

Commission on Human Rights & Opportunities



Sexual Harassment Prevention Training

CHRO's Mission

To eliminate discrimination through civil and human rights **law enforcement** and to establish equal opportunity and justice for all persons within the state through **advocacy** and **education**.



This training is a condensed version of our two-hour training



Change in Training Law

Times Up Act of 2019

- New sexual harassment training requirements
 - ❖ Training requirements for existing employees
 - ❖ Training requirements for newly hired employees
- New Notice Requirements
- CHRO Training available for free



CHRO Training Certificate Transferability

Public Act 21-109 which goes into effect 10/1/2021 – employers will not be required to provide sexual harassment training to an employee who, within 2 years of hire, took the CHRO's sexual harassment training (online or in person).



Connecticut Law (continued)

Conn. Gen. Stat. § 46a-54 (15)

- Post the CHRO sexual harassment poster
- For all employees, by October 1, 2019, employers must provide a copy of the information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment. For new employees, this must occur within 3 months of hire

This can be done through e-mail, posting on the company's intranet site (and giving employees the link to said site), by text message or in writing



Connecticut Law (continued)

Employers with three or more employees must provide 2 hours of sexual harassment training to **ALL** employees before October 1, 2020 and thereafter, within six months of hire

This training must be updated at least every ten years



Connecticut Law (continued)

Conn. Gen. Stat. § 46a-97

- CHRO can inspect to make sure posters are posted and records maintained
- Fines up to \$750 for non-compliance with training and posting requirements





Sexual Harassment at Work

What is Sexual Harassment?

Illegal Sexual Harassment is defined in **Conn. Gen. Stat. §46a-60(b)(8)** as:

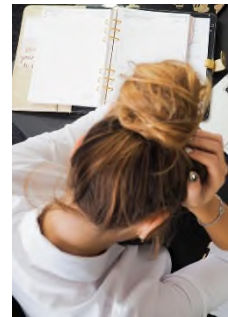
Any **unwelcome** sexual advances or request for sexual favors or any conduct of a sexual nature when:

- (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.



Quid Pro Quo – This for That

When someone in a position of power offers a benefit in exchange for sexual attention or threatens your job if you refuse their sexual attention, that is **quid pro quo** sexual harassment



Examples of *Quid Pro Quo* Harassment

- Offering a job or promotion in return for sexual favors
- Threatening to cut hours if you won't date your supervisor
- Offer a better schedule or a raise if you send your boss nude pictures
- Threaten a poor performance review if you don't go out to dinner



Hostile Work Environment

- A **co-worker, supervisor,** or **third-party** makes repeated inappropriate, and unwanted sexual advances, comments, or requests
- Includes widespread sexual favoritism
- May be verbal, physical or visual



Examples of Hostile Work Environment

- People at work talk about sex all day
- There are posters of scantily dressed models in the workplace
- People comment about other employees' bodies
- Someone at work touches you without your consent (this could include conduct up to and including sexual assault)
- Referring to the female employees as "bitches"
- Making negative comments about breastfeeding or pregnancy



What makes an Environment Sexually Hostile?

Consider whether it is **severe** or **pervasive** . . .

- Does the conduct interfere with employees' work performance?
- Is the conduct is threatening or humiliating?
- What is the nature of the conduct?
- How frequent is the conduct?



Who Is Protected By Sexual Harassment Laws?



- Employees
- Interns
- Temporary Workers
- Tenants
- Visitors to Places of Public Accommodations

Who Can Be A Sexual Harasser?

- A supervisor
- A co-worker
- A vendor
- A visitor
- A contractor
- A temporary worker
- Others



Where Can Sexual Harassment Happen?



- At the workplace
- At the office holiday party
- At happy hour after work
- On social media
- Through text messages
- During business travel
- In the cafeteria
- Almost anywhere!

More Examples Of Sexual Harassment

- Sexual propositions or threats
- Lewd comments or jokes
- Unwanted or inappropriate touching
- Sexual gestures
- Use or display of pornographic materials
- Obscene noises or leering





Sexual Harassment Laws

Sexual Harassment Is Illegal Under Federal Law

Civil Rights Act Title VII (1964/1991)

- Prohibits discrimination at work on the basis of race, color, sex, national origin and religion
- EEOC guidelines interpreting Title VII “sex discrimination” form the framework defining sexual harassment
- Law applies to all public employees, labor organizations, employment agencies and private employers with 15 or more employees



Sexual Harassment Is Illegal Under Connecticut Law

Conn. Gen. Stat. § 46a-60(b)(8) prohibits sex based employment discrimination and specifically forbids employers and those acting on behalf of employers to harass employees at work based on sex or gender identity or expression

Gender identity or expression is defined in **Conn. Gen. Stat. § 46a-51(24)** as “a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth...”



Connecticut Law (continued)

Conn. Gen. Stat. § 46a-60(b)(8)

Requires employers to eliminate harassment and take corrective action; however, the employer **can not** modify the work conditions of the employee complaining of harassment without written consent (with limited exception)



Remedies For Victims Of Sexual Harassment Conn. Gen. Stat. § 46a-86

Human Rights Referees are authorized to award damages necessary to eliminate the discriminatory practices and make complainants whole



Remedies For Violating Sexual Harassment Laws (continued)

Human Rights Referee or Judge can award:

- Back Pay
- Front Pay
- Attorney's Fees
- Costs
- Cease and desist order
- Pre- and post-judgment interest
- Emotional Distress (garden variety or more with medical documentation)
- Punitive damages (court only)
- Civil penalty (if CHRO takes case to court)





Best Practices for Preventing and Remediating Sexual Harassment

What is the Employer Responsibility for Harassment?

Use reasonable care to prevent harassment from occurring:

- Sexual harassment policy in place
- Systematic sexual harassment training
- Awareness of what's going on at the workplace

Take prompt remedial action to correct harassment:

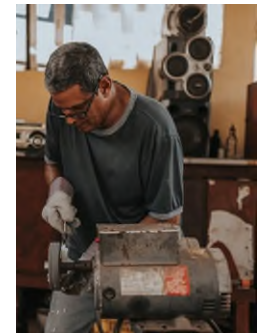
- Take steps to end harassment
- Prompt and neutral investigation
- Disciplinary policy

Use preventative and corrective opportunities.



What is an Employer Legally Liable for?

- Conduct of its supervisory staff
- Conduct of the employer's agent
- Conduct of non-supervisory employees if it knew or should have known of the conduct and failed to take prompt and effective corrective action



Can an Employee be Personally Liable?

Yes . . .

- For Retaliation
- For Aiding or Abetting



Employer's Investigation Is Key

Risks of failure to properly investigate

- Lower employee morale
- Large Settlements
- Substantial judgments for failing to investigate properly

***Vasquez v. Empress Ambulance Service, Inc.*, 835 F.3d 267 (2016).**

Employer liable for terminating an employee who complained about harassment without investigating the alleged harasser's response that the conduct was welcome

Employer Best Practices: When The Investigation Is Completed

- Follow disciplinary policies consistently
- Consider additional training
- Make sure not to adversely impact the complaining party or retaliate against witnesses!
- Maintain records



Employer Best Practices: Remedying Sexual Harassment

The remedy can depend on the severity and pervasiveness of the harassment:

- Re-locate the harasser
- Counsel the harasser
- Provide additional training
- Suspend the harasser
- If severe/pervasive or repeated, termination may be in order
- Do not relocate victim without written consent

Employer should **ALWAYS** circle back and follow up with the victim of the harassment to make sure the remedy worked



The Changing World of Sexual Harassment Claims

#MeToo/#Time'sUp

"For nurses, sexual harassment from patients is 'par for the course.'"

NBCnews.com

94% of women surveyed experienced some sexual harassment or assault

USA Today



"Guess's Paul Marciano Giving Up Daily Duties After Sexual Harassment Allegations."

NBCnews.com

#MeToo Backlash

2019 study by Prof. Leanna Atwater at the University of Houston:

- **19%** of men said they were now reluctant to hire attractive women
- **21%** of men said they were reluctant to hire women for jobs involving close interpersonal interactions with men (jobs with lots of travel, for example)
- **27%** of men said they now avoid one-on-one meetings with female colleagues

Fear of sexual harassment complaints may be leading to **MORE** sex discrimination

Workplace Bullying

- Is it illegal discrimination?
- Does it violate your work policies?
- Does it violate any contracts you have in place?



Sexual Harassment Not Limited to Male/Female

Patino v. Birken Mfg. Co., 304 Conn. 679 (2012)

CT Supreme Court finds Employers Liable For Anti-Gay Harassment and awards **\$94,500** "garden variety" emotional distress



Filing A Complaint Of Discrimination

Exhaust Administrative Remedies

Employees **must** file complaints of employment discrimination with the CHRO or the EEOC even if they plan to litigate the complaint in court

After filing, the employee can request a Release of Jurisdiction or Right to Sue letter to go to court



CHRO Offices

Legal Division and
Housing unit located in
Central Office:

450 Columbus Boulevard
Hartford, CT 06103

Four regional offices

Visit www.ct.gov/CHRO for
a list of which regional
office covers which towns



Hartford



Bridgeport



Waterbury



Norwich

Protected Classes In Connecticut

Age	Guide Dog (access)	Retaliation
Alienage	Intellectual disability	Sex, including pregnancy
Ancestry	Lawful source of income (housing and public accommodations)	Sexual orientation
Breastfeeding		Veteran Status
Color	Learning disability	
Criminal Record (state employment and licensing only)	Marital Status	
Familial Status, responsibilities, or planning	Mental Disability	
Failure to accommodate due to a disability	National Origin	
Gender Identity or Expression	Physical disability	
Genetic Information (employment)	Race	
	Religion/Religious Creed/Creed/	



300 Day Statute of Limitations

For any complaints of discrimination in employment or for public accommodation complaints against state agencies where the act **occurred after October 1, 2019**, complaints must generally be filed within **300 days** of the date of the alleged act of discrimination, or within 300 days of the date that complainant became aware of the act

There may be tolling or other exceptions





ABC

Questions regarding this presentation?

Questions can be asked at any time by emailing CHRO.Questions@ct.gov

You can call **860-541-3400** to leave a question by phone

Requests for additional training on sexual harassment prevention, fair housing law, employment discrimination, or other discrimination law training can be sent to CHRO.Training@ct.gov