

PREVENTING HARASSMENT



“It is more important than ever that we learn to treat all individuals with respect and afford them the personal dignity they deserve. If we do, sexual harassment will largely be a thing of the past.”

– Hon. Stephen Reinhardt, Judge, United States Court of Appeals for the Ninth Circuit

INTRODUCTION

Brigham Young University has a national reputation for being “squeaky-clean”. This is certainly the case with the student body and also very true of BYU personnel. We strive to live according to the principles of our faith and a university honor code that holds us to a high standard of personal behavior. The environment we

are trying to create is one where we respect the dignity of all people.

STRINGS

In addition to BYU’s efforts to create a respectful campus environment, BYU is also required to adhere to federal and state laws that govern employee behavior. BYU accepts millions of dollars in federal research

grants, Pell grants, Stafford Loans and other forms of federal money each year. As you might expect, you never get something for nothing from the federal government. The money has strings attached. In Executive Order 11246 (1965), an expectation was set that any organization receiving federal money would comply with certain laws that dictate how people are treated on the job. One of these



laws was Title VII of the Civil Rights Act (1964) that protects certain groups of people from discrimination and mistreatment based on their race, color, religion, national origin or sex. Other significant laws that impact BYU are Title IX of the Education Amendments (1972), Supreme Court Decisions, and 10th Circuit Court Decisions. This article will focus primarily on the laws and issues related to sexual harassment.

DEFINITIONS

There are two types of sexual harassment: quid pro quo (this for that) and hostile environment. Across the U.S., fewer cases of quid pro quo sexual harassment are going to the courts. Perhaps people are getting the message that they're not going to get away with it. However, cases of hostile environment are on the increase. Employers are also not permitted to retaliate against employees who raise claims of sexual harassment. Retaliation cases are also increasing nationwide.

We are fortunate that BYU has an Honor Code that holds people to an even higher standard of behavior than the federal law. We are in a unique environment at BYU where cases of sexual harassment rarely reach legal levels; however, there are cases of in-

appropriate behavior that do not meet the behavioral expectations stated in the BYU Honor Code. It often occurs when an acceptable professional relationship between a supervisor and employee or between coworkers turns unprofessional and someone begins to feel uncomfortable. Some examples of how this may occur are:

- Becoming too interested in the private lives of employees and asking questions that are overly personal in nature.
- Giving hugs, massages, or kisses. Any inappropriate touching of employees. This doesn't mean the intent is hurtful or sexual, but that the recipient of the affection is made to feel uncomfortable.
- Co-workers of any gender playing rough or joking or teasing on inappropriate topics.
- Making derogatory or demeaning comments about gender.

"Personnel and students will seek to demonstrate the moral virtues encompassed in the gospel of Jesus Christ."

— BYU Honor Code

WARNING SIGNS

As a manager, it is highly unlikely that you will be present when an alleged incident of sexual harassment occurs. But some warning signs may indicate a problem is brewing. What should you look out for?

1. Watch for too much horseplay in the workplace. Mainly an issue between students, horseplay can quickly turn into a situation where someone could be hurt or offended.
2. Be aware of people who disappear together or who have unaccounted for absences during work time. Expect your people to adhere to BYU policies on transportation and travel.
3. Stay sensitive to the group dynamics and comfort level among coworkers on your team. You may be able to sense a budding problem before it escalates into something serious.

Quid Pro Quo. Harasser requires sexual favors of victim in return for some action by harasser, or harasser retaliates against victim for refusing sexual favors.

Hostile Environment. Victim is usually subjected to unwelcome repeated sexual comments, innuendos or touching, which alters conditions or interferes with school or employment performance or access to opportunities provided by the institution.

BYU Policy. Inappropriate gender-based behavior is any behavior directed at another person, due to that person's gender, that violates the Honor Code or the person's individual dignity but does not rise to the level of unlawful sexual harassment

STUDENTS

It is our responsibility to expect and encourage professional behavior among students. Because of the U.S. Supreme Court decision in the Davis case, we are required to manage sexual harassment issues with our students as we do with our employees. This includes events occurring off campus such as school trips, traveling on a bus, involvement at sporting events, or participating in a college sponsored internship program.

Major changes took place in the mid-1990's that affected gender roles and issues of harassment in the on-campus workforce – particularly in the student population. During this time numbers of male students entered the campus secretarial pool, nursing program, and other formerly female arenas. Likewise, female students entered traditionally male-dominated jobs like grounds maintenance and machinery operation. Managers who are accustomed to a traditional one-gender environment need to reevaluate their management styles to make sure they match the needs brought by the changing demographics of their workplace.

THE MANAGER'S ROLE

What is your responsibility when an employee approaches you with a concern or an allegation of sexual harassment or inappropriate behavior? Refrain from making an immediate judgment of the situation. Do your best to remain neutral, without taking sides on the issue or deciding if the complaint is justified or not. Ask the person making the allegations to document as much as possible.

Following those preliminary steps, you should then contact the university's Equal Opportunity Manager at 422-5895 or the 24-hour com-

pliance hotline at (888) 238-1062. Upon receiving notice of the alleged behavior, the manager will discuss investigation procedures and issues regarding confidentiality and potential retaliation. You may be asked to provide additional information and to identify potential witnesses who may help substantiate or disprove the allegations. The nature of the allegations will determine the appropriate course of action. In some instances, individual counseling or departmental training may be sufficient. Other circumstances may require an extensive investigation. In those cases, the manager will inform the vice president over the area and conduct the investigation according to university policy and procedure.

There are many reasons to involve a neutral party from the Equal Opportunity Office in the investigation and resolution process. First, the Equal Opportunity Manager is trained to handle allegations and investigations in a way that protects the individuals and the University from potential harm. Second, the Equal Opportunity Manager can provide an objective perspective on the issue. Third, keeping some distance from the case may help increase the comfort level of your employees who may be either embarrassed or concerned about retaliation. Whatever you do, don't begin your own investigation if the issue is sexual harassment related. The laws are very specific around how allegations should be handled. Don't put yourself, your employees, or the University at risk unnecessarily.

The consequences of sexual harassment and inappropriate behavior can be serious. Direct consequences may include formal discipline, job loss, or even legal charges and fines. Other consequences are distrust and dissonance among coworkers, including those who were not directly involved.

EEOC SEXUAL HARASSMENT AND DISCRIMINATION CHARGES IN 2007

Over 82,700 charges of job bias filed in the following categories: (many cases have multiple charges so total may exceed 100%)

37%	Race
21%	Disability
30%	Sex/Gender
11%	National Origin
32%	Retaliation
4%	Religion
23%	Age
1%	Equal Pay

12,510 sexual harassment and 5,587 pregnancy discrimination charges were filed in 2007.

The EEOC dismissed 52% of cases as lacking merit, and 15% were dismissed for administrative reasons but 33% or over 20,000 cases were found to be legitimate, \$220 million was paid in monetary benefits and other relief in sexual harassment cases in 2007.

- EEOC Statistics, 2007



PREVENTION

Now that you are more familiar with some of the complexities and consequences surrounding sexual harassment issues, you are probably more interested than ever before in preventing sexual harassment and inappropriate behavior in your workplace. That's just what we had in mind. Some things you can do to help prevent problems from occurring are:

- As a manager, always conduct yourself in a professional manner. Your behavior sets the tone and standard for your people. Don't try to be one of the students. Remember you were hired because of your experience, maturity, and wisdom.
- Have your staff attend Sexual Harassment training annually. Call the Equal Opportunity Manager at 422-3863 to schedule a time.
- Set clear standards for acceptable behavior and communicate them to your team. Don't let anyone else define it for you.
- Address all issues immediately. By doing this, you send a message that unprofessional behavior is unacceptable.
- If you have any questions about what is legal or appropriate, call the Equal Employment Office. Don't wait until it's too late to head off a problem.

TO DO LIST

- ✓ Know the law and the guidelines of the Honor Code. Get annual training for your team.
- ✓ Practice prevention. Set clear expectations for behavior and make sure you reinforce those expectations consistently.
- ✓ Respond to allegations with neutrality and seriousness. Contact the Equal Opportunity Manager promptly and support the investigation fully.

THE BOTTOM LINE

The consequences of a sexual harassment case or Honor Code violation can be serious for you, your team, and the University. You are in a position to help influence the behaviors of your team members. Make sure your expectations are clearly understood and that you reinforce your expectations in practice. Being prepared and knowledgeable are positive moves in meeting any concerns regarding sexual harassment. Training will be a major factor in your having a harassment free workplace.

