

Dating, Flirting, and Sexual Advances

What if I want to ask a colleague out?

Think about it. Then think about it some more.

Some companies have very specific rules against colleagues dating, and for good reason. If you work in the same department or location, things can get sticky. They don't want to lose either of you if the romance fades. Check out your company's specifics before you pop the question.

There is no law that says you can't date co-workers (although some folks who have been through a work-turned-personal relationship would tell you that there should be). Think about it. How would you feel if you had to go to work tomorrow with all your exes? Sounds like loads of fun, huh? So, weigh the pros and cons carefully before you act.

What if I want to ask out my boss?

Bad idea. Bad, bad, bad idea.

Let's face it. An employee-boss relationship is a disaster waiting to happen. Even if you think your boss feels the same way you do, it's not a good idea to pop the dating question. A romantic relationship between a manager and employee is inappropriate and can lead to complaints of favoritism, or even bystander sexual harassment. And, we won't even talk about what happens if the relationship sours. Seriously: keep your dating activities outside of work. Besides, most companies have strict policies about dating; become familiar with yours.

What if an employee asks me out?

Say thanks

Yes, you should feel flattered. No, you shouldn't consider it—not even for a minute. It's trouble waiting to happen.

Even if it's consensual, the imbalance of power will be problematic. Other employees may complain of preferential treatment regardless of whether the complaint is warranted.

If love fades, even if your breakup is amiable, it will be awkward to work together. And if your breakup is hurtful, anger may spill into the workplace. At a minimum, working together will be difficult and co-workers will be impacted. Worst case, your employee may complain of sexual harassment. Although the accusation is untrue, do you really want to deal with that mess?

The bottom line is that if you say yes, it could get ugly. By the way, check your company's policy on dating. That may make your decision for you.

Stopping Sexual Conduct

What if I overhear employees sharing their sexual exploits?

Tell them to stop.

Pull the employees aside and explain that such conduct is inappropriate for the workplace. A good place to start is saying something like, “This is work, not a Happy Hour.”

What if an employee complains about being harassed because of sexual orientation?

Thank your employee for coming to you.

Assure your employee that the company wants everyone to feel comfortable, safe, and respected at work. Listen without interruption and follow the steps for handling a sexual harassment complaint.

1. Take the complaint seriously.
2. Listen and respond without judgment.
3. Promise a prompt and thorough investigation.
 - Explain limited confidentiality and set expectations.
 - Explain protection from retaliation.
4. Ask the employee to document the complaint.
5. Explain that HR will investigate and follow up.

Illegal sexual harassment can be more than just conduct that is sexual in nature; it can also be based on gender, gender identity, gender expression, and sexual orientation.

Matters of sexual misconduct and sexual harassment can be complex with reputations and jobs at stake. As a manager, it’s wise to involve HR from the beginning. Although more often than not, an employee who comes to you with an informal complaint is being truthful, there are always two sides to every story. HR can help make sure *all* employees and the company are protected.

Can sounds and gestures be considered sexual harassment?

If they’re demeaning, rude, or crude and create a hostile, intimidating work environment...absolutely.

Whistling, cat calls, or any other type of sexually suggestive sound, – as well as any non-verbal gesture or non-verbal crude conduct – can lead to illegal hostile work environment sexual harassment and have no place at work.

About Harassment

What are the basics of sexual harassment?

It doesn't have to be intentional to be illegal.

Sexual harassment isn't always intentional, but it doesn't have to be intentional to be illegal. A person can feel harassed even if he or she is not the intended target of the behavior but overhears or witnesses it in an environment that permits such inappropriate behaviors. It can be co-worker to co-worker, boss to employee, or non-employee to employee.

Men can harass men, women can harass women, women can harass men, and men can harass women. It's the behavior that counts, not the gender of the participants.

It can be a one-time quid pro quo situation or a pattern of unwanted, offensive behaviors that create a hostile work environment.

What's the harm?

Are we seriously including this question?

Really? Yes, really. Some people still don't get it. Either they've never experienced it, they're a harasser themselves, or – to be really generous – they're simply clueless. The list of emotional, physical, mental, and financial damage that sexual harassment inflicts on individuals and companies could go on for pages, so we will include just an abbreviated snapshot that captures the gritty reality:

Physical effects: Headaches, sleep disorders, weight loss or gain, nausea, sexual dysfunction.

Emotional effects: Debilitating stress reaction (for example, anxiety, depression, lowered self-esteem, post-traumatic stress disorder, etc.)

Financial effects: Financial loss of unpaid leave, increased medical costs, and loss of wages if the victim quits due to harassment.

Long-term, job-related effects: An adverse effect on career and earning potential if the victim quits due to harassment.

Workplace effects: Absenteeism, low morale, low productivity, gossip, animosity, stress, shame, and anxiety among colleagues.

What is the reasonable person standard?

Think of it as a litmus test for the courts.

The Equal Employment Opportunity Commission (EEOC) and courts use a “reasonable person” standard to determine whether a hostile work environment exists. Essentially, the court asks, “Would a reasonable person find this conduct severe or pervasive enough to create a hostile or intimidating work environment?”

Some federal courts have used a reasonable woman standard rather than the reasonable person standard to determine whether hostile work environment sexual harassment has occurred.

Am I liable for sexual harassment that happens on my watch?

You can be.

With the rise of sexual harassment allegations, common law claims are increasingly included in employment-related lawsuits. In many states, victims have the right to recover money from their harasser.

In addition, any sexual harassment claim against your company could include a common law claim against you personally. Managers and employers can also be held liable if they knew of the harassment – or should have known – and did nothing to stop it.

Your best line of defense is to prevent the harassment before it ever starts by ongoing prevention training with your employees and by taking immediate action if you become aware of harassment of any kind in your company.