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## Sexual Harassment Definition

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Sexual harassment is a form of discrimination which involves unwanted sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature.

- a. submission to such conduct is either explicitly or implicitly a term or condition of a person's job, pay, or career, or
  - b. submission to or rejection of such conduct by a person is used as a basis for career or employment decisions effecting that person, or
  - c. such conduct has the purpose or effect of unreasonable interfering with an individual's work performance or created an intimidating, hostile, or offensive work environment.
- Workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only to be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive.



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## QUICK REFERENCE GUIDE TO UNDERSTANDING THE ELEMENTS OF SEXUAL HARASSMENT

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## Elements of Sexual Harassment

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For a person's behavior to be considered sexual harassment, it must meet three criteria:

### **1. UNWELCOME**

a. Unwelcome behavior is behavior that a person does not ask for and which that person considers undesirable or offensive. Not everyone has the same perception of "undesirable or offensive." Since the person being subjected to the behavior—the recipient—is the one being affected, it is the recipient's perception that counts.

### **1. SEXUAL IN NATURE**

a. Telling sexually explicit jokes, displaying sexually suggestive pictures, talking about sex are obviously "sexual in nature." Some people would consider other behaviors, such as touching, to be sexual in some cases but not in others.

### **3. OCCUR IN OR IMPACT THE WORK ENVIRONMENT** (can take one of the following forms)

a. "Quid pro quo" A legal term meaning literally "this for that." This occurs when recipients are offered or denied something that is work connected in return for submitting to or rejecting unwelcome sexual behavior.

b. Unwelcome sexual behavior of one or more persons in a workplace, which interferes with another person's work performance.

c. "Hostile Environment" This occurs when the behavior produces a work atmosphere, which is offensive, intimidating, or abusive to another person, whether or not work performance is affected.

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## Complaint Procedures

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### **Informal Resolution System**

1. Whenever possible, conflicts arising from offensive or unwelcome behavior should be resolved at the lowest level. The use of the IRS is encourage but not required.

### **Formal Complaints**

2. All Marines have the right and responsibility to lodge a legitimate formal complaint of sexual harassment without fear of harassment, intimidation or reprisal.

### **False or Malicious Complaints**

3. An intentionally false complaint of sexual harassment may be, among other things, chargeable as a "false official statement" in violation of Art 107 of the UCMJ, or a "false swearing" in violation of Art 134 of the UCMJ.

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## Pertinent References for Grievance Procedures

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1. DON Toll free Sexual Harassment Advice and Counseling Hot line: (800)253-0931 within CONUS; (703)614-2735, overseas call collect.
2. SECNAVINST 5300.26D DON policy on Sexual Harassment
3. MCO 1000.9A Sexual Harassment
4. MCO P5354.1D w/ch1 Marine Corps Equal Opportunity Manual
5. MCO 1700.23F, NAVMC 1700.23F Request Mast Procedures
6. NAVMC 11290 Request Mast form
7. NAVMC 2921