

State of Florida

A dark blue silhouette of the state of Florida is centered within a circular graphic that has a subtle gradient and a slight shadow effect.

Sexual Harassment Awareness Training

Objectives

- To prevent sexual harassment in the workplace.
- To define the behavior that may constitute sexual harassment.
- To provide guidance to state employees who feel they are a victim of sexual harassment.
- To provide guidance to supervisors on their responsibilities in responding to sexual harassment.

Sexual Discrimination

Title VII of the Federal Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex and national origin.

Section 760.10 of the Florida Statutes prohibits employment discrimination based on race, color, religion, sex, national origin, age, handicap or marital status.

Sexual Harassment

The Florida Statutes provides that sexual harassment is a form of discrimination.

“It is the policy of the state that sexual harassment is a form of discrimination. The department shall adopt uniform sexual harassment rules applicable to all executive agencies. The rules must define the term “sexual harassment” in a manner consistent with the federal definition.”

Section 110.1221, Florida Statutes

Definition of Sexual Harassment

Chapter 60L-36.004 (1) of the Florida Administrative Code prohibits sexual harassment within the workforce and defines sexual harassment as

“**unwelcome** sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when

- a. Submission to such conduct is either explicitly or implicitly a term or condition of an individual’s employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. 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.”

Types of Sexual Harassment

There are two types of sexual harassment. The first, **Quid Pro Quo** sexual harassment, occurs when the harasser is in a position of authority and uses that authority to seek sexual favors for job conditions or benefits, such as hiring, promotion, favorable performance evaluations, no discipline, pay raises or other privileges.

The request for sexual favors may be stated or implied.

Quid Pro Quo

Some examples of Quid Pro Quo sexual harassment include

- demanding sexual favors in exchange for initial employment, a promotion or a raise
- disciplining or firing a subordinate because he/she ends a romantic relationship
- changing performance expectations because a subordinate refuses repeated requests for a date

Hostile Environment

The second type of sexual harassment, hostile environment sexual harassment, occurs when the harasser exhibits hostile misconduct that unreasonably interferes with an individual's work performance or creates an intimidating or offensive work environment.

To be considered sexual harassment, the hostile misconduct must be severe or pervasive to the point that it negatively affects a term, condition, or privilege of employment.

The harasser may or may not be in a position of authority. A co-worker or non-employee of the agency, as well as a supervisor, may be the harasser in hostile environment sexual harassment.

Unwelcome Sexual Actions

The definition of sexual harassment stipulates that actions must be unwelcome to be considered sexual harassment. Even if the behavior is not intended to be offensive, it is best to avoid the following actions that may be perceived as such.

- verbal behavior, including but not limited to, requests for sexual favors, sexually-related offensive language, comments, suggestions, jokes, rumors, derogatory remarks, and discriminatory remarks
- physical behavior, including but not limited to, whistling, pats, squeezes, repeatedly brushing against someone's body, groping, impeding or blocking normal work or movement, offensive gestures
- visual images (electronic or printed) including, but not limited to, images of a sexual nature, sexually suggestive or derogatory pictures, cartoons or drawings, calendars, graffiti, emails, magazines, screen savers, and websites.

Facts About Sexual Harassment

Sexual harassment may occur in any of these situations.

- The victim and the harasser may be of different sexes.
- The victim and the harasser may be of the same sex.
- The harasser may be the victim's supervisor, a supervisor in another area, a co-worker, or a non-employee of the agency.
- The victim may be a person who is merely present while another employee is subjected to unwelcome sexual conduct.

How to Address Sexual Harassment

If you believe you are a victim of sexual harassment, you have the right to do **any** or **all** of the following:

- Instruct the harasser to stop the unwelcome behavior immediately.
- Report a complaint to any supervisor within your agency.
- Report a complaint to the appropriate person or office designated by your agency to receive complaints of sexual harassment.
- Report a complaint to the Florida Commission on Human Relations within 365 calendar days of the alleged incident.
- Report a complaint to the Federal Equal Employment Opportunity Commission within 300 calendar days of the alleged incident.

Formal Complaint

If you choose to file a formal complaint with your agency, the complaint must be in writing and must include at least the following information

- the name and contact information of the person filing the complaint
- the name of the person who allegedly committed the act of sexual harassment
- the name of the alleged victim
- a clear and concise statement of facts, including pertinent dates, locations, witnesses and other evidence in support of the claim.

Supervisor Responsibilities

- Supervisors should communicate to their employees that sexual harassment is not tolerated.
- Supervisors must contact the appropriate office **immediately** if they are aware of an actual or alleged sexual harassment situation. Failure to do so shall subject the supervisor to disciplinary action, in accordance with Rule 60L-36.004, Florida Administrative Code.
- Supervisors should not investigate the situation themselves but should follow their agency's policy regarding any necessary actions.
- Romantic relationships between supervisors and direct subordinates are generally discouraged. Please follow your agency's policy regarding this type of situation.

Consequences of Sexual Harassment

- “Any employee who is determined to have committed sexual harassment by the agency, the Commission on Human Relations or the Federal Equal Employment Opportunity Commission, shall be disciplined by the agency.”
- “Any supervisor or managerial employee, who has knowledge of sexual harassment and does not immediately report the matter directly to the person the agency has designated to receive complaints of sexual harassment, shall be subject to disciplinary action.”
- “Any employee who knowingly files a false complaint of sexual harassment against another employee shall be subject to disciplinary action.”

Chapter 60L-36.004, Florida Administrative Code

Retaliation is Prohibited

The State of Florida does not tolerate retaliation against anyone who has complained of sexual harassment or who has participated in an investigation of alleged sexual harassment.

Chapter 60L-36.004(10), Florida Administrative Code

If you feel you are a victim of retaliation, you may report the incident to the appropriate office in your agency, the Florida Commission on Human Relations, or the Federal Equal Employment Opportunity Commission.

Reminders

- Sexual harassment is a **serious** workplace issue. Ensure that your language and behavior cannot be viewed as unwelcome sexual conduct, even if it is not intentional on your part.
- Be proactive – halt questionable conduct of others before it becomes sexually harassing behavior.
- Individuals who engage in sexual harassment will be subject to discipline, including dismissal.

Questions?

If you have any questions or need further clarification, please contact your agency's Human Resources office.

Prevention is the Goal

Prevention of sexual harassment and all forms of discrimination is everyone's responsibility.

Chapter 60L – 36.004 Florida Administrative Code

The next ten slides list the rule referenced throughout this presentation. As you must acknowledge understanding and acceptance of this rule, please ensure you take the time to read each slide thoroughly.

Chapter 60L – 36.004 (1), Florida Administrative Code

- “(1) Agencies shall not tolerate sexual harassment within the work force. Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:
- (a) Submission to such conduct is either explicitly or implicitly a term or condition of an individual’s employment;
 - (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - (c) 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.

Chapter 60L – 36.004 (2), Florida Administrative Code

- (2) Agencies shall make known to their employees that sexual harassment will not be tolerated. Each agency shall make available to employees a copy of this Rule 60L-36.004, F.A.C., and a copy of the agency's procedures for investigating and resolving complaints of sexual harassment. Each employee shall acknowledge understanding and acceptance of this rule and the agency procedure, and documented evidence of the acknowledgement shall be retained in the employee's personnel file.

Chapter 60L – 36.004 (3), Florida Administrative Code

- (3) Agencies shall develop and implement procedures to investigate and resolve complaints of sexual harassment. Agencies shall designate a person or persons to receive complaints of sexual harassment. Complaints shall be reduced to writing, signed by the complainant, and contain at least the following information:
 - (a) The name, business address, and telephone number of the person filing the complaint;
 - (b) The name of the person who allegedly committed the act of sexual harassment and the alleged victim; and
 - (c) A clear and concise statement of the facts, including pertinent dates, locations, witnesses and other evidence in support of the complaint. If the complaint does not contain all of this information, the agency shall, in writing, request the complainant to furnish it.

Chapter 60L – 36.004 (4), Florida Administrative Code

- (4) Agencies shall initiate prompt review of all complaints. Agencies shall take steps to protect the privacy of those involved during the review and any related investigation.

Chapter 60L – 36.004 (5), Florida Administrative Code

- (5) During an investigation of sexual harassment, agencies shall fully comply with investigatory procedures and rights contained in collective bargaining agreements between the State and the certified bargaining representatives for State employees. If the standard agency procedure conflicts with the collective bargaining agreement, the latter shall prevail.

Chapter 60L – 36.004 (6), Florida Administrative Code

- (6) The filing of a complaint pursuant to agency procedure, regardless of disposition, shall not preclude the complainant from also filing a complaint with the Florida Commission on Human Relations (FCHR) or the Federal Equal Employment Opportunity Commission (EEOC). If the complainant files a complaint with either the FCHR or the EEOC, and the agency undertakes an investigation to provide information to those entities, the agency need not also conduct the investigation otherwise required by its own procedures; however, an employee who has committed sexual harassment shall be disciplined regardless of the type of investigation.

Chapter 60L – 36.004 (7), Florida Administrative Code

- (7) Agencies shall discipline any employee who engages in sexual harassment, according to the agency's policy.

Chapter 60L – 36.004 (8), Florida Administrative Code

- (8) Any supervisory or managerial employee who has knowledge of sexual harassment shall immediately report the matter directly to the person the agency has designated to receive complaints of sexual harassment. Failure to do so shall subject the employee to disciplinary action.

Chapter 60L – 36.004 (9), Florida Administrative Code

- (9) Any employee who knowingly files a false complaint of sexual harassment against another employee shall be subject to disciplinary action.

Chapter 60L – 36.004 (10), Florida Administrative Code

(10) Agencies shall not tolerate retaliation against any person who has in good faith filed a complaint, opposed a complaint, or participated in any manner in an investigation or proceeding, involving allegations of sexual harassment”.

Acknowledgement Form

If your agency requires this training course, please print this page, complete, sign where indicated, and forward to your Human Resources office for inclusion in your personnel file.

Employee Name: _____

I acknowledge that I have completed the State of Florida Sexual Harassment Awareness Training, and that I have been provided an electronic copy of the rule that applies to all State of Florida employees. I understand the consequences of any violations involving sexual harassment.

Employee Signature: _____

Date: _____