

1 Preventing and Addressing Workplace Harassment

Course Overview

Read the [Course Overview](#) .

Anti-Harassment

[1. What is Harassment?](#)

[2. Tangible Employment Action](#)

[3. Reporting Allegations of Harassment](#)

[4. Case Study](#)

[5. Summary](#)

Facilitator Notes

2 *[Topic Title: The Anti-Harassment Landscape]* Workplace harassment: it's a problem that's gotten a lot of attention lately. Turn on the news, and there is a good chance you'll see a story on an individual, or a group, or many, protesting mistreatment or harassment. Today, issues of harassment arise in our public spaces, in our workplaces, and through social media. Against these, people are voicing dissatisfaction with the systems and institutions that enable harassment in our society.

3 These concerns are not new. Protests in the 1960s led the United States to begin to enact the equality of all people into law.

[A timeline of U.S. Laws Prohibiting Harassment displays.]

For example, the Equal Pay Act of 1963 ended wage disparity on the basis of sex. A year later, Title VII of the Civil Rights Act of 1964 was signed, prohibiting employers from discriminating against employees on the basis of sex, race, color, national origin, and religion. This was followed by the Age Discrimination in Employment Act of 1967, which added similar protection from age discrimination for employees over 40 years of age. The Rehabilitation Act of 1973 protects individuals with disabilities from discrimination on the basis of disability in Federal programs, Federal financial assistance, and Federal employment. More recently, in 2008 the Genetic Information Nondiscrimination Act was signed to protect individuals from discrimination in employment opportunities and insurance purchases on the basis of genetic information.

4 *[Anti-Harassment at DHS (Department of Homeland Security).]*

DHS takes its responsibility to ensure a workplace free from harassment seriously. DHS has an important mission -- With honor and integrity, we will safeguard the American people, our homeland, and our values -- and in serving its mission, it is not acceptable for employees to be or to feel harassed.

This is so critical that, beyond the legal application of the Acts you've just reviewed, DHS extends protection against even single instances of harassment. Pursuant to DHS's Anti-Harassment Policy, "Although a single instance or act may not rise to the level of harassment that may be actionable under the law, it still has no place at DHS."

[This Course]

5 This course will define harassment, as prohibited by DHS policy, and explain how DHS's definition of harassment is broader than the legal definition of harassment. You will also discover how and where to report harassment. Throughout the training, you will listen to, and participate in, scenarios where people experience and deal with harassment in the workplace, and sometimes you'll evaluate their actions. You will also complete a short assessment at the end of this training. You will need to achieve 80% on the assessment to pass the course.

What is Harassment?

Learning Objectives

After completing this topic, you should be able to

- Distinguish welcome and unwelcome verbal or physical conduct.
- Identify the federally protected categories and conduct prohibited by DHS.
- Recognize examples of hostile working conditions.
- Determine if a situation violates DHS's Anti-Harassment Policy.
- Identify the potential consequences for an employee guilty of harassment.
- Given a scenario, assess if a team's behavior violates DHS's Anti-Harassment Policy.
- Determine the best approach to respond to a hostile working condition.

1. Harassing Behavior

6 *[Topic Title: What is Harassment?]* It's the middle of baseball season, and Alicia's hometown team is underperforming. Whenever she is in the breakroom with Teddy, he's got to bring it up. Teddy supports a division rival. Alicia and Teddy have carried forward a friendly banter that started in the pre-season when both teams still had a chance. They would make comments about each team's players, and joke about close calls that didn't go their way. But now, it's clear that her team's season is all but over.

7 With Teddy's team playoff bound and Alicia not pinning her hopes on the next season, Teddy won't stop gloating. And Alicia feels more like Teddy's criticisms are targeting her, not her team. He says things like, "You gotta be kidding with these guys; even a moron would have moved on by now," or "Choose a real team, loser." Every break, in fact, every time they're around each other, he has something critical to say. Is Alicia being harassed?

What do you think? In Alicia's mind, at least, Teddy is picking on her. He's definitely being mean-spirited. But they're just comments, and it's about baseball, right?

8 *[Harassment Defined]*

The answer lies, in part, on the definition of harassment.

You may have heard the terms "hostile work environment" or "tangible employment action" harassment. These are two different types of harassment, which we will cover in this training.

We'll first turn to hostile work environment harassment. From a legal perspective, this type of harassment is defined as any unwelcome verbal, nonverbal, or physical conduct that is based on an individual's membership in a protected class, which is so severe or frequent as to alter the conditions of an individual's employment.

The terms “severe” and “frequent” mean that not all unwelcome conduct based on a protected characteristic will be considered harassment from a legal perspective. In general, unless the conduct is very severe, a single instance will not be considered harassment from a legal perspective.

9 However, according to DHS Directive 256-01, even a single instance of unwelcome conduct based on a protected characteristic, whether it is severe or not, may be considered harassment. As DHS employees, we are held to the stricter standard set forth in our policy.

[Protected Bases]

10 A protected class is a characteristic or trait shared by a group of people that is protected by law, executive order, or policy. Legally, an employee cannot be discriminated against based on race, color, religion, sex, pregnancy, national origin, age, disability, protected genetic information, sexual orientation or gender identity.

DHS policy also prohibits harassment based on marital status, parental status, and political affiliation.

[Harassing Behavior]

11 Types of harassing behavior related to any of the protected bases include, but are not limited to:

- Sexual, racial, or ethnic jokes, epithets, stereotyping, or slurs
- Subtle or blatant pressure for dates
- Unwelcomed physical contact
- Suggestive or lewd remarks

Remember, per the definition, harassment can be verbal, non-verbal, or physical. It can occur in person, over the phone, through email, online, or through social media.

[Harassment Examples]

12 To return briefly to Alicia and Teddy: One day, while they were standing at their post, a customer approached wearing a hat with Teddy's team logo. The team had just taken a loss, so Alicia made a wry comment to the customer about it. The customer laughed with Alicia, but Teddy took offense. In response, he looked Alicia up and down and said, “Woman, you couldn't pick a team, even if you wanted to.”

Teddy's comment appeared to be referencing Alicia's gender and the stereotype that women don't understand baseball. Where gender is a protected characteristic, Teddy's comment could be considered harassing behavior.

13 What else can harassing behaviors look like? Here are some examples.

Mark silently pretends to be blind when he and Vanessa are in the same room, imitating Vanessa's actions.

14 When Maria responded negatively to Leonne's fourth email request for a date, Leonne replied, “You mean ‘not yet.’”

15 Even though Nathan is in his office with a friend who finds his sexually themed jokes acceptable, several of his employees, who find the jokes offensive, can hear them through the thin office walls.

16 Elio used email to share a comic with his co-workers about an old woman trying to use a television remote as a phone.

17 Any time Miguel asks Darren a question, Darren always replies with an imitation of Miguel's accent.

Each of these examples represents a violation of DHS's Anti-Harassment Policy – even if the conduct occurred just one time -- because the conduct at issue was unwelcome, and it was based on one of the protected characteristics.

[Harassment?]

18 Seeing that he was getting under Alicia's skin, Teddy started sending her emails containing pictures showing barely clothed women with baseball paraphernalia, and short videos showing women striking out or making errors during baseball games. He kept his behavior up for a couple weeks, sending one or two emails a day.

19 At first, she replied to the emails with snide comments deriding the women depicted; then she tried to ignore the emails. Later, she started telling him to stop being a jerk. Then she started telling him to stop outright. After about 30 messages, she decided to report Teddy to her Supervisor.

[Unwelcome]

20 To return to the definition, harassing conduct has to be unwelcome. Unwelcome conduct is where the individual did not solicit or invite the conduct and regarded the conduct as undesirable. Note that submitting to such conduct does not necessarily signal that it is welcomed. However, active participation in harassing behavior can indicate that the conduct at issue was not unwelcome.

21 In the example of Teddy and Alicia, Teddy's behavior constitutes harassment in violation of DHS policy. Yes, Alicia participated in their friendly banter initially, but when Teddy's comments became more mean-spirited, she told Teddy to stop. Teddy's comments might not have been harassing at first, but when Teddy referenced her gender—in a negative way—and began sending the offensive emails, the conduct became harassment.

Having violated DHS's Anti-Harassment Policy, Teddy would be subject to disciplinary action up to and including removal. Because Teddy's unwelcome behavior was also frequent, it amounted to a hostile work environment under the legal definition.

2. Knowledge Check

Case Study: Question 1 of 5

22 Scenario

For your convenience, the case study is repeated with each question.

Now that you have a basis of all the criteria that go into determining harassment, consider this scenario.

Almost every day for the past three months, when Freda, an Administrative Assistant,

walks by her colleague Maria's cubicle, Maria makes a comment about her appearance. Maria says things like "Looking good," "Those jeans fit you just right in all the right places," or "Wow, I wish I had the curves you have."

Freda has told Maria several times that she is not comfortable receiving comments on her appearance, but Maria doesn't understand why Freda can't just take a compliment.

Maria has continued with the comments, and, to try to get a rise out of Freda, she has even begun referring to Freda as "supermodel."

Freda's Supervisor, Leonie, is within earshot, and giggles every time she hears Maria's comments to Freda. After the last comment, Freda asks Leonie to ask Maria to stop. Leonie tells Freda the comments are harmless, but that she will talk to Maria.

Image of a woman in an office setting looking uncomfortable

Select each button to answer all five questions.

23

Question

Are Maria's comments welcome?

Select the correct answer.

Options:

1. Yes
2. No

Answer

Freda clearly doesn't welcome these comments.

Correct answer(s):

2. No

Case Study: Question 2 of 5

Scenario

For your convenience, the case study is repeated with each question.

Now that you have a basis of all the criteria that go into determining harassment, consider this scenario.

Almost every day for the past three months, when Freda, an Administrative Assistant, walks by her colleague Maria's cubicle, Maria makes a comment about her appearance. Maria says things like "Looking good," "Those jeans fit you just right in all the right places," or "Wow, I wish I had the curves you have."

Freda has told Maria several times that she is not comfortable receiving comments on her appearance, but Maria doesn't understand why Freda can't just take a compliment.

Maria has continued with the comments, and, to try to get a rise out of Freda, she has even begun referring to Freda as "supermodel."

Freda's Supervisor, Leonie, is within earshot, and giggles every time she hears Maria's comments to Freda. After the last comment, Freda asks Leonie to ask Maria to stop. Leonie tells Freda the comments are harmless, but that she will talk to Maria.

Image of a woman in an office setting looking uncomfortable

Select each button to answer all five questions.

24

Question

Has Freda made her feelings about Maria's comments known?

Select all that apply.

Options:

1. Yes, she has made it clear to her Supervisor that Maria's comments are unwelcome.
2. Yes, she has made it clear to Maria that her comments are unwelcome.
3. No, she has not made it clear that Maria's comments are unwelcome.
4. No, she needs to tell Maria directly that her comments are unwelcome.

Answer

Correct answer(s):

1. Yes, she has made it clear to her Supervisor that Maria's comments are unwelcome.
2. Yes, she has made it clear to Maria that her comments are unwelcome.

Case Study: Question 3 of 5

Scenario

For your convenience, the case study is repeated with each question.

Now that you have a basis of all the criteria that go into determining harassment, consider this scenario.

Almost every day for the past three months, when Freda, an Administrative Assistant, walks by her colleague Maria's cubicle, Maria makes a comment about her appearance. Maria says things like "Looking good," "Those jeans fit you just right in all the right places," or "Wow, I wish I had the curves you have."

Freda has told Maria several times that she is not comfortable receiving comments on her appearance, but Maria doesn't understand why Freda can't just take a compliment.

Maria has continued with the comments, and, to try to get a rise out of Freda, she has even begun referring to Freda as "supermodel."

Freda's Supervisor, Leonie, is within earshot, and giggles every time she hears Maria's comments to Freda. After the last comment, Freda asks Leonie to ask Maria to stop. Leonie tells Freda the comments are harmless, but that she will talk to Maria.

Image of a woman in an office setting looking uncomfortable

Select each button to answer all five questions.

25

Question

Do you believe that Maria's comments toward Freda are based on a protected characteristic?

Select the correct answer.

Options:

1. Yes, based on race.
2. Yes, based on sex.
3. No, there is no connection to a protected basis.

Answer

Unwelcome comments about a person's body or appearance, which tend to objectify them, may be considered harassment based on sex.

Correct answer(s):

2. Yes, based on sex.

Case Study: Question 4 of 5

Scenario

For your convenience, the case study is repeated with each question.

Now that you have a basis of all the criteria that go into determining harassment, consider this scenario.

Almost every day for the past three months, when Freda, an Administrative Assistant, walks by her colleague Maria's cubicle, Maria makes a comment about her appearance. Maria says things like "Looking good," "Those jeans fit you just right in all the right places," or "Wow, I wish I had the curves you have."

Freda has told Maria several times that she is not comfortable receiving comments on her appearance, but Maria doesn't understand why Freda can't just take a compliment.

Maria has continued with the comments, and, to try to get a rise out of Freda, she has even begun referring to Freda as "supermodel."

Freda's Supervisor, Leonie, is within earshot, and giggles every time she hears Maria's comments to Freda. After the last comment, Freda asks Leonie to ask Maria to stop. Leonie tells Freda the comments are harmless, but that she will talk to Maria.

Image of a woman in an office setting looking uncomfortable

Select each button to answer all five questions.

26

Question

Do Maria's comments constitute harassment according to the legal definition of hostile work environment harassment?

Select the correct answer.

Options:

1. Yes, all comments about a person's appearance are harassment.
2. Yes. Maria's continued unwelcome comments are frequent.
3. No, Freda's comments are not severe enough.
4. No, Freda's comments are not frequent enough.

Answer

Maria's comments amount to hostile work environment harassment. Although her comments may have been considered mere compliments initially, her continued, frequent comments about Freda's body and appearance after Freda asked her to stop are clearly unwelcome.

Correct answer(s):

2. Yes. Maria's continued unwelcome comments are frequent.

Case Study: Question 5 of 5

Scenario

For your convenience, the case study is repeated with each question.

Now that you have a basis of all the criteria that go into determining harassment, consider this scenario.

Almost every day for the past three months, when Freda, an Administrative Assistant, walks by her colleague Maria's cubicle, Maria makes a comment about her appearance. Maria says things like "Looking good," "Those jeans fit you just right in all the right places," or "Wow, I wish I had the curves you have."

Freda has told Maria several times that she is not comfortable receiving comments on her appearance, but Maria doesn't understand why Freda can't just take a compliment.

Maria has continued with the comments, and, to try to get a rise out of Freda, she has even begun referring to Freda as "supermodel."

Freda's Supervisor, Leonie, is within earshot, and giggles every time she hears Maria's comments to Freda. After the last comment, Freda asks Leonie to ask Maria to stop. Leonie tells Freda the comments are harmless, but that she will talk to Maria.

Image of a woman in an office setting looking uncomfortable

27

Select each button to answer all five questions.

Question

Per DHS's Anti-Harassment Policy, do you think Maria is being harassed?

Select the correct answer.

Options:

1. Yes
2. No

Answer

Keep in mind that DHS prohibits even single instances of unwelcome conduct based on a protected characteristic.

Correct answer(s):

1. Yes

3. Summary

[Summary] As you've seen, DHS defines harassment as unwelcome verbal, non-verbal, or physical conduct, because of a protected basis. This is broader than the legal definition of hostile work environment harassment, which also requires that the conduct be so severe or frequent as to alter the conditions of an individual's employment. You've looked at the conditions that constitute harassment under DHS's policy and those that constitute a hostile work environment under the law. Be advised, employees who commit harassment in violation of DHS's Anti-Harassment Policy could be subject to disciplinary action up to and including removal.

Tangible Employment Action

Learning Objective

After completing this topic, you should be able to

- Recognize examples of tangible employment actions.

1. Introduction

28 *[Topic Title: Tangible Employment Action]* Teia has worked as a Program Manager for several years. She is an experienced, talented professional who is looking to expand her area of expertise. Lee recently became Teia's Supervisor. When they met, he expressed how impressed he was with her performance record, and suggested that, in the near future, he would try to arrange a developmental detail for her, exactly in keeping with her goals.

Not long after, Lee asked Teia into his office. He explained that a developmental detail came up in Human Resources that would be a good bridge for Teia into a Supervisory role. He let Teia know that she could have it, if she was willing to go on a date with him.

Teia was shocked that her boss was trading a date for a detail opportunity. Teia politely turned down Lee's offer for a date and asked when the detail started. Lee responded I'll let you know.

[Harassment?]

After Teia did not hear back from Lee after a couple of days, she decided to ask Lee when her detail would start. Lee informed her that he could not let her go on the detail after all because of the increased workload in their division.

[The Problem]

Teia knows there has been no increase in the workload for her division and decides to contact her Component Anti-Harassment Program.

[Tangible Employment Action]

29 The legal definition of harassment also extends to conduct known as tangible employment action harassment. Tangible employment action harassment occurs when a supervisor or manager conditions an employment action -- such as granting desirable assignments, promotion, demotion, and hiring/termination -- on submission to unwelcome conduct based on a protected characteristic. This type of harassment is prohibited by law and by DHS policy.

2. Knowledge Check

30 Question

Which of the following are examples of tangible employment action harassment?

Select all that apply.

Options:

1. Rita tells Samira she can either put up with the jokes regarding various ethnic groups she uses as ice breakers to open staff meetings, or she would be happy to transfer her to another division. Samira pretends to find the jokes funny so as not to be transferred.
2. Jeff promises Grayson a raise if Grayson will give him a massage.
3. Despite being in his department the longest, Jamal hasn't been able to promote Arlene because her work effort just doesn't warrant it.
4. Amit sees that Jeremy should be promoted to a site Supervisor, but Jeremy can't access all sites in his wheelchair, so Amit doesn't give him the chance.
5. Sonya made the difficult decision to fire Janice due to consistent underperformance and routine delays in executing tasks.

Answer

The correct examples show Managers or Supervisors abusing their authoritative positions to harass employees, and using employment action as a condition on enduring harassment.

Option 4: *This scenario may amount to disparate treatment, but it is not tangible employment action harassment because Amit does not condition the promotion on submission to harassing conduct.*

Correct answer(s):

1. Rita tells Samira she can either put up with the jokes regarding various ethnic groups she uses as ice breakers to open staff meetings, or she would be happy to transfer her to another division. Samira pretends to find the jokes funny so as not to be transferred.
2. Jeff promises Grayson a raise if Grayson will give him a massage.

3. Retaliation

31

[Retaliation] You'll recall that Teia contacted her Component's Anti-Harassment Program about Lee's offer. They were thankful to be made aware of Lee's behavior, and indicated they would conduct an inquiry into her allegations. They also indicated that, at no point, could Lee take any adverse action against her based on her complaint.

Reporting Allegations of Harassment

Learning Objectives

After completing this topic, you should be able to

- *Identify options for reporting harassment.*
- *Determine if a response to a harassment claim is prompt and effective, given an example.*

1. Introduction

- 32** *[Topic Title: Reporting Allegations of Harassment]* Courtney works in the Agency's IT Computer Lab as an IT Specialist. Cassandra, also an IT Specialist, constantly asks Courtney why she wears her religious attire every day. Courtney explained to Cassandra on more than one occasion that it is an expression of her faith. One morning, Cassandra hissed at Courtney that she didn't, "even belong here." When Cassandra pulled on Courtney's clothing, Courtney smacked her hand. Courtney notified their Supervisor, Reece, about the incident, but asked Reece not to do anything because she knew that Cassandra was transferring to another department.

[Reporting Options]

You saw that Courtney chose to report the incident with Cassandra to Reece, her Supervisor.

- 34** DHS employees have at least two options available to report incidents of alleged harassment. They can report to a Supervisor (or higher-level manager), or to their Component Anti-Harassment Program. Separately, employees may also file an EEO complaint alleging harassment because of a protected basis. Employees must file with their Component's civil rights or EEO office within 45 calendar days of the most recent alleged incident. Individual Components may also have additional reporting procedures. Check with your Component's civil rights or EEO office for reporting procedures specific to your Component.

- 35** *[Reporting to a Supervisor]* If harassment is reported to a supervisor or other management official, that official must ensure that a prompt inquiry into the matter is conducted. If it is determined that harassment occurred, the agency must also take prompt, effective corrective action to address the harassment and to prevent it from recurring. If circumstances warrant, the agency should implement interim measures to ensure that the harassing conduct stops while the inquiry is ongoing. When making any of these determinations, supervisors or management officials should seek guidance from higher-level management officials, their servicing Employee Relations (or equivalent) office, and/or their servicing legal office.

- 36** *[Reporting to Your AHU]* If harassment is reported to an anti-harassment program, the program will conduct a fact-finding into the allegations. This fact-finding is an inquiry into the allegations and is conducted by a neutral fact-finder. The fact-finding report will be provided to a decision-maker (a management official or other appropriate official), who will determine what, if any, corrective action is warranted.

[What about the EEO Complaint Process?]

37 Employees may also initiate the EEO complaint process with respect to an allegation of workplace harassment. Employees must initiate the complaint process within 45 calendar days of the most recent alleged harassing incident.

EEO complaints can be filed by current employees, former employees, applicants, and, in some instances, contractors. Your Component's servicing EEO or civil rights office can provide you with additional information on the process.

Keep in mind that the EEO complaint process is entirely separate from an inquiry that would be conducted by management or the anti-harassment program. Employees may initiate the EEO complaint process and concurrently have their management or their anti-harassment program look into the matter.

2. Knowledge Check

38 Question

If you felt you were being harassed, what could you do?

Select all that apply.

Options:

1. Nothing. Just endure the harassment.
2. File a complaint with the EEO Office.
3. Notify my Supervisor.
4. Contact the Equal Employment Opportunity Commission.
5. Contact my Component's Anti-Harassment Program.

Answer

Option 1: *No. If you believe you are being subjected to harassment you should report it.*

Option 2: *You must contact your Component's EEO or civil rights office within 45 calendar days of the alleged conduct.*

Option 3: *Your Supervisor must take prompt, effective corrective action.*

Option 4: *No. EEO complaints must be filed with your servicing EEO or civil rights office, not the EEOC.*

Option 5: *Correct.*

Correct answer(s):

2. File a complaint with the EEO Office.
3. Notify my Supervisor.
5. Contact my Component's Anti-Harassment Program.

3. Supervisor Obligation

39 *[Supervisor Obligation]* Remember, after reporting the incident with Cassandra, Courtney asked Reece not to take any action because she knew that Cassandra was going to be transferred to a different department.

Do you think Reece can follow through on Courtney's suggestion?

40 Actually, Reece cannot ignore a harassment allegation. Instead, he is obligated to ensure that an inquiry is conducted and, if warranted, prompt and effective action is taken.

This obligation exists because without corrective action, Cassandra's harassing behavior would be allowed to persist in the Agency, and may eventually result in other employees being harassed.

41 *[Prompt and Effective Corrective Action]* If the inquiry into an allegation of harassment reveals that harassment occurred, the agency has an obligation to implement effective corrective action. Effective corrective action should be designed to stop the harassment, correct its effects on the employee, and ensure that the harassment does not recur. The nature and extent of the corrective action needed will depend on the severity of the harassment at issue. For especially severe cases, removal of the harasser may be appropriate.

42 Again, when fashioning effective corrective action, decision-makers should seek guidance from higher-level management officials, their servicing Employee Relations (or equivalent) office, and/or their servicing legal office. In addition to damaging the work climate, failure to implement effective corrective action when it is warranted will subject the agency to legal liability.

4. Case Study

Case Study: Question 1 of 3

43 Scenario

For your convenience, the case study is repeated with each question.

Tre recently transferred into a new department. The transfer went well, and he found his new co-workers welcoming. Furthermore, they understand Tre is hearing impaired, and make a point of looking directly at him while speaking, because they

know he reads lips well. They generally accommodate alternate, visual means of communication for Tre. His co-workers involve him in group events outside of work, like their Friday lunch outings.

However, one co-worker hasn't been welcoming: Jamie could even be referred to as hostile. He talks to Tre behind his back and then makes a big deal out of having to get his attention first. Jamie frequently covers his mouth when speaking at meetings he and Tre attend together, and deliberately looks away when talking to Tre directly. Tre also gets the feeling that Jamie makes jokes with a few others about his hearing impairment, but Tre can't prove it, so he just tries to ignore it when it happens. Tre is, for better or worse, accustomed to Jamie's behavior. He's experienced this sort of thing in other stages of his life. While he dismisses Jamie's daily obnoxious behavior, one day he is tagged in a Facebook photo showing his face photoshopped onto a person standing in the middle of a busy highway, about to get struck by a car.

Image of Jamie speaking while covering his mouth

Select each button to answer all three questions.

44

Question

After seeing it, Tre immediately reports it to his Supervisor, Janine. He explains the whole situation, and his concerns about Jamie's treatment of him. That same day, Janine speaks to Jamie and asks him to remove the Facebook post.

How would you assess Janine's response to Tre's harassment allegation?

Select the correct answer.

Options:

1. It was prompt and effective.
2. While she acted quickly, her actions were not substantial enough to address the gravity of harassment.
3. While she acted quickly, the result will be harmful to Tre.
4. Her quick action will send a message to her entire team that harassment won't be tolerated.

Answer

Effective corrective action should be designed to stop the harassment, correct its effects on the employee, and ensure that the harassment does not recur. The nature and extent of the corrective action needed will depend on the severity of the harassment at issue. For especially severe cases, removal of the harasser may be appropriate. Although Janine instructed Jamie to remove the Facebook post, she has not taken action to ensure that Jamie will refrain from harassing Tre in the future.

Correct answer(s):

2. While she acted quickly, her actions were not substantial enough to address the gravity of harassment.

Case Study: Question 2 of 3

Scenario

For your convenience, the case study is repeated with each question.

Tre recently transferred into a new department. The transfer went well, and he found his new co-workers welcoming. Furthermore, they understand Tre is hearing impaired, and make a point of looking directly at him while speaking, because they know he reads lips well. They generally accommodate alternate, visual means of communication for Tre. His co-workers involve him in group events outside of work, like their Friday lunch outings.

However, one co-worker hasn't been welcoming: Jamie could even be referred to as hostile. He talks to Tre behind his back and then makes a big deal out of having to get his attention first. Jamie frequently covers his mouth when speaking at meetings he and Tre attend together, and deliberately looks away when talking to Tre directly. Tre also gets the feeling that Jamie makes jokes with a few others about his hearing impairment, but Tre can't prove it, so he just tries to ignore it when it happens. Tre is, for better or worse, accustomed to Jamie's behavior. He's experienced this sort of thing in other stages of his life. While he dismisses Jamie's daily obnoxious behavior, one day he is tagged in a Facebook photo showing his face photoshopped onto a person standing in the middle of a busy highway, about to get struck by a car.

Image of Jamie speaking while covering his mouth

Select each button to answer all three questions.

45

Question

What other actions could Janine take to better handle Tre's harassment claim?

Select all that apply.

Options:

1. Transfer Tre to his former department so that Jamie cannot harass him.
2. Talk to Jamie about his inappropriate behavior and advise him to stop.

3. Suggest that Jamie apologize to Tre.
4. Impose disciplinary action on Jamie.
5. Consult with her servicing employee relations office for guidance as to what disciplinary action she should take with respect to Jamie.

Answer

Option 1: Remember, effective corrective action should never disadvantage the harassed employee. Tre told Janine that he loved his work in the new department, so moving him back to his old department would be a penalty, and would not constitute effective corrective action.

Option 2: It is important that Janine actually address the scope of harassing behavior and Jamie's apparent bias. Jamie has to understand that his behavior needs to change.

Option 3: Having Jamie apologize to Tre would be an important step in Jamie's acknowledgement of his behavior.

Option 4: Disciplinary action may be necessary, especially if Jamie denies the allegations or defends his behavior as appropriate.

Option 5: Janine has a number of consultants available, including higher-level management officials, Employee Relations, or her servicing legal office.

Correct answer(s):

2. Talk to Jamie about his inappropriate behavior and advise him to stop.
3. Suggest that Jamie apologize to Tre.
4. Impose disciplinary action on Jamie.
5. Consult with her servicing employee relations office for guidance as to what disciplinary action she should take with respect to Jamie.

Case Study: Question 3 of 3

Scenario

For your convenience, the case study is repeated with each question.

Tre recently transferred into a new department. The transfer went well, and he found his new co-workers welcoming. Furthermore, they understand Tre is hearing impaired, and make a point of looking directly at him while speaking, because they know he reads lips well. They generally accommodate alternate, visual means of communication for Tre. His co-workers involve him in group events outside of work,

like their Friday lunch outings.

However, one co-worker hasn't been welcoming: Jamie could even be referred to as hostile. He talks to Tre behind his back and then makes a big deal out of having to get his attention first. Jamie frequently covers his mouth when speaking at meetings he and Tre attend together, and deliberately looks away when talking to Tre directly. Tre also gets the feeling that Jamie makes jokes with a few others about his hearing impairment, but Tre can't prove it, so he just tries to ignore it when it happens. Tre is, for better or worse, accustomed to Jamie's behavior. He's experienced this sort of thing in other stages of his life. While he dismisses Jamie's daily obnoxious behavior, one day he is tagged in a Facebook photo showing his face photoshopped onto a person standing in the middle of a busy highway, about to get struck by a car.

Image of Jamie speaking while covering his mouth

Select each button to answer all three questions.

46

Question

Suppose Janine had dismissed Tre's allegation, or tried to make a joke out of it.

What are the possible consequences of ignoring harassing behavior?

Select all that apply.

Options:

1. The morale and productivity of the team could be affected.
2. It could lead to more inappropriate conduct in the workplace.
3. The Agency could be held liable for Tre's harassment claims.
4. It is likely that Jamie would feel free to continue to harass Tre, as well as other employees.

Answer

The correct options are shown. Ignoring harassment claims allows harassing behavior to persist, grow, and negatively impact the team. It could also leave the Agency liable.

Correct answer(s):

1. The morale and productivity of the team could be affected.
2. It could lead to more inappropriate conduct in the workplace.
3. The Agency could be held liable for Tre's harassment claims.
4. It is likely that Jamie would feel free to continue to harass Tre, as well as other employees.

5. Summary

47 *[Topic Title: Case Study]* No one wants harassment at DHS, and DHS won't tolerate it. If harassment does happen, employees have two primary options for reporting it: they can report to a Supervisor or their Component Anti-Harassment Program. In addition, employees can file a complaint with the EEO Office. When employees report harassment to management or to their Component Anti-Harassment Program, employees should expect prompt and effective corrective actions that have the objective of stopping the harassing behavior.

[Retaliation]

48 Retaliation is when a Supervisor or Manager takes adverse action against an individual for either filing a complaint, helping someone file a complaint, for being a witness in an investigation, or for otherwise expressing reasonable opposition to prohibited workplace harassment.

Retaliation is prohibited by law and by DHS Anti-Harassment Policy. The consequences of retaliation are the same as committing harassment itself: disciplinary action up to and including termination.

Case Study

Learning Objective

After completing this topic, you should be able to

▪

1. Introduction

Case Study: Question 1 of 4

49

Scenario

For your convenience, the case study is repeated with each question.

Devin is a Program Manager. During his probationary period, he develops a friendship with his co-worker, Frances, also a Program Manager. They often talk to each other about what is going on in their personal lives, and begin to follow each other on social media. When Devin breaks up with his girlfriend, Frances offers him a lot of encouragement. Frances starts spending more time at Devin's cubicle and asks Devin out for lunch. Devin goes to lunch with Frances a few times, but then declines the next three lunch offers.

Frances asks Devin out to dinner. Devin declines and tells Frances, "I don't date people I work with." Frances responds, "Well, there is an exception to every rule." Frances continues to visit Devin's desk daily and continues to ask him out to dinner. Devin always politely declines. Frances starts leaving notes on Devin's desk and sending him emails complimenting his appearance. One evening Frances calls Devin at home and asks if he wants to meet her for a drink. Devin tells Frances, "No."

The next morning, Devin complains to his Supervisor, Kevin. Kevin laughs and asks Devin, "What's the problem? Frances is good looking."

Image of Devin and Frances out for lunch

Select each button to answer all four questions.

50

Question

First of all, is Devin being harassed?

Select the correct answer.

Options:

1. Yes
2. No

Answer

Even though Devin initially agreed to have lunch with Frances a few times, he declined her further invitations and made clear that he was not interested in dating her.

Correct answer(s):

1. Yes

Case Study: Question 2 of 4

Scenario

For your convenience, the case study is repeated with each question.

Devin is a Program Manager. During his probationary period, he develops a friendship with his co-worker, Frances, also a Program Manager. They often talk to each other about what is going on in their personal lives, and begin to follow each other on social media. When Devin breaks up with his girlfriend, Frances offers him a lot of encouragement. Frances starts spending more time at Devin's cubicle and asks Devin out for lunch. Devin goes to lunch with Frances a few times, but then declines the next three lunch offers.

Frances asks Devin out to dinner. Devin declines and tells Frances, "I don't date people I work with." Frances responds, "Well, there is an exception to every rule." Frances continues to visit Devin's desk daily and continues to ask him out to dinner. Devin always politely declines. Frances starts leaving notes on Devin's desk and sending him emails complimenting his appearance. One evening Frances calls Devin at home and asks if he wants to meet her for a drink. Devin tells Frances, "No."

The next morning, Devin complains to his Supervisor, Kevin. Kevin laughs and asks Devin, "What's the problem? Frances is good looking."

Image of Devin and Frances out for lunch

Select each button to answer all four questions.

51

Question

If Devin is being harassed, it must be the result of a protected basis.

Which protected basis appears to be at issue?

Select the correct answer.

Options:

1. Race
2. Disability
3. Age
4. Sex
5. Genetic information
6. National origin

Answer

With requests for dinner and dates, Frances is indicating her sexual interest in Devin.

Correct answer(s):

4. Sex

Case Study: Question 3 of 4

Scenario

For your convenience, the case study is repeated with each question.

Devin is a Program Manager. During his probationary period, he develops a friendship with his co-worker, Frances, also a Program Manager. They often talk to each other about what is going on in their personal lives, and begin to follow each other on social media. When Devin breaks up with his girlfriend, Frances offers him a lot of encouragement. Frances starts spending more time at Devin's cubicle and asks Devin out for lunch. Devin goes to lunch with Frances a few times, but then declines the next three lunch offers.

Frances asks Devin out to dinner. Devin declines and tells Frances, "I don't date people I work with." Frances responds, "Well, there is an exception to every rule." Frances continues to visit Devin's desk daily and continues to ask him out to dinner.

Devin always politely declines. Frances starts leaving notes on Devin's desk and sending him emails complimenting his appearance. One evening Frances calls Devin at home and asks if he wants to meet her for a drink. Devin tells Frances, "No."

The next morning, Devin complains to his Supervisor, Kevin. Kevin laughs and asks Devin, "What's the problem? Frances is good looking."

Image of Devin and Frances out for lunch

Select each button to answer all four questions.

Question

Devin went out to lunch with Frances a few times.

Would this disqualify a claim of harassment?

Select the correct answer.

Options:

- 1. Yes. Their lunches together suggest Devin was also sexually interested in Frances.
- 2. No. Devin made clear that he was no longer interested in going to lunch with Frances.
- 3. No. By DHS's single-incident policy, all negative behavior qualifies as harassment, even if one party encourages the harassing behavior.

Answer

While active participation can defeat a claim of harassment, Devin made it clear he was no longer interested in going to lunch with Frances.

Correct answer(s):

- 2. No. Devin made clear that he was no longer interested in going to lunch with Frances.

Case Study: Question 4 of 4

Scenario

For your convenience, the case study is repeated with each question.

Devin is a Program Manager. During his probationary period, he develops a friendship with his co-worker, Frances, also a Program Manager. They often talk to each other about what is going on in their personal lives, and begin to follow each other on social media. When Devin breaks up with his girlfriend, Frances offers him a lot of encouragement. Frances starts spending more time at Devin's cubicle and asks Devin out for lunch. Devin goes to lunch with Frances a few times, but then declines the next three lunch offers.

Frances asks Devin out to dinner. Devin declines and tells Frances, "I don't date people I work with." Frances responds, "Well, there is an exception to every rule." Frances continues to visit Devin's desk daily and continues to ask him out to dinner. Devin always politely declines. Frances starts leaving notes on Devin's desk and sending him emails complimenting his appearance. One evening Frances calls Devin at home and asks if he wants to meet her for a drink. Devin tells Frances, "No."

The next morning, Devin complains to his Supervisor, Kevin. Kevin laughs and asks Devin, "What's the problem? Frances is good looking."

Image of Devin and Frances out for lunch

Select each button to answer all four questions.

53

Question

Kevin, Devin's Supervisor, does not act as though the issue is serious.

What are the risks posed by this inaction?

Select all that apply.

Options:

1. He risks leaving DHS liable for Devin's harassment claim.
2. He risks creating an impression that sexual harassment is acceptable within his department.
3. He risks leaving Frances to believe that she can continue her harassing behavior.

Answer

Actually, each risk shown is possible if Kevin refuses to take prompt and effective corrective action.

Correct answer(s):

1. He risks leaving DHS liable for Devin's harassment claim.
2. He risks creating an impression that sexual harassment is acceptable within his

department.

3. He risks leaving Frances to believe that she can continue her harassing behavior.

Case Study: Question 1 of 2

54

Scenario

For your convenience, the case study is repeated with each question.

Devin is unsatisfied with Kevin's response, and presses him to at least talk to Frances. Kevin relents, and within a couple days, speaks to Frances.

After that time, Frances becomes cool and distant towards Devin. When Devin and Frances have to work together on a project, Frances is short with Devin, and later complains that Devin doesn't keep up his end of the project.

She tells her Supervisor that it is clear Devin doesn't know what he's doing. At the same time, Devin starts to overhear co-workers referring to him as "soft" and as a "troublemaker."

Devin complains to Kevin that, since he came to him about Frances, he is being treated differently by Frances and his co-workers.

Image of Frances eating alone

Select each button to answer two questions.

55

Question

With respect to Devin's interactions with Frances, which statement is true?

Select the correct answer.

Options:

1. Frances has ceased to harass Devin.
2. Frances has started retaliating against Devin for complaining to Kevin.
3. Kevin, when pushed, took prompt and effective corrective action.

Answer

Frances is no longer sexually harassing Devin, but she has started to retaliate against Devin since his complaint, which is a form of harassment.

Correct answer(s):

2. Frances has started retaliating against Devin for complaining to Kevin.

Case Study: Question 2 of 2

Scenario

For your convenience, the case study is repeated with each question.

Devin is unsatisfied with Kevin's response, and presses him to at least talk to Frances. Kevin relents, and within a couple days, speaks to Frances.

After that time, Frances becomes cool and distant towards Devin. When Devin and Frances have to work together on a project, Frances is short with Devin, and later complains that Devin doesn't keep up his end of the project.

She tells her Supervisor that it is clear Devin doesn't know what he's doing. At the same time, Devin starts to overhear co-workers referring to him as "soft" and as a "troublemaker."

Devin complains to Kevin that, since he came to him about Frances, he is being treated differently by Frances and his co-workers.

Image of Frances eating alone

Select each button to answer two questions.

56

Question

It is possible Kevin will ultimately respond to Devin's additional complaint effectively.

If he doesn't, what other actions could Devin take?

Select all that apply.

Options:

1. Devin could file a complaint with the EEO Office.
2. Devin could file a complaint with the EEOC.

3. Devin could file a complaint with his Component's Anti-Harassment Program.
4. Devin could report the incident to a higher-level management official.

Answer

Devin could raise a complaint to his AHU or the EEO Office, either of which will launch an investigation.

Correct answer(s):

1. Devin could file a complaint with the EEO Office.
3. Devin could file a complaint with his Component's Anti-Harassment Program.
4. Devin could report the incident to a higher-level management official.

2. Case Study Summary

57 [*Topic Title: Case Study*] Devin started out in a friendly relationship with Frances. When Devin indicated that he was not interested in Frances, she took an unwelcome interest in him and created a hostile work environment of a sexual nature. When Devin complained to his Supervisor, nothing was done, posing multiple risks to the Agency. When Devin did take action, Frances retaliated, which is another form of harassment.

Summary

Learning Objective

After completing this topic, you should be able to

▪

1. Summary

58 *[Summary]* As you've seen, harassment is any unwelcome verbal, nonverbal, or physical conduct, because of a protected basis, which is so objectively offensive as to alter the conditions of an individual's employment. These work conditions can be altered through tangible employment action or the creation of a hostile work environment. Key elements of that definition include the fact that harassment occurs because of a protected basis and that the

59 conduct is unwelcome. If harassment occurs, employees should report it, either to a Supervisor (or other management official), your Component's Anti-Harassment Program, or through another reporting option offered by your Component. Separately, you may also file a complaint with your Component's EEO Office. When employees report harassment to management or to their Component Anti-Harassment Program, they should expect prompt and effective corrective action without being penalized themselves. Penalizing employees who raise harassment complaints, or retaliating against them in any way, is also against DHS's Anti-Harassment Policy.

60 *[Preventative Measures]*
As DHS employees, we are all responsible for doing what we can to prevent workplace harassment: This includes:
Knowing and abiding by the Agency's Anti-Harassment Policy.
Being mindful of the appropriateness of conversations, jokes, etc., in the workplace.
Treating everyone with respect.

In spite of our best efforts, instances of workplace harassment may still occur. When Supervisors and Managers become aware of an allegation of harassment they are obligated to take effective corrective action to ensure that those instances of harassment stop and don't recur.

61 *[Reminder]* Remember, harassing conduct does not have to rise to the legal definition of harassment to be a violation of the DHS Anti-Harassment Policy. Even a single instance or act may be sufficient to violate our Anti-Harassment Policy, and will be taken seriously.