



# ACTIVATE

THE COLLECTIVE TO BRING ADOLESCENT  
SEXUAL & REPRODUCTIVE HEALTH RESEARCH  
TO YOUTH-SUPPORTING PROFESSIONALS

## **Sex-Based Harassment in the Workplace: A Training for Professionals Who Support Opportunity Youth**

Module 3

Child Trends | Chapin Hall

# Module 3

## Addressing Sex-Based Harassment in the Workplace

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# Objectives

- Know the legal protections for sex-based harassment in the workplace
- Understand ways to prevent and intervene in sex-based harassment in the workplace among:
  - Employers
  - Youth Programs
  - Youth-supporting professionals



# Legal Definition of Sexual Harassment Discrimination

“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.”<sup>1</sup>

# Employees' Legal Protections: Federal Laws

- [U.S. Equal Employment Opportunity Commission \(EEOC\)](#) enforces federal laws prohibiting workplace harassment based on<sup>2</sup>
  - Race
  - Color
  - National origin
  - Sex (including pregnancy, gender identity, and sexual orientation)
  - Religion
  - Disability
  - Age (there are federal legal protections for people ages 40 years or older)
  - Genetic information

# Employees' Legal Protections: Federal Laws<sup>3,4</sup>

- [Title VII of the Civil Rights Act of 1964](#) prohibits employment discrimination when
  - Conduct is frequent or severe enough to create a hostile work environment
  - The conduct the victim experiences results in “tangible employment action” (e.g., hiring, firing, intentionally overlooked for promotion, demotion)
  - Title VII applies to employers with 15 or more employees, but many state laws apply to workplaces with fewer than 15 employees

# Employees' Legal Protections: Federal Laws (continued)

- [Americans with Disabilities Act \(ADA\)](#) prohibits discrimination or harassment in the workplace based on actual or perceived disability or impairment, *including those resulting from domestic/dating violence, sexual assault, or stalking.*<sup>3</sup>
- All 50 states; Washington, DC; and Puerto Rico prohibit sex discrimination.<sup>5</sup>
  - In 43 states, DC, and Puerto Rico, sex-based harassment is specified as a form of discrimination and not permitted in the workplace.
  - 9 states require or encourage employers to provide sexual harassment training.

# Employees' Legal Protections: Federal Laws

- [ClearPath Workforce Management](#) provides
  - A summary of state laws on sex-based harassment in the workplace
  - Employer sex-based harassment training requirements in each state
  - Information about the minimum number of employees per employer for each state's anti-discrimination laws to apply.<sup>5</sup>
- Be sure to research laws, codes, or ordinances related to harassment and employment in your jurisdiction. [The Library of Congress created a guide](#) to find this information.<sup>6</sup>



# How *Employers* Can Address Sex-based Harassment in the Workplace

Proactively assume federal and state legal responsibilities



Take additional, voluntary actions to protect employees including opportunity youth

# Employers' Legal Responsibilities

- Employers are liable for sex-based harassment committed by supervisors, as well as non-supervisory employees or non-employees over whom they have control (e.g., customers or contractors who work on the premises), if they knew or should have known about the harassment and failed to take prompt and appropriate corrective action.<sup>7</sup>



# Employers' Legal Responsibilities *continued*

- Employers are liable unless they can prove that:<sup>2,7</sup>
  - They exercised reasonable care to prevent and promptly correct any harassment, and
  - Employee unreasonably failed to complain to management or to avoid harm otherwise.



# When Does an Employer Need to Intervene?

- Federal law forbids sex-based harassment in the workplace.
- The employer is legally responsible to intervene when:<sup>7</sup>
  - Enduring the harassment becomes a condition of continued employment, OR
  - Conduct is severe or pervasive enough to create an intimidating, hostile, or abusive work environment.

# Employers' Legal Responsibilities

- Examples:
  - A supervisor inflicts a "tangible employment action" against an employee for declining sexual advances (e.g., fires, passes over for promotion, or demotes the individual).
  - A potential employee, who would otherwise be hired, is not offered a job for declining the hiring manager's sexual advances.

# Voluntary Actions Employers Can Take to Prevent Sex-based Harassment in the Workplace<sup>8</sup>

- Employers are encouraged to establish clear policies prohibiting all forms of harassment and to define procedures for making complaints.
- Policies should be transparent and clearly communicated to all staff through accessible materials and regular trainings.
- Policies should state that sex-based harassment and retaliation against an individual who files a complaint are not tolerated.

# Features of Zero Tolerance Policies on Sex-based Harassment

- Policies should include:<sup>9</sup>
  - Definitions of key terms
  - Details on who is covered (e.g., part-time, full-time, contractors, volunteers)
  - Confidentiality statement
  - Employer's response to victim
  - Employer's response to perpetrator
- U.S. Office of Personnel Management provides detailed [guidance](#) on how to develop policies to protect employees.<sup>10</sup>



# Employer Policies on Sex-based Harassment

- Employers' policies on sex-based harassment should emphasize non-retaliation.
  - Employees should feel safe to file a complaint.
  - Employers who tend to employ young people should have policies that explicitly state zero tolerance for harassment.
  - Policies should provide clear and easy to follow information on what is considered harassment and how it will be addressed.



# Establish Clear Processes to File a Complaint

- Employers should have a seamless, transparent process to file complaints:<sup>9</sup>
  - Ask about and assess facts relevant to the case.
  - Prioritize privacy and maintain confidentiality of the employee.
  - Refer the employee to appropriate services and resources for support.
  - Responses should be prompt.
  - Refrain from blaming and shaming the employee.

# How *Youth Programs* Can Prevent and Address Sex-based Harassment in the Workplace

Foster a positive program culture



Train staff and employers



Use a trauma-informed approach to prevent harassment

# Foster a Positive Program Culture

- Provide a safe space, free of stigma and harassment, in which young people feel seen, heard, comfortable, and confident they will not be retaliated against.
- Set and formalize expectations for staff and program participants that center on respectful treatment.<sup>13</sup>
- Encourage youth who leave the program to return for supports if they encounter harassment or other negative experiences in the workplace.<sup>11, 12</sup>
- Establish partnerships with employers to prioritize positive youth development so youth have the chance to achieve workplace success and growth.<sup>14</sup>



# Train Program Staff About Sex-based Harassment

- Staff trainings should:<sup>16,17</sup>
  - Be comprehensive and informative
  - Help staff understand the different forms of sex-based harassment
  - Describe the unique impacts that sex-based harassment can have on opportunity youth
  - Describe employer responsibilities to prevent and address sex-based harassment in the workplace
  - Explain how youth programs and professionals who support opportunity youth can prevent and respond to sex-based harassment in the workplace



# Use a Trauma-informed Approach to Prevent Sex-based Harassment<sup>18</sup>

- Programs intended to serve and support individuals can at times be trauma-inducing in their support and interfere with desired program outcomes.
- The adverse effects of trauma may impact a young person's ability to establish trusting relationships, regulate behavior, and cope with stressors.



# Use a Trauma-informed Approach to Prevent Sex-based Harassment

- Workforce development programs can use a trauma-informed approach to enhance the ways they provide an important pathway to independence and safety.<sup>16</sup>
- Programs should use the principles of trauma-informed practices in program design and administration.
- To implement a trauma-informed approach, programs should maintain a network of referral partners, including a victim advocacy organization, to support participants.<sup>16</sup>



# Principles for a Trauma-informed Approach<sup>18</sup>

## 1. Safety



Staff and all people served feel physically and psychologically safe.

## 2. Trustworthiness and Transparency



Decisions conducted with transparency help build and maintain trust with clients, family members, staff, and others.

## 3. Peer Support



Peer support is key to establishing safety, hope, and trust and to promote healing and recovery.

# Principles for a Trauma-informed Approach<sup>18</sup>

## 4. Collaboration and Mutuality



Level the power differences between staff and clients.

## 5. Empowerment, Voice, and Choice



Individuals' strengths and experiences are recognized and services offered foster empowerment.

## 6. Cultural, Historical, and Gender Issues



Move past cultural biases, offer access to gender-responsive services, and recognize and address historical trauma.



# How *Youth-Supporting Professionals* Can Prevent and Respond to Sex-based Harassment in the Workplace

Teach and train youth



Inquire about youth's workplace experiences



Support youth



Help youth by documenting incidents and linking them to supports

# Teach and Train Youth

- Reinforce expectations among youth for respect and fair treatment regardless of age, race, ethnicity, gender identity, documentation status, or other identity.
- Emphasize youths' rights in the workplace, including accommodations and privacy.<sup>19,21</sup>
- Be cognizant of factors that increase vulnerability and prepare young people with the skills and knowledge needed to protect themselves.<sup>20</sup>
  - Young people enter employment at lower levels of organizational hierarchy.
  - Young people may enter the workplace with a history of trauma, exposure to violence, or victimization.



# Teach and Train Youth (*continued*)

- Provide ongoing education and trainings about:<sup>21</sup>
  - The forms of sex-based harassment in the workplace
  - Youths' role in protecting themselves
  - Healthy relationships
  - Boundary setting with co-workers, supervisors, or others
- Review employer policies, trainings, and handbooks with youth to help them be aware of their rights and protections while on the job.<sup>14</sup>



# Support Youth<sup>22,23</sup>

- Encourage youth to establish a positive, trusting relationship with someone in the organization/company whom they can approach if they feel their rights have been violated.
  - Example: Help young people create formal or informal buddy or mentor relationships when possible.
- Remind youth of the power of their voice.
  - Example: Remind young people they should talk to someone if they think any behavior, words, or actions against them are inappropriate.
- Have a non-judgmental, open-door policy where youth can be honest and get guidance, support, and help when needed.



# Inquire about Youth's Workplace Experiences<sup>24</sup>

- Be observant and attentive to both verbal and nonverbal signs including
  - Withdrawn behavior
  - Declining work performance
  - Requests for transfers or replacements or sudden departures from job
- Set aside time for regular, private check-ins
  - Ask young people open-ended/clarifying questions about work culture, workplace dynamics, and interactions with co-workers
  - Point out both appropriate and inappropriate behaviors
  - Provide tailored, specific advice



# Inquire about Youth's Workplace Experiences<sup>24</sup>

- Seek information about employer partnerships through exit interviews at the end of each work experience
  - Ask for reflections on the work experience including successes, challenges, missed opportunities, and recommendations about the employer
  - Can be in-person or written survey
  - Can be anonymous if youth feel more comfortable
- The information you gather can help keep youth safe and inform decisions about ongoing employer partnerships



# Help Youth by Documenting Incidents of Sex-based Harassment and Link Them to Supports<sup>25-27</sup>

- Remind the young person of the policies around sex-based harassment.
- Emphasize your role as their supporter and be transparent and honest.
- Gather details about the incident by asking and documenting:
  - Who was/were the person/people perpetrating the harassment?
  - What was said/done/shown?
  - When and how frequently did any incidents occur?
  - Where did the incident(s) occur?
  - Who else may have witnessed the incident(s)?
  - Did the target of the incident(s) tell anyone else what happened?



# Help Youth by Documenting Incidents and Linking Them to Supports<sup>25-27</sup>

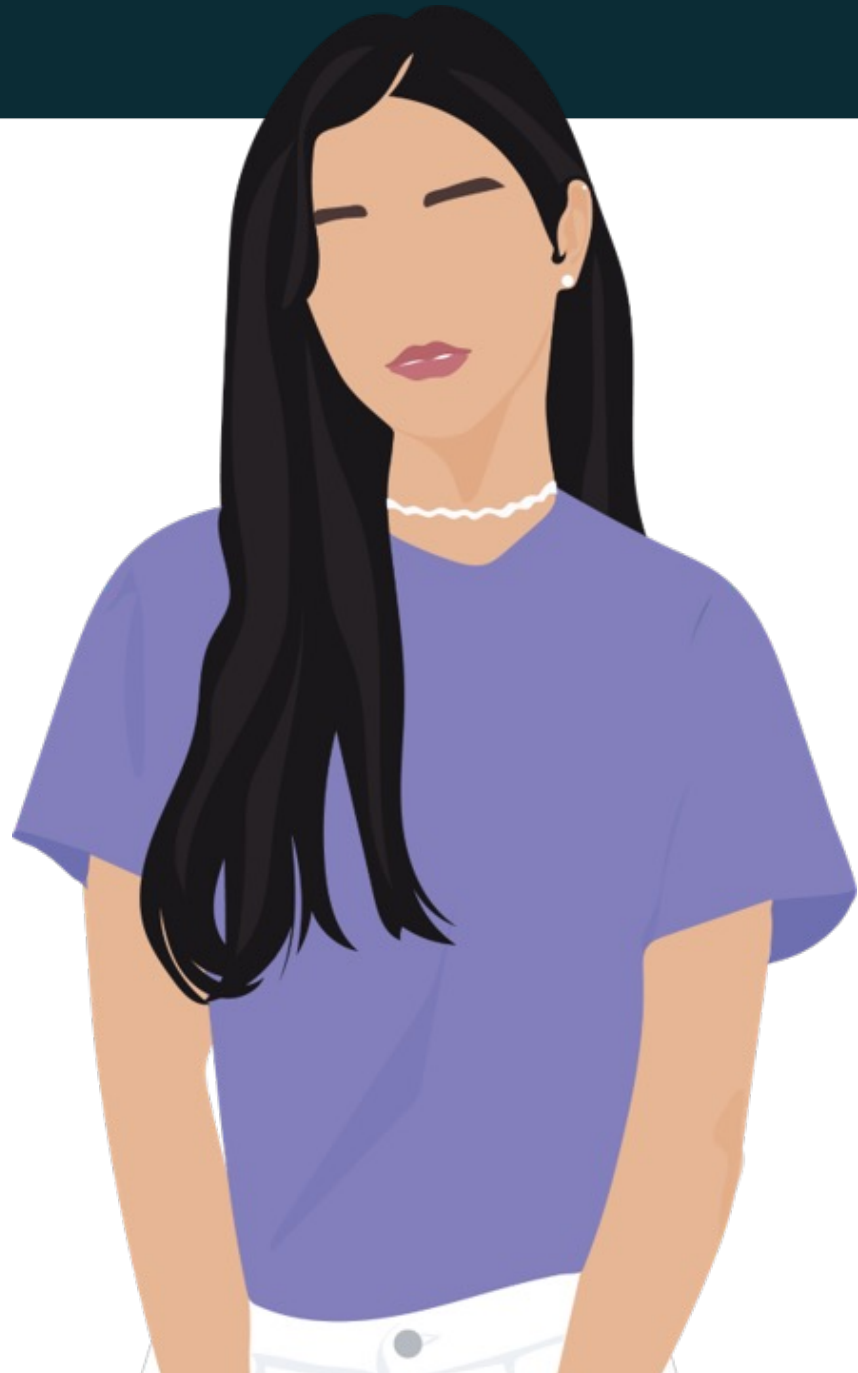
- Questions, discussions, and the documentation process can induce trauma responses.
- Use a trauma informed approach, be transparent, and link youth to support.
  - Keep young people involved at each step.
  - Help young people prepare for next steps.
  - Connect young people to medical and mental health services.
  - Provide alternative, flexible work arrangements.
  - Provide consistent support and make resources readily available.





# Additional Resources

- [Workplaces Respond](#): Resources, training, and technical assistance to prevent and respond to domestic violence, sexual harassment and violence, and stalking impacting the workplace<sup>28</sup>
  - [Six Supportive Ways to Address Trauma that Shows up at Work](#)<sup>29</sup>
  - [Workplace Safety Card](#)<sup>21</sup>
- Nontraditional Jobs Training Programs<sup>30</sup>
  - [Section 5. How to Identify, Address, and Prevent Sexual Harassment](#): A curriculum module for occupational training programs that guides participants through successful sexual harassment mediation and prevention in nontraditional industries<sup>13</sup>
- [Project WHEN](#): Combatting sexual harassment in the workplace<sup>31</sup>



## Key Takeaways

- Sex-based harassment is illegal, regardless of whether an employer does not have clear policies to address harassment.
- Everyone has a role to play in preventing, addressing, and responding to sex-based harassment in the workplace, especially professionals who support youth on a daily basis.
- Responses to sex-based harassment should be multilayered and include policies, procedures, and access to supportive resources.
- Responses should be person-centered, trauma-informed, prompt, and transparent.

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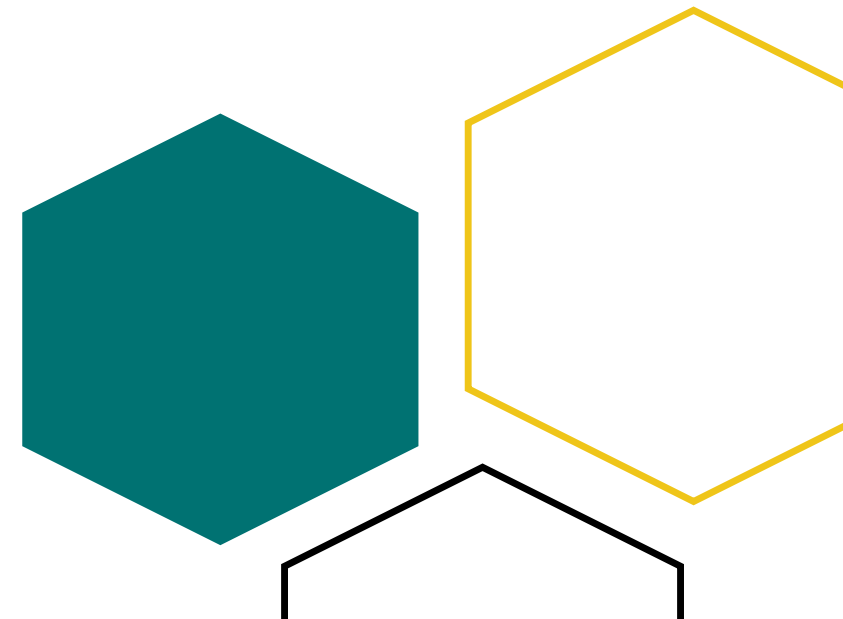
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