

# South Carolina Human Affairs Commission

## Technical Services and Training Division



# Prevention Corner



*An ounce of Prevention is Worth a Pound of Cure.*

~Benjamin Franklin

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South Carolina  
Human Affairs Commission  
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The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law and the SC Lactation Support Act.

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## HARASSMENT IN THE WORKPLACE

According to the U. S. Equal Employment Opportunity Commission, harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and the Americans with Disabilities Act of 1990 (ADA).

## RECOGNIZING WORKPLACE HARASSMENT

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 and older), or disability.

### **Harassment is unlawful where:**

- The conduct is severe or pervasive enough to create a work environment that a reasonable person would find it hostile or abusive (determined on a case-by-case basis).
- Subjectively abusive to the person affected by the harassment.

## TWO TYPES OF UNLAWFUL HARASSMENT

### **Quid Pro Quo Harassment** (“This for That”)

- ❖ May result in employment decisions based upon the employee’s acceptance or rejection of unwelcome sexual advances or requests for sexual favors.

### **Hostile Work Environment Harassment**

- ❖ May result from unwelcome conduct that makes the workplace atmosphere intimidating, hostile, or offensive.

Resources: S.C. Human Affairs Commission; U.S Equal Opportunity Commission

**If you feel like you have experienced discrimination,  
contact us for help.**

**(800) 521-0725, Relay 711**

**803-737-7800 or <https://www.schac.sc.gov/>**

## **How can I schedule training?**

### **Contact us at:**

(803) 737-7800 or (800) 521-0725, Relay 711

email: [training@schac.sc.gov](mailto:training@schac.sc.gov)

## Third Party Sexual Harassment:

Title VII of the Civil Rights Act of 1964 states that an employer has a responsibility to protect its employees from sexual harassment by outsiders as well. This includes customers, clients, vendors, business partners, independent contractors who provide a service to the business, and supervisors from other departments.

### *Is Your Work Environment Hostile? A few legal criteria*

**Harassment must be based on a protected class.**

**Was this harassment frequent?**

**How severe or physically threatening was the harassment?**

#### Employment

##### *Harassment Examples*

- **Verbal harassment**
  - Derogatory comments / Insults
  - Name calling / Jokes
  - Asking an employee about his or her sex life

- **Physical harassment**

*Affects an employee's employment, interferes with employee's performance, or creates a hostile, intimidating, or offensive workplace environment*

- Improper touching employee's hair, clothing, face, and skin
- Physical assaults

- **Sexual Favors (Quid Pro Quo)**

*Occurs when a supervisor's request for sexual favors or other sexual conduct results in a type of favorable workplace decision. Examples:*

- Promotion
- Getting favorable project assignments

Third parties can request a sex favor as a quid pro quo from an employee for not reporting bad conduct to the employee's supervisor.

- **Visual harassment**

- Displaying sexually suggestive or racially offensive pictures
- Digital harassment or cyberbullying online
- Sending sexually suggestive text messages or emails

#### Housing

##### *Harassment Examples*

According to the US Department of Housing and Urban Development, the **Fair Housing Act** prohibits harassment, retaliation, and other types of discrimination in housing because of race, color, religion, sex, disability, familial status (families with children under 18, including persons seeking custody or who are pregnant) or national origin.

- **Hostile environment harassment**

Unwelcome conduct that interferes with the availability, sale, or rental of housing.

- Severe or pervasive offensive remarks or hostile behavior.
- Subjecting a person to pervasive racial epithets or defacing a person's home with racially derogatory or threatening words or images.
- Repeatedly sending unwelcome sexually explicit text messages and photos to a tenant.

- **Sexual Favors (Quid Pro Quo)**

*Occurs when an owner or property management employee or real estate agent makes submission to unwelcome demands for sex, sex favors or other type of conduct a condition of obtaining, maintaining, using, or enjoying housing (or housing related services).*

- Requesting sexual favors in return for making needed repairs.
- Evicting a person because that person refuses to have sex.



## Harassment: Potential Discriminatory Practices

### EMPLOYMENT

#### Employment:

A female applicant is interviewing for a position with XYZ company. At the interview, a male manager seems to be very impressed with her skills and previous work history. At the conclusion of the interview, the male manager tells the female applicant, that serious candidates are all required to have a drink with him before moving on to the next stage in the hiring process.

### HOUSING

#### Fair Housing: Harassment is a Form of Discrimination

A female tenant has a Housing Choice Voucher (Section 8), but one month she falls behind on her portion of the rent. When the female tenant asks her landlord if he will give her a few more days, her landlord says yes but only if she will go out with him. Feeling she has no choice, the female tenant says yes. Over the next few days, the female tenants' landlord sends her sexually explicit text messages even though she tells him to stop. The female tenants' landlord tells her that if she does not go out with him again, he is going to evict her, and she will lose her voucher. The female tenant files a complaint with HUD because sexual harassment is a form of sex discrimination.

Resource: [www.hud.gov/program](http://www.hud.gov/program)



*Answers to your questions about Pregnancy Discrimination and Lactation Support in the workplace.*

## **Can I file a charge for harassment based on hostile treatment directed at me for choosing to express milk at work? Yes, you may!**

### **Pregnancy Discrimination & Harassment**

It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

It is **illegal** to discriminate against or discipline an employee for exercising this right. The employer must make reasonable efforts to provide employees with a private space close to their work area, other than a toilet stall or bathroom, to express breast milk, unless doing so would impose significant difficulty or expense on the employer (undue hardship).

#### ***Examples of pregnancy-based harassment include:***

- unwelcome and offensive jokes or name-calling
- physical assaults or threats
- intimidation, ridicule, or insults
- offensive objects or pictures
- interference with work performance motivated by pregnancy, childbirth, or related medical conditions, including breastfeeding.

#### ***Factors to consider when evaluating whether harassment creates a hostile work environment:***

- The nature of the conduct.
- The frequency of the conduct.
- The period of time over which it occurred.
- Whether the conduct was physically threatening or humiliating.
- The extent to which the conduct unreasonably interfered with an employee's work performance.

Resource: SC Human Affairs Commission

## PREVENTION CORNER

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### Ways to Prevent Harassment

1. Inform employees that harassment is prohibited.
2. Establish and enforce anti-harassment policies to help stop inappropriate or offensive conduct.
3. Assuring employees that they will not be punished for asking questions or sharing their concerns.
4. Ensuring that managers understand their responsibility to stop, address and prevent harassment.
5. Attend fair housing training provided by the S.C. Human Affairs Commission.
6. Take immediate action to address complaints.

Resources: S.C. Human Affairs Commission; U.S Equal Employment Opportunity Commission

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**The mission of the South Carolina Human Affairs Commission is to  
Prevent and Eliminate Unlawful Discrimination in Employment,  
Housing, and Public Accommodations.**