

How to Recognize and Avoid Sexual Harassment in the Workplace

Dan Solarek
Myrna Rudder

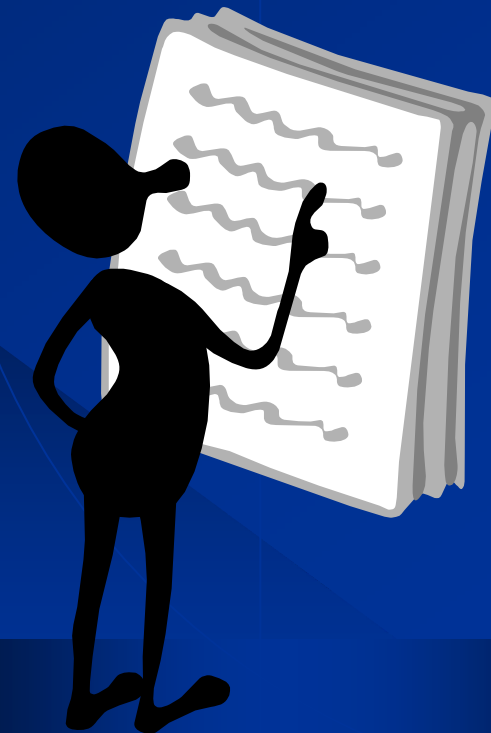
Why Talk About Sexual Harassment?

- ◆ Because it is unprofessional and illegal!
- ◆ Because we want to help prevent it.
- ◆ Because, unfortunately, it is a part of the modern workplace.



Outline of Topics

- ◆ Impact on the Workplace
- ◆ Definitions and Legal Implications
- ◆ Some Examples
- ◆ Organizational Policies
- ◆ Your Responsibilities



Sexual Harassment & The Workplace

- ◆ 31% of female workers claimed to have been harassed at work
- ◆ 7% of male workers claimed to have been harassed at work
- ◆ 62% of harassment targets took no action
- ◆ 100% of women claimed the harasser was a man
- ◆ 59% of men claimed the harasser was a woman
- ◆ 41% of men claimed the harasser was another man

Women Who Reported Harassment:

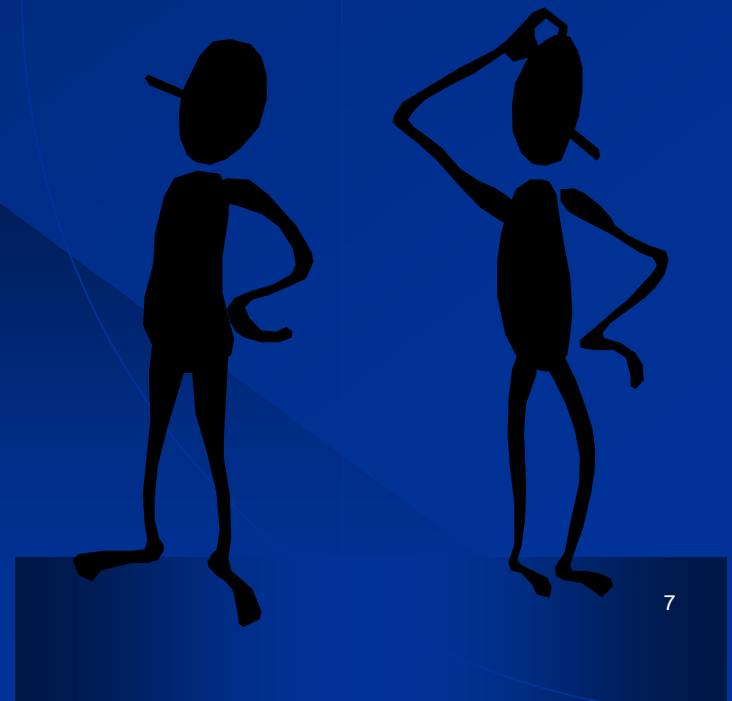
- ◆ 43% were harassed by a supervisor
 - ◆ 27% were harassed by an employee senior to them
 - ◆ 19% were harassed by a coworker at their level
 - ◆ 8% were harassed by a junior employee
- ◆ Words, jokes and gestures are the problems most reported by this group...

Who Can Be a Victim of Sexual Harassment?

- ◆ The victim may be a female or a male
- ◆ The victim does not have to be of the opposite sex
- ◆ The victim does not have to be the person harassed but could be anyone affected by the offensive conduct

Who Can Be a Sexual Harasser?

- ◆ The harasser may be a female or a male
 - he or she can be the victim's supervisor
 - an agent of the employer
 - a supervisor in another area
 - a co-worker
 - a non employee
 - anyone



Sexual Harassment Affects Everyone

◆ For employees it can result in:

- emotional and physical pain
- less effective job performance
- personal and financial problems

◆ For employers it can result in:

- high legal costs and fines
- poor public image
- lower productivity and morale
- increased costs for hiring and training new employees

What is Sexual Harassment?

- ◆ A formal definition of sexual harassment is:
 - “**Sexual** harassment” means unwelcome **sexual** advances, requests for **sexual** favors, and other verbal, visual, or physical conduct of a **sexual** nature, made by someone from or in the workplace or educational setting.
- ◆ More simply stated:
 - Sexual harassment is any unwelcome words or actions of a **sexual** nature.

Unwelcome Sexual Conduct

- ◆ The conduct must be unwelcome
 - in the sense that the victim did not solicit or incite it and
 - in the sense that the victim regarded the conduct as undesirable or offensive.



What is Sex-Based Conduct?

- ◆ Conduct of a **sexual nature** (sexual advances, request for sexual favors, and other visual, verbal, or physical conduct of a sexual nature)

OR

- ◆ Conduct directed toward an individual **because of that individual's sex** (e.g., gender humiliation)

Legal Implications

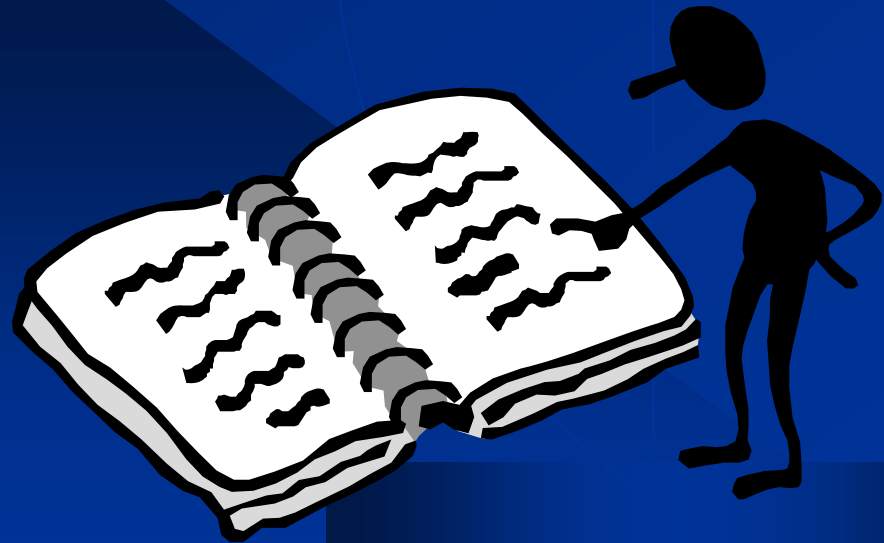
- ◆ Employees are protected under both state and federal law against workplace sexual harassment
- ◆ Federal law remedies for workplace discrimination are based upon Title VII of the Civil Rights Act of 1964
 - a violation of this law is a form of sex discrimination

Legal Implications

- ◆ The law says any unwelcome **sexual** attention or conduct is harassment if:
 - Your job or academic success depends on your response
 - Raises, promotions or grades depend on your response
 - The conduct makes it difficult to do your job or learn

Types of Sexual Harassment

- ◆ Two primary types of sexual harassment:
 1. “quid pro quo”
 2. “hostile environment” or offensive work/educational environment



What is "Quid Pro Quo" Sexual Harassment?

- ◆ More simply stated:
 - “you do something for me and I’ll do something for you”
 - this for that



What is "Quid Pro Quo" Sexual Harassment?

- ◆ Submission to such conduct is made either explicitly or implicitly a **term or condition** of an individual's employment, promotion or other evaluation
- ◆ Submission to or rejection of such conduct by an individual is **used as the basis** for employment or promotion decisions affecting such individual

What is "Quid Pro Quo" Sexual Harassment?

- ◆ Quid Pro Quo sexual harassment normally occurs when a person in authority, usually a supervisor, demands sexual favors of a subordinate as a condition of getting or keeping a job benefit.



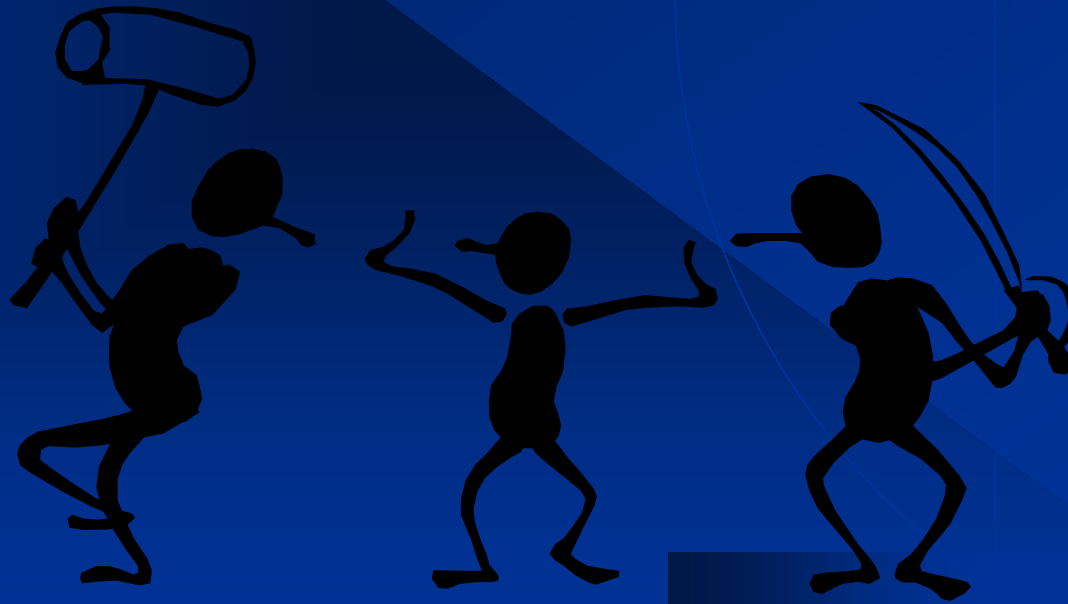
What is "Hostile Environment" Sexual Harassment?

- ◆ Any conduct of a sexual nature that interferes with an individual's work performance or creates an offensive, hostile or intimidating work environment



"Hostile Environment" Harassment

- ◆ Conduct that has the purpose or effect of unreasonably interfering with an individual's work or learning performance



"Hostile Environment" Harassment

- ◆ So, a hostile environment exists when unwelcome conduct unreasonably interferes with an individual's academic or work performance *or* creates an intimidating or hostile academic or work environment, even without tangible or economic consequences.
- ◆ The critical element in a hostile environment situation is whether the conduct was sufficiently "***severe or pervasive***" to create an abusive academic or work environment.

Severe and Pervasive Standard

- ◆ Unless the conduct is egregious, a single or isolated incident of offensive conduct generally does not create a *hostile environment*. Generally requires a pattern of offensive conduct. Federal law does not attempt to purge the work or academic environment of all offensive language or conduct.
- ◆ In contrast, in *quid pro quo* cases, a single incident will constitute harassment if it is linked to the granting or denial of academic or employment benefits.

Thus, Sexual Harrassment ...

- ◆ Can be blatant or subtle
- ◆ Is often an inappropriate display of power, often intended to coerce, embarrass or degrade
- ◆ Can be done by women and men



Sexual Harassment has many forms:

Verbal:

- ◆ threats or insults
- ◆ offensive or suggestive comments
- ◆ messages with sexual content
- ◆ persistent pressure for dates
- ◆ offensive jokes or teasing
- ◆ whistles or catcalls
- ◆ sexually oriented remarks about a person's clothing or body
- ◆ rumors about an individual's sexual activity or preferences

Nonverbal:

- ◆ suggestive gestures or looks
 - winks, licking lips, etc.
- ◆ staring or leering
- ◆ displaying posters, photos or drawings of a sexual nature
- ◆ leaving sexually suggestive notes, magazines, cartoons, mugs, or pictures
- ◆ overlooking, ignoring, or failing to take action or report illegal activities or reported sexual harassment

Or it could be:

Physical:

- ◆ cornering, blocking or trapping
- ◆ pinching, grabbing or patting
- ◆ unsolicited or unwanted touching of any part of clothing or body, hugging or kissing
- ◆ clothing adjustments, back rubs
- ◆ stalking or following
- ◆ assault, rape or attempted rape



For example:

- ◆ It could be sexual harassment if someone keeps asking you for a date even after you've said no.
- ◆ It's probably not sexual harassment if someone asks you out once and accepts your answer.
- ◆ It could be harassment if a person stares at your body frequently.
- ◆ It's probably not if a person glances up as you walk by.
- ◆ It could be harassment if a person regularly brushes up against you.
- ◆ It probably isn't if a person accidentally bumps into you.

Sexual harassment depends on how the person being harassed is affected, not on the harasser's intent.



Other Types of Sexual Harassment

- ◆ **Third Party Harassment:** The behavior does not have to be directed at that person in order for that person to make a claim.
- ◆ If two people talk about their weekend sexual exploits in front of another person and that person is offended - then this person is a victim of third party harassment.

Other Types of Sexual Harassment

- ◆ **Sexual Favoritism:** Someone might agree to have a sexual relationship with their boss to move up in the organization.
- ◆ Other people who can't get a promotion or other benefits because they did not have this sexual relationship can file a claim and cite sexual favoritism.

Harassment Is Not Only Sex-Related

- ◆ The harassing does not necessarily have to be explicitly “sexually provocative” to be harassment.
- ◆ Any conduct which involves sex or gender can constitute sexual harassment.
 - “That time of the month I guess”
 - “You’re just a woman, what do you know”
 - “Another dumb blonde”
 - “You’re just like a man-all muscle-no brains”
 - Behaving toward or treating someone differently because the person is a man or a woman

Some Sexual Harassment Myths

- ◆ Harassment requires a bad intent on the part of the harasser.
- ◆ If parties have been involved consensually, subsequent conduct cannot be considered sexual harassment.
- ◆ Liability is limited to conduct by supervisors and managers, not visitor or employee-to-employee harassment, because the company cannot control those relationships.

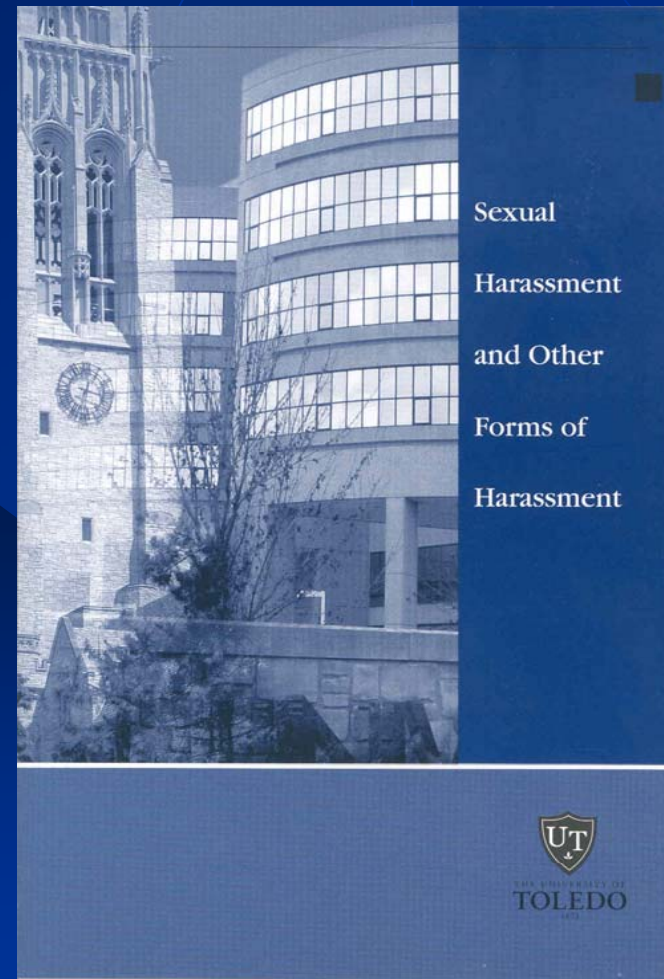
It's probably sexual harassment if someone's words or actions:

- ◆ Are unwelcome or offensive to you
- ◆ Make you feel uncomfortable or threatened
- ◆ Affect your job or academic performance

“Giving in” does not necessarily mean that the conduct was welcome!

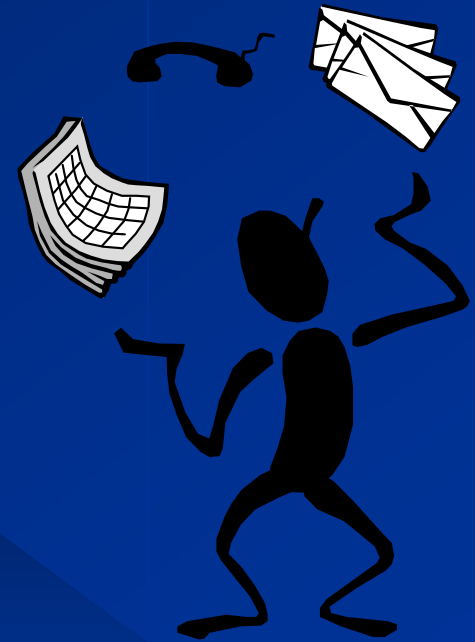
Know the Applicable Policies

- ◆ Most, if not all organizations will have a policy addressing sexual harassment
- ◆ UT's policy is published and distributed to all employees



What Should A Victim Do?

- ◆ Confront the harasser
 - indicate that the behavior is unwelcome and offensive
 - ask / demand that the harassment stop
 - document this action
 - use a third-party if necessary
- ◆ Document continuing harassment
- ◆ Review the organization policies and prepare thoughts and notes
- ◆ Report harassment to the appropriate person



Be aware of your words and actions

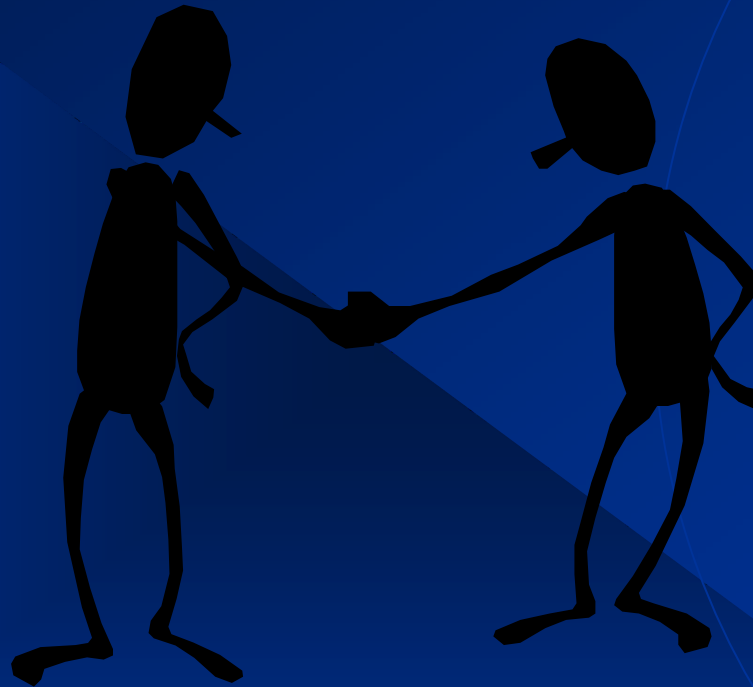
- ◆ Avoid making assumptions that jokes or gestures are harmless or inoffensive
- ◆ Think before making personal comments
 - how will they make the other person feel?
- ◆ Keep your hands to yourself
- ◆ Don't go along with the crowd or accept behavior that may be offensive

Be aware of your words and actions

- ◆ Respect the personal space of others
- ◆ Consider the perceptions of others
- ◆ Address any inappropriate behavior – speak up
- ◆ Be supportive of people who are being sexually harassed
- ◆ Know the company's harassment policy



Help prevent sexual harassment



Be professional at all times