



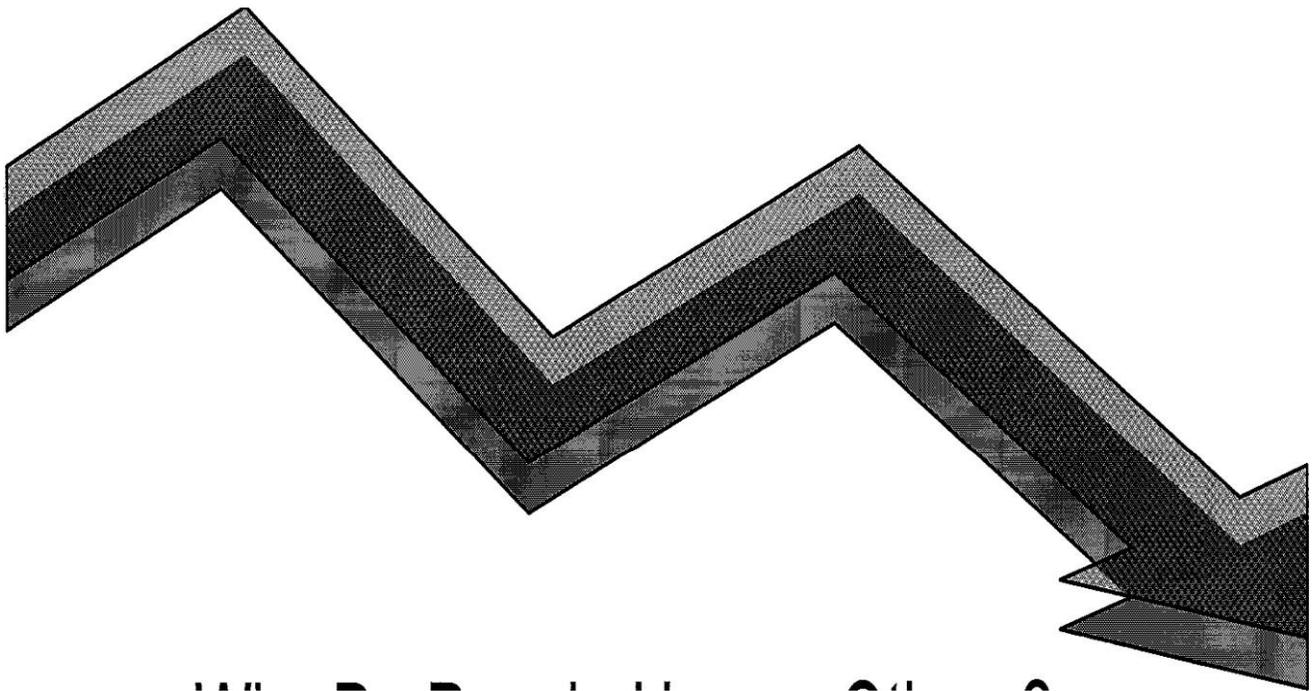
Preventing Harassment and Discrimination Training

Table of Contents

Why does the agency want to provide harassment training to you?	2
What is your liability?	3
What is harassment?	4
When can harassment and discrimination occur?	4
What makes discrimination illegal?	5
What are the various classes that are protected from discrimination?.....	6
Why freedom of speech doesn't apply to discriminatory slurs?.....	7
What makes harassment illegal?	8
Harassment can take many forms	10
Relevant 1998 U.S Supreme Court cases.....	11
Why is harassment harmful in the workplace?	12
Why do people harass others?	12
Conduct that may be considered harassment	13
What is the agency's policy on harassment?	14
How do you respond if you are being harassed?	16
What do you do if you witness harassment?	16
What will the agency do if you tell them you are being harassed?	17
How to avoid "accidentally" harassing someone	18

Why Does the Agency Want to Provide Harassment Prevention Training to You?

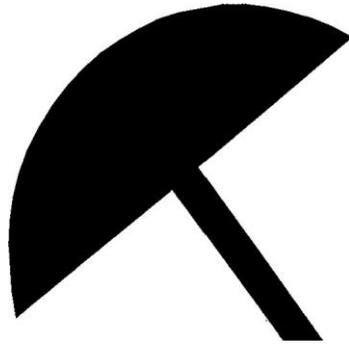
- To educate you on your rights to work in a hostile free work environment.
- To clear up miscommunications that create roadblocks to good relationships between co-workers.
- To let you know the steps to take if you are being harassed or know someone who is.
- To set expectations about what is appropriate in the work environment.
- To educate you about the liability that exists if YOU harass someone.



What is Your Liability?

- ❖ Co-Worker Liability- As of January 1, 2001 , co-workers can be held personally liable for harassment, meaning their personal assets are at risk.
- ❖ Employer liability for harassment by a Supervisor- A California employer may be held strictly liable for a Supervisor's harassment of a subordinate except when an employee substantially deviates from employment duties for personal purposes.
- ❖ Supervisor personal liability for harassing a subordinate- This allows for personal liability for Supervisors who harass employees. While the agency may be held partially legally responsible for the conduct, the Supervisor's personal assets are at risk as well.
- ❖ Supervisor cannot be held liable for discrimination-
In *Reno vs. Baird*, 18 Cal. 4th 640 (1998), the California Supreme Court held that there is a fundamental difference between discrimination and harassment. Acts that may be labeled discriminatory are inherent to the performance of the Supervisor's job (hiring, firing, etc.) Harassment, though, is not necessary for the performance of the job.

What is Harassment?



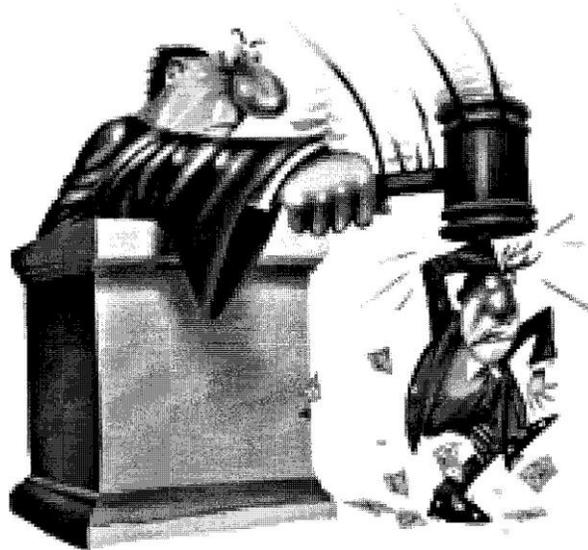
Discrimination, Harassment, and Sexual Harassment-They are under one umbrella

When Can Harassment and Discrimination Occur?

During Hiring, Firing, Promotion, Benefits

What Makes Discrimination Illegal?

Title VII of the Civil Rights Act defines harassment as, "Unwelcome behavior at a person or group because of being in a certain protected class".



What type of comments, behaviors or conduct do you find offensive in the workplace?

What Are The Various Classes That Are Protected From Discrimination?

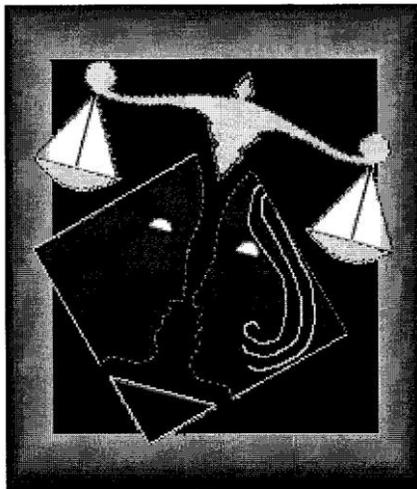
- ❖ Race/Color
- ❖ National origin/ancestry
- ❖ Gender, Gender Information, Gender Identity, Gender Expression
- ❖ Genetic Information, Genetic Characteristics
- ❖ Religion
- ❖ Age (for persons 40 and older)
- ❖ Mental or Physical Disability (HIV, Manic Depressive)
- ❖ Veteran Status
- ❖ Medical Condition (Cancer)
- ❖ Marital Status
- ❖ Perceived or Actual Sexual Orientation
- ❖ Pregnancy

Does anyone not fit into at least one of these categories?

If you argue with co-workers or management about your performance or the way you are doing your job, are they harassing you?

Why Freedom of Speech Doesn't Apply to Discriminatory Slurs

- ❖ Racial and ethnic slurs are not protected by the right to free speech guaranteed by the First Amendment.
- ❖ The U.S. Supreme Court in 2000 confirmed that employees may be ordered to stop using derogatory racial and ethnic slurs in the workplace.



What Makes Harassment Illegal?

The Equal Employment Opportunity Commission, the federal enforcer, defines harassment as, "Unwelcome advances, requests for improper favors, and other verbal or physical conduct of an inappropriate nature." Such requests, advances or inappropriate conduct constitute harassment when it is an employment condition, it is an employment consequence or it is an offensive job interference.

The California Fair Employment and Housing Commission, which is the California enforcer, further defines harassment as, 1. Verbal harassment, such as racial epithets, derogatory comments or slurs; 2 Physical harassment such as assault or physical interference with movement or work; and 3. Visual harassment, such as derogatory gestures, cartoons, drawings or posters.

What if you go out for drinks after work with co-workers and you make racist jokes? Could you be held liable for Harassment?

What Makes Harassment Illegal?

There Are Two Types Of Harassment-

1. "Quid Pro Quo"- Job conditions, job continuance, benefits, promotions, etc. are traded for sexual favors. Applies even if the threat or promise isn't carried out and the victim doesn't file a complaint.
2. Intimidating, Hostile or Offensive Work Environment- The unwelcome comments, touching and/or visual displays of a Supervisor, Company or coworker create an environment poisoned by the harassment. All of the categories of discrimination listed above, i.e., race, creed, etc. are tried under this category.

What Makes Inappropriate Behavior Unlawful Harassment?

The attention, behavior, advances, etc. are unwelcome.

The actions are repeated, severe and pervasive.

"Reasonable woman/person" standard-would they consider the conduct sufficiently severe or pervasive to create a hostile or abusive working environment.

The perception of the harassed counts, not the intent of the harasser.

Could asking someone for a date be considered harassment?
What about telling them they look nice?

Harassment Can Take Many Forms

- ❖ It may be one highly offensive incident or a series of smaller incidents.
- ❖ It may be a request for inappropriate favors, unwanted touching, or repeated derogatory comments.
- ❖ Harassers or victims may be of either gender- the same gender, or the opposite gender.
- ❖ Harassment may be physical, ranging from unwanted touching to kissing to rape.
- ❖ Harassment may be verbal, ranging from threats to teasing to jokes or comments to personal questions. Independent Contractors can sue for harassment.
- ❖ Supervisors can be harassed by those they supervise.
- ❖ Harassment can occur when delivered by vendors, clients, independent contractors, or others that come into contact with employees because of business requirements.

So, can someone just collect grievances, then run out and file a lawsuit?

Relevant 1998 UIS. Supreme Court Cases

Oncale vs. Sundowner Offshore Service Inc.

March 4, 1998 decision

In *Oncale vs. Sundowner Offshore Services*, the highest federal court recognized that same sex harassment is illegal under gender discrimination laws. The Court held that harassment is actionable even if the harasser is not sexually interested in the victim. Thus, if men harass a male co-worker without engaging in advances to him, the employer may be liable for a hostile work environment. Nonetheless, the harassment must be due to the victim's gender, thus constituting sexual discrimination (sexual harassment always has been legally viewed as a subset of sexual discrimination).

The Court in *Oncale* constructed a higher threshold for establishing harassment. The Court admonished that all behavior must be viewed in context. Therefore, horseplay, flirtation or inappropriate comments alone do not constitute a hostile workplace. This strengthens an employer's defense that alleged offensive behavior was consented to by the plaintiff in the context of a more permissive work environment.

Burlington Industries, Inc. vs. Ellerth, and Faragher vs. City of Boca Raton Ct.

June 26, 1998 decision

The Supreme Court made clear that employers are subject to vicarious liability for unlawful harassment by supervisors. The standard of liability set forth in these decisions is premised on two principles: 1) an employer is responsible for the acts of its supervisors, and 2) employers should be encouraged to prevent harassment and employees should be encouraged to avoid or limit the harm from harassment. In order to accommodate these principles, the Court held that an employer is always liable for a supervisor's harassment if it culminates in a tangible employment action. However, if it does not, the employer may be able to avoid liability or limit damages by establishing an affirmative defense that includes two necessary elements:

(a) The employer exercised reasonable care to prevent and correct promptly any harassing behavior, and

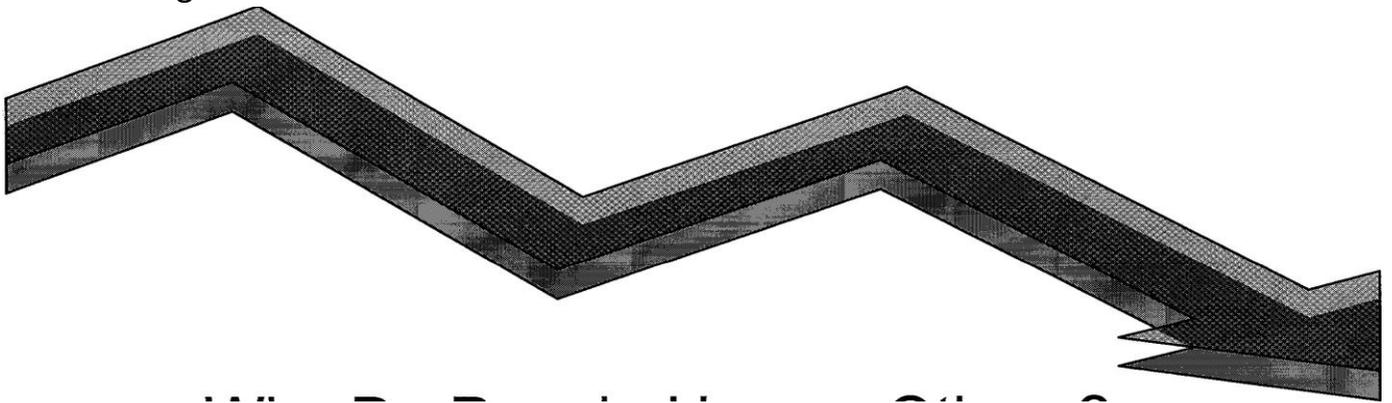
(b) The employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise. Employees must tell someone with decision-making power in the company if they are experiencing harassment.

While the *Faragher* and *Ellerth* decisions addressed sexual harassment, the Court's analysis drew upon standards set forth in cases involving harassment on other protected bases. The same basic standards apply to all types of prohibited harassment. Thus, the standard of liability set forth in the decisions applies to all forms of unlawful harassment.

Why is Harassment Harmful in the Workplace?

Harassment Harms the Victim, the Agency, and Your Co-Workers.

- ❖ Victim: emotional or physical harm, self-esteem, confidence, dignity, respect.
- ❖ Agency: reduces trust; drop in productivity; legal costs, drop in clients/customers, sales, embarrassing publicity, reputation.
- ❖ Co-workers: drop in morale, taking on additional responsibilities, lack of confidence of management and co-workers.



Why Do People Harass Others?

- ❖ Power (it is not about sex),
- ❖ Fear or insecurity in relating to others.
- ❖ Lack of knowledge.
- ❖ Lack of awareness and understanding.

Conduct That May Be Considered Harassment

- Gender bashing or gender-based teasing
- Sexual, ethnic, or racial humor
- Gender stereotyping
- Threats or hazing
- Mimicking
- Looking a person up and down
- Questions or comments about personal life
- Unwanted, repeated pressure for dates
- Unwanted letters, e-mails, phone calls, even to the person's home
- Asking for, or giving unwanted, hugs, kisses, massages, pats, strokes, and other touches
- Comments about person's physical attributes, clothing, and body
- Flirting
- Other romance-related conduct
- Malicious gossip, rumors, or lies about a person's life

What is the Agency's Policy on Harassment?

Zero Tolerance for Unlawful Harassment

We intend to provide a work environment that is pleasant, professional, and free from intimidation, hostility or other offenses, which might interfere with work performance. Harassment of any sort - verbal physical, visual - will not be tolerated, particularly against employees in protected classes. These classes include, but are not necessarily limited to race, color, religion, sex, age, sexual orientation, national origin or ancestry, disability, medical condition, marital status, veteran status, gender, genetic information, genetic characteristics, gender identity, gender expression or any other protected status defined by law.

While the legal standards and consequences of sexual harassment are still evolving, Bridges' policy remains clear and more encompassing than the law's requirement. This is because our policy rests on the fundamental precept that each employee must treat all others with respect, dignity and professionalism. Deviation from that standard will not be tolerated. Whether or not the offending employee meant to give offense, or believed his or her comments or conduct were welcomed, is not significant. Rather, our policy is violated when other employees, whether recipients or mere observers, are in fact offended by comments or conduct which are sexual in nature.

Our workplace is not limited to our organization facilities, but may also include client and vendor facilities, as well as anywhere a business-related function, or social function sponsored by the organization, is taking place. In fact, anytime that employees and their manager are together, it is likely to be seen as the workplace.

What Is Harassment?

Workplace harassment can take many forms. It may be, but is not limited to, words, signs, offensive jokes, cartoons, pictures, posters, e-mail jokes or statements, pranks, intimidation, physical assaults or contact, or violence. Harassment is not necessarily sexual in nature. It may also take the form of other vocal activity including derogatory statements not directed to the targeted individual but taking place within their hearing. Other prohibited conduct includes written material such as notes, photographs, cartoons, articles of a harassing or offensive nature, and taking retaliatory action against an employee for discussing or making a harassment complaint. In addition, this policy covers all individuals in the workplace, such as fellow employees, managers, outside clients, vendors, independent contractors, or other non-employees who conduct business with our organization.

What Is Sexual Harassment?

Sexual harassment may include unwelcome sexual advances, requests for sexual favors, or other verbal or physical contact of a sexual nature. When this conduct creates an offensive, hostile and intimidating working environment, it may prevent an individual from effectively performing the duties of their position. It also encompasses such conduct when it is made a term or condition of employment or compensation, either implied or stated and when an employment decision is based on an individual's acceptance or rejection of such conduct.

It is important to note that sexual harassment crosses age and gender boundaries and cannot be stereotyped. Among other perceived unconventional situations, sexual harassment may even involve two women or two men.

Sexual harassment may exist on a continuum of behavior. For instance, one example of sexual harassment may be that of an employee showing offensive pictures to another employee.

Generally, two categories of sexual harassment exist. The first, "quid pro quo," may be defined as an exchange of sexual favors for improvement in your working conditions and/or compensation. The second category, "hostile, intimidating, offensive working environment," can be described as a situation in which unwelcome sexual advances, requests for sexual favors, or other verbal or physical contact of a sexual nature when such conduct creates an intimidating or offensive environment. Examples of a hostile, intimidating, and offensive working environment includes, but is not limited to, pictures, cartoons, symbols, or apparatus found to be offensive and which exist in the workspace of an employee. This behavior does not necessarily link improved working conditions in exchange for sexual favors. It is also against our policy to download inappropriate pictures or materials from computer systems.

We prohibit any employee from retaliating in any way against anyone who has raised any concern about sexual harassment or discrimination against another individual.

We will investigate any complaint of sexual harassment and will take immediate and appropriate disciplinary action if sexual harassment has been found within the workplace.

Responsibility

All Bridges employees, and particularly managers, have a responsibility for keeping our work environment free of harassment. Any employee who becomes aware of an incident of harassment, whether by witnessing the incident or being told of it, must report it to their immediate manager or the designated management representative with whom they feel comfortable. When management becomes aware of the existence of harassment, it is obligated by law to take prompt and appropriate action, whether or not the victim wants the organization to do so.

Reporting

If you believe you have been harassed by any organization employee, client, or other business contact, confront the harasser and ask him/her to stop. While we encourage you to communicate directly with the alleged harasser, and make it clear that the harasser's behavior is unacceptable, offensive or inappropriate, it is not required that you do so. It is essential, however, to notify your Program Manager immediately even if you are not sure the offending behavior is considered harassment. Any incidents of harassment must be immediately reported to your Program Manager. If Program Manager is not available, please contact the Executive Director. At any time, if you feel that you are in immediate harm and do not have time to contact either Program Manager or the Executive Director, seek assistance from any management representative.

Appropriate investigation and disciplinary action will be taken. All reports will be promptly investigated with due regard for the privacy of everyone involved. However confidentiality cannot be guaranteed. Any employee found to have harassed a fellow employee or subordinate will be subject to severe disciplinary action up to and including termination. Bridges will also take any additional action necessary to appropriately remedy the situation. Retaliation of any sort will not be permitted. No adverse employment action will be taken for any employee making a good faith report of alleged harassment.

We accept no liability for harassment of one employee by another employee. The individual who makes unwelcome advances, threatens or in any way harasses another employee is personally liable for such actions and their consequences. Bridges may or may not provide legal, financial or any other assistance to an individual accused of harassment if a legal complaint is filed.

How Do You Respond If You Are Being Harassed?

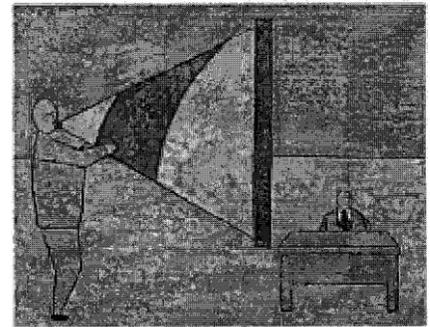
- ❖ Follow the agency's harassment policies.
- ❖ If you feel comfortable confronting the harasser, describe to him/her the specific behaviors that bother you. If it is a mild form of harassment, make a polite request for the jokes, innuendos, etc. to stop.
- ❖ Explain to them why their behavior or actions are a problem, and how they are affecting you.
- ❖ Give them examples of how you would prefer to be spoken to, looked at, addressed, etc.
- ❖ If at any time, you do not feel comfortable speaking to the harasser, report the incident to your management representative listed in the agency policy.
- ❖ Document the incident, including time, place, witnesses.

What Do You Do If You Witness Harassment?

- ❖ Follow the agency's harassment policies.
- ❖ Take the situation seriously.
- ❖ Get the victim safely out of the situation, if necessary.
- ❖ Encourage the victim to express his/her feelings to the offender that their conduct was unwelcome.
- ❖ Offer support and/or tell the harasser that something you observed was inappropriate in the workplace.

What Will The Agency Do If You Tell Them You Are Being Harassed?

- ❖ They will take your complaint seriously.
- ❖ They will conduct an investigation into the facts surrounding the complaint.
- ❖ They will meet with the alleged harasser and interview them, and tell them that any harassment must stop immediately.
- ❖ They will seek to separate you and the harasser until the investigation ends.
- ❖ They will make it clear that you are not to be retaliated against for filing the complaint
- ❖ They will do their best to keep information confidential, but please understand that due to the nature of the investigation, total confidentiality cannot be guaranteed.
- ❖ They will inform you if they found that harassment occurred.
- ❖ If harassment has occurred, they will enact some form of discipline on the harasser.



How to Avoid "Accidentally" Harassing Someone

- ❖ Don't use pet names, "group" names (blondie, youngin') or suggestive names (honey, hottie). Refer to people by their given name, or their title.
- ❖ Avoid telling jokes that involve racial, ethnic, gender, etc. slurs or cussing or vulgar language. If you are present when someone tells this type of joke, politely tell him or her it is inappropriate and that you do not want to be a part of it
- ❖ Be aware of people's discomfort, body language, silence, etc. with your jokes, stories, glances, touching and gestures.
- ❖ Always be aware when touching someone, and whether they may misunderstand your intent.
- ❖ Don't have inappropriate calendars, photos, catalogs (Victoria Secret), posters, etc. at work.
- ❖ Respect the diversity, skills, contributions and knowledge of the different type of people in the agency.
- ❖ Don't gossip or spread rumors.
- ❖ Respect other's privacy. Don't ask questions that are not your business or that may make them feel uncomfortable.
- ❖ If someone asks you to stop a behavior or action, even if you think they are being "over-sensitive," pay attention to their complaint and correct the action.