



Sexual Harassment Overview

MODIFYING YOUR SEXUAL HARASSMENT POLICY TO
ACCOMMODATE A MULTI-CULTURAL, MULTI-LINGUAL STAFF



Overview of Sexual Harassment for J-1 Visa Host Employers

Every year, close to 300,000 J-1 Visa Exchange Visitors enter the USA. Exchange Visitors are represented from a large array of countries, each with its specific laws, regulations and cultural perceptions regarding sexual harassment. Every season, there are Exchange Visitors who commit acts that are considered sexual harassment by their colleagues and/or Host Employers. In addition, some Exchange Visitors are victims of sexual harassment by their colleagues and/or supervisors. **In either case, the Exchange Visitors and the Host Employers can be negatively impacted.**

As a visa sponsor, we want both our Exchange Visitors and our Host Employers to have a safe and successful program. For that reason, we have outlined recommendations to address sexual harassment issues relative to J-1 Exchange Visitors. In addition, we have provided a brief overview of the significance a person's cultural background plays on perception of what sexual harassment is and how a person responds to incidents of sexual harassment.



Definition of Sexual Harassment

Sexual harassment is unwelcome verbal or physical behavior that makes a person feel offended, humiliated, threatened, and/or intimidated.

- The term “harassment” includes, but is not limited to, jokes, slurs, or other verbal, graphic, or physical conduct relating to a person’s race, color, sex, religion, national origin, citizenship, age, gender identity, sexual orientation or disability.
 - Where a person, regardless of gender, is asked to engage in sexual activity as a condition of that person’s employment.
 - Situations which create an environment which is hostile, intimidating or humiliating for the person being harassed.
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Adjusting your Sexual Harassment Policy to Accommodate Exchange Visitors

Most American companies have instituted a sexual harassment policy. However, in choosing to employ Exchange Visitors from different countries and with different language backgrounds, it is recommended that each employer review its policies for sensitivity to a multicultural staff and consider adjusting them according to the recommendations below.

Policy: Review policy for accessibility by employees from other countries, who often speak English as a second language

- Develop a policy clearly addressing sexual harassment that is written in English that is **easy to understand** by speakers of English as a second language.
- Provide an easy-to-understand list of prohibited behaviors, including examples to help facilitate comprehension.
- Provide a corresponding list of clear consequences for prohibited behaviors.
- Translate policy into all languages commonly used by employees if possible.



Adjusting your Sexual Harassment Training to Accommodate Exchange Visitors

Training: Facilitate training on sexual harassment for all employees, including Exchange Visitors

- All employees should be trained on company sexual harassment policies. Further, anyone responsible for investigating sexual harassment allegations should be formally trained on how to conduct such investigations.
 - Provide strong and clear messaging by all leaders from the top executives down to the shift or line supervisors that harassment is not tolerated. If returning Exchange Visitors are in positions of authority, make sure that they go through sexual harassment training from the perspective of a supervisor upon arrival.
 - Disseminate policy to all employees through in-person orientations, online company materials and in written handbooks so international staff can access the policy through multiple media to ensure comprehension.
 - Post simple versions of sexual harassment policy centrally, such as on the company's internal website, in the company handbook, near employee time clocks, in employee break rooms, in employee housing and in other area commonly used by Exchange Visitors.
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Adjusting your Sexual Harassment Reporting Process to Accommodate Exchange Visitors

Reporting and Management Process: Outline clear reporting processes and guidelines if sexual harassment is suspected

- Provide a simple description of your harassment complaint system, including multiple, easily accessible reporting methods written in simple English that ensure the privacy* of the individual reporting the harassment as much as possible. In many cultures, the victim is often ashamed or afraid to report harassment so privacy is critical.
 - Ensure the employees to whom Exchange Visitors are supposed to report suspected incidents of sexual harassment are familiar with Exchange Visitors and that the Exchange Visitors know and trust those individuals.
 - Ideally, identify two or more individuals, preferably at least one female-identifying, to whom Exchange Visitors can report incidents so that they can choose with whom they communicate.**
 - Select employees who can remain neutral, objective and understand how to support victims of sexual harassment to manage sexual harassment complaints.
 - Develop formal policies prohibiting retaliation for reporting or participating in an investigation of sexual harassment. Specifically, all employees should know they cannot be fired, demoted, have hours cut, have their programs ended or terminated or be placed in a less desirable job position or location as a result of making a complaint of sexual harassment or participating in an investigation (for example serving as a witness).
 - Anyone accused of sexual harassment must be formally notified of the specific allegations and provided an opportunity to respond to the allegations.
 - Train all employees identified to manage sexual harassment complaints on the cultural nuances regarding views of sexual harassment for the countries from which their Exchange Visitors come.
 - Notify sponsor if health, safety or welfare of the participant is threatened.
 - Notify sponsor if participant's employment is in jeopardy due to an incident.
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Cultural Impact on Perception of Sexual Harassment

"As businesses become more diverse and international, educational programs for managers and employees at all levels will have to incorporate cultural relativism." Here are some examples of cultures' influence in defining and responding to sexual harassment.

- An individual's perception of what behaviors are considered threatening or discriminatory vs harmless acts of flirtation can be influenced by his or her culture.
 - The hierarchical or patriarchal norms in an individual's country can influence how a person perceives the appropriateness or acceptability of various actions, especially those of a sexual nature. **Example:** If the victim comes from a culture where hierarchy is strong, they may not report sexual harassment incidents if the harasser is their professional superior.
 - Communication style may influence how a person responds to difficult situations. **Example:** If a person comes from a culture where communication is indirect, they may not be comfortable telling a person directly that they don't like their behavior and the harasser may not understand that the victim does not like his/her behavior.
 - If a country does not have strong laws against sexual harassment or there is little awareness about what it is, a person may be unaware that they are either victims of sexual harassment or committing an act of sexual harassment because it is not part of their common vernacular.
 - If laws or rules regarding sexual harassment are not enforced in a person's home country when sexual harassment is reported, victims often remain silent.
 - In certain cultures, the victim is often blamed for sexual harassment and there is a high degree of shame associated with the act, so the person becomes hesitant to report the act.
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Cultural Impact on Perception of Sexual Harassment continued

- Interpretation of verbal and non-verbal cues is influenced by a person's culture and can lead to unintentional acts of harassment due to a misunderstanding or misinterpretation of cues.
 - In cultures where group harmony is placed above individual rights, a victim is more hesitant to report sexual harassment out of concern for the cohesiveness of the group.
 - A person's comfort with physical contact with others can vary based on one's culture. **Example:** In some cultures, men may kiss each other on the cheek after shaking hands as a form of greeting; In some cultures, hugging is a form of greeting between friends and may not be considered sexual, but for other cultures that close physical contact would be perceived as sexual in nature.
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Common consequences for Exchange Visitors who commit an act considered to be Sexual Harassment

Consequences vary based on the type of act committed and the Host Employer and should be commensurate with the offense. Common consequences for Exchange Visitors accused of sexual harassment have included the following.

- Verbal or written warning by Host Employer
- Transfer to a different department/job
- Follow up training on sexual harassment policy
- Unpaid Suspension for a period of time; often while incident is under review
- Immediate dismissal from job
- Removal from housing
- Program review and possible program termination by sponsor depending on offense
- Program is shortened and Exchange Visitor must return home early
- Possible legal consequences depending on offense



RESOURCES

- https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/policy/wcms_407364.pdf
 - https://www.eeoc.gov/eeoc/publications/promising-practices.cfm?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=
 - <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1140&context=djglp>
 - <https://www.hofstede-insights.com/models/national-culture/>
 - <http://www.letstalkaboutwork.tv/are-you-cross-culturally-competent/>
 - <https://www.mindtools.com/pages/article/seven-dimensions.html>
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A person with dark hair tied back, wearing a white long-sleeved shirt, blue jeans, and a brown crossbody bag, is walking away from the camera on a sandy path. The path is flanked by tall, golden-brown grass. In the background, the ocean is visible under a clear, bright blue sky.

Footnotes

***Privacy** generally means only people with a legitimate business need to know are notified whereas **confidentiality** means no one knows at all. Confidentiality is challenging to promise because in order to address the allegations and prevent future harassing conduct, supervisors or leadership may have to be provided with some limited knowledge that something concerning has occurred between two employees. Also, any person accused of sexual harassment generally has a right to know who accused them and the specific allegations so they can have an opportunity to respond to the allegations.

**While there may only be one or two employees responsible for investigating and remedying allegations of sexual harassment, host employers should strongly consider making all supervisors, team leaders, etc. mandatory reporters. This means if someone reports sexual harassment to them, they are required to notify HR or whoever is responsible for investigating sexual harassment allegations.