

People Skills For Animal People



Sexual Harassment in the Workplace: What Is It? What Do We Do About It?

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Sexual harassment in the workplace has been defined and outlawed since the mid-1960's. Yet despite both Federal and state prohibitions, recent cases—some of which involve celebrities and high-profile executives—point out that organizations and individuals must continue to be informed and vigilant to prevent and eliminate harassing behaviors.

What's at stake? It's well-documented that a workplace where all employees are treated with respect and where differences are valued is more productive and more successful than one where harassment and other demeaning behaviors are tolerated. Those who don't focus on preventing and eliminating sexual harassment may find themselves liable for severe financial penalties and other negative repercussions individually, as well as at the institutional level.

So what *is* sexual harassment?

Title VII of the 1964 Civil Rights Act includes sexual harassment as an illegal form of sexual discrimination. The Equal Employment Opportunity Commission (EEOC) is charged with enforcement oversight and defines sexual harassment this way:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.”

Federal law recognizes two types of sexual harassment:

- *Quid pro quo*, which translated from Latin means “something for something”—an exchange of something of value for something else of value. When an imbalance of power or authority allows the threat or promise of job benefits in exchange for rejection or acceptance of sexual favors, then harassment is viewed as an illegal condition of employment. *Quid pro quo* harassment cases are less frequent today than in earlier decades.

- Hostile environment allegations now constitute the majority of sexual harassment cases. A hostile environment becomes an illegal condition of employment when unwelcome and offensive verbal, visual or physical conduct of a sexual nature explicitly or implicitly has the purpose or effect of interfering with an individual's work performance.

In defining sexual harassment, some things haven't changed since the mid-1960's. Sexual harassment is understood to be:

- Unwelcome conduct of a sexual nature *and*
- Severe ("one time is one time too many") or pervasive ("keeps happening") *and*
- Unreasonably offensive.

What has evolved over time is our understanding of the qualifying terms. For example:

- The victim, as well as the harasser, may be a woman or a man. The victim does not have to be of the opposite sex.

The percentage of court cases involving stereotypical allegations of a man sexually harassing a woman continues to decrease. In fact, courts throughout the U.S. have changed their definition of "unreasonably offensive" from what was agreed in the 1970's to be unreasonably offensive to the average *woman* to what is unreasonably offensive to the average *person* today.

- The harasser may be the victim's supervisor, a supervisor in another area, an agent of the employer (such as a vendor or a contractor), a co-worker, or a non-employee (including volunteers and visitors).
- A victim may not be the person who is the subject of harassing behavior, but could be someone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim. In other words, a finding of sexual harassment doesn't require a victim to have been fired or demoted, for example.

It's also important to know that harassment does not have to occur on the employer's premises to be illegal. A victim may be unlawfully harassed off zoo grounds, but while in a work-related activity, such as transporting animals for veterinary care or off-site educational work at schools or other community locations.

Sexual harassment may take various forms, including physical, visual and verbal. *Physical harassment* may include unwelcome and inappropriate touching, sexual gestures, and even physically blocking another person's passing in a hallway or doorway in a way that could be construed to be intimidating.

Pictures, cartoons and drawings with sexual content that are posted in the workplace or sent via email are always inappropriate and may create a hostile work environment through *visual harassment*.

Verbal harassment isn't limited to the rather obvious examples of sexual sounds or sexual comments to or about another person. Jokes and stories, including re-telling of sexual situations from movies and TV, may also constitute harassment. Even when someone isn't part of the conversation, but can't avoid overhearing the sexual content, there may be a finding of sexual harassment. It isn't reasonable to expect anyone to have to listen to sexual situations from TV or film, much less real life, in the workplace!

Where's the line?

There are still, as of this writing, no laws that prohibit rudeness. Inconsiderate behavior is not necessarily harassment. Even occasional obscene language, though inappropriate in the workplace, may not be considered harassing.

However, foul language *directed at* a person, as well as name-calling or degrading descriptions based on a person's gender, sexual orientation or gender identification that express a negative stereotype, are absolutely prohibited by law.

Dating another employee is still not illegal, either. Here's the rule of thumb: you can ask a colleague out for a date, but if the other person says "no," then drop it—don't ask again! It's always a good idea to let your supervisor know if you're dating another employee. If there's romantic interest between employees where one has a supervisory or management role and the other one doesn't, then it's best to meet with your human resource representative to avoid misunderstandings and other unintended consequences. Use good sense: keep your personal life personal by not behaving out of context while you're working. Public displays of affection are never appropriate while you're on zoo business.

What if you are a victim or a witness to sexual harassment?

Every employee, whether a director or a new keeper, has a responsibility to the zoo to prevent and eliminate sexual harassment. Here are a few key steps:

1. Be sure you're familiar with your institution's sexual harassment prevention policy. Re-read it and confirm your understanding by talking with your supervisor or human resources representative.
2. If you feel you may be a victim, it's helpful to directly inform the harasser that the behavior is unwelcome and must stop. Whether you feel comfortable addressing the harasser directly or not, use your institution's complaint system to report the behavior to your supervisor and/or HR as soon as possible.
3. If you may have witnessed sexual harassment, confront it. Let the harasser know that it's not OK and must stop. Always report what you saw or heard to HR.

What happens next?

By law, employers must take all reports of sexual harassment seriously. An investigation of the facts by a qualified individual is required.

But be aware that an investigation of sexual harassment promises *limited confidentiality*. This means that only those who need to know will be informed—not that "no one will ever know." If you report sexual harassment, don't expect the information to be "just FYI." Your employer has an obligation to determine what happened and if there's confirmation that the behavior crossed the line, take appropriate action to prevent recurrence and retaliation.

Employees also have a responsibility to cooperate fully in an investigation. Remember that you'll be protected by limited confidentiality; anything you say will *not* be public knowledge!

Limited confidentiality also means that the outcome of an investigation, including any consequences for the harasser, won't be public knowledge. Reasonable privacy of all parties, including the alleged harasser, must be protected.

Stay alert!

Your animal management team and the zoo, as a whole, will be a better place to work when all employees work together to keep out sexual harassment. Treat others with respect, insist on being treated with respect yourself, and if you see or hear those around you being treated disrespectfully, nip it in the bud. If for some reason you don't feel comfortable reporting your concerns to your own supervisor, be sure to talk to your human resources representative or a senior manager about any sexual harassment you've seen or heard.

You are key to prevention and elimination of sexual harassment so that financial resources and "people resources" are focused where they belong: animal conservation and care and public education.

(Editor's Note: Do you have a topic you would like to see discussed in the People Skills for Animal People column? If so, please email your ideas to the editor at akfeditor@zk.kscoxmail.com. We will do our best to find someone knowledgeable on that topic to put together a column on it for a future issue of AKF.)
