

FACTS ABOUT SEXUAL HARASSMENT

- ▶ Sexual harassment is never the victim's fault.
- ▶ The victim does not have to be of the opposite sex of the harasser.
- ▶ No economic injury has to be sustained.
- ▶ The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- ▶ The harasser can be a peer, a supervisor, a co-worker—anyone whose conduct is of an unwelcome sexual nature.
- ▶ A person can sexually harass someone by staring, leering, displaying sexually explicit photographs, making sexual gestures, off-color jokes, teasing comments about an individual's body, visual displays with degrading sexually-oriented images or messages in any medium including emails or Internet web-sites.
- ▶ A person can sexually harass someone by offering academic or work benefits in exchange for sexual favors or making threats after a negative response to sexual advances.

FLIRTING OR SEXUAL HARASSMENT— WHAT'S THE DIFFERENCE?

Sexual harassment is unfortunately very common. A recent study found that 80% of students in grades 8–11 reported being sexually harassed at school, and 60% of college students were sexually harassed on campus.

The determining factor on whether or not the conduct was sexual harassment was the impact it had on the victim. Flirting is enjoyable to *both* people.

If the behavior was sexual in nature, was unwelcome and made one person feel uncomfortable or unsafe, then it was sexual harassment.

CALL
US

SOMEONE IS WAITING TO LISTEN AND TO HELP.

FOR MORE
INFORMATION,
CONTACT THE
RAPE CRISIS
CENTER IN
YOUR AREA

CONTACT Huntington Rape Crisis Counseling

Huntington
304-399-1111

Family Refuge Center

Lewisburg
304-645-6334

REACH

Family Counseling Connection

Charleston
304-340-3676

Hope, Inc.

Fairmont
304-367-1100

Rape and Domestic Violence Information Center

Morgantown
304-292-5100

Sexual Assault Help Center

Wheeling
304-234-8519

Shenandoah Women's Center

Martinsburg
304-263-8292

Women's Aid In Crisis

Elkins
1-800-339-1185

Women's Resource Center

Beckley
304-255-2559

NATIONAL SEXUAL ASSAULT HOTLINE

1-800-656-HOPE



West Virginia Foundation for
Rape Information and Services

www.fris.org

SEXUAL HARASSMENT



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WHAT IS SEXUAL HARASSMENT?

Sexual harassment includes unwelcomed, unwanted sexual behavior, verbal or physical conduct of a sexual nature, and requests for sexual favors. Sexual harassment must explicitly or implicitly affect a person's employment, unreasonably interfere with work or school performance, or create an intimidating, hostile or offensive work or school environment.

Under West Virginia law, harassment is not necessarily confined to unwanted sexual conduct. Hostile or physically aggressive behavior may also constitute sexual harassment, as long as the disparate treatment is based on gender.

FORMS OF SEXUAL HARASSMENT

Quid Pro Quo ('this for that'): employment or educational decisions that are made on the condition that a person accept unwelcome sexual behavior. A quid pro quo harassment behavior is chargeable after it happens one time.

Hostile Environment: pervasive sex-related verbal or physical conduct that is unwelcome or offensive, that threatens a person's physical or emotional well-being, and that has the purpose or effect of unreasonably interfering with work or school performance. In order to be a chargeable offense, the hostile environment must either be extreme or 'sustained and non-trivial'.

IF YOU ARE SEXUALLY HARASSED...

- ▶ Inform the harasser directly that the conduct is unwelcome and must stop. Often the harassing is done to assert power and induce fear.
- ▶ Keep a detailed record of each incident. Write down specifically what was done or said and if there were other witnesses. Record the time and the place and any other specific information.
- ▶ Talk to someone you trust. Start by talking to a friend, family member, teacher or co-worker. Ask for help and support.
- ▶ Tell someone in authority.
- ▶ File a formal complaint if the harassment persists.

LAWS THAT APPLY

Sexual harassment is the violation of federal and state discrimination laws in qualifying settings. Different laws apply to different settings, with not all settings covered.

Title VII of the Civil Rights Act of 1964

Sexual harassment is a form of sex discrimination. It applies in the following settings:

- ▶ Government offices (local, state and federal)
- ▶ Businesses with 15 or more employees
- ▶ Employment agencies
- ▶ Labor organizations

WV Code §5-11. Legislative Rule Title 77

Protection applies in the following work settings:

- ▶ Government offices (state and any political subdivision of the state)
- ▶ Businesses with 12 or more employees for more than 20 calendar weeks in the year in which the act took place (excluding private clubs)

Title IX of the Education Amendment of 1972

Prohibits sexual harassment in the following settings:

- ▶ Schools
- ▶ Colleges

REPORTING

- ▶ Follow the workplace/school complaint policy. Report the behavior to the proper authority. (Remember, all schools are required to have policies but not all employers qualify.) For those qualifying sites, both the harasser and *those in authority* can be held liable when they have knowledge of the sexual harassment and do not take action to stop it.
- ▶ If the sexual harassment continues after a reasonable amount of time following reporting it, you may have the right to file a formal complaint through a state or federal resource.

WHERE DO YOU FILE A COMPLAINT?

Depending on where the harassment occurred:

West Virginia Human Rights Commission

(qualifying workplaces and schools)

304-558-2616 or 1-888-676-5546

www.wvf.state.wv.us/wvhr

State of West Virginia Governor's Office of Equal Employment Opportunity

(state employees)

304-558-0400

www.wvf.state.wv.us/eoo

U.S. Equal Employment Opportunity Commission

(qualifying workplaces)

1-800-669-4000 or 1-800-669-6820 (TTY)

www.eeoc.gov

Office of Civil Rights, U.S. Department of Education

(schools and colleges that receive federal financial assistance)

1-800-421-3481

<http://www.ed.gov/ocr>

HOW DO YOU FILE A COMPLAINT?

First, reports should be made following the workplace or school reporting policy. Subsequently, a complaint should be filed with only one state or federal entity so it can begin the investigative process, if appropriate. A formal complaint is initiated by filing a complaint form provided by one of the state or federal entities listed above. An attorney is not needed to file a complaint. The West Virginia Human Rights Commission can assist in determining if and where a complaint should be filed. For more information on how to file a complaint of sexual harassment at a federal workplace, contact the EEO office of the federal agency where the act occurred.

WHEN CAN YOU FILE A COMPLAINT?

Complaints filed with the EEOC must be made within three hundred (300) days from the date of the sexual harassment. Qualifying workplace complaints filed with the West Virginia Human Rights Commission must be within 365 days. Complaints filed with the Office of Civil Rights must be within 180 days.