

Hypothetical 1

Esther has been working at a reputable structural engineering firm for the past year. For the past couple of months, she has been working on a project with a short deadline. The project team has had to work together late into the night for several weeks. Peter is the project manager and he and Esther have been working closely together to finalize the construction drawings. On the night that the team submitted its final drawings to the client, Peter asked Esther if she would like to go to dinner with him.

Does Peter's conduct constitute sexual harassment (yes or no)?

What if Peter was Esther's supervisor?

What if Peter was not Esther's supervisor, Esther turned down Peter's invitation, and Peter persisted to ask Esther out day after day?

What if Peter and Esther were both homosexual men?

Hypothetical 2

Best Engineering ("Best") had an anti-harassment policy and provided employees with training every 3-5 years. Best put one of their semi-retired Principals, Bud, in charge of receiving complaints of sexual harassment. Bud is frequently out of the office due to health issues. Best's HR Department has not replaced Bud with an alternate person to take complaints in Bud's absence.

Barbara has been an administrative assistant for the firm for about a year and a half. She never received training on Best's anti-harassment policy, but she has reviewed the policy on her own and knows that she is supposed to report incidences of sexual harassment to Bud or to her supervisor, Tim.

Tim comments about Barbara's appearance nearly every day he arrives at the office. This makes Barbara extremely uncomfortable and she is beginning to dread going into work. After confiding in a friend, Barbara decides to hire an attorney who proceeds to issue a complaint against Best Engineering on Barbara's behalf.

Does Best have an affirmative defense against Barbara's claim?

What if Best's policy provided for another person to whom Barbara could report her claim, but she waited to do so for over a year?

Is Best's training schedule reasonable?

Did Best provide Barbara with sufficient avenues for reporting her complaint?

What if another supervisor at Best witnessed Tim's conduct and did not report it?

Hypothetical 3

Connie is an engineer at Do Good Engineers, Inc. (“DGE”) and the only female on a construction site where she is doing construction observation for a project. Each day that Connie arrives at the site, she hears cat calls from men employed by the contractor performing the construction. There is one individual in particular who tells inappropriate jokes to Connie. Connie has had it and tells her supervisor that if DGE doesn’t do something about this hostile work environment, she will quit. Connie’s supervisor’s response to Connie was, “You must have known that when you entered the construction workforce that this sort of thing would come with the territory. The contractor happens to be a big DGE client and I really don’t think you should rock the boat.”

Should DGE take action to address the construction employees’ behavior toward Connie?