



DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

Sexual Harassment Training for Management

Presentation for
[Company]

February, 1999

This handout is comprised of material prepared by EPS for discussion purposes only and is not intended to be legal advice.

Employment Practices Solutions, L.L.C.
502 N. Carroll Ave., Suite 100
Southlake, Texas 76092
(817) 329-8460
(817) 251-0738
eps@epexperts.com
www.epexperts.com

Copyright (c) 1999 by Employment Practices Solutions, L.L.C.

SEXUAL HARASSMENT SENSITIVITY TRAINING

I. What is sexual harassment?

A. Definition: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to such conduct is made a term or condition of employment, used as a basis for employment decisions affecting such individual, or has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile or intimidating work environment. 29CFR 1604.11. Sexual harassment is prohibited by company policy, as well as state and federal law.

B. Refer to Equal Opportunity, Anti-Sexual Harassment, and Non-Discrimination Policy.

C. Types of sexual harassment:

1. Quid pro quo: A.k.a. "economic" harassment. When a tangible job benefit or job status is affected by sexually harassing behavior, i.e., sexual favors in return for a promotion.

Notes:

2. Hostile work environment: Sexual conduct that is so significant that an employee's overall work experience is substantially and adversely affected.

Notes:

3. Reverse sexual harassment: When a qualified employee is denied employment benefits where job benefits are granted to other submissive employees.

Notes:

D. What is sexual? Verbal, non-verbal/visual, or physical conduct of a sexual nature, based on the viewpoint of the victim.

Notes:

E. What is unwelcome? A case by case decision made by looking at the parties' relationship as a whole and based on the viewpoint and actions of the "victim." There is no such thing as "asking for it." For example, issues such as provocative dress are dealt with in accordance with the Company's dress code, not as a means of defending or justifying unwelcome sexual conduct.

Notes:

II. What do I do if sexual harassment occurs?

• • • • •

- A. Tell the person the sexual conduct is unwelcome and ask her to stop.
- B. Report the conduct immediately to
 - 1. your supervisor,
 - 2. any member of the HR staff,
 - 3. any member of senior management at your office,
 - 4. corporate legal counsel at your office,
 - 5. the group legal director of [parent company] in London,
 - 6. the group personnel director in London, and/or
- C. Cooperate with the company's investigation and need for confidentiality.
- D. Report any retaliatory actions against you.

III. How can I prevent sexual harassment?

- A. Do not be a harasser: Is your behavior sexual or unwelcome? Then stop!
- B. Do not be a victim: Tell others when their behavior is unwelcome and ask them to stop, regulate your own behavior, and report offensive sexual behavior.

Notes:

IV. How should I handle complaints?

A. What may constitute a complaint?

- 1. It could come in the form of rumor, witnessing conduct, confidentially imparted information, informally reported information, formally reported information
- 2. To anyone in HR or of a management/supervisory level or higher

Notes:

B. Response to a complaint

- 1. Immediate
- 2. Stop harassment
- 3. Investigate
- 4. Take corrective action

Notes:

V. How will investigations be handled?

- A. You are not to perform any investigations!
- B. HR performs a prompt, thorough, impartial investigation because
 - 1. Affirmative duty under the law
 - 2. Part of a defense in a lawsuit
 - 3. Crucial fact-finding tool
- C. Manager/supervisor duties in an investigation are to cooperate in scheduling, document gathering, notes, files, confidentiality, and non-retaliation
- D. Do not perform searches of any kind!

Notes:

VI. How will complaints be resolved?

- A. Reaching a conclusion: consider credibility, documentary evidence, appropriate remedy, opinions of investigation team

Notes:

- B. Considerations in choosing corrective action: credibility, prior misconduct, prior discipline, severity of harassment, knowledge of company rules of conduct, precedent, position of alleged harasser, public and employee relations issues

Notes:

Notes:

C. Choose the corrective action that will remedy the problem

Notes:

D. Varying levels of information regarding the contents and results of the investigation may be communicated to the complainant, alleged harasser, and those with a "business need-to-know," such as HR, upper level management, and the supervisors of the complainant and alleged harasser. To avoid defamation claims, no information about the investigation should be communicated to anyone else.

Notes:

CASE STUDY ON SEXUAL HARASSMENT

Part 1:

You are a supervisor. Your good friend, Anna, has recently been transferred into a position under a supervisor named John Goody, who has been an employee for approximately six months. You have heard that John has a reputation of being a very friendly individual who often joins his employees for lunch and for drinks after work. As a result, you hear that John's group is very closely knit and works well together. There are two men and five women in John's group.

One night while Anna is having dinner at your home, she mentions that she thinks John is "creepy", that he is constantly "in her personal space", and is just "too friendly." In response to your request to talk with John about Anna's concerns, Anna adamantly requests that you do not get involved because then the others in John's group would be angry at Anna. You agree with your friend's request for privacy.

Two weeks later during lunch with friends from your department, you share Anna's comments. They confirm that John makes people uncomfortable with his lack of attention to personal space and his "touchiness" with others. One woman tells you of a time when she witnessed John tickling a co-employee.

DISCUSSION:

1. What about John's described behavior was sexual, if anything?
2. What did you do right? What did you do wrong?

Part 2:

After your lunch with your friends, you reported what you had heard about John's behavior to Human Resources. HR immediately started an investigation. HR moved Anna to your group to separate her from John during the investigation.

The next day you overhear Anna telling various members of your group details about John, and about HR's investigation. You also hear her tell them that someone scratched "Witch" into the door of her car. Funny coincidence: someone left a note saying the same thing on your desk.

DISCUSSION:

1. What, if anything, should you do about Anna's comments regarding John and HR's investigation?
2. What do you do about the vandalism and note?

TRAINING NOTES

EVALUATION FORM FOR [COMPANY]

I. II. Sexual Harassment Training for Managers

III. Employee's Name (optional) Course Title

Please circle the letter that indicates the most appropriate response for each question.

1. Indicate whether you are:

- (A) Employee
- (B) Supervisor
- (C) Manager

2. You will report to your manager/supervisor that the training was:

- (A) Highly beneficial
- (B) Beneficial
- (C) Somewhat beneficial
- (D) A waste of time

- (C) Somewhat beneficial
- (D) A waste of time

3. Please evaluate this course overall:

- (A) Excellent
- (B) Good
- (C) Average
- (D) Fair
- (E) Poor

IV. Please circle the appropriate letter response:

- (A) Strongly Agree
- (B) Agree
- (C) Uncertain
- (D) Disagree
- (E) Strongly Disagree

4. The training was well organized.

- A
- B
- C
- D
- E

A. 5. The learning activities were interesting and appropriate.

- A
- B
- C
- D
- E

6. The content was very practical.

- A
- B
- C
- D
- E

7. The terminology used was understandable.

- A
- B
- C
- D
- E

8. The training support materials (visuals, handouts, etc.) complemented the training.

- A
- B
- C
- D
- E

9. The time allocation for the course was adequate.

- A
- B
- C
- D
- E

10. The instructor was well prepared.

- A
- B
- C
- D
- E

11. The instructor was enthusiastic.

- A
- B
- C
- D
- E

Any recommended improvements for the course:

Additional topics for training you would like to receive:

Comments:

This material is protected by copyright. Copyright © 2000 various authors and the American Corporate Counsel Association (ACCA).