

# BACK STORY

## What and When of Sexual Harassment

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*The following definitions are the basics every lawyer should know, regardless of his or her specialty. Sexual harassment is not a case of, “I don’t know how to define it, but I know it when I see it.”*

### What is ... Harassment in Nevada?

To knowingly and *without authority threaten physical injury or physical damage* to the property of another, including threats of physical confinement or restraint or any act which is intended to substantially harm another with respect to his or her physical or mental health or safety; and *the person receiving the threat is in reasonable fear that the threat will be carried out.*

### What is ... Sexual Harassment?

Sexual harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964. It occurs when someone is treated differently because of his or her gender.

### What is ... Workplace Sexual Harassment?

It is a form of both *employment discrimination and sexual discrimination.*

### *Quid pro quo sexual harassment:*

The harasser is in a senior position and conditions the victim’s employment on complying with sexual acts.

#### *Examples:*

- Overtly or subtly requesting sexual favors
- Making a pass or other sexual advances
- Any other verbal or physical sexual conduct

### What are ... The Defenses?

- False claim
- Failure to complain
- Lack of evidence
- Employer used reasonable care to prevent or correct harassment
- Based on hearsay
- Victim failed to utilize available corrective measures

### When ... Sexual Harassment is A Crime

#### *When ... Criminal Charges May Constitute Sexual Harassment*

- Stalking
- Assault
- Sexual assault
- Coercion
- Statutory rape
- Statutory sexual seduction
- Extortion
- Indecent exposure
- Lewdness with a child
- Rape
- Sexual acts in public
- Open or gross lewdness

### When ... It’s a Hate Crime

Punishment can be as much as doubled if the defendant did it because of the victim’s sexual orientation, religion, race or national origin, physical or mental disability, or gender identity or expression. **NL**



### *Hostile work environment:*

The harasser subjects the victim to physical or emotional abuse that threatens the victim’s job or makes it difficult to work.

#### *Potential Damages:*

- Lost wages or loss of future earnings
- Emotional distress
- Reputational harm
- Out-of-pocket costs including medical bills
- Punitive damages
- Attorney’s fees and costs (As claims are most often viewed as intentional, they are normally not covered by insurance.)

NANCY HARKESS-DILL’S biography is on page 6.