

LESSON NUMBER:2

TASK: Prevention of Sexual Harassment

CONDITION: Battalion/Company Level environment

STANDARD: Correctly identify sexual harassment, how to prevent it, how to report it, the consequences of engaging in it and understanding the impact it has on unit morale, cohesion and readiness.

TIME OF INSTRUCTION: 1 Hour

LEAD-IN: During recent years, the controversial subject of sexual harassment has been brought to the public's attention by such events as the Clarence Thomas-Anita Hill hearings, the Tailhook Convention incident, Aberdeen Proving Grounds and reported incidents at various military installations around the world involving trainees and noncommissioned officers and officers. These events have resulted in some positive impacts over the long term. Because of these events, more people are openly discussing situations they faced even several years ago.

Sexual harassment is not limited to the work place. It can occur almost anywhere. This behavior always violates acceptable standards of character and fairness required of all soldiers. It stands as an obstacle to unit cohesion and mission accomplishment. For these reasons, such behavior cannot and will not be tolerated.

The sooner we realize sexual harassment affects us all and we all must play a part in solving this problem, the sooner we will be rid of it. As leaders and soldiers our job is to be alert to what is happening within your units with regard to sexual harassment. Where you may have been content to overlook certain types of behavior in the past, you should now be fully tuned into behaviors that either are sexual harassment, or can lead to an environment which fosters sexual harassment.

PART I. POLICY AND DEFINITIONS

1. Army's Policy that Defines Sexual Harassment

a. **SEXUAL HARASSMENT POLICY & DEFINITION.** "The policy of the United States Army is that sexual harassment is unacceptable conduct and will not be tolerated." This is the opening sentence of the "ARMY POLICY ON SEXUAL HARASSMENT" signed by the Secretary of the Army and Army Chief of Staff.

b. Sexual harassment is defined in AR 600-20 as a form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) 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

(2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creates an intimidating, hostile, or offensive working environment.

NOTE: To clarify, the following is offered as a distinction between numbers 1 and 2: Number 1 could be if a person was told upfront, "you cooperate with me and I'll do this for you..." Number 2 could be a situation when a person rejects an advance or proposition, and at a later time that was factored into a supervisor's decision making process for promotion or job advancement.

2. The definition emphasizes workplace conduct, to be considered as "abusive work environment" harassment, need not result in concrete psychological harm to the victim. The conduct need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, that the work environment is hostile or abusive. Workplace is an expansive term for military members and may include on or off duty, 24 hours a day.

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

NOTE: Do not confuse the definition of sexual misconduct with that of sexual harassment. Sexual Misconduct is the act of imposing consensual or non-consensual sexual desires upon another. Consensual sexual misconduct includes fraternization and adultery. Non-consensual sexual misconduct includes the crimes of rape, forcible sodomy, indecent assault, and indecent language. These acts are prejudicial to the good order and discipline of the armed forces or of a nature which brings discredit upon the armed forces. Sexual misconduct is a completely separate issue dealing with criminal behavior, while sexual harassment is not criminal in nature.

4. **CATEGORIES OF SEXUAL HARASSMENT.** There are two basic categories of sexual harassment behavior. They are:

- a. Quid Pro Quo.
- b. Hostile Environment.

5. **Quid Pro Quo.** Quid Pro Quo is a Latin term meaning “this for that”. This term refers to conditions placed on a person’s career or terms of employment in return for sexual favors. It involves threats of adverse action if the person does not submit or promises of favorable actions if the person does submit. Examples include demanding sexual favors in exchange for a promotion; award or favorable assignment; disciplining or relieving a subordinate who refuses sexual advances and threats of poor job evaluation for refusing sexual advances. Incidents of “quid pro quo” may also have a harassing effect on third persons. It may result in allegations of sexual favoritism or general discrimination when a person feels unfairly deprived of recognition, advancement or career opportunities due to favoritism shown to another soldier or civilian employee based on a sexual relationship. An example would be a soldier who is not recommended for promotion and who believes that his or her squad leader recommends another soldier in his or her squad for promotion based upon provided or promised sexual favors, not upon merit or ability.

6. **Hostile Environment.** A hostile environment occurs when soldiers or civilians are subjected to offensive, unwanted and unsolicited comments and behaviors of a sexual nature. If these behaviors have the potential of unreasonably interfering with their performance, then the environment is classified as hostile. A hostile environment brings the topic of sex or gender differences into the workplace in any one of a number of forms. It does not necessarily include the more blatant acts of “quid pro quo.” It normally includes nonviolent sexual behaviors that are gender-biased. Examples include use of derogatory gender-biased terms, comments about body parts, suggestive pictures, explicit jokes and unwanted touching.

7. **RELATED ELEMENTS OF SEXUAL HARASSMENT.** There are other related elements which must be understood in order to assess the appropriateness of any behavior. Two of these elements are referred to as:

- a. Impact vs. Intent.

(1) What you as soldiers may consider to be joking or horseplay must be evaluated on its appropriateness and offensiveness as perceived by the recipient. Assessing whether a behavior is appropriate or offensive must be done from the perspective of the victim, not the alleged harasser. An excuse such as "I was only joking" is irrelevant. In the event of a complaint, the impact of an incident or series of incidents is reviewed and evaluated from the complainant's perspective.

(2) However, whether or not the victim is emotionally affected and/or willingly submitted to the behavior of the harasser is also irrelevant in determining an incident of sexual harassment. The only relevant question to be answered is "was the behavior appropriate or inappropriate" as it relates to policy.

b. **Reasonable Person Standard.** The reasonable person standard is used to predict the expected reaction to or impact of perceived offensive behaviors on the recipient. The standard asks "How would a reasonable person under similar circumstances react or be affected by such behavior in certain incidents?" Because of our socialization, men and women can watch the same behavior, but have a very different perspective about what they saw, and what they were feeling.

PART II. BEHAVIORS THAT CONSTITUTE SEXUAL HARASSMENT

1. **SEXUAL HARASSMENT BEHAVIORS.** Sexual harassment behaviors that are related to hostile environments fall into four basic types. They are:

a. Verbal Comments.

b. Nonverbal Gestures.

c. Physical Contact.

2. **Verbal Comments.** Examples of verbal sexual harassment include telling sexual jokes and using profanity, threats, sexually oriented jody calls, sexual comments, whistling, and describing certain sexual attributes about one's physical appearance. Another example of verbal sexual harassment is using terms of endearment such as "honey", "babe", "sweetheart", "dear", "stud" or "hunk" in referring to soldiers, civilian co-workers or family members.

3. **Nonverbal Gestures.** Examples of nonverbal sexual harassment include staring at someone (i.e. "undressing someone with one's eyes"), blowing kisses, winking, or licking one's lips in a suggestive manner. Nonverbal sexual harassment also includes printed material. Examples are displaying sexually oriented pictures; cartoons and using sexually oriented screen savers on one's computer. Further examples include sending sexually oriented notes, letters, faxes, or e-mail. Nonverbal forms of sexual harassment may take on a more hostile appearance after the victim has rejected the advances of the offender.

4. **Physical Contact.** Examples of physical sexual harassment include touching, patting, pinching, bumping, grabbing, cornering or blocking a passageway, kissing, and providing unsolicited back or neck rubs. Sexual assault and rape are often mistaken as physical forms of sexual harassment. Sexual assault and rape are criminal acts. When either occurs, it should be

reported immediately to the chain of command, military police or other law enforcement agencies.

5. **SEXUAL HARASSMENT CHECKLIST.** In determining whether a specific incident or behavior constitutes sexual harassment, the following questions can help to create a frame of reference or mental picture for tying policy with related elements and behaviors.

a. Is the behavior sexual in nature?

b. Is the behavior unwelcome?

c. Does the behavior create a hostile or offensive environment?

d. Have sexual favors been demanded, requested, or suggested; especially as a condition of employment or career and job success?

6. Sexual harassment can manifest themselves in a number of ways. Some are very obvious, while others may be well hidden and not so visible.

7. The first and most obvious impact of sexual harassment on a victim is it interferes with his or her work performance. A soldier or civilian who has to fend off offensive and repeated sexual behaviors does not perform high quality work. Sexual harassment also creates a hostile environment by placing unreasonable stress on the victim. Sexual harassment promotes a negative form of stress that can affect everyone in the work place.

8. Sexual harassment also puts a high degree of fear and anxiety into the work place. When the harassment is "quid pro quo," the fear of loss of job or career opportunities can undermine a unit's teamwork and morale. Anyone who is sexually harassed is less productive, and the entire working climate suffers. Soldiers and civilians can only reach their full potential in an environment that fosters dignity and respect for all.

9. **INDIVIDUAL TECHNIQUES IN DEALING WITH SEXUAL HARASSMENT.** It is critical you understand what you as an individual can do to prevent or resolve sexual harassment in the unit or work area. The following strategies can be valuable tools in dealing with sexual harassment. However, they are not meant to replace using the chain of command.

a. **Direct approach.** Confront the harasser and tell him/her that the behavior is not appreciated, not welcomed and that it must stop. Stay focused on the behavior and its impact. Use common courtesy. Write down thoughts before approaching the individual involved.

b. **Indirect approach.** Send a letter to the harasser stating the facts, personal feelings about the inappropriate behavior and expected resolution.

c. **Third party.** Request assistance from another person. Ask someone else to talk to the harasser, to accompany the victim, or to intervene on behalf of the victim to resolve the conflict.

d. **Chain of Command.** Report the behavior to immediate supervisor or others in chain of command and ask for assistance in resolving the situation.

e. **File a formal complaint.**

PART III. LEGAL AND ADMINISTRATIVE REPERCUSSIONS

1. **REPERCUSSIONS OF SEXUAL HARASSMENT.** Sexual harassment affects everyone. It victimizes males as well as females, can occur at any time, and is not limited to the work place. The eradication and prevention of sexual harassment is not just a moral imperative; it is a readiness issue. Sexual harassment affects unit cohesion and mission effectiveness and violates acceptable standards of equality and fair play. It drains resources and destroys unit morale. Sexual harassment cannot and will not be tolerated.

2. **Administrative Actions.** Commanders have a number of options in administering punishment for inappropriate behaviors. The right combination of punishment and administrative sanctions sends a clear message sexual harassment will not be condoned or tolerated. Some of the administrative actions include, but are not limited to:

- a. Mandatory counseling.
- b. Additional training.
- c. Denial of certain privileges.
- d. Rehabilitative transfer.
- e. Letter of admonishment/reprimand.
- f. Relief for cause.
- g. Adverse performance evaluation.
- h. Bar to reenlistment.
- i. Separation.

3. In the event that administrative actions fail to correct the behavior or the behavior constitutes a violation of the UCMJ, the commander may consider further action under the appropriate article(s) of the UCMJ.

4. **Sexual Misconduct.** While sexual harassment is generally not considered criminal in nature, some actions and behaviors clearly “cross the line” and become sexual misconduct and even criminal acts, punishable under one of more Articles of the UCMJ. The obvious examples of these types of actions include sexual abuse, battery, and rape. Another example of sexual misconduct would entail violations of the Army’s policy on Homosexual Conduct. Although Equal Opportunity does not normally include issues involving criminal activity, sexual misconduct is related enough to warrant discussion.

5. **Laws and Regulations Governing Sexual Misconduct.** The UCMJ makes some conduct criminal, and some sexual conduct may violate more than one article of the UCMJ. The UCMJ applies to you 24 hours a day, 7 days a week, for as long as you are in the Army. It applies on duty and off duty, in or out of uniform, on or off a military installation, in the United States and overseas, and while you are on pass or leave. The UCMJ applies to you regardless of whether you consider yourself a heterosexual, a homosexual, or a bisexual. The penalties for violating the UCMJ articles are severe. Sex crimes are no joke and the Army takes these matters very seriously, and so should you.

6. **Strategies to combat sexual harassment.** The following are strategies for combating sexual harassment:

- a. Be proactive!
- b. Keep soldiers/civilians informed and educated.
- c. Conduct training.
- d. Outline procedures and policies.
- e. Be familiar with regulations and policies.

CLOSING. Sexual harassment is not limited to the work place. It can occur almost anywhere. This behavior always violates acceptable standards of character and fairness required of all soldiers. It stands as an obstacle to unit cohesion and mission accomplishment. For these reasons, such behavior cannot and will not be tolerated. The sooner we realize sexual harassment affects us all and we all must play a part in solving this problem, the sooner we will be rid of it.