

You Can STOP Harassment



Program I: Taking Responsibility
Program II: The Responsible Leader

Study & Facilitator's Guide

Includes Program Handouts

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Important Legal Notice

Harassment in the workplace is a complex legal issue. While great care was taken to ensure that the information in this program is accurate, nothing in the video program **You CAN Stop Harassment** or in this *Study & Facilitator's Guide* or the accompanying handouts should be construed as a substitute for the advice of your legal counsel.

Also be aware that the laws regarding workplace harassment may vary from jurisdiction to jurisdiction. Your human resources officers and legal counsel are responsible for knowing details of the specific legal issues that may apply to your organization.

If you have questions or legal concerns about issues relating to workplace harassment, you should consult your organization's legal counsel.



Foreword

Workplace harassment has become a major issue in countries around the world. While sexual harassment has commanded much of the media's attention, inappropriate behavior at work goes far beyond gender issues.

We live in a world where mobility is greater than ever before. In many countries, the workforce is highly heterogeneous, made up of people of all religions, races and ethnic backgrounds. Social roles and divisions are changing. Men and women are doing work that was once available exclusively to one gender or the other. Gay men and women are becoming more open about their sexual orientation and may therefore be more visible in the workplace. Technology, legislation and new thinking have opened work opportunities for people with disabilities.

Harassment is a complex issue, built as much around power and personality as around the racial, gender, ethnic and other characteristics that distinguish us from each other. It is also far too pervasive. In most workplaces it's all too common to find employees who have been personally touched by the intimidation and discomfort of workplace harassment.

Despite the dark picture harassment creates, there is good news for organizations and employees. If we work together, we can STOP workplace harassment.

To accomplish this will take a united effort by all those impacted by harassment. This includes the offenders, those they offend, observers of the behavior, and organizational leaders.

We at Quality Media Resources (QMR) have dedicated our company to creating resources that help people develop respectful workplace relationships. Nowhere is this more needed than in the case of harassment at work.

What distinguishes **You Can STOP Harassment** is its positive message. The programs in this series are not about pointing fingers and assigning blame. We all share responsibility for stopping workplace harassment. It isn't an easy task. The reasons for harassment are many and the roots run deep. Working together, however, I believe we can make great progress towards creating workplaces where people feel safe, valued and free to do their best work.

We wish you much success with the learning process you are about to undertake.

Robert Rosell

President
Quality Media Resources, Inc.



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You Can STOP Harassment

Program I: Taking Responsibility

Program II: The Responsible Leader

How to Use this Guide

Program Format

You Can STOP Harassment is a video-based series that will introduce you to the legal and personal issues that arise from workplace harassment. Management and employee programs are available. We recommend organizational leaders view BOTH programs in the series.

You Can STOP Harassment is intended to help employees and management understand the impacts of workplace harassment and what their role is in putting a stop to it. After seeing the program, viewers will have a clearer idea of:

- The types of harassment that can occur in the workplace
- The effects of harassment
- What their role is in stopping workplace harassment
- How they can develop skills to stop workplace harassment

You Can STOP Harassment introduces guidelines for management and employees to follow to stop harassment in the workplace. At the same time, the videotapes and support materials encourage individuals to develop new skills for respectful workplace communication.

You Can STOP Harassment is comprised of short dramatizations that explore various issues that are common within organizations. Each scenario is analyzed by a diverse group of legal, human resources and communications experts. These practitioners discuss the significance of the dramatization and suggest guidelines when encountering a similar dilemma. Several scenarios are “rewound” and played again, modeling respectful communication.

Program I: Taking Responsibility explores workplace harassment and the employee’s role through the following scenarios:

1st Scenario: “Who Do You Think I Am?” - *Sexual & gender harassment between coworkers*

2nd Scenario: “Slave Day” - *Racial harassment by a supervisor*

3rd Scenario: “Silent Treatment” - *Sexual orientation harassment by coworkers*

4th Scenario: “Let us Pray” - *Religious harassment and retaliation by a supervisor*



Program II: The Responsible Leader explores workplace harassment and the manager's role through the following scenarios:

- 1st Scenario: "It's No Joke" - *Racial and sexual harassment by a coworker*
- 2nd Scenario: "Heads Up" - *Ethnic and religious harassment by a coworker*
- 3rd Scenario: "She's the Boss" - *Sexual harassment by a supervisor*

The *Study & Facilitator's Guide* can be used in a number of ways:

1. Non-supervisory employee training which is led by a program facilitator.
Program I: *Taking Responsibility* can be taught in a 1½ hour training format or a 3½ to 4 hour training format. A facilitator determines the amount of time allotted for training and follows Option One instructions for the 1½-hour program or follows Option Two instructions for a 3½ to 4-hour program.
2. Manager training which is led by a program facilitator.
Program II: *The Responsible Leader* can be taught in a 1½ hour training format or a 3½ to 4 hour training format. A facilitator determines the amount of time allotted for training and follows Option One instructions for the 1½-hour program or follows Option Two instructions for a 3½ to 4-hour program.
3. Self-Study. Individual employees or managers can view the appropriate videotape and complete the "Acknowledgement of Harassment Training" form included with this guide (Handout pages 54 or 55). They may also be provided with other handouts selected from the guide.

If you are using the *Study & Facilitator's Guide* to facilitate a program, please make note of the following:

- The recommended script for the Leader to follow is in normal typeface.
- *Instructions for the Leader, such as which Handout to use, are in italics.*
- Each section gives an approximate time schedule in parenthesis. These times are approximate and can be altered by the facilitator as needed.

Sample Policy Statement

A "Sample Anti-Harassment Policy Statement" is included with the handouts for this program (page 56). If your company has not already implemented such a policy, we encourage you to do so and to use this training to introduce the policy to your employees and management.



Handout and Photocopying Rights

Handout pages that are part of the training are located at the end of the *Study & Facilitator's Guide*. Leaders may make copies of those handouts they wish to use depending on which program they are facilitating.

When you license training rights for **You Can STOP Harassment**, Quality Media Resources, Inc. (QMR) grants you a license to make as many copies of this guide or the handout pages as needed for the internal training needs of your organization. **Copying the videos is illegal.** If you have questions about the use of these materials and/or would like to license additional copies of the videos, please call your QMR distributor or you can contact QMR directly.

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You Can STOP Harassment

Program I: Taking Responsibility

Program I: **Taking Responsibility** is designed to be shown to all employees for training on the issue of harassment and how to stop it in the workplace.

Option One

Option One is designed to be approximately 1½ hours in length. The Facilitator will introduce the program, show the videotape, and then lead a group discussion of the issues presented in the video using the Handout “Questions for Consideration” found on page 37. The handouts included in this guide are designed to assist the Facilitator in leading this discussion.

I. Introduction (15 minutes).

A. Introduce Yourself.

Welcome the participants to the program and explain who you are and what your role is as program Facilitator.

B. Review the Objectives of the Program.

Use the Handout Objectives of “You Can STOP Harassment” (page 36) to introduce the program.

The organization takes the issue of harassment seriously and believes that all employees have the right to work in an environment free from harassment.

Employees are responsible to be aware of the impact of their behavior and to confront inappropriate behavior when they can. If employees can't stop harassment when they experience or observe it, they should report inappropriate behavior to management or human resources.

The participants will watch a videotape that uses interviews with lawyers, psychologists, and human resources professionals as well as dramatized scenarios to explore the issue of harassment in the workplace. The videotape will introduce skills to use to respond to harassment and demonstrate how harassment can be stopped.

C. Ask participants to introduce themselves if time and class-size permit.



II. Show the videotape, **Program I: Taking Responsibility** (26 minutes).

III. Group Discussion (35 to 45 minutes).

After viewing the videotape, ask the participants to work in small groups of three to five and answer the questions contained in the Handout “Questions for Consideration” (page 37). Ask each group to select a “scribe” (someone to write down the group’s answers) and a “reporter” (someone who will report back to the full group what the smaller groups’ conclusions were). Allow 10 minutes for the groups to work.

Focusing on one question at a time, ask each group’s reporter to tell how his/her group responded to the question. Facilitators may wish to record bullet points or key words of the responses on a white board or flip chart. Encourage discussion by the entire group of the ideas expressed as time allows.

The following points should be emphasized in the discussion of the questions:

Question One: What does the term “workplace harassment” mean to you? List some of the ways people might experience harassment at work.

1. Harassment can take many forms and can include: teasing, slurs, comments, jokes, innuendoes, unwelcome compliments, pictures, cartoons, pranks or other verbal or physical conduct which: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual’s work performance, or (3) otherwise unreasonably affects an individual’s employment opportunities.
2. Harassment may be unintentional. What matters is the perception of the target of harassment, not the intent of the person doing the harassing.
3. One type of harassment, sexual harassment, has received a great deal of publicity in recent years. Use Handouts “The Definition of Sexual Harassment” (page 38) and “EEOC Guidelines on Sexual Harassment” (page 40) to discuss the meaning of sexual harassment.
4. Sexual harassment is illegal. But other forms of harassment are also illegal. Harassment based on a person’s race, religion, color, national origin, age, sexual orientation (depending on jurisdiction), marital status, or the presence of any physical, mental or sensory disability can also be illegal and are always inappropriate.



Question Two: People who are offended by harassment can help stop the behavior by...

1. **Direct Communication:** Where the employee feels safe doing so, stress the benefit of directly communicating to the harasser that s/he feels uncomfortable and wants the behavior to stop. *Use Handout “Giving Feedback Respectfully: The DESC Acronym” (page 41) to discuss how a person might directly communicate that they want the behavior to stop.*
2. **Contacting a Supervisor, Manager, or Human Resources Professional:** If an employee tries to stop the harassment but it continues to occur, or the employee feels that s/he needs assistance to stop the behavior, the employee should immediately contact his/her supervisor or another supervisor s/he trusts, a manager, or a human resources professional.

Question Three: If I observe harassment in the workplace, I can help stop the behavior by...

1. **Direct Communication:** Even if the employee is only an observer to the situation, s/he can directly communicate to the harasser that the behavior is inappropriate, that the “offended” individual feels uncomfortable, and that the behavior needs to stop. *Use Handout “Giving Feedback Respectfully: The DESC Acronym” to discuss how an observer can directly communicate that the behavior should stop.*

Using the “DESC Acronym”, the observer can express how the offended party feels, or s/he may express his/her own feelings.

2. **Indirect Communication:** An observer can indirectly communicate to the harasser that the behavior is inappropriate and needs to stop by making statements in support of the employee who is confronting the harasser directly. *Discuss how this occurred in the Second Scenario: “Slave Day” on the videotape.* Observers can also offer their understanding and support to the offended employee.
3. **Contacting a Supervisor, Manager, or Human Resources Professional:** If an employee tries to stop the harassment but it continues to occur, or the employee feels that s/he needs assistance to stop the behavior, the employee should immediately contact his/her supervisor, a manager, or a human resources professional. It is usually illegal and always inappropriate to retaliate or allow retaliation against any employee for reporting harassment.



Question Four: If a coworker tells me I have offended them, I should...

Answers participants might give:

- Usually people's first reaction is to be defensive, angry
- Try to listen without interrupting
- Don't give excuses
- Apologize
- Ask for more information, try to understand how the person feels
- Acknowledge the person's feelings even if you don't understand them
- If you still don't understand, seek out a trusted colleague or supervisor to help you understand how you gave offense

Use Handout "Receiving Feedback Appropriately: LAST Acronym" (Page 45) to discuss appropriate ways to respond to feedback without being defensive. Ask a volunteer to compose a "harasser's" response to one of the scenarios presented in the videotape, such as the "Slave Day" scenario, assuming that the offended person gave the harasser feedback that they were offended.

Question Five: My organization's policy on harassment is...

Handout the organization's policy on harassment and have the participants read and discuss it. Emphasize that no employee may be retaliated against for making a harassment complaint.



IV. Concluding the Program (5 minutes).

Distribute the Handout “What You Need to Know About Workplace Harassment”. (Page 57). Review the handout emphasizing that:

- Every employee deserves to have a work environment free from harassment.
- If an employee feels that s/he is being harassed, or observes harassment, the employee should tell the harasser to stop the behavior.
- If an employee tries to stop the behavior and it does not work, or the employee is unable to directly confront the harasser, s/he should immediately contact his/her supervisor, a manager s/he trusts, or a human resources professional.
- The organization will conduct a fair, discreet investigation of all harassment complaints and take the appropriate corrective action to assure that any harassment stops and retaliation does not occur.

Have the participants complete an “Acknowledgement of Harassment Training” Form (Page 54). Thank them for their participation and encourage them to direct any questions they might have to the appropriate person.



You Can STOP Harassment

Program I: Taking Responsibility

Option Two

Option Two is designed to be approximately 3½ to 4-hours in length. The Facilitator will introduce the program, lead a pre-viewing exercise, show the videotape, and then lead group exercises which relate to the issues presented in the videotape. The handouts included in this guide are designed to assist the Facilitator in leading the group exercises and discussion.

I. Introduction (15 minutes).

A. Introduce Yourself.

Welcome the participants to the program and explain who you are and what your role is as program Facilitator.

B. Review the Objectives of the Program.

Use the Handout “Objectives of You Can STOP Harassment” to introduce the program.

The organization takes the issue of harassment seriously and believes that all employees have the right to work in an environment free from harassment.

Employees are responsible to be aware of the impact of their behavior and to confront inappropriate behavior when they can. If employees can't stop harassment when they observe it, they should report inappropriate behavior to management or human resources.

Explain that the participants will watch a video that uses interviews with lawyers, psychologists, and human resources professionals as well as dramatized scenarios to explore the issue of harassment in the workplace. The videotape will introduce skills to use to respond to harassment and demonstrate how harassment can be stopped.

C. Ask participants to introduce themselves if time and class size permit.



II. Pre-Viewing Group Discussion (30 to 45 minutes).

Ask the participants to work in small groups of three to five and answer the questions contained in the Handout “Questions for Consideration”. Ask each group to select a “scribe” (someone to write down the group’s answers) and a “reporter” (someone who will report back to the full group what the smaller group’s conclusions were). Allow 10 minutes for the small groups to work.

Focusing on one question at a time, ask each group’s reporter to tell how his/her group responded to the question. Facilitators may wish to record bullet points or key words of the responses on a white board or flip chart. Encourage discussion by the entire group of the ideas expressed as time allows.

*The points that should be emphasized in the discussion by the Facilitator are addressed under **Taking Responsibility, Option One**, beginning on Page 10 above.*

III. Show the Videotape, **Program I: Taking Responsibility** (video – 26 minutes, discussion - 30 minutes) .

Stop the tape after each of the 4 scenarios (dramatizations) in the program and allow 5-10 minutes for discussion. Use the question that appears at the end of each scenario to launch the discussion. Other questions to consider might include:

- Is this a case of harassment?
- What might the offended person have done to better respond to the situation?
- How could a co-worker or supervisor have helped stop the behavior?
- What would you have done if faced with a similar situation?

IV. Break (15 minutes).

Allow participants a 15-minute break to use the restroom, stretch their legs, refresh their beverages, etc. Ask participants to return to their seats by a specific time.

V. Exercise One: The Offended Party and The Observer (35 to 45 minutes).

A. Introduce the Exercise

The videotape explained there are three roles in a harassment situation: 1) the offender, 2) the offended, and 3) the observer. This exercise will focus on two of those roles:



- **Offended** – the person who feels upset, hurt, or threatened by the harassment, and
- **Observer** – the coworker who might overhear or witness the harassment.

This exercise is designed to help participants understand what happens in a harassment situation and helps them build skills that they need to respond to a harassment situation more comfortably.

Divide participants into 2 groups, A and B. Distribute the Handout “Exercise: The Offended Party” (page 42) to Group A. Give the Handout “Exercise: The Observer” (page 43) to Group B. Allow 10 minutes for the participants to answer the questions in their respective handouts.

B. Lead Group Discussion

*Focusing first on The **Offended Party**, ask participants to volunteer their answers to the exercise questions. The Facilitator may want to record responses on a white board or flip chart. Have the entire group discuss the ideas presented.*

The points that should be emphasized in the discussion by the Facilitator include:

1. **How do you feel when you are in a situation where you are threatened or offended by someone else’s behavior or feel you are the target of harassment?**

Leader’s Note: If you are dealing with a group of participants who do not respond to this question, you may need to help them get in touch with their feelings. If the scenario in the Handout does not make them feel offended, ask them to think of a situation in their personal life outside of work where they were threatened, offended, or harassed. What cues were they getting from their body? How did their stomach feel? How did their neck feel? What were they thinking?

Feelings that we experience when we feel we are being harassed:

- Discomfort, unease
- Embarrassment
- Isolation, loneliness
- Hurt feelings
- Tense, agitated
- Fear
- Awkwardness
- Anger



2. How do you want to respond when you are in a situation where you are offended by someone else's behavior?

People want to be able to say something direct and articulate that lets the offender know how they feel and that they want the offending behavior to stop. Some participants may have stronger feelings, and want to strike back at the offender in some way.

3. What interferes with your ability to respond the way you want to respond?

- Fear of rejection by coworkers - not being “one of the group”
- Fear of retaliation or being labeled a “troublemaker”
- Fear of not being considered a “team player”
- Fear of being labeled “oversensitive” or of “not having a sense of humor”.
- All the feelings listed in Question 1 above.
- Fear of over-reacting or making a scene

4. What do you need to do to respond in a way that you feel is appropriate?

- Using the Handout “Giving Feedback Respectfully: The DESC Acronym”, use the process to compose a response to the harasser/offender.
- Practice the “Giving Feedback Respectfully” skills on other people:
 1. Start with people with whom you are likely to be successful: your children, your spouse and your friends. Then work up to the offender.
 2. After you have built up your skills, try approaching the person who is offending you.
- Write out your script. Role-play giving the feedback with someone that is supportive and objective.
- Enlist the help of a trusted coworker or Human Resources professional to join you in giving the feedback.

*Focusing next on **The Observer** exercise, ask participants to volunteer their answers to the exercise questions. The Facilitator may want to record responses on a white board or flip chart. Have the entire group discuss the ideas presented.*



Points to be made by the Facilitator in this section include:

1. How do you feel when you are in a situation where you are observing harassing behavior?

- Glad or relieved that the harassment is not targeted at me.
- Apathetic – don't think it is my problem.
- Sympathetic to the person being harassed.
- Judgmental – why doesn't the offended person just speak up for him/herself?

Generally speaking, an observer is not as emotional or as fearful as the offended party. Therefore, an observer is often better able to respond to the situation and give direct feedback to stop the harassment.

2. How do you want to respond when you are in a situation where you have observed harassing behavior and you know a coworker is offended?

Most people want to support their coworker who is offended. People want to be able to say something direct and articulate that lets the offender know that they have acted inappropriately towards a coworker and that the offending behavior should stop.

If participants' reactions are apathetic – “it is not our problem, so why should we get involved” – the Facilitator should make the point that they are either “part of the solution or part of the problem”. If they do not speak up to stop harassment, they could be the next targets of the harassment. If not confronted, harassment usually gets worse, not better. Ask how they would want coworkers to respond if the target of the harassment was their spouse, sibling or child.

3. What interferes with your ability to respond the way you want to respond?

- Fear of getting involved in other people's business.
- Fear of appearing to be condescending – “I'm a better person than you.”
- All the items appearing in Question 3 – Offended Role above.

4. What do you need to do to feel you can respond in a way that you want to?

See discussion under Question 4 – The Offended Party exercise, above.



VI. Exercise Two: If I Have Offended Someone, How Do I fix It? (30 to 45 minutes).

A. Introduce the Exercise

Let's assume that none of us want to give offense to others. Certainly none of us expect to be in the role of the "harasser". How can we avoid that from happening? What happens if, one day, you find out that you have offended someone at work with a joke or a comment?

This exercise helps us develop the skills we need to be aware of our behavior and its effect on others. It also focuses on how to find out if you have offended others and, if you have, how to respond.

Ask the participants to work in small groups of three to five and answer the questions contained in the Handout "Exercise: If I have offended someone, how do I fix it?" Ask each group to select a "scribe" (someone to write down the group's answers) and a "reporter" (someone who will report back to the full group what the smaller group's conclusions were). Allow 10 minutes for the groups to work.

B. Lead the Group Discussion

Focusing on one question at a time, ask each group's reporter to report how his/her group responded to the question. Facilitators may wish to record bullet points or key words of the responses on a white board or flip chart. Encourage discussion by the entire group of the ideas expressed as time allows.

The points that should be emphasized in the discussion by the Facilitator are:

1. What are the cues or indicators that you have offended someone?

- You don't get the response you expected/wanted – you tell a joke and someone doesn't laugh.
- Reduced eye contact – your coworker looks away.
- Body Language:
 - Arms crossed over chest
 - Facial expression
 - Stepping back
 - Turning away



It is easy to miss the often subtle cues from people that our behavior is offending them. Recalling the earlier Offended exercise, people often do not react in the ways that they want to react. Therefore, we can receive “mixed messages” from people. For example, they laugh at a joke even though privately they are offended by it because they want to appear to be “fitting in” with the group.

2. How can you go about finding out if you have offended a coworker?

- Ask the coworker directly, “Has something I have said or done offended you?”
- Ask an uninvolved, trusted colleague – someone who you respect as having an objective perspective.
- Find a mentor in the organization – a trusted manager or Human Resources professional who you trust to speak the truth to you.

3. How should a person respond if s/he learns that his/her behavior or words have been offensive to coworkers?

- Usually people’s first reaction is to be defensive, angry
- Try to listen without interrupting
- Don’t give excuses
- Apologize
- Ask for more information, try to understand how the person feels
- Acknowledge the person’s feelings even if you don’t understand them
- Seek out a trusted colleague to help you understand how you gave offense

Use Handout “Receiving Feedback Appropriately: LAST Acronym” (Page 45) to discuss appropriate ways to respond to feedback without being defensive. Ask volunteers to compose a “harasser’s” response to one of the scenarios presented in the videotape, such as the “Slave Day” scenario, assuming that the offended person gave the harasser feedback that they were offended. Have volunteers apply the LAST acronym in composing their response.



VII. Concluding the Program (10 minutes).

Distribute the Handout “What You Need to Know About Workplace Harassment”. (page 57). Review the handout emphasizing that:

- Every employee deserves a work environment free from harassment.
- We should all be aware of the impact of our behavior, and not just the intent.
- If an employee feels that s/he is being harassed, or observes harassment, the employee should tell the harasser to stop the behavior.
- If an employee tries to stop the behavior and it does not work, or the employee is unable to directly confront the harasser, s/he should immediately contact his/her supervisor, a trusted manager, or a human resources professional.
- The organization will conduct a fair, discreet investigation of all harassment complaints and take the appropriate corrective action to assure that any harassment stops and retaliation does not occur.

Have the participants complete an “Acknowledgement of Harassment Training” Form (Handout page 54). Thank them for their participation and encourage them to direct any questions they might have to the appropriate person.



You Can STOP Harassment

Program II: The Responsible Leader

Program II: **The Responsible Leader** is intended to be viewed by managers, supervisors, and human resources professionals. While it is not essential, we recommend managers view Program I in this series, **Taking Responsibility**, before undertaking the management training.

Option One

Option One is designed to be approximately 1½ hours in length. The Facilitator will introduce the program, show the videotape, and then lead a group discussion of the issues presented in the video using Handout “Questions for Consideration” found on page 37. The handouts included in this guide will assist you in facilitating this discussion.

I. Introduction (15 minutes).

A. Introduce Yourself.

Welcome the participants to the program and explain who you are and what your role is as program Leader.

B. Review the Objectives of the Program.

Use the Handout “Objectives of You Can STOP Harassment” to introduce the program.

The organization takes the issue of harassment seriously and believes that all employees have the right to work in an environment free from harassment.

Employees are responsible to be aware of the impact of their behavior and to confront inappropriate behavior when they can. If employees can't stop harassment when they observe it, they should report inappropriate behavior to management or human resources.

Managers and supervisors are responsible for maintaining an environment free of harassment. Managers must model appropriate behavior and must be able to identify harassment and take effective steps to prevent or stop it.

The participants will watch a video that uses interviews with lawyers, psychologists, and human resources professionals as well as dramatized scenarios to explore the issue of harassment in the workplace.



- C. Ask participants to introduce themselves if time and class size permit.
- II. Show the Videotape, **Program II: The Responsible Leader** (25 minutes).
- III. Group Discussion (35 to 45 minutes).

*If the managers present have already viewed **Program I – Taking Responsibility** and have reviewed the “Questions for Consideration”, skip this section. Otherwise... after viewing the video, ask the participants to work in small groups of three to five and answer the questions contained in the Handout “Questions for Consideration” (Page 37). Ask each group to select a “scribe” (someone to write down the group’s answers) and a “reporter” (someone who will report back to the full group what the smaller group’s conclusions were). Allow 10 minutes for the small groups to work.*

Focusing on one question at a time, ask each group’s reporter to report how his/her group responded to the question. Leaders may wish to record bullet points or key words of the responses on a white board or flip chart. Encourage discussion by the entire group of the ideas expressed as time allows.

The following points should be emphasized in the discussion of the questions:

Question One: What does the term “workplace harassment” mean to you? List some of the ways people might experience harassment at work.

1. Harassment can take many forms and can include: teasing, slurs, comments, jokes, innuendoes, unwelcome compliments, pictures, cartoons, pranks or other verbal or physical conduct which: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual’s work performance, or (3) otherwise unreasonably affects an individual’s employment opportunities.
2. Harassment may be unintentional. What matters is the perception of the target of harassment, not the intent of the person doing the harassing.
3. One type of harassment, sexual harassment, has received a great deal of publicity in recent years. Use Handouts “The Definition of Sexual Harassment” (page 38) and “EEOC Guidelines on Sexual Harassment” (page 40) to discuss the meaning of sexual harassment.
4. Sexual harassment is illegal. Harassment based on a person’s race, religion, color, national origin, age, sexual orientation (depending on jurisdiction), marital status, or the presence of any physical, mental or sensory disability can also be illegal and are always inappropriate.



Question Two: People who are offended by harassment can help stop the behavior by...

1. **Direct Communication:** Where the employee feels safe doing so, stress the benefit of directly communicating to the harasser that s/he feels uncomfortable and wants the behavior to stop. *Use Handout “Giving Feedback Respectfully: The DESC Acronym” (page 41) to discuss how a person might directly communicate that they want the behavior to stop.*
2. **Contacting a Supervisor, Manager, or Human Resources Professional:** If an employee tries to stop the harassment but it continues to occur, or the employee feels that s/he needs assistance to stop the behavior, the employee should immediately contact his/her supervisor or another supervisor s/he trusts, a manager, or a human resources professional.

Question Three: If I observe harassment in the workplace, I can help stop the behavior by...

1. **Direct Communication:** Even if the employee is only an observer to the situation, s/he can directly communicate to the harasser that the behavior is inappropriate, that the “offended” individual feels uncomfortable, and that the behavior needs to stop. *Use Handout “Giving Feedback Respectfully: The DESC Acronym” to discuss how an observer can directly communicate that the behavior should stop.*

Using the “DESC Acronym”, the observer can express how the offended party feels, or s/he may express his/her own feelings.

2. **Indirect Communication:** An observer can indirectly communicate to the harasser that the behavior is inappropriate and needs to stop by making statements in support of the employee who is confronting the harasser directly. *Discuss how this occurred in the Second Scenario: “Slave Day” on the videotape.* Observers can also offer their understanding and support to the offended employee.
3. **Contacting a Supervisor, Manager, or Human Resources Professional:** If an employee tries to stop the harassment but it continues to occur, or the employee feels that s/he needs assistance to stop the behavior, the employee should immediately contact his/her supervisor, a manager, or a human resources professional. It is usually illegal and always inappropriate to retaliate or allow retaliation against any employee for reporting harassment.



Question Four: If a coworker tells me I have offended them, I should...

Answers participants might give:

- Usually people's first reaction is to be defensive, angry
- Try to listen without interrupting
- Don't give excuses
- Apologize
- Ask for more information, try to understand how the person feels
- Acknowledge the person's feelings even if you don't understand them
- If you still don't understand, seek out a trusted colleague or supervisor to help you understand how you gave offense

Use Handout "Receiving Feedback Appropriately: LAST Acronym" (Page 45) to discuss appropriate ways to respond to feedback without being defensive. Ask a volunteer to compose a "harasser's" response to one of the scenarios presented in the videotape, such as the "Slave Day" scenario, assuming that the offended person gave the harasser feedback that they were offended.

Question Five: My organization's policy on harassment is...

Handout the organization's policy on harassment and have the participants read and discuss it. Emphasize that no employee may be retaliated against for making a harassment complaint.



IV. Concluding the Program (10 minutes).

Distribute the Handout “What You Need to Know About Workplace Harassment” (page 57). Review the handout emphasizing that:

- Every employee deserves to have a work environment free from harassment.
- If an employee feels that s/he is being harassed, or observes harassment, the employee should tell the harasser to stop the behavior.
- If an employee tries to stop the behavior and it does not work, or the employee is unable to directly confront the harasser, s/he should immediately contact his/her supervisor, a manager, or a human resources professional.
- The organization will conduct a fair, discreet investigation of all harassment complaints and take the appropriate corrective action to assure that any harassment stops and retaliation does not occur.
- Managers and supervisors have a responsibility to stop workplace harassment and may face personal liability and severe consequences if they do not fulfil that responsibility.

Have the participants complete an “Acknowledgement of Management Training” Form (Handout Page 55). Thank them for their participation and encourage them to direct any questions they might have to the appropriate person.



You Can STOP Harassment

Program II: The Responsible Leader

Option Two

Option Two is designed to be approximately 3-1/2 to 4 hours in length. The Leader will introduce the program, facilitate a pre-viewing exercise, show the videotape, and then lead a group exercises which relate to the issues presented in the videotape. The handouts included in this guide are designed to assist the Leader in facilitating the group exercises and discussion.

I. Introduction (15 minutes).

A. Introduce Yourself.

Welcome the participants to the program and explain who you are and what your role is as program facilitator.

B. Review the Objectives of the Program.

Use the Handout “Objectives of You Can Stop Harassment” (Page 36) to introduce the program.

The organization takes the issue of harassment seriously and believes that all employees have the right to work in an environment free from harassment.

Employees are responsible to be aware of the impact of their behavior and to confront inappropriate behavior when they can. If employees can't stop harassment when they observe it, they should report inappropriate behavior to management or human resources.

Managers and supervisors are responsible for maintaining an environment free of harassment. Managers must be able to identify harassment, take steps to prevent it, and respond effectively to harassment if it happens.

The participants will watch a videotape that uses interviews with lawyers, psychologists, and human resources professionals as well as dramatized scenarios to explore the issue of harassment in the workplace. The videotape will introduce skills to use to respond to harassment and demonstrate how harassment can be stopped.

C. Ask participants to introduce themselves if time and class size permit.



II. Pre-Viewing Group Discussion (35 to 45 minutes).

*If the managers present have already viewed **Program I – Taking Responsibility** and have reviewed the “Questions for Consideration”, skip this section. Otherwise... after viewing the video, ask the participants to work in small groups of three to five and answer the questions contained in the Handout “Questions for Consideration”. Ask each group to select a “scribe” (someone to write down the group’s answers) and a “reporter” (someone who will report back to the full group what the smaller group’s conclusions were). Allow 10 minutes for the small groups to work.*

Focusing on one question at a time, ask each group’s reporter to report how his/her group responded to the question. Leaders may wish to record bullet points or key words of the responses on a white board or flip chart. Encourage discussion by the entire group of the ideas expressed as time allows.

The points that should be emphasized in the discussion by the Facilitator are addressed under The Responsible Leader-Option One, beginning on page 22.

III. Show the Videotape, **Program II: The Responsible Leader** (Video - 25 minutes, Discussion - 25 minutes).

Stop the tape after each of the 3 scenarios (dramatizations) in the program and allow 5-10 minutes for discussion. Use the question that appears at the end of each scenario to launch the discussion. Other questions to consider might include:

- Is this a case of harassment?
- What might the offended person have done to better respond to the situation?
- How could a manager or supervisor have helped stop the behavior?
- What would you have done if faced with a similar situation?

IV. Break (15 minutes).

Allow participants a 15-minute break to use the restroom, stretch their legs, refresh their beverages, etc. Ask participants to return to their seats by a specific time.

V. Exercise One: Conducting the Investigation (35 – 45 minutes).

Distribute the Handout “Investigating Harassment: True or False?” Allow participants 10 minutes to answer the True/False questions on their own.

*Work through the Handout “Conducting the Harassment Investigation: A Manager’s Guide”. Once done, go back to the True or False questions in the previous handout, making the following points (Facilitator’s script is below each item in **bold**.)*



<p>False</p>	<p>1. When an employee complains to you about harassment, you should assure them that their complaint will be investigated promptly and with complete confidentiality.</p> <p>Don't guarantee complete confidentiality. You will need to disclose facts on a need to know basis in order to interview the alleged harasser and witnesses. Instead assure the complaining party that you will only disclose information on a need-to-know basis to appropriate parties.</p>
<p>False</p>	<p>2. If an employee complains about harassment but begs you to do nothing and requests that you keep it completely confidential, you should respect his/her request.</p> <p>If an employee wants nothing done, try to convince him/her of the wisdom of positive action. Doing nothing won't make the harassment stop --- it may only get worse. If you are a manager who does nothing about harassment you are aware of, both you and the organization could be legally liable. Consider investigating anyway in light of the legal liability for the organization. Let the complaining party know that you will proceed to investigate because you are bound to enforce the organization's policies.</p>
<p>False</p>	<p>3. Never write anything down when conducting an investigation of harassment, because it might come back to haunt you.</p> <p>Create a written record of a fair and objective process. Always write down the date you first learned of the complaint, what you did to investigate, who you interviewed and what they told you, what your next steps were. Write down only the facts, not speculation, opinions, suspicions or conclusions.</p>
<p>False</p>	<p>4. Interview only the witnesses to the harassment that the complaining party has identified.</p> <p>Ask the alleged harasser to identify other witnesses, ask witnesses to identify others you should interview, and think about other management or human resources personnel who may have knowledge about this situation or past situations that may be relevant.</p>



<p>True</p>	<p>5. You should ask the alleged harasser to respond to the specific allegations and record his/her comments in writing.</p> <p>If the allegations are of a serious nature which may result in discipline or discharge of an alleged harasser, you should ask the alleged harasser to respond to the specific allegations and keep a written record. This allows the alleged harasser to defend himself and creates a written record of his/her side of the story.</p>
<p>True</p>	<p>6. The complaining party should always be told what your conclusions were and what corrective action was taken.</p> <p>At the conclusion to your investigation, don't forget to go back to the complaining party and tell them what you concluded and what corrective action, if any, was taken.</p>
<p>False</p>	<p>7. If you can't determine whether harassment occurred, your investigation is over and there is not much you can do.</p> <p>If you cannot determine whether misconduct occurred, at least provide the alleged harasser with a memo stating that you were unable to determine what actually happened but that serious allegations have been made. Restate the Anti-Harassment Policy and make clear that you will not tolerate such conduct. Emphasize that retaliation against the complaining party will not be tolerated.</p>



<p>False</p>	<p>8. To conduct a thorough investigation, all witnesses who are interviewed should be told everything that the complaining party said and everything that the alleged harasser said, so they know what the complaint is all about.</p> <p>You will need to determine how much information to disclose to conduct a meaningful investigation. However, all witnesses do not need to be told everything. Try to limit your disclosure about the facts and parties to a “need-to-know” basis. Ask the witness you have interviewed to keep the interview confidential so that you can conduct a meaningful investigation.</p>
<p>False</p>	<p>9. Illegal harassment should always result in the termination of the harasser.</p> <p>The organization needs to show that when it learned of harassment it took immediate and appropriate corrective action. This may mean counseling and training or some form of discipline for the alleged harasser. Prompt, effective remedial action is action that stops the harassment. It does not necessarily mean termination of the harasser.</p>
<p>True</p>	<p>10. You should make every effort to make all parties comfortable with the process, including the alleged harasser.</p> <p>You should do whatever you can to make sure all parties, including the harasser, are comfortable with the process and feel it is fair and impartial.</p>



VI. Exercise Two: “A Manager’s Worst Nightmare” (35 – 45 minutes).

A. Introduce the Exercise

Review the manager or supervisor’s responsibilities with regard to harassment:

- **Model appropriate behavior** – the manager must treat employees with respect if s/he expects the employees to treat each other with respect.
- **Communication about harassment policies** - ensure that employees are clear on organizational values and policies on harassment by talking about it regularly.
- **Enforce the Anti-Harassment Policy** – respond quickly and seriously to complaints and take corrective action if harassment is observed.

When it comes to enforcing the anti-harassment policy, one of a manager’s duties, after s/he has investigated a complaint and found that harassment has occurred, is to tell the harasser that the behavior has to stop. In order to do this effectively, managers need to develop their skills at giving direct and clear feedback.

Exercise Two: “A Manager’s Worst Nightmare” is designed to build managers’ and supervisors’ skills at giving direct and clear feedback, while modeling respectful workplace communication.

Divide the participants into small groups of three to five and distribute the Handouts “Giving Feedback Respectfully” and “A Manager’s Worst Nightmare”.

Using the Handout “Giving Feedback Respectfully” (Page 41) as a guide, each group should take one of the scenarios described in the Handout “A Manager’s Worst Nightmare” (Pages 52-53). For example, Group 1 could take Scenario #1, Group 2 take Scenario #2, etc. After reviewing the scenario assigned to the group, the participants should script out what the manager should say to the harasser.

Ask each group to select a “scribe” (someone to write down the group’s answers) and a “reporter” (someone who will report back to the full group what the smaller group’s conclusions were). Allow 15 minutes for the small groups to work.



B. Lead Group Discussion

Focusing on one scenario at a time, ask each group’s reporter to report what the manager should say to stop the harassment. The groups should compose their scripts following the DESC format. However, instead of expressing the manager’s feelings, the manager should be expressing the feelings of the offended coworker. For example:

<p>Describe the behavior</p>	<p>“I have learned from others on the team that several times you have talked and joked with a fake lisp in your voice...”</p>
<p>Express the offended employee’s feelings</p>	<p>“Linda has complained to me about it and told me that she feels hurt and angry because she feels you are making fun of her speech disability...”</p>
<p>Specify what new behavior you want or what you would like</p>	<p>“Such teasing of a coworker about their disability is against our organization’s policy and hurts the morale of our work group. I want the teasing to stop immediately. Here is a copy of the policy. Please read it and be aware that I will not tolerate any retaliation against Linda for complaining about this.”</p>
<p>Consequences if you don’t get the behavior you want</p>	<p>“I am making a note of our conversation in my files. If I learn that you are continuing to tease Linda about her speech disability, I will take further disciplinary action which could include a disciplinary memo to your file or even termination.”</p>

Facilitators may wish to record the scripts fully or note key words of the groups’ responses on a white board or flip chart. Encourage the entire group to discuss and critique the scripts presented.



V. Concluding the Program (15 minutes).

Distribute the Handouts “What You Need to Know About Workplace Harassment” (Page 57) and “Who is Liable for Sexual Harassment” (Page 39). Review the handouts emphasizing that:

- Every employee deserves to have a work environment free from harassment.
- If an employee feels that s/he is being harassed, or observes harassment, the employee should tell the harasser to stop the behavior.
- If an employee tries to stop the behavior and it does not work, or the employee is unable to directly confront the harasser, s/he should immediately contact his/her supervisor, a manager, or a human resources professional.
- The organization will conduct a fair, discreet investigation of all harassment complaints and take the appropriate corrective action to assure that any harassment stops and retaliation does not occur.
- Managers and supervisors have the opportunity and responsibility to stop workplace harassment and may face personal liability and severe consequences if they do not fulfil that responsibility. *(Review the “Who is Liable...” Handout here)*

Have the participants complete an “Acknowledgement of Management Training” Form (Handout p.55). Thank them for their participation and encourage them to direct any questions they might have to the appropriate person.



NOTES



Objectives of “You Can STOP Harassment”

Harassment is a serious issue in the workplace. Harassment not only includes sexual harassment but also harassment on the basis of race, religion, color, national origin, age, sex, sexual orientation, marital status, or disability. It has a negative impact on the person(s) targeted by the behavior (the offended), can cause major disruptions at work by affecting the morale of coworkers (the observers), and can result in disciplinary action, including termination, for harassers (the offenders). Certain types of harassment, such as sexual harassment, can create legal liability for the employer. There are no winners in cases of workplace harassment.

The objectives of this program are:

- I. To prevent harassment in the workplace by developing a clear understanding of what harassment is and how it impacts people, regardless of the intent.
- II. To explore the responsibility employees share to help maintain an environment free of harassment by...
 - being aware of behaviors that can offend people,
 - clearly communicating that offensive behavior must stop, and
 - reporting to management harassing behavior that they are not able to stop.
- III. To understand the role of a supervisor, manager, or human resources manager in addressing harassment in the workplace.
- IV. To support an environment where employees respect and value each other as individuals.
- V. To learn skills that help us set boundaries and confront harassing situations.



THE DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is a form of gender discrimination and violates both Title VII of the 1964 Civil Rights Act as well as State discrimination laws. The Equal Employment Opportunity Commission (EEOC) is the US agency that enforces the federal law.

The EEOC's guidelines define sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made an implicit or explicit condition of employment;
- Submission to or rejection of such conduct affects employment opportunities; or
- The conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment.

For Example:

It is illegal sexual harassment when employment decisions or expectations (e.g., hiring decisions, promotions, salary increases, shift or work assignments, performance expectations) are based on an employee's willingness to grant or deny sexual favors. Such behavior might include:

- Demanding sexual favors in exchange for a promotion or a raise.
- Disciplining or firing a subordinate who ends a romantic relationship.
- Changing performance expectations after a subordinate refuses requests for a date.

A **Hostile Environment** is said to exist where verbal or non-verbal behavior in the workplace: (1) focuses on the sexuality of another person or occurs because of the person's gender, (2) is unwanted or unwelcome and (3) is severe or pervasive enough to affect the person's work environment. Examples include:

- Off-color jokes or teasing
- Comments about body parts or sex life
- Suggestive pictures, posters, calendars or cartoons
- Leering, stares or gestures
- Repeated requests for dates
- Excessive attention in the form of love letters, telephone calls or gifts
- Touching -- brushes, pats, hugs, shoulder rubs or pinches
- Assault/rape



WHO IS LIABLE FOR SEXUAL HARASSMENT?

- Depending on the circumstances, the harasser may face personal liability.

When the harasser is:	The Employer knew about harassment:	The Employer did not know about harassment:
A coworker or outside vendor or customer	Employer is liable if: <ol style="list-style-type: none"> 1. Knew about the harassment; or 2. Didn't know but should have; and 3. Failed to take prompt, effective action. 	Employer is not liable if employer: <ol style="list-style-type: none"> 1. Had a policy against harassment; and 2. Had a proper and effective complaint procedure; and 3. Communicated disapproval of harassment to employees; and 4. Took prompt, effective action.
A supervisor or manager	Employer is liable if: <ol style="list-style-type: none"> 1. Knew about the harassment; or 2. Didn't know but should have; and 3. Failed to take prompt, effective action. 	Employer is always liable if a supervisor or manager takes "tangible employment action" against plaintiff employee (such as hiring, firing, failing to promote, reassignment, change in benefits). Employer may avoid liability if supervisor or manager does not take any "tangible employment action" against employee <u>and</u> employer proves: <ol style="list-style-type: none"> 1. Employer exercised reasonable care to prevent and correct promptly any harassing behavior (i.e., published policy, conducted training); <u>and</u> 2. The plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities or procedures provided by the employer or other available ways to stop the behavior and avoid harm.



EEOC GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

The Equal Employment Opportunity Commission's Guidelines on Discrimination Because of Sex contain guidelines that deal specifically with sexual harassment. The Guidelines read as follows:

- a. Harassment on the basis of sex is a violation of § 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individuals' work performance or creating an intimidating, hostile or offensive work environment.
- b. In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incident has occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.
- c. Applying general Title VII principles, an employer, employment agency, joint apprenticeship, committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisor or agency capacity.
- d. With respect to conduct between the fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer, its agents or supervisory employees, knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.
- e. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer, its agents or supervisory employees, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.
- f. Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing the strongest disapproval, developing appropriate sanctions, informing employees of their rights to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.



Giving Feedback Respectfully

The DESC Acronym

Letters to Remember:	What It Stands For:	Example of Words to Use:
D	Describe the behavior	“When you tell those jokes about old people...”
E	Express your feelings using “I” statements	“I feel hurt and isolated because I am the only person here at work who is over 50....”
S	Specify what new behavior you want or what you would like	“I like your sense of humor and I don’t mind hearing jokes, but just not jokes at other people’s expense. I would appreciate it if you didn’t tell jokes about old people anymore.”
C	Consequences if you don’t get the behavior you want	“If the old people jokes continue, I’m going to have to take the issue up with our supervisor or go to human resources to complain.”

Adapted from *Asserting Yourself*
 Sharon Anthony Bower and Gordon H. Bower
 Published by Perseus Books, Reading MA



Receiving Feedback Appropriately

“LAST” ACRONYM

Letters to Remember:	What It Stands For:	Example of Words to Use:
L	Listen first	
A	Apologize	“I am sorry that you were offended by my behavior. I never meant to hurt your feelings.”
S	Say what you will do	“Now that I know that those kind of jokes offend you, I won’t tell them anymore.”
T	Thank the person for giving you the feedback.	“Thank you for being open with me about how I am making you feel. I need to know how I am coming across with people and I appreciate that you were direct with me.”



Investigating Harassment

True or False?

Evaluate the following statements about conducting a harassment investigation and circle T for True and F for False.

- | | | |
|---|---|--|
| T | F | 1. When an employee complains to you about harassment, you should assure them that their complaint will be investigated promptly and with complete confidentiality. |
| T | F | 2. If an employee complains about harassment, but begs you to do nothing and requests that you keep it completely confidential, you should respect his/her request. |
| T | F | 3. Never write anything down when conducting an investigation of harassment, because it might come back to haunt you. |
| T | F | 4. Interview only the witnesses to the harassment that the complaining party has identified. |
| T | F | 5. You should ask the alleged harasser to respond to the specific allegations and record his/her comments in writing. |
| T | F | 6. The complaining party should always be told what your conclusions were and what corrective action was taken. |
| T | F | 7. If you can't determine whether harassment occurred, your investigation is over and there is not much you can do. |
| T | F | 8. To conduct a thorough investigation, all witnesses who are interviewed should be told everything that the complaining party said and everything that the alleged harasser said, so they know what the complaint is all about. |
| T | F | 9. Illegal harassment should always result in the termination of the harasser. |
| T | F | 10. You should make every effort to make all parties comfortable with the process, including the alleged harasser. |



Conducting the Harassment Investigation

A Manager's Guide

Keep In Mind

- Be Prompt
- Be Objective
- Take All Complaints Seriously
- Create a Written Record of a Fair and Objective Process
- Make Involved Employees Comfortable with the Process

Interview the Complaining Party Thoroughly

- If a sexual harassment complaint, consider having two interviewers, at least one of whom is the same sex as the complaining employee.
- Allow the employee to have a representative present, if requested.
- Assure the complaining party of the appropriateness of coming forward.
- Assure the employee that the complaint will be taken seriously.
- Don't promise confidentiality. Assure narrow disclosure on a need-to-know basis.
- If the employee wants to confront the harasser him/herself, document employee's intent and follow-up to find out if the employee was satisfied with the result.
- If the employee wants nothing to be done, try to convince him/her of the wisdom of positive action. If the employee still insists that nothing be done, consider investigating anyway in light of legal liability for the organization.
- Write a detailed description of allegations including time, place, witnesses, identity of harasser(s), frequency.



You Can STOP Harassment - HANDOUT

- Obtain all relevant factual information including any prior relationship of the parties, whether the complaining party objected, the effect of conduct on the complaining party.
- Find out if the complaining party has raised concerns with management previously and what management's response has been.
- Identify others who have been subjected to similar treatment/behavior.
- Ask the employee to identify all persons s/he would like interviewed.
- Advise the employee of what they can expect during the process and keep him/her regularly apprised of the process.
- Ask the employee whether s/he is comfortable with existing working conditions pending the investigation.
- Make no promises and voice no preliminary conclusions
- Advise the employee of the importance of nondisclosure, e.g. "I will attempt to keep this matter as confidential as possible, and I ask that you do the same so that we can get to the facts and resolve this matter."

Determine Appropriate Initial Response to Complaint Pending Investigation

- Should working conditions be modified pending the investigation? (Note: Any changes must not appear to be retaliation against the complaining employee.)
- What level of investigation is necessary and appropriate?
- Should the investigation be conducted by a manager, human resources or by a third party such as legal counsel or another professional?
- Should legal counsel be contacted? What is the likelihood of future litigation?

Interview the Alleged Harasser

- Make every effort to make the alleged harasser comfortable with the process.
- Assure the alleged harasser of your commitment to be objective and to get at the truth.
- Identify the specific allegations and obtain responses to each one.
- Identify witnesses and their observations.



- Identify statements or conduct that may have been misinterpreted.
- Determine if complaining party had any motivation to falsely accuse the alleged harasser.
- Obtain copies of all relevant documentation.
- Do not make any promises or voice preliminary conclusions.
- Ask the alleged harasser to identify all persons s/he would like interviewed.
- Explain the necessity of limited disclosure. Do not promise confidentiality.
- Advise the alleged harasser of what to expect during the process and continue to involve him/her during the process.
- Advise the alleged harasser of the prohibition against retaliation against the complainant or witnesses and the importance of avoiding even the hint of such action.

Interview All Potential Witnesses, Not Just Those Identified by the Parties

- Determine what amount of disclosure about the complaint and the identity of the parties is necessary to conduct a meaningful investigation. Disclose on a need-to-know basis.
- Advise each witness of the context and his/her role – so they understand they are not being investigated.
- Ask potential witnesses to identify other witnesses.
- Explore with each witness:
 1. Observations of interactions between alleged harasser and alleged victim
 2. Personal experiences with each party
 3. Whether alleged victim ever discussed harassment with witness
 4. Corroborating evidence – e-mails, letters, memos

Interview Alleged Harasser and/or Complaining Party Again If Necessary

- Ask the hard questions
- Explain process to date and ask each who else they would like interviewed
- Determine whether each is satisfied with the scope of the investigation
- Advise each of the next step in the process



Review the Evidence to Determine if Any Form of Illegal Harassment Has Occurred

- Was the harassment based on the person's race, religion, color, national origin, age, sex, sexual orientation, marital status, or the presence of any physical, mental or sensory disability?

- If sexual harassment, was the conduct:

Was submission to sexual conduct made either explicitly or implicitly a term or condition of the complaining party's employment?

Was submission to or rejection of such conduct by the complaining party used as a basis for an adverse employment decision?

Was the conduct unwelcome?

Was the conduct based on gender?

From the perspective of a reasonable woman/reasonable man, was the conduct sufficiently severe or pervasive to alter the terms or conditions of the complaining party's employment?

Was the alleged harasser a manager, director, or principal?

- If unsure of potential liability, consult legal counsel for advice

Determine Appropriate Remedial Action

- Counseling or Training
- Verbal Warning
- Written Warning
- Suspension
- Discharge



- If you cannot determine whether misconduct occurred, provide alleged harasser with a memo stating that employer has been unable to determine what actually occurred but that serious allegations of harassment have been made. Include:

Restate the organization's Anti-Harassment Policy.

Make it clear you won't tolerate such conduct.

Stress that if misconduct occurs in the future or if future evidence is revealed that supports the initial allegation, appropriate disciplinary action will be taken.

Reiterate that retaliation against complaining party will not be tolerated.

Bring the Matter to a Close

- Advise the complaining party and the alleged harasser of the outcome of the investigation and the corrective action, if any, that will be taken.
- If appropriate, write an investigative report, documenting the process and the findings.
- Do not share the investigative report with either party. Keep the report for the organization's records.
- Stress the organization's non-retaliation policy to both parties. Let the complaining party know whom to come to should s/he perceive retaliation.
- Ask both parties for their feedback: Did they feel the process was thorough and fair? Are they satisfied with the outcome?
- If appropriate, work on the "healing" process with the workgroup to ensure that there is no retaliation and that the team is again able to productively work together.

NOTE: If at any stage in the investigation you are uncertain about how to proceed or would like legal assistance, contact senior management, human resources or your organization's legal counsel.



Exercise:

A Manager's Worst Nightmare

Scenario #1: Non-stop Polish Jokes

You are a senior manager. Your “right-hand man”, Dave, is the manager in charge of the customer-service team and has worked with you for 8 years. Katrina is a good customer-service employee who has been with your organization for 6 months. She was born and raised in Poland, and though she has lived here for 20 years, she still speaks English with a heavy Polish accent. Katrina comes to you in tears and tells you that she is upset about all the Polish jokes that Dave and the other members of the customer-service team have been telling every week. You conduct an investigation and sure enough, Dave and three of the other team members admit that they routinely tell a “Polish joke of the week” around the coffee machine during breaks. They were all unaware that Katrina is from Poland. They knew she had an accent, but they mistakenly thought she was from Russia. You are preparing for your meeting with Dave. What are you going to say?

Scenario #2: Keeping the Customer Happy

You are the manager of a large department. One of your top performing employees is a very beautiful, single woman named Shelly. A few months ago, Shelly was working with a very wealthy, successful businessman client. This particular client has added enormously to your office's revenue stream. Immediately after their meeting, he started asking Shelly out for dates, delivering massive flower arrangements to her at the office, and sending sexy cards and e-mails to her. Many of the older, married employees in the office are urging Shelly to go out with him because they know he is a multi-millionaire. Shelly has come to you and complained, explaining that although he is wealthy, successful and single, he is just not her type. She doesn't want to ruin a good client relationship for the organization, but all this attention by him is making her very uncomfortable. He just won't take no for an answer. Her therapist has recommended she go on medication to help her sleep at night, because the stress has resulted in insomnia. You have made a lunch appointment with the client and you are preparing what to say.



Scenario #3: Good Old Harry

You manage six people in the human resources department of an organization. All of your employees are in their 20's and 30's, with the exception of the payroll clerk, Harry, who is 59. Everyone in the department sits in "open-office-concept" cubes and the office banter is always lively. Whenever the benefits manager, Colleen, and her benefits clerk, Dan discuss the retirement program or the 401(K) plan, they joke around that the only one who will ever care about certain features or benefits of the plan is Harry. During lunch in the lunchroom, Dan teased Harry that they were going to make Harry the "Retirement Plan Poster Boy", and use him in the company video being produced to publicize to employees the features of the retirement plan. Colleen starts to talk to the others in the department about throwing a big "You are Over the Hill" party for Harry when he turns 60 next month. Harry comes to you and complains that he is sick of all the innuendo that he is getting old and that he is the next to retire. He has no plans to retire anytime soon and he is tired of being called the "old fart" in the department. Harry also suspects that the last promotion in the department went to Dan and not him because Colleen considered him "old" and "one-step-out-the door". You are planning your meeting with Colleen.



ACKNOWLEDGMENT OF HARASSMENT TRAINING

I acknowledge that on _____(date), I attended harassment awareness training entitled "**You Can STOP Harassment - *Taking Responsibility***".

I understand that: (1) I have the right to work in an environment free from harassment; (2) I have a responsibility not to engage in behaviors that constitute harassment; and (3) if I feel I am being harassed, I have the right and responsibility to either communicate this directly to the harasser or to a non-involved supervisor or other representative of management.

(Name)

(Signature)



ACKNOWLEDGMENT OF MANAGEMENT HARASSMENT TRAINING

I acknowledge that on _____(date), I attended harassment awareness training entitled "**You Can STOP Harassment - *The Responsible Leader***".

I understand that: (1) every employee has the right to work in an environment free from harassment; (2) I have a responsibility not to engage in behaviors that constitute harassment; (3) if I feel I am being harassed, I have the right and responsibility to either communicate this directly to the harasser or to a non-involved supervisor; and (4) as a supervisor or manager, I am responsible for preventing all forms of harassment including sexual harassment in the workplace and for taking prompt effective action if I know or have reason to know of harassment in the workplace.

(Name)

(Signature)



SAMPLE ANTI-HARASSMENT POLICY

Every employee at _____ has the right to work in an environment free from harassment. Harassment of any employee on the basis of his or her race, religion, color, national origin, age, sex, sexual orientation, marital status, or the presence of any physical, mental or sensory disability is a serious violation of _____ policy and will not be tolerated.

Harassment can take many forms and can include slurs, comments, jokes, innuendoes, unwelcome compliments, pictures, cartoons, pranks or other verbal or physical conduct which:

1. has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. otherwise unreasonably affects an individual's employment opportunities.

SEXUAL HARASSMENT is a type of harassment and occurs when the verbal and physical conduct described above is sexual in nature or is gender-based, that is, directed at a person because of their gender. Sexual harassment exists in the workplace when: (1) submission to the conduct is either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the conduct is used as a basis for an employment decision affecting such individual; or (3) the conduct unreasonably interferes with the individual's job performance or creates a work environment that is intimidating, hostile or offensive.

Sexual harassment includes: unwelcome **verbal behavior** such as comments, suggestions, jokes or derogatory remarks based on sex; **physical behavior** such as pats, squeezes, repeatedly brushing against someone's body, or impeding or blocking normal work or movement; **visual harassment** such as posting of sexually suggestive or derogatory pictures, cartoons or drawings, even at one's work station; **unwanted sexual advances**, pressure for sexual favors and/or basing employment decisions (such as an employee's performance evaluations, work assignments, or advancement) upon the employee's acquiescence to sexually harassing behavior in the workplace.

If you feel you or other employees have been subjected to harassment of any kind, you are encouraged to immediately identify the offensive behavior to the harasser and request that it stop. If you are uncomfortable in addressing the matter directly with the harasser, or if you do so and the behavior does not stop, then discuss the matter immediately with the Human Resources Director, your supervisor, or any supervisor with whom you feel comfortable. Supervisors and managers who receive a harassment complaint are to contact the Human Resources Director.

All complaints will be investigated promptly, impartially and discreetly. Upon completion of the investigation, the appropriate parties will be notified of the findings. Any supervisor, agent, or other employee who has been found to have harassed an employee will be subject to appropriate corrective action, ranging from a disciplinary warning to termination. **No employee will suffer retaliation in any form for reporting instances of harassment.**

We trust that employees of _____ will act responsibly to maintain a safe working environment, free of discrimination and harassment, allowing each employee to perform to his or her maximum potential. _____ encourages any employee to bring questions he or she may have regarding this policy to _____.



What You Need to Know About Workplace Harassment

- Harassment is a form of discrimination where a person is subjected to threatening, intimidating, embarrassing, or other offensive behavior because of his/her gender, race, ethnicity, religion, age, disability or some other distinguishing characteristic.
- Harassment usually occurs when there is a disparity of power between the harasser and the target of his/her behavior.
- Harassment is not always intentional, and doesn't have to be intentional to be illegal.
- Men can harass men, women can harass women, women can harass men and men can harass women. It's the behavior that counts – not the gender of the participants.
- A person can feel harassed even if he or she is not the intended target of the behavior.
- While not all harassing behavior meets the standard of illegal conduct, any workplace harassment is inappropriate and should not be tolerated.
- If you feel harassed at work or you are aware of incidents of workplace harassment, you have a right and a responsibility to confront the harasser if you feel safe doing so, or to report the harassment to a manager or an appropriate human resources person.
- If you report an incident of harassment, the organization will conduct a fair, discreet investigation and appropriate corrective action will be taken.
- It is illegal to retaliate in any way against an employee for complaining about or reporting workplace harassment.
- There is no room for harassment of any kind in a workplace where people value and respect each other. Harassment is the opposite of respectful workplace behavior. You have the right to work in an environment that is free of harassment.



Who's Who in "You Can STOP Harassment"

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Lee Ann Foltos is a human resources consultant specializing in helping clients find practical solutions to real-world problems. She has conducted harassment sensitivity training for management and employees as well as training in other aspects of human resources management such as performance coaching, employment, and affirmative action. Lee Ann has assisted clients in investigating and resolving sexual and racial harassment and discrimination complaints. She has also conducted one-on-one executive coaching on harassment and discrimination issues.

Prior to opening her consulting practice, Lee Ann had 13 years experience as Director of Human Resources for The Norman Company and for the Federal Home Loan Bank of Seattle. Lee Ann is a member of the Washington State Bar Association, with a J.D. Degree in Law, Masters Degree in Labor and Industrial Relations, and Bachelor of Science Degree in Psychology, all from the University of Illinois.

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Beverly Grant is a partner of The Law Offices of Grant & Grant, located in Tacoma, Washington. She is a member of the Washington (1978) and California (1990) State Bar Associations. For over twenty years her focus of practice has been litigating employment law cases in the federal courts of Washington and state courts in California. She has served as a speaker for numerous national and state legal organizations including NELA (National Employment Lawyers Association), ATLA (American Trial Lawyers Association), California State Bar-Labor Law Section and various Washington State Bar programs.



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Candy Marshall joined WRQ in 1996 as general counsel and director of human resources. She is responsible for providing and coordinating all legal services for WRQ, as well as leading the human resources team. Previously, Candy was a partner at Sebris Busto and Marshall, a management employment law firm. Candy has consulted with Northwest employers for over 16 years, helping companies develop and implement innovative human resources programs.

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Bob Rosner is "Chairman and Shop Steward" of workingwounded.com, Inc. It's a book ("Working Wounded: Advice That Adds Insight to Injury"--Warner Books, 1989), an award-winning web site, a popular presentation to business groups and associations and a syndicated newspaper column (which appears in the NY Daily News, SF Examiner, ABCnews.com's business section, careers,WSJ.com and other leading media outlets). Before founding Working Wounded, he consulted with numerous Fortune 500 companies and the U.S. Government, founded three corporations (two nonprofit and one for profit) and served as an adjunct professor to MBA students. But please don't hold any of this against him. Dick Bolles, author of "What Color Is Your Parachute?" says, "I'm a great admirer of Bob Rosner's thinking, and writing. I read his column every week to learn (and laugh)." Bob can be reached on the Internet at: <http://workingwounded.com> or via e-mail at: bob@workingwounded.com.



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Since 1980, Jan Salisbury M.S. has been a consultant specializing in developing organizational culture with an emphasis on change, diverse teams, and leadership development. Her consultation and training approaches have included organizational assessments, team building skills and retreats, leadership development, managing cultural diversity, and conflict resolution. When it comes to preventing unlawful harassment and management abuse, Salisbury Consulting is a leader in respectful workplace training, effective train the trainer programs, and interventions designed to heal and resolve the aftermath of harassment complaints. An active researcher and expert witness, she is currently writing a book addressing the prevention and resolution of harassment in America's workplaces.

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Mr. Trujillo is a graduate of Brigham Young University (1973) and the University of Washington School of Law (1976). He served as a Deputy Prosecuting Attorney in the Criminal Division of the King County Prosecutor's Office before entering private practice in 1983. He was a partner in the Bellevue law firm of Trujillo, Peick, Lingenbrink & Magladry, PS until 1995 when he left the firm and began his own practice as the Law Office of James A. Trujillo. His practice has been litigation oriented, representing plaintiff's in employment related issues. Mr. Trujillo is a member of the Washington State Bar Association and has been admitted to practice law before the Western and Eastern United States District Courts in Washington. He is a member of the Washington Trial Lawyers Association and serves as a member of the Board for the University of Washington Law School Foundation.

