

## Network to Work Meeting

June 2023

### RESOURCE – *SEXUAL HARASSMENT*

## Case Studies

These case studies demonstrate the kind of behaviors that are considered sexual harassment. Remember, all employees should *report* inappropriate behavior. They do not, however, have the responsibility to *decide* if something is sexual harassment. A suspicion is sufficient.

### Example 1: Not Taking “No” for an Answer

**Scenario:** Li Yan's coworker Ralph has just been through a divorce. He drops comments on a few occasions that he is lonely and needs to find a new girlfriend. Li Yan and Ralph have been friendly in the past and have had lunch together in local restaurants on many occasions. Ralph asks Li Yan to go on a date with him—dinner and a movie. Li Yan likes Ralph and agrees to go out with him. She enjoys her date with Ralph but decides that a relationship is not a good idea. She thanks Ralph for a nice time, but explains that she does not want to have a relationship with him. Ralph waits two weeks and then starts pressuring Li Yan for more dates. She refuses, but Ralph does not stop. He keeps asking her to go out with him.

**Question 1.** When Ralph first asked Li Yan for a date, this was sexual harassment. **True or False?**

**Question 2.** Li Yan cannot complain of sexual harassment because she went on a date with Ralph. **True or False?**

**Scenario continued:** Li Yan complains to her supervisor, and the supervisor (as required) reports her complaint to the person designated by her employer to receive complaints. Ralph is questioned about his behavior and he apologizes. He is instructed by the designated person to stop. Ralph stops for a while but then starts leaving little gifts for Li Yan on her desk with accompanying love notes. The love notes are not overtly offensive, but Ralph's behavior is starting to make Li Yan nervous, as she is afraid he may start stalking her.

**Question 3.** Ralph's subsequent behavior with gifts and love notes is not sexual harassment because he has stopped asking Li Yan for dates as instructed. He is just being nice to Li Yan because he likes her. **True or False?**

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## **Example 2: The Boss with a Bad Attitude**

**Scenario:** Sharon transfers to a new location with her employer. Her new supervisor, Paul, is friendly and helps her get familiar with her new job duties. After a few days, when no one else is around, Paul comes over to Sharon's work area to chat. Paul talks about what he did last night, which was to go to a strip club. Sharon is shocked that Paul would bring up such a topic in the workplace and says nothing in response. Paul continues talking and says that all the women in the office are so unattractive that he needs to get out and “see some hot chicks” once in a while. He tells Sharon he is glad she joined the staff because, unlike the others, she is “easy on the eyes.” Sharon feels very offended and demeaned that she and the other women in her workplace are being evaluated on their looks by their supervisor.

**Question 1.** Because Paul did not tell Sharon that she is unattractive, he has not harassed her.  
**True or False?**

**Question 2.** By bringing up his visit to the strip club, Paul is engaging in inappropriate workplace behavior. **True or False?**

**Question 3.** Paul should be instructed to stop making these types of comments, but this is not a serious matter. **True or False?**

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## **Example 3: Too Close for Comfort**

**Scenario:** Keisha has noticed that her new boss, Sarah, leans extremely close to her when they are going over the reports that she prepares. She touches her hand or shoulder frequently as they discuss work. Keisha tries to move away from her in these situations, but she doesn't seem to get the message.

**Question 1.** Keisha should just ignore Sarah's behavior. **True or False?**

**Scenario continued:** Before Keisha gets around to complaining, Sarah brushes up against her back in the conference room before a meeting. She is now getting really annoyed but still puts off doing anything about it. Later Sarah “traps” Keisha in her office after they finish discussing work by standing between her and the door of the small office. Keisha doesn't know what to do, so she moves past her to get out. As she does so, Sarah runs her hand over Keisha's breast.

**Question 2.** Sarah's brushing up against Keisha in the conference room could just be inadvertent and does not give Keisha any additional grounds to complain about Sarah. **True or False?**

**Question 3.** Sarah touching Keisha's breast is inappropriate but is probably not unlawful harassment because it only happened once. **True or False?**

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## **Example 4: A Distasteful Trade**

The following scenario will explain many aspects of quid pro quo sexual harassment.

**Scenario:** Tatiana is hoping for a promotion to a position that she knows will become vacant soon. She knows that her boss, David, will be involved in deciding who will be promoted. She tells David that she will be applying for the position, and that she is very interested in receiving the promotion. David says, “We’ll see. There will be a lot of others interested in the position.”

A week later, Tatiana and David travel together on state business, including an overnight hotel stay. Over dinner, David tells Tatiana that he hopes he will be able to promote her, because he has always really enjoyed working with her. He tells her that some other candidates “look better on paper” but that she is the one he wants. He tells her that he can “pull some strings” to get her into the job and Tatiana thanks David. Later David suggests that they go to his hotel room for “drinks and some relaxation.” Tatiana declines his “offer.”

**Question 1.** David's behavior could be harassment of Tatiana. **True or False?**

**Scenario, continued:** After they return from the trip, Tatiana asks David if he knows when the job will be posted so that she can apply. He says that he is not sure, but there is still time for her to “make it worth his while” to pull strings for her. He then asks, “How about going out to dinner this Friday and then coming over to my place?”

**Question 2.** David engaged in sexual harassment. **True or False?**

**Scenario, continued:** Tatiana, who really wants the position, decides to go out with David. Almost every Friday they go out at David's insistence and engage in sexual activity. Tatiana does not want to be in a relationship with David and is only going out with him because she believes that he will otherwise block her promotion.

**Question 3.** Tatiana cannot complain of harassment because she voluntarily engaged in sexual activity with David. **True or False?**

**Scenario, continued:** Tatiana receives the promotion.

**Question 4.** Tatiana cannot complain of harassment because she got the job, so there is no discrimination against her. **True or False?**

**Scenario, continued:** Tatiana breaks off the sexual activities with David. He then gives her a bad evaluation, and she is removed from her new position at the end of the probationary period and returns to her old job.

**Question 5.** It is now “too late” for Tatiana to complain. Losing a place of favor due to the break up of the voluntary relationship does not create a claim for sexual harassment.  
**True or False?**

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### **Example 5: An Issue about Appearances**

**Scenario:** Leonard works as a clerk typist for a large employer. He likes to wear jewelry, and his attire frequently includes earrings and necklaces. His boss, Margaret, thinks it's “weird” that, as a man, Leonard wears jewelry and wants to be a clerical worker. She frequently makes sarcastic comments to him about his appearance and refers to him “jokingly” as her office boy. Leonard, who hopes to develop his career in the area of customer relations, applies for an open promotional position that would involve working in a “front desk” area, where he would interact with the public. Margaret tells Leonard that if he wants that job, he had better look “more normal” or else wait for a promotion to mailroom supervisor.

**Question 1.** Leonard's boss is correct to tell him wearing jewelry is inappropriate for customer service positions. **True or False?**

**Scenario, continued:** Margaret also is “suspicious” that Leonard is gay, which she says she “doesn't mind,” but she thinks Leonard is “secretive.” She starts asking him questions about his private life, such as “Are you married?” “Do you have a partner?” “Do you have kids?” Leonard tries to respond politely “No” to all her questions but is becoming annoyed. Margaret starts gossiping with Leonard's coworkers about his supposed sexual orientation.

**Question 2.** Leonard is the recipient of harassment on the basis of sex and sexual orientation. True or False?

**Scenario, continued:** Leonard decides that he is not going to get a fair chance at the promotion under these circumstances, and he complains to the employer's designee about Margaret's behavior. The designee does an investigation and tells Margaret that Leonard's jewelry is not in violation of any workplace rule, that she is to consider him for the position without regard for his gender, and that she must stop making harassing comments, asking Leonard intrusive questions, and gossiping about his personal life. Margaret stops her comments, questions, and gossiping, but she then recommends a woman be promoted to the open position. The woman promoted has much less experience than Leonard and lacks his two-year degree in customer relations from a community college.

**Question 3.** Leonard has likely been the target of discrimination on the basis of sex, sexual orientation and/or retaliation. **True or False?**