



Sexual Harassment Awareness & Prevention

An Employer's Responsibility



Agenda

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____

- **EEO Law**

- **Sexual Harassment at Work**

- **The Bottom Line**



Training Objective 1:

Understanding the Law Prohibiting Discrimination & Harassment in the Workplace

**THIS IS NOT
LEGAL ADVICE**
IF YOU HAVE QUESTIONS OR NEED LEGAL ADVICE
PLEASE CONTACT AN ATTORNEY

OhioDAS
SERVICE · SUPPORT · SOLUTIONS
DEPARTMENT OF ADMINISTRATIVE SERVICES



Anti-Discrimination Law & Policy

Federal

- Civil Rights Act
- ADEA (Age)
- ADA (Disability)
- GINA (Genetics)
- Military

State

- ORC 4112.02
- Your Policy

THE LAW



An EEO Employer



Definition of EQUAL OPPORTUNITY EMPLOYER

an employer who agrees not to discriminate against any employee or job applicant because of race, color, religion, national origin, sex, physical or mental disability, or age

Did you Know?

An Employer with 15 or more employees, who work at least 20 calendar weeks, we have to comply with Federal EEO laws.

The Employer gives assurance that all employment-related actions are based on **Objective** and **Nondiscriminatory** criteria.



Employment Related Decisions

- Job Advertisements
- Recruitment
- Application & Hiring
- Job Assignment & Promotions
- Pay & Benefits
- Discipline & Discharge
- Reasonable Accommodation
- Training & Apprenticeship
- Term & Condition of Employment





Employment Discrimination

Unfair treatment based on protected class in employment related decision

Harassment based on protected class, including work environment

Action based on request for reasonable workplace accommodation

Retaliation based on assertion of EEO right





EEO Retaliation Defined

Protection for an individual who asserts rights or participates in protected activity to be free from employment discrimination, including harassment.



Examples of Protected Activity:

- Filing an EEO case
- Reporting discrimination or harassment
- Participating in an EEO matter as a witness
- Refusing to follow orders that result in discrimination
- Resisting sexual advances or intervening to protect another
- Requesting a reasonable accommodation



Retaliation: HR & EEO

An EEO Retaliation claim is NOT a Shield to HR Work Rule violations, when the HR action is properly documented and the employment related decision is objective and non-discriminatory.





EEO & HR

*Compliance & Enforcement
of EEO Law and Policy*

EEO

*Compliance & Enforcement
of Work Rule and Policy*

HR

Employee Actions/ Behaviors



Training Objective 2:

Sexual Harassment Awareness and Prevention in the Workplace

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Quiz!

Yes

Yes

Yes

False

Yes

True

Yes



Harassment Defined

Unwelcome conduct that is based on a
“protected class status”

**Are you a member of a
protected class?**



An employee may be harassed by their supervisor, a supervisor in another area, a co-worker, an agent of the employer, or a visitor.

It is possible for a supervisor to be harassment by subordinates, but it is a difficult case to prove.



Sexual Harassment Defined

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature, including offensive remarks about a person's sex.

1

Quid Pro Quo

Becomes a condition of continued employment

OR

2

Hostile Work Environment

Severe or pervasive to create a work environment a reasonable person would consider hostile

IF IT'S UNWANTED,
IT'S HARASSMENT.



Unwelcome means the employee did not solicit or incite the conduct, and regards it as undesirable or offensive.



Hostile Work-Environment: Severe or Pervasive



Pervasive: existing in or spreading through every part of something



Severe: of a great degree, hardship or discomfort



Few

Number of Incidents

More



A few notes...

Intent vs. Impact

The behavior/
conduct will be
judged on its impact
to the offended
individual or on the
work environment,
regardless of how the
accused attended the
conduct to be
interpreted.

**WE JUDGE OURSELVES
ON OUR INTENT
AND
WE JUDGE OTHERS ON
THEIR IMPACT**

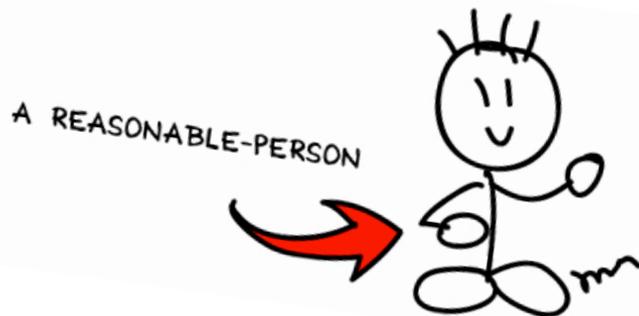


A few notes...

Reasonable Person Standard

An objective legal standard, utilizing a fictitious reasonable person, to determine if the behavior constitutes harassment under the same circumstances and facts.

This standard protects against hypersensitive people and desensitized “sick” work places.





Harassing Behavior: Examples



Verbal: Terms of Endearment, Asking for Sexual Favors, Jokes, Slurs, Name-Calling, Insults, Spreading Rumors, Innuendos

Non-Verbal: Staring, Leering, Following, Stalking, Written Communication, Gestures; Inappropriate Self-Touching



Physical: Blocking, Close-Standing, Touching, Groping, Grabbing, Hugging, Kissing, Sex, Rape



Visual: Pictures, Drawings, Screensavers, Emails in Public View



What Should Staff Do?

**Speak Up
and Say
Something**

**Document
the Incident**

**Follow
Policy for
Reporting**

**File a
Complaint**





Filing Options

**Your Internal
Procedure for
Investigation**



6 months from date of
alleged discrimination

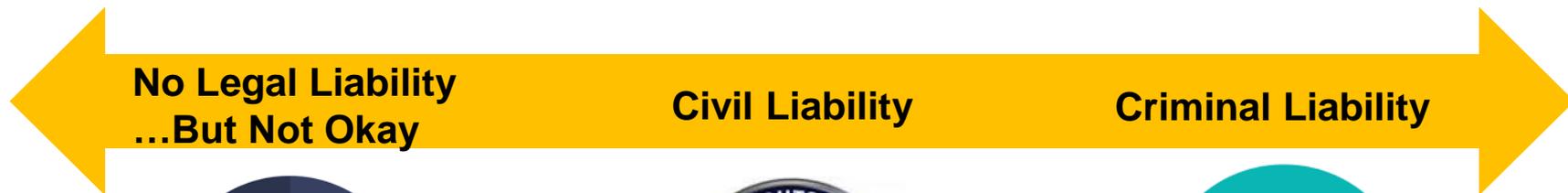


300 days from date of
alleged discrimination





Formal Action





Why an Internal Process

**Your Internal
Procedure for
Investigation**

- Faster
- Holistic
- R.O.I.
- Legal Defense





Training Objective 3:

Why Prevention and Awareness matter to Your Bottom Line

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Work Culture and Sexual Harassment

60-75%

70%

85%



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



**SELECT TASK FORCE
ON THE STUDY OF
HARASSMENT IN THE WORKPLACE**

**REPORT OF CO-CHAIRS
CHAI R. FELDBLUM & VICTORIA A. LIPNIC**

JUNE 2016



Report Findings

Persistent problem that goes unreported

Leadership and accountability are critical

New and different approach to trainings

Added and compelling business case for prevention

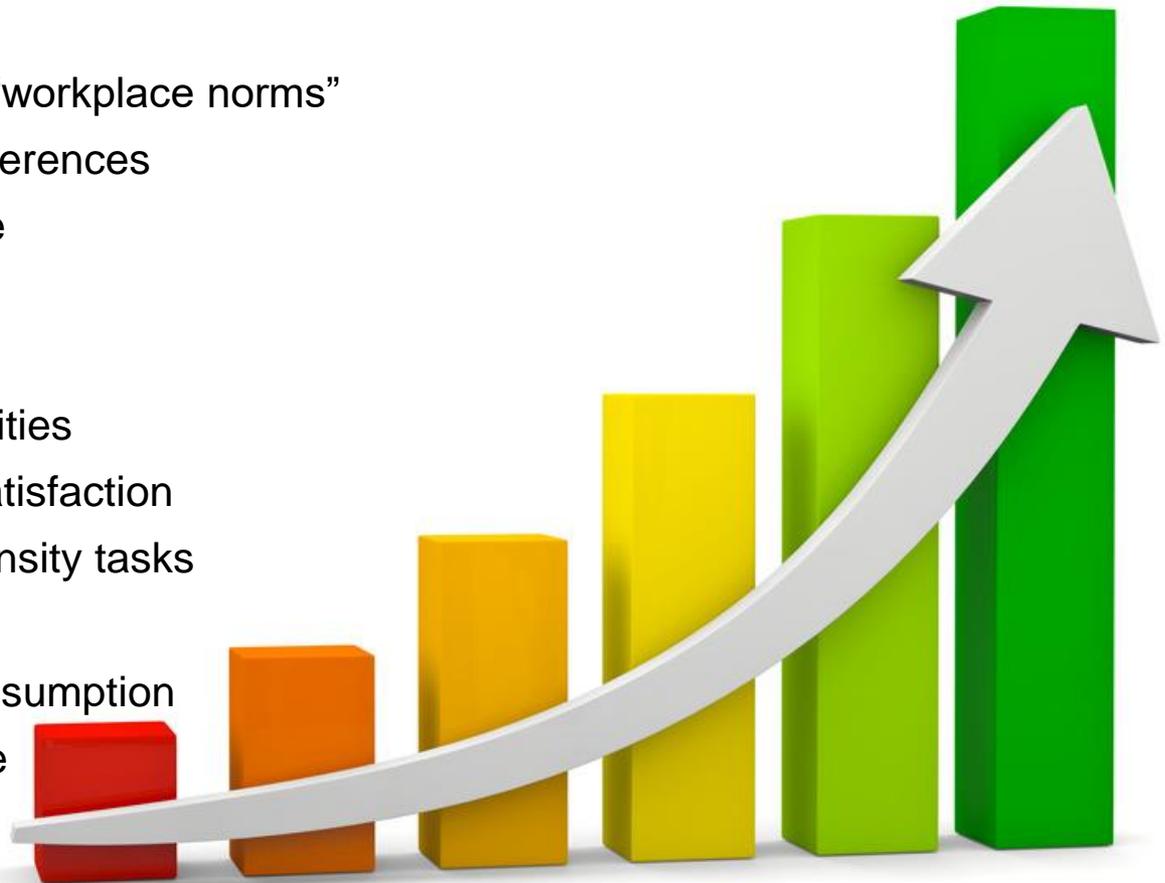
On "US" to stop and prevent





Work Environment and Risk

- homogenous workforce
- some don't conform to "workplace norms"
- cultural & language differences
- outside social discourse
- youthful workforce
- "high-value" employees
- significant power disparities
- reliance on customer satisfaction
- monotonous or low-intensity tasks
- isolated workspaces
- tolerance of alcohol consumption
- decentralized workplace





Business Case for Prevention



direct costs in “handling” cases

indirect costs

“lost-time” and time-off

morale and retention

customer-service impact



EEO Prevention Tools: Policy & Procedure

D&I Initiatives

Complete and
Thorough
Complaint
Investigation

Ensure
Retaliation
Free
Reporting

Managers
accountable
for monitoring

“New”
Employee &
Manager
Trainings

Anti-Bullying
Policy

Updated and
Effective Anti-
Discrimination
/ Harassment
Policy

Updated and
Effective EEO
Policy &
Procedure





Employer Liability

the state is **vicariously liable** for unlawful harassment by “supervisors”

- The employer is responsible for acts of its employee “agents”
- The employer should prevent harassment

Defense
An Employer may have a defense if it took reasonable care to prevent and promptly correct harassment AND the employee failed to take advantage of preventative opportunity provided by the state to avoid harm.



Where You Start

**Leadership
act with a
sense of
urgency.**

**Ensure
effective
policy and
training.**

**Make it a
priority
business
decision.**

**Delegate
enough
power and
authority.**

START





**Need specific
help, advice,
or have a
situation to
discuss...**





Contact Us:

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