

# Sexual Harassment



*A State Partner in the Cooperative Extension System*

THE UNIVERSITY OF TENNESSEE, U.S. DEPARTMENT OF AGRICULTURE, AND COUNTY GOVERNMENTS COOPERATING

UT Extension offers its programs to all eligible persons regardless of race, color, national origin, sex, age, disability religion, or veteran status and is an Equal Opportunity Employer.

## *Objectives are to provide...*

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- an understanding of the legal and organizational definitions and policies
- methods to identify difference in friendly and sexually harassing behaviors
- insight to sexual harassment issues related to the work place
- a discussion of responsibilities, potential liabilities & effective responses to complaints
- help in establishing a work environment free of sexual harassment

## *Is it sexual harassment when...*

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1. Your supervisor implies that if you dated her, your chances for a promotion would be better.
  - a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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2. Co-workers in your office tell sexually explicit jokes.
  - a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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3. A nude centerfold is posted in a public or semi-public place.
  - a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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4. A co-worker often touches you affectionately.
  - a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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5. A co-worker has begun to send you notes and cards at work and at home after you have let him/her know that you're not interested.
  - a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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6. The regular messenger, who is a non-employee, often makes comments and remarks about your attire and appearance that make you feel uncomfortable.
  - a. Y - yes
  - b. N - no
  - c. C - it could be



## *Is it sexual harassment when...*

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7. The person in the next cubicle frequently engages in conversations of a sexual nature with other persons or by phone loud enough for you to hear.
- a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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8. A supervisor often calls you "sweetie" or "babe".
- a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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9. A co-worker whom you don't want to date won't take "no" for an answer ask you out over and over.
- a. Y - yes
  - b. N - no
  - c. C - it could be

## *Is it sexual harassment when...*

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10. Your supervisor asks you out for a drink after work.
- a. Y - yes
  - b. N - no
  - c. C - it could be

# *Sexual harassment...*



**dis·crim·i·nate** *v.*

**dis·crim·i·nat·ed**

**dis·crim·i·nat·ing**

1. To make a clear distinction; differentiate.
2. To make distinctions on the basis of preference or prejudice:  
*accused of discriminating against women.*

[Latin.]

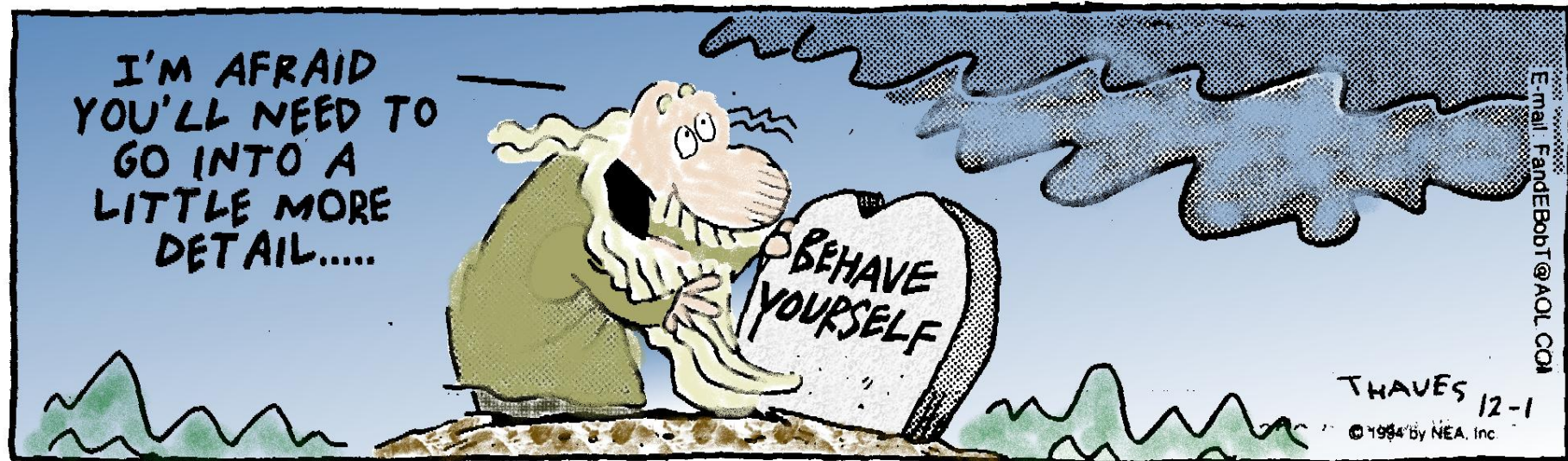
-- **dis·crim”i·na“tion** *n.* --

**dis·crim“i·na”tive** or

**dis·crim/i·na-to/ry** *adj.*

# Legislation

## Frank and Ernest



"The improvement of understanding is for two ends: first, our own increase of knowledge; secondly, to enable us to deliver that knowledge to others." -- John Locke

## *Discrimination Law*

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### **Title VII of the Civil Rights Act of 1964**

*“It shall be unlawful employment practice for an employer to:*

*...fail to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, sex or national origin.”*

## *Discrimination Law*

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### **Title VII of the Civil Rights Act of 1964**

*“It shall be unlawful employment practice for an employer to:*

*... limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual’s race, color, religion, sex or national origin.”*



## *Discrimination Law*

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### **Title VII of the Civil Rights Act of 1964**

*“It shall be unlawful employment practice for an employer to:*

*...fail or refuse to refer for employment, or otherwise to discriminate against any individual because of such individual’s race, color, religion, sex or origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin”*

## *Title VII - Discrimination Law*

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- Prohibits discrimination in anything to do with employment.
- Salary, location of office, employed or not
- Race, Color, National Origin, Age, Sex and Religion
- Protected by Law, Courts, Legal System
- Doesn't directly affect use of Federal \$
- Civil Rights Act of 1991 provides for damages where sexual harassment was intentional

## *2003 Title VII EEOC Stats*

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- Race allegations were in 35.1% of EEOC charges
- Sex/gender: 30%
- Retaliation: 27.9%
- Age: 23.5%
- Disability: 18.9%
- National origin: 10.4%
- Religion: 3.1%
- Equal pay: 1.4%

**81,293**

**Total Charges**

## *Sexual harassment is...*

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- unwelcome behavior of a sexual nature.
- a violation of federal law Part 1604.11 - Section 703 of Title VII of the Civil Rights Act of 1964, as amended in 1972.
- Enforced by the Equal Employment Opportunity Commission (EEOC)
- unlawful discrimination against a person in the workplace because of race, color, **sex**, religion, or national origin.
- since 1980, a form of sex discrimination, and therefore a violation of Title VII

## *Sexual Harassment in the Workplace*

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### EEOC Guidelines

*“Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:*

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

## *Sexual harassment*

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- **Quid-pro-quo**
  - An exchange of this for that
  - Something for something
  - An abuse of power
- **Hostile work environment**
  - Intimidating or hostile
  - Unreasonable interference with job

## *EEOC guidelines*

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- EEOC looks at:
  - the record as a whole
  - at the totality of the circumstances,
  - at the nature of the sexual advances
  - the context in which the alleged incidents occurred.
- Legal determinations made from the facts, on a case-by-case basis.
- Employer is responsible for its acts and those of **its agents and supervisory employees** with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer *knew or should have known* of their occurrence.
- In conduct between **fellow employees**, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) *knows or should have known* of the conduct, unless it can show that it took immediate and appropriate corrective action.

## *EEOC guidelines cont...*

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- Employer may also be responsible for the acts of **non-employees**, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) *knows or should have known* of the conduct and fails to take immediate and appropriate corrective action.
- Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the *employer may be held liable for unlawful sex discrimination against other persons* who were qualified for but denied that employment opportunity or benefit.
- Prevention is the best tool for the elimination of sexual harassment.



## *Preventative actions...*

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- affirmatively raising the subject
- expressing strong disapproval
- developing appropriate sanctions
- informing employees of their right to raise and how to raise the issue of harassment under Title VII
- developing methods to sensitize all concerned

# *Forms of sexual harassment*



## **VERBAL**

**SEXUAL INNUENDOS  
SUGESTIVE COMMENTS  
JOKES OF SEXUAL NATURE  
SEXUAL PROPOSITIONS  
REPEATEDLY ASKING FOR DATES  
SEXUALLY-ORIENTED TEASING**

**SEXUALLY SUGGESTIVE OBJECTS  
OR PICTURES**

**LEERING, OBSCENE GESTURES  
LETTERS/PRINTED MATERIALS  
LEANING OVER OR CORNERING**



## **NON-VERBAL**



## **PHYSICAL**

**UNWANTED PHYSICAL CONTACT,  
INCLUDING TOUCHING & BRUSHING  
UP AGAINST  
SEXUAL ASSAULT  
PINCHING OR CARESSING  
MASSAGING SHOULDERS OR NECK**

## *Six levels of sexual harassment*

### **Aesthetic Appreciation:**

A non-aggressive appreciation of physical or sexual features. "Social" interchanges that are supposedly part of the everyday interaction between men and women includes continual staring - ogling, direct and indirect verbal harassment - sexual innuendoes and jokes.

### **Active Mental Groping:**

### **Social Touching:**

The offender is careful to stay within normal social conventions, although the person being touched, nevertheless, finds it offensive.

### **Offensive Touching:**

Rather than keep the touching innocent in nature and location, the offender is actively exceeding the acceptable touching boundaries.

### **Sexual Abuse:**

Verbal and physical behavior which is clearly outside the bounds of decent personal interaction. Unwanted physical contact is forced upon the target. Verbal sexual abuse takes the form of straight forward, crude propositions.

### **Ultimate Threat:**

Give in or suffer harm. A psychological or physical rapist who revels in the use of power.

## *Sexual harassment can be...*

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- Male to female
- Female to male
- Male to male
- Female to female
- Between managers, supervisors or co-workers
- Between clients, suppliers, volunteers, and employees

## *Sexual Harassment in the Workplace*

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- Violates Title VII of the 1964 Civil Rights Act
- Victims can go to court for:
  - ☐ Tangible economic damage (threat of dismissal), or
  - ☐ Work environment subjects employee to “pervasive” sexual advances
- Victim’s acquiescence - whether advances are welcome or not
- Victim’s office behavior ( dress, speech, etc.) is pertinent to fixing the “welcome” factor

## *Is it harassment?*

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1. He / she is a member of a protected class.
2. He / she was subjected to unwelcome harassment.
3. There is a causal relationship between the harassment and the employee's belonging to a protected group.
4. The harassment affected a term, condition, or privilege of employment.
5. The employer knew, or should have known, about the harassment and failed to take prompt remedial action.

# *More Laws?*

FRANK & ERNEST

BOB THAVES

THESE ARE SO  
COMPREHENSIVE!  
WE'LL NEVER  
NEED ANY  
OTHER LAWS!



1-4-02  
THAVES



## *UT Policy*

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**...provide an environment free of sexual harassment.**





# Title VII – Complaint Procedure

## Program for EEO in UT Extension

### EEO Program Counselors (being revised)

#### State

Janie L. Burney  
Doyle G. Meadows  
Alvin E Wade

#### Western

Jeanine C. England  
J.C. Dupree

#### Central

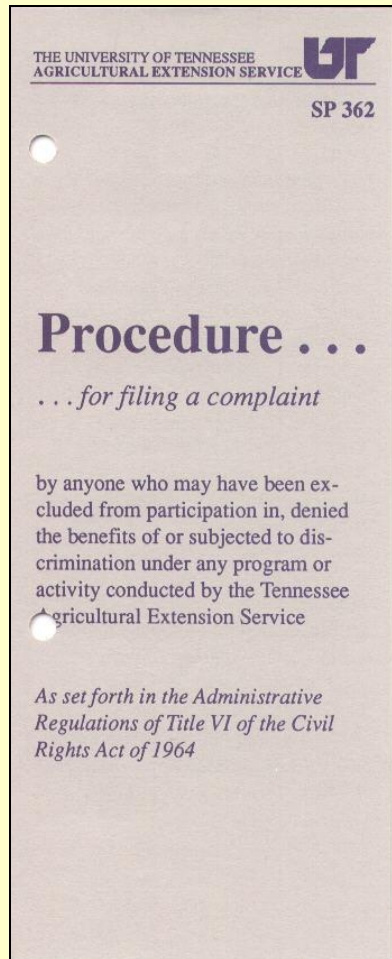
Joan L. Wherley  
J. W. McGuire

#### Cumberland

Edward M. Burns  
Ella C. Johnson

#### Smoky Mountain

Joseph E. Hall  
Judy Gray Cravens

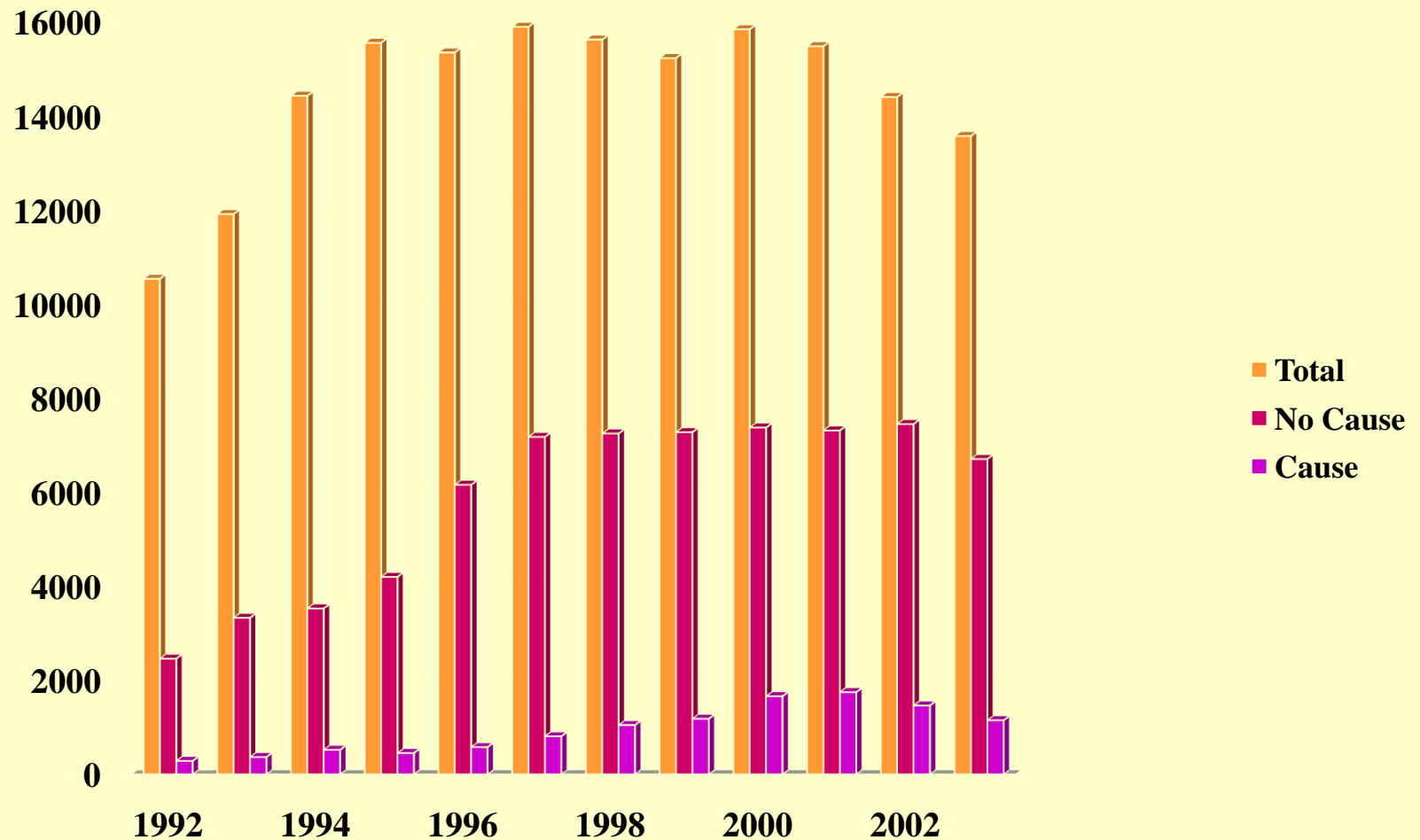


## *Disciplinary Action*

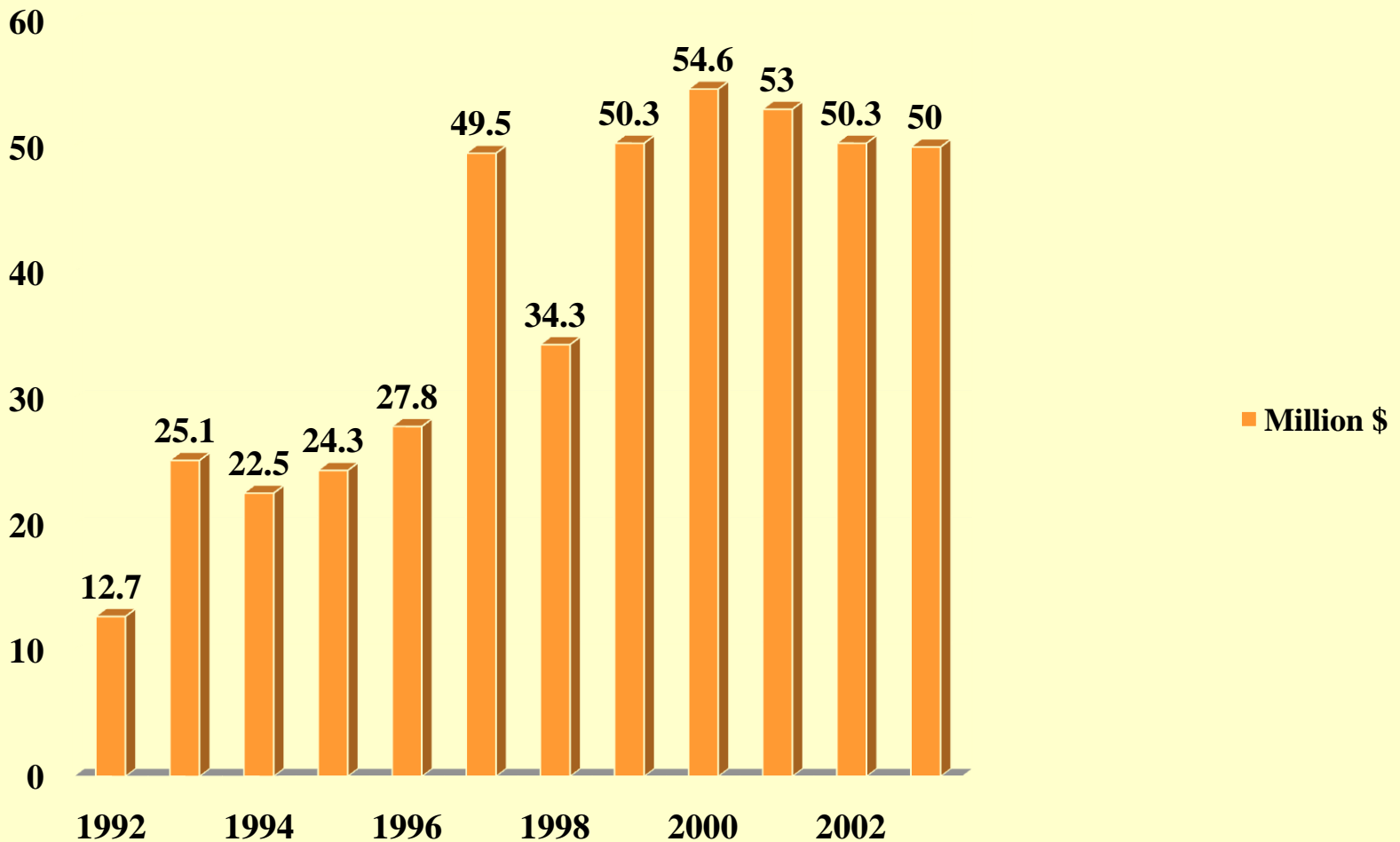
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- If valid complaint (from investigation), prompt and appropriate disciplinary action taken.
- Based on seriousness, action may be warning, reprimand, suspension, demotion, or termination.

# *EEOC sexual harassment charges*

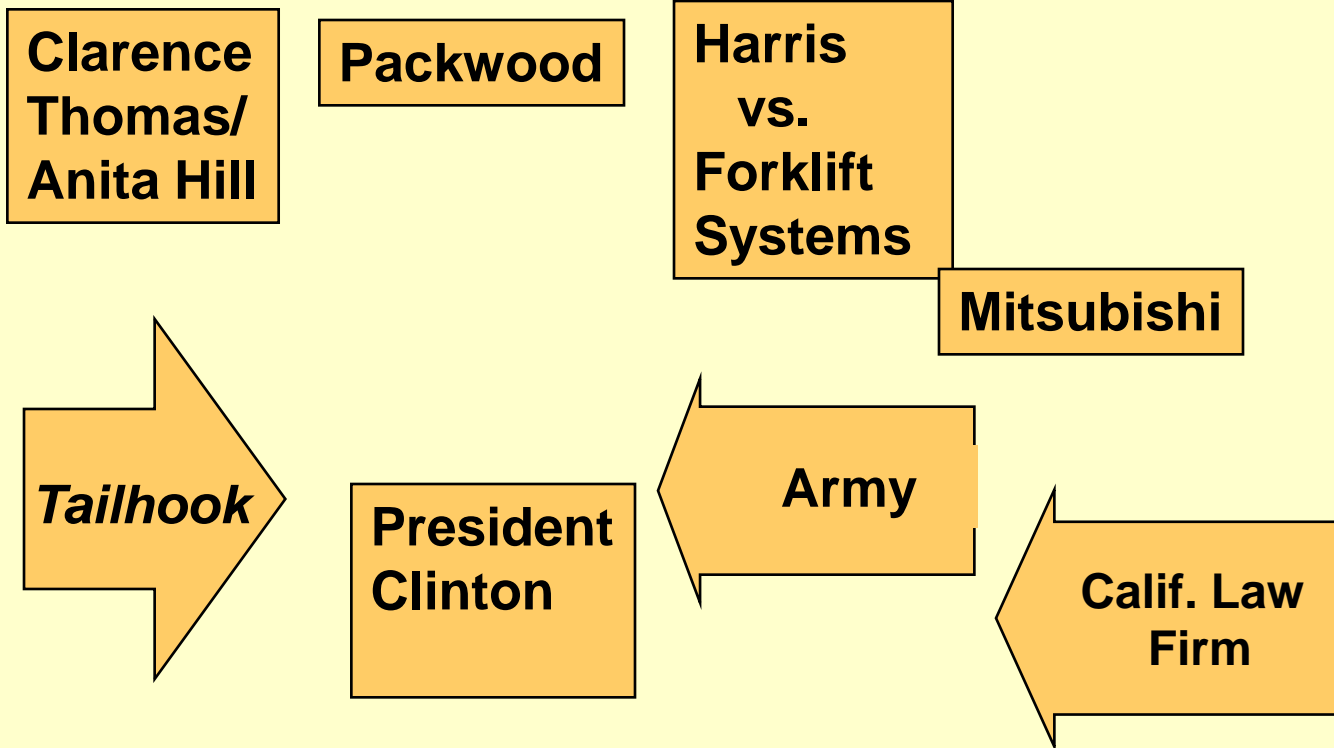


# *EEOC fines* (does not include litigation)



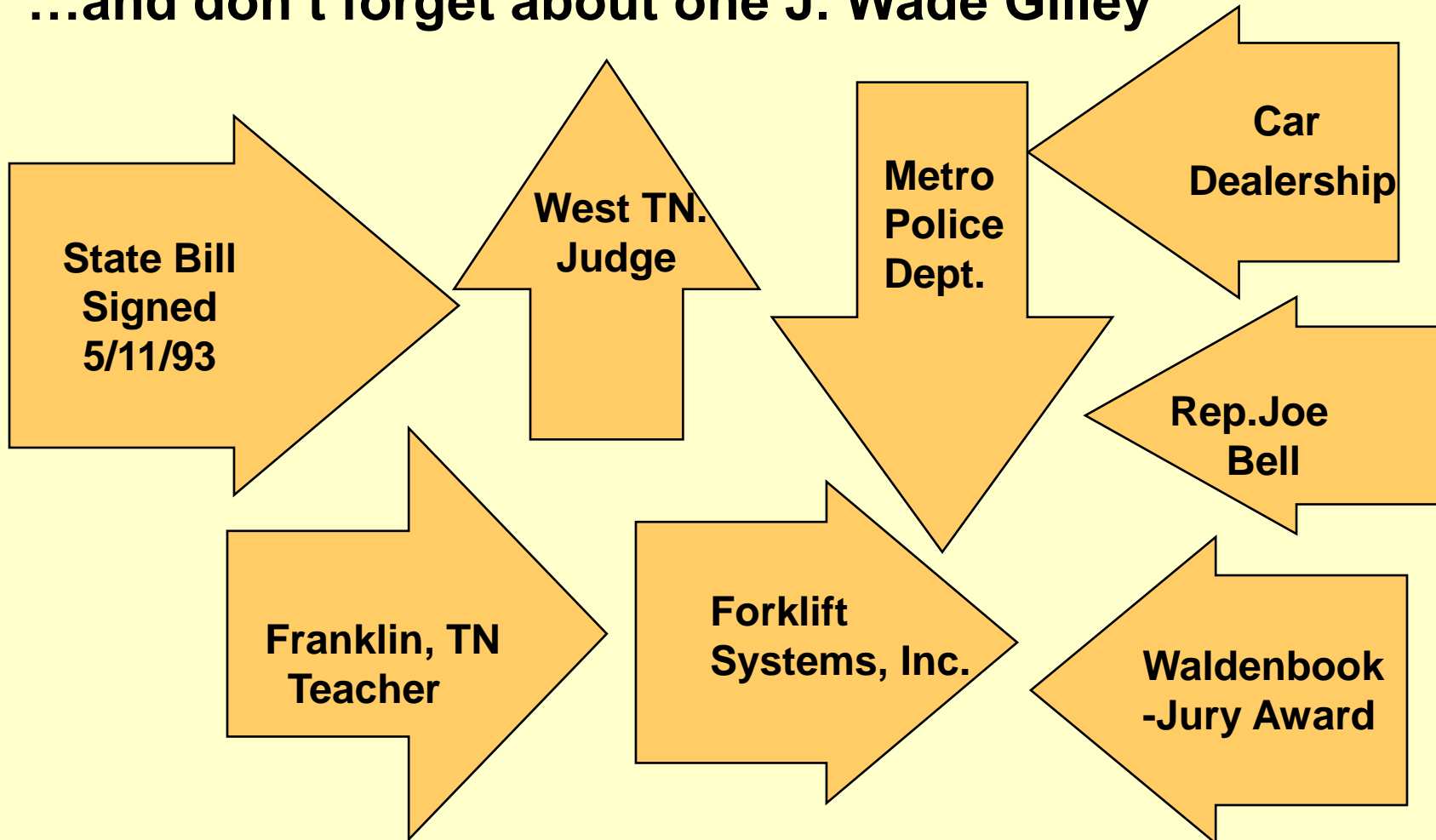
## *Federal activity*

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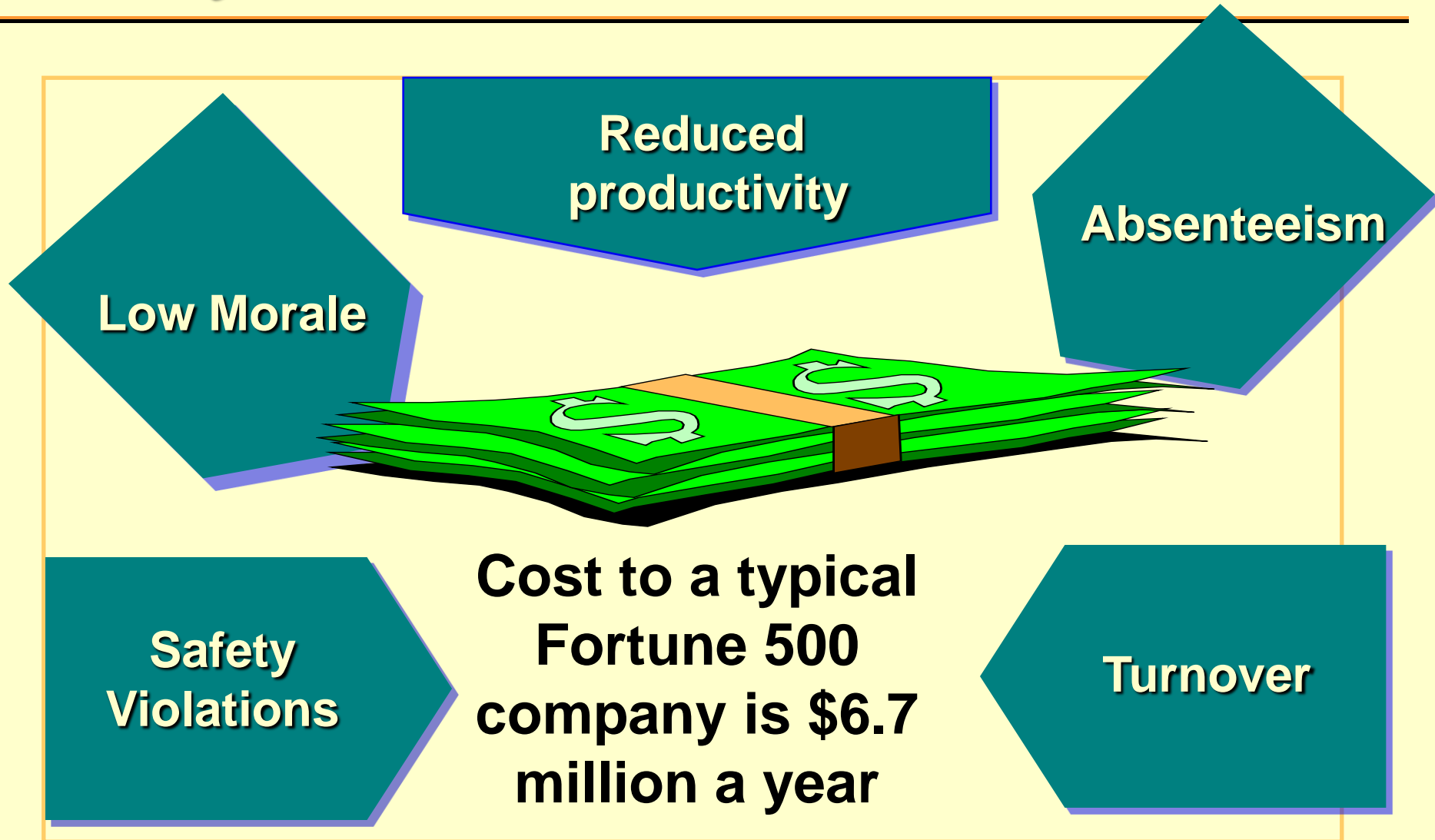


## *Tennessee Activity*

...and don't forget about one J. Wade Gilley

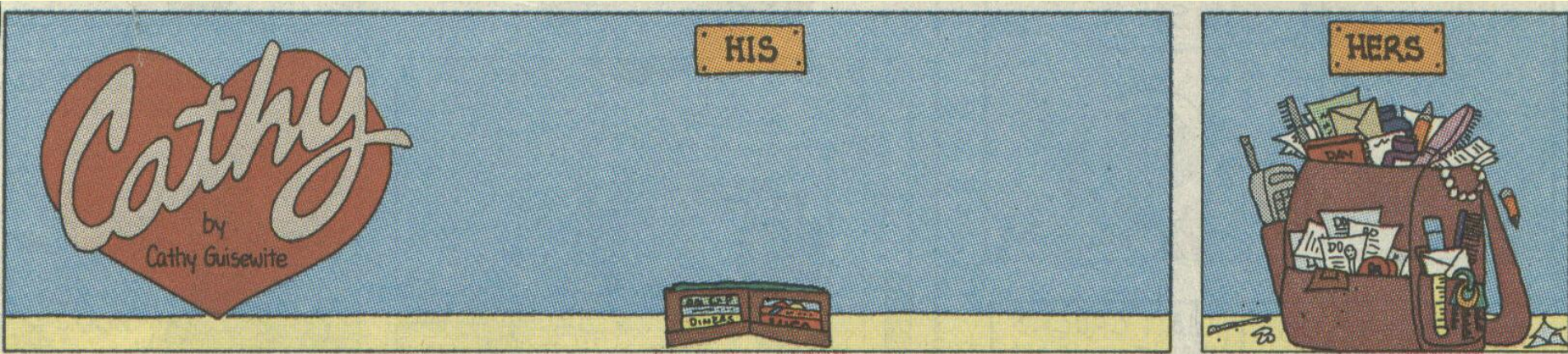


# *Cost of sexual harassment*





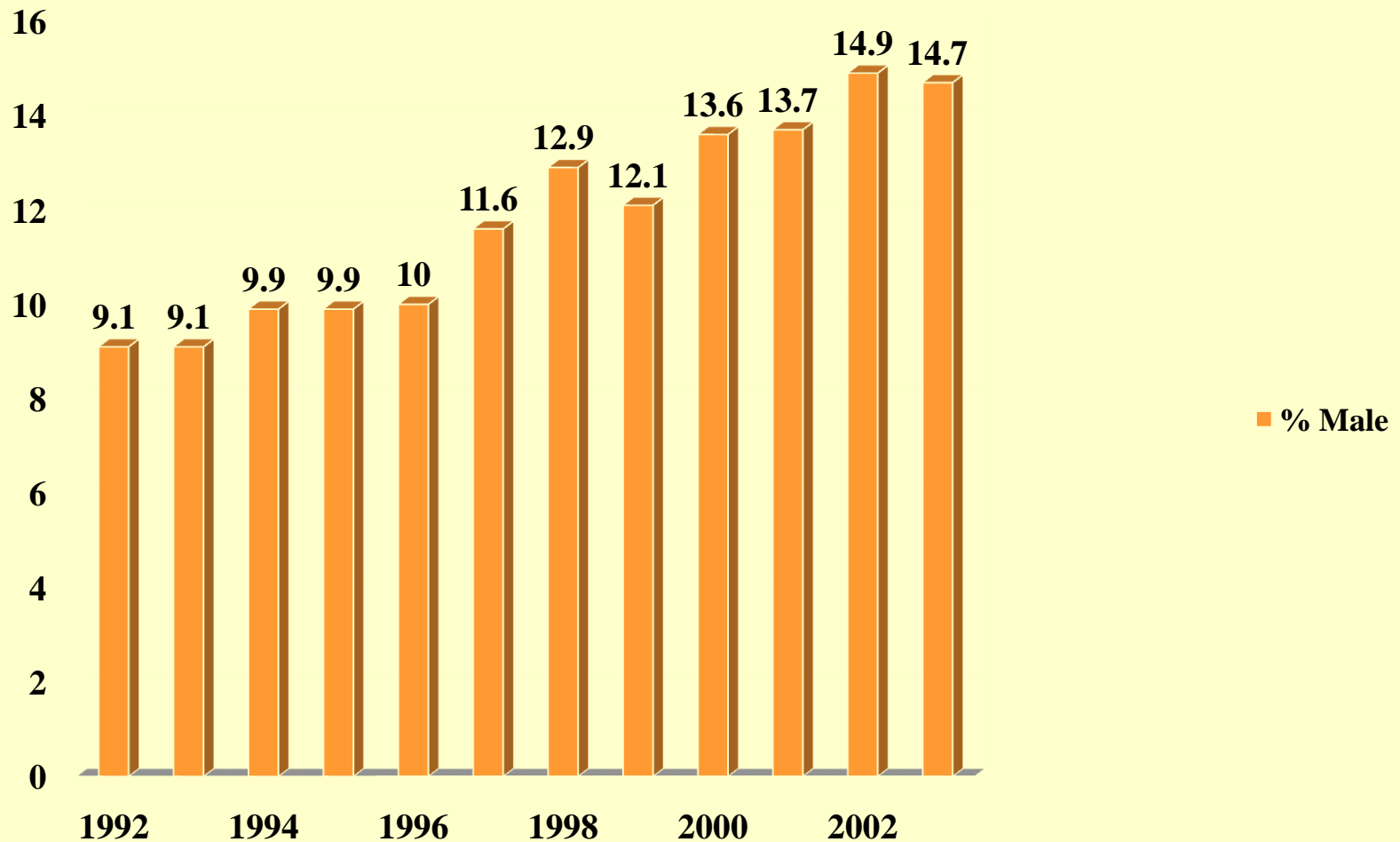
## *Gender differences*



**Have you noticed there are  
some slight differences in  
boys and girls?**



# *EEOC sexual harassment charges*



## *Survey of men & women*

*Sexuality and the Workplace, Barbara Gutek,  
Charles Nakamura, U.C.L.A. Psychologists*

	Women (221)	Men (178)
Admiring sexual comments	47%	45%
Leering or touching	33%	31%
Expected to sleep with the boss or influential co-worker to keep their job	11%	10%

# *Sexual Exploitation*

THE UNIVERSITY OF TENNESSEE  
AGRICULTURAL EXTENSION SERVICE

SP 537

## Tennessee 4-H Center Summer Camp Guide



Core Curriculum for Summer Camping Programs at Tennessee

THE UNIVERSITY OF TENNESSEE  
AGRICULTURAL EXTENSION SERVICE

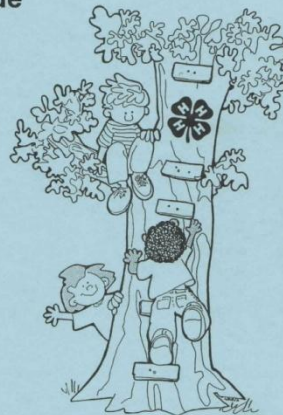
SP538

## Tennessee 4-H Center Policies and Procedures for Summer 4-H Camp

THE UNIVERSITY OF TENNESSEE  
AGRICULTURAL EXTENSION SERVICE

SP539

## Survival Guide for Leaders at 4-H Camp



Basic Information for:  
Adult Leaders, Teen Leaders,  
and Conference Assistants  
at Tennessee 4-H Centers

A Manual for:

4-H Center Staff  
And  
Extension Agents

Agricultural Extension Service  
The University of Tennessee



## CAMP DIRECTOR'S GUIDE TO PREVENT SEXUAL EXPLOITATION



## *Sexual Exploitation*

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- Federal law: Title IX
- Tennessee Law requires reporting suspected child abuse.
- Report to DHS
- State Law protects you from liability for reporting.
- You cannot legally retain a suspicion.
- Important to know volunteers.

## *Organizational responsibility*

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- Recognize your role as a supervisor in taking action to prevent sexual harassment
- Examine our own behavior
- Develop greater awareness of cues in the environment
- Identify behaviors which require preventive action

# *Supervisory responsibility*



# *Personal behavioral responsibility*



## **Behavioral Checklist**

1. Does this behavior contribute to work or mission of agency?
2. Could this behavior offend or hurt others?
3. Could this behavior be misinterpreted as harassing?
4. Could this behavior be sending the wrong signals?

# *Always RESPECT*

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- **Responsibility**
- **Enlightenment**
- **Sensitivity**
- **Personalize**
- **Examine**
- **Compassion**
- **Think**



# *The rule of thumb*

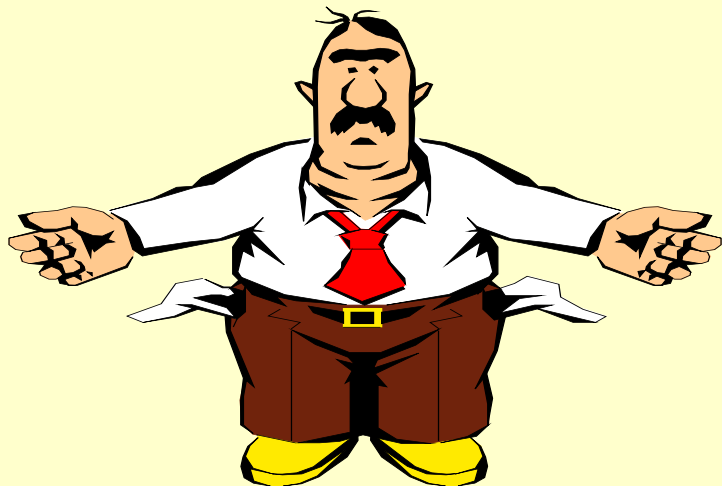
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When  
in doubt...

***Don't!***

# *Liability*



**HARASSER**



**SUPERVISOR**



**EMPLOYER (UT)**

# *Cues in the work environment*



**Monitoring Personal Space**



**Sexist or Obscene  
Communications –  
Also monitor computer use**



**Inappropriate Social Behavior**

## *Impact on supervisors*

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### **Sexual harassment by supervisors will:**

- **reduce productivity**
- **destroy employee confidence**
- **create high anxiety**
- **increase turnover**
- **kill promotional opportunities**
- **often bring about lawsuits and investigations**
- **damage goodwill and reputation**



## *Impact on employee*

### **Victims of sexual harassment will:**

- **Focus on avoiding contact - not work**
- **Have reduced productivity**
- **Often seek legal recourse**
- **Have high anxiety**
- **Often experience physical and psychological illness**
- **Have higher absenteeism**



## *Victims*

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### **FEEL...**

- Embarrassed
- Humiliated
- Insulted
- Degraded
- Angry
- Unsafe in their work environment

### **LOSE...**

- Privacy
- Dignity
- Self-esteem
- Confidence in their work
- Promotions
- Etc...

## *Receiving a complaint*

**Take Seriously**

**Listen**

**Be Sensitive**

**Document**

**Get Complete Picture**

**Assure There Will Be No Reprisals**



## *Sexual harassment investigations*

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- Done in a timely and confidential manner.
- Only “need to know” individual(s), need know.
- Conference with the parties involved and any named or apparent witnesses.
- Protect complainant from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or assisting in an investigation.



# *Interview alleged offenders*

**Be Serious**

**Get Response To Each Allegation**

**Stay Focus**

**To the Point**

**Remain Unbiased**

**Document**

**Establish Any Witnesses**



# *Interviewing witnesses*

**INTERVIEW SEPARATELY**

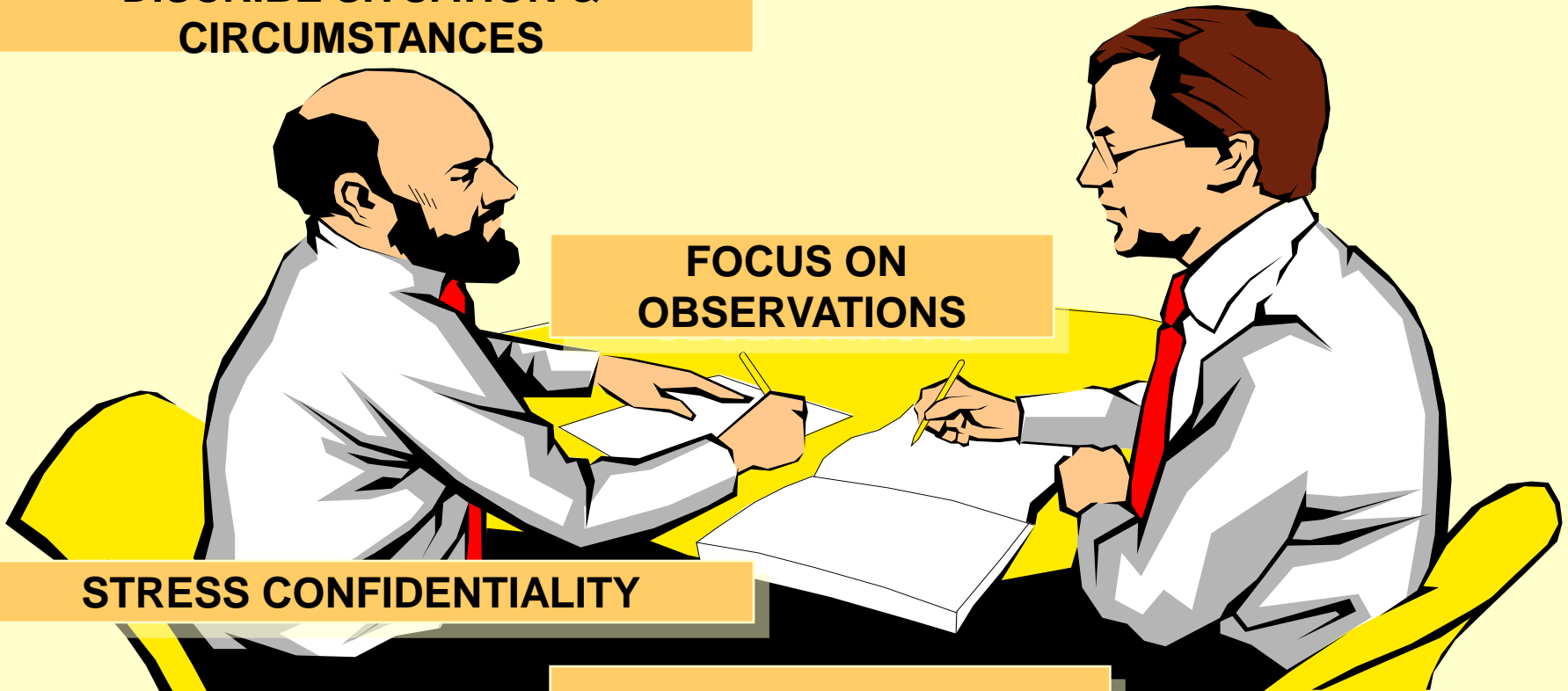
**PROTECT IDENTITIES  
(IF POSSIBLE)**

**DISCRIBE SITUATION &  
CIRCUMSTANCES**

**FOCUS ON  
OBSERVATIONS**

**STRESS CONFIDENTIALITY**

**DOCUMENT**



## *Appropriate action*



**DISCIPLINARY ACTION INCLUDES UP TO TERMINATION**

## *Summary*

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- **Sexual Harassment has persisted for several reasons, including our attitudes about sex and the assumption that employee interactions are not the business or concern of supervision.**
- **Two types of sexual harassment:**
  - *quid-pro-quo* involves pressure to provide sexual favors in return for employment-related decisions;
  - *and offensive or hostile environment* involves the development of an overall work atmosphere that is offensive to employees and interferes with their work.

## *Summary*

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- **Sexual harassment can be committed not only by management personnel, but also by co-workers and even outside parties, such as vendors and contractors.**
- **Virtually any sexually-oriented behavior can be viewed as sexual harassment if it is unwelcome to an employee or creates an offensive environment.**

## *Summary*

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- **The best course of action is to avoid sexually-oriented behavior in the workplace to the maximum extent possible.**
- **Observations and complaints of such behavior require prompt action.**

## *Summary*

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**Prevention strategies are key to the elimination of sexual harassment in the workplace. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.**

- Case Studies