

# Belmont College

Sexual Harassment Prevention &  
Equal Employment Opportunity  
Training



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# Learning Objectives

- **Raise awareness to the elements of sexual harassment and employment discrimination.**
- **Briefly examine how the law addresses sexual harassment and employment discrimination.**
- **Review the Belmont College's policies and procedures.**

# Why this is important

## *Sexual harassment & employment discrimination:*

- Are illegal and opens an employer and perhaps individuals to potential civil liability.
- Violates most employer's personnel policies.
- Detrimentally impacts employee relations.
- Negatively impacts the public's perception of the employer.
- Affects the reputation of both the person facing the unwelcome harassment and the accused.

# Sexual harassment – overview

- Sexual harassment is a form of employment discrimination on the basis of an individual's sex (gender) and is prohibited by Title VII and Title IX of the Civil Rights Act and state law.
- Sexual harassment is a form of discrimination that imposes an unwanted condition on a person's employment because of that person's sex.
- Sexual harassment can take many forms. What's perceived as innocent banter by one person can be perceived as harassment by another. It is a subjective standard.

# **Sexual harassment – overview**

**Two general forms of sexual harassment:**

- 1. Quid pro quo harassment**
- 2. Hostile work environment**

# ***Quid Pro Quo* Harassment**

- Latin for “This for that”
- Occurs where an employee’s submission to or rejection of implicit or explicit sexual advances is used as a basis for employment decisions such as hiring, firing, promotions, demotions, or work assignments.

# Conduct that can create a hostile work environment based on sex

## Verbal

- Demands or requests for sex
- Repeated solicitations for dates
- Flirting or sexual advances
- Description of body, sexuality or sexual orientation
- Conversations about sexual experiences or desires
- Jokes, teasing and sexual banter

## Non-Verbal

- Suggestive or explicit posters, pictures or screen savers
- Displaying objects of a sexual nature
- Ogling or leering

# Unwelcome Harassment

- Conduct where the person being harassed is not a willing participant;
- Consensual relationships do not alone constitute sexual harassment... but these relationships at work can be problematic.
  - Supervisor/subordinate consensual relationships should be strictly prohibited.



# Employment based discrimination

## - *the law*

Title VII of the Civil Rights Act of 1964; 42 U.S. Code Section 2000e, *et seq.* –

Federal Act prohibiting employment based discrimination:

“It shall be an unlawful employment practice for an employer ... to discriminate against any individual with respect to his/her compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.”

# **Employment Discrimination - *the law***

## **Chapter 4112 of the Ohio Revised Code**

**ORC 4112.02 - it shall be an unlawful discriminatory practice:**

- (A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.**

# Sexual Harassment – *federal law*

Title VII applies to employers with 15 or more employees, including state and local governments.

- Sexual Harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964.
- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

# Sexual Harassment – *federal law*

A few statements about sexual harassment from the EEOC:

- Sexual harassment can occur in a variety of ways (in the eye of the beholder).
- The subject of harassment as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Sexual harassment may occur without economic injury or an adverse action.
- The harasser's conduct must be unwelcome.
- It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop.
- The victim should use any employer complaint mechanism or grievance system available – right away.

## **Preventing harassment & employment discrimination – *a few things to consider***

- **Employment based discrimination or harassment can occur outside of the workplace and still be in violation of the law and policy.**
- **Employers must take action to inquire and make credibility determinations when necessary.**

# A few similarities and differences between Title VII and ORC 4112

## Same:

- Both prohibit retaliation for protected activity.
- Both have administrative agencies that investigate claims and can bring enforcement actions.

## Different:

- Ohio law requires a charge to be filed with the OCRC within six months of the unlawful discriminatory practice.
- Federal law requires that a charge of discrimination in Ohio be filed with the US EEOC within 300 days unlawful discriminatory practice.
- Federal law requires an exhaustion of administrative remedies prior to the right to sue in federal court.
- Ohio law currently does not require administrative exhaustion prior to bringing a lawsuit

## **A few other federal anti-discrimination laws to know about**

**ADEA: the Age Discrimination in Employment Act of 1967**, provides protection to employees and job applicants who are 40 years of age or older.

**ADA: the American's with Disabilities Act of 1990** prohibits workplace discrimination based on an employee or applicants disability. Requires an employer to engage in an interactive process with a qualified disabled employee or applicant to fashion a reasonable accommodation.

**FMLA: the Family Medical Leave Act of 1993**, provides workplace protections to qualified employees who have worked the requisite number of hours within one year and requires that an employer provide 12 weeks of protected unpaid leave for the a serious health condition of the employee, direct family member, care for and bonding with new born infant or adoption.

**USERRA - Uniformed Services Employment and Reemployment Rights Act of 1994**, provides civilian employment protections to armed service members who are deployed and guarantees certain reinstatement rights upon the members return from service.

**Equal Pay Act:** ensures “equal pay for equal work” regardless of gender.

# **Whose actions might make the employer liable for harassment or discrimination ?**

- **Supervisors**
- **Co-workers**
- **Non-employee/third parties**
  - **Vendors**
  - **Contractors**
  - **Service providers**
  - **Visitors/members of the public**



## **Ohio Admin Code: 4112-5-05 Sex discrimination**

**(5) An employer may also be responsible for the acts of nonemployees (e.g., customers) with respect to sexual harassment of employees in the work place, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such nonemployees.**

# Affirmative Defenses

If the harassment is by a supervisor and there has been no tangible employment action (employee fired, transferred, etc), the employer may raise an affirmative defense where it can show that :

- 1) The employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior (has a written policy); and
- 2) The employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or to avoid the harm otherwise (best resolved ASAP).

# Beware of Retaliation!

- **Definition: An “adverse action” taken against an employee because that employee reported discrimination or participated in a discrimination investigation.**
  - Supervisors and co-workers cannot punish an employee because they filed a complaint or participated in a workplace investigation.
  - If someone reports discrimination against you or participates in an investigation, you should not try to “get back” at him or her for doing so.

# What about Title IX?

- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”  
Title IX of the Education Amendments of 1972, [20 U.S.C. § 1681, et seq.](#) (“Title IX”):
- Enforced by the Department of Education, Office of Civil Rights (“OCR”).

# Who does Title IX protect and why?

- Title IX covers: (1) equal opportunities for men and woman in sports; (2) student-on-student sexual harassment; and (3) sexual discrimination against employees
- Title IX objectives: (1) eliminate sex based discrimination; and (2) ensures that institutions that become aware of discriminatory conduct based on sex take *prompt, effective* action to address it and prevent it from reoccurring.

# Sexual Harassment under Title IX

- Sexual harassment that is sufficiently severe, interferes with, or limits a male or female **student/ staff / visitor's** ability to participate in the benefits of the College's program violates Title IX.
- Title IX covers all academic, educational, extracurricular, athletic or other programs, whether on school property or not when there is sufficient connection to the funding recipient (e.g., includes on buses to field work, off-campus training programs)

# Reporting Sexual Harassment and Violence – Be Prompt!

- Designated Title IX Coordinator who is responsible for overseeing all Title IX complaints and addressing patterns and systematic problems.
- OCR requires reporting from “responsible employees” – All *supervisors* have a duty to report complaints of sexual misconduct.

# Your Responsibilities

- Know, understand, obey and enforce policies;
- Encourage respect among workers;
- Discourage inappropriate comments and actions;
- Report violations;
- Set the standard and lead by example;
- Don't retaliate against the person who made a complaint or anyone who participated in the investigation.





## How to contact us

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# THANK YOU!



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