

Preventing and Confronting Workplace Sexual Harassment



Alaska Mental Health Trust Authority

Board of Trustees

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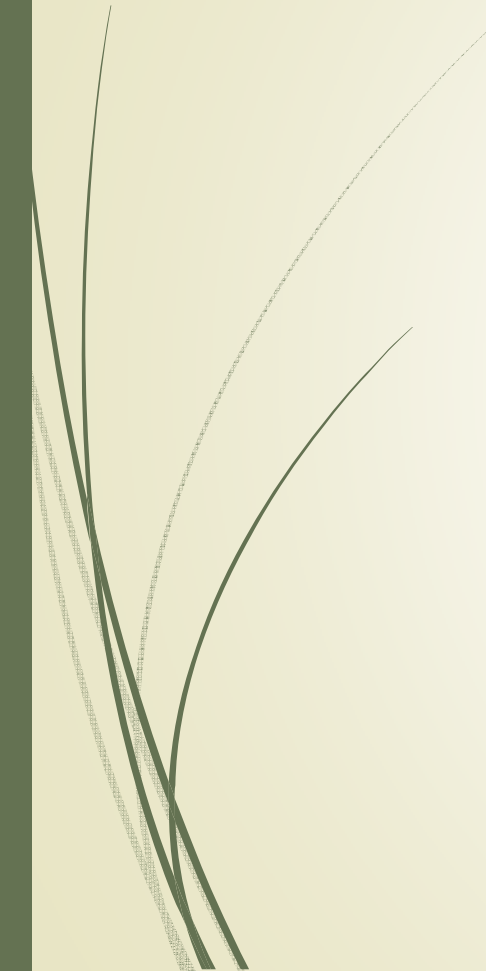




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What is illegal sexual harassment?

- ▶ The federal U.S. EEOC defines **sexual harassment** as unwelcome verbal or physical conduct of a sexual nature:
 - ▶ When submission to such conduct is made a term or condition of employment;
 - ▶ When submission to or rejection of such conduct is used as a basis for employment decisions;
 - ▶ When such conduct unreasonably interferes with job performance or creates an intimidating, hostile, or offense work environment.



Quid Pro Quo - This for That

Hostile Workplace

Applies to **all**
protected classes



Co-worker harassment:

- The State is liable if we knew or should have known of the harassment and failed to take immediate and appropriate corrective action.

Non-employees:

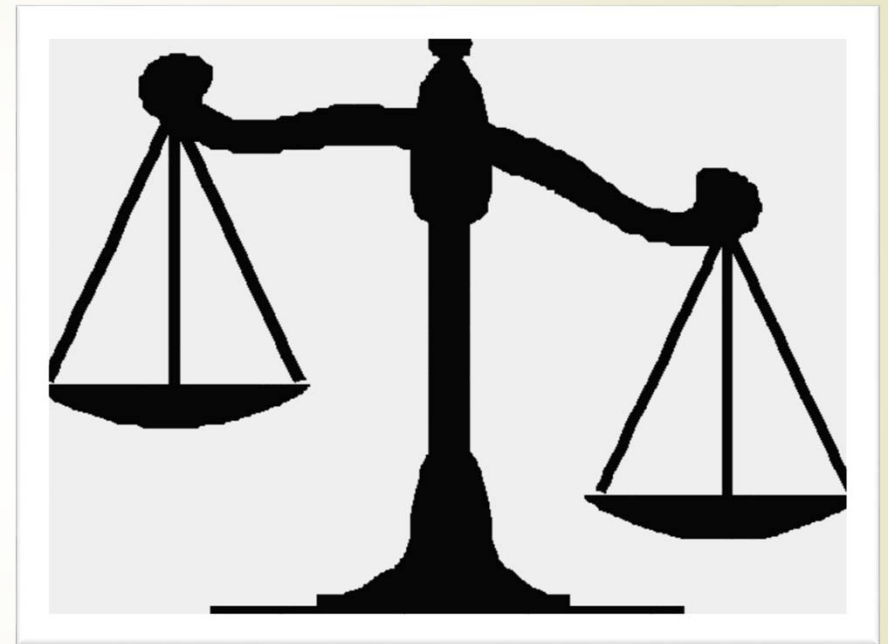
- The liability standard for non-employees is the same as for employees; Except consideration is given to the extent of the State's control over the non-employee.

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Harassment
by co-
workers or
non-
employees

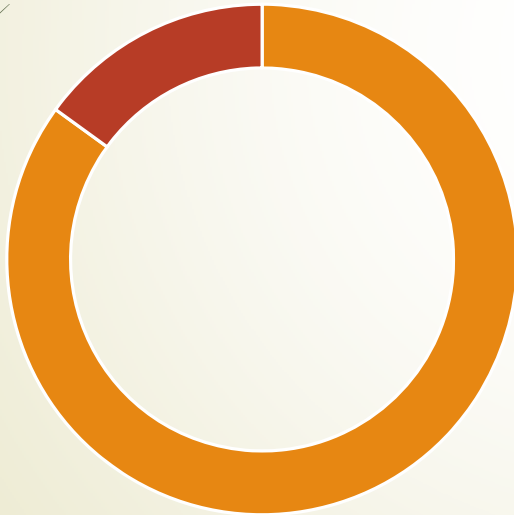
Sexual Harassment Test

- ✓ Sexual Nature
- ✓ Unwelcome or Offensive
- ✓ Severe or Pervasive
- ✓ *Reasonable Person*

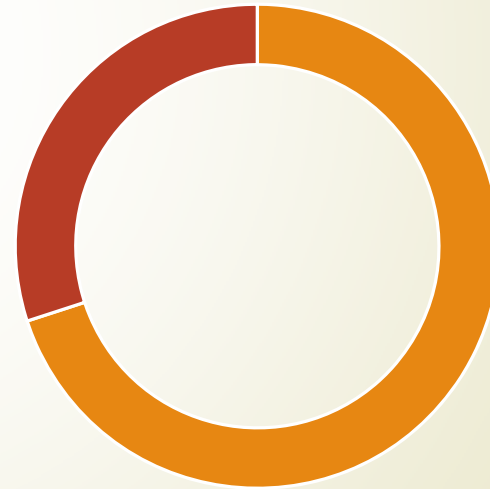


Harassment is SIGNIFICANTLY under-reported

UPWARDS OF 85% OF PEOPLE
NEVER FILE A
FORMAL LEGAL COMPLAINT



APPROXIMATELY 70% OF
EMPLOYEES *NEVER* FILE AN
INTERNAL COMPLAINT.




Why is it under-reported?

- Fear
- Humiliation
- Ostracism
- Damage to reputation or career
- Self-blame
- Don't want to be the cause of someone being disciplined
- Retaliation
- Shame
- Low or no organizational or manager trust
- Inaction
- Labeled a trouble-maker
- Labeled "crazy"





The business case

- ▶ **Direct costs:** legal representation, litigation, settlements, judgments, etc.
 - ▶ **Indirect costs:** loss of public trust; decreased productivity; failure to meet mission; disengaged workforce and effects on clients/the public; increased turnover; low morale; absenteeism; increased health care and workers' compensation cost; lose great employees quit and great employees don't seek work with that employer, etc.
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AO 81 – Statement of Policy

- ▶ Persons who knowingly engage in or instigate such harassment **will** be subject to disciplinary actions which may lead to suspension and discharge. Managers and supervisors who knowingly permit harassment activity to occur without further action **will** be subject to disciplinary action. Where such prohibited activity is perpetrated by a non-employee, the State will take available and appropriate disciplinary action which may include, by way of example, loss of contract.




What managers should **NOT** say:

- ▶ JUST IGNORE HIM.
- ▶ Just avoid Her.
- ▶ Do you want to file a formal complaint?
- ▶ Put it in writing.
- ▶ You misinterpreted him.
- ▶ He's going through a rough time.

Do **NOT** evaluate, mitigate, or speculate.



What should an employee do?

- 
- Clearly communicate to the harasser - verbally, in writing, through a third party, or in some other way - that the conduct is unwelcome.
 - The person affected by the conduct should promptly report it or file a complaint if the conduct continues after the perpetrator becomes aware it is unwelcome.

State Employee Complaint Options

- Department's internal process
- SOA Equal Employment Opportunity Program
- Alaska State Commission for Human Rights
- U.S. Equal Employment Opportunity Commission
- Office of the Ombudsman
- Court





Thank you

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