Harassment Prevention Training for Managers

Presented by
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Agenda

• Respect in the Workplace
• Federal Laws
• Unlawful Harassment
• Liabilities
• Responding to Complaints
• Discrimination Risks
• Q & A
Federal Harassment and Discrimination Charges

Respect in the Workplace
Being Respectful

- Follow common courtesy
- Avoid personal attacks
- Treat employees as customers whom the business is dependent on

Differences and Diversity

- There is no industry, company, or job where discrimination, harassment or bullying is okay
- Everyone has different learning and communication styles
- People do not like to be talked down to or treated poorly
Federal Laws

Harassment Prevention Training Requirements

- California
- Connecticut
- Maine

* This presentation does not meet any specific state or EEOC harassment prevention training requirements or mandates
Federal Regulations

- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1967 (ADEA)
- Americans with Disabilities Act of 1990 (ADA)

Federal Agency: the EEOC

Equal Employment Opportunity Commission:

- Independent agency that enforces federal laws related to employment discrimination and harassment
- Employers with at least 15 employees are covered, with exceptions and state law considerations
- Their role is to investigate charges, produce findings, make settlements or pursue litigation, among other responsibilities
Case Scenario

Louis, the CFO, frequently asks Camila, a payroll clerk, about her boyfriend, such as what she and her boyfriend did over the weekend, whether they are thinking of getting married or living together, and whether she is also dating other men. Camila complains about Louis’ intrusive questions. Louis angrily responds that he is just trying to boost morale by taking an interest in his employees’ personal lives.

Is Louis’s behavior acceptable? Is it illegal?
Unlawful Harassment

Harassment Defined

• Unwelcome verbal or physical conduct based on a protected category can constitute harassment

• Unwanted sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which threatens job security, working conditions, or advancement opportunities is considered sexual harassment

• Conduct is sufficiently severe or pervasive to create a hostile work environment or harassing conduct resulting in harm to an employee

• Sexual and other forms of harassment violate state and federal law
Sexual Harassment

- **Quid pro quo (this for that):** submitting to, or rejecting, sexual advances or requests cannot be a condition upon which a person’s job, career, or upcoming promotion depends
- A threat of economic loss is enough to prove quid pro quo sexual harassment

Hostile Work Environment

1. Unwelcome comments or conduct based on legally-protected classes; and
2. Unreasonably interferes with an employee’s work performance or creates an intimidating, hostile, or offensive work environment
Case Scenario

Kathy supervises José. A mutual friend at work has a party on Saturday night, attended by several people from work. It is not a company-sponsored event. After a few drinks, Kathy tells José that she is attracted to him and tries to kiss him. José tries to politely discourage her. Kathy persists, asking José if he’ll join her for dinner Sunday night. José, again, politely declines.

Has Kathy sexually harassed José? What should José do?

Elements Necessary for a Claim

- Subject to unwelcome verbal or physical conduct because of status as member of protected class
- The harassment was based on that membership
- The conduct affected employment, or was intended to
Case Scenario

Lately, whenever Carol sees Hiro in the hallway, she says “Hey, Hiro, when are we going away to Vegas?” At first it did not bother him but after she said it again in earshot of some other employees, he complained. He said he is afraid his girlfriend will hear rumors that he and Carol are planning a trip to Las Vegas together. When you ask Carol about it she says “Oh come on, I was joking. Surely a little joke like that isn’t illegal!”

Is Carol out of line? Is her behavior acceptable?
Verbal Harassment Based on Sex

- Dirty or off-color jokes
- Discussing sexual topics
- Flirting and sexual advances
- Boasting of sexual conquests
- Intimate questions about sex life
- Intimate nicknames
- Excessive compliments
- Sexual innuendo
- Whistling, cat-calls, etc.
- Sexual profanity
- Harassing voicemails
- Repeated solicitations

Verbal Harassment Based on Other Categories

- Slurs and insults
- Ethnic jokes
- Name-calling
- Mocking cultural behaviors
- Criticizing political beliefs
- Threatening comments
- Derogatory references
Physical Harassment

• Hugging and kissing
• Touching body, hair, or clothing
• Massaging
• Leaning over or cornering
• Pinching
• Exposing oneself

Visual Harassment

• Posters, pin-up’s, calendars
• Magazines
• Email
• Websites
• Screen savers

• Obscene gestures
• Facial expressions
• Leering, elevator eyes
Bullying in the Workplace
- Repeated, health-harming mistreatment of one or more persons by one or more perpetrators
- Abusive conduct that is threatening, humiliating, or intimidating
- Or prevents work from getting done

Social Media Quick Tips
- Use caution with “friending” direct reports
- Don’t force social media access from employees
- Don’t violate your harassment policies in your online behavior
- Don’t post information online that could be used against the company
- Don’t review social networking sites for employment purposes
Case Scenario

Linda, a manager, and Nancy, who reports to Linda, begin a dating relationship. While they are discreet about it at work, gossip is now circulating among employees about Linda and Nancy being a couple.

Does the organization need to take action? If so, what should be done?

Liabilities
Disciplinary Action

- Oral or written warning
- Deferral of pay raise or promotion
- Demotion
- Suspension
- Termination of employment

Who is Liable for Sexual Harassment?

- You may be personally liable
- Employer is liable
- Employees are liable
- Non-employees are liable
**What One Can Lose in a Lawsuit**
- Your job or wages
- Your home, car, and bank account
- Your reputation
- Opportunity for advancement
- The cost to pay an attorney

**What One Can Win in a Lawsuit**
- Lost wages
- Reinstatement
- Emotional distress
- Punitive damages
- Attorneys' fees
- Court orders
Responding to Complaints

Employee Options for Complaint Reporting

- Supervisor or chain of command
- Human Resources or harassment reporting
- Harassment or Complaint Reporting Procedure
- Open Door Policies to Senior Management
- EEO Complaint to state or federal agency
Manager Role

• Held to a higher standard when it comes to harassment prevention
• Prevent a workplace culture that allows harassment to occur
• Supervisors have an obligation to report harassing, discriminatory, or retaliatory behavior of which they become aware
• Demonstrate that the employer took prompt, appropriate steps and action

Case Scenario

An employee named Fahad, who you have supervised for a number of years, tells you that his coworker, Cindy, is making sexual advances towards him and he finds it uncomfortable.

You offer to speak with Cindy, but Fahad insists that this is a private matter and demands that you do nothing to respond.

As his manager, what should you do?
Responding to Complaints

- Complaints may arise verbally or in writing
- Take all employee complaints of discrimination, harassment, or retaliation seriously, and investigate each complaint fully and promptly
- Don’t promise confidentiality
- Don’t retaliate

Case Scenario

Suppose Fahad, the employee who complained to you about Cindy, never came to you, but instead went over your head and talked to your boss about the problem?

What, if anything, should you say to Fahad about coming to you first on such matters?
Case Scenario

Fahad, the employee who complained to you about Cindy, comes into your office very upset. He indicates that he is uncomfortable with the investigation of Cindy and fears retaliation. He states that he has decided to quit.

What should you, as the employer, do or say?
Discrimination Risks

Types of Discrimination

- **Direct Evidence:**
  Direct discrimination based on membership of a protected class

- **Disparate Treatment:**
  Treating similarly-situated employees differently

- **Disparate Impact:**
  Neutral selection procedures have a statistically significant adverse effect on protected categories without business necessity
# Potential Risk Areas

- Hiring
- Firing
- Discipline
- Promotion
- Scheduling
- Duties
- Title

## Hiring Risk: Interview Questions

<table>
<thead>
<tr>
<th>Not Okay</th>
<th>Okay</th>
</tr>
</thead>
<tbody>
<tr>
<td>- How old are you?</td>
<td>- Are you 18 or older?</td>
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<tr>
<td>- When did you graduate?</td>
<td>- Do you have a degree?</td>
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<td>- Were you in the military?</td>
<td>- What did you do in the military?</td>
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<td>- How is your health?</td>
<td>- Can you perform essential job functions?</td>
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<tr>
<td>- Where is your accent from?</td>
<td>- Are you bilingual, or do you speak Spanish?</td>
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<tr>
<td>- Are you legal, or are you an illegal alien?</td>
<td>- Can you provide proof of authorization to work in the US?</td>
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Case Scenario

Alyssa just returned from a tropical vacation and is showing a group of coworkers some photos from the adventure. Lee walks by her computer and feels uncomfortable with a very suggestive photo from the trip on the screen.

As Lee and Alyssa’s manager, do you need to take any action once you are informed that Lee feels offended by the image?

Q & A
PHR | Training Specialist

Sarah joined the team after four years on the front lines of the Human Resources department at Starbucks, and admittedly still enjoys an extra bold cup of coffee. She has worked in a number of HR roles in a multi-state capacity. With a B.A. in English from the University of Puget Sound and her PHR certification obtained in Portland, Sarah is happy to call the northwest her permanent home. She leads a double life as a poet.