



# Sexual Harassment: Insights from Ethics Law

Ethics Law eLearning  
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## Definition - Harassment

“Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.”

“Harassment becomes unlawful where

- 1) enduring the offensive conduct becomes a condition of continued employment, or
- 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.”



<https://www.eeoc.gov/laws/types/harassment.cfm>

## Definition - Harassment

“Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be **intimidating, hostile, or offensive to reasonable people.**”



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<https://www.eeoc.gov/laws/types/harassment.cfm>

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## Definition - Harassment

“Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.”



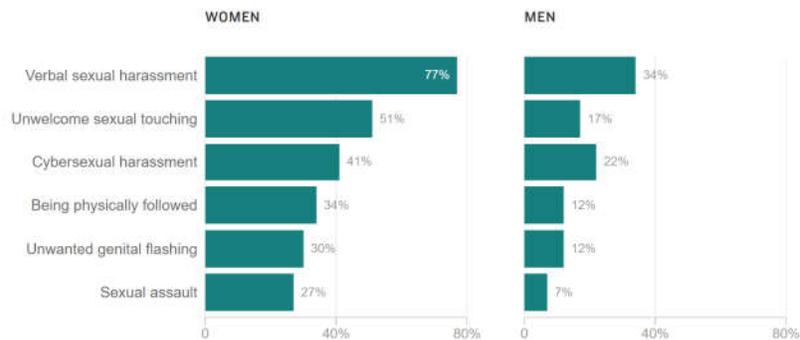
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<https://www.eeoc.gov/laws/types/harassment.cfm>

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## More Than 3 Out Of 4 Women Have Been Verbally Harassed

Share of respondents who have experienced different forms of harassment or assault



Source: Stop Street Harassment

Credit: Hilary Fung/NPR

Survey Conducted January 2018

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<https://www.npr.org/sections/thetwo-way/2018/02/21/587671849/a-new-survey-finds-eighty-percent-of-women-have-experienced-sexual-harassment>

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## #MeToo - Headlines and Reactions

The range of behaviors described as harassing is broad

Some cases of alleged harassment may be either false accusations or simple misunderstandings

BUT . . . *most* of the cases are clear-cut examples of inappropriate behavior



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## An HR Issue . . . And an Ethics Issue

Much of the discussion about sexual harassment focuses on employment settings and HR policies

**State ethics law** also provides guidance for public officials that relates to preventing harassment

- Unauthorized compensation
- Soliciting gifts
- “Public office is a public trust”



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## Gifts

### (2) SOLICITATION OR ACCEPTANCE OF GIFTS.

**No public officer**, employee of an agency, local government attorney, or candidate for nomination or election shall **solicit or accept anything of value** to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, **based upon any understanding** that the **vote**, official **action**, or **judgment** of the public officer, employee, local government attorney, or candidate **would be influenced thereby**.



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## Unauthorized Compensation

(4) UNAUTHORIZED COMPENSATION.--No **public officer, employee** of an agency, or **local government attorney** or his or her **spouse** or **minor child** shall, at any time, accept any compensation, payment, or **thing of value when** such public officer, employee, or local government attorney **knows**, or, with the exercise of reasonable care, **should know**, that it was **given to influence a vote or other action** in which the officer, employee, or local government attorney was expected to participate in his or her **official capacity**.



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## Sexual Harassment: What is Being Solicited?

Tolerance of offensive  
speech or behavior



Acceptance of unwanted  
physical contact

Tolerance of  
inequitable treatment



## Why Solicitation is a Problem

A variety of factors can influence someone's  
response to a 'solicitation':

Desire to fulfill the request

Social mores

Fear of consequences



## What Constitutes Consent

Failing to object does not constitute consent

Even *expressing* consent does not necessarily constitute consent



## What Constitutes Consent

Consent requires that the person consenting:

- Has the capacity to consent
- Has sufficient knowledge of what is requested to be able to consent
- Is free from undue constraint or coercion



## The Constraining/Coercing Power of Public Office



Vote/Decision  
Advocacy/Opposition  
Connections



## Power Entrusted by the Public

The power of a public official belongs to the public, not personally to the official.

It is held by the official as a **trust**, to be exercised in the **public interest**, not for personal benefit



## The Law Declares These Principles

“It is declared to be the **policy of the state** that **public officers and employees**, state and **local**, are agents of the people and hold their positions **for the benefit of the public**.

...promoting the **public interest** and maintaining the **respect of the people** in their government must be of **foremost concern**.”

Chapter 112, Part III (Legislative Intent)



## Three Keys

- Be **Conscious** of the implied power of office
- Be **Respectful** of all others
- Exercise your office for the **Public Good**, not personal pleasure



## Questions???



## Summit Series Investigations, Accusations, Confrontations: How Cities Should Respond

- |               |                    |
|---------------|--------------------|
| <b>May 4</b>  | <b>Panama City</b> |
| <b>May 11</b> | <b>North Port</b>  |
| <b>May 18</b> | <b>Gainesville</b> |
| <b>May 24</b> | <b>Plantation</b>  |



## Upcoming FLCU Online Learning Opportunities

**April 18 – How to Start & Maintain Youth Councils**

**May 2 – Excelling #FLCityWeek: *How to Plan Memorable Events to Celebrate Florida City Government Week***

**May 10 – Social Media: The Pros and Cons of Multiple Platforms**

**May 16 – What is Cooperative Purchasing and How Can Your City Benefit?**

**June 5 – Municipal Policy-Making Best Practices – Part 1**

**June 14 – Public Opinion**



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## Upcoming FLCU and FLC Events

**April 20 – FLC University Grants and Resource Regional Workshop Tallahassee**

**April 27-28 – Advanced Institute for Elected Municipal Officials Tampa**

**May 8 – Social Media for Municipal Use – Regional Workshop Ft. Lauderdale**

**May 16-18 – FAST Fly-in Washington, D.C.**

**June 8-10 – Institute for Elected Municipal Officials Jupiter**



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## Join the Conversation #InspiringLeaders

Blog – [DrScottPaine.com](http://DrScottPaine.com)

Twitter - [@DrScottPaine](https://twitter.com/DrScottPaine)

Facebook – [Dr. Scott Paine](https://www.facebook.com/Dr.Scott.Paine)



## Thank you

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and

## You!



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