



How to Recognize, Respond to, and Report Sexual Harassment

A fact sheet for workers in Texas



The information in this flyer is general information and is **not legal advice**. For legal advice on a specific issue, please contact an attorney.

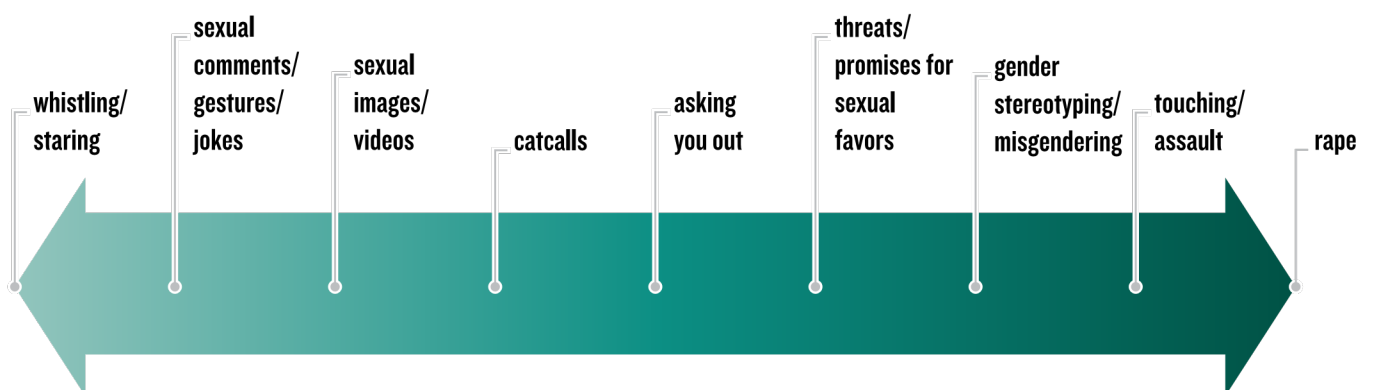
1. RECOGNIZING Sexual Harassment

- **Sexual harassment** = *unwanted* sexual behavior and language at work.
- **Workers have the right to be free from sexual harassment - regardless of immigration status!**
- **Is my employer covered by sexual harassment laws?**

In Texas, beginning September 1, 2021, **all** employers are covered by sexual harassment laws, regardless of their size. Smaller employers (fewer than 15 employees) are covered by Texas law, but not federal law. Talk to a lawyer about your situation.

Sexual Harassment Spectrum

Sexual harassment can take many forms. Here are some examples:



Myths and Facts about Sexual Harassment:

<p>MYTH #1 “It isn’t sexual harassment if there’s no touching.”</p>	<p>FACT # 1 Sexual harassment doesn’t require touching. <u>Words</u> alone can be harassment.”</p>
<p>MYTH #2 “It isn’t sexual harassment if a man harasses a man, or if a woman harasses a woman.”</p>	<p>FACT # 2 Men can harass men, women can harass women, and women can harass men.</p>
<p>MYTH #3 “You have to be harassed by your supervisor in order for it to be illegal.”</p>	<p>FACT # 3 Sexual harassment by a <u>coworker</u> can be illegal, too.</p>
<p>MYTH #4 “You have to be harassed by another employee in order for it to be illegal.”</p>	<p>FACT # 4 Harassment by <u>customers</u>, clients, and third parties can be illegal, too.</p>
<p>MYTH #5 “Comments that are not based on desire are not sexual harassment.”</p>	<p>FACT # 5 Comments based on gender <u>stereotypes</u> (gender identity or expression, sexual orientation, or assumptions about what men or women can or should do) can be harassment, too.</p>
<p>MYTH #6 “Comments or actions that are not directed at you are not sexual harassment.”</p>	<p>FACT # 6 Comments or actions directed at others can also create a hostile work environment.</p>

2. RESPONDING to Sexual Harassment

Let’s be clear:

- It’s never the survivor’s fault that the harassment happens or keeps happening.
- It’s on the harasser not to harass in the first place, and it’s on the employer to stop it.
- But we know they won’t always do that.
- So here are some steps you can take to put yourself in the best position.

If you are harassed:

1. If you feel comfortable and safe, tell the person to **STOP**. Bring a witness.

2. **Reach Out.**

📞 Get support.

- ✓ Talk to **someone you trust** (family member, friend). Telling others about harassment can give you much needed support and can be evidence later.
- ✓ If your workplace has a **union**, you can contact your union representative for help.

- ✓ Talk to **coworkers**. You may find witnesses, allies willing to help, or others who were harassed by the same person.
 - ✓ You can also get support from a **community organization** or talk to a **lawyer**.
 - 👉 Get safe.
 - ✓ Call **9-1-1** if you are in immediate danger.
 - ✓ Call the **local or national domestic or sexual violence hotlines** for information on safety planning and local resources.
- 3. Write it down!** Document the harassment. ✓ **Text/Write** a friend when it happens.
- ✓ Take **notes**; keep a journal. Write down “who, what, when, where” and who witnessed it. Take your journal home and keep it safe.
 - ✓ Keep **copies** or take photos of any offensive material, voicemails, social media posts, text messages, etc.
- 4. Report** the Harassment to your Employer. ✓ **Review** your employer’s anti-harassment policy and procedure for complaining.
- ✓ **Follow** this procedure to report harassment as soon as possible.
 - ✓ If there is no policy, report to **your supervisor**. If your supervisor is the harasser, report it to someone **higher up**.
 - ✓ Keep **documentation** of any reports made, including date and time and who you reported to.

If your coworker is harassed:

- Respect your coworker’s **privacy** and decisions.
- Be **available** to talk.
- Help **identify support** (organizations, hotlines, etc.). Help reach out to those contacts.
- Be a **witness** to the harassment.
- Help **document** the harassment.
- Help **report** the harassment (but only if you have permission from the person being harassed).

If harassment is reported, the employer should:

- Take the complaint and keep it CONFIDENTIAL.
- Conduct a thorough INVESTIGATION.
- Make a decision and take immediate action to STOP the harassment.

The employer should NOT retaliate against workers who complain about harassment of themselves or others!
No Excuses!

Some common excuses for sexual assault or harassment, and responses:

EXCUSE	RESPONSE
“You didn’t say no at first, so it’s not sexual harassment.”	Even if you didn’t say no at first, it can still be sexual harassment.
“Their story changed, so they’re not telling the truth.”	Trauma and time can affect <u>memory</u> ; this doesn’t mean someone isn’t telling the truth.
“If you report the harasser, you’ll ruin his/her life.”	Someone who sexually harasses others has ruined his/her own life. Reporting the harassment will help stop harassment in the <u>future</u> .
“This is just how men are. You should expect this if you work in this job. I put up with it, so she should too.”	The law says that sexual harassment is illegal in <u>all</u> workplaces. Old-fashioned ideas about “how men are” do not change that.

3. REPORTING Sexual Harassment: Taking Legal Action

- If your employer doesn’t act quickly to correct the harassment/fix the situation, or if you are retaliated against, the next step is to file a complaint with a government agency.
- If you worked for a **small employer** (under 15 employees), you **must file your complaint with the [Texas Workforce Commission Civil Rights Division](#)** (TWCCRD) (888-452-4778).
- If you worked for an employer with **at least 15 employees**, you can choose to file with either the Equal Employment Opportunity Commission (EEOC) (800-669-4000; www.eeoc.gov) or the TWCCRD.
- **Before you can go to court**, you have to complain to the correct agency on time. In Texas, starting September 1, 2021, sexual harassment complaints can be filed within 300 days of the harassment (though some other types of retaliation and discrimination complaints have to be filed within 180 days). It’s best to file as soon as possible.
- You **don’t have to have a lawyer** to file with the EEOC or TWCCRD.
- You have to file a written complaint with the EEOC or TWCCRD, and **sign it**, by the deadline.

HOW THE EEOC/TWC PROCESS WORKS

Equal Employment Opportunity Commission (EEOC) & Texas Workforce Commission (TWC)

1) COMPLAINT FILED

To start the complaint process, contact one of these agencies to file a complaint. Make sure you **sign & file your charge** by the deadline:

Equal Employment Opportunity Commission (EEOC):
(800) 669-4000
<https://www.eeoc.gov/>

Texas Workforce Commission Civil Rights Division (TWC):
(888) 452-4778
<https://www.twc.texas.gov/partners/civil-rights-discrimination>

2) OPTIONAL MEDIATION

If both sides want to try to settle the case, the agency will set up a meeting [called a **mediation**] to try to settle the case (settlement usually means there is a payment to the worker, and the worker agrees not to continue with claims).

4) RIGHT TO SUE LETTER

- After the investigation, the agency will send you a **“right to sue” letter**.
- If you want to go to court, you must file your lawsuit within a **very short time period** (60-90 days) after you receive your right to sue letter. Talk to a lawyer.
- You have a right to file a lawsuit in court **even if** the EEOC or TWC does not decide the law was violated.

3) INVESTIGATION

The agency will assign an investigator to your case. The investigator should contact you and the employer for more information, witnesses, and documents. EEOC and TWC investigations can take some time.

4. RETALIATION – Your Rights

- Retaliation happens when an employer treats someone *badly* because they *complain* about sexual harassment.
- Retaliation is *illegal*. You have the right to complain about harassment without being *harmed* or *threatened*.

You’re protected from retaliation when you:

- Complain to your *employer* about sexual harassment (it does NOT have to be in *writing*!).
- Complain because someone is sexually harassing *you* or your *coworker*.
- File an *EEOC* or *TWC* complaint, or a lawsuit, because of sexual harassment.
- Act as a *witness* in someone else’s sexual harassment complaint or lawsuit.

Your employer can’t try to stop me from doing these protected things by:

- *Firing* you, cutting your *hours*, or *disciplining* you;
- Doing things like reporting you to *immigration* or the police, *suing* you, or harming you in other ways;
- ...or *threatening* to do these things.

You don’t have to be the one being harassed to have the right not to

be retaliated against. If your coworker is being sexually harassed and you complain about it, your employer can't retaliate against you.

You are protected from retaliation even if you don't work for the employer anymore.

What can you do if your employer retaliates against you?

- It's illegal – file a complaint with the EEOC or TWCCRD.
- Talk to an attorney. Talking to an attorney is confidential, and the attorney won't take any action unless you choose to take action.
- You may have the right to get your job back or get payment for the harm you suffered.

If an employer threatens to call immigration because you complained about your rights, talk to an immigration attorney. Special rights or immigration relief could apply.

Tips for preventing retaliation:

- Complain in groups about things affecting more than one employee. This could give you additional rights.
- Take a witness.
- Complain in writing (even though it's not required) to prove that you made a complaint.

5. RESOURCES

Legal:

- **Texas RioGrande Legal Aid** (*free, confidential legal help*): 800-991-5153; www.trla.org
- **TIME'S UP Legal Defense Fund™**: <https://nwlc.org/legal-assistance/>
- **Equal Employment Opportunity Commission (EEOC)**: 800-669-4000
- **Texas Workforce Commission Civil Rights Division (TWC)**: 888-452-4778

Non-legal:

- **National Domestic Violence Hotline**: 800-799-SAFE

- **National Sexual Assault Hotline:** 800-656-HOPE (4673)

