Example of quid pro quo harassment research paper

Law, Security

This refers to uninvited or unsolicited physical, verbal or other conduct, express and/or implied, that makes demands for sexual favours in lieu of some detriment and/or in exchange for some benefit. To prove a quid pro quo harassment, a victim must demonstrate express/implied sexual advances; the fact that such advances were unwelcome; and the perpetrator used and/or threatened to retaliate if their advances were rejected.

According to the U. S. Equal Employment Opportunity Commission (2010), unwelcome sexual advances and other conduct in violation of 29 C. F. R. § 1604. 11(a) occur when:

Rejection of or submission to such conduct by a victim comprises a basis for employment decisions that do, or may affect an individual, and

The said conduct is intended to, amounts to, or has the effect of causing unreasonable interference with a party's work performance, or creating a hostile, intimidating and/or offensive work environment

While the perpetrator often is an individual in position of power (e. g. an employer, supervisor, and lecturer), it is implied that any individual that can confer a benefit or cause detriment to a victim, can be a perpetrator.

Hostile Work Environment Harassment

This differs from quid pro quo harassment because the test is mostly subjective and applies to conduct that may not, on its own, be offensive. Such harassment occurs due to unwelcome sexual conduct or attention that is so pervasive and severe that it creates a workplace that is reasonably abusive. In this case, a victim's voluntary submission to sexual approaches is immaterial, and employers/institutions for whom the perpetrator is an officer bear vicarious liability for such conduct. Even when conduct is not clearly

sexual in nature, the pervasiveness (continuing nature) of such actions to the extent that it generates an offensive or hostile environment for some or all an organization’s members, is contrary to Title VII. This is not least because such environment interferes with employees’ right to work in environments that are free from discriminatory ridicule, insult and intimidation based on race, national origin religion or race, even when such conduct does not result in an economic or other tangible injury. According to Henson v. City of Dundee (1982), in order to prove sexual harassment under the hostile environment theory, a plaintiff must demonstrate severe and pervasive conduct that sufficiently alters the conditions of employment, creating an abusive environment. The proof must include evidence of unwelcome conduct.

Further, the Supreme Court adopted several aspects necessary to exist in a valid claim under the hostile-work-environment theory. These include:

That an employee was at the material time, a member of a protected class,

That the employee suffered unwelcome sexual attention/conduct, including but not limited to requests for sexual favours, sexual advances and conduct that is sexually improper,

That the harassment is based on sex,

That the conduct affected the privilege of employment, condition or term, and

That the respondeat superior doctrine holds

There are safeguards that ensure sexual harassment charges under this

theory are not used to punish a party to a consensual relationship. These include whether a plaintiff expressly or implicitly welcomed/encouraged the offensive conduct, including writing affectionate notes to a supervisor. Similarly, boorish or flirtatious behaviour does not amount to illegal harassment. However, wearing provocative clothing or using sexually provocative speech does not waive a person’s right to work environment that is without sexual harassment.

Works Cited

Henson v. City of Dundee. No. 682 F. 2d 897, 902, 29 EPD ¶ 32, 993. 11th Cir. 1982.

Orlov, Darlene and Michael, T. Roumell. What Every Manager Needs to Know about Sexual Harassment. New York: AMACOM, 2005.

Schiff, Matthew, B. and Linda, C. Kramer. Litigating the Sexual Harassment Case. Boston: The American Bar Association, 1998. Print.

U. S. Equal Employment Opportunity Commission. U. S. Equal Employment Opportunity Commission: Enforcement Guidelines. Washington, DC: U. S. Equal Employment Opportunity Commission, 2010. Web.