HealthStream Regulatory Script

Sexual Harassment in the Workplace
Version: May 2008

Lesson 1: Introduction
Lesson 2: What Is Sexual Harassment?
Lesson 3: Responsibilities of Employers and Employees
Welcome to the introductory lesson on sexual harassment in the workplace.

As your partner, HealthStream strives to provide its customers with excellence in regulatory learning solutions. As new guidelines are continually issued by regulatory agencies, we work to update courses, as needed, in a timely manner. Since responsibility for complying with new guidelines remains with your organization, HealthStream encourages you to routinely check all relevant regulatory agencies directly for the latest updates for clinical/organizational guidelines.

If you have concerns about any aspect of the safety or quality of patient care in your organization, be aware that you may report these concerns directly to The Joint Commission.
<table>
<thead>
<tr>
<th>Course Rationale</th>
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</thead>
<tbody>
<tr>
<td>Sexual harassment is a crime. Harassment also contributes to a poor work environment.</td>
</tr>
<tr>
<td>Preventing sexual harassment can help:</td>
</tr>
<tr>
<td>• Improve employee productivity and morale</td>
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<tr>
<td>• Decrease employee turnover</td>
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<tr>
<td>• Save you and your facility legal fees and other costs</td>
</tr>
<tr>
<td>This course will teach you how to prevent and handle sexual harassment in the workplace.</td>
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IMAGE: 1002.GIF
<table>
<thead>
<tr>
<th>Course Goals</th>
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<tbody>
<tr>
<td>After completing this course, you should be able to:</td>
</tr>
<tr>
<td>• Recognize the legal definition of sexual harassment</td>
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<tr>
<td>• Identify the two forms of sexual harassment</td>
</tr>
<tr>
<td>• List the responsibilities of employers and employees for preventing and handling sexual harassment</td>
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</table>
This introductory lesson gave the course rationale and goals.

Lesson 2 explains the legal definition of sexual harassment. The two forms of sexual harassment are also described.

Finally, lesson 3 discusses the responsibilities of employers and employees.

FLASH ANIMATION: Course Map

Lesson 1: Introduction
Lesson 2: What is Sexual Harassment?
  - Title VII
  - Quid pro quo
  - Hostile environment
  - Enforcement of Title VII
Lesson 3: Employer and Employee Responsibilities
  - Employer responsibilities
  - Employee responsibilities
### Lesson 2: What Is Sexual Harassment?

#### Introduction & Objectives

Welcome to the lesson on defining sexual harassment.

After completing this lesson, you should be able to:
- Recognize the legal definition of sexual harassment under Title VII
- Define quid pro quo and hostile environment sexual harassment
- List examples of quid pro quo and hostile environment sexual harassment
- Identify the organization responsible for enforcing Title VII
- Recognize how enforcement of Title VII may affect an employer

**FLASH ANIMATION: Lesson Map**

Lesson 2: What is Sexual Harassment?
- Title VII
- Quid pro quo
- Hostile environment
- Enforcement of Title VII
Title VII of the Civil Rights Act of 1964 defines sexual harassment. This definition is summarized in the graphic to the right.

Under Title VII, there are two forms of sexual harassment:
- Quid pro quo
- Hostile environment

Let's take a closer look at each.

### Summary of Title VII Definition of Sexual Harassment

Sexual harassment involves the following actions:
- Sexual advances,
- Requests for sexual favors, or
- Other sexual conduct...

When these actions are unwelcome and:
- Affect job status,
- Interfere with work performance, or
- Create a hostile work environment.
<table>
<thead>
<tr>
<th>Quid Pro Quo Sexual Harassment</th>
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<tbody>
<tr>
<td>Quid pro quo harassment involves a supervisor and an employee. The supervisor makes unwelcome sexual advances or engages in unwelcome sexual conduct. The supervisor also states or implies that the employee must accept this unwelcome behavior to:</td>
</tr>
<tr>
<td>- Keep his or her job</td>
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<tr>
<td>- Keep his or her benefits</td>
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<tr>
<td>- Avoid being transferred to another job</td>
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<tr>
<td>- Avoid being demoted with a decrease in pay</td>
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<tr>
<td>- Receive a promotion, raise, vacation time, etc</td>
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</tbody>
</table>

**Summary of Quid Pro Quo Harassment**

A supervisor offers job-related rewards if an employee accepts unwanted sexual behavior AND/OR

A supervisor threatens job-related punishment if an employee refuses unwanted sexual behavior
Note the following features of quid pro quo sexual harassment:

- The conduct of the harasser must be **unwelcome**.
- Harassment does **not depend on gender**. The harasser may be a man or a woman. The victim may be a man or a woman. The victim and the harasser do not have to be of opposite sex.
- The harasser does not have to be the victim's direct supervisor. A quid pro quo harasser can be **anyone** in a position of power in the company.
- The harasser does not have to follow through on any threats. The **threat** alone is enough to prove harassment.
- A **single** sexual advance may be considered quid pro quo harassment.
- **Employers** can be held legally responsible for quid pro quo harassment by a supervisor.
Quid Pro Quo: Examples

<table>
<thead>
<tr>
<th>Examples of quid pro quo harassment include:</th>
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<tbody>
<tr>
<td>• Carlos is Anne’s supervisor. Carlos threatens to fire Anne if she will not have sex with him.</td>
</tr>
<tr>
<td>• Mary is Bob’s supervisor. Mary tells Bob that the way to advance in the company is to sleep with people in positions of power.</td>
</tr>
</tbody>
</table>

**Remember!**

These examples are only considered harassment if the supervisor’s sexual advances are unwelcome to the victim.
Hostile Environment Sexual Harassment (1)

Hostile environment sexual harassment happens when unwelcome sexual conduct:
- Interferes with an employee's ability to work
- Creates a hostile, intimidating, or offensive work environment

This form of harassment can be less clear-cut than quid pro quo harassment. This is because certain sexual conduct can be a problem for one person, but not for another.

If you have trouble getting your job done because of a coworker’s sexual conduct at work, you may be a victim of hostile environment sexual harassment.
Consider an example: Bob often tells “dirty” jokes in the company lounge. Bill always laughs. Jane is always offended.

Is Bob’s conduct sexual harassment?

To decide, courts often use a “Reasonable Person Standard.”

This means that courts consider whether a particular type of sexual conduct would:
- Interfere with a reasonable employee’s ability to do his or her job
- Create a hostile, intimidating, or offensive work environment for a reasonable employee

In our example, the court would have to decide how a reasonable person would respond to Bob’s dirty jokes.

**Reasonable Person Standard vs. Reasonable Woman Standard**

Courts sometimes use a Reasonable Woman Standard, instead of a Reasonable Person Standard. This is based on the fact that women are more often victims of sexual violence. Therefore, a reasonable woman might have a less tolerant perspective on sexual harassment than would a reasonable man.
Note the following features of hostile environment harassment:

- The conduct of the harasser must be **unwelcome**.
- Harassment does **not depend on gender**. The harasser may be a man or a woman. The victim may be a man or a woman. The victim and the harasser do not have to be of opposite sex.
- The **harasser** can be **anyone** in the work environment. This includes supervisors, agents, coworkers, and non-employees (such as customers).
- A **victim** can be **anyone** affected by the sexual conduct. The victim does not have to be the harassed person.
- The victim does not have to prove any specific job-related losses.
### Hostile Environment: Examples

Examples of hostile environment sexual harassment could include:

- Inviting a coworker out for drinks over and over again, after he or she has said no
- Telling “dirty” jokes or stories
- Talking about an employee’s body or clothing in a sexual way
- Squeezing, pinching, or other physical contact
- Hanging “dirty” pictures where coworkers can see them
- Emailing “dirty” pictures or jokes to coworkers
- Talking about an employee, coworker, or supervisor in a sexist or sexually offensive way

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**Remember!**

For any of these examples to be defined as sexual harassment, the conduct must:

1. **Be unwelcome to the victim(s)**
2. **Interfere with job performance or create a hostile work environment**
Enforcement of Title VII

Title VII is enforced by the Equal Employment Opportunity Commission (EEOC).

When investigating a case, the EEOC looks at:
- The nature of the reported incident
- The circumstances of the incident
- The overall context of the incident

Based on all known facts, the EEOC then makes a ruling. Rulings are made on a case-by-case basis.
When an **employee** is found guilty of harassment, the **employer** may be held legally responsible.

This may happen when:
- The employer knew or **should have known** about the harassment, and
- The employer did not do anything to correct the problem.

A court may decide that the employer **should have known** about harassment if:
- The employer ignored prior complaints from employees.
- The employer did not have a written policy against sexual harassment.
- The harassment was open or well known within the company.
Sexual harassment also occurs in hospitals. Consider an example:

In a hospital in New York:
- Eight women filed a lawsuit.
- They were harassed during their employment medical exam.
- The hospital did not correct the problem.

The hospital agreed to:
- Pay the women over **$5,000,000**
- Revise their policies
- Provide on-going training
FLASH INTERACTION: 2013.SWF

Drag and drop items from the word bank to fill in the following table with examples of quid pro quo and hostile environment sexual harassment.
You have completed the lesson on defining sexual harassment.

Remember:

- Sexual harassment is legally defined under Title VII of the Civil Rights Act of 1964.
- The two forms of sexual harassment are quid pro quo and hostile environment.
- In quid pro quo sexual harassment, an employee’s job status depends upon how he or she responds to unwanted sexual conduct.
- In hostile environment sexual harassment, unwanted sexual conduct interferes with an employee’s job, or creates a hostile, intimidating, or offensive work environment.
- Sexual harassment always involves *unwelcome* conduct of a sexual nature.
- Harassers can be male or female. They can be employees, supervisors, coworkers, or non-employees.
- Victims can be male or female. They can be employees, supervisors, or coworkers. They can be directly harassed or indirectly affected by harassment.
- Harassment can occur without specific job-related losses for the victim.
- The EEOC enforces Title VII.
- In some cases, employers can be held legally responsible for sexual harassment committed by their employees.
Lesson 3: Employer and Employee Responsibilities

**Introduction & Objectives**

Welcome to the lesson on responsibilities.

After completing this lesson, you should be able to:

- List what employers must do to prevent and stop sexual harassment
- List what employees should do to prevent and stop sexual harassment

**FLASH ANIMATION: Lesson Map**

Lesson 3: Employer and Employee Responsibilities

- Employer responsibilities
- Employee responsibilities
3002

Employer Responsibilities

All employers should:
- Have a formal sexual harassment policy
- Tell all employees about the policy
- Respond to all complaints of harassment right away

Let’s take a closer look at each of these responsibilities.
All employers should have a clear sexual harassment policy. This policy should:

- Define sexual harassment
- State that sexual harassment will not be tolerated
- State that harassers will be disciplined or fired
- Explain how to file a sexual harassment complaint
- State that employees must report harassment
- State that all complaints will be investigated fully
- State that retaliation [glossary] against those who file complaints is illegal and will not be tolerated
The employer must make sure that all employees know about the sexual harassment policy.

The employer should:
- Give a copy of the policy to all employees
- Explain the policy to all new employees
- Hang a copy of the policy in a visible place
- Translate the policy for employees who do not speak English as a first language
The employer must offer formal training on the sexual harassment policy.

Yearly training sessions should:

- Review the definition of sexual harassment
- Remind employees that they have the right not to be harassed in the workplace
- Review how to file a complaint
- Remind employees that they should report all harassment
All complaints of sexual harassment should be taken seriously. The employer should look into all complaints right away.

Proven harassment should be stopped right away. The sexual harassment policy should include guidelines for how to discipline harassers, etc.

The following should be documented:
- The complaint
- The results of the investigation
- Steps taken to stop the harassment

Finally, the employer must make sure that all of the employees involved in the complaint are safe from retaliation.
A hospital can be held legally responsible if employees are not safe from retaliation. Consider these cases:

- A woman at a Virginia hospital received over $4,000,000. She was forced to resign after she tried to prevent sexual harassment in the OR.
- $1.8 million was awarded to a man who worked at a healthcare group in Florida. He claimed to be the victim of same-sex harassment and retaliation.
<table>
<thead>
<tr>
<th>All employees must:</th>
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<tbody>
<tr>
<td>• Review the sexual harassment policy</td>
</tr>
<tr>
<td>• Attend mandatory sexual harassment training sessions</td>
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<tr>
<td>• Know what sexual harassment means</td>
</tr>
<tr>
<td>• Not harass coworkers, subordinates, or supervisors</td>
</tr>
</tbody>
</table>

If you do not know where to find a copy of your organization's sexual harassment policy, ask your supervisor.
An employee who experiences or sees harassment should:

- Confront the harasser directly
- Tell the harasser that his or her conduct is unwelcome and must stop
- File a complaint

If the harassment does not stop, a victim may contact the EEOC at 1.800.669.4000.

**Responding to Sexual Harassment**

- Confront the harasser.
- Report the incident.
- Call EEOC as needed.
<table>
<thead>
<tr>
<th>Employees should report sexual harassment only if they are being harassed.</th>
<th>TRUE / FALSE INTERACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. True</td>
<td>Correct: B</td>
</tr>
<tr>
<td>b. False</td>
<td>A: Incorrect. Employees should report harassment if they experience or see it.</td>
</tr>
<tr>
<td></td>
<td>A: Correct. Employees should report harassment if they experience or see it.</td>
</tr>
<tr>
<td>Summary</td>
<td></td>
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<tr>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>You have completed the lesson on responsibilities.</td>
<td></td>
</tr>
<tr>
<td>Remember:</td>
<td></td>
</tr>
<tr>
<td>• Employers must have a clear policy on sexual harassment. They must make sure that employees know about the policy. This includes written copies, verbal explanations, and yearly training.</td>
<td></td>
</tr>
<tr>
<td>• Employers must respond to complaints of sexual harassment right away.</td>
<td></td>
</tr>
<tr>
<td>• All employees should know the policy on sexual harassment. They should attend all mandatory training sessions. They should not harass coworkers, supervisors, or subordinates.</td>
<td></td>
</tr>
<tr>
<td>• Employees who experience or see sexual harassment should confront the harasser and report the incident.</td>
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</table>
## Course Glossary

<table>
<thead>
<tr>
<th>#</th>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td></td>
<td>Retaliation</td>
<td>action taken against someone or something in response to a perceived wrong</td>
</tr>
</tbody>
</table>
Pre-Assessment

1. Which of the following best meets the legal definition of sexual harassment under Title VII?
   a. Any sexual conduct within the workplace
   b. Unwelcome sexual advances that affect job status
   c. Any unwelcome sexual conduct within the workplace
   d. Requests for sexual favors, whether or not they interfere with work performance

Correct: Unwelcome sexual advances that affect job status
Rationale: Under Title VII, sexual harassment must involve sexual conduct. The conduct must be unwelcome. The conduct must affect job status or create a hostile work environment for the victim.

2. Choose the best description of "quid pro quo" sexual harassment:
   a. Two employees have a sexual relationship.
   b. A supervisor and an employee have a sexual relationship.
   c. A supervisor gives job-related rewards or punishment based on how an employee responds to unwanted sexual behavior.
   d. Unwelcome sexual behavior interferes with an employee's work or makes the workplace offensive or intimidating for the employee.

Correct: A supervisor gives job-related rewards or punishment based on how an employee responds to unwanted sexual behavior.
Rationale: Quid pro quo harassment happens between a supervisor and an employee and affects job status.

3. Which of the following is a feature of hostile environment sexual harassment?
   a. The harasser must be a man.
   b. The conduct of the harasser must be unwelcome.
   c. The harasser must be the victim's direct supervisor.
   d. The victim and the harasser must be of opposite genders.

Correct: The conduct of the harasser must be unwelcome.
Rationale: Hostile environment sexual harassment involves unwelcome sexual conduct. The harasser may be a man or a woman. The victim may be a man or a woman. The victim and harasser may be coworkers.

4. Jane is Jack's supervisor. Jane threatens to fire Jack if he won't sleep with her. Jack does not want to sleep with Jane. This is:
   a. Quid pro quo sexual harassment
   b. Not sexual harassment under Title VII
   c. Hostile environment sexual harassment

Correct: Quid pro quo sexual harassment
Rationale: Quid pro quo harassment involves a supervisor and an employee and affects job status.
d. Not a clear enough case to determine sexual harassment

Correct: Quid pro quo sexual harassment  
Rationale: Quid pro quo harassment happens between a supervisor and an employee and affects job status.

5. Jack and Jane are coworkers. They like each other and decide to date. Then they break up. Jack now has trouble working around Jane. This is:
   a. Quid pro quo sexual harassment  
   b. Not sexual harassment under Title VII  
   c. Hostile environment sexual harassment  
   d. Not a clear enough case to determine sexual harassment

Correct: Not sexual harassment under Title VII  
Rationale: There is no unwelcome sexual conduct in this case. Therefore, there is no harassment under Title VII.

6. Jack and Joey are coworkers. Joey makes repeated sexual advances toward Jack. Jack is not interested and asks Joey to stop. Jack complains to his employer that Joey's behavior is preventing him from getting his work done. The employer should treat this as:
   a. Quid pro quo sexual harassment  
   b. Not sexual harassment under Title VII  
   c. Hostile environment sexual harassment  
   d. Not a clear enough case to determine sexual harassment

Correct: Hostile environment sexual harassment  
Rationale: This case involves unwelcome sexual behavior that affects an employee’s job performance. The employer should treat this complaint as hostile environment sexual harassment.

7. Title VII is enforced by the:
   a. Secretary of Labor  
   b. Office of the Inspector General  
   c. Department of Health and Human Services  
   d. Equal Employment Opportunity Commission

Correct: Equal Employment Opportunity Commission  
Rationale: The EEOC enforces Title VII.

8. A responsibility of employers for preventing sexual harassment is:
   a. Respond to all complaints of harassment right away  
   b. Install surveillance cameras to spot possible sexual harassment  
   c. Have a policy against any sexual relationships among employees
d. Ensure that male and female employees do not have to work together closely

Correct: Respond to all complaints of harassment right away
Rationale: Employers have the duty to respond to any complaints of sexual harassment right away.

9. All employers should have a clear sexual harassment policy. This policy should:
   a. Explain the features of sexual harassment under the law
   b. Identify the conditions under which harassment will be tolerated
   c. List the types of harassment complaints that will be investigated
   d. State the evidence needed before filing a sexual harassment complaint

Correct: Explain the features of sexual harassment under the law
Rationale: An employer's sexual harassment policy must define sexual harassment under the law.

10. Employees who witness sexual harassment should:
    a. File a complaint
    b. Blame the victim
    c. Ignore the problem
    d. Gossip with their coworkers

Correct: File a complaint
Rationale: Employees who witness sexual harassment have a duty to file a complaint.
Final Exam

1. Which of the following best meets the legal definition of sexual harassment under Title VII?
   a. Any sexual conduct within the workplace
   b. Any unwelcome sexual conduct within the workplace
   c. Requests for sexual favors, whether or not they affect job status
   d. Unwelcome sexual advances that create a hostile work environment

Correct: Unwelcome sexual advances that create a hostile work environment
Rationale: Under Title VII, sexual harassment must involve sexual conduct. The conduct must be unwelcome. The conduct must affect job status or create a hostile work environment for the victim.

2. Choose the best description of "hostile environment" sexual harassment:
   a. Two employees have a sexual relationship.
   b. A supervisor and an employee have a sexual relationship.
   c. A supervisor gives job-related rewards or punishment based on how an employee responds to unwanted sexual behavior.
   d. Unwanted sexual behavior interferes with an employee's work or makes the workplace offensive or intimidating for an employee.

Correct: Unwanted sexual behavior interferes with an employee's work or makes the workplace offensive or intimidating for an employee.
Rationale: Hostile environment sexual harassment makes the workplace a hostile, offensive, or intimidating environment for the victim.

3. Which of the following is a feature of quid pro quo sexual harassment?
   a. The harasser must be a man.
   b. The conduct of the harasser must be unwelcome.
   c. The harasser must be the victim's direct supervisor.
   d. The victim and the harasser must be of opposite genders.

Correct: The conduct of the harasser must be unwelcome.
Rationale: Quid pro quo sexual harassment involves unwelcome sexual conduct. The harasser may be a man or a woman. The victim may be a man or a woman. The harasser may be the victim's direct supervisor or a higher-up supervisor.

4. Jack and Jill are coworkers. Jack pinches or squeezes Jill's rear end whenever she walks by. Jill does not want this sexual conduct. She has asked Jack to stop. She is having trouble getting her work done because she tries to avoid Jack whenever possible. The employer should treat this as:
   a. Quid pro quo sexual harassment
   b. Not sexual harassment under Title VII
   c. Hostile environment sexual harassment
   d. Not a clear enough case to determine sexual harassment

Correct: Quid pro quo sexual harassment
Correct: Hostile environment sexual harassment
Rationale: This case involves unwelcome sexual behavior that affects an employee's job performance. The employer should treat this complaint as hostile environment sexual harassment.

5. Jill is Jack's supervisor. Jill asks Jack on a date. She threatens not to give him his next raise if he refuses to date her. Jack does not want to date Jill. This is:
   a. Quid pro quo sexual harassment
   b. Not sexual harassment under Title VII
   c. Hostile environment sexual harassment
   d. Not a clear enough case to determine sexual harassment

Correct: Quid pro quo sexual harassment
Rationale: Quid pro quo harassment happens between a supervisor and an employee and affects job status.

6. Jack and Jill meet at the workplace. They like each other and start to date. This is:
   a. Quid pro quo sexual harassment
   b. Not sexual harassment under Title VII
   c. Hostile environment sexual harassment
   d. Not a clear enough case to determine sexual harassment

Correct: Not sexual harassment under Title VII
Rationale: There is no unwelcome sexual conduct in this case. Therefore, there is no harassment under Title VII.

7. Jill is Jane's supervisor. Jill offers Jane a promotion in exchange for sexual favors. Jane does not want a sexual relationship with Jill. This is:
   a. Quid pro quo sexual harassment
   b. Not sexual harassment under Title VII
   c. Hostile environment sexual harassment
   d. Not a clear enough case to determine sexual harassment

Correct: Quid pro quo sexual harassment
Rationale: Quid pro quo harassment happens between a supervisor and an employee and affects job status.

8. When an employee is found guilty of harassment, the employer may be held legally responsible. This may happen when:
   a. The employer has a written sexual harassment policy in place.
   b. The employee's supervisors failed to witness the harassment firsthand.
   c. The employer ignored repeated complaints from employees about the harassment.
   d. The employee with the complaint went directly to the EEOC and did not complain to the employer first.

Correct: The employer ignored repeated complaints from employees about the harassment.
Rationale: Employers may be held responsible when they KNEW or SHOULD HAVE KNOWN about the harassment.
9. A responsibility of employers for preventing sexual harassment is:
   a. Have a formal sexual harassment policy in place
   b. Install surveillance cameras to spot possible sexual harassment
   c. Ensure that male and female employees do not have to work together closely
   d. Wait until repeated complaints are made before responding to complaints of harassment

   Correct: Have a formal sexual harassment policy in place
   Rationale: All employers must have a formal sexual harassment policy in place. They must train employees on the policy.

10. A responsibility of employers related to preventing sexual harassment is:
    a. Discipline employees who are found to engage in sexual harassment
    b. Document all harassment complaints other than quid pro quo complaints
    c. Punish employees who file harassment complaints that cannot be proven
    d. Investigate the sexual history of employees who file harassment complaints

   Correct: Discipline employees who are found to engage in sexual harassment
   Rationale: Employers are responsible for disciplining proven harassers.