**Lesson 12 - Sexual Harassment and Gender Discrimination**

**What is Sexual Harassment?**

A term used in human rights legislation and referring primarily to harassment in employment situations, related to sex or gender, which detrimentally affects the working environment. The most overt variation of sexual harassment is the ***quid pro quo*** offer of work-favor in exchange for sexual favor.

**What is Gender Discrimination?**

Any action that specifically denies opportunities, privileges, or rewards to a person or a group because of their sex.

Employer’s Responsibilities

* Have and enforce a policy of anti-harassment to which managers/supervisors are committed.
* Disseminate/make available the policy throughout the organization: on billboards, in orientation packages, during orientation sessions and regularly provide policy seminars to employees.
* Establish procedures to investigate complaints in a confidential manner.
* Establish supportive mechanisms to deal with the issue; e.g. counselling for both harasser and the victim.
* Train staff involved in investigating and conciliating complaints.
* Deal with complaints promptly.
* Establish a control mechanism to monitor the situation after a complaint has been resolved to ensure that no reprisals or repetitions of the harassment occur.

If You Are Being Harassed

* If possible, tell the harasser to stop, preferably in front of a possible witness.
* Keep a written record of everything that happens: date, time, location, context, witnesses, your reactions, any health-related consequences.
* Ask for assistance and support from union representatives, designated human resources personnel, co-workers, Employee Assistance Programs, counsellors.
* Obtain a copy of internal harassment policy/collective agreement.
* Find the definition of harassment.
* Review company’s complaint and grievance procedures.
* If possible, try to get written statements from witnesses.
* If you find that more than one person has been harassed by the same person or group of persons, consider filing a group complaint.

**Sexual harassment can be any unwanted act of a sexual nature, including everything from subtle innuendoes and ogling to coerced intercourse.**

**Understanding Sexual Harassment and Gender Discrimination:**

**Example – Bella’s Story**

Bella is a 22 year old college student.

She has been attending college to acquire work skills in the hope of getting a good job placement.

One of Bella’s instructors befriended her and helped her adjust to college life during the first few weeks.

Bella’s instructor called her into his office to tell her that because she failed her exam she probably won’t get a job placement without his “help”.

During the course of the discussion, Bella’s instructor leers at her, makes suggestive remarks, indicates she should trade sexual favours for a passing mark in her exam and a good job placement, and initiates unwanted physical contact.

*How does the fact her instructor tells Bella that she “technically” flunked her exam but that he could go through her papers again and find a few more marks for her set the scene?*

Bella’s alleged exam failure puts her in an especially vulnerable situation and sets the scene for her instructor to ask Bella for ‘something in exchange for something’.

*What are Bella’s Options?*

Bella may have the right to request a reread by an independent marker if she suspects that her instructor has deliberately given her a low mark.

*Bella’s instructor pulled his chair closer to hers so that their shoulders touched, he coerced her into having wine with him in his office, he put his arms around Bella’s shoulders, and placed his hand on her hand, does this constitute sexual harassment? Or would it be necessary for Bella’s instructor to be more forward by putting his hand on her knee, in order for sexual harassment to have occurred?*

Sexual harassment can be expressed in many ways, from very subtle to most obvious. Any one of the instructor’s actions may be construed as sexual harassment.

*If it is proven that Bella has been the subject of sexual harassment,*

*who is ultimately responsible?*

Employers are responsible for the actions of their employees in cases of proven sexual harassment. This has been decided by the Supreme Court of Canada. As well, sexual harassment violations have proven to be most costly for employers who fail to have effective policies or do not treat seriously such complaints from their employees or customers and clients.

*What else could Bella do?*

Besides asking for an independent adjudicator to re-mark her exam paper, Bella should make it clear to her instructor and/ or to his supervisor that sexual harassment has occurred and is unwanted. She might also contact the student counseling office, the students’ union or students’ association on campus. If corrective action is not taken, or the behavior persists, Bella may file a legal complaint.

**Indira’s Story**

Indira is a 30 year old worker at a chrome plating company as a inside sales representative (takes orders for merchandise over the phone). She applied for a promotion for a position as an outside sales representative. The promotion would give Indira an opportunity to earn a much larger income and would involve some travelling outside of the province. Indira has been with the company for 3 years and has had excellent employee reviews each year. The promotion is given to a male colleague who has been with the company for only 1 year. The male colleague has performed no better in his employee reviews than Indira. Indira feels she has not been given the promotion because of her gender, so she approaches her supervisor who in response states that the company does not want to spend time and money training an employee that is likely to start having a family in the near future. The supervisor explains that the company must look after its own financial interests.

**Questions:**

*Is Indira correct that she has been overlooked because of her gender and if so what is this called?*

*Is Indira right to make a complaint and what grounds does she have for such a complaint? Has the employer broken the law?*

*What steps should Indira take to rectify the situation?*

Are the following scenarios examples of Sexual Harassment or Gender Discrimination? Respond and explain your answer in the space provided below.

* 1. An employer refuses to hire young women because she assumes that at some time they will require time off for pregnancy and her small business just can’t afford to pay benefits.
  2. Perhaps the most famous presidential [scandal](http://en.wikipedia.org/wiki/Lewinsky_scandal) in our nation's history, Bill Clinton's affair with White House intern Monica Lewinsky escalated far beyond the Oval Office. People all over the world watched as Clinton's presidency took a backseat to Ken Starr's [interest](http://www.cnn.com/ALLPOLITICS/1997/gen/resources/players/starr/) as to whether or not Clinton had "sexual relations with that woman." Eventually, he became the second U.S. president to face an [impeachment trial](http://www.historyplace.com/unitedstates/impeachments/clinton.htm).
  3. Henderson's impressionist portrait of a nude woman named Gwen rocked the small town of Murfreesboro, Tenn. A local assistant superintendent noticed the painting when it was hung on a wall in City Hall and was so offended by its alleged vulgarity
  4. Leanne is at a work social. Her supervisor takes the seat beside her and offers her a glass of wine. She smiles and he pours it. He begins talking about movement in the company and how some employees are likely to be promoted while others will be fired or demoted. He takes Leanne’s hand in his and with his thumb he rubs her wrist as he says “you would like one of those promotions wouldn’t you Leanne? I think it can be arranged, don’t you?”
  5. Phil and Joan, both in their early 30s, are hired as junior marketing executives. Phil is good at his job but is often late for work and misses deadlines. Joan is good at her job also, she is never late, never misses deadlines and is well liked by her clients. A promotion is given and Phil is the one promoted.