LEADERSHIP ACADEMY

Development of the Sexual Harassment Law 1964-1991

SkillBrief

1964...

The Civil Rights Act of 1964 becomes law. Title VII prohibits employment discrimination on the basis of race, color, religion, national origin, and sex. There is no mention of sexual harassment in the law or its legislative history.

1974...

A female employee claims she was retaliated against for rejecting her boss's sexual advances. There was no sex discrimination, a trial court decides. The male supervisor, the court says, merely solicited his subordinate because he found her "attractive" and then retaliated because he felt "rejected." *Barnes v. Train,* 13 FEP Cases 123 (D.D.C.)

1975...

Former female employees charge that their male supervisor forced them to quit with his offensive sexual advances. This is not sex discrimination, a court finds, only a "personal urge" of the supervisor. *Corne v. Bausch & Lomb, Inc.,* 390 F. Supp. 161, 10 FEP cases 289 (D. Ariz.)

1976...

The humiliation and termination of a female employee by her male supervisor because she rejected his sexual advances, if proven, would be sex discrimination, a court rules, because it was an artificial barrier to employment that was placed before one gender and not the other. *Williams v. Saxbe,* 413 F. Supp. 654, 12 FEP Cases 1093 (D.D.C.)

1977...

In a reversal of the 1974 *Barnes v. Train* case, appealed under a different name, the appellate court rules that if a female employee was retaliated against because she rejected the sexual advances of her boss, this is sex discrimination in violation of Title VII. *Barnes v. Costle,* 561 F.2d 983, 15 FEP Cases 245 (D.C.Cir.)

1980...

The Equal Employment Opportunity Commission (EEOC) , the agency that enforces Title VII, issues guidelines interpreting the law to forbid sexual harassment as a form of sex discrimination. (29 C.F.R. § 1604.11)

ISBN 0-87179-766-6

1981...

For the first time a federal appeals court endorses EEOC's position that Title VII liability can exist for sexual insults and propositions that create a "sexually hostile environment" even if the employee did not lose any tangible job benefits as a result. *Bundy v. Jackson, 641 F.2d 934, 24 FEP Cases 1156 (D.C.Dir.)*

In another case, a federal district court decides that firing a male employee because he rejected the sexual advances of his male supervisor violates Title VII. The discrimination was based on the employee's gender because a similarly situated woman would not have had sexual demands made of her, the court decides. *Wright v. Methodist Youth Services*, 511 F. Supp. 307, 25 FEP Cases 563 (N.D. Ill.)

1983...

An employer that had a policy forbidding sexual harassment is held liable for the sexist name-calling of a female air traffic controller because it failed to take corrective action when the employee complained. *Katz v. Dole,* 709 F.2d 251, 31 FEP Cases 152 (4th Cir.)

1985...

Physical violence can amount to sexual harassment, an appeals court says, even if the conduct is not overtly sexual. All that is necessary, the court rules, is that the unwelcome conduct be on the basis of the victim's gender. *McKinney v. Dole,* 765 F.2d 1129, 38 FEP Cases 364 (D.C. Cir.)

1986...

Addressing the sexual harassment issue for the first time, the Supreme Court rules that a female employee who had sex with her boss a number of times because she was afraid of losing her job if she did not, could sue for sexual harassment. The question is not whether the employee's conduct was voluntary but whether the boss's conduct was unwelcome, the Court explains. An employer can be held liable for sexual harassment committed by its supervisors if it knew or should have known about the conduct and did nothing to correct it, the Court adds. *Meritor Savings Bank v. Vinson,* 477 U.S. 57, 40 FEP Cases 1822

1988...

Male construction workers haze three female colleagues. Even though some of the conduct was not specifically sexual in nature, it occurred because of the female employees' gender. Such gender-based harassment is prohibited by the law, an appellate court finds. *Hall v. Gus Construction Co.,* 842 F.2d 1010, 46 FEP Cases 57 (8th Cir.)

ISBN 0-87179-766-6

1990...

EEOC issues a policy statement saying sexual favoritism is a form of sexual harassment; it takes the position that isolated incidents of consensual favoritism do not violate Title VII. Sexual favoritism does violate the law when the advances are unwelcome or the favoritism is so widespread that it has become an unspoken condition of employment, the Commission says.

1991...

A sexually hostile environment violating Title VII is found where women are a small minority of the work force and crude language, sexual graffiti, and pornography pervaded the workplace. Title VII is "a sword to battle such conditions," not a shield to protect preexisting abusive environments, the court declares. *Robinson v. Jacksonville Shipyards, 740 F. Supp. 1486, 57 FEP Cases 971 (M.D. Fla.) (Appeal pending before 11th Cir.)*

In another case, a court finds that male and female sensibilities differ and the appropriate standard to use in sexual harassment cases is that of a "reasonable woman" rather than a "reasonable person." The conduct in question - unsolicited love letters and unwanted attention - might appear inoffensive to the average man, but might be so offensive to the average woman as to create a hostile working environment, the court rules. *Ellison v. Brady,* 924 F.2d 872, 54 FEP Cases 1346 (9th Cir.)

The Senate Judiciary Committee conducts hearings on the nomination of Judge Clarence Thomas to Associate Justice of the United States Supreme Court. At issue is whether, while he was chairman of EEOC, Thomas sexually harassed female assistant Anita Hill, now a law professor. The alleged conduct occurred in private, Hill did not officially report it, and she continued to freely associate with Thomas even after she changed jobs. Although some senators believed Hill's charges, the Senate nevertheless voted to give Thomas a seat on the Court. The hearings brought the issue of workplace sexual harassment out in the open, however, and began an on-going debate between men and women over just what harassment is and what should be done about it.

The Civil Rights Act of 1991 becomes law. Among its provisions is an amendment, codified as 42 U.S.C. 1981a, that provides for jury trials and increased damages when intentional discrimination prohibited by Title VII occurs. Unlike cases of race discrimination brought under 42 U.S.C. 1981, the amount of damages in cases of sex discrimination brought under Title VII are limited by the number of employees within a company.

ISBN 0-87179-766-6