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# VinciWorks

Frequently Asked Questions –  
Behavior at Work

## Introduction

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VinciWorks continuously receives questions on the topic of sexual harassment. We have separated our answers to the questions into three categories: general questions about sexual harassment, questions about behavior at work and questions frequently asked by supervisors. This document covers questions regarding behavior at work. You can access the other categories by visiting our [sexual harassment prevent resource page](#). The full list of questions and answers is included in VinciWorks' harassment training, [MyStory: Harassment and Bullying at Work](#).

### Should I avoid giving compliments?

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Giving someone a genuine compliment about the way they look or dress is not the same as sexual harassment. It can become sexual harassment however if accompanied by inappropriate behavior, such as leering, catcalls, sexual innuendo, or comments given to only one person repeatedly. Comments that infantilize or sexualize a person are always inappropriate, these could include:

“Hey baby / doll / sexy / beautiful...”

“Why can't everyone look as beautiful as you?”

### What if the harassment is not sexual, but directed at me because of my gender?

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Non-sexual conduct is still considered unlawful if it qualifies as being severe, pervasive and singles you out because of your gender. For example, a supervisor stating that he doesn't think a woman should be doing your job and deliberately insults and ridicules you because of your gender is harassment. Insulting someone because they do not conform to stereotypes about how someone of a particular gender should behave is also harassment. For example degrading a man because he is a kindergarten teacher or a nurse.

### I'm transgender or don't identify with a particular gender, or the gender assigned to me at birth. Am I protected?

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Yes. Federal courts and the Equal Employment Opportunity Commission which enforces Title VII of the Civil Rights Act 1964 have determined that discrimination against a transgender or gender non-conforming individual constitutes illegal sex discrimination. In addition, many cities and states explicitly prohibit discrimination on the grounds of sexual orientation or gender identity.

Transgender individuals cannot be fired or refused a job or promotion because they are transgender, even if their state or locality does not have laws prohibiting gender identity discrimination.

## **My employer won't let me use the restroom that is consistent with my gender identity. Is this harassment?**

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Yes. Denying an employee access to facilities consistent with their gender identity can constitute unlawful discrimination. An employer cannot demand medical or legal documentation regarding your gender as a condition of restroom access, or force you to use a separate facility from other employees. Nor can you be forced to use unsanitary, unsafe, or unreasonably far facilities.

## **Does it still count as sexual harassment if carried out by someone of the same gender?**

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Yes. Whether the harasser is of the same or different sex to you is immaterial. The conduct is still unlawful.

## **Can I date someone from work?**

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This depends on the particular policies of your employer. Some employers prohibit relationships between employees or between supervisors and employees due to the perception of the conflict of interest that can occur. Some people request a transfer when they begin a relationship with someone they work with. It can be a good idea to inform the HR department of any relationship, and take steps to ensure the relationship does not impact on you or your partners work.

## **Someone at work asked me out, but I don't want to go**

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You should be forthright and give a clear answer that leaves no room for ambiguity. This does not have to be disrespectful or mean, but should clearly state your feelings. Telling someone "not right now" or "maybe another time" when you actually mean "no" could be problematic as someone repeatedly asking you out could constitute sexual harassment. Be as direct as possible.

## **I hooked up with someone at work, but we aren't taking it further. How should this be handled?**

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Confidentially inform your supervisor or HR about a casual relationship with someone at work. If all parties move on, then there shouldn't be any problems. However people might step away from the casual relationship with different recollections or expectations which may impact your relationship with them in the workplace. For instance, one person may think it was only a one time thing, while another person may take it as an invitation to pursue, which could in turn lead to issues of sexual harassment and unwelcome behavior. Informing a supervisor or HR representative as quickly as possible can help to prevent potential problems in the future.

## **I hooked up with someone at work and I don't know if they are interested in me. What should I do?**

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Unwelcome behaviors of a sexual nature constitute sexual harassment, but having had a relationship with someone in the workplace can make it harder to determine what is unwelcome and what is not. If you had a casual relationship with someone at work, try to move discussion of it to a non-work setting so as not to complicate the issue further. Ask them “can we discuss this together later?” instead of making assumptions about whether or not they might be interested.

Remember that sending explicit messages to a colleague, pressuring them for dates and making sexual comments can constitute sexual harassment if that behavior is unwelcome. Having had a relationship with the person does not mean the behavior can be assumed to be welcomed or justified, nor does it give you a license to pursue them in the workplace or elsewhere.

## **I hooked up with someone at work and don't want to take it further. What should I do?**

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You have every right to decide not to pursue a relationship with someone or see them again socially. Just because you work with them does not give them license to pursue you or make you feel uncomfortable or be harassed. However you should exercise caution due to the potentially difficult nature of the situation. You may want to inform your supervisor or an HR representative about the casual relationship and that you are ending it. Try and discuss the matter with the person outside of work, or send them a direct and unambiguous message that you are not interested in them. Avoid speaking to the person in a closed or private space. If you have any supervisory authority over the person, be aware of behaviors that could be considered retaliation, such as giving them extra work or treating them negatively. Be aware of any situations that could engender a claim of sexual harassment.

## **I hooked up with someone at work and we might see each other again. What should I do?**

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The difference between behavior that constitutes sexual harassment and behavior between people who are romantically involved is whether the behavior is unwelcome or not. Just because you are involved with someone at work does not mean they can treat you whatever way they want. Make it clear at the outset what behavior you find unwelcome. Try to keep the relationship, even if it is only casual, separate from work to avoid potential complications. It can be a good idea to inform your supervisor or HR representative about it and avoid potentially inappropriate behaviors while at work.

## **Is my employer legally responsible for harassment committed by its employees?**

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If the harasser is your supervisor or a person with authority to hire or fire you or make decisions on your pay or career advancement, then the employer is legally responsible for the harassment.

If the harasser is a supervisor who created a hostile work environment then the company is also liable unless it took steps to prevent and correct the harassment and you unreasonably failed to use those procedures.

If the harasser is a co-worker, freelancer, or client, then the employer may be liable, but this is not automatic. An employer is only liable if management knew about the harassment, or should have known about it, and did not take immediate or appropriate corrective action. This also covers lower level supervisors, such as those who have authority over daily work schedules but not hiring and firing decisions

## **If I file a successful sexual harassment complaint, what can I expect?**

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The level and type of compensation will depend on the circumstances of the harassment and the effect of it on you. In serious situations, such as where the behavior is ongoing or you lost your job as a result, compensation could include:

- Reinstatement to your job
- Back pay from the date of termination to the settlement
- Punitive damages if the harassment was egregious or there are similar claims
- Emotional damages as compensation for psychological suffering or injury to reputation
- Front pay for what you may have earned had you not been terminated

## **I'm scared to report the fact that I'm being harassed - the person doing it has a position of authority and knows a lot of influential people.**

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In cases where you do not feel comfortable using the normal complaints procedure, you should consult an attorney before doing anything. Quitting may seem like the only option, but doing so before consulting an attorney may mean you are not able to recover lost wages because of complex legal standards around constructive termination, i.e. being forced to quit due to harassment.

## **I'm being harassed but I don't want anyone to get into trouble or lose their job because of me. What should I do?**

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You have every right to work free from being sexually harassed and you should not put up with such behavior no matter what the circumstances of the harasser are. In cases where you find the behavior unwelcome but do not want to make a formal report, consider talking to the individual directly about the behavior you found to be objectionable and unwelcome and ask them to stop.

## **My boss yells at me all the time. Is this sexual harassment?**

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Unless the behavior includes sexual comments or conduct, or is based on your sex, then it probably does not constitute sexual harassment. However bad management styles and bullying should not be tolerated either and should be raised through the company's normal procedures.

## **There was no witnesses to the incident. Can I still complain?**

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You should not be hesitant to come forward about an incident of harassment because there was no witnesses or you are concerned about being believed. An investigation into an incident may take other factors you are not aware of into consideration, such as previous complaints. You cannot be treated unfavorably or retaliated against for making a complaint.



To learn more, email [training@vinciworks.com](mailto:training@vinciworks.com) or call:

UK: +44 208 815 9308

US: +1 (917) 3383958

[www.vinciworks.com](http://www.vinciworks.com)