

PRESENTER'S GUIDE

"HANDLING A SEXUAL HARASSMENT INVESTIGATION"

Part of the General Safety Series

OUTLINE OF MAJOR PROGRAM POINTS

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The following outline summarizes the major points of information presented in the program. The outline can be used to review the program before conducting a classroom session, as well as in preparing to lead a class discussion about the program.

- **Sexual harassment occurs more frequently than you would think, and it can affect a workplace environment dramatically.**
- **Sexual advances in the workplace are always inappropriate, but when they are unwelcome or threatening, it's also illegal.**
 - In these cases, it's sexual harassment.
- **Sexual harassment can be devastating for its victims, and it can damage the companies they work for as well. It can result in:**
 - A hostile work environment.
 - Decreased productivity.
 - Increased costs
- **To protect its employees and avoid potential legal actions and hefty fines, a company must be able to recognize, investigate and resolve sexual harassment allegations, promptly and fairly.**
- **From a legal standpoint, "sexual harassment" is a form of sex discrimination.**
 - It was made illegal in 1964 by the Civil Rights Act.
- **Sexually harassing behavior includes actions that the victim finds unwanted or threatening, such as:**
 - Unwelcome sexual advances.
 - Requests for sexual favors.
 - Any other verbal or physical conduct of a sexual nature.

- **Blatant sexual acts are considered to be sexual harassment whenever they occur. These include:**
 - Sexual assaults.
 - Touching a coworker with sexual intent.
 - Requiring an employee to engage in a sexual act in order to keep their job or advance their career.

- **Less blatant types of offensive conduct can be considered to be harassing when they occur repeatedly. These can include:**
 - Talking about sex or making off-color jokes.
 - Commenting on a coworker's physical appearance.
 - Looking at someone in an "inappropriate" manner.
 - Displaying sexually "suggestive" pictures or objects.
 - Visiting pornographic websites or sending provocative emails.
 - Using foul language or making obscene gestures.

- **Victims of sexual harassment can be damaged emotionally, psychologically and even physically, and can often become less productive as well.**

- **This type of offensive behavior can poison the work environment for others too. It can:**
 - Interfere with the daily functioning of the workplace.
 - Increase absenteeism.
 - Drive employees to look for another job.

- **Sexual harassment can damage the reputation of a company and may lead to significant legal costs as well.**
 - So preventing this type of abusive workplace behavior should be a top priority for every company.

- **Each employee is the judge of what they themselves feel to be disturbing.**
- **So a company must take many things into account when establishing what types of behavior and language will and will not be acceptable in the workplace.**
 - These rules should be laid out in a written "sexual harassment policy".
- **The policy should start with the basics, including:**
 - A clear and concise definition of what constitutes sexual harassment.
 - A statement that the company will not tolerate sexual harassment by any employee, manager or contractor.
- **It should also describe how a sexual harassment incident should be reported, and how it will be investigated by management.**
 - The policy should list the disciplinary actions that may be taken against harassers as well.
- **Make sure everyone in the department has a copy of the policy, including contractors and other temporary workers.**
- **Employees will also need "sexual harassment prevention" training so they know how to:**
 - Recognize unacceptable behavior.
 - Report it to company management.
- **Be sure to let them know that sexual harassment reports must include specific facts, such as:**
 - The date and time of the incident.
 - Who was involved.
 - The names of any witnesses.
 - What happened and what was said.
 - Why the person making the report feels that the behavior was sexually harassing.

- **Encourage employees to write this information down as soon as possible after a harassment incident.**
- **When you investigate an allegation of sexual harassment in your workplace, you have a legal and ethical responsibility to:**
 - Begin your investigation promptly.
 - Follow your company's sexual harassment policy.
 - Conduct your inquiry systematically to reach a fair resolution.
- **Any type of delay could make it look like you, and the company, might not be taking sexual harassment and employee well-being seriously.**
- **Whether a report of harassment is submitted by a victim or someone who witnessed the abuse you should take care to respect their feelings and keep the investigation confidential.**
 - Rumor and gossip will only hamper the investigation and increase discomfort and stress for those involved.
 - If someone does "catch wind" of the allegations, advise them that spreading rumors can be considered a form of abuse too.
- **To investigate a sexual harassment incident you will have to "invade the privacy" of victims, witnesses and the accused to some extent.**
 - You can keep this to a minimum by asking only about things that are directly related to the allegations.
- **Use discretion when asking questions.**
 - Take care to avoid showing bias for or against anyone, including the potential victim and the perpetrator.

- **As an investigator you also have a responsibility to assess the facts impartially and not "jump" to conclusions.**
 - Any perceived lack of fairness could lead to complaints being filed, even legal action.
- **If one of your people comes to you with a report about sexual harassment in your department, the way you respond is very important.**
 - You need to proceed systematically.
 - If you try to "wing it", any mistakes you make could come back to haunt you and your organization.
- **If you need guidance, you should consult your company's sexual harassment policy, or speak to another manager or an HR representative to get their input.**
- **There are a few general guidelines that you should follow when you receive a report. You need to:**
 - Show concern.
 - Take it seriously.
 - Keep it confidential.
- **Speak with the person who makes the report in private.**
 - Treat them with respect and sensitivity.
 - They shouldn't feel penalized in any way for coming forward.
- **If they become emotional during the interview, you shouldn't try to quiet them by "downplaying" the incident.**
 - They might think you don't take their report seriously.
- **Your goal is to identify the facts in the report and assess them.**
 - Thoroughly review the written record of the incident.
 - Listen carefully.
 - Ask questions.

- **Start your own "paper trail" by writing up a summary based on the report and your conversation with the originator.**
 - Have the victim or witness read your summary and sign it when they are satisfied that it is accurate.
- **Once you have obtained the victim's statement, your next step should be to interview the person they have accused.**
 - It can be helpful to begin your conversation with them on another subject.
- **Once you have established a dialog, introduce the topic of the alleged harassment.**
 - You might say something like, "I'm concerned about a report I heard regarding something you did recently...".
 - Explain the allegation and ask for "their side" of the story.
- **Observe the behavior of the alleged harasser.**
 - Pay attention to what they say and do.
 - Take notes to record your conversation as accurately as possible.
- **After the interview, create a summary of their responses and have them read and sign it.**
- **You may find that the descriptions of the incident given by the victim or witness and the alleged harasser are significantly different.**
 - To determine what really happened you may have to "dig deeper" by speaking to other employees who have been identified as possible witnesses to the incident.

- **When interviewing them, avoid providing any details about the incident that you already have.**
 - Don't confuse the issue by giving them information that was supplied by others.
 - Phrase your questions generally, but without being vague.
 - You might say something like, "Have you seen people making inappropriate comments or gestures to one of your coworkers recently?"
- **Obtaining information from witnesses can sometimes be difficult because many people are reluctant to "get involved". Remind them that:**
 - Sexual harassment is everyone's business.
 - Eliminating it from the workplace is the best thing for your department and the company.
- **The facts that you collect during a sexual harassment investigation provide the basis for resolving the issue in a way that is fair, for everyone who's involved.**
- **How you handle things will largely depend on two factors.**
 - The severity of the harassment.
 - How often the harassment has occurred.
- **Sometimes sexual harassment allegations are based on a simple misunderstanding.**
 - In these cases, the "severity" is close to zero.
 - No action may be required other than making sure that everyone is aware of what really transpired.
- **On the other hand, you may find the incident that you're investigating is just the "tip of the iceberg," and brings additional harassment to light.**

- **In any case where harassment has taken place, a company needs to demonstrate that it will not tolerate harassing behavior. At the very least, the harasser should be:**
 - Instructed to "cease and desist".
 - Warned that they will face disciplinary action if their conduct does not improve.
- **In situations where the harassment includes touching with sexual intent, or a manager is using their position to extort sexual favors from an employee, the harasser should probably be discharged.**
- **If you feel that you need help in making a final determination, consider contacting the EEOC itself.**
 - They can provide information and even act as a mediator in resolving the situation, if necessary.
 - Involving the EEOC also shows that you and your company are making a "good faith" effort to "do the right thing".
- **Once a harasser has been dealt with, you need to ensure that the victim is able to return to a "positive" work environment.**
 - For instance, if the harasser is still with the company and the victim feels uneasy working around them, you may need to adjust work schedules or arrange a transfer to keep the two separated.
 - Be careful that you do not appear to be "punishing" the victim in any way.

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- **Treat all reports of sexual harassment seriously, and look into the allegations promptly.**
- **Respect the privacy of everyone who is involved in the alleged harassment.**

- **Make sure that a written description of the incident is included with any sexual harassment report that you receive.**
- **Take care not to show bias in your investigation.**
- **Gather the facts and assess them before you make up your mind as to what happened**
- **Looking into allegations of sexual harassment is serious business. Now that you know how the process works, and the procedures that will help to ensure a fair resolution, you can do your part to keep sexual harassment out of your workplace!**