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EXTREME HOLDINGS

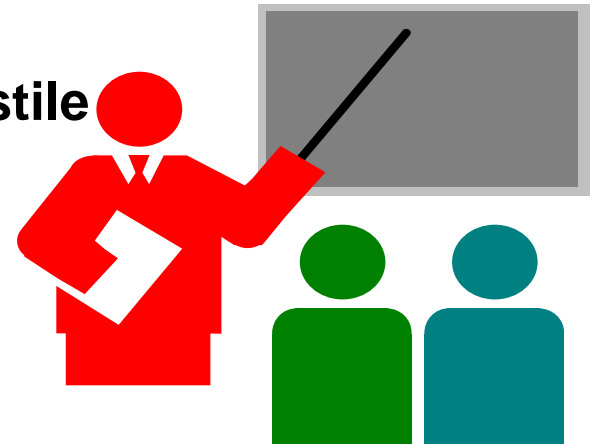
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Discrimination
Harassment
Sexual Harassment

Training Objectives

- ▶ **Recognize discrimination and harassment**
- ▶ **Understand the negative impact of discrimination and harassment**
- ▶ **Know what to do when a complaint is filed**
- ▶ **Be aware of how to avoid creating a hostile environment**
- ▶ **Identify when you have a responsibility to take action**



We may not change people's minds but we do ask them to change their behaviors



Legal Aspect

Legal Background of Discrimination

- ▶ **Civil Rights Act of 1964**
 - **Keystone of federal antidiscrimination legislation**
- ▶ **The Civil Rights Act prohibits discrimination and segregation based on race, color, national origin, religion and gender**

1964

Legal Background of Discrimination

With the foundation laid, fast forward to current times...

The Law now guarantees employees the right to work in an

“environment free from discriminatory intimidation, ridicule, and insult.”

Sexual Harassment is a form of discrimination

Definition

Discrimination

Different treatment of two equally qualified individuals ...

Based on the group, class or category to which that person belongs ...

Rather than individual merit



Unfair treatment based on prejudice

Definition

Harassment

UNWELCOME...

conduct or behavior ...
that is intimidating ...
hostile ...
or offensive ...

and ...

which has the effect of
interfering with an
employee's ability to
perform his/her duties

This covers

- ▶ Race
- ▶ Color
- ▶ Religion
- ▶ Gender
- ▶ National origin
- ▶ Sexual orientation
- ▶ Age
- ▶ Disability
- ▶ Retaliation
- ▶ Veteran status
- ▶ Or any other form of illegal discrimination



Definition

Sexual Harassment

Three Key Elements

- 1. The conduct is unwelcome**
- 2. The conduct is sexual**
- 3. The conduct has an impact on the individual's workplace**

Illegal according to federal law and most state, county, and local laws

Definition

Harassment (Sexual or otherwise)

Two types:

1. Quid Pro Quo – “this for that” (easy to identify)
2. Hostile Work Environment
 - a) Offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance
 - b) Becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive

Legal Points to be Aware of

- ✓ **A man can be a victim of harassment**
- ✓ **The victim does not have to be the opposite sex of the harasser**
- ✓ **The harasser can be the victim's supervisor, a supervisor in another area, a co-worker or a non-employee**
- ✓ **The victim does not have to be the person harassed but could be anyone affected by the offensive conduct**
- ✓ **Harassment can occur at work, at company-sponsored events, or between coworkers away from work**

Points to be Aware of

- ✓ **Note that some behavior may not be unlawful but it is still not appropriate**
- ✓ **One comment by itself most likely is not actionable, but it may be totally inappropriate**
- ✓ **Simply because it is not significant or pervasive enough to violate the law does not mean that action will not be taken by the Company**
- ✓ **Rude or uncivil behavior is not unlawful unless it relates to a protected class but incivility is the gateway to harassing behavior and will not be tolerated**

Note the Importance of... Perception vs Intention

➤ You cannot assume that your behavior is acceptable to everyone

What is acceptable behavior to some is not always acceptable to others

➤ By the same token, do not assume that someone knows their behavior is unacceptable

Someone's actions or intent may be innocent, yet it is perceived as inappropriate

➤ And what matters is how it is perceived



do it outdoors media

has **zero tolerance for**

Workplace Harassment,

Discrimination, and/or

Sexual Harassment

do it outdoors media embraces Diversity

Diversity requires Respect and Acceptance





You Be the Judge

Using slang “nicknames” that denote co-workers’ race, ethnicity, cultural heritage, religion, sex or age is okay, as long as it is done in a joking manner.

OK in the workplace? OK at a fish fry?

True or False?



You Be the Judge

Using slang “nicknames” that denote co-workers’ race, ethnicity, cultural heritage, religion, sex or age is okay, as long as it is done in a joking manner.

OK in the workplace? OK at a fish fry?

FALSE. Always FALSE.

True or False?



Defenses Against Discrimination & Harassment

Which of the following are acceptable defenses against discrimination & harassment?

- ▶ **Free speech**
- ▶ **No intent to make someone feel bad**
- ▶ **Conduct that occurred off-duty or off-premises**
- ▶ **Impairment**
- ▶ **Conduct not directed at victim or anyone in particular**
- ▶ **No formal complaint**
- ▶ **Lack of knowledge**
- ▶ **Complainant participated**
- ▶ **It was only a joke**
- ▶ **Employee never complained before**
- ▶ **The other employee started it**
- ▶ **Inappropriate dress or walk (“she asked for it”)**
- ▶ **I am a very important person**

Which of the following are acceptable defenses against discrimination & harassment?

- ▶ Free speech
- ▶ No intent to make someone feel bad
- ▶ Conduct occurred off-duty or off-premises
- ▶ Impairment
- ▶ Conduct not directed at victim or anyone in particular
- ▶ No formal complaint
- ▶ Lack of knowledge
- ▶ Compulsory participation
- ▶ I was only a bystander
- ▶ I have never complained before
- ▶ The other employee started it
- ▶ Inappropriate dress or walk (“she asked for it”)
- ▶ I am a very important person

NONE



You Be the Judge

A male Employee asks a female Employee who is having a hard day if she has PMS.

Is this Sexual Harassment?





You Be the Judge

A male Employee asks a female Employee who is having a hard day if she has PMS.

Is this Sexual Harassment?

It is most likely not sexual harassment. However, not only is this inappropriate and insensitive, it can be considered gender harassment. Comments regarding hot flashes or age are never okay.



What to Do....

As the Victim

As the Observer

As the Offender

What to do as the Victim

- **Approach the individual, if you are comfortable doing so**
- **Identify the behavior and explain that you find it offensive or harassing**
- **Ask the individual to STOP**
- **If you need assistance approaching the individual, contact a Manager or Human Resources**
- **If you are uncomfortable or uncertain about approaching the individual, report the behavior to a Manager or to Human Resources**

What to do as the Observer

**Any individual who has knowledge of
inappropriate behavior...**

- Should report the incident to a Manager or to Human Resources**
- Do not allow the potential problem to fester and get bigger**

What to do as the Offender

- **Approach the individual – don't just “let it go”**
- **Talk it out and clear up any misunderstanding**
- **Assure the individual that you will STOP the behavior**
- **If you need assistance approaching the individual, contact a Manager or Human Resources**
- **Do not allow the problem to fester or get bigger**
- **DO NOT engage in any potential retaliatory action after a complaint has been made**

Appropriate Behavior for ALL Employees

- ▶ **Expect misunderstandings**
- ▶ **Be aware of how people respond to what you do and say**
- ▶ **Show compassion when another person is feeling uncomfortable**
- ▶ **Heed his/her objections, listen to their concerns**
- ▶ **Respect your co-workers' rights to their dignity and their jobs**

Appropriate Behavior for ALL Employees

- ▶ **Don't stereotype based on someone's dress or physical appearance**
- ▶ **Remember, perceptions of others are more important than your intentions**
- ▶ **Respect everyone in the workplace and refuse to participate in or tolerate inappropriate behavior**
- ▶ **Respect the confidential nature of any harassment investigation**



You Be the Judge

People whose clothing, personal articles or hairstyles indicate their cultural heritage or religion should accept the fact that fellow workers may make tasteless or offensive comments about their heritage or religion.

True or False?



You Be the Judge

People whose clothing, personal articles or hairstyles indicate their cultural heritage or religion should accept the fact that fellow workers may make tasteless or offensive comments about their heritage or religion.

FALSE

True or False?

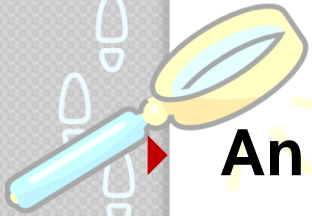
All employees have the right to work in an “environment free from discriminatory intimidation, ridicule, and insult.”



Complaint & Investigation Process

Complaint & Investigation Process

- ▶ Employee Files Complaint with Manager or HR
- ▶ Complaints are investigated fully by HR
- ▶ Complaints are handled as discreetly as possible



- ▶ An investigation consists of a balancing act
 - Speaking with all involved
 - Being thorough
 - Cautioning against retaliation
 - Evaluating the information
 - Making a determination
 - Taking appropriate action
 - being fair and consistent
 - Advise parties of action to be taken
 - Follow up



You Be the Judge

A male Employee asks a female Employee out on a date. She declines saying that she already has plans for that evening but would enjoy going out with him in the future. The following week, he asks her out again.

Is this Sexual Harassment?



You Be the Judge

A male Employee asks a female Employee out on a date. She declines saying that she already has plans for that evening but would enjoy going out with him in the future. The following week, he asks her out again.

Is this Sexual Harassment?

No but proceed with caution. If she declines again, do not ask again. Simply let her know that if she is ever interested in going out with you, to let you know.



Retaliation

Adverse Action

Retaliation

Retaliation is defined as an adverse action taken against an employee because s/he complained of harassment or discrimination

do it outdoors media will not retaliate against an employee, or allow others to retaliate against an employee, who reports discrimination or harassment or provides information relating to such a complaint

Retaliation

What Does Adverse Action Look Like?

- **Lateral transfer / reassignment**
- **Ostracism by supervisor or co-workers**
- **Harassment or hostility from supervisor or co-workers**
- **Threatening employees who suggest they may file a suit**
- **Demotion**
- **Discipline or Termination**
- **Salary reduction**
- **Negative performance appraisal**
- **Change in job duties or shift assignment**

Retaliation

- ▶ **Retaliation should be reported in the same manner that harassment and discrimination are reported**
- ▶ **Retaliation claims will be investigated in the same manner as a harassment or discrimination claim**
- ▶ **Review with HR before any changes are made regarding a complainant**



You Be the Judge

Only a female can be a victim of sexual harassment.

True or False?



You Be the Judge

Only a female can be a victim of sexual harassment.

FALSE

True or False?



**Manager's
Role
&
Responsibilities**

Notes for Manager's

- ✓ **Manager's are held to a higher standard than other employees.**
- ✓ **Harassment is bad for business and can result in lost productivity, high turnover, and the employer's tarnished reputation. All of which could result in losing a [major] client.**



Proactive Steps

Manager's Role

- ▶ **Protect yourself and the Company by behaving appropriately and knowing the law**
- ▶ **Maintain a harassment-free work environment**
- ▶ **Support the Company's Discrimination / Harassment Policy → Reinforce through consistent action and regular communication**
- ▶ **Ensure that employees feel comfortable raising concerns at any time**



Proactive Steps

Manager's Role

- ▶ **Examine your own behavior**
- ▶ **Don't play favorites**
- ▶ **Avoid becoming romantically involved with any employee whose terms and conditions of employment may be influenced by your input**
- ▶ **Use caution when socializing with your employees at work or during social events**



Proactive Steps

Manager's Role

- ▶ **Do not exclude employees of different backgrounds from business meetings, social events, or typical daily activities**
- ▶ **Refrain from counseling employees regarding personal problems**



Proactive Steps

Manager's Role

- ▶ **Be proactive by being sensitive to potentially offensive behavior**



Try to act B E F O R E a situation gets to the complaint stage

- ▶ **Remember... A brief discussion with a possible offender may save that employee a reprimand ... or even a job, in the future**

Reactive Steps

Manager's Role


If you receive a complaint of harassment

- ▶ ***Take it seriously*** - respect the employee's right to voice their concern
- ▶ ***Assure the employee*** the matter will be handled in a confidential manner as quickly as possible
 - ✓ Thank them for bringing their concerns to your attention
 - ✓ Do not promise absolute confidentiality
- ▶ ***Report the incident immediately*** to Human Resources according to Policy

Reactive Steps

Manager's Role

If you receive a complaint of harassment (continued)

- ▶ ***Ensure that confidentiality is maintained*** during (and after) an investigation, for all concerned parties - accuser, accused, witnesses
- ▶ ***Ensure there is no retaliation*** or backlash
- ▶ ***Do NOT "handle"*** the complaint on your own
- ▶ When necessary... Be prepared to ***take appropriate corrective action***  whatever that may be

Reactive Steps

Manager's Role

Report to Human Resources all complaints of discrimination, harassment or retaliation, even if:

- ▶ **The employee requests that the complaint be kept confidential**
- ▶ **The employee implores the supervisor not to consult with HR**
- ▶ **The complaint appears to lack merit**



You Be the Judge

Jenny always joined in when derogatory and crude jokes were being exchanged at work. After several years, she tired of the jokes and innuendos. She tells her co-workers that she now finds this behavior offensive, but it continues nonetheless. This is not harassment because she allowed the behavior previously.

True or False?



You Be the Judge

Jenny always joined in when derogatory and crude jokes were being exchanged at work. After several years, she tired of the jokes and innuendos. She tells her co-workers that she now finds this behavior offensive, but it continues nonetheless. This is not harassment because she allowed the behavior previously.

True or False?

False. First of all this behavior should not have been allowed all of these years. It needs to be stopped immediately and discipline is appropriate for the supervisor that allowed this behavior to continue for so long.



You Be the Judge

- 1. In a sexual harassment investigation, complete confidentiality is promised to the victim.**
- 2. Confidentiality does not have to be extended to the accused.**
- 3. A key word in sexual harassment cases is “unwelcome.”**

True or False?



You Be the Judge

- 1.** In a sexual harassment investigation, complete confidentiality is promised to the victim.
False. We keep the investigation as confidential as possible but absolutely cannot promise complete confidentiality.
- 2.** Confidentiality does not have to be extended to the accused.
False. Confidentiality is extended to all parties.
- 3.** A key word in sexual harassment cases is “unwelcome.”
True.



You Be the Judge

An employee complains about workplace harassment. An investigation does not prove the allegations to be true, therefore the employee may be disciplined for filing the complaint.

Is this Retaliation?



You Be the Judge

An employee complains about workplace harassment. An investigation does not prove the allegations to be true, therefore the employee may be disciplined for filing the complaint.

Is this Retaliation?

Most definitely. No timeline after an incident is considered safe to discipline or terminate for filing a claim that was filed in good faith.



Summary

Things to Consider

- **Ask yourself if you would say the same thing, or want the same thing said, to a loved one**
- **Look at the other person's response to see if he or she looks uncomfortable**
- **Consider the context of the situation**
- **Put yourself in the other person's shoes.....**

How would you feel if the same thing was said or done to you?

Summary

R – respond immediately

E – expect misunderstandings

S – set a good example

P – perception

E – empathy

C – communicate

T – tolerance

Again, we have no expectation of changing anyone's mind, but we do ask that you ensure your behavior meets our expectations



**HARASSMENT
&
DISCRIMINATION
IN THE
WORKPLACE**