

Effective and Interactive Sexual Harassment Training

Presented by:

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WHAT YOU WILL LEARN

During this presentation you will learn:

- How to effectively use 'live theater' in mandated on-site harassment training programs
- Live and online training techniques that clarify types of behaviors always prohibited by an employer's harassment policy
- Fifteen questions to ask to determine if harassment training is effective and legally defensible
- Eight post-harassment investigation questions to ask to determine if a healing process is necessary
- Definitions of the healing process
- Five guidelines for effectively creating a healing process

Important:

The information in this handout is not intended to be all inclusive nor to serve as legal advice.



Anderson-davis, Inc.

ANDERSON-DAVIS, INC., Est. 1980, is the most experienced sexual harassment training company in North America, which provides the following:

eLEARNING COURSES

- Cross Generation – Diversity
- Diversity
- Ethics
- Sexual and Protected Characteristics Harassment
- Substance Abuse

CUSTOMIZED LIVE TRAINING PROGRAMS - Blended learning with eLearning courses

- Cross Generation – Diversity
- Diversity
- Harassment Investigations and the Healing Process
- Sexual and Protected Characteristics Harassment

DVD/VIDEO-BASED TRAINING PROGRAMS - Available as on-line video streaming and blended learning with eLearning courses and/or live training

- Managing a Harassment-Free & Diverse Workplace (Supervisor)
- It's Everybody's Workplace – When It's Inclusive & Harassment-Free (for Non-Supervisors)

CONSULTATION SERVICES

- Expert/consulting witness in sexual harassment and sex discrimination court cases
- Workplace harassment and discrimination investigations
- Healing workplaces impacted by sexual harassment/harassment/discrimination complaints/investigations

Stephen F. Anderson, President of Anderson-davis, Inc. is an innovator in the design and delivery of effective sexual harassment, supervisory skills and diversity training programs since 1972. He has trained over 140,000 employees in the public, private, military and academic sectors. Stephen's sexual harassment training methodology has been featured on *Oprah* and *20/20*. Since 1984 Mr. Anderson has been retained as an expert witness in sexual harassment and sex discrimination court cases. Stephen wrote and produced the award winning *Respect vs. Harassment*, sexual harassment compliance video-based training programs. Mr. Anderson has a B.A. in Psychology and a M.A. in Personnel Administration.

‘BEST PRACTICES’ ‘LIVE THEATER’ HARASSMENT TRAINING METHODS

Training regulations and case law do not teach trainers ‘best practices’ and practical methods to effectively engage participants in mandated harassment training programs.

1. “The Bachelor Party”

- a. Is any of their behavior prohibited by the (employers) sexual harassment policy if no one is offended by their discussion?

Yes _____ No _____

Please explain your answer:

- b. Based on the (employers) sexual harassment policy, what are you expected to do if you saw this interaction in your workplace and you are:

- Their supervisor

- Not their supervisor

EXAMPLES OF PROHIBITED BEHAVIOR

In addition to the Federal and State laws, (employers) policy requires us to maintain a workplace free from discrimination and harassment. (Employer) considers the following types of behaviors to never be acceptable in its work environments, even if welcome by employees participating in that behavior.

DESCRIPTION OF SUPERVISOR'S 'TRAINING PROGRAM OBJECTIVES'

The learning objectives of the training mandated by California Government Code section 12950.1 shall be: 1) to assist California employers in changing or modifying workplace behaviors that create or contribute to "sexual harassment" as that term is defined in California and federal law; and 2) to develop, foster and encourage a set of values in supervisory employees who complete mandated training that will assist them in preventing and effectively responding to incidents of sexual harassment.

Towards that end, the training mandated by California Government Code section 12950.1, shall include but is not limited to:

- (1) A definition of unlawful sexual harassment under the Fair Employment and Housing Act and Title VII of the federal Civil Rights Act of 1964. In addition to a definition of sexual harassment, an employer may provide a definition of and train about other forms of harassment covered by the FEHA, as specified at Government Code section 12940, subdivision (j), and discuss how harassment of an employee can cover more than one basis.
- (2) FEHA and Title VII statutory provisions and case law principles concerning the prohibition against and the prevention of unlawful sexual harassment, discrimination and retaliation in employment.
- (3) The types of conduct that constitutes sexual harassment.
- (4) Remedies available for sexual harassment.
- (5) Strategies to prevent sexual harassment in the workplace.
- (6) "Practical examples," such as factual scenarios taken from case law, news and media accounts, hypotheticals based on workplace situations and other sources which illustrate sexual harassment, discrimination and retaliation using training modalities such as role plays, case studies and group discussions.
- (7) The limited confidentiality of the complaint process.
- (8) Resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment.
- (9) The employer's obligation to conduct an effective workplace investigation of a harassment complaint.
- (10) Training on what to do if the supervisor is personally accused of harassment.
- (11) The essential elements of an anti-harassment policy and how to utilize it if a harassment complaint is filed.

NOTE:

Either the employer's policy or a sample policy shall be provided to the supervisors. Regardless of whether the employer's policy is used as part of the training, the employer shall give each supervisor a copy of its anti-harassment policy and require each supervisor to read and to acknowledge receipt of that policy.

'BEST PRACTICES' eLEARNING CHECKLIST

Anderson-davis, Inc.

Effective harassment eLearning can teach harassment prevention, resolution skills, clarify an employer's harassment policy/complaint process to supervisors and non-supervisors and create a learning experience very similar to live training.

Use this checklist for reviewing/selecting eLearning training for your firm and clients.

Name of eLearning training program:

Audience: Supervisor _____ Non Supervisor _____ Both _____

Length of core program:

Does the eLearning course include the following:

1. Yes _____ No _____
Episodic video scenarios that begin in the introduction lesson and continue through the course's post-test are used to increase awareness and to provide resolution skills building activities
2. Yes _____ No _____
A virtual coach (with over 10 years of designing and delivering on-site harassment training experience) to answer supervisor's and non-supervisor's FAQ's
3. Yes _____ No _____
A female and male narrator
4. Yes _____ No _____
Narrators coach the learner without lecturing or preaching, and frequently refer to and clarify their employer's harassment policy and complaint process
5. Yes _____ No _____
The supervisor course meets California and Connecticut's mandated supervisor harassment training requirements, if applicable
6. Yes _____ No _____
Includes diverse and contemporary workplace scenarios
7. Yes _____ No _____
Interactive activities keep the learner engaged by having them frequently apply content and resolution skills demonstrated during the course
8. Yes _____ No _____
Separate and/or additional training lessons, in supervisor and non-supervisor versions, that are used to provide additional video scenarios and content and to reinforce the "core" course's content, learning objectives and resolution skills

9. Yes _____ No _____
Participants learn and apply objective methods to recognize subtle sexual harassment, when the recipient has not said, "stop"
10. Yes _____ No _____
The Supervisor course includes content and a skill-building activity that teaches them how to appropriately receive a harassment complaint, respond to the complainant's concerns and questions, and to avoid costly mistakes
11. Yes _____ No _____
The Supervisor course includes content and a skill-building activity that teaches them when and how to intervene to stop behavior prohibited by their employer's harassment policy, when no complaint, and to effectively deal with a hostile harasser
12. Yes _____ No _____
The Non-supervisor's course includes content that dramatizes how employees can help or hinder the resolution of harassment situations
13. Yes _____ No _____
The Non-supervisor's course includes content that dramatizes how employees create and can prevent retaliation situations
14. Yes _____ No _____
The course is built using a directed learning path that prevents the learner from bypassing content and activities
15. Yes _____ No _____
An audio and non-audio version of each course (Section 508 compliant)
16. Yes _____ No _____
Course is personalized with in depth information to include:
- a. Yes _____ No _____
Employer's policy against harassment and complaint process
 - b. Yes _____ No _____
An email link in the course to client's complaint department if the participant wants to ask a question about policy and complaint process or needs guidance
 - c. Yes _____ No _____
Display of in-house contact information which includes their title, telephone number and email address
 - d. Yes _____ No _____
Display of a 'clarification' of client's policy and complaint process document that includes each employer's answers to supervisor and non-supervisor FAQ's

17. Yes _____ No _____
Course can be customized with an executive introduction video and video scenarios dramatizing client's work environment situations
18. Yes _____ No _____
Includes a hosted solution that provides learner completion tracking to assure documented compliance
19. Yes _____ No _____
Includes "I agree" documentation buttons that the learner clicks to verify that they have read and understood their employer's policy, complaint process, content of the course and know who to contact for guidance
20. Yes _____ No _____
Is SCORM, AICC and Section 508 compliant
21. Yes _____ No _____
Includes option to customize text on pages, PDF files, flash scenarios and landing page
22. Yes _____ No _____
Content, i.e., discussion questions and their answers, receiving complaint and intervention skills and techniques, how to identify subtle harassment when the recipient has not said stop; that has been field-tested in at least 100 on-site harassment training programs delivered to a cross-section of white and blue collar workplaces
- Has SME expertise to write, produce and create customized flash and video scenarios
23. Yes _____ No _____
Number of video and/or still picture (with audio) scenarios in core program: _____
(I recommend a minimum of 25 different scenarios for supervisors and 12 for the employee course)

Total of this eLearning program's 'Best Practices' responses:

'Yes' _____ 'No' _____

Note:

Duplication of the 'Best Practices' eLearning Checklist is allowed **only** for use in your firm and with your clients.

POST INVESTIGATION REVIEW

Review your investigation by answering the following questions to determine if issues exist that can or do affect the resolution of the complaint and/or indicate that a healing process should occur.

1. How many others are aware of or have heard rumors about what happened and who was involved?
2. How did witnesses and employees view the complainant and accused prior to the complaint and its investigation? Now?
3. Did other issues exist in the workplace or between the complainant and accused prior to the complaint that were creating problems, (i.e., low morale, high turnover, intergroup conflict, low trust, poor communications, etc.) that negatively impacted the workplace? If yes, how? Should that/those issue(s) be addressed as part of or separately from the investigation and/or healing process? If yes, how?
4. How do employees feel about how the investigation was conducted, if aware of the investigation? Can those feelings impact the complainant/accused after the investigation is concluded?
5. How do witnesses feel they were treated during the investigation?
6. What impact, if any, did the investigation and/or its resolution and/or corrective action, if applicable, have on employees, management, workplace and/or others, (i.e., clients, vendors, etc.)? If there was a negative impact, how and when should that be addressed?
7. Does the complainant, accused, witnesses and employees understand what [sexual] harassment is and how the City and County of Denver's [sexual]/non harassment policies and complaint procedures work?
8. Do any witnesses have current or future concerns about retaliation because of their participation in the investigation?

The answers to these questions may require the employer to take additional actions, beyond their initial investigation and its resolution to resolve other workplace issues.

HEALING PROCESS

Healing employees and the workplace impacted by harassment/discrimination complaints/investigations is a critical but often neglected aspect of most employers' harassment/discrimination investigation and resolution process.

The healing process, in the context of this program, includes all of the processes an employer uses to:

- a. Investigate (sexual) harassment/discrimination complaints
- b. Resolve (sexual) harassment complaints/situations
- c. Identify, correct and/or resolve the harm done (if any) by [sexual] harassment/discrimination that occurred
- d. Heal work relationships impacted (if any) by [sexual] harassment/discrimination and/or the investigation and resolution of harassment/discrimination complaint

The information and processes provided are based on Stephen Anderson's thirty years of consulting and training experiences and his work with his colleagues, human resources professionals, employee assistance, psychologists, and attorneys who have addressed these issues.

(SAMPLE) HEALING PROCESS GUIDELINES FOR PREVENTING TITLE VII RETALIATION COMPLAINTS

If the complainant and his/her harasser will work together after the investigation and there are unresolved issues between them, it is important to facilitate a healing process between them. Before setting up and facilitating the meeting:

1. Talk with legal and their manager about documentation, what they will want to know about what the complainant and accused talked about, how their supervisor will monitor their work environment to ensure that there is no retaliation and that the prohibited behavior stops, how will they determine if this healing process is successful, and how will the harasser be held accountable if he/she does not stop doing unwelcome behavior and/or retaliates against the recipient, witnesses and/or others.
2. Ask the complainant and accused who would he/she like to facilitate that meeting and ask each person to provide the facilitator with an outline of what each person wants to talk about and accomplish during that meeting.
3. Identify an effective facilitator. He/she will have in depth knowledge of [sexual] harassment and legal issues, the healing process and be skilled in conflict resolution.
4. Before the meeting the facilitator should talk with the investigator, legal, complainant and accused; write a meeting agenda, identify specific issues that need to be resolved, establish ground rules for the meeting, and identify each party's responsibilities during the meeting.
5. The goals of the facilitated meeting typically include:
 - a. Each party listens and tries to understand, though he/she may not agree with what is said, what the other party says.
 - b. The accused takes responsibility for doing his/her unwelcome behavior.
 - c. Determine if there are any misunderstandings, if applicable, and identify methods to avoid, recognize, and resolve them in the future.
 - d. Agree on how they will treat the other person in the future.
 - e. Identify communication techniques to effectively and respectfully talk about issues in the future.
 - f. Agree on what each person will do to create a professional and respectful work relationship between themselves.

Important:

The key objectives of this meeting are to teach them how to talk directly to each other, listen effectively, create a mutual understanding and to improve their work relationship.

