SEXUAL HARASSMENT
For Management

Annual Refresher
Revised February 2011

SELF-TEACHING PACKET INSTRUCTIONS

Sexual Harassment for Management/ Annual Refresher must be completed between May 1st and May 31st; post test must be submitted to PDT Department by May 31, 2011.

1) Read the enclosed materials.

2) Complete the post-test.

3) Place the post-test in a sealed envelope.

4) Return the test to the Professional Development & Training Department (PDT) to receive credit:

   Professional Development & Training
   BAMSII
   10 Christy’s Drive
   Brockton, MA 02301

   Maintain a copy of the completed post test at your program.

Call the PDT Department at (508) 580-8700 if you have any questions. Thank you.
LEARNING OBJECTIVES

Goal:
To educate employees about sexual harassment in the workplace so that they may experience a work environment free from all forms of discrimination, including sexual harassment

Objectives:

- State the definition of sexual harassment
- Explain the conditions of sexual harassment
- Identify examples of sexual harassment
- Know BAMSI’s policy and complaint process
- Identify BAMSI Sexual Harassment Officer
- Report an incident
OVERVIEW

According to the U.S. Equal Employment Opportunity Commission (EEOC), sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. It includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- submission to, or rejection of, such conduct by an individual is used as the basis employment decisions affecting an individual;
- such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Simply stated: Sexual Harassment is against the law and it is against BAMSI policy!

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment is behavior that is unwelcome. Examples include, but are not limited to:

- demand for sexual favors in return for favorable job treatment
- direct sexual advances or sexual assault
- sexual innuendos, suggestive comments, jokes of a sexual nature, propositions, threats
- derogatory comments about a person’s sex or sexual orientation
- unwanted physical contact, including touching, patting, pinching, brushing, or physical direction of movement or progress
- repeated requests for a date, phone calls, letters or messages which are unwelcome or intimidating in nature
- sexually suggestive objects, pictures or photographs, videos, graphic commentaries, or insulting sounds, staring, leering, whistling, obscene gestures
- the requirement or suggestion that a person wear sexually revealing clothing

This unwelcome behavior is defined from the perspective of the victim, not the harasser.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature, or welcomed social relationships. It refers to deliberate or repeated behavior, consisting of verbal comments, gestures or physical contact of a sexual nature that are not welcome, that are personally offensive, that lower morale and that interfere with work productivity.
In determining whether harassment is sufficiently severe or pervasive to create a hostile environment, the harasser's conduct should be evaluated from the objective standpoint of a "reasonable person."

**WHO IS THE HARASSER? WHO IS THE VICTIM?**

Sexual harassment is not limited to prohibited behavior by a male employee toward a female, or by a supervisory employee toward a non-supervisory employee.

- Harassers can be of either gender
- Harassment may be heterosexual, homosexual or bi-sexual in nature
- Victims of sexual harassment can be a supervisor, a colleague, a non-employee, or a witness to sexual harassment who is personally offended, whether at the workplace or during work assignments away from the workplace

**CASE STUDIES**

True or False?

1. While at work, Janet frequently makes personal phone calls to her friends. Her conversations are loud and generously sprinkled with sexually explicit language. Her co-workers in nearby cubicles cannot help but overhear her conversations. Janet's behavior cannot be interpreted as sexually harassing, because she is not addressing her language directly toward her co-workers.

   **FALSE!**
   Harassment in the workplace does not have to be directed at a particular individual. Janet's co-workers may find her behavior offensive, unwelcome and contributing to a hostile work environment, even though she is not speaking directly to them.

2. Mark persists in asking his co-worker, Mary, out to dinner, even though she turns him down every time he requests a date. She has told him several times to stop asking. Mark's behavior is not at risk for sexual harassment, because sexual harassment may only occur between a male boss and a female subordinate.

   **FALSE!**
   Although harassment frequently involves power relationships, sexual harassment may occur between any individuals at work, regardless of reporting relationships. If Mary finds Mark's requests unwelcome and if he persists in asking her out despite her clearly stating that she does not want to date him, his behavior is at risk for sexual harassment.
3. Bob frequently tells sexually-explicit jokes during team meetings. Bob's co-worker, Marcia, is very offended by his jokes. Bob's behavior is not at risk because his jokes are all in fun and he does not intend to sexually harass anyone.

**FALSE!**

*Sexual harassment does not depend on intent. It depends on the impact of the behavior on the work environment. Bob may not intend to offend or harass any of his co-workers, but the impact of his behavior is what counts. While one joke will probably not result in a sexual harassment claim, if this type of behavior pervades the working environment, chances are some workers will find it offensive and unwelcome. Bob's management is obligated to keep the workplace free of offensive behavior of a sexual nature.*

4. Roberta is an Account Rep at EZ Interactive Company and has hired Alex, right out of graduate school, as her assistant. Some time after Alex starts working at the company; Roberta tells Alex that the only way he can keep his job at EZ Interactive is by having sex with her. Alex is very upset with this demand, but finally agrees because he really needs the job. Because Alex gave in to Roberta's demands, the situation is one of mutually consenting adults, not sexual harassment.

**FALSE!**

*Roberta's demand to Alex, "have sex with me or lose your position," is a clear example of quid pro quo sexual harassment. It is irrelevant whether or not the victim gives in to the harasser's demands. The harassment occurs when the threat is made, regardless of the victim's response. Usually, only the parties involved know how the relationship began. This is why even consensual relationships between employees and supervisors are risky. Often, a judge determines later whether it was a case of a compliant victim or a willing participant. BAMSI POLICY PE-56-06: Policy and Procedure Regarding Supervisor/Subordinate Relationships. BAMSI prohibits supervisors from entering into romantic and/or intimate relationships with employees they supervise.*

5. Joan and Steve enjoy a great working relationship and just recently have started dating. They can't seem to get enough of each other outside of the workplace. At work, however, they usually only interact during breaks and lunch, which they take together. They are clearly infatuated with each other but do not engage in public displays of affection. Romance of any kind has no place at work. This couple's relationship is clearly at risk for sexual harassment.

**FALSE!**

*The law on sexual harassment refers only to non-consensual behavior of a sexual nature. This means that at least one of the parties is not willing, does not consent, and does not find the behavior welcome. Joan and
Steve have a consensual relationship, and they don't engage in publicly offensive behaviors, so their conduct cannot be construed as sexual harassment. However, romances may go sour and lead to harassment situations. That's why some organizations, including BAMSI, have adopted policies regarding office romances. BAMSI POLICY PE-41-06: Policy on Employee Personal Relationships. Employees are prohibited from engaging in socially intimate relationships with one another when such relationships have the potential of negative impact on the delivery of services.

**EMPLOYER’S LIABILITY**

Employer is likely to be held responsible for sexual harassment under existing statutes and case law, in these instances:

- When an immediate (or successively higher) supervisor's harassment/retaliatory conduct culminates in a tangible employment action, such as discharge, demotion or undesirable reassignment, the employer will be liable for the supervisor's actions.

- When an immediate (or successively higher) supervisor's harassment does not culminate in such a tangible employment action, the employer may raise an affirmative defense to liability or damages.

**EMPLOYER’S AFFIRMATIVE DEFENSE**

Employer may not be held responsible if it can show that:

- The employer prevent and correct Sexual Harassment complaints promptly by following an agency’s policies, protocols and business practices
  
  - Sexual Harassment Policy
  - Complaint Procedure
  - No Retaliation
  - Communication
  - Thorough Investigation
  - Prompt, Appropriate Remedial Action

- The employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior; and

- The employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.
COMPLAINT RESOLUTION PROCESS

Any employee, who believes he or she has been subjected to sexual harassment or has witnessed it, should report these acts immediately to:

- **BAMSI’s Sexual Harassment Officer** who is Don Zimmerman, Vice President of Human Resources at 10 Christy’s Drive, Brockton, MA 02301, (508) 580-8700 x. 129.
- If an employee does not wish to report the complaint to the Sexual Harassment Officer, he/she may report the act to one of the following individuals who will be required to immediately report such information to the Sexual Harassment Officer:
  - his/her immediate supervisor or any agency manager
  - Collective Bargaining Unit in accordance with applicable Grievance Procedure
  - Chief Executive Officer or designee at (508) 580-8700
  - MCAD - the Massachusetts Commission Against Discrimination at (617) 994-6000 (within 300 days following the alleged harassment)

**Formal Complaints & Resolving Complaints**

- Sexual Harassment Complaint Form - All complaints should include the date and details of the incident(s), names of individuals involved and names of any witnesses.
- Any employee who files a sexual harassment claim or cooperates in an investigation shall not be subject to retaliation or reprisal.
- All complaints will be addressed
- The alleged harasser will be notified
- Investigation will be conducted in a manner to protect confidentiality
- The Sexual Harassment Officer will draft a full report which determines one of the following outcomes:

  **Sexual harassment has occurred:** The preponderance of evidence shows that the behavior in question met the definition of sexual harassment.

  **Sexual harassment did not occur:** The preponderance of evidence shows that the behavior in question did not meet the criteria for sexual harassment or did not meet the threshold for sexual harassment.

  **Insufficient evidence:** Due to a lack of definitive evidence, the truth of what actually occurred cannot be established.

  **False accusation:** The complainant acted in bad faith by either knowing that the allegation was false or recklessly filing the complaint. False accusations may result in disciplinary action.
CEO or designee will determine appropriate action, which shall be proportionate to the severity of conduct. Some examples include, but are not limited to: sensitivity training, written warning or formal reprimand, probation, suspension, demotion, transfer, termination, or a combination of the aforementioned.

A summary of the complaint will be given to the complainant and alleged harasser and, in certain cases, may be included in the employee’s personnel file.

**Informal Complaints**

An employee may choose the option of informally discussing the alleged incident with the Sexual Harassment Officer, but may decide not to file a complaint. The Sexual Harassment Officer will complete a Sexual Harassment Contact Report. However, in these instances, the Sexual Harassment Officer will forward the information to the Chief Executive Officer, who will determine if further action should be taken. The Sexual Harassment Officer will maintain a record of the alleged complaint in a confidential file with the name of the alleged harasser redacted from the report. The Vice President of Human Resources will maintain the only official file of all such reports showing the names(s) of the alleged harassers.

**RESPONSIBILITIES OF EMPLOYEES**

It is the policy of Brockton Area Multi-Services, Inc. (BAMSI) that all employees experience a work environment free from all forms of discrimination, including sexual harassment. Sexual harassment undermines the integrity of the workplace and the personal dignity of the individual.

It is not BAMSI’s intent to regulate social interaction or relationships freely entered into by its employees, but rather to eliminate conduct that creates an abusive or hostile work environment.

All employees are required to report any behavior that they believe to be of an unwelcome sexual nature, whether it be directed toward themselves or toward another person, as well as to support the Policy for the Prevention and Elimination of Sexual Harassment in the Workplace by:

- ensuring that they do not sexually harass any other employee, applicant for employment, recipient of services, or any other individual in or associated with the workplace
- cooperate in an investigation of alleged sexual harassment by providing fully and truthfully any information they possess concerning the matter being investigated
- actively participating in BAMSI’s efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such discrimination
Please refer to BAMSİ’s Policy on Prevention and Elimination of Sexual Harassment in the Workplace for more information. A copy of this policy can be downloaded from the BAMSİ website: “For Employee’s” section.
SEXUAL HARASSMENT for MANAGEMENT
Annual refresher
- POST-TEST

Name____________________________________________Date________________

Signature___________________________________________________________

1. Sexual Harassment is defined as:

   Sexual __________, requests for __________ ____________, and other
   __________ or __________ conduct of a _______ nature, when:

   ◆ _________________ to such conduct is made, either explicitly or implicitly, a
     _______ or _____________ of an individual’s employment;

   ◆ _________________ to, or ____________ of, such conduct by an individual is used
     as the basis for ________________ decisions affecting an individual; or

   ◆ such conduct has the purpose or effect of ________________
     ________________ with an individual’s work performance or
     creating an intimidating, hostile or offensive _______ _____________.

2. An example of quid pro quo sexual harassment is:

   A. Telling dirty jokes at work

   B. Asking a subordinate to go out with you in exchange for a day off

   C. Pin-up calendars in the work place

   D. Having a female staff member make the coffee for a meeting

   E. Tight fitting slacks
3. George, a middle-aged married man, is the manager of a work place employing four young single women. George frequently approaches the women when they are seated at their work stations and talks to them quietly with his head close to theirs and his hand resting gently on their side or lower back. He has had several complaints but always says he just warm, affectionate guy, and means no harm. This is:

A. *Quid pro Quo* sexual harassment
B. A hostile work environment
C. Not sexual harassment
D. Grounds for divorce
E. An employee benefit

4. An example or examples of a hostile work environment is:

A. Forwarding sexually explicit emails to other employees
B. The use of sexually explicit language in the workplace
C. Wearing short shorts in the workplace
D. Leering suggestively at a co-worker
E. Promoting a subordinate you are dating

5. To determine if a hostile environment exists, courts examine conduct from the perspective of:

A. A man
B. A woman
C. Religious leaders
D. A reasonable person
E. The alleged victim
6. Sexual harassment can include (may be more than one example):
   A. Unwanted touching of a sexual nature
   B. Repeated rejected requests for a date
   C. Playing music with sexually explicit lyrics in the workplace
   D. Comments about a co-worker’s body parts, clothing or physique
   E. Marrying someone with whom you work

7. BAMSI’s Policy regarding Sexual Harassment can be found:
   A. On Craig’s List
   B. In the BAMSI Administrative Policy and Procedure Manual
   C. At the library
   D. On the BAMSI Career Site
   E. On the For Employee’s section of the BAMSI website

8. Complaints regarding Sexual Harassment may be submitted to:
   A. Any manager
   B. The BAMSI Sexual Harassment Officer
   C. The Massachusetts Commission Against Discrimination (MCAD)
   D. The local police department
   E. The employee’s union

9. An employer may raise affirmative defense to a charge of sexual harassment when:
   A. A subordinate initially consented to a sexual relationship with a supervisor
   B. The victim did not lose his or her job because of the harassment
   C. No tangible employment action resulted
   D. The supervisor acted in violation of the employer’s policy
E. The victim was not physically injured

10. **Examples of an affirmative defense that an employer can argue include:**

A. The employer took reasonable care to prevent and promptly correct sexually harassing behavior

B. The victim previously had a consensual intimate relationship with the harasser

C. The supervisor harasses men and women equally

D. The victim has a well-known reputation for sexual promiscuity

E. The victim unreasonably failed to take advantage of the complaint procedure

11. **BAMSI’s Sexual Harassment Officer is:**

A. The Chief Financial officer

B. The Chief Operations Officer

C. The Chief Executive Officer

D. The Vice President of Quality Management

E. The Vice President of Human Resources

12. **Managers who observe or are informed of possible incidents of sexual harassment should:**

A. Try to resolve the matter informally between the parties

B. Ask the employee complete a Sexual Harassment Complaint Form and forward it to the Sexual Harassment Officer

C. Take disciplinary action against the alleged harasser

D. File a report with the Disabled Persons Protection Commission (DPPC)

E. Transfer the complainant to another shift