

Federal Law on Sexual Harassment:

The Equal Employment Opportunity Commission (EEOC), Facts About Sexual Harassment

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be unwelcome.

It is helpful for the victim to directly inform the harasser that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

State Laws on Sexual Harassment

In addition to federal laws prohibiting discrimination and harassment, some states have similar (and sometimes more far-reaching) laws. The following states have laws regarding sexual harassment that apply to private employers. Remember that federal law is controlling, unless the state's law offers more protection to the employees, in which case the state law is controlling.

California. Employers with one or more employees are covered. Employers must act to ensure a workplace free from sexual harassment by distributing to each employee an information sheet on sexual harassment. An employer may either distribute the brochure prepared by the state (DFEH-185) or develop an equivalent document. An equivalent document contains the following elements:

- A statement on the illegality of sexual harassment;
- The definition of sexual harassment under state and federal law;
- A description of sexual harassment, using examples;
- The employer's internal complaint process;
- Legal remedies and complaint processes available through state and federal law;
- Directions on how to contact the state and federal agencies that are responsible for enforcing sexual harassment laws; and
- Protections provided by state and federal law against retaliation for bringing a harassment claim or being a witness in a harassment investigation.

Employers must post in the workplace a poster made available by the Department of Fair Employment and Housing.

It is an unlawful employment practice for an employer of five or more persons to fail to take all reasonable steps necessary to prevent sexual harassment by non-employees in the workplace if the employer knows or should have known of the incident and fails to take corrective action.