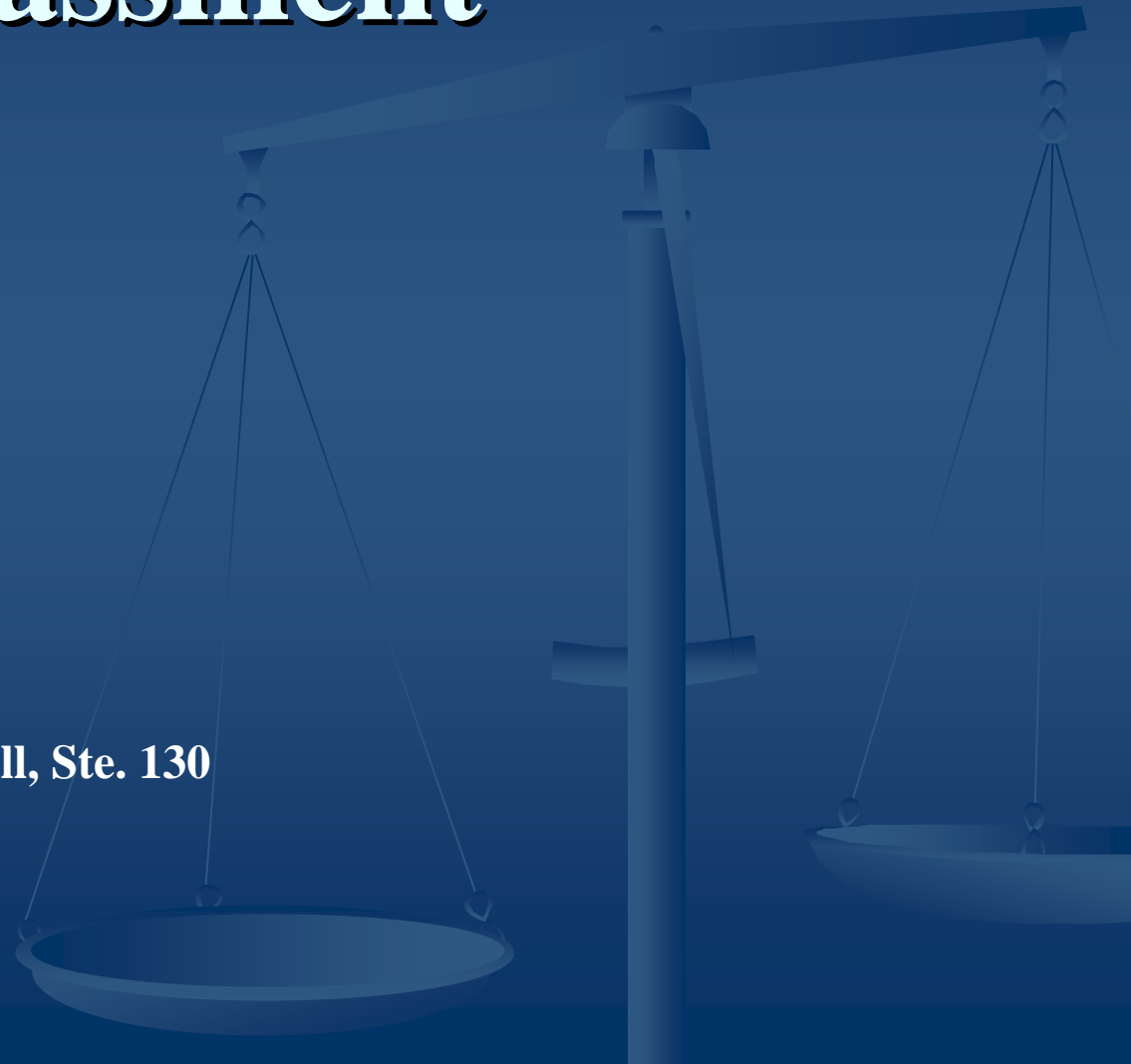


A Seminar on Sexual Harassment

JOHNS HOPKINS
U N I V E R S I T Y

Caroline Laguerre-Brown, JD
Associate Director for Compliance
Office of Equal Opportunity
& Affirmative Action Programs
3400 N. Charles Street, Garland Hall, Ste. 130
Baltimore, MD 21218-2696
410-516-8075 / Fax 410-516-5300
clbrown@jhu.edu



Sexual Harassment Prohibited by Law

- Title VII, Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972
 - Prohibits sex-based harassment.
 - Subsequent case law has clarified the definition of sexual harassment.

What Is Sexual Harassment?

Unwelcome conduct that is:

- Severe and pervasive
- Based on sex or gender
- Offensive work environment

Workplace Harassment Comes in Two Forms

- Quid Pro Quo (sexual harassment)

and

- Hostile Work Environment

Quid Pro Quo



- Demand for Sex in Exchange for a Job/Academic Benefit
- Power Imbalance
- Unwelcome Advance
- Adverse Employment/Academic Action

Hostile Work Environment

- Unwelcome conduct
- Supervisor, co-worker, or non-employee
- Based on sex or gender*

**HWE can also be based on marital status, pregnancy, race, color, ethnicity, national origin, age, disability, religion, sexual orientation, gender identity or expression, personal appearance, veteran status or any other legally protected characteristic.*

Hostile Work Environment Standard

- Must be sufficiently severe or pervasive to create an abusive work environment
 - for the person experiencing the conduct and to a third party (court or administrative agency)

Harassment in Real Life

- Sexually explicit or gender-based storytelling or jokes.
- Sexually explicit profanity, name-calling, slurs, epithets.
- Sexually explicit or suggestive pictures, cartoons, drawings, toys, emails, etc.

Harassment in Real Life

(cont'd)

- Letters, notes, telephone calls, or other materials of a sexual nature.
- Unwelcome and persistent requests for dates or sexual advances.
- Touching, patting, squeezing, pinching, or brushing against a person.

Intent vs. Impact

- *Intent* of the Alleged Harasser Does Not Control.
- Relevant Consideration is the *Impact* on the Recipient of the Behavior.

“It’s all fun and games until it isn’t.”

When and How Does Sexual Harassment Occur?



When and How Does Sexual Harassment Occur?

- The target of harassment as well as the harasser may be male or female.
- Parties may be of the same sex.

When and How Does Sexual Harassment Occur? (cont'd)

- The harasser can be the target's supervisor, an agent of the employer, a supervisor in another area, a co-worker, a non-employee, a professor, an advisor, or a peer.

When and How Does Sexual Harassment Occur? (cont'd)

- The complainant does not have to be the person harassed, but could be anyone affected by the offensive conduct.
 - A word about consensual relationships, sexual favoritism, and third party harassment.

When and How Does Sexual Harassment Occur? (cont'd)

- Unlawful sexual harassment may occur without economic injury, a failing grade, or termination of the target.

Retaliation

- Federal, state, and local law prohibits retaliation against:
 - Individuals who file complaints,
 - Individuals who participate in an investigation, or
 - Individuals who simply oppose discrimination.
- “Protected activity” under EEO laws.

Retaliation in Real Life (cont'd)

■ Public Scorn

- Refusing to speak to a complainant
- Publicly denouncing the complainant to others
- Ridicule or humiliation of the complainant

Retaliation in Real Life

■ Professional Isolation/Sabotage

- excluding an individual from participating in important projects or work assignments
- blacklisting an individual by providing (informal) negative feedback to colleagues about performance
- refusing to give formal credit to an individual for a significant contribution to a research project

Retaliation in Real Life (cont'd)

- Failing grade (unwarranted)
- Refusal to provide a recommendation
- Demotion
- Involuntary Transfer
- Termination/Forced Resignation

Legal Standards for Liability



Legal Standards for Liability

- *Faragher v. Boca Raton* and *Burlington Industries v. Ellerth* (1998)
- Central Questions
 - Who is harasser?
 - Rules differ for supervisory and non-supervisory conduct
 - Did harasser's conduct affect terms and conditions of employment?
 - What efforts did the employer take to prevent and correct?

Legal Standards for Liability (cont'd)

- If a supervisor engaged in prohibited conduct that results in an adverse employment action...
 - Employer is liable--end of story

Legal Standards of Liability (cont'd)

- If a supervisor engages in prohibited conduct and there's been no adverse employment action...
- Employer is liable unless they can show that they:
 - took reasonable care to prevent and promptly correct harassment, and
 - employee unreasonably failed to take advantage of the employer's complaint process

Legal Standards of Liability (cont'd)

- If a regular employee engages in prohibited conduct...
- Employers are only liable if they knew or should have known and failed to take prompt and appropriate action

CIVILITY: YOUR BEST ANTI-DISCRIMINATION TOOL

- Consistency, honesty, fairness, and integrity in relationships with colleagues and subordinates.
- Highest ethical standards of judgment and conduct as it applies to all interactions.

Responding to Complaints

- Assure the complainant that seeking help was the right thing to do.
- Rule out a threat of physical violence.
- Obtain Basic Facts:
 - Be prepared to communicate nature of the allegation.
 - Make a prompt referral to OEO or HR.
- Follow-Up!

A faint, light blue background image of a pair of scales of justice, positioned on the right side of the slide. The scales are slightly tilted, with the right pan being lower than the left pan. The background is a solid dark blue color.

JHU RESOURCES FOR DEALING WITH SEXUAL HARASSMENT

JHU RESOURCES

Caroline Laguerre-Brown, JD
Associate Director for Compliance
Office of Equal Opportunity
and Affirmative Action Programs

3400 N. Charles Street, Garland Hall, Ste. 130
Baltimore, MD 21218-2696

Phone (410) 516-8075 / Fax (410) 516-5300
clbrown@jhu.edu

*****Complaint Process*****

JHU RESOURCES

Staff

Gloria Bryan

Senior Director Human Resources

School of Medicine

98 N. Broadway, Suite 302

Baltimore, MD 21231

Phone (410) 955-2586 Fax (410-614-0650)

gbryan@jhmi.edu

JHU RESOURCES

Faculty

Janice Clements, Ph.D.
Mary Wallace Stanton Professor of Faculty Affairs
Vice Dean for Faculty

733 N. Broadway Suite 115
Baltimore, MD 21205

Phone (410) 955-9770 / (410) 955-8401

Fax (410) 955-9821 / (410) 955-2522

jclement@jhmi.edu

JHU RESOURCES

Faculty Staff Assistance Program

East Baltimore Campus
550 North Broadway
Suite 507
Baltimore, MD 21205
Phone: 443-287-7000
Fax: 410-955-4623

Johns Hopkins at Eastern
1101 East 33rd St.
Suite C-100
Baltimore, MD. 21218
Phone: 443-997-7000
Fax: 443-997-3809

QUESTIONS

