The Realities & Legalities of Workforce Harassment

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BELIEVE WOMEN!
• Prior to the #metoo movement, there has been little data collected on the national prevalence of sexual harassment

• An online survey launched in January by a nonprofit called Stop Street Harassment offers some of that missing evidence.

• It found that 81 percent of women and 43 percent of men had experienced some form of sexual harassment during their lifetime.
48 percent of women said they experienced sexual harassment at the workplace - NBC/WSJ poll
**Victims Suffer From Anxiety, Depression**

Respondents reported a range of effects of or responses to sexual harassment and assault.

<table>
<thead>
<tr>
<th>WOMEN</th>
<th>MEN</th>
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<tbody>
<tr>
<td>Felt anxious or depressed</td>
<td>31%</td>
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<tr>
<td>Changed their route or regular routine</td>
<td>23%</td>
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<tr>
<td>Ended a relationship, such as a friendship or romantic relationship</td>
<td>15%</td>
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<td>Filed an official report to an authority figure, such as the police</td>
<td>10%</td>
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<tr>
<td>Changed jobs, quit a job or sought a new job assignment</td>
<td>9%</td>
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<td>Sought medical help, including mental health counseling</td>
<td>7%</td>
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<tr>
<td>Stopped a hobby/activity or stopped participating in a community</td>
<td>5%</td>
</tr>
<tr>
<td>Moved from a dorm, apartment, house or other form of residence</td>
<td>5%</td>
</tr>
<tr>
<td>Changed schools, dropped out of a school or dropped a course</td>
<td>2%</td>
</tr>
<tr>
<td>Confronted the person</td>
<td>1%</td>
</tr>
<tr>
<td>Other</td>
<td>4%</td>
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</table>
Another 2017 poll by ABC News-Washington Post found that 33 million U.S. women have been sexually harassed at the workplace. Thirty per cent of victims said the harasser was a male colleague and 25 per cent said the harasser was a man with power over their career.
No One Knows What “Sexual Harassment” Means

The EEOC discovered that, when asked outright if they experienced sexual harassment, 25 per cent of respondents answered yes.

When specific acts of harassment were named that number climbed to 60 per cent.
No One Knows What “Sexual Harassment” Means

Cosmopolitan’s online survey found that 16 per cent of women claimed to have not been sexually harassed but said they had experienced sexual remarks.

A 2017 survey conducted by The Barna Group found major differences in the ways that men and women view sexual harassment.
No One Knows What “Sexual Harassment” Means

When presented with a list of 20 behaviors (ranging from groping to light-hearted flirting), in all but one case men were less likely than women to label an act as sexual harassment.

The one exception was a tie: 12 per cent of men and 12 per cent of women labeled light-hearted flirting as sexual harassment.

Someone pushing against you on public transit is seen as sexual harassment by 70 per cent of women but only 52 per cent of men. The genders also disagree on sexual comments about a person’s looks or body. Here, 86 per cent of women and 70 per cent of men say it’s sexual harassment.
Sexual Harassment Victims: Age

A 2017 CNBC survey found that 16 per cent of 18-to-34-year-olds have been sexually harassed. That number jumped to 25 per cent for the 50 to 64 age group.

A separate 2017 study by The Barna Group found that Millennials and individuals of Generation X are twice as likely as seniors to say they’ve been a victim of sexual harassment.
38% said the harassment came from a male boss.

More than 70%, however, did not report their abuse.
HOW EFFECTIVE IS HR AT HANDLING SEXUAL HARASSMENT COMPLAINTS?

IT DEPENDS ON WHO YOU ASK AND WHAT THEIR ROLE IS.

94% OF MEN IN HR AND 48% OF MEN OUTSIDE HR BELIEVE THEIR ORGANIZATIONS ARE EFFECTIVE.

COMPARED TO 60% OF WOMEN IN HR AND 26% OF WOMEN OUTSIDE HR.
WHAT ARE WE TO DO??
Sexual Harassment Resource Guide

• SEXUAL HARASSMENT RESOURCE GUIDE FOR THE ORTHOTIC AND PROSTHETIC PROFESSION
• An O&P Alliance Resource created by sub-committee of O&P Alliance
• Found on websites of all O&P Alliance industry leaders:
  • AAOP, ABC, AOPA, BOC, NAAOP & NCOPE
  • https://www.abcop.org/WhoWeAre/Documents/Sexual%20Harassment%20Resource%20Guide.pdf
Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employers from discriminating against employees on the basis of sex, race, color, national origin and religion. It generally applies to employers with 15 or more employees, including federal, state and local governments.

Protected Class Law and Legal Definition. ... Federal protected classes now include race, color, national origin, religion, sex (or gender), age (over 40), and disability. State law (HEPA) further protects ancestry, marital status, sexual orientation, as well as arrest and court record (in most cases).
Harassment in Report: Not Limited to Illegal Harassment

Harassment, for purposes of the report, is defined as unwelcome or offensive conduct in the workplace that:

a) is based on sex (including sexual orientation, pregnancy, and gender identity), race, color, national origin, religion, age, disability, and/or genetic information; AND

b) is detrimental to an employee’s work performance, professional advancement, and/or mental health.
Range of Possible Unwelcome Harassment

• Offensive jokes, slurs, epithets or name calling
• Offensive objects or pictures.
• Unwelcome touching or contact
• Physical threats or assaults
• Ridicule, mockery, or put-downs
• Constant or unwelcome questions about an individual’s identity
• Undue attention
Risk Factors in Workplace

• Homogenous workforces
• Workforces with many young workers
• Isolated workspaces
• Cultural and language differences in the workplace
• Workplaces that rely on customer service or client satisfaction
• Decentralized workplaces
• Workplaces where work is monotonous or consists of low-intensity tasks
• Workplaces with significant power disparities
Why is Harassment Underreported?

FEAR

• Humiliation
• Ostracism
• Damage to Reputation
• Damage to Career
• Retaliation
• Inaction
• Blame
• Disbelief
Fear of Retaliation Not Unfounded

• One study found that 75% of employees who spoke out against workplace mistreatment faced some form of retaliation.

• Other studies found that sexual harassment reporting is often followed by:
  - organizational indifference
  - trivialization of the harassment complaint
  - hostility and reprisals against the victims
Common Responses to Harassment

- Endure the behavior
- Avoid the harasser
- Downplay the gravity of the situation
- Seek support from family and friends
- Leave the job, if possible
EEOC Task Force Findings

• Workplace harassment remains a persistent problem.
• Workplace harassment too often goes unreported.
• There is a compelling business case for preventing harassment.
• EEOC has some creative ideas
• Leadership and accountability can help prevent harassment.
EEOC Findings Encourage Training

- Workplace risk factors should be evaluated
- Training is important, but it needs to be the right training.
- Employers need compliance training that is effective.
- Employers should also consider workplace civility training and bystander intervention training.
A Compelling Business Case: Employers Should Care about Stopping Harassment

• Moral & Legal Obligation:
  • Employers should care about stopping harassment because harassment is wrong – and, in many cases, illegal.
  • Workplace harassment will always cause harm to the target.
• Employers should also stop harassment because it makes good business sense:
  • Adverse impact on health & workplace productivity of coworkers who witness harassment
  • Job Turnover
  • Reputational Harm
Detrimental Effects to Health Impact & Workplace Productivity

- Psychological Harm: depression, anxiety, PTSD, negative mood, eating disorders, self-blame, anger, substance abuse
- Physical Harm: headaches, exhaustion, sleep problems, Nausea, weight changes, cardiovascular issues, gastric issues, respiratory issues
- Workplace Productivity: decreased productivity, job dissatisfaction, work withdrawal, disengagement, tardiness, excessive absenteeism, work time spent discussing the harassment
- Workplace tension - Effect on Workplace functioning & on physical and psychological health
Job Turnover

Job turnover is potentially the largest single component of the overall cost of harassment.
Perils of the Superstar Harasser

• Employers often make a wrong cost-benefit analysis when faced with allegations of harassment against a highly valued employee.
• Employers are often tempted to ignore misconduct for fear of cost to the organization.
• In reality, the cost of allowing harassment to go unchecked is higher than the cost of losing a highly valued employee.
Reality

Workplaces that tolerate harassment have more of it.
Workplaces that are not tolerant of harassment have less of it.
Holistic Prevention Method

- Leadership
- Policy
- Reporting Procedures
- Training
- Creativity
Leadership: It Starts at the Top

• Values: Leaders believe harassment is wrong and should not occur in the workplace. Leaders convey a sense of urgency in stopping and preventing harassment.

• Authenticity: Workers believe that leaders mean what they say.

• Awareness: Leadership knows about the prevalence of workplace harassment: e.g., via climate surveys.

• Accountability: Leaders address harassment in a swift, effective, and proportionate manner. Leadership holds managers accountable for stopping harassment.
Front line Management is Key

- Frontline managers must be trained on how to respond to reports or observations of harassment in a swift and correct manner.
- Frontline managers should be held accountable for their responses to harassment – using discipline or accolades.
- The extent of harassment in a manager’s division is not necessarily best measured by the number of complaints from that division.
Policy: Anti-Harassment Policies

• Drafted in simple and clear language
• Clear explanation of prohibited conduct, including examples
• Protection against retaliation for employees who make complaints or participate in the investigation
• Clearly described complaint process with multiple, accessible avenues of complaint and a prompt, thorough, and impartial investigation
• Assurance that the employer will protect the confidentiality of harassment complaints to the extent possible
• Assurance that the employer will take immediate and proportionate corrective action and respond appropriately to behavior
Reporting & Investigating Procedures

- Well-resourced with well-trained investigators
- Take complaints seriously and offer a supportive environment
- Protect against retaliation and keep information confidential to the extent possible
- Provide timely responses and investigations
- Fair to all parties
- Consider testing procedures to see how well they work in practice.
Effective Training

1) Uses a live, interactive trainer
2) Provides examples tailored to the specific workplace
3) Explains unacceptable conduct, not illegal conduct
4) Provides information to change behaviors, not attitudes
5) Explains easy steps on how to report unwelcome conduct
6) Teaches managers how to respond to unacceptable conduct
Creativity: Also Consider Workplace Civility & Bystander Trainings

• Workplace Civility Training:
  • Focused on creating a civil and respectful workplace for all.
  • Not focused on status-based characteristics.
  • Teaches employees to increase their self-awareness of respectful behavior.
  • Provides employees with the skills to control their actions and reactions to people and situations.

• Bystander Intervention Training :
  • Deployed frequently on college campuses to reduce sexual assault.
  • Teaches individuals to recognize warning signs of sexual assault.
  • Creates a sense of collective responsibility and confidence to intervene.
  • Empowers individuals by giving them the realistic, actionable options for intervention.
What would this look like in the workplace?

• Unacceptable Behavior: Workers would know what behavior is unacceptable.
• Collective Responsibility: Workers would feel collectively responsible for having a harassment-free workplace
• Tools and Training: Workers would be given tools and training for intervention, specific to that workplace.
• Rewards, not Retaliation: Workers who stop harassment would be rewarded, not retaliated against.
EEOC Can Help Create Holistic Prevention Efforts

• EEOC agreements in the private sector (settlements, conciliations, & consent decrees) and the federal sector can require effective:
  • Policies
  • Reporting and investigation procedures
  • Compliance training.
• The three checklists for those aspects of a prevention effort, as well as the checklist on leadership, can be used in guiding agreements.

Just search for Sexual Harassment Posters
Find the one best for your company
Corporate Compliance & Ethics Week November 3-9, 2019

Take TIME to Review policies INTERACTIVELY with ALL STAFF!
“Never doubt that a small group of thoughtful, committed, citizens can change the world. Indeed, it is the only thing that ever has.”
— Margaret Mead
Questions?

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