



**Learning Series**

# **Discrimination and the American Experience**

**TRAINING FOR:**  Employers    Supervisors    Employees

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## Introduction

The Title VII Equal Employment Opportunity Act of 1964 evolved out of the original constitution and this nations previous historical commitment to its citizens. This federal law guarantees that all citizens be protected from discrimination related to race, gender, color, religion, national origin, age and disability

## What is discrimination?

Discrimination is a prejudicial belief which encourages or supports excluding members of a group such as women, minorities or the disabled from certain activities and / or opportunities based on age, race, color, religion, ethnic group or national origin.

Prejudice is a judgment against or opinion contrary to an individual or situation without just grounds, such as the development of an attitude before sufficient knowledge is gained.

## A Brief History

The promise of America is reflected in the Constitution of the United States. While the term, “We the people” originally referred to wealthy white landowners, the Constitution of the United States is an ever moving and evolving document, which affects all Americans. The flexibility of this document allows the creation of new opportunities waiting to be realized. Freedom from discrimination has been the desire of immigrants since the founding of the US.

The Abolitionist (anti-slavery) movement prior to the Civil War was supported by John Brown with his capture of a West Virginian armory at Harpers Ferry in the hopes of creating a spontaneous uprising against slavery. Before, during, and after the Civil War, the Underground Railroad organized by Harriet Tubman, assisted runaway slaves throughout the United States and Canada to achieve their freedom.

After the Civil War, the *Jim Crow laws* reinstated segregation in the South. Ellis Island in New York Harbor processed new immigrants from Central and Eastern Europe who were escaping religious and political repression. At the same time Chinese laborers and Irish immigrants escaping political and religious persecution were building the Union Pacific Rail Road and working in the mines. During the 1920’s and 30’s ethnic and religious groups suffered widespread discrimination.

World War II created a unifying focus with the American public. This included the mobilization of all ethnic groups and women, which guaranteed military, economic and political success. As an example, the most highly decorated American fighting unit in WWII was the 442 Brigade consisting of first generation American born Japanese, while members of the Navaho (Navajo) tribe served as code breakers in the South Pacific.

In the 1880’s women and men in Seneca Falls New York began the Women’s Suffrage Movement in an attempt to gain the vote, which was realized in 1920 with the assistance and leadership of social pioneers such as Susan B. Anthony. Women were mobilized in defense plants and shipyards and became famous through such revered names as “Rosie the Riveter.” And female military medical personnel called WASPS (Women Air Force Service Pilots) ferried aircraft from factory to American airfields.



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Championed by Eleanor Roosevelt, members of the African-American armed forces served in Europe with the Red Ball Express delivering supplies to troops in the field, while the Golden Knights of Tuskegee pilots provided fighter escorts to bombers flying over Germany. These successful experiences provided President Truman with enough documentation and information to call for the desegregation of the military in 1948, which provided the blue print for the Civil Rights Act of 1964. During the late 1950's and 60's the nation experienced the first publicized civil rights activities that began with lunch counter sit-ins and marches.

## **What Are The Main Areas of Discrimination?**

The original Civil Rights law of 1964 is concerned with Race and Gender, Color, Religion, National Origin, Age discrimination and disability.

Racial or Gender Discrimination is identified as singling out anyone due to their ethnicity or gender to deny them housing, accessibility to federal, state, county or community resources as well as career advancement, compensation, freedom of movement & equal protection under the law. In a series of cases involving rotary clubs, lodges, institutions of higher learning and associations that were receiving tax free status were denied this exemption due to their continued practice of segregation, which eventually resulted in lawsuits by the federal government.

Color Discrimination is identified as calling attention to or belittling anyone with racial slurs due to their color, appearances as well as denying anyone the opportunity for housing, career advancement, freedom of movement, compensation and equal protection under the law. This includes taunting, offensive comments, racial, gender slurs or teasing resulting from appearance, clothing and habits.

Religious Discrimination is identified as taunting or making fun of individuals practicing a specific faith or defacing a church, temple, mosque or meeting room or denying anyone the opportunity to practice the religious beliefs. Calling attention to or attempting to embarrass anyone due to related beliefs, clothing, reading materials, and dietary habits are all against the law.

National Origin is concerned with anyone who is singled out due to color, native dress, and custom, but especially those with English as a second language status and are not accommodated with supportive services such as translators, written materials or instructions that would have allowed them to be competitive, productive employees with the result that they are denied employment and / or advancement.

Age Discrimination is identified as any reference to age, taunting or teasing, not hiring, promoting or dismissing someone due to age who possesses equal product knowledge, ability and considered competitive.



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In 1992 The Americans with Disability Act stated that disabled individuals will not be discriminated against in any way. The Americans with Disability Act also states that a reasonable accommodation must be made with hiring, training, and supporting each disabled individual. The act also states that information concerning previous employment, medical treatment, alcohol and drug history, and disability is restricted. In fact, current alcoholics and former drug abusers are considered disabled while current controlled substance abusers are not.

## **Why have laws against discrimination?**

We now know that work site discrimination is against the law and simply doesn't make any sense. It defies logic. Personnel with great potential who could contribute greatly to society are excluded when discrimination exists. Within a society free of discrimination, our best and brightest are now available to solve the worlds scientific and social concerns while creating satisfying personal lives.

No matter the positions that company personnel are assigned to, it is up to each and every one of us to create a positive work environment. Each one of us should realize that joke telling, hazing, or teasing of any kind can be misinterpreted as harassment and considered risky to the individual that is directing these comments or actions towards others. Mental abuse includes hazing or harassment can also carry long term emotional affects to those receiving the attention.

Work site studies also illustrate that hazing and harassment may result in lowered production, morale, and depression in co-workers. Companies who wish to improve the bottom line must emphasize an attitude and culture of mutual respect that all personnel should display towards their coworkers and customers. Intolerance for harassment by customers and guests should also be addressed in company policies and procedures.

Over the years racial and sexual slurs and comments were accepted as an opportunity to "joke" with a coworker. The day of the "Good Old Boys" and their joking and hazing is over. Simply "standing there and taking it" is no longer tolerated.

Recent studies of workplace violence now confirm that hazing and harassment are the main contributing factors that escalate into physical assaults towards others. Studies also indicate that personnel who inflict this type of behavior on others are placing not only themselves, but also the company at risk of liability. Employers need to counsel employees to stop this behavior on their own, or mandate contact with the Employee Assistance Program Provider for further assessment and recommendations.

Stopping these practices is especially important due to the number of personnel from various ethnic backgrounds and women entering the work place in nontraditional roles These personnel have traditionally been the target of jokes hazing and pranks. The bottom line is that this cannot be tolerated. It is simply good business to create an atmosphere that promotes and encourages a healthy respect for all personnel and their activities.



## Sexual Harassment

The addition of sexual harassment to section 703, Title VII of the Equal Employment Opportunity Act of 1964, took place in 1972. This category of discrimination continues to be a major concern, with 40% of all discrimination cases involving sexual harassment claims. The addition of this act was a result of the concerns voiced by numerous women who experienced discrimination as they entered nontraditional professions during and after WWII. To underscore this message, our primary, secondary schools, and universities train and orientate students with skills that help them to identify & report discrimination & sexual harassment.

## Quid-Pro-Quo

These concerns deal with an individual of authority, such as a supervisor or manager, who possesses the power to influence to a person in exchange for sexual favors by threatening their career, pay, or job.

## Hostile Work Environment

This occurs when repeated uninvited and unwelcome contacts are made of a sexual nature. Such as sexual comments concerning clothing and body shape, uninvited touching, jokes, suggestive pictures and numerous requests for dates.

## Company Policy & Procedures

Company policy and procedures should include annual training for all personnel with new hires trained about discrimination and sexual harassment during their orientation process. Programs should be in place to remind all personnel, company policy concerning discrimination and sexual harassment. Information about these areas should be available in the employee handbook and as in handout form located either in the HR office or break room. Procedures for filing a complaint should also be articulated in the employee handbook and should include a complaint procedure, contact individual, location, and number for information concerning discrimination issues.

### Information should include the following:

- A complaint procedure that starts with the individual's immediate supervisor.
- A statement that it is the responsibility of the immediate supervisor to take charge of the event unless they are responsible for the complaint.
- The complaint can then surpass their supervisor and precede to the next line
- If an office or individual has been designated to receive inquiries or complaints and should be contacted at the same time as the supervisor.
- The location of this individual should be discrete in an effort to safeguard confidentiality.
- A company-wide memo from the Owner or CEO will underscore that discrimination and sexual harassment will not be tolerated by anyone. This memo also provides an opportunity for the addition of a mission statement, which underscores the importance of mutual respect and common goals.



## Recent Studies

An example of recent federal government studies were observed to show that:

- 22% of employees experienced some form of sexual harassment. 64% were directed to females, while 17% were directed to males.
- 82% of sexual teasing, jokes, remarks, or questions were directed to females, while 74% were directed to males.
- 69% of sexually suggestive looks, gestures, or body language were directed to females, while 58% were directed to males.
- 60% of uninvited touching, leaning over, cornering, pinching or bruising were directed to females, while 51% were directed to males.
- 15% of incidents of pressure for sexual favors were directed to females, while 2% were directed to males.

## How do sexual harassment attitudes develop?

Sexism is any attitude, action or institutional structure, which subordinates a person or group because of gender. Sexual harassment is then a form of discrimination that involves prejudicial and sexist attitudes, as well as unwelcome and uninvited sexual advances, attitudes, requests for sexual favors, and verbal and physical conduct of a sexual nature. If you ever have any doubt concerning specific behaviors that may be inappropriate, ask yourself if your daughter, son, or spouse would feel comfortable being exposed to a specific behavior, gesture, or sexual comment.

## Who is a harasser?

Although there is no clear-cut profile of the sexual harasser, they are usually in a position to evaluate your performance, promote you, and help transfer you or recommend you for additional assignments and experiences.

## How do I know if I'm being harassed?

- Am I receiving comments on my body and clothes rather than my work?
- Are intimate stories concerning family and sexual escapades described to me?
- Am I the recipient of jokes and pictures of a sexual nature?
- Are sad stories of a personal love life designed to create sympathy?
- Are embarrassing details concerning intimate relationships described to me?
- Am I asked to listen to non-professional conversations during business hours?
- Am I asked personal details such as dates and sexual fulfillment?
- Am I subjected to being bumped into and receiving hugs?
- Am I considered to be this person's type?

Don't be fooled. These situations illustrate the desire for power and domination. Very rarely are these activities signs of affection.



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## The Victim

The victim may be affected in the following ways:

1. Feelings of inferiority
2. Increased absence from work
3. Loss of self-esteem and morale
4. Physical and emotional illness
5. Fantasies of retaliation
6. Loss of income and career
7. Anger and frustration over inability to meet production goals
8. Feels a sense of isolation from other employees
9. Trouble with intimate relationships
10. Suffers flashbacks, bad dreams and mood swings
11. On-going guilt “I caused this to happen”
12. Feeling traumatized over the experience
13. Loss of focus on details and goals
14. Lack of trust with self and others
15. Personal and professional anger
16. Inability to talk about and describe the harassing experience
17. Hyper-sensitivity to concerns of equity, justice, fairness & equality
18. Hyper-alert or easily startled
19. Self-destructive thoughts and habits
20. May resign from professional position

Remember, its simply good business to create an atmosphere that promotes and encourages a healthy respect for all personnel and their activities.

### **I can prevent this by avoiding, not asking, or discussing:**

- Special favors, longer lunches, personal activities during work.
- Your personal life your partner, financial status, off time
- Others personal life, keep the conversation clean
- Special tasks that are not work related
- Unprofessional behavior
- Specific comments concerning your clothes or appearance
- Inappropriate clothes for work
- Flirtatious work site activities



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## The Harasser

The harasser may be affected in the following ways:

1. May result in unfavorable publicity
2. Personal and professional reputation may be ruined
3. Denied promotion or raise
4. Suffers written reprimand, fine and/or suspension
5. On leave without pay
6. Low performance rating
7. Oral admonishment and counseling
8. Reduction in grade
9. Removed from position
10. Terminated

## The Work Team

The work team may be affected in the following way:

1. Team is disrupted and disoriented due to member being lost
2. Cost of retraining new member is high and time consuming
3. Low morale
4. Loss of productivity
5. Unfavorable publicity
6. Short and long-term goals unclear
7. Confusion over how to relate to individual
8. Reflecting back on one's own previous behaviors
9. Guilt and fear over questionable personal behavior

## Preventing Sexual Harassment

When dealing with sexual harassment, what responsibilities do individuals possess to prevent sexual harassment?

What can each business and individual do to stop sexual harassment in its tracks?

1. Create a written formal policy & climate where sexual harassment cannot exist
2. Set an example for work team members
3. Report any incident where you are concerned *to your supervisor*
4. Employees, managers and supervisors must have a working knowledge of reporting policies
5. *Everyone* must follow all policies relating to sexual harassment
6. Speak out when offensive language, acts, or gestures occur
7. Be supportive of concerned employees
8. Remove posters or magazines of a sexual nature
9. Find a witness if you feel uncomfortable
10. *Tell* the harasser that you feel uncomfortable
11. *Tell* the harasser that you are offended by the behavior
12. *Tell the harasser to stop*
13. If your supervisor is making you uncomfortable, go to their boss
14. Document events by date, time, and place that make you uncomfortable
15. File a written formal complaint with your supervisor or HR officer



## **A Supervisors Responsibility**

When a supervisor observes or hears of sexual harassment, the supervisor must:

1. Document the incident
2. Interview all individuals involved including witnesses
3. Reprimand the harasser
4. Refer the victim and all involved to the Employee Assistance Program
5. The supervisor must report the incident to his or her supervisor