

LESSON NUMBER 12

TASK: PREVENTION OF SEXUAL HARASSMENT

CONDITION: In a small group discussion environment.

STANDARD: Correctly identify situations of sexual harassment and recommend appropriate corrective action.

TIME OF INSTRUCTION: 2 Hours

LEAD IN: The elimination of sexual harassment has been a long-standing goal of the Army. During recent years the issue of sexual harassment has received significant media and political attention in both government and in private sectors. This heightened awareness on the causes of sexual harassment has intensified national debate on prevention strategies. Sexual harassment affects everyone. It detracts from a positive unit climate that promotes individual growth and teamwork, vital to combat readiness. Sexual Harassment victimizes males as well as females and can occur at any time, and is not limited to the workplace. For these reasons sexual harassment cannot and will not be tolerated.

INSTRUCTOR NOTES: The term “civilian employees” used in this lesson plan, refers to Department of Army civilian employees (DACs) working either appropriated fund or nonappropriated fund position, and Army family members who are contract employees. Prior to class review Army policy regarding senior subordinate relationships and fraternization in AR 600-20, Chapter 7.

1. Policy: Sexual harassment is a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. 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
- b. submission to, or rejection of, such conduct by a person is made as a basis for career or employment decisions affecting that person, or
- c. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile, or offensive work 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 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 is also engaging in sexual harassment.

2. *Types of sexual harassment.* Soldiers and civilians need to have a clear understanding of some of the basic principles which are critical to identifying types of behavior which constitute sexual harassment. Two of these include “quid pro quo” and “hostile environment.” Also, soldiers and civilians should understand “unwelcome” as viewed by a “reasonable woman” standard, and the relevancy of impact versus intent.

a. *Quid Pro Quo.* “Quid pro quo” which is a Latin term essentially means “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 actions if the victim does not submit or promises of favorable actions if the person does submit. Incidents of quid pro quo can also have an adverse effect on third persons. It can result in allegations of sexual favoritism, or gender discrimination when a person feels unfairly deprived of recognition, advancement, or other career opportunities due to favoritism shown to another soldier or civilian employee based on a sexual relationship.

Discussion Question: What are some examples of Quid Pro Quo? (i.e. promotion, award or favorable assignment, disciplining or relieving individual for refusing, and poor evaluation reports)

Discussion Question: What would be an example of a third person Quid pro Quo? (i.e. A squad member who finds out that his or her squad leader recommends another soldier for promotion based upon promised or actual sexual favors, not upon merit or ability)

b. *Hostile environment.* A “hostile environment” occurs when soldiers or civilians are subjected to offensive, unwanted, and unsolicited comments and behavior of a sexual nature. If these behaviors have the potential of unreasonably interfering with their performance, then the environment is classified as hostile

Discussion Question: Give examples of a hostile environment. (i.e. Feminine terms in describing unsatisfactory male performance such as wimp, sissy, or mama’s boy; jody calls during physical training; posting of sexually oriented cartoons and pictures in the work area; telling of sexually explicit jokes and sharing sexist attitudes and opinions.)

3. *Related elements of sexual harassment.* In addition to the two basic categories of “Quid Pro Quo” and Hostile Environment, soldiers and civilian employees need to be aware of other related elements to identify behavior that constitutes sexual harassment.

a. *Impact vs Intent.* Soldiers and civilians must understand that what they may consider to be joking or horseplay must be evaluated on its appropriateness and offensiveness as perceived by the recipient. When attention of a sexual nature is neither wanted, initiated, nor solicited, it is considered “unwelcome.” In determining whether such behavior constitutes sexual harassment, a primary concern is the impact of the act upon the victim, not the intent of the alleged harasser. An excuse such as, “I was only joking” is irrelevant.”

b. Reasonable person and reasonable woman standards. Another variable in assessing the impact or expected reaction to sexual harassment is measured by the “reasonable person standard” or the “reasonable woman standard.” These standards are used to predict the expected reaction to or impact of perceived offensive behaviors on the recipient. They ensure adequate sensitivity to a person’s feelings and perspective while avoiding extremes. The purpose of adopting a “reasonable woman’s standard” is to avoid the issue of male bias which could exist in a “reasonable person’s standard.”

4. *Categories of Sexual Harassment.* Sexual harassment behavior is a major factor for determining hostile environment and can be categorized into four basic forms: verbal comments, nonverbal gestures, printed material and physical contact. The following are common examples:

a. Verbal comments. Examples of verbal comments include telling sexual jokes and using profanity, threats; sexually oriented jody calls, sexual comments, whistling, describing certain sexual attributes about one’s physical appearance, and referring to soldiers or coworkers by honey, baby, sweetheart or dear. Initially this form of harassment appears innocent until someone demands that his or her appropriate title be used. When the victim’s request is not honored and the behavior is repeated or escalated to another form, it can be classified as creating a hostile environment.

b. Nonverbal gestures. Examples of nonverbal sexual harassment include staring at someone (giving the person “the eye” or “once over”), blowing kisses, licking lips, or winking in a suggestive manner. Nonverbal sexual harassment also includes sexually oriented pictures, faxes, screen savers, and e-mail. Nonverbal forms of sexual harassment may take on a more hostile appearance after the victim has rejected the advances of the harasser.

c. Physical contact. Examples of physical contact are touching, patting, hugging, pinching, grabbing, cornering or blocking a doorway, unsolicited back and neck rubs, or unsolicited clothing adjustments.

5. *Victim Impact.* Soldiers and civilians must understand the devastating affect sexual harassment can have on a victim and on unit readiness. Problems due to sexual harassment can manifest themselves in a number of ways. Some are very obvious, while others may be well hidden and not so visible. The first and most obvious impact sexual harassment has on victims is that it interferes with their work performance. A soldier or civilian employee who has to fend off offensive and repeated sexual attacks cannot perform 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 workplace. The impact of this form of stress on the victim can be devastating. It can affect not only the victim’s ability to perform effectively on the job but can also have an adverse impact on off duty time. Sexual harassment also puts a high degree of fear and anxiety into the workplace. When the harassment is quid pro quo, the fear of loss of job or career opportunities can undermine a unit’s teamwork

and morale. The bottom line is this: anyone who is sexually harassed will be less productive, and the command climate will likely suffer. Soldiers and civilian employees can only reach their full potential in an environment that fosters dignity and respect.

6. *Sexual Harassment Checklist.*

INSTRUCTOR NOTE: In order to adequately assess whether an incident or behavior is or is not sexual harassment, students must apply the questions in the checklist. Take this time to summarize and check learning. Ask the class for an example of behavior for each question.

- Is the behavior inappropriate for the workplace?
- Is the behavior sexual in nature or connotation?
- Is the conduct unwanted, unwelcome, or unsolicited?
- Do the elements of power, control, or influence exist?
- Does the situation indicate a quid pro quo relationship?
- Does the behavior create a hostile or offensive environment?
- Is the behavior repeated as it relates to gender treatment?
- How would a “reasonable person” or “reasonable woman” be affected?

7. *Reporting Sexual Harassment.* All soldiers and their family members have the right to prompt and thorough redress of sexual harassment complaints without fear of intimidation or reprisal. Refer to AR 600-20, which contains detailed information on the Army’s EO complaint process. The chain of command is the primary channel for handling and correcting allegations of sexual harassment. Although a number of alternate channels are available, soldiers and DA civilians are encouraged to bring their complaints to the first line supervisor for resolution at the lowest possible level. Should complainants feel uncomfortable in bringing their concerns to the chain of command or the allegation of sexual harassment is against a member of the chain, a number of alternate agencies are available to assist in the complaint process. Complaints of sexual harassment may be filed formally or informally.

a. An informal complaint is one in which the complainant does not wish to file his or her grievance in writing. In attempting to resolve the problem at the lowest possible level, it may not be necessary to involve the commander or other members of the chain of command.

b. Soldiers, family members, or civilians who wish to file a formal complaint must submit a sworn statement using DA Form 7279-R. The complainant is responsible for providing all pertinent information to include a detailed description of the incident and the names of witnesses and other involved parties. Complainants have 60 calendar days from the date of the alleged incident in which to file a formal complaint of sexual harassment. The commander who acknowledges the complaint has 14 calendar days to resolve the complaint or provide written feedback to the complainant. An extension of additional 30 calendar days may be required in special circumstances. At the conclusion of the commander’s inquiry or investigation, the complainant will be informed in writing

as to whether his or her complaint was substantiated and the appropriate action taken. Should the complainant disagree with the findings or actions taken to resolve the complaint, the complainant may file an appeal. Appeals must be submitted within 7 calendar days of being notified as to the final disposition of the complaint. The appeal should be filed with the commander who processed the complaint, next higher commander within the chain, or with the commander who has General Court-Martial convening authority. Should complainants feel that they are victims of intimidation or reprisal actions, they must report such incidents to the chain of command or other alternate agencies.

8. Recommended Techniques for Dealing with Sexual Harassment. All soldiers and civilian employees have a responsibility to help resolve acts of sexual harassment and are encouraged to report them to the chain of command or appropriate agencies. There are certain actions victims can take to help them deal with sexual harassment situations. This following list is prioritized to denote a victim's increased involvement.

a. *Diary.* Keeping a record of daily events is a way to help victims clarify situations and events that affect them emotionally. Like a diary, the information that is recorded should resemble a journal of personal notes. These notes should be factual and include details to include time, location, and names of those present during each incident. Those who elect to use this strategy, however, should be cautioned not to keep their diary in the work area nor should they let others see or read their notes. In the event the victim decides to file a complaint, the diary can be useful in recalling specifics on who, what, when, and where.

b. *Intermediary.* A victim may want to take a more direct approach in attempting to stop a sexual harassment situation. However, he or she may feel intimidated, apprehensive or reluctant to speak to the harasser directly. In such cases, a coworker, supervisor, or another leader can serve as an intermediary and speak to the offender on behalf of the victim. Hopefully, the person who is asked to be an intermediary is not also intimidated. If so, chances for success by this means are minimal at best. An intermediary does not speak for the victim, but relates what behavior the victim wants stopped.

c. *Letter.* Another strategy for confronting sexual harassment is to write the harasser a letter. The letter should be professional, polite, and specific about what behaviors are offensive and unwelcome. The letter should contain at least three parts: first, an objective description of the behavior or incident(s) without evaluating the harasser or providing editorial comments; second, a description of how the victim is affected by the behavior; and finally, what the victim wants the harasser to do to correct the problem. The advantages of this technique is that it gives the victim a chance to handle the situation, it avoids formal charges and public confrontations, and it gives the harasser an opportunity to look at the impact of his or her behavior. Victims should be warned that a letter also could be interpreted by the harasser as a sign of weakness or intimidation. Therefore, the victim should be prepared to report the incident should the harassment continue.

d. **Confronting.** Confronting the harasser directly can be an effective method for dealing with unwanted, offensive behavior. Soldiers and civilian employees are encouraged to take this course of action whenever it is appropriate to do so. However, depending on the severity of the act and victim's own confidence for success, direct confrontation may not be appropriate in all circumstances. Victims should be aware that successful confrontation involving severe forms of harassment does not preclude reporting the harassment to the chain of command. Victims of sexual harassment should be encouraged to confront their harasser at the time of the act or very soon thereafter and do so in a professional manner. The victim should tell the harasser exactly what behavior is offensive and unwanted. However, the victim should be cautioned when using this approach not to verbally attack the harasser, but calmly describe the behavior. Finally, victims should let the harasser know how they feel and that his or her behavior will be reported to the chain of command if the behavior is continued or repeated.

e. **Reporting.** The decision to report an incident of sexual harassment is often viewed as a last resort by most victims. This is due to their fear of involvement, fear of reprisal, or fear of being identified as one who complains. Reporting does have its place even when the victim has been successful in stopping the harassment. Depending on the severity of the incident, "reporting" may be the appropriate first course of action. Reporting may also be the final choice when prior coping efforts have failed and no alternative remains. Reporting must deal with facts so that the commander or other leaders can address specific issues and talk to valid witnesses.



INSTRUCTOR NOTE: At this time have everyone read the scenarios to themselves and then allow the remainder of time to discuss each scenario.

PRACTICAL EXERCISE

SITUATION A: CPT Bob Jack overheard two of his coworkers, CPT Lisa Gray and ILT Adam West, laughing quietly, whispering, and flirting with each other. The next time CPT Jack passed CPT Gray, he winked and said, “Hi, sweet thing,” and looked her over, all in a joking manner. CPT Gray was angry and offended and told him so.

Discussion Question: Did CPT Jack sexually harass CPT Gray?

SITUATION B: When Tom Bennet, a civilian supervisor of military personnel, gets his work group together for their monthly planning session, he always asks SSG Carol Jackson to take notes and make coffee. His work group consists of three administrative assistants—SSG Jackson, SSG Kelvin Bridges, and SSG Reginald Gibson.

Discussion Question: Is Tom sexually harassing SSG Jackson?

SITUATION C: Throughout the day, MSG York has to drop by the job site to oversee the work of his crew, which is made up of three women and eight men. When he passes SFC Monica Thomas or SSG Pamela Hey he occasionally pats one of them or gives them a “little pinch” or a hug. He has never said anything really sexual to either of them, and they’ve never objected to his occasional touches.

Discussion Question: Is MSG York sexually harassing the women?

SITUATION D: MAJ Chong really likes his subordinates, and he makes it a point to treat everyone the same. He especially likes to joke and tease in what he feels is a good-natured way. He makes comments like “How’s your love life?” and “Don’t do anything I wouldn’t do”, but MAJ Chong would never be lewd or offensive. None of his subordinates has ever objected, and sometimes they laugh.

Discussion Question: Is this sexual harassment?

SITUATION E: Last night MSG Donald Reese went to a business dinner meeting arranged by his boss, CPT Ora Issacs. He expected the whole office staff to be there, but it was just the two of them. The restaurant was dimly lit, with a very romantic atmosphere. After a few drinks MSG Reese realized that the only business to be discussed was CPT Issacs’ attraction to him. Just before suggesting that they go to her house for a nightcap, she mentioned MSG Reese’s upcoming Noncommissioned Officers Evaluation Report (NCOER).

Discussion Question: Is CPT Issacs sexually harassing MSG Reese?

SITUATION F: SGT Martha White is very attracted to her supervisor, SFC Dan Black. Since they’re both single, she asked him over for dinner one Friday evening. After a very pleasant evening and a few too many drinks, they ended up spending the night together.

Discussion Question: Is this sexual harassment?

ANSWERS:

SITUATION A: Yes. CPT Jack's behavior was inappropriate and constitutes sexual harassment. His action has the potential for creating a hostile environment. Although the behavior displayed by CPT Gray and ILT West is not identified as sexual harassment it appears inappropriate for the work place.

SITUATION B: No. There is no rationale given in the scenario as to why Mr Bennet has SGT Jackson take notes and make coffee, it appears to be discrimination based upon gender role stereotyping, and not sexual harassment. There is not enough information to determine why Mr. Bennet assigned SGT Jackson these specific duties during the monthly planning sessions.

SITUATION C. Yes. Based upon the scenario MSG York's behavior appears to be a physical form of sexual harassment. The question is "pats where and pinches where?" There is nothing in this scenario which would indicate that MSG York's behavior is either sexual or offensive but, his physical touching of his subordinates was neither requested nor asked for, and thus has the potential for creating a hostile environment. The behavior is also only directed at two of the three women on the job site. Therefore it appears gender based and inappropriate. His behavior could also be perceived as a form of preferential treatment by the men on the job site and cause for a complaint of treatment that is based on gender difference.

SITUATION D. No. This is not sexual harassment. Though some may view MAJ Chong's comments as a subtle form of harassment, his actions should not be viewed as sexual or offensive. He treats both men and women the same. However, as the supervisor his comments may be inappropriate.

SITUATION E. Yes. CPT Issacs' behavior is a "quid pro quo" form of sexual harassment. Although she has not mentioned sex in her conversation with MSG Reese, she has made it clear that there is a direct connection between his response to her suggestion for a nightcap at her place and his next NCOER.

SITUATION F. No. However it is clearly inappropriate for supervisors and their subordinates to get involved romantically. This behavior can damage unit morale and discipline. This is also a possible UCMJ violation, unprofessional relationship.