

## What supervisors and employers should know about sexual harassment:

Sexual harassment is a form of sex discrimination that violates [Title VII of the Civil Rights Act of 1964](#).

### Sexual Harassment is Illegal when:

- 1- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement,
- 2- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual, or
- 3- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.

\*Adapted from 1984 EEOC "Policy Statement"

### Two Categories of Sexual Harassment:

#### 1- Quid Pro Quo—"Something for Something":

- Submission to sexual conduct is made a condition of employment or educational benefits. An essential aspect is the harasser's power to control the victim's employment benefits.
- Employers have been found strictly liable for Quid Pro Quo harassment by their supervisors under their authority. **Strict Liability:** Employers are liable even if they had no knowledge of the unlawful conduct.

#### 2- Hostile Environment—"Conditions of Work" Harassment:

- Unwelcome and pervasive or continuous harassment that creates an intimidating, hostile, or offensive environment in which one has to work or learn.  
Bayly, S. "Meritor and Related Cases." In G. Pavela (Ed.), *Sexual Harassment (Special Issue)*. *Synthesis*, 2(4).
- Courts consider the following:
  - Did the employer have notice of conduct?
  - What was the means by which the harassment was committed?
  - Was there a process to submit a complaint?
  - What did the employer do in response to the complaint?
  - Were there preventive and remedial measures taken?
- "The conduct need not seriously affect an employee's psychological well-being not cause injury. The deciding issue is whether the conduct interfered with the person's work performance." Supreme Court ruling—Harris V Forklift

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. Policies should include clear definitions and examples, an effective complaint or grievance process, and possible penalties or repercussions. When a complaint is filed, employers should take immediate and appropriate action, while maintaining the confidentiality of the complainant. Employers committed to preventing sexual harassment will provide periodic training and consistently provide information about the policies against sexual harassment.