# What types of comments and conduct constitutes sexual harassment in the workplace?

Services

Employment & Labor Law

- Sexual Harassment

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## Sexual Harassment in the Workplace

There are two basic categories of sexual harassment under Federal and Massachusetts law. The various types of sexual comments and sexual conduct should be considered with respect to these two categories of sexual harassment.

The two basic categories of sexual harassment are as follows:

1) “Quid Pro Quo” sexual harassment, and

2) “Hostile Work Environment” sexual harassment.

## Quid Pro Quo Sexual Harassment

Massachusetts General Law, Chapter 151B defines “quid pro quo” sexual harassment as: “sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when . . . submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions.”

In other words, quid pro quo sexual harassment occurs when an employee with authority or control over another employee, offers that employee an employment benefit or advantage in exchange for sexual favors or sexual gratification. Quid pro quo sexual harassment also occurs if an employee is denied an employment benefit or advantage after refusing or rejecting a request for sexual favors or sexual acts. Examples of employment benefits or advantages include continued employment/termination, demotion/promotion, alteration of job duties, transfer of job location, changes to hours or compensation, warnings, and inaccurate job performance evaluations and reviews.

## Hostile Work Environment Sexual Harassment

Massachusetts General Law, Chapter 151B defines “hostile work environment” sexual harassment as: “sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when . . . such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.”

In other words, hostile work environment sexual harassment occurs when an employee is subjected to sexual comments or sexual conduct, the conduct was unwelcome, the conduct created an intimidating, hostile, humiliating or sexually offensive work environment, and the

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conduct unreasonably interfered with the employees work performance or altered the terms and conditions of his or her employment.

## Examples of Unwelcome Sexual Comments and Conduct that Could Create a Claim for Sexual Harassment:

1. Sexual conduct, including but not limited to the unauthorized touching of a person's body or clothing;
2. Sexual stories, metaphors or descriptions;
3. Sexual based, suggestive, or explicit sexual "jokes";
4. Sexual gossip and rumors;
5. Sexually suggestive comments about a person's physical attributes or clothing;
6. Requests for sexual relations, sexual favors or other forms of sexual gratification;
7. Display of sexually suggestive or explicit websites, pictures, calendars or physical objects;
8. Sexual sounds, leering, whistling, or sexually suggestive gestures.

## Legal Counsel for Sexual Harassment Claims

While it is not necessary to obtain legal counsel to file a claim for sexual harassment, there are many advantages to hiring an attorney for sexual harassment matters.

There are very strict time frames under both Federal and Massachusetts laws in which to file a claim for sexual harassment.

If you or someone you know has been the victim of sexual harassment or are having problems determining whether you have been subjected to unlawful harassment, feel free to call me, work harassment attorney,  at (508) 880-6677 for a free and confidential consultation.

## Learn more

Sexual Harassment in the Workplace: Understanding the Law in Massachusetts

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