

Day 2 Worksheet

This activity asks you to examine real, documented court cases that “broke new ground” in establishing the legal boundaries for defining sexual harassment. Before considering these cases, please read the following definition of sexual harassment.

Definition of Sexual Harassment:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.” (As defined by the U.S. Equal Employment Opportunity Commission, www.eeoc.gov/types/sexual_harassment.html)

Case Studies:

1. Meritor Savings Bank v. Vinson (No. 84-1979)

Ms. Vinson initially worked at the Meritor Savings Bank as a trainee for the position of bank teller. Over time, she received several promotions: from trainee, to teller, to head teller, and to assistant manager of the bank. She claimed that when she was initially promoted, her immediately supervisor began to sexually harass her. At this time, the supervisor invited her to dinner, then asked her to accompany him to a motel for sexual intercourse. She initially declined his invitations because she was afraid she would be fired, but after repeated advances, she finally relented. Once the relationship was initiated, he would touch her in a sexual manner at work, even in front of other employees. He also became very sexually aggressive and would force himself upon her. Because she was afraid of this man, she never reported his behavior to other supervisors in the company. The subsequent promotions that she received after her initial promotion were based on the quality of her work - - she was viewed as an excellent employee. (Adapted from a web page on sexual harassment located on the Penn State University web site: <http://www.de2.psu.edu/harassment/legal/cases.html>)

2. Oncale v. Sundowner Offshore Services, Inc. (96-568)

In 1991, Mr. Oncale was employed by Sundowner Offshore Services on an oil platform that was located in the Gulf of Mexico. He worked with an eight-person, all-male crew. One member of the crew was the supervisor of the remaining men. During his employment, several of the employees performed sexually-related behaviors that were designed to humiliate Mr. Oncale in front of the other employees. He was forced to endure this humiliation. He also was sexually assaulted by two of the men, one of whom threatened to rape him. Although Mr. Oncale complained to his immediate supervisor, the supervisor did not take any direct action. Another employee also told Mr. Oncale that the same employees "picked [on] him all the time too" and suggested that he was a homosexual. Mr. Oncale finally quit his job and requested that his employment record officially reflect that he had "voluntarily left due to sexual harassment and verbal abuse." His lawsuit against Sundowner Offshore Services, Inc. claimed that he was “discriminated against in his employment because of his sex.” (Adapted from a copy of the Supreme Court ruling found on the web site of the Cornell Law School Legal Information Institute; <http://supct.law.cornell.edu/supct/html/96-568.ZO.html>)

3. Nuances: Pretend that you are a lawyers in a sexual harassment case. Review the EEOC’s legal definition of sexual harassment as mandated by the Federal court. Now, as a group, brainstorm five ways in which the definition could be vague enough to blur the line of clarity in any given case or situation. These factors could be used to cause reasonable doubt in a jury as to whether a given case is actually an instance of sexual harassment. For example, in some countries it is customary to greet people with a kiss on each cheek. How would that come into play in a case that an American employee might file against an employer who just recently arrived from another country that encourages such greetings.

Be prepared to present these 5 points to the class.

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