

What to do About Sexual Harassment in Employment

Q: What is sexual harassment?

A: Any unwelcome verbal or physical conduct of a sexual nature constitutes sexual harassment in employment when:

- 1. It is made an implicit or explicit condition of your employment.
- 2. Employment decisions (transfer, promotion, dismissal, demotion, reassignment) are based on your response.
- 3. It creates an intimidating, hostile or offensive work environment.
- 4. It interferes with your work performance.

Q: Do I have any rights in this area?

A: Sexual harassment is a violation of federal and state laws. You have the right to expect your employer to provide a safe work environment free of sexual harassment.

If harassment occurs and adverse employment consequences follow, you have a right to have those actions corrected. If you are fired, for example, you have a right to reinstatement and back pay if your appeal is sustained. In some situations you may be entitled to additional money damages. Other possible remedies, depending upon the circumstances, include promotion and constructive seniority.

Q: Who can I talk to about what happened?

A: In spite of a strong, natural reluctance to talk to anyone about the problem—TALK TO SOMEONE IMMEDIATELY! Discuss the problem with an objective person, possibly someone you work with. Perhaps they, too, might have experienced sexual harassment. If there is no one available, perhaps a supervisor or friend would be helpful.

Whatever you do, DO NOT IGNORE THE PROBLEM! If you feel strongly enough or angry enough, contact your EEO/Affirmative action Office, your union representative or one of the Commission offices listed in this pamphlet.

Q: Maybe it was something I did, or wore?

A: It is unlikely that sexual harassment occurred because of your looks, or dress habits, or actions. Statistics indicate that sexual harassment occurs against individuals from all economic, racial religious and age groups. Most victims of sexual harassment tend to be women between the ages of 21 and 45, but sexual harassment can happen to any employee.

Q: Can I do anything about it?

A: Be sure to express your feeling during the incident to the person harassing you indicating that you are not interested. In your report of the incident, describe the feeling you had both during and afterwards.

Immediately document in writing exactly what occurred, including verbal portions. List the names and job positions of witnesses, especially supervisory employees, and specify date and location of the incident.

Notify in writing, either YOUR SUPERVISOR or, if that is not practicable, the Affirmative Action Officer, or the Personnel Director. Provide that person with copies of the information you have gathered. **BE SURE TO KEEP THE ORIGINAL.** Indicate your insistence that some action be taken. If you work in a union shop, duplicate the above procedures and submit the same material to your union representative. Be sure to request a written response.

If the problem is not corrected immediately, you should file a formal complaint with the Nebraska Equal Opportunity Commission or the U.S. Equal Employment Opportunity Commission within 300 days of the incident.

Q: What will the State of Nebraska do about sexual harassment on the job?

A: State of Nebraska Personnel policy prohibits sexual harassment of any employee. Managers are being trained to deal with sexual harassment problems and are held accountable for a work environment free of sexual harassment.

The State of Nebraska realizes that sexual harassment can be a very expensive problem that should be dealt with promptly. Statistics indicate that many individuals who experience sexual harassment never made their employer aware of the problem. Once employers know of the problem, it is their responsibility to deal with it.

Q: Should I quit?

A: No. It is reasonable to expect that most employers will listen seriously to your complaint. Offer to help your employer deal with the problem—indicate that you are aware of your obligations as an employee to conduct yourself properly and also that you are aware of your employer's obligation to provide you with a work environment free of sexual harassment.

Q: What do I do if my employer fires me for complaining?

A: Firing an employee for complaining is illegal. Statistics show that only a small percentage of employees report harassment incidents to their employers. An even smaller percentage of them are fired for doing so.

However, if you are fired, you should immediately file a formal complaint. If you have already filed a complaint based upon the actual harassment, be sure to file an amended complaint based on retaliation.

Q: Can I collect unemployment if I quit or am fired because of sexual harassment?

A: It is possible. More and more individuals are being awarded unemployment compensation when they lose their jobs due to sexual harassment. You must file a claim at the unemployment office, stating that sexual harassment is the reason you lost your job. An investigation will be conducted.

Q: How can I keep the incident from happening again?

A: By dealing with the person or problem promptly and forcefully **THE FIRST TIME!** Never make excuses or give the harasser the impression that you may be interested at a later date.

Sexual harassment is an unlawful practice and, if not immediately corrected, should be reported to one of the agencies listed in this pamphlet. It is a problem that can be corrected only if people refuse to tolerate it any longer.

To File A Complaint

The Complainant may state a complaint in a letter or use a complaint form. The complaint form may be obtained from the nearest NEOC office. Complaints should be notarized, if possible, and must be sent to NEOC within 300 days of the alleged discriminatory act.

After A Charge Is Filed:

The Commission will review your charge and contact you by mail or in person. The Commission will investigate your charge and if it finds it is justified, the Commission will try, by conciliation, to end the discrimination. If the conciliation fails, the case is sent to Public Hearing.

It Is Unlawful To Retaliate:

It is forbidden by law to punish you for filing a charge, for acting as a witness or for assisting a complaint.