Prevention of Sexual Harassment in the Workplace and Educational Settings

ABSTRACT. The American Academy of Pediatrics is committed to all its constituents supporting workplaces and educational settings free of sexual harassment. The purpose of this statement is to heighten awareness and sensitivity to this important issue, recognizing that institutions may have existing policies.

RATIONALE

More than one third of female physicians perceive they have been sexually harassed. Research supports the significance of the problem in the medical education setting. According to a recent study of women physicians, sexual harassment has been found to be more common among individuals in medical school (20%) or during internship, residency, or fellowship (19%) than in practice (11%).1 In a 1991 survey of second-year residents about their working and learning environment, 63% of the women respondents reported having experienced at least 1 episode of sexual harassment or discrimination.2 The incidence of male physicians experiencing sexual harassment is unreported.

Sexual harassment in the workplace and in educational settings creates an environment that demeans people and has a negative impact on individual performance and effectiveness as well as organizational productivity and unit morale. As sensitivity to this complex issue has been recently heightened, there exists much confusion, even about exactly what constitutes sexual harassment, as well as about modalities appropriate for dealing with the problem.

It is incumbent on employers, organizations, and institutions to represent all their constituents, male and female, and provide education and guidance to facilitate eradication of this destructive behavior. In particular, medical schools and training programs must be aware of the prevalence of the problem and have action plans available.

BACKGROUND

Title VII of the Civil Rights Act of 19643 provides that it is unlawful for an employer to discriminate against an individual because of gender. Sexual harassment is one form of gender discrimination.

Sexual harassment is defined by the Equal Employment Opportunity Commission as follows:

Unwelcome advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when: 1) submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment; 2) submission to or rejection of such conduct by individual is used as a basis for employment decisions affecting such individuals; or 3) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.4

Thus, there are 2 general aspects of sexual harassment.5 The first aspect involves the “quid-pro-quo” or “this for that” situation, when submission to unwelcome sexual conduct becomes a condition of employment or personnel action (items 1 and 2 above). The second aspect involves the creation of a “hostile environment” (item 3 above).

Sexual harassment is not gender-specific, nor is it always clear-cut. Its presence, however, is noted throughout the entire workforce, which includes all health care personnel. To determine if certain conduct constitutes harassment, various factors may be taken into consideration:

-whether the conduct was unwelcome, unsolicited, or offensive;
-whether the conduct was repeated, particularly if it was repeated despite a warning that it was unwelcome or offensive;
-whether the behavior involved a supervisor–subordinate relationship in which 1 individual had “power” over another;
-the substance and severity of the conduct: verbal, physical, hostile, disruptive, continuous, pervasive, or provoking;
-whether preferential treatment of individuals in the workplace, based on their sexual behavior, had a negative impact on others in the working environment;
-whether a “reasonable person” would be substantially negatively affected by similar circumstances.

Notwithstanding all the law, literature, and discussion on this issue, even very well-meaning people remain confused and concerned about what really constitutes sexual harassment.

Certain egregious behaviors are clearly agreed to represent sexual harassment. Rape or indecent assault, as well as using one’s position of authority by offering rewards or threatening to influence another person’s career based on sexual favors, are agreed on as clearly constituting sexual harassment. At the other end of the spectrum, most people agree that it is acceptable behavior for a person to respectfully compliment someone’s appearance. However, repetitive unwelcome requests, leering, gesturing, or insulting, sexually oriented comments more likely constitute sexual harassment. Although consensual sexual relationships, with no duress, generally do not fall within the rubric of sexual harassment, they may nonetheless still be inappropriate in the workplace as, for example, when a supervisor–subordinate relationship exists. Thus, it may be important for an organization to address, as well, standards of
conduct that are more broad in scope than sexual harassment.

The notion of what constitutes a “hostile environment” is often unclear. Does it include sexually oriented posters, pictures, calendars, jokes of a sexually explicit nature, or obscene or sexually provoking comments? Touching is considered to be sexual in some cases, but not in others. Common sense should prevail. These behaviors may represent sexual harassment, particularly if unwelcome or offensive to persons in the workplace. Even if not viewed specifically as sexual harassment in a given setting, they may nonetheless still be inappropriate behavior for the workplace.

Recognizing that the types of behaviors noted above have a wide range of latitude, that there are many variables, and that there is a large ‘gray area’ wherein even reasonable people may not agree on whether these behaviors constitute sexual harassment, it is important to provide reasonable guidance as a form of ‘preventive medicine.’

The best solution to the problem of sexual harassment is prevention. It is essential that personnel know the importance of human dignity and comfort in the workplace; that persons understand the rationale for sensitivity to issues of sexual harassment, and that persons become comfortable in addressing these issues. Ideally, much of the behavior viewed as offensive could be promptly eliminated by individuals communicating their discomfort to those harassing them. It is efficacious to solve the less egregious problems at the “lowest” reasonable level in the organizational structure.

**RECOMMENDATIONS**

Sexual harassment has important implications for men and women. Reference literature provides guidance regarding the scope of protection, liabilities, and remedies for sexual harassment. Irrespective of the details of the law, all individuals desire and deserve a workplace where they are treated with appropriate respect in a comfortable environment conducive to effective teamwork and optimal productivity. As such, leaders and employers must set the pace in affirmatively combating sexual harassment in the workplace including educational settings. This can be accomplished by a) educating people to avoid sexually offensive behavior, and b) establishing procedures to address sexual harassment issues and to achieve problem and grievance resolution. The rights of both parties should be considered and due process afforded. Risk management requires communication of clear definitions of acceptable standards of behavior, treatment of all complaints as serious matters, discipline for offenders, and steps to prevent subsequent offenses.

The American Academy of Pediatrics recognizes that its constituents work in a broad spectrum of organizational types. The size and nature of each organization are important in determining the degree of formality required to accomplish the eradication of sexual harassment. It is our intent that this policy statement can be used in concert with any existing procedures.

**REFERENCES**

3. Section 703 of Title VII of the Civil Rights Act of 1964, 42 USC 2000e-2(a)
7. *Ellison vs Brady,* 924 F.2d 872 (9th Cir 1991)
8. Prater H. *Overview of Law Regarding Sexual Harassment in the Workplace.* Presented at Sexual Harassment in the Workplace Seminar; American Medical Association National Leadership Conference; February 14, 1992; Los Angeles, CA
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