



## What You Need to Know about Sexual Harassment in the Workplace

### COURSE DESCRIPTION

Sexual harassment in the workplace is not only against the law, it can also create severe disruption and morale problems for the entire practice. The best way to eliminate it is through prevention and education. This course provides an overview of sexual harassment, including what it is, who it might involve, and what to do if you are a victim of this type of behavior.

### LEARNING OBJECTIVES

Participants will gain an understanding of:

1. What sexual harassment is
2. The two types of sexual harassment under federal law
3. The types of behaviors that can be considered sexual harassment
4. Who can be the victim or perpetrator of sexual harassment
5. What to do if you are the victim of sexual harassment

## I. INTRODUCTION

Sexual harassment in the workplace is against the law. In federal law, sexual harassment violates Title VII of the Civil Rights Act of 1964, which applies to employers with 15 or more employees. Many states have enacted laws which prohibit sexual harassment in the workplace as well.

It is also against the law to retaliate against a person for opposing employment practices that discriminate based on sex, for filing a discrimination charge, or for testifying or participating in any way in an investigation, proceeding or litigation under Title VII.

The best way to eliminate sexual harassment in the workplace is through prevention and education, and by taking immediate and appropriate action when an employee complains that they are the victim of sexual harassment. Dental practices that do not have strict policies in place to prevent and address sexual harassment are opening themselves up to potential liability and lawsuits.

## II. WHAT IS SEXUAL HARASSMENT?

Sexual harassment is:

- Unwelcome sexual advances
- Unwelcome requests for sexual favors
- Unwelcome verbal, visual or physical conduct of a sexual nature that is sufficiently severe or pervasive that it affects an individuals' employment, unreasonably interferes with his/her work performance, or creates an intimidating, hostile or offensive work environment.

A few key words here are "unwelcome," "severe," and "pervasive." Conduct is *not* considered to be sexual harassment if it is welcome. To rise to the level of harassment, unwelcome conduct must be either severe or pervasive. A single inappropriate comment may not be sexual harassment, but a series of relatively minor incidents can be if it affects the work environment.



### III. WHAT ARE THE 2 TYPES OF SEXUAL HARASSMENT?

Sexual harassment can be physical and/or psychological in nature. Under Title VII of the Civil Rights Act of 1964 there are two types of sexual harassment:

- **Quid Pro Quo** – “Quid pro quo” means a favor or advantage granted or expected in return for something else. In the case of sexual harassment, this means submission to the unwelcome conduct is either explicitly or implicitly made to be a term or condition of a person’s employment, or the basis for employment decisions (such as promotions or job assignments) affecting the individual.

Quid pro quo harassment can be direct or indirect threats or bribes. It must involve tangible employment action against the victim, such as monetary loss or change in job.

Here are some examples of Quid Pro Quo sexual harassment:

- A qualified front office team member refuses the Office Manager’s sexual advances and is then passed over for a promotion.
  - An employee is transferred to an undesirable position or shift because they refuse to go out on a date with their supervisor.
  - A supervisor offers to extend an employee’s deadline on a project if the employee will stay and give him a massage after the office closes that evening.
  - A staff member is fired for ending a consensual sexual relationship with his boss.
  - A hygienist’s previously-approved vacation is denied after she says “no” to her supervisor’s request for sexual favors.
- **Hostile Work Environment** – This is when the sexual harassment makes the workplace environment intimidating, hostile or offensive for the victim(s).

When determining whether an environment is intimidating, hostile or offensive, the courts generally consider several factors:

- Was the conduct verbal, physical or both?
- How frequently was the conduct repeated? A pattern of harassing conduct is usually (although not always) required to create a hostile work environment.
- Was the conduct hostile or patently offensive?



- Did the conduct interfere with the employee's work or job performance?
- Was the alleged harasser a co-worker or a supervisor?
- Did others join in perpetrating the harassment?
- Was the harassment directed at more than one person?

Here are some examples of behaviors that can create hostile work environments:

- A dentist displays inappropriate images in the workplace.
- An employee keeps intentionally brushing up against a co-worker, making that co-worker feel uncomfortable about coming to the office.
- Two co-workers like to tell sexual jokes in the lunch room during their break. Another team member, who shares the same break time, has asked them more than once to stop because the jokes make her uncomfortable, but they have not.

#### IV. WHAT TYPES OF BEHAVIORS CAN BE CONSIDERED SEXUAL HARASSMENT?

While unwelcome sexual advances are certainly a type of sexual harassment, there are many other behaviors that can be considered sexual harassment—including many that many organizations saw as “acceptable” 30 years ago that are completely unacceptable now. When determining if a behavior is sexual harassment, the focus is on the impact of the behavior, not the intent of the harasser.

The list of behaviors that can be considered to be sexual harassment includes (but is not limited to) the following:

- **Verbal/Written Harassment**

- Making unwelcome sexual advances, propositions or requests for sexual favors
- Promising preferential treatment to an employee if they submit to sexual conduct
- Repeatedly asking a person out for a date
- Making unwelcome sexual comments, including comments about a person's sexuality or sexual experience
- Making unwelcome comments about clothing, personal behavior or a person's body

- Telling or sharing sexual or sex-based jokes
- Making sexual innuendoes
- Spreading rumors or gossip about a person's personal or sexual life
- Threatening a person
- Sending emails, texts or other electronic messages of a sexual nature

- **Physical Harassment**

- Physically assaulting a person, including rape, sexual battery, molestation, or attempts to commit these assaults (note: these actions should be immediately reported to the police)
- Physically interfering with or blocking a person's ability to move
- Inappropriately touching a person or their clothing



- Intentional physical contact that is sexual in nature, such as kissing, hugging, patting, pinching, grabbing, poking, brushing up against or stroking a person





- **Nonverbal Harassment**
  - Looking up and down a person's body
  - Making derogatory gestures or facial expressions of a sexual nature
  - Following a person
- **Visual Harassment**
  - Displaying or sharing posters, drawings, pictures, screensavers, emails, text or objects of a sexual nature
- **Gender-Based Harassment**
  - Intentionally making the performance of the employee's job more difficult because of that employee's gender

In addition, keep in mind that "workplace sexual harassment" can take place anywhere that an employee is engaged in activities that are related to his or her job, not just inside the dental practice's physical office. For example, if a dentist and a hygienist spend the day representing the practice at a local health fair, and the dentist repeatedly makes unwelcome sexual comments to the hygienist throughout the event, this would be considered "workplace sexual harassment."

## V. WHO CAN BE INVOLVED IN SEXUAL HARASSMENT?

Sexual harassment can happen at any level of the dental office. Anyone can be the victim or perpetrator of sexual harassment—even owners and supervisors.

The victim can be:

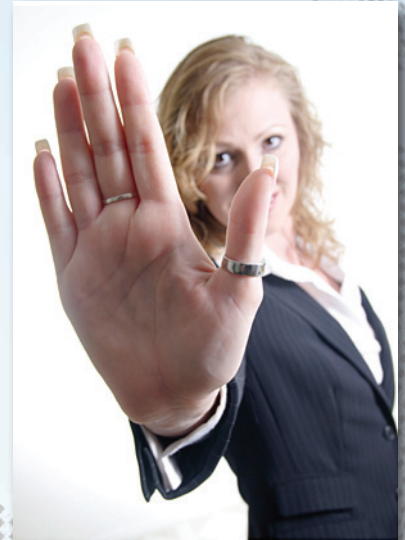
- Of any gender, including the same gender as the harasser
- Heterosexual, homosexual, bisexual or any other sexuality
- Anyone who is affected by the offensive conduct—including bystanders and witnesses—not just the person who is the target of the harassing behavior
- Anyone who has a professional relationship with the practice, including a patient, family member, vendor, independent contractor or other person who is not an employee of the practice

The harasser can be a supervisor, co-worker, vendor, non-employee or agent of the employer.

## VI. WHAT SHOULD YOU DO IF YOU ARE THE VICTIM OF SEXUAL HARASSMENT?

If you are the victim of sexual harassment, there are a few steps that you can and should take:

- 1. Tell the harasser to stop.** First, because behaviors are only considered to be harassment if they are unwelcome, you should speak up. If it is possible and comfortable for you to do so, clearly communicate to the harasser (either verbally or in writing) that the conduct makes you uncomfortable and you want it to stop.
- 2. Tell your employer.** If telling the harasser to stop does not immediately resolve the problem, you should follow your office's official procedures for reporting sexual harassment incidents. Do this as soon as possible, while the incident(s) is still recent. Be sure to document everything. Keep a written record of the date, time and nature of each incident. Keep a copy of this record for yourself, and share it with the appropriate person at the practice.
- 3. File a complaint with the appropriate governmental agency.** What if you work in a small practice, and it is the owner (and person to whom the office policy says that complaints are to be addressed) who is the harasser? Or what if you have followed your office's reporting procedures, and your employer has not ended the harassment or resolved the problem? In this case you can file an administrative charge with the appropriate governmental agency. This would usually be either the federal Equal Employment Opportunity Commission (EEOC) or your state's human rights, civil rights or fair employment enforcement agency. This agency will investigate your claim and attempt to help you resolve it. If they cannot resolve it they may issue a "right to sue" letter. At that point you can take legal action to try to resolve the issue.



## VII. WHAT SHOULD YOU DO IF YOU WITNESS SEXUAL HARASSMENT?

Follow your office's official procedures for reporting sexual harassment incidents, and then cooperate with any investigations. Be sure to document everything. Keep a written record of the date, time and nature of each incident. Keep a copy of this record for yourself, and share it with the appropriate person at the practice.

## VIII. CONCLUSION

Helping to create a workplace that is free of sexual harassment is every employee's responsibility. Always think before you act, keeping in mind that what is acceptable to one person may be offensive to another. If someone asks you to stop doing something that makes them uncomfortable, you should do so. In addition, if you have been in the workforce for years, you should also be aware that many behaviors that were widespread in many workplaces 30 years ago are not acceptable today.