TASPA

Don’t Touch Me!
Appropriate & Inappropriate Touching at Work

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Scientific Research

• Touch: pressure receptors
• Brain: vagus nerve bundle
• Decrease of stress hormone cortisol
• Friendly touch: as powerful as chocolate!
• Connecting to SOME people
A Harassment Survey (True or False)

____ 1. The district is not liable for the harassment of one of its employees unless it knows about the incident.


____ 3. People perceive offensive touching differently.

____ 4. Most women do not report offensive touching but rather endure it or leave their jobs.

____ 5. Harassment of a co-worker away from work, outside of the work day is protected conduct since it does not happen at work.

____ 6. I cannot be sued for harassment, only the school district is liable.

____ 7. If an employee agrees to the behavior, then the other employee cannot be held liable.

____ 8. I’m not responsible for complaints outside of my work group.
WHEN DOES A _____ BECOME A ____?

LOOK
TOUCH
JOKE
TEASE

LEER
GROPE
TAUNT
HARASSMENT
TOUCHING

• Hugs
• Shoulder rub
• Shoulder pat
• Handshake
• Pat on the head
• Pat on the forearm
• Horseplay
• Starring at body part/brushing against
<table>
<thead>
<tr>
<th>SEXUAL HARASSMENT</th>
<th>FLIRTING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Makes the receiver feel:</td>
<td>Makes the receiver feel:</td>
</tr>
<tr>
<td>- Bad</td>
<td>- Good</td>
</tr>
<tr>
<td>- Angry/Sad</td>
<td>- Happy</td>
</tr>
<tr>
<td>- Demeaned</td>
<td>- Flattered</td>
</tr>
<tr>
<td>- Powerless</td>
<td>- In Control</td>
</tr>
<tr>
<td>Results in:</td>
<td>Results in:</td>
</tr>
<tr>
<td>- Negative Self-Esteem</td>
<td>- Positive Self Esteem</td>
</tr>
<tr>
<td>Is perceived as:</td>
<td>Is perceived as:</td>
</tr>
<tr>
<td>- One-Sided</td>
<td>- Reciprocal</td>
</tr>
<tr>
<td>- Demeaning</td>
<td>- Flattering</td>
</tr>
<tr>
<td>- Invading</td>
<td>- Open</td>
</tr>
<tr>
<td>- Degrading</td>
<td>- A compliment</td>
</tr>
<tr>
<td>Is:</td>
<td>Is:</td>
</tr>
<tr>
<td>- Unwanted</td>
<td>- Wanted</td>
</tr>
<tr>
<td>- Power-motivated</td>
<td>- Equality-motivated</td>
</tr>
<tr>
<td>- Illegal</td>
<td>- Legal</td>
</tr>
</tbody>
</table>
SEXUAL HARASSMENT IS...

- Unwelcome sexual advances
- Requests for sexual favors
- Verbal or physical conduct of a sexual nature
What is Harassment?

Physical  Visual

Verbal  Gender, Race, Age, Religion
CONDUCT CAN BE:

- Male to Female
- Female to Male
- Male to Male
- Female to Female
  - OR -
- Between Managers, Supervisors, or Co-Workers
- Between Employees and Others
  vendors, customers, contractors & temporary workers
COSTLY MISTAKES

Do nothing ("It’ll stop") = denial
Make conclusions = ("Ole Bill wouldn’t have done that")
Failure to take corrective measures
Require formal and/or written complaint
Inadequate investigation
“He said/she said:” witnesses don’t cooperate
Confrontational solution
Not reporting it to proper authority for investigation
Resistance = no training, etc., as too controversial
Labeling = “feminist,” “militant,” “manipulative,” “troublemaker”
REASONABLE PERSON STANDARD

DRAWING THE LINE

Stares | Comments | Touches | Assault | Rape

Acceptable Social Interaction  Critical Point  Sexual Harassment/Violence
IT DOES MATTER

✓ Frequency
✓ Duration
✓ Severity
✓ How it affects the person’s ability to do his or her job.
WORKPLACE VIOLENCE CONTINUUM

Physical Violence
- Homicide
- Suicide
- Sexual assault
- Assault with a weapon
- Physical abuse
- Property destruction
- Disruptive behavior
- Abuse of power
- False accusations
- Discrimination/Racism
- Sexual harassment
- Harassment
- Rumors
- Threats/Intimidation
- Verbal abuse

Non-Physical Violence

Extreme

Increasing levels of violence and impact

Hostile Environment

Taming the Beast, Getting Violence Out of the Workplace, Frema Engel © 1998
IS MY BEHAVIOR/COMMENT HARASSMENT?

- Would I want my actions or comments printed in the newspaper or on TV?
- Is there equal power between me and the person with whom I’m interacting?
- Would I behave the same way if my significant other (wife, husband, partner, or children) were standing next to me?
- Would I want someone else to act this way toward a person with whom I’m having a relationship?
- Is there equal initiation and participation between me and the person with whom I’m interacting?
RESPONDING TO HARASSMENT

- Investigate promptly and thoroughly.
- Document
- Take appropriate corrective action.
- Follow up
Liability results when the employer:

1. knew or should have known of the harassment; AND
2. failed to take prompt and appropriate corrective action
TWO RULES:

1. The employer is vicariously and strictly liable for sexual harassment by a supervisor that results in a tangible job detriment (i.e. demotion, failure to promote, denial of bonus, etc.);
2. The employer is *vicariously* liable if a supervisor creates a hostile work environment without a tangible job detriment *unless* the employer can prove both:

   - The employer exercised *reasonable care* to *prevent* and promptly *correct* any harassment; and
   - The employee *unreasonably failed* to take advantage of any preventive or corrective opportunities provided by the employer.
FOLLOW UP

• With complainant and accused
• Consider whether to republish policy, review procedures, and/or conduct training
• With complainant later regarding
  – Retaliation?
  – Further harassment?
The only thing worth having in this worldly existence is a sense of humor.