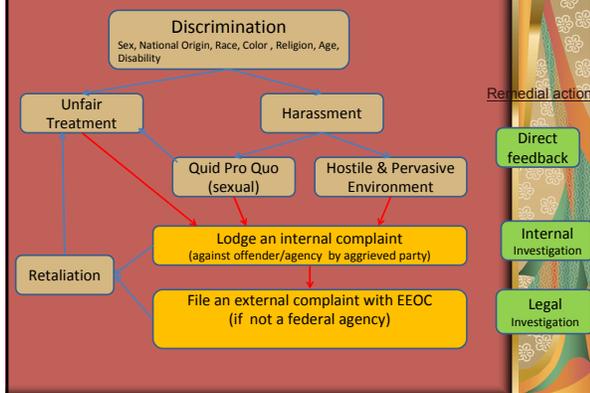
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## Discrimination Map



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## RETALIATION OF ANY KIND IS PROHIBITED TO AN EMPLOYEE/APPLICANT:

- FOR OPPOSING a perceived discriminatory action under eeoc law.
- FOR FILING a previous complaint subject to eeoc law.
- FOR PARTICIPATING as a witness subject to eeoc law.
- FOR REQUESTING an accommodation subject to eeoc law.
- BECAUSE OF CLOSE ASSOCIATIONS with someone engaged in protected activity.

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## EEO Workshop: Key learning Points

<p>Scene 1: race Warm-up scenario</p>	<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> parties have right to file complaint, even if not offensive to aggrieved party.</li> <li>• Retaliatory Actions against opposing party.</li> <li>• Suffered Tangible Actions?</li> </ul>
<p>Scene 2: Interactive Process Denied to a Vision Impaired Employee</p>	<ul style="list-style-type: none"> <li>• Should employee be involved in the Interactive Process if Action affects him/her?</li> <li>• Rights of an employee to file complaint</li> <li>• Retaliation Action involved- tangible or non-tangible?</li> <li>• Subjected to further retaliation.</li> </ul>
<p>Scene 3 act I: Sexual Aggrieved party/3rd party</p>	<ul style="list-style-type: none"> <li>• Sexual harassment, but refused advances</li> <li>• Quid Pro Quo in action</li> <li>• Suffered Tangible action</li> </ul>
<p>Wrap-UP</p>	<p><b>Bottom Line: Intervene and corrective action as early as possible.</b></p>

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## EEO Workshop Harassment Scenarios

	Offender 	Aggrieved party 	3rd Party(S) 	HR 
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Scene 1: Opposition by 3<sup>rd</sup> party; Retaliation suffered

Scene 2: Interactive Process denied to Vision Impaired Employee

Scene 3 act I: Sexual Aggrieved party/3rd party

WRAP-UP....

✓  
Observe, cite issues

✓  
Coach

✓  
Coach

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## SUPERVISOR HARASSMENT Liability Standard

- Tangible Employment Action  
Absolute Vicarious Liability
- No Tangible Employment Action  
( Affirmative Defense Applicable)




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