



Fact Sheet Harassment

What is *Quid Pro Quo* Harassment?

When certain benefits of employment are conditioned on the victim's submission to unwelcome sexual advances made by his or her supervisor

Key points about *Quid Pro Quo* harassment

- A victim who eventually succumbs to the advances still has a claim
- The perpetrator of the harassment must be a person with management authority
- The employer is strictly liable for any proven harassment

What is hostile work environment harassment?

A workplace that is sufficiently permeated with severe or pervasive insult, intimidation and/or ridicule based on a person's race, national origin, disability, religion, age or sex such that a reasonable person would find it hostile or abusive

Key points about *Hostile Work Environment* harassment

- The environment can be caused by vulgar comments, looks (such as leering), stories or jokes, offensive documents or postings, or inappropriate physical contact
- The environment can be created or contributed to by managerial staff, co-workers, vendors, and/or customers
- It can be based on sex or any other protected characteristic

How can an employer avoid liability for *Hostile Work Environment* harassment?

If the offensive conduct was conducted by a supervisory employee:

- Employer must prove that it exercised reasonable care to prevent and then promptly correct the harassing behavior
- The victim employee must have unreasonably failed to take advantage of the corrective measures provided by the employer
- If the offensive conduct was by a co-worker:
- Employee must prove that employer knew or had reason to know about the behavior but failed to take proper remedial action

What are the potential penalties?

- Back and front pay
- Compensatory damages
- Reinstatement
- Punitive damages
- Attorneys' fees
- Out of pocket losses

Top Harassment tips

- Implement and enforce an anti-harassment policy
- Provide anti-harassment training for all employees
- Provide a means by which victims of harassment can complain and ensure that employees are aware of the complaint procedure
- Investigate all claims of harassment by interviewing all parties involved including witnesses
- Document the investigation with employee sign-offs
- If harassment is proven, take steps to prevent further harassment from occurring, including disciplinary action against the perpetrator(s)
- Refrain from taking any adverse action against the complainant
- Do not promise absolute confidentiality, do promise limited confidentiality

Note: In CA all employers with 50 or more employees must train their supervisors every 2 years