HARASSMENT & SEXUAL HARASSMENT PREVENTION

MANAGERS – MONTGOMERY COUNTY
What’s My Story?

Joyce Whitaker  SHRM CP, PHR

• 20+ years’ experience creating innovative business solutions and HR initiatives that promote employee and company growth.

• Managed multi-site operations and establishing HR policies, procedures, and programs that align with organizational objectives. Strengths include employee relations, recruitment, training and development, benefits administration, acquisition integration, and succession planning.

• SHRM & HRCI Certified.

• Current President – Elect for M.V.H.R.A

• Husband Lee, 2 Adult Daughters: Lauren & Jordan
Collaboration. Provide valuable tools and insight on establishing ongoing conversation (dialogue) with managers and employees.

Professionalism. Treat others with respect, civility and empathy while gaining a granular understanding of how to prevent harassment, sexual harassment and bullying.

Stewardship. Understand your rights as an employee, holding each other accountable by intervening when witnessing employees in harms way or abuse of the policy.

Inclusion. Bolster the organization’s culture valuing diversity, paving the way for a safe and inclusive working environment.

Innovation. Eliminate the check the box mentality by fostering new ideas for continuous supervisor / employee dialogue.
Law Tidbits

Stop harassment
Driving Our Efforts

FEDERAL LAWS GOVERNING HARASSMENT

- The Supreme Court's landmark decisions in the 1998 Faragher and Ellerth sexual harassment cases.
- Subsequent court decisions and EEOC Guidelines make it clear that sexual harassment training is essential.
- To raise a defense or avoid punitive damages in sexual harassment lawsuits, employers need to show that they have provided periodic sexual harassment training to all employees.

Title VII of the Civil Rights Act of 1964

Age Discrimination in Employment Act of 1967, (ADEA)

Americans with Disabilities Act of 1990, (ADA)

Who was the President that signed the Act in Law?
What is your definition?
Harassment is a form of discrimination. Harassment may be generally defined as unwelcome conduct based upon a protected classification. The Board of County Commissioners does not tolerate verbal or physical conduct by any employee that harasses, disrupts, or interferes with another’s work performance or that creates an intimidating, offensive, or hostile environment.

Enduring the offensive conduct becomes a condition of continued employment.

The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
Defining Sexual Harassment

WHAT IT IS

Sexual harassment is one type of unlawful harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. Harassment based on an employee's membership in any protected classification (as set forth above) is unlawful, will not be tolerated, and must be reported.

Unlawful discrimination and harassment does not generally encompass conduct of a socially acceptable nature. However, some conduct that is appropriate in a social setting may be inappropriate in the workplace. A victim's perceived acquiescence in the behavior does not negate the existence of unlawful discrimination or harassment. Inappropriate conduct that an employee perceives as being "welcome" by another employee may form the basis of a legitimate complaint.
Group Feedback #1

Sexual harassment is unwelcome conduct based on a person’s sex, including pregnancy, gender identity, or sexual orientation.

Are women the only people who get harassed, and are men the only people who do the harassing?

Does sexual harassment occur only when a boss wants something sexual from an employee?

Does sexual harassment always require physical contact of some kind?

If something was meant as a compliment or a joke, can it still be sexual harassment?

Will sexual harassment go away if you ignore it?
What are the two forms of Harassment?
Quid Pro Quo

“You do something for me, and I’ll do something for you.”

This means that a manager or supervisor may not tell an employee that in order to receive a promotion, raise, preferred assignment, or other type of job benefit – or to avoid something negative like discipline or an unpleasant assignment – the employee must do something sexual in return.
Hostile Work Environment

“The air at work is full of sexual references and it is impacting me.”

A hostile work environment may occur when unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
Workplace Bullying
Workplace bullying is repeated mistreatment of one or more employees using humiliation, intimidation and denigration of performance.

- Bullying behavior can exist at any level of an organization.
- Bullies can be superiors, subordinates, co-workers and colleagues.
Examples of workplace bullying include:

- Verbal abuse and profanity.
- Humiliation.
- Constant criticism or teasing.
- Gossip.
- Stealing the credit for work performed by the victim.
- Personal and professional denigration.
Examples of workplace bullying include:

- Overt threats.
- Assignment of unrealistic workloads.
- Aggressive e-mails or notes.
- Professional exclusion or isolation.
- Sabotage of career and financial status.
- Cyberbullying or Social Media Posts
A supervisor in the accounting department constantly and publicly criticizes his employees and calls them stupid and lazy. Is this illegal harassment or workplace bullying? Explain your answer.

The same accounting supervisor refers to one of his employees as an “old gal” who is “over the hill” and has problems using a computer because of her age. Illegal harassment or workplace bullying? Why?
Workplace Scenario
While on a break, Alex sees Sarah in the breakroom and strikes up a conversation. Alex has always wanted to get to know Sarah outside of work.

Alex asks Sarah if they could meet up for coffee sometime. Is this considered sexual harassment? Why or Why Not?
While on a break, Alex sees Sarah in the breakroom and strikes up a conversation. Alex has always wanted to get to know Sarah outside of work. Alex asks Sarah if they could meet up for coffee sometime. Is this considered sexual harassment?

**NO. There is no unwelcomed behavior on the part of Alex currently.**
A Deeper Dive
Alex sees Sarah in the hallway a few days later and again he asks if she will join him for coffee. Sarah tells Alex no as she has something going on and she wants to be just be a co-worker. Alex insists and she still tells him no, stop asking.

Is this considered sexual harassment?
Alex sees Sarah in the hallway a few days later and again he asks if she will join him for coffee. Sarah tells Alex no as she has something going on and she wants to be just be a co-worker. Alex insists and she still tells him no, stop asking.

Is this considered sexual harassment?

Yes. This is considered an unwelcome behavior and it must cease immediately.
What Form Of Harassment Is This?

Work Scenario
Jordan is talking with Shaka after an important meeting and asked him to accompany her for drinks after work. As they are talking, Jordan says “If you have drinks with me, I will make sure you get the promotion we discussed.”

What form of harassment is this?
Jordan is talking with Shakaafter an important meeting and asked him to accompany her for drinks after work. As they are talking, Jordan says “If you have drinks with me, I will make sure you get the promotion we discussed.”

Quid Pro Quo. Jordan is promising Shakaa promotion if he will have drinks with her. This is considered “This for That”.
Impact of Sexual Harassment
Impact of Sexual Harassment

“Sexual harassment in the workplace has far-reaching consequences for everyone involved”

People who have been harassed or those who witness harassment may face:

• Undue stress
• Emotional and physical health issues
• Financial costs (healthcare, absences from work, changing their schedule to avoid a bad situation, or even quitting their job)
## A Quick Timeline Of The #MeToo Movement

Key developments in the global anti-sexual harassment movement

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>Oct 10, 2017</td>
<td>New Yorker publishes interview with 13 women allegedly harassed by Harvey Weinstein</td>
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<td>Oct 15, 2017</td>
<td>Actress Alyssa Milano starts #MeToo hashtag, which is tweeted over half a million times overnight</td>
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<tr>
<td>Jan 1, 2018</td>
<td>300 high-profile women launch the Time’s Up campaign</td>
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<td>Jan 28, 2018</td>
<td>Entertainers wear white rose in support of gender equality at the Grammy Awards</td>
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<td>Feb 18, 2018</td>
<td>190 women in entertainment speak out at the Baftas</td>
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<td>Mar 5, 2018</td>
<td>Actress Emma Watson appears with “Times Up” tattoo</td>
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<td>May 4, 2018</td>
<td>Swedish Academy says it will postpones this year’s Nobel Literature prize amid the #MeToo campaign</td>
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<td>May 19, 2018</td>
<td>Actress Asia Argento gives powerful speech against Weinstein at the Cannes Film Festival</td>
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<td>May 25, 2018</td>
<td>Harvey Weinstein arrested on charges of rape and sexual abuse</td>
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<td>Sep 13, 2018</td>
<td>Sexual misconduct claims against U.S. Supreme Court nominee Brett Kavanaugh go public</td>
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<td>Sep 25, 2018</td>
<td>TV icon Bill Cosby becomes the first celebrity sentenced for a sex crime since the movement started</td>
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<tr>
<td>Oct 3, 2018</td>
<td>Former model Kathryn Mayorga accuses footballer Cristiano Ronaldo of raping her in 2009</td>
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Inappropriate Conduct

RECOGNIZING UNWELCOME BEHAVIORS
Group Feedback #3

**INAPPROPRIATE CONDUCT**

- **Red light**—Inappropriate and needs to stop immediately. May even be illegal.
- **Yellow light**—Risky and has a high potential for offending someone. Could contribute to a hostile environment.
- **Green light**—Not likely to be misunderstood and most people would not find unwelcome.

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What happens if the inappropriate conduct is coming from a guest and your tip depends on it? Should you ignore it?

Does the person being harassed have to tell the harasser to stop?

Imagine this situation: One of your coworkers is a big flirt and often makes sexually suggestive comments to the other employees. Everyone thinks it’s a big joke and even seem to enjoy the attention. You, however, find the coworker’s behavior offensive. Because no one else has a problem with it, could it still be harassment?
Employee Rights
As an employee, you have certain legal rights when you report harassment.

Retaliation in any form for reporting an act of harassment, sexual harassment or bullying is strictly prohibited.

You are protected under federal discrimination laws when you:

- Complain or express intent to complain about harassing conduct
- Resist sexual advances or intervene to protect others from such conduct
- Participate in an investigation about harassing conduct

Retaliation from a manager or an employer might take the form of:

- Reprimands, threats, or verbal or physical abuse
- Performance evaluations lower than they should be
- Making a person’s work environment more difficult
- Cuts in hours or changing work schedules to conflict with family responsibilities
Discrimination and Harassment Complaint Procedures -3:1
Bystander Intervention
Bystander Intervention

“If you see something, say something”

Reporting sexual harassment is always better than letting it go unchecked. But early intervention can help prevent sexual harassment from growing into an even bigger problem. Bystanders—particularly men (women)—can change the culture around sexual harassment by speaking out when they witness inappropriate conduct in the workplace.

What if you know that stepping in is the right thing to do, but you are still finding it hard to do?

How do you know when to intervene?

How can you support someone who has been sexually harassed?

How can you support someone who witnessed someone being sexually harassed?
If you have further questions:
send an email to hr@mcohio.org
or contact your HR Professionals:

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  • Gayle “Buddy” Berry – (937) 225-4036

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• Environmental Services:
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  • Cassandra Martinez – (937) 781-2636

• JFS/CSD:
  • Don Leist – (937-496-3135
  • Julie White – (937) 225-5095
Harassment | Sexual Harassment Prevention Training

Employee Version
Creating and maintaining a harassment-free culture in the workplace takes time and commitment from you the leaders of the Montgomery County. To be truly effective, harassment prevention training must go beyond a single “check the box” event. Ongoing training and discussions with you and your supervisor are critical components of a holistic, company-wide strategy to prevent sexual harassment and bullying in the workplace.

As an employee, you play a crucial role in the training efforts at your company.

As part of a comprehensive harassment prevention training program, these activities can help forge a culture of respect and openness at the Montgomery County.
Montgomery County
Policy 4.23: Sexual Harassment

Purpose:
• On November 10, 1980, the Equal Employment Opportunity Commission (EEOC) issued the Final Amendment to Guidelines on Discrimination Because of Sex. This amendment reaffirmed that sexual harassment is an unlawful employment practice which is in violation of Title VII of the Civil Rights Act of 1964.

Policy:
• This policy applies to all persons involved in Court operations, including, but not limited to Court personnel, contract and temporary workers, and anyone else on County property. Violations of this policy by any individual will be subject to legal action, as appropriate. Violation of this policy by a Court employee may lead to disciplinary action up to and including termination, in accordance with the applicable law.
• Sexual harassment is defined as unwanted, unwelcome and/or repeated sexual attentions or advances. It becomes an unlawful employment practice when:
  • Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  • Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
• The use of implicit and/or explicit coercive sexual behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. Any employee who participates in deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome and interfere in work productivity is also engaging in sexual harassment.
• All employees are highly encouraged to report incidents of sexual harassment to their immediate Manager/Supervisor. If the immediate Manager/Supervisor is not available or if the complaint is in relationship to the immediate Manager/Supervisor, the report should be filed with another management official or Human Resources. Any such incident shall be promptly investigated and appropriate corrective action in accordance with the applicable law shall be taken if needed.
• An investigation of the complaint will be conducted in a professional, confidential, and expeditious manner. If it is determined that sexual harassment has taken place, appropriate corrective action will be taken in accordance with the principles of progressive discipline. However, seriousness of the offense will be reviewed on a case-by-case basis; should the offense warrant, discipline may be administered at any step in the procedure, up to and including termination.
• Employees who believe they are the victims of sexual harassment may file a complaint of employment discrimination with either the Ohio Civil Rights Commission (OCRC) and/or the Federal Equal Employment Opportunity Commission (EEOC).
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MANAGERS – MONTGOMERY COUNTY

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Group Feedback #1

**Sexual Harassment**

Sexual harassment is unwelcome conduct based on a person's sex, including pregnancy, gender identity, or sexual orientation.

- Are women the only people who get harassed, and are men the only people who do the harassing?
- Does sexual harassment occur only when a boss wants something sexual from an employee?
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The same accounting supervisor refers to one of his employees as an “old gal” who is “over the hill” and has problems using a computer because of her age. Is this illegal harassment or workplace bullying? Why?

Workplace Scenario 2
While on a break, Alex sees Sarah in the breakroom and strikes up a conversation. Alex has always wanted to get to know Sarah outside of work. Alex asks Sarah if they could meet up for coffee sometime. Is this considered sexual harassment? Why or Why Not?

No. There is no unwelcome behavior on the part of Alex currently.

A Deeper Dive
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“Sexual harassment in the workplace has far-reaching consequences for everyone involved”

Inappropriate Conduct

RECOGNIZING UNWELCOME BEHAVIORS
Group Feedback #3

**INAPPROPRIATE CONDUCT**

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**Employee Rights**

**YOUR LEGAL RIGHTS**

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- You are protected under federal discrimination laws when you:
  - Complain or express intent to complain about harassing conduct
  - Resist sexual advances or intervene to protect others from such conduct
  - Participate in an investigation about harassing conduct

- Retaliation from a manager or an employer might take the form of:
  - Demotions, threats, or verbal or physical abuse
  - Performance evaluations lower than they should be
  - Making a person’s work environment more difficult
  - Cutting hours or changing work schedules to conflict with family responsibilities

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Bystander Intervention

"If you see something, say something!"

Reporting sexual harassment is always better than looking the other way. Early intervention can help prevent sexual harassment from growing into an even bigger problem. Bystanders, particularly men (women), can help change the culture around sexual harassment by speaking out when they witness inappropriate contact in the workplace.

- What if you know that stepping in is the right thing to do, but you are still feeling hesitant?
- How do you know when to intervene?
- How can you support someone who has been sexually harassed?
- How can you support someone who witnessed someone being sexually harassed?
Montgomery County Common Pleas Court
General Division Complaint Procedures

Internal complaints of employment discrimination must be filed within six (6) months of the alleged violation. Employees are encouraged to immediately bring complaints to the attention of their direct supervisor, manager, human resources department, or department head, but this is not mandatory. The employee may directly contact the County Human Resources Department. If a supervisor is the subject of the complaint, the employee may bring the complaint to the next level of supervision or directly to the County Human Resources Department.

1. If a complaint is not resolved by the department, the employee may contact the County Human Resources Department within a reasonable period of time.
2. If the complaint is not satisfied by department resolution or if the complainant initiates a complaint with the County Human Resources Department, the County Human Resources Department will accept a formal written charge from the complainant and provide a written explanation of the in-house complaint procedure and/or alternative means of resolution.
3. The complainant must give permission to the County Human Resources Department to share complainant's name and details of the complaint with others as necessary to investigate the complaint.
4. County Human Resources Department conducts a thorough investigation of the complaint and provides a written copy of the findings and recommendations to the complainant and the department involved within thirty (30) calendar days of the receipt of the complaint, unless otherwise agreed to by the parties.
5. Employees who believe that they are victims of illegal employment discrimination may also file such complaints directly with either the Ohio Civil Rights Commission (OCRC) and/or the federal Equal Employment Opportunity Commission (EEOC). A formal complaint of discrimination or discriminatory harassment or retaliation may be filed with any or all of the following entities: (1) the state of Ohio, Equal Opportunity Division, or the agency EEO officer within 30 days of the most recent incident of alleged discrimination, discriminatory harassment or retaliation; (2) the Ohio Civil Rights Commission within six months; and/or (3) the federal Equal Employment Opportunity Commission within 300 days of the most recent incident of alleged discrimination, discriminatory harassment or retaliation.
6. Retaliatory action of any kind taken by an employee of the County against any other Employee as a result of that person's seeking redress under these procedures, cooperating in an investigation or otherwise participating in any proceeding under these procedures is expressly prohibited and shall be regarded as a separate and distinct complaint matter. Retaliatory acts are subject to appropriate disciplinary action, up to and including termination.
7. Falsification of testimony and/or evidence submitted in connection with the filing and/or investigation of a complaint and/or participation in any proceeding under these procedures is expressly prohibited and subject to disciplinary action up to and including removal.
If you have further questions:
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or contact your HR Professionals:

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