

Sexual Harassment Exercise

Objectives: (1) to define sexual harassment, (2) to recognize sexual harassment when it occurs, and (3) to provide resources for combating sexual harassment.

Audience: High school juniors and seniors and adults

Materials needed: Writing utensils, Copies of the following worksheets: “Day 1” worksheet, “Day 2” worksheet, “Sexual Harassment Resources” worksheet

Time required: 2 class periods (approx. 35-40 mins. each day); additional time required for preparation

Teacher Instructions: This lesson defines prejudice and several different types of “isms” as they exist in society. This lesson uses movie clips to help students to identify types of prejudice and to consider ways to combat various “isms.”

Day #1:

Step 1: Defining Terms

You should begin by reading out loud to the class and discussing the introduction to the topic which is located at the top of the “Day 1” worksheet. Discussion questions might include:

- Have you ever heard of “sexual harassment”?
- What do you think “sexual harassment” is?
- Where do you think “sexual harassment” is most likely to occur?

Next, present students with the “Day 1” worksheet. Read out loud to students the legal definition of sexual harassment that is printed on the worksheet. This definition has been set forth by the United States Equal Employment Opportunity Commission (EEOC). Make sure to emphasize that this is how sexual harassment is defined according to the federal government, so this definition is the legal standard used across the United States. Discuss the meaning of the definition to make sure that the students grasp its most pertinent components. More information about the definition can be found on the EEOC web site:

www.eeoc.gov/types/sexual_harassment.html

Step 2: Applying the Definition

Draw students’ attention to the fictional cases that are described on the worksheet. These fictional accounts of harassment focus on workplace settings.

Next, have the students split into small groups (4-5 students/group is ideal). Each group should be assigned a specific case from the worksheet. Each group should be given approximately 10 minutes to determine whether their assigned case is an example of sexual harassment according to the EEOC definition provided at the top of the worksheet. The groups might pretend that they are members of a jury whose job it is to reach a verdict on the assigned case. If students can’t reach a unanimous decision, that is okay, as long as they are able to explain their differing viewpoints. (There is, of course, a right answer.) Each group should identify one or two spokespersons who will share the key points of their deliberation with the larger class.

Step 3: Discussion

When the groups have reached their decisions, they should reform as a large class. Begin discussing the cases one at a time. Each group should report by answering the following questions

- What points did you and your group members agree on? Disagree on?
- What did the majority decide?
- What was the reasoning behind your decision?

Step 4: Concluding the Matter

Inform your students that you are now going to tell them what the verdict should be in each of these fictional cases according to the EEOC definition.

Case #1: This is not a case of sexual harassment, so the verdict would have been not guilty. Although Kathy suspects that her male employers are “checking her out,” none of them have made an “unwelcome sexual advance,” asked for a “sexual favor,” or have engaged in “other verbal or physical conduct of a sexual nature.” Although Kathy may feel uneasy and tense, the employers have not done anything illegal. Therefore, her stress and anxiety is not a valid cause to make a claim of sexual harassment.

Case #2: This is a case of sexual harassment, so the verdict would have been guilty. According to the EEOC definition, the judge’s behavior is sexually harassing because Moira’s “submission to or rejection of this conduct . . . unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment.” Moira’s ability to win the pageant, which affects her work performance as a model, would have been affected by the judge’s behavior.

Case #3: This is a case of sexual harassment, so the verdict would have been guilty. Although Debbie did quit after the second incident instead of telling the manager to stop a second time, she still has a valid claim of sexual harassment because the manager made “unwelcome sexual advances” that are both physical and verbal in nature. She can prove that this was unwelcome because she already stated once that she wanted him to stop.

After reading the verdicts and conclusions, the first portion of this lesson is complete.

Day #2:

Step 1: Review and Introduction

Briefly review the EEOC definition of sexual harassment. Explain that today you will build on your discussion from Day 1 by examining real, documented court cases that “broke new ground” regarding the law associated sexual harassment. These more nuanced cases extended the legal framework for understanding the nature of sexual harassment and must be followed by both federal courts and lower courts that hear such cases. Note that you also will be discussing steps that people can take if they find themselves the victims of sexual harassment.

Step 2: Applying the Definition

Distribute the “Day 2” worksheet. Have students reform the groups that they created on Day 1. Most of the groups should be assigned one of the specific court cases from the “Day 2” worksheet. Each of these groups should be given approximately 10 minutes to determine whether their assigned case is an example of sexual harassment according to the EEOC definition provided at the top of the worksheet. As before, the groups might pretend that they are members of a jury whose job it is to reach a verdict on the assigned case. If students can’t reach a unanimous decision, that is okay, as long as they are able to explain their differing viewpoints. (There is, of course, a right answer.) Each group should identify one or two spokespersons who will share the key points of their deliberation with the larger class.

At least one of the student groups should be given a different task, however. They should be assigned Item #3 on the “Day 2” worksheet. This group will be exploring the nuances of sexual harassment cases by attempting to identify factors that would make such cases difficult for juries to decide (e.g., Does it matter whether the victim is male or female? Does it matter whether the individuals involved once had an intimate relationship with one another?). Students working on this activity also should complete their task in approximately 10 minutes.

Step 3: Discussion

When the groups have reached their decisions, they should reform as a large class. Begin discussing the cases one at a time. Each group should report by answering the following questions

- What struck you as different in these cases when they are compared to cases discussed on Day #1?
- What made these cases somewhat harder to decide?

Next, compare the groups’ answers to the above questions with the factors that were identified by the group(s) dealing with Item #3. Discussion questions might include:

- What factors identified in Item #3 played a role in the specific cases?
- In what way did these factors make it harder to determine whether sexual harassment took place?
- Where there factors uncovered for Item #3 that didn’t apply to these cases?
- In what way could those factors make it harder to determine whether a case involved sexual harassment?

Step 4: Concluding the Matter

Share with students the actual court rulings on the two cases being examined.

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

According to an item on the Penn State University web site: “In this case, the legal issue facing the Supreme Court was whether a claim of hostile work environment sexual harassment is a form of sex discrimination that is actionable under Title VII. The court’s decision set a precedent for sexual harassment cases involving hostile work environment claims - where the victim’s suffering no tangible or economic loss. An important point made by the Court is that an employee’s apparent consent to sexual activity does not necessarily negate a claim of sexual harassment. The employee’s submission to a sexual relationship cannot be considered truly voluntary if the harasser has the power to fire, demote, or blackball an employee, or to deny raises, bonuses, or promotions. The court’s ruling firmly established the working definition of sexual harassment and the kinds of workplace conduct that may be actionable under Title VII. This case also reaffirmed previous rulings by other courts that there are two types of sexual harassment - quid pro quo and hostile work environment.”

(www.de2.psu.edu/harassment/legal/cases.html)

Ruling: Oncale v. Sundowner Offshore Services. In. (No. 96-568)

According to a copy of the Supreme Court ruling found on the web site of the Cornell Law School Legal Information Institute, the Court decided for Oncale. They argued that “Title VII’s prohibition of discrimination ‘because of . . . sex’ protects men as well as women, Newport News Shipbuilding & Dry Dock Co. v. EEOC, 462 U.S. 669, 682 (1983), and in the related context of racial discrimination in the workplace we have rejected any conclusive presumption that an employer will not discriminate against members of his own race. ‘Because of the many facets of human motivation, it would be unwise to presume as a matter of law that human beings of one definable group will not discriminate against other members of that group.’ Castaneda v. Partida, 430 U.S. 482, 499 (1977). See also id., at 515—516 n. 6 (Powell, J., joined by Burger, C. J., and Rehnquist, J., dissenting). In Johnson v. Transportation Agency, Santa Clara Cty., 480 U.S. 616 (1987), a male employee claimed that his employer discriminated against him because of his sex when it preferred a female employee for promotion. The supervisor ultimately rejected the claim on other grounds; we did not consider it significant that the supervisor who made that decision was also a man. See id., at 624—625. If our precedents leave any doubt on the question, we hold today that nothing in Title VII necessarily bars a claim of discrimination ‘because of . . . sex’ merely because the plaintiff and the defendant (or the person charged with acting on behalf of the defendant) are of the same sex.”

(<http://supct.law.cornell.edu/supct/html/96-568.ZO.html>)

Step 5: Sexual Harassment Resource Guide

Distribute the “Sexual Harassment Resource Guide” to your students. Explain pertinent information such as how to determine if you have a claim and how to file a formal charge of sexual harassment with the EEOC. Ask your students for additional ideas about how to handle a situation involving sexual harassment. Discuss the implications of these ideas.