Sexual Harassment 101: What Every College and University Employee Should Know
EEOC Statistics for Fiscal Year 2019

Sex discrimination: 23,532

Sex-based harassment: 12,739

Sexual harassment: 7,514

Percent filed by women: 83%
1 in 3 women say they have experienced sexual harassment at work.
The Roles You Play

Potential Victim

Third Party

Potential Harasser
Discrimination v. Harassment

Unequal treatment in terms and conditions of employment

Conduct of an offensive nature that creates a hostile work environment

Protected Characteristics
Protected Characteristics

The Big 7
Protected Characteristics

The Big 7

Race
Color
Disability
National Origin
Age
Religion
Sex
The Law’s Evolution

1964 Sex Discrimination
The Law’s Evolution

1964 Sex
1986 Sexual Harassment
The Law’s Evolution

1964 Sex

1986 Sexual Harassment

1989 Sexual Stereotyping
The Law’s Evolution

- 1964 Sex
- 1986 Sexual Harassment
- 1989 Sexual Stereotyping
- 1996 Same Sex Sexual Harassment
The Law’s Evolution

1964 Sex

1986 Sexual Harassment

1989 Sexual Stereotyping

1996 Same Sex Sexual Harassment

2020 Sexual Orientation and Gender Identity
It is illegal workplace conduct for...

A man to sexually harass a woman.

A woman to sexually harass a man.

A man to sexually harass a man.

A woman to sexually harass a woman.
Sexual Harassment

Quid Pro Quo

Hostile Environment
QUID PRO QUO SEXUAL HARASSMENT

- Involves abuse of power, typically by a supervisor
- Reward/punishment conditioned on sexual behavior

You want a part in my movie, right? Well, there are things I want from you, too.
Hostile Environment Harassment

- Conduct based on sex
- Not welcome
- Severe or Pervasive

= Illegal Sexual Harassment
The word “conduct” casts a wide net

**PHYSICAL:**
Back rubs, sexual touching, targeted hugging, handsiness

**VERBAL:**
Jokes, explicit language, comments, threats or banter, sexually suggestive sounds, songs

**NON-VERBAL:**
Ogling, leering, staring, offensive emails, pictures, text messages, websites
Offensive conduct can unreasonably interfere with work performance if it is frequent.
Offensive conduct can unreasonably interfere with work performance if it is severe.
The Roles You Play

Potential Victim

Third Party

Potential Harasser
Where is the line?

- Unwanted sexual touching
- Quid pro quo proposals
- Severe or persistent behavior
- Ignoring/ridiculing discomfort
- Retaliation for complaints

- Hugging
- Asking someone out
- Occasional jokes
- Compliments
Finding the Virtual Line

NO PROBLEM

• Virtual morning coffee chats with 3-4 colleagues
• Setting up a regular schedule of virtual check-ins
• Sharing tips with others about what has been successful in the virtual classroom
• Remaking on nice artwork on a home office wall

POTENTIAL PROBLEM

• Suggestive Zoom backgrounds
• “Hot chick of the day” emails
• Allowing a sidebar chat to drift in an off-color direction
• Remarking on a bed or other intimate imagery
When there’s a power imbalance...

It’s all too easy for flirting to come across as pressure.

And invitations to come across as expectations.

You may think you’re offering an option to someone when you’re really creating a predicament for them.
Protect Yourself

Send clear signals that you aren’t interested and can’t be pushed around.

1. Shoot down trial balloons.

2. Prioritize clarity over safeguarding the other person’s feelings.

3. Remember that silent discomfort doesn’t serve you (or anyone) well.
A System of Mutual Responsibilities

Employees
Reasonably avail themselves of procedures

Employers
Respond promptly and effectively to complaints
Let's keep it professional
That makes me uncomfortable
Not cool
Yikes -- human resources alert
I want no part of this
Not smart
That seems inappropriate
Unwelcome
I'd rather focus on work
That feels disrespectful
Prohibit professional behavior

Don’t tolerate sexual harassment in your sphere of control/influence

Third Party

Report concerns to HR or to the Title IX Coordinator

Protect Others
Title IX’s Purpose

- Prohibitions or Limitations on Participation Based on Sex
- Unequal Funding of Men’s and Women’s Athletics
- Pregnancy Discrimination
- Sexual Harassment
  - Sexual Assault
  - Stalking
  - Domestic/Dating Violence
  - Verbal/expressive
The Title IX Coordinator

**Report**
- Complainant decides whether to proceed
- Supportive measures available regardless

**Investigation**
- Fair and impartial investigators
- Both parties share their perspective and evidence

**Adjudication**
- Informal resolution (e.g. mediation) sometimes available
- Formal hearing always available
Your Parker Poe Title IX Team

For Title IX assistance, contact Team Lead Josh Whitlock at joshwhitlock@parkerpoe.com or 704-335-6622