# Employers Must Recognize And Support Male Victims of Sexual Harassment In The Workplace

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Sexual harassment that occurs in the workplace is common and the predominate number of reporters of such unlawful conduct historically have been female victims. But anyone can be sexually harassed at work regardless of their age, gender, or sexual orientation or identity. The incidents of male victimization frequently go unreported in large part because of social attitudes and stereotypes about men and masculinity, including perhaps those beliefs of the victim himself. Despite this fact, men who are victims of sexual harassment experience the same emotional toll as their female counterparts such as feelings of humiliation, anxiety, helplessness, and depression. Yet, due to the pervasive underreporting of sexual harassment by male employees, some employers may not consider the need to include examples of male victimization scenarios in their annual EEO training. This lack of acknowledgement and support may leave male workers more vulnerable to unwelcome, offensive conduct.

Workplace sexual harassment is defined by the Equal Employment Opportunity Commission (EEOC) as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that explicitly or implicitly affect an individual's employment, unreasonably interferes with an individual's work performance; or creates an intimidating, hostile or offensive work environment." Sexual harassment can take many forms such as unwanted touching, pressure for sexual favors, or sexually suggestive nicknames, jokes or raunchy conversations. Sexual harassment is one type of sex discrimination that is prohibited by Title VII of the Civil Rights Act of 1964, and the New Jersey Law Against Discrimination.

Employers risk more than financial costs when they fail to address sexual harassment in the workplace and take swift remedial measures when such harassment is reported. In 2016, the EEOC's Select Task Force on the Study of Harassment in the Workplace reported "the true cost of harassment includes detrimental organizational effects such as decreased workplace performance and productivity, increased employee turnover, and reputational harm." Of course, the tangible, monetary costs of successful sexual harassment complaints can also impact an employer's bottom line.

Over the past decade, only 16-18% of the sexual harassment complaints received by the EEOC were filed by male employees.[1] But this representation is only the tip of the proverbial iceberg. In 2014, the American Journal of Public Health published a study challenging the prevailing assumption that men rarely experience sexual victimization.[2] In analyzing data from five federal surveys conducted independently by the Bureau of Justice Statistics, the Centers for Disease Control and Prevention, and the Federal Bureau of Investigation from 2010 through 2012, the study found widespread sexual victimization among men in the United States, "with some forms of victimization roughly equal to those experienced by women."

So why are men less likely than women to report sexual harassment? This may be partly due to the challenges that gender-stereotypes create for men -- but not so much for women -- such as the stereotype that men are usually the perpetrators and not victims of sexual harassment, and false societal messaging that "real men" should welcome sexual advances by women under any and all circumstances. Men who are offended by female sexual advances, or in the case of male-on-male harassment, male victims may fear gender-based stigma in that, if they report the harassment, their own sexuality may be unfairly scrutinized and judged.[3] Men face many obstacles when deciding whether to report inappropriate touching, pressure, lewd comments, or to just shrug it off and hope that it eventually stops. Whether a man choses to remain silent, or makes the tough decision to disclose the harassment, the ramifications may remain the same as with female employees, which, according to the EEOC, may include feelings of humiliation, loss of personal agency, anxiety, depression, and fear of ridicule, further harassment, and/or retaliation.[4]

Despite the perceived stigma associated with men experiencing and reporting sexual misconduct, there has been a steady, albeit slow, rise in men reporting and filing complaints of being sexually harassed by women and by other men in the workplace. In the last decade there have been a number of cases successfully litigated involving male victims of sexual harassment. These cases include sexual harassment perpetrated by female and male co-workers and supervisors, in addition to sex-based hazing that can be equally emotionally damaging to male employees.

For example, in 2017, the EEOC sued a Californian Chipotle Mexican Grill on behalf of a 22 year-old male employee whose female manager propositioned and groped him during his shifts. The female manager also posted a sexual scoreboard in the main office that included information about the private sex lives of the staff. The lawsuit alleged that the male employee experienced retaliation from co-workers after complaining about the conduct and ultimately was forced to resign. Chipotle settled with the EEOC and paid $95,000 to the former 22 year- old male employee.

In a male-on-male harassment case, the EEOC sued the Cheesecake Factory in Arizona on behalf of six male employees who alleged that they experienced a hostile work environment because management allowed same-sex sexual harassment to continue after the workers reported it. Male employees of the restaurant alleged that they were subjected to sexually abusive behavior including groping, unwanted touching, sexually charged remarks, simulated rape and other sex-based "horseplay." Although restaurant managers were aware of the conduct, they did nothing to address the outrageous behavior because it was by and among male workers, according to the lawsuit. The Cheesecake Factory settled the suit and ended up paying $345,000 in damages to the six male employees, as well as agreeing to implement extensive sexual harassment training and reporting procedures for its managers and employees.

In another male-on-male sexual harassment case, a male worker sued BWX Technologies alleging hostile work environment because one of his male co-workers frequently propositioned him, made sexually explicit remarks, groped Plaintiff, repeatedly flashed his genitals to Plaintiff, and repeatedly, but falsely, told others that he had enjoyed sexual encounters with Plaintiff. According to the lawsuit, the employer took no action to stop the sexual harassment even after the Plaintiff reported it to his supervisors. Here, it was alleged that management failed to recognize that the reported conduct constituted unlawful sexual harassment and BWK Technologies settled the case in 2018 for an undisclosed amount.

***Employer Take Away***:

Sexual harassment in the workplace is detrimental to a businesses' productivity, employee retention, reputation, and it creates legal liability. Sexual harassment should not be tolerated under any circumstances. Male employees must equally be protected from sexual harassment victimization in the workplace and be educated on their right to report inappropriate conduct regardless of the age, gender, sexual orientation or sexual identity of the perpetrator. When a male worker garners the courage to report sexual harassment to management, despite any real or perceived social stigma or stereotyping, he must be heard, believed, and supported by his employer.

Employers are exposed to legal liability that can impact the bottom line when they fail to implement robust workplace anti-harassment policies and train their employees on those policies. Employers need to take reasonable steps to prevent inappropriate sex-based conduct, take swift action to eradicate sexual harassment when such conduct is reported, and ensure an environment free of retaliation.

It is a good practice for employers to annually review and update their training content, policies, and reporting procedures to ensure that all employees understand the many varying situations in which sexual harassment can arise and how they can safely report the conduct without fear of retaliation, disbelief or ridicule.

[1]U.S. Equal Employment Opportunity Commission (EEOC). Charges alleging sex-based harassment [charges filed with EEOC] FY 2010-FY 2021. https://www.eeoc.gov/statistics/charges-alleging-sex-based-harassment-charges-filed-eeoc-fy-2010-fy-2021 Accessed June 17, 2022.

[2]https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2014.301946

[3]See *Prospect Airport Servs., Inc*., 621 F.3d at 991 (2010) (manager told complaining male employee being harassed by female coworker to sing "I'm too sexy for my shirt" and his coworkers began to speculate whether he was homosexual).

[4]https://www.eeoc.gov/select-task-force-study-harassment-workplace#_Toc453686300