

It's not a question of sex.
It's an abuse of power.

The **Pennsylvania Human Relations Commission** provides equal opportunity in
employment and service to the public.

Pennsylvania is proud to be an equal opportunity employer supporting workforce diversity.

It's not a question of sex. It's an abuse of power.

Complaints of sexual harassment are decided on a case-by-case basis. The following information is designed to help employers, employees and others who may be affected to understand the law in regard to sexual harassment.

Harassment on the basis of sex is a violation of Section 5(a) of the Pennsylvania Human Relations Act.



The commission's guidelines define **sexual harassment** as follows:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment can be any **unwelcome** sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature. Sexual harassment is frequently a display of power. It is often intended to intimidate, coerce, embarrass or degrade another person.

Primary Forms of Sexual Harassment

Physical Harassment/Abuse

This includes unwanted touching, fondling, patting, pinching or kissing. Extreme forms of sexual harassment include assault or rape.

Verbal Harassment/Abuse

This includes requests or demands for sexual favors, propositions, questions about a person's sexual practices, lewd comments, sexual insults, innuendoes, "wolf whistles," threats or sexually explicit jokes.

Visual Harassment/Abuse

This includes leering, obscene gestures or displays and decorations of sexually explicit pictures, objects, materials or crude cartoons in work areas.

These unwanted sexual harassment advances are illegal when:

- 1 The employee believes she or he must put up with it in order to keep their job, **OR**
- 2 The employee believes employment decisions are based upon his or her response to the unwanted sexual advance (For example, the employee's promotion or pay raise is controlled by the harasser), **OR**
- 3 The employee is so offended or intimidated by unwanted sexual advances that their work is negatively affected, **OR** the harassment creates a hostile, offensive or intimidating environment.

Who is harassed and has the right to file a complaint?

In most situations, women file complaints against men. However, it is also illegal for women to sexually harass men, women to harass women and men to harass men.

Usually, the harasser has power over the victim. For example, a supervisor over employee, higher seniority employee over probationary employee, landlord over tenant or teacher or professor over student.

Sometimes, the harasser is not an employee. For example, a customer who harasses a waitress, a delivery person who harasses a secretary or a contractor who harasses a receptionist.

Victims are sometimes harassed because the harasser is angry and finds that sexual harassment is the easiest way to get even and publicly embarrass the victim.

A person can complain about sexual harassment even if he or she is not the target of the harassment. For example, an employee overhears sexual harassment and the person being harassed does not complain, but the person who overheard it does.

When a sexually cooperative co-worker unfairly obtains a raise because of the cooperation, other workers may file a complaint for being denied the opportunity to obtain a raise or other job benefits.

Advice to Victims

Say **NO**. Be assertive. Don't ignore the problem. It won't go away.

Tell a supervisor and a union representative, if you have one.

Ask coworkers if anyone else has had the same problem.

Tell your harasser in writing that you object to such behavior. Be specific and keep a copy of the letter.

Keep a log of the harassment and any changes that occur on your job after you speak up.

File a civil rights complaint **and** a union grievance.

Seek professional counseling if the harassment is harming your well-being.

Sometimes it is necessary to file criminal charges with the police.

... and remember **IT IS NOT YOUR FAULT.**

People who are personally and professionally secure **DO NOT** harass others.

Advice to Employers

Employers have the legal responsibility to maintain an unbiased environment, free of sexual harassment. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, when the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the commission will consider the extent of the employer's control and any other legal responsibility the employer may have with respect to the conduct of such non-employees.

Employers should circulate a serious, frank policy statement:

Explaining management's position.

Defining behavior that constitutes harassment.

Making consequences clear.

Providing a procedure for employees to report incidents.

Encourage employees to report incidents of harassment and to file internal complaints. You don't want to be the last to know.

Investigate each complaint thoroughly and neutrally.

Discipline offenders swiftly, appropriately and consistently.
Protect victims from reprisals and retaliation.
Provide ongoing training.
Set a positive example.

Sexual Harassment in Other Environments

Sexual harassment is also a violation of Title VII Civil Rights Act and the Pennsylvania Human Relations Act when it occurs in a public school, college or any educational institution. It is also illegal in landlord-tenant relationships in housing and in public accommodations such as restaurants, movie theaters, fitness centers or department stores.

Other Forms of Harassment

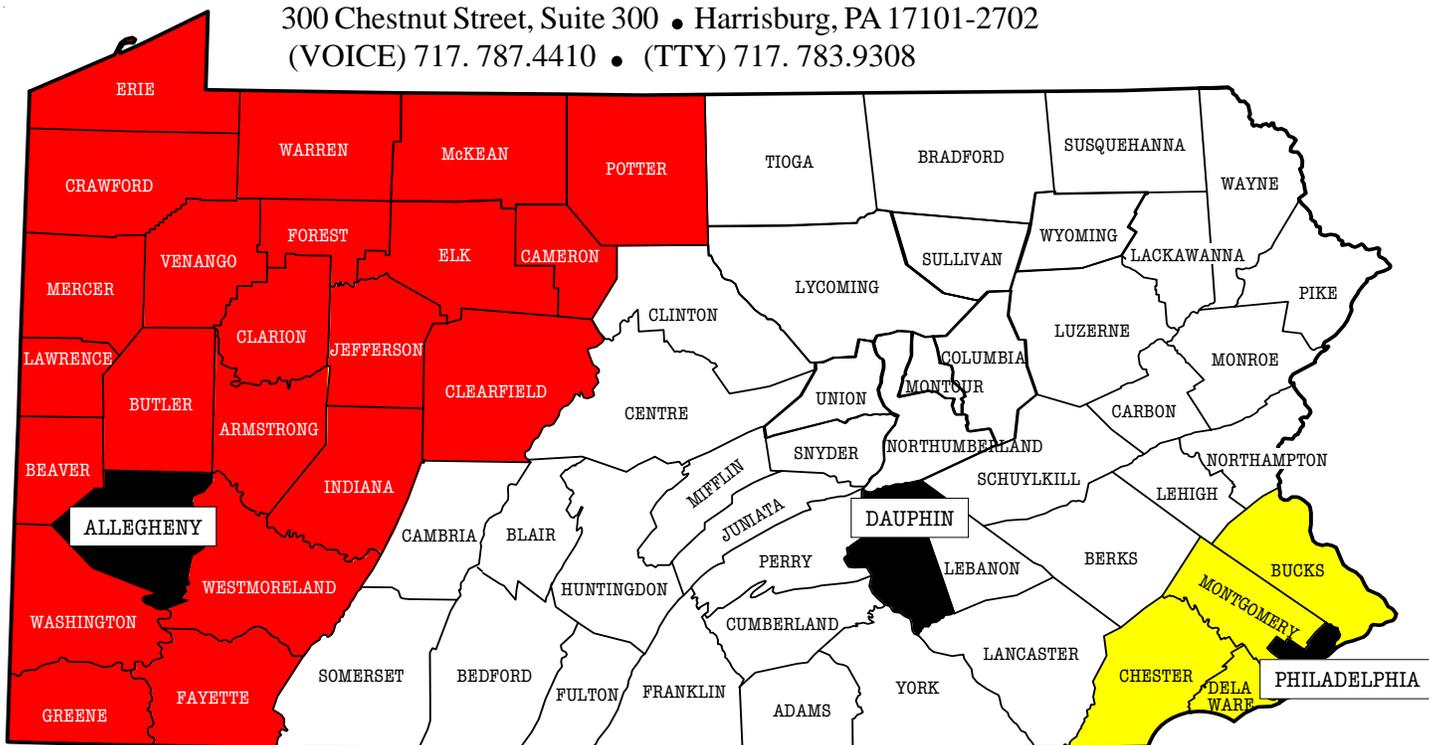
Harassment based on your race, color, religion, nation origin, ancestry, age (40 and above), sex, disability, use of a guide animal or having a GED instead of a high school diploma are also forms of illegal discrimination in Pennsylvania.

PA Human Relations Commission

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