



# Sexual Harassment Training



# Harassment is Illegal!

- Maine Human Rights Act
  - 5 MRSA §4551 - §4634 & Regulations
- Civil Rights Act -of 1964
  - 42 USC § 2000e-2000e 17 & Regulations



## When is harassment illegal?

- When it is based on status in a "protected" class
  - Age; Religion; Sex; Sexual Orientation; Race; Color; Mental or Physical Disability; Ancestry; National origin
- Not illegal harassment to belittle employees because you're meanspirited (though this is still unprofessional and inappropriate)



# What is sexual harassment?

- Unwelcome
  - sexual advances
  - requests for sexual favors
  - verbal or physical conduct of a sexual nature
- Unwelcome = employee does not invite or want it to happen
  - Even if employee puts up with it



# What is sexual harassment?

- **WHEN:**
  - Submission to the conduct is made an explicit or implicit condition of employment
    - Keeping job, hiring for job
  - Submission or rejection of the conduct is used as the basis for employment decisions
    - Promotion, assignments
  - Conduct substantially interferes with work performance or creates an intimidating, hostile or offensive work environment



## Hostile work environment

- Based on the effect of the activity, not the harasser's intent
  - i.e. even if employee "meant no harm"
  - E.g. repeated comments to female employees about appearance intended to be complimentary
- View from both objective & subjective perspective
  - Reasonable person would find it severe
  - Victim did feel harassed
  - E.g messages left for woman who was subject to prior assault



## Hostile work environment

- Can be purely verbal (jokes, lewd remarks) or one-time event IF sufficiently severe
- Generally, the more severe the behavior, the less "pervasive" it needs to be
  - No: one crude comment & gesture by coworker; two instances of caressing employee's arm separated by a year
  - Yes: supervisor directly propositions employee, asks her to lie about it; multiple or continuous taunting



## Employer liability

- Employers are generally responsible for the acts of any supervisory employees





## More examples

- You recently saw a manager giving another employee a neck massage while he read a document over her shoulder on the computer screen. When you talk to the employee, she said she knows the manager likes to do it and she doesn't want to "make waves" because she is up for a promotion
- What do you do?



## More examples

- A female manager is much harder on female than male subordinates, often yelling and berating them. She says she does this because women need to become tougher in order to succeed in the workplace. Is this a problem?



## More examples

- John travels out of town with a female supervisor. She wants to share a hotel room to save money. When John refuses, she tells him to "smarten up" and later gives him a poor performance review. Can this be sexual harassment?
  - Victim as well as harasser may be a man or woman; the victim does not have to be of the opposite sex



# Retaliation

- Retaliation is also illegal
  - Whether or not the underlying conduct was actually illegal harassment
  - As long as employee makes complaint in good faith



## Responses

- Tell harasser to stop; make sure harasser knows you do not welcome advances
- Document incident & inform others
- Inform supervisor/utilize internal complaint process
- File complaint with the Maine Human Rights Commission



# Maine Human Rights Commission

- State agency charged enforcing Maine's anti-discrimination laws; investigates complaints of unlawful discrimination
- File complaint as soon as possible; must be within 300 days of date of discrimination
- Charge may be initiated by phone, mail or in-person; intake officer will assist
  - 207.624.6290
  - 19 Union Street, Augusta
  - <http://www.maine.gov/mhrc/>



# Questions?

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