

Executive Anti-Sexual Harassment Overview

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*Ace Learning and Consulting
Your Success is in the Cards!*





Who am I?

Rob Dibble

- ▶ Learning and Development for nearly 20 years
- ▶ Wachovia, LPL Financial, Wells Fargo, Peak 10
- ▶ Founded Ace Learning and Consulting in 2016
- ▶ Manager and Employee Training
 - ▶ Leadership
 - ▶ Communication (DISC)
 - ▶ Emotional Intelligence
 - ▶ Time Management
 - ▶ Coaching
- ▶ HR Training
 - ▶ Workplace Harassment
 - ▶ Diversity



In the News

#METOO

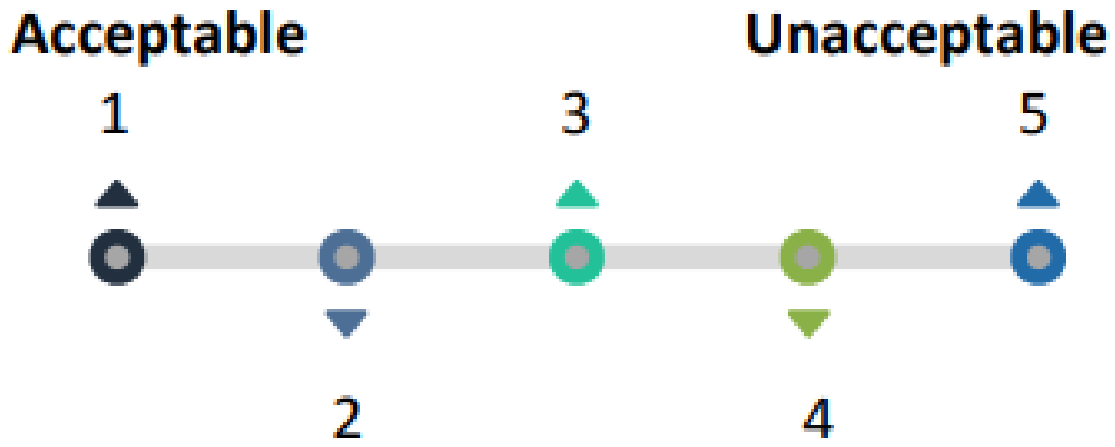
- ▶ Harvey Weinstein
- ▶ Matt Lauer
- ▶ Kevin Spacey
- ▶ Charlie Rose
- ▶ Bill Cosby
- ▶ Lots more!

In the forefront like never before!



Human Continuum

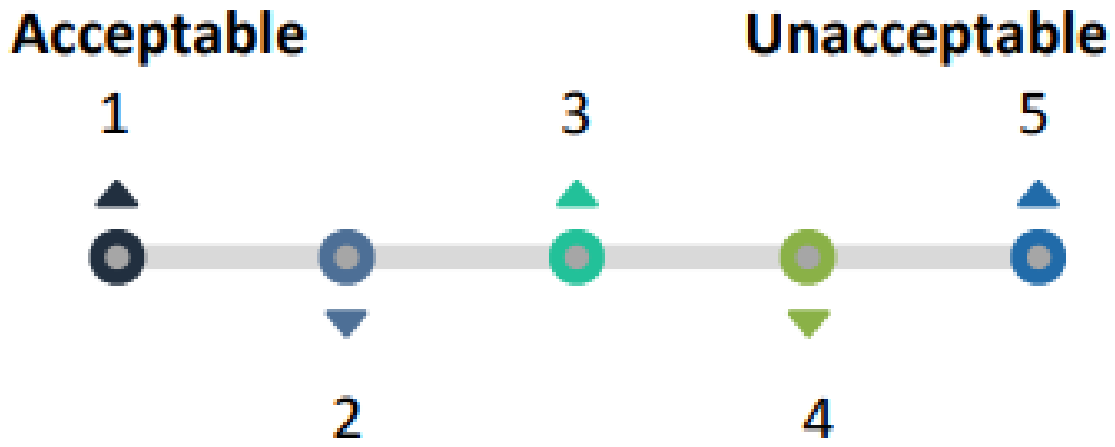
An employee buys a coworker a very expensive watch for their birthday.





Human Continuum

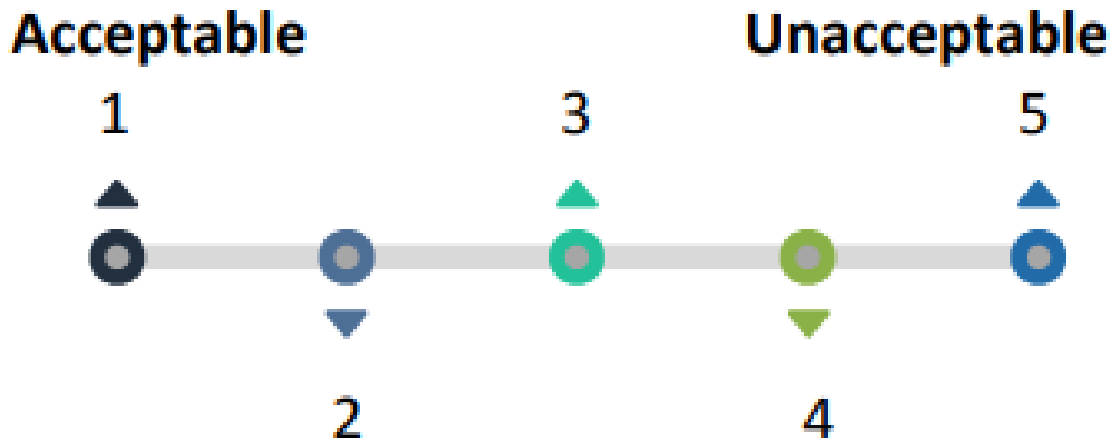
A supervisor brings Starbucks coffee every morning to just one of her direct reports, because she once mentioned that this was her favorite drink.





Human Continuum

A supervisor tells their direct report, “If you are interested, there may be a way to get a bigger raise. Let’s talk about it over dinner tonight.”





What is Sexual Harassment?

- ▶ *Unwelcome* sexual advances
- ▶ Requests for sexual favors
- ▶ Other verbal or physical conduct of a sexual nature that affects an individuals' employment, unreasonably interferes with his/her work performance, or creates an intimidating, hostile or offensive work environment.



Two Forms of Sexual Harassment

Two forms of sexual harassment

- ▶ Quid pro quo (Latin for “this for that” or “something for something”)
- ▶ Hostile Work Environment



Quid pro Quo

- ▶ Tangible employment action against the victim
- ▶ Involves monetary loss or change in job
 - ▶ Example: Mary Smith receives smaller pay increase based on performance than other employees with similar performance because she refused to go out with her supervisor, John Doe.



Hostile Work Environment

- ▶ Speech or conduct that is severe and/or pervasive enough to create an abusive or hostile work environment.

- ▶ Example: Mike Maloney is leering (elevator eyes) at and intentionally brushing against Sally Davis.



Hostile Work Environment (cont'd)

- ▶ In addition to speech and/or conduct that is explicit, hostile work environment includes suggestive items displayed in the workplace that interfere with job performance or that create an abusive or hostile work environment.
 - ▶ Example: Jill Jones has a 9” x 12” calendar of near nude males on her cubicle wall visible to passersby.



Who can be involved in sexual harassment?

- ▶ Those who commit - employees at all levels, customers, members of the same sex.
- ▶ Those who are targeted - victims
- ▶ Bystanders and, in some cases, witnesses who are affected by the harassment



What is Retaliation?

Retaliation is defined as an adverse action taken against an employee because he/she complained of harassment or discrimination.

- Adverse action includes demotion, discipline, termination, salary reduction, negative performance appraisal, change in job duties or shift assignment.



What is Retaliation (Cont'd)

- ▶ Anti-discrimination laws prohibit employers from taking adverse action against employees for asserting their rights.
- ▶ When an employee complains of sexual harassment to you or to others in the company or to a government agency, you must not take any action that the employee may view as punishment or retaliation for filing the complaint.



Retaliation (Cont'd)

To succeed in a retaliation claim, an employee must prove the following:

- ▶ That he/she engaged in a protected activity, such as complaining of sexual harassment.
- ▶ That he/she suffered an adverse employment action, such as demotion, termination.
- ▶ That the protected activity and adverse action are linked.



Retaliation (Cont'd)

To avoid charges of retaliation:

- ▶ Document the reason for any adverse employment against an employee. Make sure that the documentation shows no discriminatory reason for the adverse action.
- ▶ Do NOT take any adverse action against an employee who has complained of sexual harassment without discussing with and obtaining approval from the HR or legal counsel.



Why it's Important

Why is it important to prevent sexual harassment in our workplace?

- ▶ Sexual harassment harms us all. The most important part of corporate values is to ensure all employees are treated with respect and dignity. Engaging in, condoning, or not reporting sexual harassment are in direct conflict with our values.
- ▶ Compliance with Civil Rights Act which prohibits sex discrimination (including gender identity, change of sex and/or transgender status).
- ▶ Compliance with similar state civil rights laws and fair employment laws.



Why it's Important (cont'd)

Liability for the employer may be under federal or state law or civil litigation.

- The company is always responsible for harassment by a supervisor that results in a **tangible employment** action such as a hiring, firing, promotion, demotion, change in pay or benefits, and work duties. This would be the Quid pro Quo type of sexual harassment.



Why it's Important (cont'd)

If the harassment does not result in a tangible employment action, the employer may still be liable unless it proves that:

- 1) it exercised reasonable care to prevent and promptly correct any harassment;

and

- 1) the employee unreasonably failed to complain to management or to avoid harm otherwise (6 months/180 days).



Sexual Harassment Judgments

In Fiscal Year 2016, the EEOC (Equal Employment Opportunity Commission) resolved 12,860 sexual harassment cases and recovered \$40.7 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

https://www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment_new.cfm



Sexual Harassment Judgments (Cont'd)

One of largest and most publicized EEOC settlements:

- ▶ Mitsubishi (1998) - \$34 million. EEOC sued contending that women on the assembly line in an IL factory were groped, insulted, and subjected to raunchy insults. Women also alleged male coworkers and supervisors kissed and fondled them, demanded sexual favors, and retaliated against those who refused.



Sexual Harassment Judgments (Cont'd)

Another case:

\$3.5 million - Baker and McKenzie, world's largest law firm. Secretary Rena Weeks accused partner and firm of creating a hostile work environment and failing to take steps against a partner. A series of women at firm had complained of partner's sexual harassment but firm took no action against the partner. Firm actually transferred some of complainants and fired one.



What is Unacceptable Behavior?

- ▶ Physical contact that includes touching, pinching, patting, kissing, rubbing up against, fondling, groping, grabbing or assault.
- ▶ Interfering with or blocking movement;
- ▶ Verbal sexual advances or propositions;
- ▶ Suggestive or obscene letters, notes, invitations, or emails received at work or at home;
- ▶ Repeated face-to-face, telephone or email invitations after having refused.



Unacceptable Behavior

- ▶ Verbal abuse of a sexual nature, including a graphic comments about and individual's body, sexually degrading words to describe an individual;
- ▶ Unwanted sexual advances or attention;
- ▶ Obscene or suggestive sounds and/or gift;
- ▶ Frequent discussion of sexual acts;
- ▶ Leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons or posters;
- ▶ Making or using derogatory comments, epithets, slurs, and joke.
- ▶ Cell Phones!



Summary

Your responsibilities are to:

- ▶ Know and comply with your policy and procedures
- ▶ Immediately report any complaints you receive or incidents you witness to the HR
- ▶ Handle complaints from your employees in accordance with our policy and procedures
- ▶ Never retaliate against an employee who complains of sexual harassment
- ▶ Assist with investigations and disciplinary action
- ▶ Assure that victims are not adversely affected
- ▶ Make sure that sexual harassment stops and does not recur



Questions? Comments?