

My SHO Training: Case Study

Complaint:

On January 5, 2024, Mr. Daniel Smith, Program Analyst for the D.C. Department of Micro Farming (DMF), sent an email to DMF Sexual Harassment Officer (SHO), Damien Jones, to file a sexual harassment complaint against his supervisor, DMF Program Administrator Karen Connor, that occurred between the period of August 1, 2023, and December 8, 2023. Mr. Smith alleges that Ms. Connor, sexually harassed him and retaliated against him for rebuffing her advances.

DMF is a small agency with 10 employees: Director, Chief of Staff, General Counsel, Program Administrator, 3 Program Analysts, 2 community engagement specialists, and a staff assistant. Only the Director, Chief of Staff, and General Counsel have offices. Everyone else sits in cubicles. The agency is located at 441 4th Street NW, Suite 650, Washington, DC 20001.

Throughout this time, Mr. Smith alleges that Ms. Connor repeatedly came to Mr. Smith's cubicle and spoke about her personal sexual experiences. Specifically, on Monday mornings when she came into the office and was asked about her weekend, Ms. Connor would say something to the effect of "It was great! My husband and I had sex all weekend!" or "It was terrible, with the kids around we didn't have a chance to bang." Mr. Smith also alleges that Ms. Connor repeatedly asked him questions about his personal sexual experiences and preferences during this time.

On October 10, 2023, Ms. Connor emailed Mr. Smith an invitation to attend a "swingers party" via an email with the subject line "Party This Weekend?" Mr. Smith promptly emailed Ms. Connor back to indicate he did not wish to attend the party with Ms. Connor. Mr. Smith alleges that Ms. Connor then verbally informed him that she would provide him with a low performance rating if he did not go to a "swingers" party with her.

On December 8, 2023, Mr. Smith alleged that Ms. Connor issued him a low performance rating for FY 22 because of his refusal to attend the party with her.

On January 10, 2024, Ms. Connor reassigned one of Mr. Smith's major deliverables to Mr. Adams.

Interviews:

Witnesses: Samuel Adams, Program Analyst, Jack Daniels, Program Analysts. Both are supervised by Ms. Connor.

- They will state that they heard her make sexual comments in the office and admit that they make similar ones.
- They will state that Ms. Connor asked them if Mr. Smith would be interested in a swingers party before sending him the email.
- They will state that Ms. Connor asked all three of them about their sex lives, but are unaware of any comments asking about Mr. Smith's specific sexual experiences and preferences.

Alleged Harasser:

- She will state that she was referring to the indoor mini golf club, Swingers.

- She will state that she gave Mr. Smith a low performance rating because his work has significantly declined in quality this past fiscal year. She noted that he failed to complete his major project, frequently turned in deliverables after their deadline, repeatedly came to the office an hour after his tour of duty started, and seemed distracted most of the time. They had multiple conversations about this during the year, but nothing was documented.
- She will state that the comments about her weekend were a joke. They had a comfortable rapport in the office and Mr. Adams and Mr. Daniels also spoke about their weekends in a similar manner.
- She will deny asking Mr. Smith about his sexual experiences and preferences.
- She will deny making the comment about giving Mr. Smith a low performance rating if he didn't go to the party.

Complainant:

- He will acknowledge that his performance slipped this year, but he doesn't believe that he deserved a 2 rating.
- He didn't tell anyone about the "swingers party."
- He didn't tell anyone about her comments asking about his sexual experiences and preferences.

Documents:

- Oct. 10, 2023, email "Party This Weekend?" It's ambiguous whether she was referring to the indoor mini golf club.
- Mr. Smith's performance reviews: FY 2020 (Rating 4), FY 2021 (Rating 4), FY 2022 (Rating 2)

Issues:

- Sexual Harassment – Bases:
 - Comments: Sexually offensive comments or off-color language, jokes, or innuendo that a reasonable person would consider to be of a sexual nature, or belittling or demeaning to an individual or a group's sex, sexual orientation, or gender identity;
 - Comments: Making inquiries about someone's private sex life or describing one's own sex life;
 - Comments: Workplace sexual comments, conduct, displays and suggestions between two willing parties in the presence of another that are inconsistent with professional workplace norms;
 - Inviting him to a party: This isn't a listed example, but that doesn't mean it's not included. Look at the definition: Sexual harassment includes conduct of a sexual nature, "whether direct or indirect, verbal or nonverbal, that unreasonably alters an individual's terms, conditions, or privileges of employment or has the purpose or effect of creating an intimidating, hostile, or offensive work environment.

- Even if it's not sexual harassment (assume she did mean the mini golf club), it could be her attempt to initiate a prohibited relationship – not an issue for the SHO
 - Quid pro quo
- Retaliation – not an issue for the SHO