



The Top 10 Things To Do If You Are A Victim of Workplace Sexual Harassment

1. Don't ignore The Harassment If you believe that you are the victim of sexual harassment in the workplace, don't ignore the problem. Studies show that individuals who sexually harass other people at work do not stop simply because their victim does nothing. Ignoring such behavior may actually make the harasser escalate his or her behavior. Talking about sexual harassment can be uncomfortable, but you can empower yourself by talking with other employees who may also be experiencing harassment and by speaking up.

2. Make It Clear To The Harasser That The Conduct Is Unwelcome. An essential element of a sexual harassment claim is that the conduct must be "unwelcome." Harassers sometimes argue that their victims welcomed, invited or enjoyed their words and actions. Although it can feel uncomfortable or even frightening to object, you must tell the harasser in clear and unequivocal terms to stop the behavior. There is no special way to do this or magic words to use; but you must make it clear that the behavior is unwelcome. You may want to put your objection in writing, perhaps in an email. By doing so, you will have proof that the conduct was unwelcome if the harassment doesn't stop.

3. Not All Offensive Behavior Is Sexual Harassment Under The Law. What constitutes unlawful sexual harassment is determined under various statutes and hundreds of court cases interpreting those statutes. These criteria evolve through statutory amendments and new court opinions. Not all offensive behavior is unlawful sexual harassment. Whether certain offensive behavior constitutes sexual harassment is considered on a case-by-case basis considering the totality of the circumstances. It's especially hard to know where to draw the line when you're experiencing behavior in the workplace that you find obnoxious, disgusting, or frightening. This makes it especially important to talk to a lawyer who knows about sexual harassment law and can advise you about how to deal with such behavior.

4. Keep Careful Notes On What Happened, But Not On Employer Owned Equipment. Keep any notes, memos, letters, gifts, or other tangible evidence from the harasser and its best to keep those items in a safe place that is not controlled by the employer. Keep a diary or notes of any incidents or other information that may be relevant to your concerns about sexual harassment. But be careful how and where you record your evidence. You should be aware that your communications using company equipment are not confidential and can be used against you. Many employers monitor their employees' communications at work, including documents prepared on company computers, emails and text messages sent and received, websites visited, and even phone numbers called. Also, be aware that em-

ployers, just like anyone else, may access any public website that may contain your personal information (i.e., Facebook and MySpace). Even personal emails sent from your own account may be traced by your employer if you accessed your account through the employer's server. Thus, always assume that you are being monitored while at work or while using employer-owned equipment off premises. You may want to document your experiences in handwritten notes or in notes on a computer that you own; but don't leave them at your place of employment. Click here to download a harassment log.

5. Report The Conduct. Reporting sexual harassment may feel threatening and disruptive, but your report is important for several reasons. It gives your employer an opportunity to correct the problem, i.e. make the harassment stop; and if the conduct does not abate, you have proof that your employer knows about the problem. Once your employer is on notice of the harassment, it should investigate and, if warranted, take prompt remedial action to address the problem. But, if you do not inform your employer about the harassment, it might argue that it did not know about the problem and therefore is not responsible for the conduct of the harasser; this is particularly true if the harasser is a co-worker and not a supervisor. Although it may be hard and uncomfortable, you also need to cooperate in the employer's investigation. Fear of retaliation generally is not a sufficient reason to avoid reporting harassment or cooperating with the employer's investigation.

6. Consult Your Employee Manual and Policies Consult any employee manuals or policies that have been distributed or posted by your employer. Most established employers have specific sexual harassment policies that spell out to whom you should go to complain. If so, follow that policy. If the person to whom you are supposed to report is the harasser, bypass that person and go to his or her supervisor or to Human Resources. If your employer does not have a sexual harassment policy, complain to someone you believe has the authority to address the problem, such as the president of the company, the head of human resources, or some other high-level executive.

7. Remember: Anything You Tell Human Resources Can Be Revealed To Others In The Company. Anything You Tell Human Resources May Be Revealed To Others In The Company. Human resources personnel may present themselves as your advocate or friend. But keep in mind that they work for and are loyal to the company. Don't assume that anything you tell them is going to be kept confidential. They may report your complaint to their supervisors and to other managerial employees.

8. Don't Quit Your Job. Sexual harassment is against the law. You do not have to endure a sexually

hostile work environment; your employer is legally required to make it stop. Don't just quit to get away from the offensive environment. Quitting might enable the employer to argue that you didn't give it time to fix the problem; quitting could adversely affect your ability to recover for lost income; and quitting might make it harder to collect unemployment benefits, because your employer could argue that you abandoned your job. If you feel that the harassment is intolerable, talk to an employment lawyer before you make any decisions. An alternative to quitting might be to take sick or disability leave while the problem is being addressed. An objective, knowledgeable lawyer can help you make the best possible plan to deal with the situation.

9. Retaliation Is Illegal - And Sometimes Easier To Prove Than The Actual Harassment. Even if you can't prove that unlawful sexual harassment occurred, you might have a strong retaliation claim if you make a reasonable good faith complaint of harassment and your employer then takes any "adverse action" against you or any action that would dissuade you from filing a discrimination or harassment claim. Adverse actions can include a demotion, a cut in pay, a negative change in your performance evaluations, a transfer to a less desirable location/department or less desirable duties, further harassment or mistreatment by your co-workers, or termination of your employment.

10. Keep Doing Your Job Well. You might have a valid sexual harassment claim, but don't use that as an excuse to stop doing your job well! Making a complaint about sexual harassment doesn't give you permission to stop doing your job to the best of your ability or excuse you from the same standards you had to meet before the conduct started. You or your lawyer may need to negotiate with your employer for what you want, and you should preserve all your options until the situation is resolved.

11. Get Legal Advice From Someone Who Knows About Sexual Harassment Law. If you think you're being sexually harassed, talk to a lawyer who's experienced in sexual harassment cases. This is especially important if you're considering quitting your job. Meeting with a lawyer does not mean that you are going to sue your current or former employer. An employment lawyer can advise you about what the law considers to be unlawful sexual harassment; counsel you about how to handle the situation (i.e., making a proper complaint, trying to preserve your job, gathering proof of the harassment, or dealing with the stress); and if matters escalate an attorney can advise you about your legal options (i.e., negotiating a severance/settlement agreement or, if necessary, filing an administrative charge or lawsuit).

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