

MANAGEMENT AT WORK

Abuse of Power

At first glance, it doesn't seem too hard to figure out what sort of behavior constitutes *sexual harassment* in the workplace. The U.S. Equal Employment Opportunity Commission (EEOC), the federal agency that investigates complaints of workplace discrimination, offers the following explanation:

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.

If you still have questions, the EEOC is happy to clarify a few of the legal fine points. Sexual harassment, for example, can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a coworker, or a nonemployee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

What does all of this mean in a practical sense—if, let's say, you're a woman who must go to court to assert your rights against workplace discrimination, as defined by Title VII of the Civil Rights Act of 1964 (and subsequent court decisions)? According to employee-rights attorney Ellen Simon, you'll have to establish four facts:

1. That you're a member of a protected class (female)
2. That you were subjected to harassment through either words or actions, based on gender
3. That the harassment had the effect of unreasonably interfering with your work performance and creating an objectively intimidating, hostile, or offensive work environment
4. That there exists some basis for liability on the part of your employer

Consider the case of Julie Gallagher, who held a sales position in the Cleveland office of C. H. Robinson Worldwide, Inc., which provides freight transportation and other supply chain-management services. According to Gallagher, a typical workday in the Robinson office included the widespread use of foul language and what one employee-rights lawyer familiar with the case calls "male arrested-development behavior." Women were regularly called "sluts," "bitches," and other epithets that most people would find

unacceptable in the workplace and coworkers displayed nude photos of girlfriends, traded dirty jokes, and engaged in graphic discussions of sexual fantasies and preferences. Gallagher herself was often referred to as a “bitch” and once as a “heifer with milking udders.” The work space consisted of cubicles separated by short dividers and grouped in pods on an open floor plan, making it impossible for her to avoid exposure to such behavior. When she complained to the branch manager—who not only had witnessed some of this behavior but had actually participated in it—things only got worse.

“I have been hearing these stories—and they haven’t seemed to change that much—for the past 30 years,” says Simon. “This stuff happens all the time.” Like about 12,000 other female workers that year, Gallagher sought a legal resolution to her story and filed charges of sexual harassment against C. H. Robinson. Judge Dan A. Polster of the U.S. District Court for the Northern District of Ohio threw her case out of court. Why? “For reasons that I am at a complete loss to genuinely understand,” says Simon, who nevertheless boils down the judge’s reasoning to three key points:

1. The conduct in the Robinson office was not “based on sex.” Both men and women were regularly present, and because the behavior in question was “indiscriminate,” Gallagher could not argue that it discriminated against her.
2. The behavior in the office was not severe enough to satisfy the legal requirements of sexual harassment: Most of it wasn’t directed at Gallagher, her work performance didn’t suffer, and it wasn’t “objectively” hostile. In other words, Gallagher was being “unreasonable” or “hypersensitive” in perceiving the level of hostility.
3. The actions that took place in its office did not make the employer, C. H. Robinson, liable for sexual harassment. Gallagher had not followed the

firm’s established harassment policies; the company itself received no notice of her complaints, and she was being unreasonable in expecting things to change after complaining only to the branch manager.

Gallagher appealed the district court’s ruling. The appeals court sided with her, and sent the case back to district court for further consideration. As of our publication date, the case was still pending.

Case Questions

1. What is the role of power in sexual harassment?
2. What should leaders do when sexual harassment is alleged?
3. What is your opinion of the situation cited in this case?
4. Do some online research and see if the case has been resolved.

Case References

U.S. Equal Employment Opportunity Commission, “Sexual Harassment,” “Facts about Sexual Harassment” (Washington, DC, 2012), www.eeoc.gov, accessed on January 1, 2014; EEOC, “Sexual Harassment Charges EEOC & FEPAs Combined: FY 1997–FY 2009” (Washington, DC, 2010), www1.eeoc.gov, accessed on January 1, 2014; Ellen Simon, “Harassed Female Wins ‘Locker Room’ Hostile Environment Case,” *Employee Rights Post*, www.employeeightspost.com, accessed on January 1, 2014; Paul Mollica, “Gallagher v. C. H. Robinson Worldwide, Inc., No. 08-3337 (6th Cir., May 22, 2009),” *Daily Developments in EEO Law*, May 21, 2009, www.employmentlawblog.info, accessed on January 1, 2014; and Simon, “Gender-Based Profanity Constitutes Sexual Harassment,” *Employee Rights Post*, www.employeeightspost.com, accessed on January 1, 2014.

You Make the Call

When to Stand on Your Head and Other Tips from the Top

1. Studies indicate that good leaders are typically positive and enthusiastic. In what ways do the tips cited in the vignette suggest the possession of these qualities by the various leaders who offer them? Based on their suggestions for managing stress and information flow, what other qualities might you assign, in general, to the leaders cited in the vignette?
2. Recall our discussion, in Chapter 9, of *locus of control*, which we defined as the degree to which an