Impact of Employee Performance and Job Status on Perceptions of Sexual Harassment

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IMPACT OF EMPLOYEE PERFORMANCE AND
JOB STATUS ON PERCEPTIONS OF SEXUAL HARASSMENT

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Master of Arts

by
Charla Gail Arnold

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IMPACT OF EMPLOYEE PERFORMANCE AND
JOB STATUS ON PERCEPTIONS OF SEXUAL HARASSMENT

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# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstract</td>
<td>iv</td>
</tr>
<tr>
<td>Introduction and Review of Literature</td>
<td>1</td>
</tr>
<tr>
<td>Method</td>
<td>16</td>
</tr>
<tr>
<td>Results</td>
<td>20</td>
</tr>
<tr>
<td>Discussion</td>
<td>26</td>
</tr>
<tr>
<td>References</td>
<td>32</td>
</tr>
<tr>
<td>Appendices</td>
<td>38</td>
</tr>
</tbody>
</table>
IMPACT OF EMPLOYEE PERFORMANCE AND
JOB STATUS ON PERCEPTIONS OF SEXUAL HARASSMENT

Charla Gail Arnold May 2000 54 Pages

Directed by: Dr. Elizabeth L. Shoenfelt, Dr. Sam McFarland, and Dr. John O’Connor

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Abstract

Once unnoticed and unreported, sexual harassment claims have risen dramatically within the last two decades. Although guidelines published by the Equal Employment Opportunity Commission in 1980 provided a definition of sexual harassment, researchers continue to examine variables affecting individual perceptions of sexual harassment. Contextual factors impacting the labeling of sexual harassment include the type and severity of the harassment, the ambiguity of the sexually harassing behaviors, and gender differences in perceptions of sexual harassment. The present researcher examined the impact of employee performance and employment status on perceptions of sexual harassment. Results indicated that female participants were more likely than male participants to label behaviors as sexual harassment. There were no differences between perceptions of sexual harassment for employees with either good or poor performance records. However, participants were more likely to perceive the employee was the victim of sexual harassment when no employee performance information was presented than when either good or poor performance information was presented. Finally, employees currently employed by the organization were perceived to be victims of sexual harassment more often than employees who had been dismissed from the organization.
Introduction and Review of Literature

Sexual harassment is a workplace issue with consequences for both employer and employee. Within the last decade, many research studies have examined the prevalence of sexual harassment (Fitzgerald; 1993; Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod, & Weitzman; 1988; Fitzgerald & Shullman, 1993; Saal, 1990; United States Merit Systems Protection Board [USMSPB], 1987). Incident rate statistics vary depending upon the research design, target population, and definition of sexual harassment. Wolkinson and Block (1996) reported that various studies found between 25% and 90% of all female workers have experienced some form of sexual harassment.

The following literature review will identify what constitutes sexual harassment and identify discrepancies in the labeling of sexually harassing behaviors. Previous research has identified the role of contextual factors, such as ambiguity of the situation and the harasser’s organizational status, on perceptions of sexual harassment. Gender differences have been the primary focus of previous research examining the perception of sexual harassment (e.g., Abbey, 1982; Baird, Bensko, Bell, Viney, & Woody, 1995; Booth-Butterfield, 1989; Hemmasi, Graf, & Russ, 1994; Johnson, Stockdale, & Saal, 1991; Konrad & Gutek, 1986; Murrell & Dietz-Uhler, 1993; Saal, 1990; Saal, Johnson, & Weber, 1989; Shotland & Craig, 1988). Females have a significantly lower threshold than males for perceiving sexual harassment. Finally, principles of attribution theories may aid in explaining the role of extraneous factors forming perceptions of sexual harassment.
This study will extend previous findings by examining the impact of employee performance and job status on perceptions of sexual harassment.

Definitions of Sexual Harassment

The study of sexual harassment is plagued by varied and ambiguous interpretations of what constitutes sexual harassment (Barr, 1993; Fitzgerald & Ormerod, 1991; Frazier, Cochran, & Olson, 1995; Johnson, Benson, Teasdale, Simmons, & Reed, 1997; Sheffey & Tindale, 1992). Farley (1978) offered the first formal definition of sexual harassment:

Unsolicited, nonreciprocal male behavior that asserts a woman’s sex-role over her function as a worker. It can be any or all of the following: staring at, commenting upon, or touching a woman’s body; repeating nonreciprocated propositions for dates; demands for sexual intercourse; and rape. (cited in Sheffey & Tindale, 1992, p. 1502-1503)

MacKinnon (1979) argued that sexual harassment affected women, rarely men, and should therefore be viewed as a form of sex discrimination (Gutek, 1993). In 1980 the Equal Employment Opportunity Commission (EEOC) published interpretive guidelines regarding sexual harassment. According to those guidelines, sexual harassment is an unlawful employment practice under Title VII of the Civil Rights Act of 1964. The guidelines defined two forms of sexual harassment. *Quid pro quo* sexual harassment occurs when unwelcome sexual conduct is either an explicit or implicit term or condition of employment. *Quid pro quo* harassment also occurs when submission to such conduct is the basis for employment decisions affecting the individual. Hostile work environment, the second form of sexual harassment identified by the EEOC, occurs when unwelcome
sexual conduct interferes with the individual’s job performance or creates an intimidating, hostile, or offensive work environment. The two forms of sexual harassment often occur together and the distinction between quid pro quo and hostile work environment is often unclear. Hostile work environment must not only alter conditions of employment but also create an abusive work environment. The EEOC guidelines suggest the determination of a hostile work environment is affected by the following factors:

1. whether the conduct was verbal or physical, or both; 
2. how frequently it was repeated; 
3. whether the conduct was hostile and patently offensive; 
4. whether the alleged harasser was a co-worker or a supervisor; 
5. whether others joined in perpetrating the harassment; and 
6. whether the harassment was directed at more than one individual. (EEOCb, 1990, p. 14)

In defining the factors that constitute quid pro quo harassment and hostile work environments, the EEOC guidelines provided employers, employees, and the courts with legal guidance for examining sexual harassment claims. However, the broad wording used to define sexual harassment is somewhat ambiguous and allows for many interpretations of what behaviors constituted sexual harassment. Such discrepancies in the labeling of sexual harassment are evident in the gender differences in the perception of sexual harassment, which are discussed subsequently in this literature review.

Consequences of Sexual Harassment

Sexual harassment affects not only the individual experiencing the harassment but also the organization in which the harassment occurs. Fitzgerald, Drasgow, Hulin, Gelfand, and Magley (1997) proposed and tested an integrated model of the antecedents and consequences of sexual harassment. Both organizational climate and the job gender...
context (as evident by the group’s gender ratio and nature of work duties) determined the
preponderance of sexual harassment and its effects on job satisfaction, health outcomes,
and psychological outcomes. Results indicated that female employees who felt their
organization was tolerant of sexual harassment experienced higher levels of sexual
harassment. Higher levels of sexual harassment were reported in traditionally male-
oriented work environments. Previously harassed female participants experienced more
absenteeism, psychological problems, and thoughts about leaving the organization. These
findings were replicated using both private-sector and university employees. As
participant experience with sexual harassment increased, the number of negative job-
related and psychological outcomes increased. The relationship between increased
sexual harassment experiences and negative outcomes remained after controlling for
participant affective disposition and general job stress (Schneider, Swan, & Fitzgerald,
1997). As reported by Fitzgerald (1992), previous researchers have identified not only
psychological consequences of sexual harassment but also job loss, decreased morale and
job satisfaction, absenteeism, and injury to interpersonal work relationships.

Although these factors suggest sexual harassment influences the physical work
environment, the work environment as well as the specific behaviors exhibited in that
environment can influence perceptions of sexual harassment. Before examining the
contextual influences on sexual harassment perceptions, we will review previous findings
regarding the influence of gender on sexual harassment perceptions.

Gender Influences on Sexual Harassment Perceptions

Previous research has identified gender differences in the labeling and reporting
of sexual harassment (Fitzgerald & Ormerod, 1991; Fitzgerald, Shullman, Bailey,
Richards, Swecker, Gold, Ormerod, & Weitzman; 1988; Frazier, Cochran, & Olson, 1995; Konrad & Gutek, 1986; Thacker, 1996). Popovich, Gehlauf, Jolton, Somers, and Godinho (1992) found that behaviors that comprise hostile work environment situations are perceived differently by males and females. When reading statements of physical behavior occurring in hostile environment conditions, male participants rated the statements less negatively than did female participants. Female participants perceived statements describing economic injury as having more effect on the victims’ job status than hostile environment statements. Although females are more likely to perceive behaviors as sexual harassment, they are less likely to spontaneously label or report such behaviors as sexually harassing. Jaschik and Fretz (1991) found that only 3% of female undergraduate participants spontaneously labeled a video scenario as sexual harassment. However, when asked directly, 98% of the participants confirmed the behavior to be sexual harassment. Compared to university students, working women were significantly more likely to perceive and label experiences as sexual harassment (Fitzgerald et al., 1988). Gutek (1995) suggested that gender differences in labeling and reporting sexual harassment may occur when the sexually harassing behavior is mild and the scenario is ambiguous.

A considerable amount of research has examined the impact of gender on perceptions of sexual harassment (Abbey, 1982; Baird, Bensko, Bell, Viney, & Woody, 1995; Booth-Butterfield, 1989; Hemmasi, Graf, & Russ, 1994; Johnson, Stockdale, & Saal, 1991; Konrad & Gutek, 1986; Murrell & Dietz-Uhler, 1993; Saal, 1990; Saal, Johnson, & Weber, 1989; Shotland & Craig; 1988). As shown by Katz, Hannon, and Whitten (1996), the effects of harasser status can depend on the gender of both the
harasser and victims as well as the observer’s gender. When the situation depicted a male harasser and a female victim, no gender differences in perceptions of sexual harassment were reported. However, male participants rated harassment less negatively when the scene depicted a female harasser and a male victim. This gender difference occurred in both egalitarian and power differential situations (Katz, Hannon, & Whitten, 1996).

Using a sample of working men and women, Konrad and Gutek (1986) found gender differences in the participants’ personal orientation toward sexual harassment, experiences with sexual harassment, and gender role stereotyping. Murrell and Dietz-Uhler (1993) extended Konrad and Gutek’s (1986) research to an academic environment. For male college students, direct experience with sexual harassment significantly predicted more tolerant attitudes toward sexual harassment. For female students, attitudes toward sexual harassment were best predicted by the endorsement of adversarial sexual beliefs and gender group identity (Murrell & Dietz-Uhler, 1993). Finally, gender differences were also evident when reading “hostile environment” scenarios, women rated the scenarios as more harassing and all participants rated male perpetrators as more harassing than female perpetrators (Baird et al., 1995; Maue & Shoenfelt, 1999).

Gender differences in perceptions of sexual harassment may reflect an overall communication difference between males and females. Males may perceive greater sexual intent than females and misjudge friendliness as a signal of sexual interest. In a laboratory experiment, Abbey (1982) had male and female observers view 5-minute interactions between both male and female actors. Ratings by both actors and observers indicated gender differences. The female actor was rated as more promiscuous and seductive by males actors and observers than by female actors and observers. Compared
to females, males were more attracted to the opposite-sex actor. Finally, males more often rated both the female and male actors in sexual terms.

Many researchers replicated Abbey’s finding that gender differences result from the tendency of some males to attribute sexual motives to female behavior (Johnson, Stockdale, & Saal, 1991; Plater & Thomas, 1998; Saal, 1990; Saal, Johnson, & Weber, 1989). However, Shotland and Craig (1988) have shown that both males and females can discriminate between friendliness and sexual intent and that differences result from different thresholds for the labeling of sexual behaviors. Gender differences in perceptions of sexual harassment may also result from differences in locus of control. Booth-Butterfield (1989) found that males with an external locus of control were more likely to label behaviors as sexual harassment than were males with an internal locus of control. In contrast, female perceptions were not influenced by locus of control; females labeled more behaviors as sexual harassment than males. Working males and females labeled more behaviors as sexual harassment than did college students (Booth-Butterfield, 1989), suggesting both a gender difference and working status difference in the labeling of sexual harassment.

Ford and Donis (1996) found not only gender differences but also age differences in attitudes toward sexual harassment. Women were less tolerant of sexual harassment than were men. For women, tolerance increased until age 50. Lower tolerance among younger women may be result of their increased sensitivity to sexual harassment or that older women are more compliant with traditional gender roles and are therefore more likely to blame sexual harassment on the victim rather than on power inequalities between men and women. In contrast, men experienced decreases in tolerance until age
50 and increases in tolerance after age 50. As men age, the effects of marriage and fatherhood may lead to an increased awareness of and sensitivity to sexual harassment. Older adults compared to younger adults have broader definitions of sexual harassment (Gutek, 1995). Foulis and McCabe (1997) also found age differences in attitudes toward sexual harassment. High school participants exhibited more tolerant attitudes than did either university or workplace participants. Although no gender differences were found in the university and workplace samples, high school males exhibited more tolerant attitudes toward sexual harassment than did high school females.

Although much of the sexual harassment research has focused on gender differences in perception, other situational variables have also been examined. Johnson et al. (1997) looked at gender as well as intoxication and varying degrees of sexual innuendo (i.e., verbal comments, verbal requests, and nonverbal displays) based on categories identified in the guidelines of the Equal Employment Opportunity Commission. When the target-person was intoxicated, subjects were less certain sexual harassment occurred and perceived the alleged harasser more favorably than the target-person. In the verbal-comment and verbal-request conditions, male subjects perceived the alleged harasser more favorably than did female subjects; subjects in the intoxicated condition perceived the alleged harasser more favorably than did subjects in the sober condition. In contrast, perceptions of sexual harassment in the nonverbal-display condition did not vary as a function of subject gender or as a function of intoxication level. These findings suggest the type of harassment moderates perceptions of sexual harassment. Having reviewed gender influences on sexual harassment perceptions, we
will next discuss contextual factors, such as behavior ambiguity, that influence sexual harassment perceptions.

**Contextual Influences on Sexual Harassment Perceptions**

We will first examine previous research indicating that perceptions of behavior are influenced by the physical context in which the behavior occurs, the ambiguity of the behavior, and the severity of the sexual harassment. Sheffey and Tindale (1992) found participants viewed ambiguous behaviors as less appropriate and more sexually harassing in both male-dominated and mixed gender settings. Potentially sexual-harassing behaviors were viewed as both more acceptable and more frequent in traditionally female-dominated settings (Sheffey & Tindale, 1992). Fitzgerald and Ormerod (1991) found that in an academic context explicit behaviors, such as sexual bribery and threat, were consistently identified as harassing. However, female respondents were more likely than male respondents to view ambiguous behaviors, such as suggestive jokes and romantic attention, as harassing (Fitzgerald & Ormerod, 1991). This finding was partially supported by Blakely, Blakely, and Moorman (1995) who found females and those who had been a target of sexual harassment were more likely to view ambiguous behaviors as sexual harassment. However, no gender differences were found in perceptions of sexual harassment when personal experiences with sexual harassment were controlled. Jones and Remland (1992) found that the severity of harassment along with target response, target gender, and rater gender influenced perceptions of harassment.

Another contextual variable, the harasser’s organizational status and perceived power, is identified by the EEOC guidelines as a factor that could influence the perception and reporting of sexual harassment. Fitzgerald and Ormerod (1991) found
neither the target student’s level or the faculty’s power over the student affected perceptions of sexual harassment. Jones et al. (1987) found that power differential alone was not a significant source of variability in rater perceptions of sexual harassment. However, more recent research has provided evidence that contradicts these earlier findings. Solomon and Williams (1997) indicated that the initiator’s power, sex, and attractiveness as well as the target’s attractiveness combined with message explicitness to determine participant’s perceptions of sexual harassment. Dougherty, Turban, Olson, Dwyer, and Laperze (1996) found that harassing behavior by a male toward a female was viewed more negatively when the harasser was a supervisor or executive, the harassing involved verbal comments, and the behavior occurred in a work environment versus a social setting. Finally, Sheets and Braver (1999) proposed a model that examined the effects of organizational status and power on perceptions of sexual harassment. As the harasser’s organizational status increased, his perceived power increased as well as did the likelihood his behavior would be seen as harassing. However, as the harasser’s organizational status increased his perceived social dominance also increased, which decreased the likelihood his behavior would be seen as harassing (Sheets & Braver, 1999). Both the victim and observer’s perceptions of sexually harassing events are affected not only by contextual factors such as physical context and organizational status but also by gender.

As presented previously, research has explicated the role of gender in determining perceptions of sexual harassment. When forming perceptions of sexual harassment, characteristics of both the behavior and situation are more influential than rater characteristics (Pryor & McKinney, 1995). However, few studies have examined the
effects of situational variables on perceptions of sexual harassment. Perception
differences may result from not only gender differences but also from attribution
differences based on the victim’s previous job performance and current work status.
Therefore, we will now examine attribution theory principles and how they may be
applied to sexual harassment research.

Discounting Principle Applied to Sexual Harassment Perceptions

Attribution theories identify logical rules used to describe the psychological
forces that lead individuals to accept situational or dispositional interpretations of another
person’s behavior. The discounting principle is a fundamental rule of attribution theory
suggesting that dispositions should be ignored or “discounted” when the individual’s
behavior is congruent with situational demands. For example, when an individual nods in
agreement during a job interview, his behavior does not reveal that he is polite and
attentive. The behavior is merely congruent with the situational demands created by the
interview and should therefore be discounted. However, many individuals make
dispositional attributions when they should not (Gilbert, 1995). This reaction is evident in
previous findings regarding attribution theory and its impact on perceptions.

In previous research, the discounting principle has been examined in a variety of
situations that include the sex discrimination, rape, and HIV infection. When attribution
principles were applied to a courtroom setting in which an organization was accused of
sex discrimination, Elkins and Phillips (1999) found that attributions regarding both the
plaintiff’s character and the organization’s motives mediated relationships between
strength of evidence, discrimination judgments, and participant’s gender. When
statistically controlling for attributions, the variance in discrimination judgments
associated with strength of evidence decreased and juror gender and discrimination judgments were not significantly related. These findings suggest attributions concerning both situational factors and victim characteristics could influence perceptions of sexual harassment.

When the discounting principle is applied to sexual harassment, perceptions of the complainant would mediate belief in complaint of sexual harassment. The discounting principle would cause observers to attribute claims of sexual harassment to other things, such as characteristics of the perpetrator, victim, or situation. For example, an individual claiming sexual harassment after having been fired from his or her position with the organization would be viewed as a dissatisfied employee who is merely seeking retaliation. Thus, the sexual harassment charge would be “discounted.” In a similar example, a poor employee claiming sexual harassment may also be viewed as an incapable worker who seeks retribution. The sexual harassment charge would then be ignored. Although not applied to sexual harassment situations, the discounting principle has also been examined in situations that include rape and HIV infection.

Bolt and Caswell (1981) investigated the attribution of responsibility to a rape victim by manipulating acquaintance and physical setting variables. Participants perceived the victim’s responsibility to be significantly higher in the unacquainted than in the acquainted condition. The perceived the victim’s responsibility was significantly higher when the setting occurred late at night compared to late afternoon. Both of these findings are in accordance with the discounting principle that would suggest increased responsibility attribution in the unacquainted condition and the late night setting. In a similar study, McBride (1998) found that participants’ attributions of responsibility for
contracting HIV were also based on the individual’s characteristics. Participants reading vignette descriptions of an HIV-positive male were provided with information about the victim’s mode of transmission and sexual preference. Results indicated that when a behavioral explanation for the victim’s HIV condition was present, attributions of responsibility were unaffected by the stigma of homosexuality. However, when a behavioral explanation for the victim’s HIV condition was not present, the stigma of homosexuality impacted attributions of responsibility. As implied by this finding, the discounting principle may be more evident when a behavioral explanation is not present.

We have identified the discrepancies in the labeling of sexually harassing behaviors as well as the role of contextual factors and gender differences in forming perceptions of sexual harassment. We have also examined how the discounting principle may be applied to the study of sexual harassment. This investigator will extend previous research findings by examining the impact of employee performance and job status on perceptions of sexual harassment.

Present Study

Sexual harassment has consequences for the victim, harasser, and the organization in which the incident occurred. Labeling discrepancies, gender differences, and contextual influences alter perceptions of sexual harassing behaviors. The present writer will examine gender differences in labeling sexual harassment as well as the impact of two contextual issues, employee performance and job status, on perceptions of sexual harassment. Previous research (Fitzgerald & Ormerod, 1991; Fitzgerald et al.; 1988; Frazier et al., 1995; Konrad & Gutek, 1986; Thacker, 1996) has indicated gender differences in the labeling and reporting of sexual harassment.
Hypothesis One: There will be a gender difference in perceptions of sexual harassment: Female participants will be more likely than male participants to label behaviors as sexual harassment.

Prior research concerning attributions and the discounting principle has been considered in a variety of contexts (Bolt & Caswell, 1981; Elkins & Phillips, 1999; McBride, 1998). While past research focusing on the discounting principle as applied to sexual harassment has not been found, the discounting principle could serve as a valid explanation for differing perceptions of sexual harassment.

Hypothesis Two: Job performance of the victims of sexual harassment will be significantly related to participant perceptions of sexual harassment: Employees with good performance records will be perceived to be victims of sexual harassment more often than will employees with poor performance records.

According to the discounting principle, attributions concerning employee job performance should mediate perceptions of sexual harassment. Employees with good performance records will be viewed positively and will therefore be perceived to be victims of sexual harassment more often than employees with poor performance records who will be viewed negatively.

Hypothesis Three: Employment status of the victims of sexual harassment will influence perceptions of sexual harassment: Employees currently employed by the organization will be perceived to be victims of sexual harassment more often than employees who have been dismissed from the organization.

As with job performance, employment status should also be subject to the discounting principle. Employees still employed with the organization will be viewed as competent
and capable employees and will therefore be perceived to be victims of sexual harassment more often than employees dismissed from the organization, who will be viewed as incompetent and incapable.
Method

Participants

Participants were 214 undergraduate students (92 males; 121 females) enrolled in undergraduate courses at a mid-sized southeastern university. The participants ranged in age from 18 to 49 (M = 21.13, SD = 4.43) years. Thus, all participants met minimum age requirements for jury duty. The sample consisted of 183 Caucasians, 23 African Americans, and 8 individuals identifying themselves as members of other ethnic groups. All “other” ethnic groups were comprised of two or fewer individuals in any one group. Of the 214 participants, 205 had been employed in a business, industry, or an organizational setting. While 63.6% of participants described their present environment as not at all sexually harassing, some participants perceived their environments to be somewhat or extremely harassing (32.7% and 3.7%, respectively). Although 28.5% of participants described themselves as victims of sexual harassment, only 8.4% of participants felt they had experienced negative consequences of sexual harassment.

Materials

Informed Consent. The informed consent document identified the nature and purpose of the project, explained the procedures, addressed potential discomfort and risks as well as benefits of participation, and addressed the issues of confidentiality and the participants right to withdraw from the study (see Appendix A). Participants were asked to read and sign the informed consent document.
Biographical Data. Participants completed biographical items asking them to indicate (a) gender, (b) race, (c) age, (d) extent to which his/her work or school environment is sexually harassing (as indicated by posters, jokes, sexual remarks, etc.), (e) whether he/she has ever been the victim of sexual harassment, and (f) whether he/she has ever experienced negative consequences of sexual harassment. These items may be found in Appendix B.

Scenarios. The independent variables, level of job performance (good; poor) and employment status (employed; unemployed), were manipulated in four scenarios based on the facts in the Meritor Savings Bank v. Vinson (1986) court case. An additional scenario containing no information on the independent variables served as a control scenario. The scenarios depicted an ambiguous court case in which a woman filed a sexual harassment lawsuit. The information provided participants was similar to that which would be presented to jury members. The scenarios may be found in Appendix C.

Manipulation Check. After reading a scenario, each participant completed a five-point semantic differential scale. The semantic differential scale contained two items that constituted a manipulation check measuring the participants understanding of the independent variables as they had been depicted in the sexual harassment scenario. The manipulation check provided the basis for determining which participants were able to correctly identify the job status and performance level of the victim as described in the scenario. Only data from those participants who correctly perceived the victim’s performance level and job status were included in the analyses of these variables. A cross-tabulation of semantic differential response by scenario condition revealed that of
214 participants, 143 participants responded correctly to the performance level and 122 participants responded correctly to the job status (see Appendix D).

**Dependent Measure.** Participants were asked to indicate whether or not they believed the situation described in the scenario constituted hostile environment sexual harassment and to indicate (on a five-point scale) their confidence in this assessment. The participants also answered five yes/no items about the scenario based on the EEOC definition for determining hostile work environment sexual harassment. These items were taken from Maue’s (1998) research. The yes/no questions are representative of the decision process a juror should follow in the course of deciding the guilt or innocence of the defendant in an actual court case. In addition, participants rated their confidence for each yes/no response on a five-point scale. The combination of the dichotomous (i.e., yes/no) scale with the confidence scale allowed for the calculation of a continuous rating for each hostile environment sexual harassment condition (Maue, 1998). The dependent measures may be found in Appendix D.

**Procedure**

When participants arrived, they were provided with an overview of the research project being conducted. Each participant then received a folder containing an informed consent document, biographical items, a scenario, and the dependent measure. Participants were asked to read and sign the voluntary consent form. After all consent forms were completed and returned to the researcher, participants were asked to complete the biographical items and to place the completed form in their folders. Participants were then given a brief (10 minute) overview that provided participants with both the EEOC and legal definitions of sexual harassment, identified the two forms of sexual harassment
(i.e., quid pro quo; hostile work environment), and explained the three key features that must be present for the behavior to constitute sexual harassment (See Appendix E for the script of the training session). Participants were randomly presented with one of the five versions of the court case scenario. After reading the scenario, participants completed the dependent measure and placed both the scenario and the dependent measure back in their folders. Participants were provided with an opportunity to ask questions and were thanked for their participation before being dismissed. The researcher collected their folders as they left the testing room.
Results

Hypothesis 1 predicted a gender difference in perceptions of sexual harassment. This hypothesis was tested by two analyses. The relationship between the two dichotomous variables (i.e., gender and finding of sexual harassment) was analyzed using a $\chi^2$ analysis. The analysis indicated females were significantly more likely to label the scenario as sexual harassment (79.8%) than were males (67.0%) [$\chi^2 (1, N = 210) = 4.42$, $p = .035$]. A continuous dependent variable was created by combining the participant’s determination of hostile work environment and the participant’s confidence in his/her determination. This variable was computed by multiplying the “yes”/“no” (i.e., 1/-1) response by the confidence rating for that response (i.e., 1 to 5), thus creating a variable which ranged in value from –5 to 5. A one-way analysis of variance (ANOVA) on the continuous dependent variable revealed differences between genders that approached significance ($F [1, 207] = 3.18$, $p = .076$). Females ($M = 2.13$, $SD = 2.89$) were more likely than males ($M = 1.32$, $SD = 3.61$) to perceive the scenario as constituting hostile environment sexual harassment. Thus, the results of these analyses support Hypothesis 1.

Hypothesis 2 stated that the job performance of the victims of sexual harassment will be significantly related to participant perceptions of sexual harassment. This hypothesis was tested by conducting both $\chi^2$ and ANOVA. Only those data from the participants who correctly perceived the level of job performance as indicated by the manipulation check were included in these analyses. For those participants who received the poor performance scenarios, only responses coded as “1” or “2” on the five-point
semantic differential scale were used. For those participants who received the good performance scenarios, only responses coded as “4” or “5” on the five-point semantic differential scale were used. All responses were included from those participants who received the no information scenario. By eliminating those participants who did not correctly perceive the scenario, only 143 participants were included in the subsequent analyses testing Hypothesis 2. The X² analysis indicated that 86% of participants receiving no performance information perceived the event to be sexual harassment. This percentage is compared to 71.1% of participants who read the good performance scenarios and 63.6% of participants who read the poor performance scenarios. These differences approached significance (X² (2, N = 140) = 5.77, p = .056). However, results from the one-way (performance level) ANOVA revealed significant between group differences (F [2,138] = 5.34, p = .006). Post Hoc Tukey a tests revealed significant differences between the no information group (M = 2.93, SD = 2.68) and both the good (M = 1.36, SD = 3.08) and poor (M = .81, SD = 3.59) performance conditions. Participants reading the no information condition were more confident the event was sexual harassment than were participants reading the good and poor performance conditions. There was no difference between the good and poor performance groups. Thus, Hypothesis 2, that employees with good performance records will be perceived to be victims of sexual harassment more often than will employees with poor performance records, was not supported.

Hypothesis 3 stated that the employment status of the victims of sexual harassment would influence perceptions of sexual harassment. This hypothesis was tested by conducting both X² and ANOVA. Again, only those data from the participants who
correctly perceived the employment status as indicated by the manipulation checks were included in these analyses. For those participants who received the unemployed status scenarios, only responses coded as "1" or "2" on the five-point semantic differential scale were used. For those participants who received the employed status scenarios, only responses coded as "4" or "5" on the five-point semantic differential scale were used. All responses were included from those participants who received the no information scenario. By eliminating those participants who did not correctly perceive the scenario, only 122 participants were included in the subsequent analyses testing Hypothesis 3. The $X^2$ analysis revealed that 86% of participants receiving no employment information perceived the event to be sexual harassment. This percentage is compared to 85.5% of participants who read the employed status scenarios and 62.5% of participants who read the unemployed status scenarios. These differences were significant ($X^2 (2, N = 122) = 6.80, p = .033$). Results for the one-way (employment status) ANOVA indicated significant between group differences ($F [2,120] = 3.51, p = .033$). Post Hoc Tukey a tests revealed significant differences in perceptions of sexual harassment between the no information ($M = 2.93, SD = 2.68$) and unemployed ($M = .91, SD = 3.72$) conditions. Participants reading the no information condition were more confident the event was sexual harassment than were participants reading the unemployed condition. There were no significant differences between the no information condition and the employed condition ($M = 2.27, SD = 2.80$) and between the employed and unemployed conditions. Thus, Hypothesis 3, that employees currently employed by the organization will be perceived to be victims of sexual harassment more often than employees who have been
dismissed from the organization, was supported by the $X^2$ results but not by the ANOVA results.

Additional Analyses

To clarify these conflicting conclusions from the analyses, further analyses were conducted for both Hypothesis 2 and Hypothesis 3. Rather than classifying participants on the basis of the scenario they read, participants were classified based on their perception of the situation (i.e., their response to the semantic differential).

Performance Level. Participants who responded to the semantic differential with a score of “1” or “2” were classified as perceiving a poor level of performance. Those participants who responded with a score of “4” or “5” were classified as perceiving a good level of performance. Those participants who responded with a score of “3” were classified as uncertain in their perception of performance level. The $X^2$ analysis indicated that 78.6% of the participants who were uncertain of their perceived performance level believed hostile environment sexual harassment occurred; 78% of the participants who perceived the performance level to be good believed hostile environment sexual harassment occurred; and 64.4% of the participants who perceived the performance level to be poor believed hostile environment sexual harassment occurred. These differences were not significant ($X^2 (2, N = 211) = 4.31, p = .116$). The results from a one-way ANOVA (performance level: good, uncertain, and poor) approached significant differences in perceptions of hostile environment sexual harassment between the three performance levels ($F [2,208] = 2.90, p = .057$). Post Hoc Tukey a tests revealed no significant differences between the good ($M = 2.01, SD = 2.98$), poor ($M = .93, SD = 3.53$), and uncertain ($M = 2.23, SD = 3.19$) groups.
These analyses were then conducted using data from only those participants who perceived the performance level as either good or poor; participants who were uncertain of the perceived performance level were omitted from these analyses. The $X^2$ analysis indicated that 78% of the participants who perceived the performance level to be good believed hostile environment sexual harassment occurred compared to 64.4% of the participants who perceived the performance level to be poor and believed hostile environment sexual harassment occurred. This difference in the participants perception of the performance level approached significance ($X^2 (1, N = 141) = 3.19, p = .074$). A one-way ANOVA also revealed differences approaching significance in perceptions of hostile environment sexual harassment ($F [1,138] = 3.80, p = .053$) between the good ($M = 2.01, SD = 2.98$) and poor ($M = .93, SD = 3.53$) performance levels. Participants perceiving a good performance level reported the event to be sexual harassment more often than participants perceiving a poor performance level.

Employment Status. Participants who responded to the semantic differential item addressing employment status with a score of “1” or “2” were classified as perceiving an unemployed status. Those participants who responded with a score of “4” or “5” were classified as perceiving an employed status. Those participants who responded with a score of “3” were classified as uncertain in their perception of employment status. The $X^2$ analysis indicated that 79.4% of the participants who perceived an employed status believed hostile environment sexual harassment occurred; 71.8% of the participants who were uncertain of their perceived employment status believed hostile environment sexual harassment occurred; and 63% of the participants who perceived an unemployed status believed hostile environment sexual harassment occurred. These differences approached
significance ($X^2 (2, N = 211) = 4.89, p = .087$). A one-way ANOVA (employment status: employed, uncertain, and unemployed) revealed no significant differences in perceptions of hostile environment sexual harassment between the three employment status conditions ($F [2,208] = 2.17, p = .117$); (i.e., employed ($M = 2.13, SD = 3.05$), unemployed ($M = .98, SD = 3.62$), and uncertain ($M = 1.63, SD = 3.27$)).

These analyses were again conducted using data from only those participants who perceived the employment status as either employed or unemployed; participants who were uncertain of the perceived the employment status were omitted from these analyses. The $X^2$ analysis indicated that 79.4% of the participants who perceived an employed status believed hostile environment sexual harassment occurred compared to 63% of the participants who perceived an unemployed status and believed hostile environment sexual harassment occurred. This difference in the participants perception of the employment status was significant ($X^2 (1, N = 172) = 4.79, p = .029$). A one-way ANOVA revealed significant differences in perceptions of hostile environment sexual harassment ($F [1,170] = 4.26, p = .041$) between the employed ($M = 2.13, SD = 3.05$) and unemployed ($M = .98, SD = 3.62$) conditions. Participants perceiving an employed status reported the event to be sexual harassment more often than participants perceiving an unemployed status.
Discussion

Hypothesis 1 predicted a gender difference in perceptions of sexual harassment. This hypothesis was supported by two analyses. Females were more likely than males to perceive the scenario as constituting hostile environment sexual harassment. These findings in support of Hypothesis 1 may be explained by the fact that, consistent with previous research (e.g., Fitzgerald & Ormerod, 1991; Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod, & Weitzman; 1988; Frazier, Cochran, & Olson, 1995; Konrad & Gutek, 1986; Thacker, 1996), there are gender differences in the labeling and reporting of sexual harassment. Females are more likely than males to perceive behavior as sexual harassment. This finding has implications for a legal system in which sexual harassment lawsuits are decided by jury verdict. In this situation, the gender of the jury member may serve as a biasing variable and influence the jury’s perception of sexual harassment.

Hypothesis 2 stated that the job performance of the victim of sexual harassment would be significantly related to participant perceptions of sexual harassment. Hypothesis 2, that employees with good performance records will be perceived to be victims of sexual harassment more often than will employees with poor performance records, was not supported. Participants reading the no information condition perceived the event to be sexual harassment more often than did participants reading the good and poor performance conditions. However, there was no difference between the good and poor performance groups. This finding is noteworthy, especially for those in the legal realm.
Based on the findings for Hypothesis 2, one can conclude that in a sexual harassment trial the jury is more likely to say sexual harassment occurred when no performance information is presented than when either good or poor performance information is presented. As regards poor performance information, this finding may be explained in terms of the discounting principle.

The discounting principle would cause observers to attribute claims of sexual harassment to other things, such as characteristics of the victim’s work performance. For example, if the individual claiming sexual harassment was a poor employee, s/he might be viewed as an incapable worker seeking retribution. Thus, the sexual harassment charge would be “discounted.” This finding is consistent with Elkins and Phillips (1999) who found that attributions regarding both the plaintiff’s character and the organization’s motives mediated relationships between the strength of evidence, discrimination judgments, and participant’s gender. Although the discounting principle serves as an explanation when poor performance information is present, the discounting principle does not apply to situations involving good performance information.

Distraction is another possible explanation for the lack of difference between the good and poor performance groups. When the jury is presented with irrelevant plaintiff performance information, regardless of the direction (i.e., negative or positive), less attention is given to the relevant facts of the sexual harassment case because of the interference created by the extraneous information. Both the plaintiff and the defendant can benefit from this finding. The plaintiff’s attorneys should not introduce information concerning his client’s work performance. This information would negatively distract the jury away from consideration of the facts. However, showing that the plaintiff was a poor
performer would strengthen the defendant’s case. The introduction of poor performance information would serve to distract attention away from the facts of the case; therefore, the jury would be less likely to say sexual harassment occurred. Contrary to expectations, the defendant’s case would also be strengthened by introducing evidence suggesting the plaintiff was a good performer. In this instance, the jury would be less likely to believe the plaintiff when good performance information is presented than when provided with no performance information. On the other hand, a good employee’s charge of sexual harassment might be believed because of a positive halo associated with the good employee. Thus, the jury would believe sexual harassment had occurred and the plaintiff would benefit by introducing this information.

The failure to find a significant difference in perceptions of sexual harassment for good and poor performance was an unexpected finding with many implications for the legal realm. This study has opened the door for further research into the effects of performance information in jury trials of sexual harassment as well as other work-related incidents. Additional studies could use not only performance information stated within the scenario but could also incorporate the use of performance appraisals from supervisors and coworkers. Thus, inferences could be made concerning the influence of performance information from various sources on perceptions of sexual harassment.

Hypothesis 3 stated that employment status of the victims of sexual harassment would influence perceptions of sexual harassment. Analyses revealed significant differences in perceptions of sexual harassment between the no information and unemployed conditions. Participants reading the no information condition perceived the event to be sexual harassment more often than did participants reading unemployed
condition. There were no significant differences between the no information condition and the employed condition and between the employed and unemployed conditions. The following conclusions can be drawn based on the findings for Hypothesis 3. If no information concerning the individual’s employment status is provided to the jury, the jury members are likely to infer an employment status (i.e., either employed or unemployed) and believe the individual’s claim of sexual harassment. In contrast, if the individual claiming to be the victim of sexual harassment is unemployed the victim will be viewed as lying and therefore the jury will find no sexual harassment occurred. If the individual claiming to be the victim of sexual harassment is employed, the jury may perceive either the individual was a good employee and harassment occurred or that the organization is a good place and therefore the harassment did not occur. These conclusions are consistent with previous discounting principle research.

The discounting principle would cause observers to attribute claims of sexual harassment to other things, such as characteristics of the victim or situation. The individual claiming sexual harassment after having been fired from his or her position with the organization would be viewed as a dissatisfied employee who is merely seeking retaliation. Thus, the sexual harassment charge would be “discounted.” These findings can provide the legal system additional insight regarding how the extraneous variables of performance level and employment status influence the perceptions of sexual harassment.

There are several points of interest regarding the manipulation of the sexual harassment scenario in the present study. A high baserate of reporting sexual harassment (i.e., a high rate of participants who report sexual harassment) decreases the utility of the manipulation. In absolute terms, a baserate of 50% offers the greatest opportunity for the
manipulation to have an impact. As the baserate increases beyond 50%, there is less opportunity for the manipulation to impact perceptions—that is, it is difficult for the manipulation to increase the number of participants who perceive sexual harassment if the rate prior to manipulation is already high. The $X^2$ analysis indicated that 86% of participants receiving the control scenario perceived the event to be sexual harassment, thus indicating a baserate of 86% for perceiving sexual harassment in this scenario. This finding is compared to 71.4% of participants who received the manipulated scenarios.

Secondly, an analysis of the questionnaire data revealed a discrepancy in the reporting and labeling of sexual harassment. Participants were asked by separate items to indicate (yes/no) whether or not they believed the victim’s claim of sexual harassment and whether or not the situation constituted hostile environment sexual harassment. Rationally, the responses to these two items should be consistent. However, although 94.9% of the 98 participants who labeled the behavior as hostile environment sexual harassment also believed the victim’s claim of sexual harassment, 56.3% of the 156 participants who labeled the behavior as hostile environment sexual harassment did not believe the victim’s claim of sexual harassment. Thus, even after a training session on sexual harassment which led participants to recognize the situation as hostile environment sexual harassment, over half of these participants failed to believe the victim’s claim of sexual harassment.

In summary, this research study examined gender differences in perceptions of sexual harassment as well as the impact of employee performance and job status on perceptions of sexual harassment. In agreement with previous studies, results from the current study indicated that female participants were more likely than male participants to
label behaviors as sexual harassment. Although there were no differences in perceptions of sexual harassment for employees with good or poor performance records, participants were more likely to perceive the employee was the victim of sexual harassment when no employee performance information was presented than when either good or poor performance information was presented. Finally, support was shown for the hypothesis that individuals currently employed by the organization would be perceived to be victims of sexual harassment more often than individuals who have been dismissed from the organization.

In conclusion, behavioral science research continues to make important contributions to the legal system. As evident in these findings, the jury decision in a sexual harassment lawsuit is affected by many variables including the alleged victim’s work performance and employment status. These findings also reaffirm the existence of gender differences in the labeling of sexual harassment. As we in the behavioral sciences continue to investigate and gain knowledge concerning the variables that bias sexual harassment perceptions, we can offer the legal system additional insight regarding those variables and how they influence the outcomes of sexual harassment cases.

These findings also have implications for employers. Providing additional knowledge of the attributional processes present when evaluating claims of sexual harassment will be beneficial to employers confronted with allegations of sexual harassment. Therefore, by determining how these contextual factors influence sexual harassment perceptions we can better train individuals and organizations to disregard factors irrelevant to the situation.
References


Appendix A

Informed Consent Document
INFORMED CONSENT DOCUMENT

Project Title: Impact of Employee Performance and Job Status on Perceptions of Sexual Harassment

Investigator: Charla G. Arnold, Psychology Dept – 745-6929; Dr. Betsy Shoenfelt, Psychology Dept – 745-4418

You are being asked to participate in a project conducted through Western Kentucky University. The University requires that you give your signed agreement to participate in this project.

The investigator will explain to you in detail the purpose of the project, the procedures to be used, and the potential benefits and possible risks of participation. You may ask him/her any questions you have to help you understand the project. A basic explanation of the project is written below. Please read this explanation and discuss with the researcher any questions you may have.

If you then decide to participate in the project, please sign this form in the presence of the person who explained the project to you.

1. **Nature and Purpose of the Project:** to study jury decisions about sexual harassment.

2. **Explanation of Procedures:** you will receive instruction on how courts decide cases of sexual harassment. You will then fill out a background questionnaire. You will then read a scenario based on an actual court case and answer questions as though you are a member of a jury.

3. **Discomfort and Risks:** no anticipated risks or discomfort are expected from participating in this study.

4. **Benefits:** you will receive the satisfaction that comes from contributing to research into human behavior along with extra credit from your psychology instructor. You may also learn about legal aspects of sexual harassment.

5. **Confidentiality: Absolute** anonymity is guaranteed. No identifying information (name, social security number, etc.) will ever be linked to the questionnaires you are filling out.

6. **Refusal/Withdrawal:** you are free to withdraw from this study at any time with no penalty to you at all.

Refusal to participate in this study will have no effect on any future services you may be entitled to from the University. Anyone who agrees to participate in this study is free to withdraw from the study at any time with no penalty.

I understand also that it is not possible to identify all potential risks in an experimental procedure, and I believe that reasonable safeguards have been taken to minimize both the known and potential but unknown risks.

______________________________    ______________________
Signature of Participant        Date

______________________________    ______________________
Witness                     Date

THE DATED APPROVAL ON THIS CONSENT FORM INDICATES THAT THIS PROJECT HAS BEEN REVIEWED AND APPROVED BY THE WESTERN KENTUCKY UNIVERSITY HUMAN SUBJECTS REVIEW BOARD
Appendix B

Background Information
BACKGROUND INFORMATION

Please do NOT put your name on this sheet.

Gender: Male Female (circle one)
Race:_________________ Age________

1. Have you ever been employed in a business, industry, or any organizational setting?
   1 2
   No Yes

2. Please indicate the extent to which you believe your present job (or school) environment is sexually harassing (e.g., as indicated by posters, jokes, sexual remarks or behaviors, etc.):
   1 2 3
   Not at all harassing Somewhat harassing Extremely harassing

3. Do you believe you have ever been a victim of sexual harassment?
   1 2 3
   No Uncertain Yes

4. If you answered yes to the previous question, indicate by circling yes or no with regard to any of the following behavior(s) that accurately represent your experience:
   Letters/call from supervisor Yes No
   Letters/call from co-worker Yes No
   Touching by supervisor Yes No
   Touching by co-worker Yes No
   Suggestive looks by supervisor Yes No
   Suggestive looks by co-worker Yes No
   Pressure for dates from supervisor Yes No
   Pressure for dates from co-work Yes No
   Sexual remarks by supervisor Yes No
   Sexual remarks by co-worker Yes No
   Suggestive posters, pictures, etc. Yes No

5. Have you ever experienced negative consequences of sexual harassment?
   1 2 3
   No Uncertain Yes

Case Number: ________
Appendix C

Cases: Meritor Savings Bank v. Vinson

Case A: Good employee, still employed with Meritor Savings Bank
Case B: Good employee, fired from Meritor Savings Bank
Case C: Poor employee, still employed with Meritor Savings Bank
Case D: Poor employee, fired from Meritor Savings Bank
Case E: Control Case (performance and job status information omitted)
Case A: Meritor Savings Bank v. Vinson

In 1994 Michelle Vinson met Sidney Taylor, a vice-president of Meritor Savings Bank and manager of one of its branch offices. When Vinson asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day. Later that same day Taylor called her to say that she had been hired. With Taylor as her supervisor, Vinson started as teller-trainee, and thereafter was promoted to teller, head teller, and assistant branch manager; it was undisputed that her advancement there was based on merit alone. In September 1998, Vinson notified Taylor that she was taking sick leave for an indefinite period.

While still employed with Meritor Savings Bank, on November 1, 1998, Vinson brought action against Taylor and the bank, claiming that during her four years at the bank she had "constantly been subjected to sexual harassment" by Taylor. She sought injunctive relief, compensatory and punitive damages against Taylor and the bank, and attorney fees.

Vinson testified that during her probationary period as teller-trainee, Taylor treated her in a fatherly way and made no sexual advances. Shortly thereafter, however, he invited her out to dinner and, during the course of the meal, suggested that they go to a motel and have sexual relations. At first she refused, but out of fear of losing her job she eventually agreed. According to Vinson, Taylor thereafter made repeated demands upon her for sexual favors, usually at the branch, both during and after business hours. She estimated that over the next several years she had intercourse with him some 40 or 50 times. In addition, Vinson testified that Taylor fondled her in front of other employees, followed her into the women's restroom when she went there alone, exposed himself to her, and even forcibly raped her on several occasions. These activities ceased after 1997, Vinson stated, when she started going with a serious boyfriend.

Vinson also testified that Taylor touched and fondled other women employees of the bank. She attempted to call witnesses to support this charge. But while some supporting testimony apparently was admitted without objection, the District Court did not allow her to present much information until rebuttal to the defendant's case. Vinson did not offer such evidence in rebuttal. Finally, Vinson testified that because she was afraid of Taylor she never reported his harassment to any of his supervisors and never attempted to use the bank's complaint procedure.

Taylor denied Vinson's allegations of sexual activity, testifying that he never fondled her, never made suggestive remarks to her, never engaged in sexual intercourse with her, and never asked her to do so. He contended that Vinson made her accusations in response to a business-related dispute. The bank also denied Vinson's allegations.

Michelle Vinson filed action against Taylor and the bank, asserting charges of sexual harassment in violation of Title VII of the Civil Rights Act of 1964.
In 1994 Michelle Vinson met Sidney Taylor, a vice-president of Meritor Savings Bank and manager of one of its branch offices. When Vinson asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day. Later that same day Taylor called her to say that she had been hired. With Taylor as her supervisor, Vinson started as teller-trainee, and thereafter was promoted to teller, head teller, and assistant branch manager; it was undisputed that her advancement there was based on merit alone. In September 1998, Vinson notified Taylor that she was taking sick leave for an indefinite period. On November 1, 1998, the bank discharged her for excessive use of that leave.

Vinson brought action against Taylor and the bank, claiming that during her four years at the bank she had “constantly been subjected to sexual harassment” by Taylor. She sought injunctive relief, compensatory and punitive damages against Taylor and the bank, and attorney fees.

Vinson testified that during her probationary period as teller-trainee, Taylor treated her in a fatherly way and made no sexual advances. Shortly thereafter, however, he invited her out to dinner and, during the course of the meal, suggested that they go to a motel and have sexual relations. At first she refused, but out of fear of losing her job she eventually agreed. According to Vinson, Taylor thereafter made repeated demands upon her for sexual favors, usually at the branch, both during and after business hours. She estimated that over the next several years she had intercourse with him some 40 or 50 times. In addition, Vinson testified that Taylor fondled her in front of other employees, followed her into the women’s restroom when she went there alone, exposed himself to her, and even forcibly raped her on several occasions. These activities ceased after 1997, Vinson stated, when she started going with a serious boyfriend.

Vinson also testified that Taylor touched and fondled other women employees of the bank. She attempted to call witnesses to support this charge. But while some supporting testimony apparently was admitted without objection, the District Court did not allow her to present much information until rebuttal to the defendant’s case. Vinson did not offer such evidence in rebuttal. Finally, Vinson testified that because she was afraid of Taylor she never reported his harassment to any of his supervisors and never attempted to use the bank’s complaint procedure.

Taylor denied Vinson’s allegations of sexual activity, testifying that he never fondled her, never made suggestive remarks to her, never engaged in sexual intercourse with her, and never asked her to do so. He contended that Vinson made her accusations in response to a business-related dispute. The bank also denied Vinson’s allegations.

Michelle Vinson filed action against Taylor and the bank, asserting charges of sexual harassment in violation of Title VII of the Civil Rights Act of 1964.
Case C: Meritor Savings Bank v. Vinson

In 1994 Michelle Vinson met Sidney Taylor, a vice-president of Meritor Savings Bank and manager of one of its branch offices. When Vinson asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day. Later that same day Taylor called her to say that she had been hired. With Taylor as her supervisor, Vinson’s performance evaluations reflected unsatisfactory work. During her four years of employment, Vinson received poor performance evaluations stating she performed her work slowly, failed to wait on some customers, and made mathematical errors. In September 1998, Vinson notified Taylor that she was taking sick leave for an indefinite period.

While still employed with Meritor Savings Bank, on November 1, 1998, Vinson brought action against Taylor and the bank, claiming that during her four years at the bank she had “constantly been subjected to sexual harassment” by Taylor. She sought injunctive relief, compensatory and punitive damages against Taylor and the bank, and attorney fees.

Vinson testified that during her probationary period as teller-trainee, Taylor treated her in a fatherly way and made no sexual advances. Shortly thereafter, however, he invited her out to dinner and, during the course of the meal, suggested that they go to a motel and have sexual relations. At first she refused, but out of fear of losing her job she eventually agreed. According to Vinson, Taylor thereafter made repeated demands upon her for sexual favors, usually at the branch, both during and after business hours. She estimated that over the next several years she had intercourse with him some 40 or 50 times. In addition, Vinson testified that Taylor fondled her in front of other employees, followed her into the women’s restroom when she went there alone, exposed himself to her, and even forcibly raped her on several occasions. These activities ceased after 1997, Vinson stated, when she started going with a serious boyfriend.

Vinson also testified that Taylor touched and fondled other women employees of the bank. She attempted to call witnesses to support this charge. But while some supporting testimony apparently was admitted without objection, the District Court did not allow her to present much information until rebuttal to the defendant’s case. Vinson did not offer such evidence in rebuttal. Finally, Vinson testified that because she was afraid of Taylor she never reported his harassment to any of his supervisors and never attempted to use the bank’s complaint procedure.

Taylor denied Vinson’s allegations of sexual activity, testifying that he never fondled her, never made suggestive remarks to her, never engaged in sexual intercourse with her, and never asked her to do so. He contended that Vinson made her accusations in response to a business-related dispute. The bank also denied Vinson’s allegations.

Michelle Vinson filed action against Taylor and the bank, asserting charges of sexual harassment in violation of Title VII of the Civil Rights Act of 1964.
Case D: Meritor Savings Bank v. Vinson

In 1994 Michelle Vinson met Sidney Taylor, a vice-president of Meritor Savings Bank and manager of one of its branch offices. When Vinson asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day. Later that same day Taylor called her to say that she had been hired. With Taylor as her supervisor, Vinson's performance evaluations reflected unsatisfactory work. During her four years of employment, Vinson received poor performance evaluations stating she performed her work slowly, failed to wait on some customers, and made mathematical errors. In September 1998, Vinson notified Taylor that she was taking sick leave for an indefinite period. On November 1, 1998, the bank discharged her for excessive use of that leave.

Vinson brought action against Taylor and the bank, claiming that during her four years at the bank she had “constantly been subjected to sexual harassment” by Taylor. She sought injunctive relief, compensatory and punitive damages against Taylor and the bank, and attorney fees.

Vinson testified that during her probationary period as teller-trainee, Taylor treated her in a fatherly way and made no sexual advances. Shortly thereafter, however, he invited her out to dinner and, during the course of the meal, suggested that they go to a motel and have sexual relations. At first she refused, but out of fear of losing her job she eventually agreed. According to Vinson, Taylor thereafter made repeated demands upon her for sexual favors, usually at the branch, both during and after business hours. She estimated that over the next several years she had intercourse with him some 40 or 50 times. In addition, Vinson testified that Taylor fondled her in front of other employees, followed her into the women's restroom when she went there alone, exposed himself to her, and even forcibly raped her on several occasions. These activities ceased after 1997, Vinson stated, when she started going with a serious boyfriend.

Vinson also testified that Taylor touched and fondled other women employees of the bank. She attempted to call witnesses to support this charge. But while some supporting testimony apparently was admitted without objection, the District Court did not allow her to present much information until rebuttal to the defendant's case. Vinson did not offer such evidence in rebuttal. Finally, Vinson testified that because she was afraid of Taylor she never reported his harassment to any of his supervisors and never attempted to use the bank's complaint procedure.

Taylor denied Vinson's allegations of sexual activity, testifying that he never fondled her, never made suggestive remarks to her, never engaged in sexual intercourse with her, and never asked her to do so. He contended that Vinson made her accusations in response to a business-related dispute. The bank also denied Vinson's allegations.

Michelle Vinson filed action against Taylor and the bank, asserting charges of sexual harassment in violation of Title VII of the Civil Rights Act of 1964.
Case E: Meritor Savings Bank v. Vinson

In 1994 Michelle Vinson met Sidney Taylor, a vice-president of Meritor Savings Bank and manager of one of its branch offices. When Vinson asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day. Later that same day Taylor called her to say that she had been hired and he would be her immediate supervisor. In September 1998, Vinson notified Taylor that she was taking sick leave for an indefinite period.

On November 1, 1998, Vinson brought action against Taylor and the bank, claiming that during her four years at the bank she had “constantly been subjected to sexual harassment” by Taylor. She sought injunctive relief, compensatory and punitive damages against Taylor and the bank, and attorney fees.

Vinson testified that during her probationary period as teller-trainee, Taylor treated her in a fatherly way and made no sexual advances. Shortly thereafter, however, he invited her out to dinner and, during the course of the meal, suggested that they go to a motel and have sexual relations. At first she refused, but out of fear of losing her job she eventually agreed. According to Vinson, Taylor thereafter made repeated demands upon her for sexual favors, usually at the branch, both during and after business hours. She estimated that over the next several years she had intercourse with him some 40 or 50 times. In addition, Vinson testified that Taylor fondled her in front of other employees, followed her into the women’s restroom when she went there alone, exposed himself to her, and even forcibly raped her on several occasions. These activities ceased after 1997, Vinson stated, when she started going with a serious boyfriend.

Vinson also testified that Taylor touched and fondled other women employees of the bank. She attempted to call witnesses to support this charge. But while some supporting testimony apparently was admitted without objection, the District Court did not allow her to present much information until rebuttal to the defendant’s case. Vinson did not offer such evidence in rebuttal. Finally, Vinson testified that because she was afraid of Taylor she never reported his harassment to any of his supervisors and never attempted to use the bank’s complaint procedure.

Taylor denied Vinson’s allegations of sexual activity, testifying that he never fondled her, never made suggestive remarks to her, never engaged in sexual intercourse with her, and never asked her to do so. He contended that Vinson made her accusations in response to a business-related dispute. The bank also denied Vinson’s allegations.

Michelle Vinson filed action against Taylor and the bank, asserting charges of sexual harassment in violation of Title VII of the Civil Rights Act of 1964.
Now answer the following questions based on the scenario you just read.
For each word pair, circle the number which you feel describes Michelle Vinson as a worker:

<table>
<thead>
<tr>
<th>Competent</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Incompetent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Good</td>
</tr>
<tr>
<td>Capable</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Incapable</td>
</tr>
<tr>
<td>Employed</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Satisfied</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Dissatisfied</td>
</tr>
<tr>
<td>Angry</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Not angry</td>
</tr>
<tr>
<td>Frustrated</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Contented</td>
</tr>
<tr>
<td>Happy</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Unhappy</td>
</tr>
<tr>
<td>Honest</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>Dishonest</td>
</tr>
</tbody>
</table>

Please indicate your response to the following statement by circling “Yes” or “No.”

I believe Michelle Vinson’s claim of sexual harassment.

Yes  No

Use the following scale to answer the next question.
RESPONSE SCALE:

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not at all Confident</td>
<td>Somewhat Confident</td>
<td>Confident</td>
<td>Very Confident</td>
<td>Completely Confident</td>
</tr>
</tbody>
</table>

A  B  C  D  E  How confident are you in your above answer?

Case Number: _______
CASE QUESTIONS: Page 2

Now answer the following questions based on the scenario you just read for determining hostile work environment sexual harassment. Respond as though you are serving as a juror and have just heard these facts presented in court.

Circle “Yes” or “No” on the odd-numbered questions.

Use the following scale to answer all even-numbered questions:
RESPONSE SCALE: (for even numbered items - 2,4,6,8,10)

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not at all Confident</td>
<td>Somewhat Confident</td>
<td>Confident</td>
<td>Very Confident</td>
<td>Completely Confident</td>
</tr>
</tbody>
</table>

Yes No 1. Does this have the effect of unreasonably interfering with the individual’s work performance?

A B C D E 2. How confident are you in the accuracy of your above answer?
(That is, that it did/did not unreasonably interfere with the individual’s work performance.)

Yes No 3. Does the incident described create an intimidating environment?

A B C D E 4. How confident are you in the accuracy of your above answer?
(That is, that it did/did not create an intimidating environment.)

Yes No 5. Does the incident described create a hostile environment?

A B C D E 6. How confident are you in the accuracy of your above answer?
(That is, that it did/did not create a hostile environment.)

Yes No 7. Does the incident described create an offensive environment?

A B C D E 8. How confident are you in the accuracy of your above answer?
(That is, that it did/did not create an offensive environment.)

Yes No 9. Does this constitute hostile work environment sexual harassment?

A B C D E 10. How confident are you in the accuracy of your above answer?
(That is, that it does/does not constitute hostile work environment sexual harassment.)

Case Number: _______
Appendix E

Script For Running Subjects
SCRIPT FOR RUNNING SUBJECTS

Thank you for agreeing to participate in our research study. The research in which you are participating today is studying court decisions about sexual harassment. In particular, we are looking at how individuals serving on a jury make decisions about the facts in a case to determine whether or not sexual harassment has occurred. We will first provide a brief training session in how sexual harassment is defined legally by both the courts and the Equal Employment Opportunity Commission (EEOC). The EEOC is the official body that provides guidelines to businesses and organizations on how to comply with the laws concerning fair employment practices, such as providing a workplace that is free of sexual harassment.

After the brief training session, you will be asked to assume the role of an individual serving as a juror on a sexual harassment case. You will be asked to read a court case that will present the facts concerning a case. After you have read the case, you will be asked to make a number of judgments about that case. You will be given specific questions to answer. This case is based on an actual court record and may contain quoted passages that contain what some may find to be offensive language. If you believe you may be offended and prefer not to participate in the study, you may withdraw from the study at any time.

DISTRIBUTE PACKETS – Do not remove any materials from your packet until you are instructed to do so. Thank you.

At this time, please remove the “Informed Consent Document” from your packet. Please read and sign this form. Pause...After signing the “Informed Consent Document”, please pass this sheet to the front. Please remove the “Background Information” sheet from your packet. This sheet will be asking for demographic information such as your age, gender, and race. We are asking for this information so that we can see if, for example, males and females or older versus younger individuals view situations differently. You will not be identified by name at any time in the study. After completing the “Background Information” sheet, please place it back inside the envelope.

Pause for “Background Information” sheet completion. Then...

Since our training program is brief, it may not answer all of the questions you have about sexual harassment. The training will, however, focus on the key points you will need to know if you were a juror serving in a sexual harassment trial. After we have finished the research session, we can answer other questions you may have about sexual harassment and we can direct you to other resources on campus that can also answer any further questions you may have.

Are there any questions at this time?

Now we will begin our training session on Sexual Harassment.

If you would like to do so, you may take notes.
WHAT IS SEXUAL HARASSMENT?
DEFINITION OF SEXUAL HARASSMENT


Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment such that:

1. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual (quid pro quo harassment);

2. such conduct has the purpose or effect of unreasonable interfering with an individual’s work performance experience or creating an intimidating, hostile or offensive working environment (hostile environment).

The line between the two types of sexual harassment is not always clear and the two forms often occur together.

Sexual harassment most often occurs in situations where one person has power over another, but it can also occur between persons of the same status. Both men and women can be sexually harassed, although women are most often victimized (90+% of victims).

In both types of sexual harassment, there are three key features that must be present for the behavior to constitute sexual harassment:

1. The behavior must be **unwelcome**. Sexual conduct is unlawful only when it is unwelcome. By unwelcome the law means that (a) the employee did not solicit the behavior and (b) the employee regarded the conduct as undesirable and offensive.

Sexual harassment is “unwelcome…verbal or physical conduct of a sexual nature…” Because sexual attraction may play a role in the day-to-day social exchange between employees, the distinction between invited, uninvited-but-welcome, offensive-but-tolerated, and flatly rejected sexual advances may be difficult to discern. However, this distinction is essential because sexual conduct becomes unlawful only when it is unwelcome.

The Supreme Court has stated that the proper inquiry focuses on the “welcomeness” of the conduct rather than the “voluntariness” of the victim’s participation. (Did the employee by his/her conduct indicate that the alleged sexual advances were unwelcome, not whether his/her actual participation was voluntary?) Giving in to sexual conduct in the workplace may not mean that the individual welcomes the conduct.
2. The behavior must be sexual in nature. This may at times be difficult to determine. However, these questions may provide some guidance.

Would most people consider the behavior sexual in a similar environment under similar circumstances?

Ask yourself if the individual does the same behavior in the same way to the opposite sex. If the answer is no, his/her behavior may constitute sexual harassment.

3. The conduct must be a term or condition of employment. This would include:
   • If the behavior is a “requirement” of the job
   • If, in order to appropriately perform his/her job, the individual must work near or with the person performing the offensive behavior.
   • If, in order to appropriately perform his/her job, the individual must work in a place where the offensive conduct is present.

The basic point to remember is that sexual harassment is unwelcome, unsolicited, or undesired attention of a sexual nature. It should be remembered that “unwelcome” is determined by the person at whom the behavior is directed and/or by third parties – not by one’s intent.

**Today’s Research**

Our research today is focusing on perceptions of sexual harassment.

You will now evaluate a summary of a court case found in the envelope. At this time, please remove the case and two pages of case questions from your envelope. Please carefully read the facts of each case, and then answer the questions following the case. When you have finished, please place all materials back in the envelope and return the envelope to me.

What questions do you have at this time?

You may begin.