

Sexual Harassment: An Abuse of Power

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ABSTRACT

Sexual harassment can have a negative impact on an organization as well as on the victims themselves. Managers have a legal responsibility and an ethical obligation to protect their employees from a hostile work environment. But they also must protect themselves. Managers are strictly liable for sexual harassment under Title VII of the Civil Rights Act of 1964. If employees are being sexually harassed in an organization and such behavior is discovered, both the manager and the organization can be held liable for damages. In this article, I examine the nature of sexual harassment, a legal definition, major forms, negative effects on the organization, and ways manager's can eliminate and prevent sexual harassment in the workplace.

Almost always, sexual harassment is about power. It is about an individual controlling or threatening another individual. In most cases, it is an abuse of power (Greenberg, 2011). It is wrong, and it is illegal. Not only are there legal ramifications of sexual harassment, but also it can have a negative effect on the work environment.

The Nature of Sexual Harassment

You can understand how sexual harassment surfaces in organizations if you analyze it in terms of power (Guerrero, 2011; Landy, 2010). This appears to be true whether the harassment comes from a supervisor, a coworker, or an employee (Robbins & Judge, 2011). Furthermore, sexual harassment is more likely to occur when there are large power differences. The supervisor-employee dyad best characterizes an unequal distribution of power. Legitimate power gives the supervisor the capacity to reward and coerce a lower-ranking employee. That is, supervisors control resources that most employees want, such as favorable performance evaluations, salary increases, promotions, and the like. Consequently, the less powerful individual is put in a difficult situation.

Coworkers do not have formal power in the organization. Nevertheless, they too can sexually harass other coworkers. Although coworkers seem to engage in less severe forms of harassment than do supervisors, they are the most frequent perpetrators of sexual harassment in the workplace (George & Jones, 2008). They do this by withholding information, cooperation, and support in team efforts. By engaging in these behaviors, coworkers can exert power over other coworkers.

Women supervisors can be subjected to sexual harassment from male employees. How does this occur, you may ask, since the dyadic power differential is reversed. Typically, this is achieved by the employee devaluing the woman by highlighting traditional gender stereotypes, such as helplessness, passivity, and lack of career commitment that reflect negatively on the woman in power (Freeman, 2011; Reeves, 2011). The male employee may engage in such behavior in order to gain some power over the female supervisor or to minimize power differences. Although most victims of sexual harassment are women, there are instances of women in positions of power harassing male employees (Powell, 2011).

Definition

Charges of sexual harassment in the workplace have been litigated under Title VII of the Civil Rights Act of 1964. The regulations implementing Title VII define sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (29 C.F.R., Sec. 1604.11(a), 1991).

To understand this definition fully, it helps to keep the following facts in mind (Greenberg, 2011, p. 431).

- 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, a coworker, or an employee in the organization.
- 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.

Major Forms

In *Meritor Savings Bank v. Vinson* (1986), the Supreme Court initiated this definition by identifying two different forms of sexual harassment: quid pro quo harassment and hostile environment harassment. *Quid pro quo sexual harassment* involves conditioning tangible employment benefits (e.g., promotion, demotion, termination) on sexual favors. *Hostile environment sexual harassment* involves a pattern of unwelcome and offensive conduct that unreasonably interferes with an individual's work performance or creates an intimidating or offensive work environment. The Court warned that "for sexual harassment to be actionable, it must be sufficiently severe or pervasive to alter the conditions of (the victim's) employment and create an abusive working environment." The Supreme Court, in *Harris v. Forklift Systems* (1993) elaborated further on the concept of the hostile environment form of sexual harassment, which creates a more difficult task for the courts to interpret than quid pro quo. In reaffirming the standard set in *Meritor*, the Court said that for sexual harassment to be actionable the conduct must cause "tangible psychological injury" rather than conduct that is "merely offensive." Courts determine this by examining such factors as frequency of the conduct, severity of the conduct, whether it is physically threatening or humiliating, and whether it unreasonably interferes with the employee's work performance.

As noted in *Meritor* and *Harris*, hostile environment sexual harassment is a more subtle form of harassment than quid pro quo harassment. Organizations have generally made considerable progress in the past decade toward limiting quid pro quo forms of sexual harassment. However, there continues to be disagreement concerning what specifically constitutes hostile environment sexual harassment. One problem with the hostile environment form of sexual harassment is that it is subject to considerable variation in perception and interpretation.

One study provides useful insights into the role of perception in determining which behaviors of supervisors, coworkers, and employees constitute either quid pro quo sexual harassment or hostile environment sexual harassment (Icenogle, Eagle, Ahman, & Hanks, 2002). Typical quid pro quo sexual harassment behaviors include unwanted physical touching, recurring requests for dates, a sexual proposition, and coercive threats of job loss if the person refuses a sexual proposition. Typical examples of hostile environment sexual harassment behaviors include pornographic pictures, sexual jokes, lewd comments, sexually oriented comments about a person's physical appearance, and displays of sexually oriented objects. Responses of manufacturing plant supervisors and employees (n = 114) revealed that the majority of respondents could accurately identify behaviors typically associated with quid pro quo harassment. However, the same respondents had difficulty identifying behaviors used to establish evidence of hostile environment sexual harassment. Hostile environment sexual harassment can take place electronically when employees send or receive sexually explicit e-mails or pornography over the Internet (Clough, 2011).

Another problem with sexual harassment is that men and women often view sexual harassment differently. Women tend to perceive a broader range of behaviors as sexual harassment than do men. Women and men tend to agree that sexual propositions

and coercion constitute sexual harassment (O'Leary-Kelly, Paetzold, & Griffin, 2000), but there is less agreement on what constitutes hostile work environment sexual harassment (Barreto & Ellemers, 2005; Bowes-Sperry & O'Leary-Kelly, 2005; Bowling & Beehr, 2006; Rotundo, Nguyen & Sackett, 2001). Nevertheless, although sexual harassment is perceived by others, it is very real to the recipient.

Negative Effects

Sexual harassment is considered an ethical as well as a legal problem (Equal Employment Opportunity Commission, 2006). It continues to occur in a wide variety of organizations (Ilies, Hauserman, Schwochau, & Stibal, 2003; Roberts & Mann, 2006). In addition, sexual harassment has negative effects on victims' job satisfaction, stress levels, and mental health. Harassed victims also may be more likely to withdraw from the workplace by being late or absent, avoiding certain tasks, or looking for another job (Fitzgerald, Drasgow, Hulin, Gelfand, & Magley, 1997; Glomb, Munson, Hulin, Bergman, & Drasgow, 1999). Harassed victims also tend to have negative attitudes toward their supervisors and coworkers (Schneider, Swan, & Fitzgerald, 1997). Regardless of employees' individual sexual harassment, being a member of a work group in which sexual harassment occurs results in lowered group productivity (Glomb, Richman, & Hulin, 1997; Willness, Steel, & Lee, 2007).

Managing Sexual Harassment in the Workplace

Organizations have a legal and ethical obligation to eliminate and prevent sexual harassment, which can occur at all levels in an organization. Managers are strictly liable for sexual harassment under Title VII of the Civil Rights Act of 1964. Therefore, management needs to take positive steps to prevent sexual harassment in the workplace. There are several positive approaches to sexual harassment that managers can take to maintain a positive work environment (Lowe, Strnadell, & Lunenburg, 1999).

Establish a No Tolerance Policy

Declare that the employer will not stand for sexual harassment, discrimination, or retaliation in the workplace. Under the law, the employer has the affirmative duty to rid the workplace of sexual harassment and discrimination. All employees should know their employer's policy that forbids sexual harassment, discrimination, and retaliation.

Widely Disseminate the Policy

Everyone should have the policy readily available. This is important for both employer and employee.

Make it Easy for Employees to File Complaints

Employees should be able to complain to someone other than their immediate superior. Someone outside the employee's chain of command, such as a human resource staff member, should be available to hear the complaint.

Investigate Complaints Promptly and Objectively

Promptness and objectivity should be the standard response. If management has knowledge of discrimination or sexual harassment happening, an investigation should be conducted. Prompt and objective investigation says to everyone that the complaint is serious.

Take Appropriate Remedial Action to Prevent a Reoccurrence

Actions might include informal resolution between parties and disciplinary action against harassers. Offer the victim free counseling, if appropriate. Most importantly, provide training to all employees periodically.

Conclusion

Sexual harassment can have a negative impact on an organization as well as on the victims themselves. Managers have a legal responsibility and an ethical obligation to protect their employees from a hostile work environment. But they also must protect themselves. Managers are strictly liable for sexual harassment under Title VII of the Civil Rights Act of 1964. If employees are being sexually harassed in an organization and such behavior is discovered, both the manager and the organization can be held liable for damages.

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