

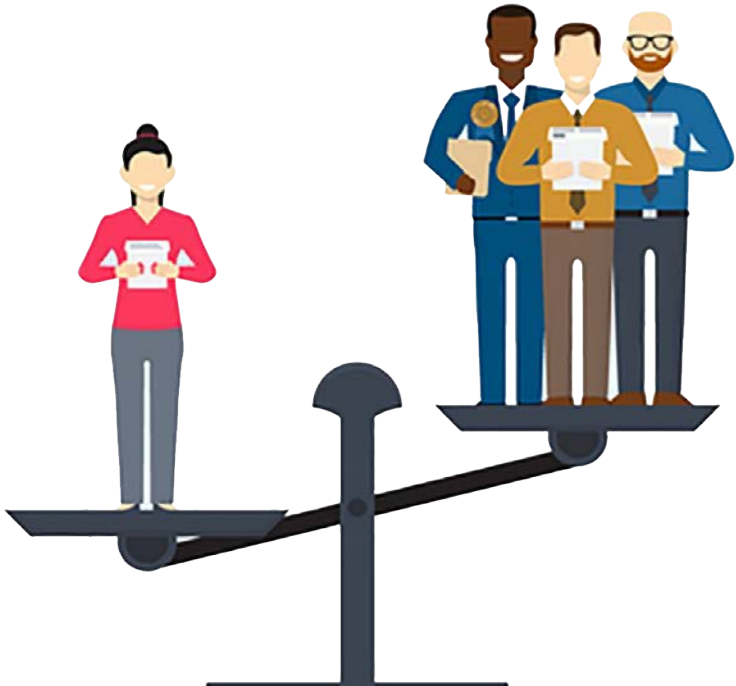
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# Discrimination in the workplace

**Judith, Marianeth, Angelique | BUSINESS LAW**

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# What is the conduct of discrimination?



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# Discrimination

/dəˌskrɪməˈnɑːʃ(ə)n/

**The differential treatment** of an individual or group of people based on their race, color, national origin, religion, sex (including pregnancy and gender identity), age, marital and parental status, disability, sexual orientation, or genetic information.



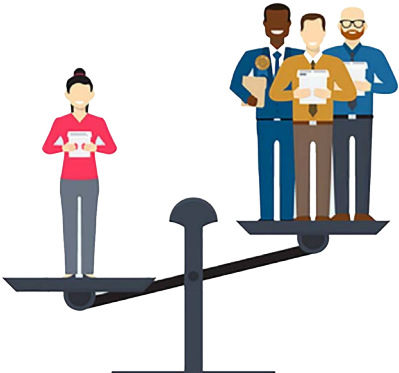
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# Harassing Conduct

/ˈkɑːn,dækt/

**Unwelcome conduct, verbal or physical**, including intimidation, ridicule, insult, comments, or physical conduct, that is based on an individual's protected status or protected activities under Personnel Bulletin 18-01, when the behavior can reasonably be considered to adversely affect the work environment, or an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

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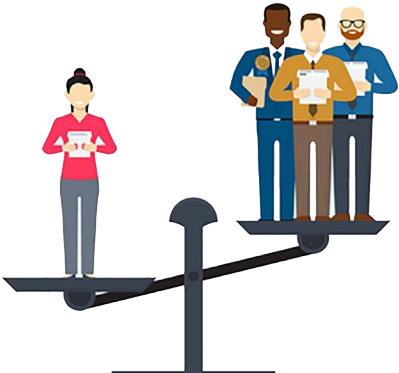
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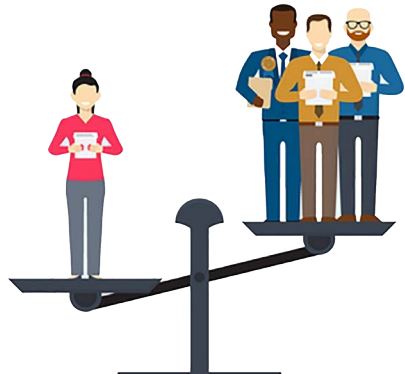
# Discrimination vs. Harassment

**Harassment is a form of discrimination.**

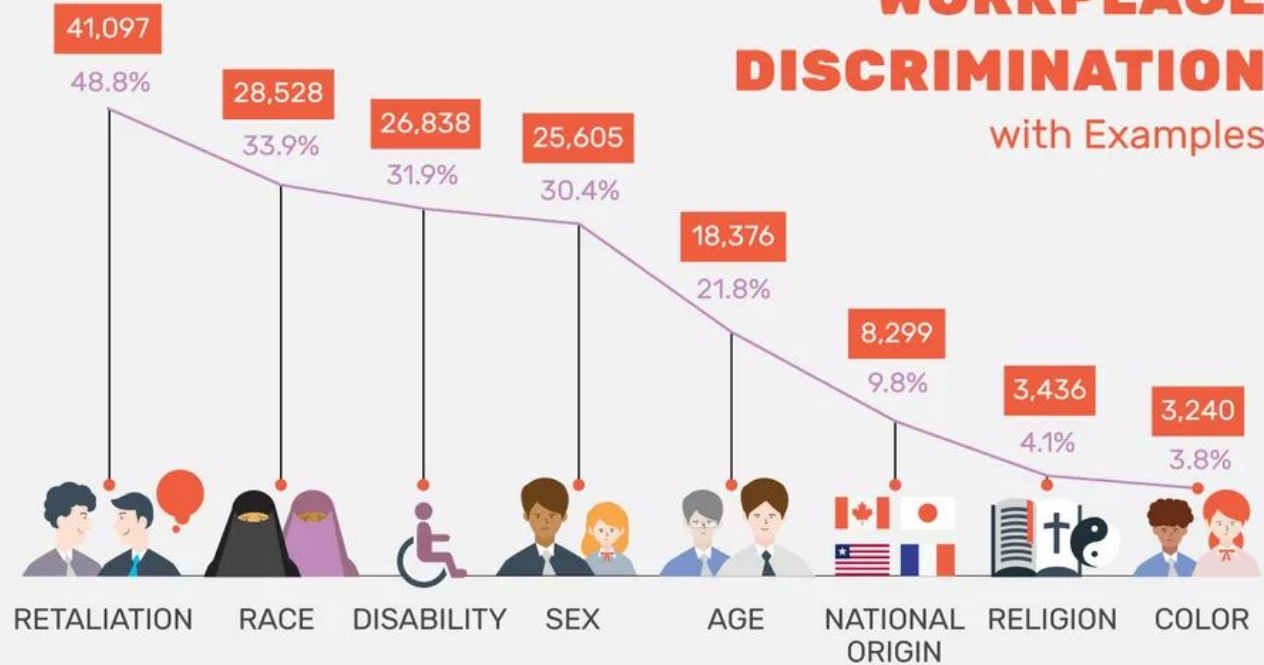
As with discrimination, there are different types of harassment, including unwelcome behavior by a co-worker, manager, client, or anyone else in the workplace, that is based on race, color, religion, sex (including pregnancy), nationality, age (40 or older), disability, or genetic information.

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## Types of **WORKPLACE DISCRIMINATION** with Examples



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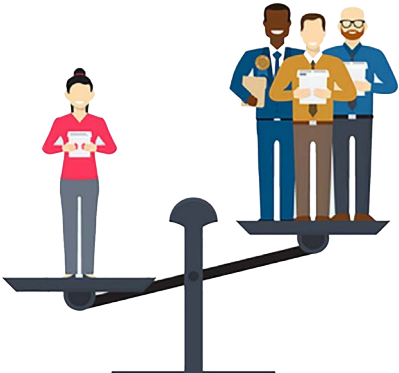
# Discrimination Illegal?

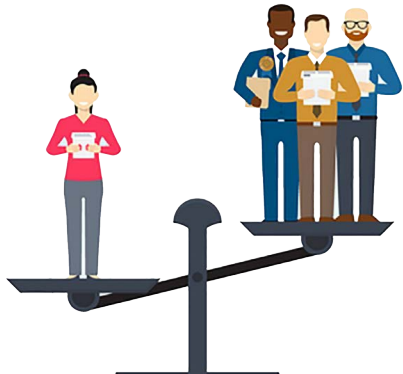
/dəˌskrɪməˈnāʃ(ə)n/

**Discrimination** is illegal if the **law** specifically prohibits it.

For example, Title VII prohibits discrimination based on race, color, religion, sex or national origin. It makes it illegal for employers to discriminate based upon protected characteristics regarding terms, conditions, and privileges of employment.

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Race: [Civil Rights Act of 1964](#)

National origin: [Civil Rights Act of 1964](#)

Sex: [Civil Rights Act of 1964](#)

Color: [Civil Rights Act of 1964](#)

Religion: [Civil Rights Act of 1964](#)

Disability: [Americans With Disabilities Act of 1990](#)

Age: [Age Discrimination in Employment Act](#)

Pregnancy: [Title VII of the Civil Rights Act of 1964](#)

Familial status: [Fair Housing Act](#)

Genetic information: [Genetic information Nondiscrimination Act of 2008](#)

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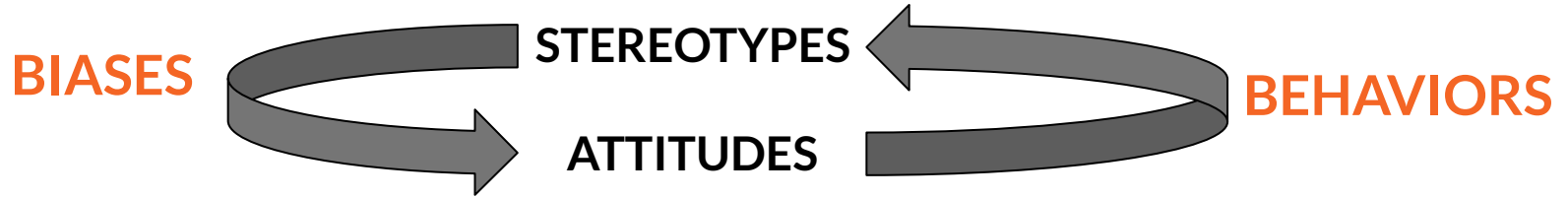


What is the  
explicit bias in  
sexual  
harassment?

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## What is a bias?



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## What is the explicit versus implicit bias?

### Explicit

- Can be answered directly
- Can be identified by direct introspection
- Mostly kept private

### Implicit

- Thoughts and feelings largely beyond our conscious awareness
- Not able to identify
- Tests available: Implicit association test

<https://implicit.harvard.edu/implicit/>

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# Explicit bias in sexual harassment

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A supervisor at a convenience store asked a female worker to stay late, to help stock the shelves. When she said she could not work late because public transportation would not be available at that time, her supervisor offered to give her a ride home. The woman agreed to stay late and accepted the offered ride. She then reported that her supervisor raped her in the car.

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- The victim is a college student, originally from a rural community
  - She lives quite far away from the University, in affordable housing.
  - She has to work as much as possible, to pay for her education and living costs while at school.
  - She is doing well in school and has no criminal history.
  - The suspect has a criminal history on various charges, including drug possession and petty theft.
  - His name also comes up in association with a report of domestic violence, although he was never charged for the offense.
  - He has been employed at the store for less than a year.
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A supervisor at a convenience store asked a female worker to stay late, to help stock the shelves. When she said she could not work late because public transportation would not be available at that time, her supervisor offered to give her a ride home. The woman agreed to stay late and accepted the offered ride. She then reported that her supervisor raped her in the car.

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- The victim is in her mid-40, and she has had her children taken away from her for neglect.
  - She has a criminal history which includes check fraud, and she needs income to pay off her fine.
  - She has to prove that she is working steadily, and not using drugs or alcohol, in order to get custody of her children back.
  - The suspect is the store manager, and he has been recognized as Employee of the Month several months in a row.
  - He has been working at the store for more than three years.
  - He is married with three kids, and an active member of his church.
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# Conclusion

1. **Credibility is not an objective or factual standard; it is an opinion**
2. **As such it can significantly misinform, misguide and as a result false select**
3. **Bringing inherent bias forward to become explicit bias and made conscious will allow us to override their influence**



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# Inherent bias feeds into....

- Performance evaluation
- Project assignments
- Meritocracy
- Leadership development programmes
- Norm





# Remedy/ Discourse in sexual harassment?

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# What is sexual harassment?

- Sharing sexual photos (pornography)
- Posting sexual posters
- Sexual comments, jokes, questions
- Inappropriate sexual touching
- Inappropriate sexual gestures
- Invading personal space in a sexual way

**-OR-**

- A form of discrimination as it occurs on the job, a violation of the civil rights act of 1964. *Prohibits unequal application of voter registration requirements, and racial segregation in schools, employment, and public accommodations.*



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## Two common forms of harassment:

**Quid pro quo:** Latin for "something for something". When an employee of higher position asks, either directly or indirectly, to submit to a sexual advance in exchange for some benefit at work

**Hostile work environment:** When harassment makes the workplace intolerable because constant sexual or gender-based activity or comment interferes with an employee's ability to do his or her job, hostile work environment sexual harassment has occurred



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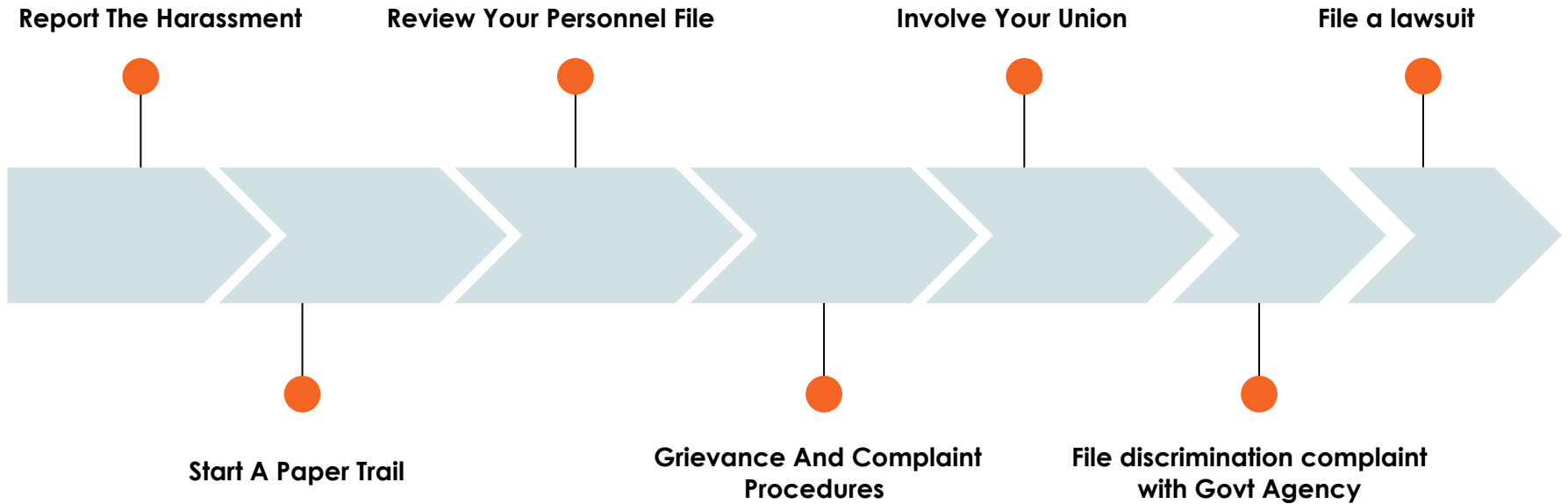
## How can sexual harassment happen?

IN PERSON (public, work, home)

DIGITAL (social media, email, chatroom)



# HOW TO REPORT SEXUAL HARASSMENT AT WORK:



### AT WORK:

**Report The Harassment**

**Start A Paper Trail**

**Review Your Personnel File**

**Find Out About Your Employer's Grievance And Complaint Procedures**

**Involve Your Union:** file a formal grievance through the union

**File A Discrimination Complaint with A Government Agency**

**File A Lawsuit:** Remedies or relief will vary, but may include money damages, getting your job back (if you've been fired or transferred to another position), and/or making your employer change its practices to prevent future sexual harassment from occurring





### Where the person has lost wages:

- Lost wages may be awarded if the harassment was a significant factor affecting the employer's decision to terminate employment or the victim's decision to quit.
- In this case, compensation would be for:
  - all or part of the lost wages or salary;
  - lost pension or other benefits;
  - lost raises, overtime, shift bonuses, or higher rates of pay which should have been earned by promotion, etc.;
  - any lost wages or benefits which can reasonably be linked to the act of sexual harassment.



### Where the person lost an employment opportunity:

- Hiring the person for the job or opportunity lost;
- Providing the person with the opportunity which was missed to the extent possible;
- Providing financial compensation for the lost opportunity

*\*Depending on the severity of sexual harassment complaints and findings of the investigator*

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## What is sexual harassment?

Cyber harassment can be in the form of flames, comments made in chat rooms, sending of offensive or cruel e-mail, or even harassing others by posting on blogs or social networking sites.

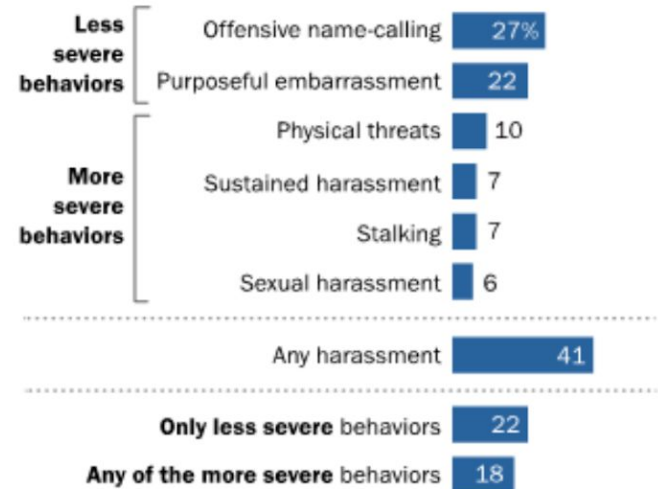


- **41% of Americans have been personally subjected to harassing behavior online**
- **66% has witnessed these behaviors directed at others**



### **Roughly four-in-ten Americans have personally experienced online harassment**

*% of U.S. adults who have experienced \_\_\_\_\_ online*



Source: Survey conducted Jan. 9-23, 2017.  
"Online Harassment 2017"

PEW RESEARCH CENTER

- Men and women experience and respond to online harassment in different ways
- Young women encounter sexualized forms of abuse at much higher rates than men



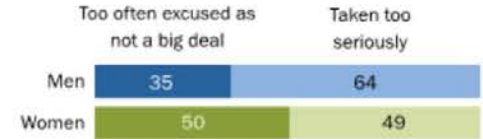
## Attitudes toward online harassment vary by gender

*% of U.S. adults who say...*

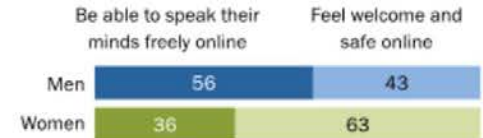
Online harassment is a "major problem"



Offensive content online is ...



It is more important for people to ...



Source: Survey conducted Jan. 9-23, 2017.  
"Online Harassment 2017"

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## CYBER HARASSMENT | ACTION STEPS

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- A bit tougher dues to anonymity of the internet, but legal action vary per state.
- Some states consider it a felony
- U.S. Cyber Law includes rules and regulations established by Congress, legislatures, courts, and international conventions to govern, prevent and resolve disputes that arise from the use of computers and the Internet.
- See the laws available per state here:  
<http://www.ncsl.org/research/civil-and-criminal-justice/cyberbullying-and-the-states.aspx>





**Psychological**  
Feeling weak,  
self blaming,  
insomnia, anger,  
tension,  
depression,  
emotional distress



**Biological**  
Headaches, back aches,  
change in weight,  
vomiting, high blood  
pressure, fatigue



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## Remedy/Discourse in sexual harassment?

- Legal remedies for sexual harassment vary from country to country
- All countries that prohibit sexual harassment, however, have complaint mechanisms, separate from internal reporting processes, which allow victims to seek a legal remedy





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# Sexual Harassment Policy Template

A strong sexual harassment policy can transform employee relations and office culture from toxic and harmful to rewarding and beneficial. It can also help to protect your organization in the event that a sexual harassment lawsuit is filed.

<https://i-sight.com/resources/sexual-harassment-policy-template/>



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**Thank you**

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**It's PERSONAL**

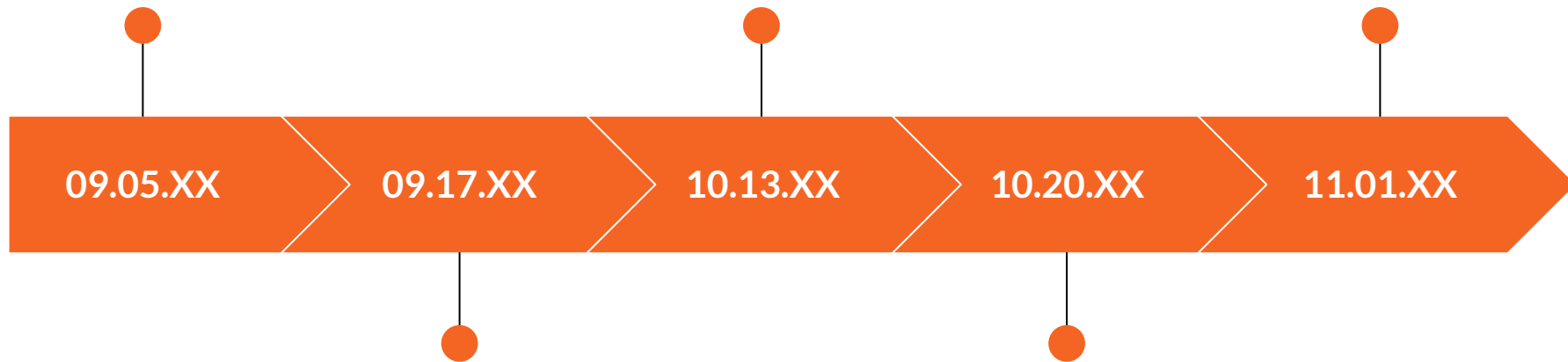
**and it's okay to  
talk about it**

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**Never be afraid to speak up!**

**Harassment in the workplace is illegal under state and federal laws**

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# Next steps

## Assignment 1

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## Assignment 2

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## Assignment 3

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# Goals for next meeting

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  3. Ut enim ad minim veniam, quis nostrud exercitation
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