



DEPARTMENT OF THE ARMY
FORT WORTH DISTRICT, CORPS OF ENGINEERS
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

REPLY TO
ATTENTION OF

CESWF-EE

01 December 1997

DISTRICT COMMANDER'S POLICY MEMORANDUM NO. 2


SUBJECT: Prevention of Sexual Harassment

- 1. It is my policy that all team members (Army and civilian) have the right to work in an environment free of discrimination including sexual harassment. I prohibit any form of sexual harassment of team members and will take immediate and appropriate action to prevent and to correct behavior that violates this policy. Such conduct will result in appropriate disciplinary action, up to and including termination.**
- 2. Sexual harassment is any unwelcome sexual advances, requests for sexual favors, offensive flirtations or propositions, commentaries about a team member's body, display of sexually explicit pictures, offensive jokes, unnecessary touching of a team member or other physical or verbal conduct of a sexual nature whenever such conduct has the purpose or effect of substantially interfering with a person's work performance or creating an intimidating hostile or offensive work environment.**
- 3. No supervisor or another team member will threaten or insinuate that a team member's or applicant's refusal of or opposition to such sexual conduct will adversely affect work status, compensation, advancement or any other condition of employment. Similarly, no team member will promise, imply, grant or deny any preferential treatment in connection with another team member's or applicant's agreement or refusal to engage in sexual conduct.**
- 4. A team member who believes they have been subject to sexual harassment should inform the harasser, clearly and assertively, that his or her behavior is offensive and unwelcome and that they should stop it immediately. If the offensive behavior continues after you have informed the harasser, contact your supervisor or the EEO office to file your concern. Document all activities/actions associated with harassment (dates, times, witnesses, situations).**
- 5. All team members will be held responsible and accountable for complying with this policy. All managers and supervisors are responsible for the implementation of this policy and for ensuring that all team members have knowledge of and understand the District policy on this subject. All managers and supervisors are additionally responsible for**

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monitoring compliance with this policy and for taking immediate and appropriate corrective action when necessary. The EEO staff will be responsible for initiating timely and confidential inquiries into reports of sexual harassment and for reporting the results of such inquiries to me.


JAMES S. WELLER
LTC, EN
Commanding

DISTRIBUTION: B and E

THE LEGAL DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is a form of gender discrimination and violates both Title VII of the 1964 Civil Rights Act as well as State discrimination laws. The Equal Employment Opportunity Commission (EEOC) is the federal agency that enforces the federal law.

The EEOC's guidelines define sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- > Submission to such conduct is made an implicit or explicit condition of employment;
- > Submission to or rejection of such conduct affects employment opportunities; or
- > The conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment.

THE PRACTICAL DEFINITION OF SEXUAL HARASSMENT

In practical terms, there are two kinds of sexual harassment:

Quid Pro Quo: Where employment decisions or expectations (e.g., hiring decisions, promotions, salary increases, shift or work assignments, performance expectations) are based on an employee's willingness to grant or deny sexual favors. Examples of quid pro quo harassment:

- * Demanding sexual favors in exchange for a promotion or a raise.
- * Disciplining or firing a subordinate who ends a romantic relationship.
- * Changing performance expectations after a subordinate refuse repeated requests for a date.

Hostile Environment: Where verbal or non-verbal behavior in the workplace: (1) focuses on the sexuality of another person or occur because of the person's gender, (2) is unwanted or unwelcome and (3) is severe or pervasive enough to affect the person's work environment.

The following are examples of behaviors that can create a hostile environment:

- * Off-color jokes or teasing
- * Comments about body parts or sex life
- * Suggestive pictures, posters, calendars or cartoons
- * Leering, stares or gestures
- * Repeated requests for dates
- * Excessive attention in the form of love letters, telephone calls or gifts
- * Touching -- brushes, pats, hugs, shoulder rubs or pinches
- * Assault/rape

WHAT SHOULD VICTIMS OF SEXUAL HARASSMENT DO?

- Speak to the person who is harassing you and tell him or her to stop. Be very clear about the specific behavior which you find offensive. Tell them what you want stopped and why. Write down everything that has happened to you. Do **not forget** any of the key facts, including names, dates, times, locations, what happened to you, and what you did.

Note: If you feel uncomfortable speaking with the person who is harassing you, get help from your supervisory chain of command. If someone in that chain is harassing you, go immediately to the next higher level.

- Talk with the Equal Employment Opportunity Office
- Talk to the Engineer Inspector General
- Call the USACE Sexual Harassment Hotline 1-800-328-2207

Note: It is important that you report incidents of sexual harassment as soon as they occur. It takes courage to report sexual harassment. But if you do not report it, and the harasser is indeed guilty of harassment, you are allowing that person's actions to go unchecked. **MOST SEXUAL HARASSERS ARE REPEATERS.**

Steps To Take if You Are Sexually Harassed

1. Remain cool and professional. Avoid being overly dramatic.
2. Be direct and candid with the person. Let your feelings be known immediately—you won't tolerate that kind of behavior
3. Follow your organization's policies and procedures.

If the behavior continues:

Use the organization's grievance procedure and report the incident to your supervisor. If the harasser is your superior, you have the right to go to his or her supervisor. Clarify your organization's procedures if there is any question or doubt as to who to report the incident to. And remember, your complaint is much stronger if made while the harassment is going on or shortly after it has ceased.

When reporting the harassment,
be prepared to tell all the facts surrounding the incident.
Give the who, what, when, where, and how.

You can help the process by writing down the important details immediately so that you don't leave anything out. Sit down and relax—collect your thoughts before you begin your story. Be prepared to supply the interviewer with the names of witnesses or others who can support your complaint. Put your anger aside and be thorough.

To use this approach:

- Clearly tell the person what it is that you don't like in a firm, direct way. Explain exactly what action is offensive to you, and state that you expect the person to stop this behavior.
- Firmly tell the person that you prefer not to make an issue of his actions but that if he persists you will raise the problem with agency management.

But is this approach likely to work? In most cases, yes. According to a report on sexual harassment issued by the Merit Systems Protection Board, this is the most common way for employees to resolve a sexual harassment problem and was also found by those who tried it to be the most effective. The actual works you choose and whether it will work in a particular situation will vary.

For example, in at least one reported instance the woman who was being touched told the person that she would "break his arm" if he ever touched her again. That choice of words was certainly direct and firm and, in her case, she reported that it was also effective. While you may choose different words to convey your message in most situations, this approach is likely to work as long as the point is clearly made.

WHAT IF THE BEHAVIOR CONTINUES?

If an informal effort is ineffective or a person's actions are particularly offensive, report the behavior to the person's supervisor or another member of management. Or, you can report it to an EEO counselor. Once management is told of the sexually harassing behavior, it is obligated under the law to take immediate action to stop the harassment and correct the offending conduct. Management will conduct either an informal inquiry or a formal investigation into the offending conduct you report. It will also take steps to insure that it stops and does not start again. Sometimes, disciplinary action against the offender will also be necessary.

If you report the conduct to the supervisor or a member of management and management does not look into it or the behavior does not stop, you should then go directly to an EEO counselor, and, if necessary, file a formal complaint of discrimination. All agencies have Equal Employment Opportunity (EEO) Counselors to help employees who believe they have been subject of discrimination. As mentioned earlier, discrimination also includes sexual harassment. You will find that most counselors will work to help you informally resolve the problem. You will also find that the personnel office servicing your organization will usually be sensitive to problems such as this and will promptly intervene on your behalf.

For example, the EEO Counselor may talk to the offending employee or his/her supervisor to explain what the problem is and why it has to be stopped by the agency. In the example given previously, the EEO Counselor would discuss the problem.

SUPERVISOR RESPONSIBILITY

- Enforce zero tolerance policy
- Take every step necessary to ensure sexual harassment is prevented
- Must not harass but pro-actively protect team members from harassment
- Responsible for any harassing conduct in the work environment
- Obligation and authority to take immediate corrective action whenever sexual harassment comes to your attention

For Management: Handling the Sexual Harassment Complaint

As a manager or supervisor, how do you handle a complaint of sexual harassment? What do you say, what do you do when that person walks in your door and states, "I've been sexually harassed and I want to do something about it!" It's a difficult question to answer because it's not something that happens every day. Sexual harassment is not like many of the other organizational issues.

There are few management styles, theories, or models that exist for dealing with the complaint yet; how you handle the complaint has a major effect upon how the organization's policies on sexual harassment are viewed and accepted by the employees. Even more important, how you handle the complaint has a major effect on the person who has suffered the sexual harassment.

The proper use of power in the workplace can prevent sexual harassment. Its misuse can create it.

Abuse of Power and Sexual Harassment

There is one other issue we must consider before we explore the topic of sexual harassment in more depth. That issue is power. The proper use of power in the workplace can prevent sexual harassment. Conversely, its misuse can create it, as in the following example:

- “It was a long day,” said Addie. “Matrone is the best manager I’ve ever had. He’s fair, and he’s always concerned about how I’m doing. I didn’t even think twice when he asked me to stop for a drink on the way home. I just couldn’t believe it when he leaned over, put his arm around me, and asked me to go to a motel with him. I’ll never be able to look at him in the same way again. I can’t trust him, and I don’t want to be alone with him.”

Matrone has confused his role as a supervisor with his personal interests. He has sexually harassed Addie by linking her job (“we’ve had a long day here”) with a request for sexual favors (“join me at the motel”).

Power can be formal, such as a policy—something that sets the parameters for expected behavior. A policy tells people what the organization believes is right and wrong. Formal power also comes with a job title or position. The mere fact that a person has a title gives them the power to tell others what to do.

RIGHTS

- Every team member has the right to work in an environment free of discrimination including sexual harassment.
- Right to complaint about sexual harassment
- Right to be protected from retaliation or reprisal if report or complain about sexual harassment

THE CORPS OF ENGINEERS'

APPROACH TO SEXUAL HARASSMENT

The Corps has a four-step program to prevent sexual harassment and a procedure for handling complaints when sexual harassment does occur.

The four steps are:

1. A "No Harassment" Policy.

This policy prohibits all unlawful harassment, including sexual harassment and harassment based on age, race, color, religion, national origin or disability.

2. Training.

Training ensures that everyone understands what unlawful harassment is and that everyone understands the policy. Training means that everyone knows what harassment is and how to report it. There are no excuses and everyone will be held responsible for their actions.

3. Investigating Complaints.

The policy ensures a prompt, thorough inquiry of all complaints. It also ensures employees that they will not be retaliated against and that the Corps will keep the matter as confidential as possible. Interviews will be conducted with the complainant, the alleged harasser and witnesses.

4. Effective Remedial Action Will Be Taken.

Remedial action up to and including discharge of the harasser will be taken by the Corps.