



Sexual Harassment: What Utahns Need to Know

Setting the Stage

Although workplace sexual harassment has likely been around since the conception of workplaces, and sexual harassment has been illegal in the U.S. for decades,¹ it is safe to say that the issue has never received as much attention as it has since the autumn of 2017. High-profile instances of sexual harassment in visible industries such as entertainment, politics, the media, and the nation's largest businesses have put this issue at the forefront of our national conversations surrounding gender and the workplace. The #metoo stories, shared by millions of women worldwide indicating that they had also experienced sexual harassment or sexual assault,² have greatly increased the dialogue surrounding this issue. Eventually, women who reported sexual harassment, the "silence breakers," were chosen by *Time* magazine as the person of the year for 2017.³ As Utahns work to understand and reduce instances of sexual harassment, it will benefit individuals, institutions, and the state as a whole.

This research snapshot focuses on four areas:

- 1) Comprehensive definitions of sexual harassment and data regarding its prevalence both in the U.S. and Utah;
- 2) An analysis of specific factors surrounding sexual harassment, including situations in which harassment is more likely to occur;
- 3) A summary of the costs of sexual harassment, and
- 4) Resources and recommendations to combat workplace sexual harassment.

Sexual Harassment Defined and Quantified

According to the Equal Employment Opportunity Commission (EEOC): "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment."⁴ Sexual harassment is distinct from general sex or gender discrimination, which occurs when a person is unfairly treated solely based on gender, but the mistreatment is not sexual in nature.⁵ Although many high-profile cases of harassment have in-

cluded violent actions culminating in sexual assault, any unwelcome, sexually based behavior can be considered sexual harassment, including (but not limited to) the following examples:⁶

- Displaying calendars, cartoons, pictures, posters, or computer screens with sexually suggestive material.
- Expressing graphic commentaries about a body.
- Making sexual gestures.
- Making verbal sexual advances or propositions.
- Showing sexually suggestive objects.
- Using derogatory comments, slurs, epithets, or jokes of a sexual nature.
- Using sexually degrading words to describe an individual.
- Verbally abusing with words of a sexual nature.
- Writing suggestive or obscene letters, notes, electronic messages, or invitations.

The EEOC gives further guidelines concerning sexual harassment: both the harasser and the victim can be of either sex, and the victim can be the same sex as the harasser (regardless of the sexual orientation of either party). Additionally, the harasser does not need to be in an authority position over the victim, or even necessarily an employee of the company (could be a vendor or customer). A claimant in a sexual harassment case could be a witness, rather than the actual target of the abuse, and the victim need not suffer economic or career harm in order for an illegal offense to be present.⁷

Clear and comprehensive definitions of sexual harassment (including examples) are a key part of efforts to reduce harassment incidents in the workplace. Recent surveys by the EEOC showed that when women were asked generally if they had experienced "sexual harassment" (without defining the term), 25% of women indicated that they had. However, when the term was defined specifically and examples were given, the percentage of women responding affirmatively rose to 40%.⁸ Although little data are available concerning instances of false sexual harassment allegations, experts generally assert that deliberate false accusations are rare.⁹ As more men and women understand exactly what constitutes sexual harassment, hopefully accountability will increase and offenses will decrease.

Just as it can be difficult to understand what exactly constitutes sexual harassment, quantifying the frequency of harassment is also complex and elusive. As is the case with other crimes that can be personal and sometimes taboo, sexual harassment often goes unreported; in fact, approximately 85–95% of those who experience sexual harassment do not file a formal legal complaint, and studies show that around 70% do not even report the incidents within their own organizations.¹⁰ Studies and surveys examined by the EEOC show that anywhere from 25–85% of women have experienced workplace sexual harassment¹¹ (the wide margin may reflect confusion surrounding the definition). A poll conducted by *NBC News* and the *Wall Street Journal* in October 2017 found that 48% of currently employed women had experienced sexual harassment.¹² It is important to note that men experience sexual harassment as well (in 2017, 16.5% of such charges to the EEOC were filed by men),¹³ but the percentage of total male victims (whether they file a claim or not) is believed to be low. Estimates of sexual harassment rates for men are difficult to determine because much of the research (polls and surveys) focuses on female victims and male perpetrators, which is the most common pattern.¹⁴

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In Utah, the rate of formal charges regarding sexual harassment are roughly in line with national averages: both Utah and the U.S. averaged 3–4 charges of sexual harassment per 100,000 population for the last four years, and only 16 states had fewer per capita charges than Utah in 2017.¹⁵ This is an improvement from past years, when Utah's charges per 100,000 were higher than the national average (1997: Utah 8.68 vs. U.S. 5.96; 2007: Utah 5.31 vs. U.S. 4.17). However, Utah's sex-based discrimination charges (including sexual harassment and other sex-based discrimination) make up a larger percentage of total complaints filed with the EEOC than the national average: 38.3% of total charges filed in Utah are sex-based versus 30.4% total for the U.S. In fact, sex-based charges make up a higher percentage of Utah's total filed complaints than they do in all but two other states: New Hampshire (49.2%) and Wyoming (43.3%).¹⁶ However, all data regarding formal charges must be framed in the context that only a small fraction of harassment experiences are ever officially reported.¹⁷

Harassment Targets and Hotspots

Although sexual harassment can happen anywhere and to anyone, certain populations and locations seem to be of particular risk. Over the past 30 years, white women have been the subject of most research concerning sexual har-

assment,¹⁸ yet women of color are often more likely to be targeted for variety of reasons. According to Equal Rights Advocates, African American women and Latinas are the most likely U.S. women to be among the working poor and employed in low-paying, service occupations,¹⁹ which is where sexual harassment is most frequently reported.²⁰

Women of color are also susceptible to intersectional harassment, wherein they are abused for both their gender and their race/ethnicity.²¹ Women in the U.S. who are undocumented immigrants also face a heightened risk, as potential harassers assume (often correctly) that these women would avoid reporting harassment for fear of deportation or other legal repercussions.²²

Race is not the only risk factor related to sexual harassment. A recent survey showed younger women were more likely to say they had experienced sexual harassment than older women. This may be because their youth or professional inexperience may make them seem an easier target, but also because of a difference between generations in defining and discussing these issues.²³

Additionally, surveys gathered by an EEOC task force have shown that members of the LGBT community (both women and men) are likely to experience sexual orientation/sexual identity harassment: in one study 35% said they had been harassed, and in another survey 58% said they had heard derogatory comments about sexual orientation/identity at work. A third survey of transgender individuals showed they were also very likely to experience harassment (50%).²⁴

At its core, harassment of any kind thrives in situations where there is an imbalance of power; hence, a specific population that is disempowered—because of gender, race, economic or educational inequality, age, orientation, or other factors—is more likely to experience harassment in the workplace. Such individuals may also lack the knowledge or ability to seek recourse, which could leave the abuse to continue unchecked.²⁵ However, the EEOC recognizes that not enough is known about sexual harassment rates of different populations and has called on researchers to explore these factors more thoroughly.²⁶

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Despite high-profile instances of sexual harassment among the rich and powerful, this abuse can happen anywhere, and it frequently occurs in industries with low pay and little prestige—in jobs that are often held by women. Nearly half of the sexual harassment charges filed with the EEOC between 2005 and 2015 listed specific industries, the top of which were as follows: 14.23% in accommodation and food services, 13.44% in retail trade, 11.72% in manufacturing, and 11.48% in healthcare and

social assistance.²⁷ These industries represent two extremes, where women make up most of the workers, or where women are in a small minority, and sexual harassment is common in environments at both extremes. For example, research has shown harassment to be widespread among food service workers in tipped positions whose wages are below minimum wage and who rely heavily on tips to support themselves. Women in these circumstances sometimes feel they must endure sexual harassment from customers in order to earn needed tips.²⁸ The same pressures may be felt by any woman who has few employment options and is economically vulnerable.

Although specific Utah data are unavailable to show how our numbers compare to national averages, both for frequently targeted populations and industries incurring high levels of harassment, the fact that our overall sexual harassment numbers are congruent with the nation makes it reasonable to assume that we align here as well. In addition, research shows that Utah women's participation in industries that have traditionally been male dominated, such as technology and manufacturing, is even lower than the national average.²⁹ Hence, is it possible that our harassment levels in these specific areas may be higher than average. Furthermore, Utah women are more likely to work part time than women in any other state,³⁰ and we have one of the highest gender wage gaps in the nation,³¹ which may leave some Utah women more economically vulnerable and therefore less equipped to stand up against harassment. Recently, several sexual harassment complaints have also been lodged against male politicians in Utah;³² politics is another area in which our state representation of women is among the lowest in the country.³³ Further research exploring sexual harassment in Utah, especially among vulnerable populations and industries where women are in the slim minority, is needed.

The Costs of Harassment

Sexual harassment—whether or not it is recognized or labeled as such—has serious negative implications for those who experience it. Effects include physical, mental, and emotional problems, such as anxiety, depression, loss of sleep, weight loss or gain, and more. Women who have been harassed also suffer financial hardship, both short-term losses from taking sick days or unpaid leave to avoid the harasser, and longer-term financial harm that can stem from loss of productivity, being denied promotions or raises, or quitting their jobs.³⁴ These negative impacts may be even greater if women report the harassment at work; research shows that up to 75% of those who make such reports experience some workplace retaliation (even though retaliation against one who files a claim is an additional

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illegal violation).³⁵ Furthermore, even though relatively few women ever file a charge outside their companies, the legal bar to prove harassment can be high, with great variance among judges on how to determine whether an offense is indeed present, and then if it is sufficiently “severe” or “pervasive.”³⁶ Only 3–6% of cases filed make it to trial, and one study noted that only 2% of plaintiffs win their cases.³⁷ Instead of reporting sexual harassment either at work or externally, many women seek social support from friends and family, try to avoid the harasser when possible, and endure harassment when they feel they have no other choice.³⁸

The costs of sexual harassment are not limited to those who experience it; companies in which harassment occurs may also pay a heavy price. Even though most women do not file charges, EEOC estimates show that the costs to settle or award damages for sexual harassment cases are in the hundreds of millions every year. But this is only a part of the total costs to companies. Loss of productivity from employees being harassed or witnessing harassment, absenteeism, the need to replace employees who quit, low morale among workers, and a damaged reputation within industries can all affect the bottom line for companies when sexual harassment occurs.³⁹ In addition to the obvious ethical and moral considerations, these high costs demonstrate there is also a clear business case for companies to combat sexual harassment.

What Utahns Can Do

Many companies have anti-harassment policies and include sexual harassment trainings in their on-boarding process. Research over the past 30 years has shown that these policies can vary in effectiveness,⁴⁰ and critics have argued that such policies are sometimes merely in place to protect a company in case of litigation.⁴¹ Yet even companies with the best intentions to prevent workplace harassment can fall short if they rely on formal policies alone to address this issue.

Experts agree that if corporations are to combat sexual harassment effectively, the message must come from top leadership, clearly and regularly, that sexual harassment is not tolerated.⁴² A one-time, impersonal overview of policy is insufficient and can even be counterproductive, based on the quality of the training.⁴³ Instead, a culture that supports, values, and respects all employees will continually take opportunities to prevent harassment. National organizations such as the Society for Human Resource Management (SHRM) have a wealth of information, including guidelines and best practices, to prevent and deal with sexual harassment in the workplace.⁴⁴ For example,

- Clearly define appropriate workplace conduct.

- Provide bystander training to empower all individuals to keep the workplace safe.
- Create multiple channels for reporting.
- Support those who do come forward with complaints, and thoroughly investigate allegations.
- Follow through with appropriate action when harassment has been proven, regardless of the harasser's status.

Companies must implement comprehensive programs to substantially reduce this serious problem.

Of course, individuals and other stakeholders must do their part as well. Research has shown that bystanders, especially men, can play a powerful role in stopping workplace sexual harassment.⁴⁵ Parents and teachers can instruct and model respectful behaviors and attitudes for young people as they prepare to enter public life, including the workplace. Open discussions of harassment in the media can reduce stigma and empower those who may have feared to come forward with their experiences. Finally, all organizations can recognize the value of diversity in their leadership. Research shows that as more women are in high levels of leadership, sexual harassment declines.⁴⁶

Conclusion

Utah is known not only for its robust business climate but also for its strong commitment to promoting ethical behavior and doing right by individuals and families. Workplace sexual harassment is a serious issue, and the costs to women, families, and corporations are real and extensive. As we work to understand and combat sexual harassment more effectively, we will not only strengthen the impact of Utah women, but our companies, institutions, and the state as a whole will benefit.

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