HealthStream Regulatory Script

[Sexual Harassment in the Workplace]

Version: [May 2005]

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.

Sexual harassment is a crime. Harassment also contributes to a poor work environment.

Understanding and preventing sexual harassment can help:
- Improve employee productivity and morale.
- Decrease employee turnover.
- Save you and your facility legal fees and other costs.

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.
<table>
<thead>
<tr>
<th>Course Rationale</th>
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<tr>
<td>This course will teach you how to prevent and handle sexual harassment in the workplace. You will learn:</td>
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<tr>
<td>• The legal definition of sexual harassment</td>
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<td>• Forms and examples of sexual harassment</td>
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<tr>
<td>• Employer and employee responsibilities for preventing and responding to sexual harassment</td>
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NO IMAGE
<table>
<thead>
<tr>
<th>Course Goals</th>
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<tr>
<td>After completing this course, you should be able to:</td>
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<tr>
<td>- Recognize the legal definition of sexual harassment.</td>
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<tr>
<td>- Identify the two forms of sexual harassment.</td>
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<tr>
<td>- List the responsibilities of employers and employees for preventing and handling sexual harassment.</td>
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</table>
This introductory lesson gives the course rationale, goals, and outline.

Lesson 2 explains the legal definition of sexual harassment. Lesson 2 also describes the two forms of sexual harassment.

Finally, lesson 3 discusses the responsibilities of employers and employees.
Welcome to the lesson on defining sexual harassment.

FLASH ANIMATION: 2001.SWF/FLA
Objectives

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.
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.

<table>
<thead>
<tr>
<th>Summary of Title VII Definition of Sexual Harassment</th>
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<tbody>
<tr>
<td>Sexual harassment involves the following actions:</td>
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<tr>
<td>- Sexual advances,</td>
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<td>- Requests for sexual favors, or</td>
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<tr>
<td>- Other sexual conduct…</td>
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<tr>
<td>When these actions are unwelcome and:</td>
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<tr>
<td>- Affect job status,</td>
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<tr>
<td>- Interfere with work performance, or</td>
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<tr>
<td>- Create a hostile work environment.</td>
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</table>
Quid Pro Quo Sexual Harassment

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:
- Keep his or her job.
- Keep his or her benefits.
- Avoid being transferred to another job.
- Avoid being demoted with a decrease in pay.
- Receive a promotion, raise, vacation time, etc.
Quid Pro Quo: Further Criteria

Note the following features of quid pro quo sexual harassment:

1. The conduct of the harasser must be **unwelcome**.
2. 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.
3. 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.
4. The harasser does not have to follow through on any threats. The **threat** alone is enough to prove harassment.
5. A **single** sexual advance may be considered quid pro quo harassment.
6. **Employers** can be held legally responsible for quid pro quo harassment by a supervisor.
### Quid Pro Quo: Examples

Examples of quid pro quo harassment include:
- Carlos is Anne’s supervisor. Carlos threatens to fire Anne if she will not have sex with him.
- 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.

*Remember! These examples are only considered harassment if the supervisor’s sexual advances are unwelcome to the victim.*

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**Point 6 of 14**
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.
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.
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.

**AND**
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.
<table>
<thead>
<tr>
<th>2012</th>
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<tbody>
<tr>
<td><strong>Enforcement of Title VII: Liability of the Employer</strong></td>
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</table>

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.
FLASH INTERACTION: 2013.SWF/FLA

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.

<table>
<thead>
<tr>
<th>Quid Pro Quo Sexual Harassment</th>
<th>Hostile Environment Sexual Harassment</th>
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</thead>
<tbody>
<tr>
<td>Nancy promises to give Bill a raise in exchange for sexual favors.</td>
<td>Joe makes sexually suggestive remarks about Mary's large breasts.</td>
</tr>
<tr>
<td>Mike tells Sue that she will go places in his company if she sleeps with him.</td>
<td>Gary tells &quot;dirty&quot; jokes in the staff lunchroom, after Dave has asked him not to.</td>
</tr>
<tr>
<td>Ben tells Kate that women who refuse to date him tend to have to wait longer for promotions.</td>
<td>Dan regularly refers to his boss as &quot;that brainless bit of blonde fluff.&quot;</td>
</tr>
</tbody>
</table>
## Summary

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

Welcome to the lesson on responsibilities.

FLASH ANIMATION: 3001.SWF/FLA
### Objectives

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.
Employer Responsibilities

All employers should:
  o Have a formal sexual harassment policy.
  o Tell all employees about the policy.
  o 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 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.
3006
Training

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.
Employee Responsibilities: All Employees

<table>
<thead>
<tr>
<th>All employees must:</th>
<th>[IMAGE: 3008.GIF]</th>
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<tbody>
<tr>
<td>o Review the sexual harassment policy.</td>
<td></td>
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<tr>
<td>o Attend mandatory sexual harassment training sessions.</td>
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<tr>
<td>o Know what sexual harassment means.</td>
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<tr>
<td>o Not harass coworkers, subordinates, or supervisors.</td>
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<tr>
<td>Employee Responsibilities: Victims</td>
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<td>----------------------------------</td>
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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.
Employees should report sexual harassment only if they are being harassed.
  a. True
  b. False

TRUE / FALSE INTERACTION

Correct: B

A: Incorrect. Employees should report harassment if they experience or see it.

A: Correct. Employees should report harassment if they experience or see it.
<table>
<thead>
<tr>
<th>Summary</th>
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<tbody>
<tr>
<td>You have completed the lesson on responsibilities.</td>
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</table>

Remember:
- 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.
- Employers must respond to complaints of sexual harassment right away.
- All employees should know the policy on sexual harassment. They should attend all mandatory training sessions. They should not harass coworkers, supervisors, or subordinates.
- Employees who experience or see sexual harassment should confront the harasser and report the incident.
## Course Glossary

<table>
<thead>
<tr>
<th>#</th>
<th>Term</th>
<th>Definition</th>
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<tr>
<td></td>
<td>retaliation</td>
<td>action taken against someone or something in response to a perceived wrong</td>
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[Sexual Harassment in the Workplace]

Pre-Assessment

1. Sally stops by Jack's desk every morning. She tells him about her sexual adventures the night before. Jack has told her many times that he is busy. He is not interested in hearing about her night life. She ignores him and continues interrupting his work. This is:
   a. Not sexual harassment
   b. Quid pro quo sexual harassment
   c. Hostile environment sexual harassment

Correct answer: C  
Rationale: Sally’s behavior is of a sexual nature. It is unwelcome. And, it is interfering with Jack’s work performance. This is hostile environment sexual harassment.

2. Barbara was recently promoted. She is now the supervisor over a department of ten men and women. Two of her male employees resent her promotion. They repeatedly leave obscene drawings on her desk. They also make rude comments about female supervisors. Barbara is very upset about this. This is:
   a. Not sexual harassment
   b. Quid pro quo sexual harassment
   c. Hostile environment sexual harassment

Correct answer: C  
Rationale: The male employees in this case are taking action of a sexual nature. Their conduct is unwelcome. It is creating a hostile and offensive environment for Barbara. This is hostile environment sexual harassment.

3. Rudy occasionally stops by Karen's desk to tell his latest obscene joke. She also tells “dirty” jokes. This is:
   a. Not sexual harassment
   b. Quid pro quo sexual harassment
   c. Hostile environment sexual harassment

Correct answer: A  
Rationale: Rudy and Karen are having conversations of a sexual nature. However, these conversations are not unwelcome to either Rudy or Karen. Therefore, this is not sexual harassment.

4. Bert is Debra's supervisor. Bert asks Debra out on a date. Debra refuses. She explains that she has a rule about not dating the boss. A month later, Debra asks Bert for a raise. Bert explains to her that she is not eligible due to company policy. However, he says that he is willing to make an exception to the company rule about raises, if she is willing to make an exception to her rule about dating. This is:
a. Not sexual harassment  
b. Quid pro quo sexual harassment  
c. Hostile environment sexual harassment  

Correct answer: B  
Rationale: Bert offers Debra a job-related reward if she accepts his unwelcome advance. This is quid pro quo sexual harassment.  

5. Julie experiences unwelcome conduct of a sexual nature in her workplace. This does not lead to job loss or any other economic loss for Julie.  
True or False: This conduct is not sexual harassment under Title VII.  
   a. True  
   b. False  

Correct answer: B  
Rationale: Sexual harassment does not have to involve tangible economic loss for the victim.  

6. An employee is guilty of sexual harassment. In which of the following cases would the employer be legally responsible?  
   a. The harassment was openly practiced. Even so, the employer did nothing to stop it.  
   b. Employees had made formal complaints of being harassed. Even so, the employer had done nothing to stop the harassment.  
   c. The employer had no formal policy against sexual harassment. The employer also did nothing to stop this particular harassment. The employer claimed not to know about the harassment.  
   d. The employer is legally responsible in all of these cases.  
   e. The employer is not legally responsible in any of these cases.  

Correct answer: D  
Rationale: When an employee is guilty of sexual harassment, the employer is legally responsible if: 1) the employer knew or should have known about the harassment, and 2) the employer did not do anything to stop the harassment. A court may decide that the employer should have known about harassment if: 1) there had been previous complaints of harassment, 2) the harassment was openly practiced, or 3) the employer did not have a formal policy against harassment.  

7. Which of the following is legal?  
   a. Taking action against a victim of sexual harassment who files a complaint  
   b. Unwelcome conduct of a sexual nature that creates a hostile work environment  
   c. Unwelcome conduct of a sexual nature that includes a promise to give the victim a raise  
   d. Firing an employee as punishment for sexually harassing fellow employees  

Correct: D  
Rationale: Employers may discipline harassers by firing them.  

8. Who is responsible for informing employees that sexual harassment will not be tolerated?  
   a. The EEOC
b. The employer
   c. Victims of harassment

Correct: B
Rationale: The employer is responsible for informing employees that sexual harassment will not be tolerated.

9. Only management-level employees of an organization are responsible for knowing the definition of sexual harassment.
   a. True
   b. False

Correct: B
Rationale: All employees are responsible for knowing what sexual harassment means.

10. It is helpful for a victim of sexual harassment to confront the harasser directly and tell the harasser that the conduct is unwelcome.
    a. True
    b. False

Correct: A
Rationale: Victims should always report to a supervisor. However, it is helpful for the victim to confront the harasser directly, as well.
Question Title: Question 1
Question: All of the behaviors described below are unwelcome. Which is (are) quid pro quo sexual harassment?

Answer 1: Commenting on a coworker’s breast size
Answer 2: Telling “dirty” jokes in the company lounge
Answer 3: Promising an employee a promotion in exchange for sexual favors
Answer 4: All of these
Answer 5: None of these

Correct Answer: Promising an employee a promotion in exchange for sexual favors
Answer Rationale: All sexual harassment involves unwelcome conduct of a sexual nature. Quid pro quo harassment happens when the victim’s job status depends upon his or her response to this conduct.

Question Title: Question 2
Question: All of the behaviors described below are unwelcome. Which is (are) hostile environment sexual harassment?

Answer 1: Threatening to fire an employee if she will not have sex
Answer 2: Repeatedly making rude comments about female doctors
Answer 3: Telling an administrative assistant that the best way to get a raise is to sleep with the boss
Answer 4: All of these
Answer 5: None of these

Correct Answer: Repeatedly making rude comments about female doctors
Answer Rationale: All sexual harassment involves unwelcome conduct of a sexual nature. Hostile environment harassment happens when this conduct interferes with the victim’s work, or creates a hostile, intimidating, or offensive work environment. This can include sexist or sexually offensive comments about coworkers.

Question Title: Question 3
Question: In quid pro quo sexual harassment, the harasser must:

Answer 1: Be a man.
Answer 2: Be the victim’s immediate supervisor.
Answer 3: Follow through on promises or threats.
Answer 4: All of these are correct.
Answer 5: None of these is correct.
Correct Answer: None of these is correct.
Answer Rationale: In quid pro quo sexual harassment, the harasser can be a man or a woman. The harasser also can be anyone the victim sees as an authority. The harasser does not have to follow through on threats or promises.

Question Title: Question 4
Question: A court is deciding a case of hostile environment sexual harassment. The court must consider whether the unwelcome conduct would create a hostile environment for:

Answer 1: Any person who encountered similar behavior
Answer 2: A majority of people who encountered similar behavior
Answer 3: A reasonable person who encountered similar behavior
Answer 4: More than one person who encountered similar behavior

Correct Answer: A reasonable person who encountered similar behavior
Answer Rationale: Courts generally use the Reasonable Person (or Reasonable Woman) Standard to decide whether unwelcome sexual conduct should be considered harassment.

Question Title: Question 5
Question: A single sexual advance can be considered quid pro quo sexual harassment.

Answer 1: True
Answer 2: False

Correct Answer: True
Answer Rationale: A single sexual advance can be considered quid pro quo sexual harassment. This is true as long as the victim’s job status depends upon his or her response to the advance.

Question Title: Question 6
Question: An employee is guilty of sexual harassment. In which of these cases would the employer be legally responsible?

Answer 1: The employer knew about the harassment. The employer did not do anything to stop the harassment.
Answer 2: The employer should have known about the harassment. The employer did not do anything to stop the harassment.
Answer 3: The employer is legally responsible in both of these situations.
Answer 4: None of these answers is correct.

Correct Answer: The employer is legally responsible in both of these situations.
Answer Rationale: An employer is legally responsible for sexual harassment by an employee if the employer 1) knew or should have known about the harassment, and 2) did not do anything to stop it.
An organizational sexual harassment policy should:

Answer 1: State that sexual harassment will not be tolerated.
Answer 2: Explain how to file a sexual harassment complaint.
Answer 3: State that retaliation against those who file sexual harassment complaints will not be tolerated.
Answer 4: All of these answers are correct.
Answer 5: None of these answers is correct.

Correct Answer: All of these answers are correct.
Answer Rationale: The sexual harassment policy should include all of this information.

Which of the following statements is accurate?

Answer 1: If employers post a copy of their sexual harassment policy in a noticeable place, yearly training sessions are not necessary.
Answer 2: If employers give a written copy of their sexual harassment policy to all employees, yearly training sessions are not necessary.
Answer 3: If employers explain their sexual harassment policy to all new employees, yearly training sessions are not necessary.
Answer 4: None of these statements is accurate.

Correct Answer: None of these statements is accurate.
Answer Rationale: The sexual harassment policy should be handed out in written form, explained to new employees, and posted in a visible place. Yearly training sessions also should be held.

You are the victim of sexual harassment. Which of the following is your best first step?

Answer 1: Quit your job.
Answer 2: Confront the harasser directly.
Answer 3: Report the harassment to your supervisor.
Answer 4: Avoid the harasser and hope there will be no further incidents.

Correct Answer: Confront the harasser directly.
Answer Rationale: It is important to report. However, it is helpful to first confront the harasser directly. When you do so, tell the person that his or her behavior is unwelcome and must stop.

A victim of sexual harassment complains within her organization. This does not correct the problem. True or False: The victim has no choice but to learn to live with the harassment.
Correct Answer: False
Answer Rationale: If an organizational complaint process is ineffective, an employee may take a sexual harassment complaint directly to the EEOC.