

Creating and Maintaining a Respectful Environment in the Capitol

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**WHY DO WE NEED TO HAVE THIS
DISCUSSION?**

Not A Recent Phenomenon

- June 2016 EEOC Task Force Report:
 - Approximately 60% of women experienced unwanted sexual attention or coercion, OR sexually crude conduct or sexist comments in the workplace
 - 40-70% experienced harassment based on racial or ethnic status
 - Approximately 70% of employees never lodged an internal complaint

Why Don't People Report Harassment?

- Fear of:
 - Humiliation
 - Ostracism
 - Damage to Reputation or Career
 - Retaliation
 - Blame
 - Getting Someone Else in Trouble
 - Disbelief
 - Minimalization

Harassment Complaints in Idaho

- Idaho Human Rights Commission statistics:

	FY2017	FY2016	FY2015	FY2014	FY2013
Claims	485	403	443	435	463
Disability	50%	42%	42%	42%	44%
Sex	36%	35%	33%	35%	36%
Retaliation	34%	27%	30%	29%	28%
Age	21%	17%	17%	18%	22%
National Origin	10%	9%	10%	11%	12%
Race	9%	6%	7%	5%	6%
Religion	7%	6%	4%	4%	5%

Breakdown of Sex Harassment Claims

- Idaho Human Rights Commission statistics:

	FY2017	FY2016	FY2015	FY2014	FY2013
Sex Claims	171	139	146	156	168
Females	63%	69%	62%	64%	62%
Males	20%	17%	16%	22%	24%
Pregnancy	12%	11%	18%	9%	14%
Sex Harassment	12%	13%	17%	15%	16%

WHAT IS HARASSMENT?

Legal Definition of Harassment

- Unwelcome or unwanted sexual advances, requests or demands for sexual favors, or other conduct based on a protected status when:
 1. Submission to such conduct is made explicitly or implicitly a term or condition of employment; or
 2. Submission or rejection of such conduct is used as the basis for employment decisions; or

Legal Definition of Harassment (cont'd)

3. Such conduct has the purpose OR effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Protected Classes

- Age (40+)
- Color
- Disability
- Genetic Information
- National Origin
- Race
- Religion
- Sex/Gender

A Person's Intent is Irrelevant

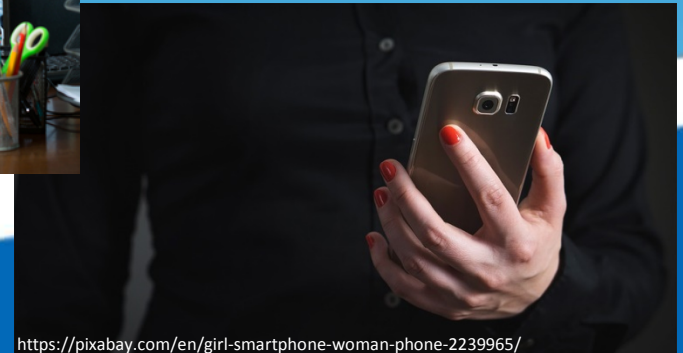
- For a quid pro quo or disparate treatment claim, the law looks at two factors:
 - Did the employee suffer an adverse action?
 - Did the employer take that action solely or in part because of the employee's protected status?
- For a hostile work environment claim, the law looks at two factors:
 - Did the employee find the work environment hostile?
 - Would a reasonable person in the employee's position consider the work environment hostile?

Misperceptions

- Employers are not responsible for conduct that occurs off premises or outside of work hours
- Employers are not responsible for conduct of non-employees
- The complainant must first ask the harasser to stop before making a complaint
- It cannot be harassment if the complainant laughed or participated

WHAT DOES HARASSMENT LOOK LIKE?

Written



<https://pixabay.com/en/girl-smartphone-woman-phone-2239965/>

Verbal



Nonverbal



Physical



http://a.abcnews.com/images/Politics/al-franken-02-ht-jc-171116_4x3_992.jpg



**WHAT IS THE BUSINESS CASE FOR
MAINTAINING A RESPECTFUL
ENVIRONMENT IN THE CAPITOL?**

Harassment Damages the Environment

- The victim suffers psychological and physical harm
 - Decreased productivity
 - Job loss or resignation
- Co-workers and others may also suffer psychological and physical harm
 - Everyone's productivity suffers
 - Job turnover and negative reputation for those connected with State business

Harassment Claims Also Cause Damage to the Accused

- Damage to personal and family members' reputations
- Legal Costs
- Adverse publicity
- Loss of employment and inability to find alternate employment
- Disincentive to rehabilitation or changing behavior

Harassment is Illegal

- May begin with internal complaint, inquiry, and resolution
- Legal process begins with IHRC or EEOC Charge of Discrimination
 - 1-2 years
- Federal or State Court Lawsuit
 - 1-3 years
- Potential appeals

Lawsuits Are Expensive

1. Defense cost for administrative charge through trial likely \$300,000-\$500,000 or more
2. Potential significant jury verdict for lost wages and emotional distress could range between thousands to millions of dollars
3. If lose at trial, also paying Plaintiffs' attorney fees, which will likely range between \$500,000-\$750,000 or more

**HOW DO YOU MAINTAIN AN
ENVIRONMENT OF RESPECT?**

Common Sense Research Finding

- The EEOC Task Force Found:
 - Workplaces that tolerate harassment have more of it
 - Workplaces that are not tolerant of harassment have less of it

Workforces at Higher Risk for Harassment

- Homogenous Workforce
- Workplace where some employees do not conform to workplace norms
- Coarse social discourse outside workplace
- Perceived high value employees
- Power disparities in workforce
- Monotonous or low intensity workplace
- Isolated/ decentralized workplace
- Workplace that tolerates/encourages alcohol consumption or after hours socializing

Leadership Sets the Tone

- Committed and Engaged Leadership
- Strong and comprehensive policies
- Trusted and accessible complaint procedures
- Consistent and demonstrated accountability
- Regular interactive training tailored to the audience and organization

A Respectful Workplace Policy is Key

- Leadership is developing a policy
- It will define harassment
- Provide for reporting complaints to a variety of individuals of both genders
- Will discuss how complaints will be evaluated and resolved
- Will also discuss potential remedies

A Respectful Dialogue Is Another Key

- Do not look the other way –let others know conduct is unwelcome
 - Do not attack or label someone
- Be willing to hear that feedback and commit to not becoming defensive
 - Respect that feedback and eliminate the objectionable behavior
- You may also lodge a complaint

Personal Rights



- To be treated fairly
- To ask the harasser to stop
- To have a safe person to report to for help in ending the harassment

Question and Answer