## WHAT SHOULD MY COMPANY DO WHEN AN EMPLOYEE REPORTS HARASSMENT?

- Respond to the complaint swiftly and to the extent possible, keep the matter confidential. Do an investigation of the employee's complaint, and if the complaint is justified, discipline the offender. It is a good idea to have a staff training session to underscore that sexually harassing behavior will not be tolerated.

## WHAT NOT TO DO TO AN EMPLOYEE WHO REPORTS SEXUAL HARASSMENT

- **DISCIPLINE THE VICTIM FOR REPORTING THE BEHAVIOR**
- **SEND THE VICTIM HOME WHILE YOU ARE INVESTIGATING**
- **MOVE THE VICTIM TO ANOTHER FACILITY (MOVING THE OFFENDING EMPLOYEE IS ACCEPTABLE) UNLESS THE VICTIM REQUESTS SUCH A TRANSFER.**
- **RETALIATE IN ANY WAY**

## RETALIATORY TREATMENT INCLUDES (BUT IS NOT LIMITED TO):

Disproportionate discipline, refusal or failure to give an expected promotion or raise, change in working hours, transfer to a different facility or position, or telling other workers to avoid the victim because he or she is a "troublemaker." Employees who take the above actions may be liable to the victim for damages.

## IF YOU HAVE EXPERIENCED SEXUAL HARASSMENT IN THE WORKPLACE, YOU MAY FILE A CLAIM AT:

**INDIANA CIVIL RIGHTS COMMISSION**
Government Center North
100 N. Senate Avenue, N103
Indianapolis, IN 46204.

Office Hours: 7:30 a.m. to 5:30 p.m.
Tele: (317) 232-2600
Toll free: (800) 628-2909
Hearing Impaired: (800) 743-3333
Fax: (317) 232-6580
*www.in.gov/icrc/*

OR

Equal Employment Opportunity Commission
(EEOC)
Indianapolis District Office
101 West Ohio Street, Suite 1900
Indianapolis, IN 46204
(317) 226-5162

**Mitchell E. Daniels, Jr.**
**Governor of Indiana**

**Alpha Blackburn,**
**Chairperson**

To view employment opportunities with the Indiana Civil Rights Commission, visit the Indiana State Personnel Job Bank at http://www.in.gov/spd/2334.htm

Provided by:
Indiana Civil Rights Commission
Public Education & Outreach Information Center

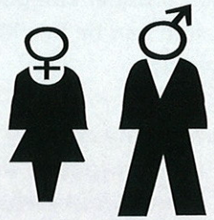
Large print, Spanish, or braille publication available upon request.
Si necesita esta publicacion, la puede solicitar en caracteres grandes, español y braille.

**INDIANA CIVIL RIGHTS COMMISSION**
100 N SENATE AVENUE, RM. N103
INDIANAPOLIS, IN 46204-2255

**AN EQUAL OPPORTUNITY EMPLOYER**

# INDIANA CIVIL RIGHTS COMMISSION

# SEXUAL HARASSMENT



*UNWELCOME ANYWHERE!*

**A GUIDE FOR EMPLOYERS/EMPLOYEES**

**Tony A. Kirkland, Executive Director**

"Morality cannot be legislated,
but behavior can be regulated."
— Dr. Martin Luther King, Jr.

## WHAT IS SEXUAL HARASSMENT?

***THERE ARE SEVERAL KINDS OF SEXUAL HARASSMENT:***

### QUID PRO QUO -

Literally, "this for that," in which an employer or its supervisor demands sexual favors or attention in return for some job benefit such as a raise, promotion, or preferred assignment.

### HOSTILE ENVIRONMENT -

This is a much broader category of sexual harassment, and can be by either a supervisor or co-worker.

**A hostile environment may exist if employees are subjected to unwanted comments of a sexual nature, foul language, sexual stories or innuendo, discussions about employees' sex lives, unwanted touching of a sexual nature, requests for sex, or when there are pornographic items or sexual materials in the work place.**

**For all claims of sexual harassment the conduct must be *"UNWELCOME" and "SEXUAL IN NATURE."***

An employer may be held liable for the conduct of its employees if, in addition to being ***"unwelcome" and "sexual in nature,"*** the conduct is ***"severe" and "pervasive."*** The determination of whether sexual harassment is so ***"severe" and "pervasive"*** to cause the payment of damages is made on a case-by-case basis.

Sometimes one incident, if it is bad enough, will create a hostile workplace.

## WHAT SHOULD I DO AS AN EMPLOYEE IF I AM BEING SEXUALLY HARASSED?

- An important step is to follow the procedures outlined in your company's policy on harassment in the workplace. Report harassment immediately to the person listed in the policy. If there is no policy, report the conduct to your supervisor. Be sure to document your discussions and meetings, and if you have witnesses, arrange that they be present in support of your complaint.

- If the harasser is your supervisor, go to a higher-level supervisor, regardless of the threats that may have been made to you about reporting the behavior.

**An employer has an obligation to stop harassment** - but it cannot help you if it does not know that it is occurring. A failure to report the harassment can mean that your employer has no liability to you for damages.

- In your meetings about unwelcome harassment, ask how long the investigation process will take, and request that your employer notify you regarding the actions they take. If your employer does not take action by that date, ask for another meeting.

**Again, document your request, what happened at the meeting, and your employer's response to your complaint.**

- If one layer of management refuses or fails to deal with the issue, go higher up in the company. Be ready to show that you have tried to resolve the matter at lower levels of management, showing the documentation of your previous meetings.

- Simply being yelled at or disciplined is not sexual harassment in and of itself. However, if the employer singles out one gender for poorer treatment, gender harassment may be present (which is also illegal under State and Federal civil rights laws.)

- A victim of sexual harassment may file a complaint with the Equal Employment Opportunity Commission (EEOC), the Indiana Civil Rights Commission (ICRC), or a local human rights agency in his or her community.

- Each agency has distinct jurisdictional limitations based on the size of the company and types of issues presented in the situation. Also, there are important differences in the remedies that may be available under federal, state, and local anti-discrimination laws. In addition to filing an administrative complaint with a local, state or federal agency, a private attorney specializing in employment discrimination should be consulted to discuss all courses of action available to you. Contact numbers for the ICRC and EEOC are located at the end of this pamphlet.

## CAN MEN SUFFER SEXUAL HARASSMENT?

Yes. The same rules apply for both sexes.

## IS IT SEXUAL HARASSMENT IF THE HARASSER IS THE SAME SEX AS I AM?

Yes, if the harassment is motivated by your sex.

## WHAT SHOULD I DO AS AN EMPLOYER REGARDING SEXUAL HARASSMENT?

- Develop a strong policy that lets your employees know that sexual behavior, comments and materials are inappropriate for the workplace. As part of this policy make such behavior subject to disciplinary action, and make it clear to whom the behavior should be reported. Distribute the policy to all empioyees, and train supervisors and managerial staff to deal with complaints promptly.

- Trainings and other work-related activities held off the job site should be subject to the same standards as on-site workplace activities.

- Do not expect employees to be romantic companions for a client, nor allow clients to harass employees.