Revolutionizing How Employers Address Sexual- and Gender-Based Harassment and Violence

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EVERFI at a Glance

- 20+ Million Learners
  - Across The United States and Canada
- 730+ Financial Institutions
- 1,500+ Higher Education Institutions
- 25,000+ K12 Schools
- 1500+ Corporations & Municipalities
- 100+ Former Teachers/Administrators
Featured Speakers

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Note: The information provided via this webinar is not intended as legal advice. Please consult with your counsel regarding applicable legal requirements, risks, and practices for your organization.
In the first year following the start of #MeToo, more than 425 prominent leaders were publicly accused of sexual misconduct.

Source: PwC Strategy& (2019)
In higher education, we have seen numerous departures of presidents and senior leaders following harassment scandals at their institutions.
What is the number one type of workplace misconduct claim filed with the EEOC?
Retaliation

1.5 times more workplace retaliation claims than the next most common EEOC claim

Source: EEOC (2019)
Agenda

1. The Costs of Workplace Harassment
2. Organizational Risk Factors
3. Roadmap for Building a Holistic Harassment Prevention Strategy
5. The Most Common Issue that is Often Not on the Radar: Retaliation
Costs of Workplace Harassment: Legal Exposure

EEOC enforcement has greatly increased over the past year (FY 2018 data)

- 50% YOY increase in EEOC sexual harassment lawsuits (41 total)
- 47% EEOC recovered $70 million for victims of sexual harassment, a 47.4% increase over FY 2017
- 13.7% YOY increase in sexual harassment charges filed
Costs of Harassment: Organizational Impact

Sources: McLaughlin, Uggen & Blackstone (2017); Luca, Rooney & Smith (2016); Willness, Steel & Lee (2007).

- **Staff turnover**: Women who have been harassed are 6.5 times more likely to leave.

- **Reputation damage**: News coverage of scandals impacts college applications by -10% percent. Inability to recruit top talent.

- **Team productivity**: Loss of $22,500 in productivity per team member of a team impacted by harassment.
Does Your Organization Have Increased Risk?

Institutions and organizations with “superstar” or high value employees

Reliance upon customer service, client satisfaction, or sales

Workplaces with significant power disparities

Workplaces that tolerate or encourage alcohol consumption

Cultural and language differences in the workplace

Decentralized workplaces / isolated employees

Taking a New Approach

• Moving toward a holistic strategy and away from a “check the box” or incident-response based approach
• Using an affirmative, positive framework: promoting a speak-up culture of respect, inclusion, and empowerment
EVERFI Framework for a Comprehensive Harassment Prevention Strategy

**INSTITUTIONALIZATION**
- System-wide buy-in, visible commitment, and investment in effective prevention initiatives

**CRITICAL PROCESSES**
- The values and expectations of the organization, and the system of accountability to uphold and enforce them
- Using goal setting, strategic planning, and data analysis to inform and evaluate prevention work

**POLICY**
- Prevention training, programs, and communication strategies that maximize engagement and drive impact

**PROGRAMMING**
- The values and expectations of the organization, and the system of accountability to uphold and enforce them
Programming

Training, communication campaigns, focus groups, and other programs
Approaches for Workplace Programs and Training

- Make training more skills-based / positive approach
- Focus on “upstream” behaviors - not just illegal harassment
- Bystander intervention - more than just “see something, say something”
- Combating the “Pence Effect”
  - Mentorship and sponsorship programs
  - Executive coaching
  - Focus groups/surveys
Would Faculty & Staff Intervene?

- Would report discrimination: 68% (Peers) & 90% (Self)
- Would report harassment: 72% (Peers) & 90% (Self)
- Would intervene in harassment: 65% (Peers) & 87% (Self)

Source: EVERFI, Harassment and Discrimination Prevention (2019); n= 12,622
Policies and Procedures

Harassment-related policies, investigation procedures, and consistent enforcement
Check Your Policies

- Ensure they are clear and always accessible
- Include all types of harassment -- and non-retaliation
- Prohibit harmful behavior -- even if not illegal harassment
- Include positive values and conduct expectations
- Include multiple reporting channels
- Watch “zero tolerance” language
Improving Complaint Handling and Investigations

● Test your reporting system - is it working?

● Form a cross-functional complaint “triage” team (HR, Compliance, Legal, etc.)

● Close the information gap to create trust
  ○ Create posters showing the complaint-handling process (e.g., “What happens next after I call the hotline?”)
  ○ Publish standard investigation procedures
  ○ Hold report-out meetings with the complainant, the accused, and all interviewees
  ○ Publish case study examples or aggregate data about complaints and outcomes
University of Michigan

Issued a public report sharing information about reports of sexual misconduct concerning faculty, staff, and third parties.

- Number of reports
- How reports were addressed
- Findings - number and types
- Corrective actions for violations
- Prevention measures
“Al Capone Theory” of Misconduct

People who engage in one type of misconduct are likely to engage in others.

A report in one area should prompt us to look for other breaches.

Source: Aurora & Honeywell (2017)
Critical Processes

Using goal setting and data to inform and evaluate prevention work
Applying Rigorous Business Processes to Harassment Prevention

- Conduct a needs assessment
- Gather data
- Identify stakeholders
- Develop SMART goals
- Implement accountability measures
- Monitor progress and make adjustments
Institutionalization

Organization-wide buy-in, visible leadership commitment, and investment
Leaders are able to shift people’s views on social issues regardless of key characteristics that may already inform their opinions... The role leaders play in shaping the organizational climate is not merely correlational but causal.”

Making Harassment Prevention an Organization-Wide Priority

Visible commitment vs. behind-the-scenes support

- Send video or in-person messages to staff from President and/or Board
- Have executive-led conversations at employee meetings
- Use strong language to convey this is a priority issue
- Ensure leaders and supervisors attend all trainings
- Advocate for recurring funding and FTEs
- Hold all employees, managers, and executives accountable
University of Rochester

The University, under the leadership of President Richard Feldman, takes the safety of every member of our community seriously. This commitment is evident in the many policy revisions and programmatic and organizational enhancements that have taken place as part of President Feldman’s Culture of Respect initiatives...including:

**ACTIONS TAKEN**

- Updated training for all members of the academic community
- Updated guides with reporting options and resources
- Identified advisors to assist with the complaint process
What Will The Revolution Look Like?

Critical Processes Deep Dive

Using planning, data, and accountability mechanisms to inform and evaluate harassment prevention work
Critical Processes: Applying Rigorous Processes to Harassment Prevention

1. Conduct a needs assessment
2. Collect data (e.g., via climate surveys)
3. Engage internal and external stakeholders
4. Conduct strategic planning
5. Develop SMART goals
6. Implement accountability measures
7. Monitor ongoing performance and efficacy
8. Make needed adjustments
9. Plan future efforts
The situation:

Faculty and staff are seeing social media posts by their colleagues complaining of harassment.

Why aren’t they telling us within the institution?
Step 1: Conduct a Needs Assessment

Start with these questions:

➔ What issue are we trying to address?

➔ What data do we currently have about this issue and what data do we need?

➔ What are the opportunities and strengths of our organization in this area?

➔ What are the risks of not acting?

➔ Who are the internal (and possibly external) stakeholders we should engage in this effort?
Step 2: Gather and Analyze Data

1. Climate surveys
2. Employee engagement surveys
3. Harassment course surveys
4. Complaint information (contents, timing, sources, etc.)
5. Exit interview / survey data
6. Turnover statistics
7. Attendance / absenteeism data
8. Discussions with employees / managers
9. Glassdoor or other ratings sites
10. Other sources?
**Step 3: Engage Stakeholders**

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<thead>
<tr>
<th>Internal Stakeholders</th>
<th>External Stakeholders</th>
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<tbody>
<tr>
<td>HR/EEO/Legal</td>
<td>Board of directors</td>
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<tr>
<td>Executive team, managers</td>
<td>Ombudsperson</td>
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<tr>
<td>Employees (affinity groups, diversity/EEO</td>
<td>Consultant, outside legal counsel, other sources of information and expertise</td>
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<td>focused-groups, representative sample of staff, even former complainants)</td>
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Steps 4 through 6: Planning, SMART Goals, and Accountability Measures

Where is the most appropriate place to document our plan of action?
- Strategic plan
- Annual business operating plan
- Organizational / department goals

SMART Goals (Specific, Measurable, Attainable, Relevant, and Time-Based)
- Informed by your data
- Include supporting objectives, milestones/time for completion
- Assign to responsible staff
- Implement accountability measures (e.g., include in employees’ and managers’ performance goals/reviews)
Steps 7 through 9: Monitor Outcomes, Make Adjustments, Plan Future Efforts

Monitor Performance and Efficacy
Continue to gather and analyze data

Make Adjustments
E.g., increase and diversify communications about efforts

Implement new/revised strategies

Plan Future Efforts
New/revised goals and milestones
Additional Resources for Strategy Development

1. Leadership and Accountability
2. An Anti-Harassment Policy
3. A Harassment Reporting System and Investigations
4. Compliance Training
5. Chart of Risk Factors and Responsive Strategies

EEOC Checklists and Charts

- Leadership and Accountability
- An Anti-Harassment Policy
- A Harassment Reporting System and Investigations
- Compliance Training
- Chart of Risk Factors and Responsive Strategies

Everfi White Paper

- A Strategic Prevention Approach to Ending Harassment and Discrimination in the Academic Workplace

Resources:

- EEOC Checklists and Charts: https://www.eeoc.gov/eeoc/task_force/harassment/checklists.cfm
FINDING:
A system-wide change to the culture and climate in higher education is required to prevent and effectively address all three forms of sexual harassment

RECOMMENDATIONS:
- Create diverse, inclusive, and respectful environments
- Diffuse the hierarchical and dependent relationship between trainees and faculty
- Provide support for persons who experience harm
- Improve transparency and accountability
- Strive for strong and diverse leadership
- Make the entire academic community responsible for reducing and preventing sexual harassment

Source: National Academies of Science, Engineering and Medicine (2018)
Retaliation

The most common issue of all...and one that is often not on an organization’s radar
Doubling Down on Anti-Retaliation Efforts

Retaliation continues to be the most frequently filed type of EEOC charge by a large margin (48.8% of charges in FY 2017)

- Strong anti-retaliation policies
- Leaders communicate strong policy against retaliation
- After an investigation concludes:
  - Advise employees and managers on what retaliation is (and is not)
  - Provide strategies for interacting
  - Have HR or Legal review all proposed performance management actions, reviews, or any other meaningful change to workplace conditions before they are finalized/communicated
  - Don’t forget about witnesses!
Questions?