

Definition of Sexual Harassment

The Department of the Navy (DON) defines sexual harassment as follows: Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay or career; or
- Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or
- Such conduct interferes with an individual's performance or creates an intimidating, hostile or offensive environment.

Any person in a supervisory or command position, who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment.

Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

The Key Word is "**UNWELCOME**". The key in determining if an act can be defined as sexual harassment is "unwelcome". Once a person indicates that the behavior or conduct is unwelcome or offensive, it becomes illegal.

There are two types of Sexual harassment. 1) Hostile Work Environment and 2) "Quid Pro Quo" or "This for That". Each is defined as follows:

1. **HOSTILE WORK ENVIRONMENT.** A type of sexual harassment that occurs when the unwelcome sexual behavior of one or more persons in a workplace produces a work atmosphere which is offensive, intimidating, or abusive to another person using the "reasonable person standard".

2. **TANGIBLE EMPLOYMENT.** A type of sexual harassment that occurs when submitting to or rejecting such behavior is used as a basis for decisions affecting any person's employment, job, pay, or career. This could be a promise of employment, a promotion, a threat of or an actual demotion, a duty assignment, or a positive or negative performance evaluation.

The "Reasonable Person Standard" is an indicator used to determine if such conduct constitutes sexual harassment and is defined as follows:

REASONABLE PERSON STANDARD. An objective test used to determine if behavior constitutes sexual harassment. This standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. The reasonable person standard considers the recipient's perspective and not stereotyped notions of acceptable behavior. For example, a work environment in which sexual slurs, the display of sexually suggestive calendars, or other offensive sexual behavior abound can constitute sexual harassment even if other people might deem it to be harmless or insignificant.

An individual's perception of what makes an action undesirable or offensive may not be the same as that of someone else. A perception is owned by the individual and has been shaped by culture and environment.

Not everyone has the same perception of "undesirable or offensive." What is acceptable for some people is not acceptable for others. So whose perception should be used? Since the person being subjected to the behavior – the recipient – is the one being affected, it is the recipient's perception that counts. As long as the recipient is a "reasonable person" and not overly sensitive, behavior that the recipient finds unwelcome should be stopped. Using the "reasonable person standard," from the perspective of the recipient, is really no more than using common sense.