

Dating, Flirting, and Sexual Advances

What if I want to ask a colleague out?

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 a romantic relationship to affect your work or the workplace. 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?

Even if you think your boss feels the same way you do, think twice before you pop the dating question. Romantic relationships between a boss and employee can be perceived as inappropriate and can lead to complaints of sexual harassment.

What if a superior wants to ask me out?

Yes, you should feel good about it. But, any sexual relationship between a manager and a subordinate can be sticky. 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 amicable, 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 your team will be impacted. Worst case, complaints of sexual favoritism or sexual harassment could surface.

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.

Creating a Harassment-Free Workplace

How do I start?

It may be overused and somewhat cliché to say “*lead by example*,” but that’s exactly what you must do. Filter your words and actions so they are professional and respectful and expect the same from your employees.

Set the bar with an all-employee meeting. Explain that you want everyone to feel respected and valued. Clearly state the company’s and your expectations for a respectful workplace. Clearly describe the behaviors that will not be tolerated. No sexual conduct of any kind, even joking around. No posters, calendars, language, jokes, emails, texts, or anything of a sexual nature at work. Explain that sexual conduct or demeaning conduct of any kind, including derogatory behaviors based on gender, gender identity or gender expression is also unacceptable.

At times, my behavior has been flirtatious and inappropriate. What should I do now?

Your employees will appreciate your honesty. Say something such as, “I’ve been disrespectful and have acted inappropriately at work in the past, but I’m making a change and I expect the same from all of you.” Don’t be surprised if some employees take a “wait and see” attitude. Your actions will back up your words. Just make sure to follow up with anyone who is acting inappropriately. If you let it go—even once—your employees will question your sincerity.

What’s in it for me?

Maintaining a respectful work environment requires attention and intention. The result is higher productivity, higher morale, lower turnover and a stronger team.

What if my employees grumble about the changes and how I’m taking all the fun out of work?

Change is hard. But rely on this training to pave the rocky road ahead. Education, understanding and a commitment from you will quickly diminish the grumbling. And familiarize yourself with the *Employee Guide*. It addresses employee questions, concerns, and complaints about the complex topic of sexual harassment head on.

Finally, if you have explained your expectations for a respectful workplace, of being an upstander rather than a bystander, and encouraged them to speak up if they feel they're being harassed, pat yourself on the back. You're doing your part to be aware and to help prevent sexual harassment.

Stopping Sexual Conduct

What if I overhear employees sharing their sexual exploits?

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 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 with care and judgment.
3. Provide a path to a thorough investigation.
 - Establish 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?

Whistling, cat calls, or any other type of sexually suggestive sound, – as well as any non-verbal gesture or non-verbal crude conduct – can potentially contribute to a hostile work environment.

What should I do if I feel I've been harassed?

If you are comfortable confronting the person who is harassing you, then that should be your first step. Say something like, "I am uncomfortable when you... and I don't like it. Please stop." Or "I want you to stop!" If that doesn't work and the harassment continues, or if you are uncomfortable, talk with your manager, your manager's boss, the department head, or someone in HR.

And, if you ever feel unsafe, or the person harassing you is a manager or a person in authority, then, your first step should be to go directly to HR.

What other recourse do I have?

Your company wants every employee to feel safe and protected while at work. Your leaders want to address instances of harassment and abusive conduct swiftly and thoroughly with a prompt investigation in order to resolve the problem quickly. In addition to the internal complaint process of your company, there are federal, state, and local resources you can contact. See your manager or HR for contact information.

Handling Sexual Harassment Complaint

What if I don't believe the person bringing the complaint?

Your job is to take every complaint seriously. Period. When an employee says that he or she is experiencing sexual harassment of any type, you are legally and ethically obligated to take the complaint seriously and investigate the charges promptly and thoroughly, regardless of your personal feelings. Start by thanking your employee for the courage it took to speak up.

Listen without interruption and follow the steps for handling a sexual harassment complaint. Remember to ask, "Anything else?" to make sure the employee feels completely heard and to ensure you are getting the whole picture.

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.
6. Report the complaint to HR or the person designated for receiving such complaints within your organization.

What are the other forms of hostile work environment?

Employees can also experience a hostile work environment **when the conduct comes from a third party or when they are not the direct target.**

- A third party like a customer, vendor, or delivery person can also create an intimidating, offensive or hostile work environment for an employee.
- Hostile work environment sexual harassment can also occur when someone is negatively impacted by sexual conduct that is not happening directly to them.

What is the reasonable person standard?

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?”

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

With the rise in 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.