ESSENTIAL 29: Sexual Harassment for Employees



Key Takeaways:

– Learning about sexual harassment.
– Recognizing behaviors that might be considered sexual harassment.
– Learning the steps an employee should take if harassment occurs.
– Observing actions that can help prevent sexual harassment in their workplace.
– Acknowledging management responsibilities in responding to a harassment complaint.
– Understanding retaliation and identify examples.

Course Description

Unfortunately, sexual harassment in the workplace is a prevalent problem. Both employees and companies are significantly effected by sexual harassment; it can cause a loss of productivity, poor performance, disruptive work environments, and loss of good employees and managers. As well, sexual harassment is against the law as it is a form of sex discrimination.

Sometimes it seems grey on what is and isn’t sexual harassment. So, what does it look like?

Sexual Harassment Conditions In order for an act to be sexual harassment, these three criteria must be met: – Has to be sexual – Is be unwelcome – Is be severe or pervasive Often, employees do not report unwelcome conduct or behaviors because they fear of job loss or other retaliation, especially when a power dynamic exists between the victim and the harasser. Quid Pro Quo Sexual Harassment – The legal term, “Quid Pro Quo,” is Latin for “this for that”. – Involves an employee in a position of power, or a perceived position of power, who puts another person through unwelcome sexual conduct that affects, or is perceived to affect, the terms or conditions of employment. – Often a real or perceived job-related negative impact, such as loss of promotion, if the employee does not engage in the conduct. – Always unlawful whether or not the employee submits to the sexual activity. Hostile work environment sexual harassment: – Happens because of sexually harassing behaviors by a manager, supervisor, another employee, or a third party, that are sufficiently severe,

persistent or pervasive to unreasonably interfere with an employee’s job performance; – Will cause courts to employ “reasonable person” standard; – Can happen even when a person is not the target. Sexual harassment behaviors Include: – Sexual jokes – Sexually explicit emails, screen savers, text messages – Undesired verbal and physical contact, including touching, groping, hugging, kissing, patting or fondling, or intentional and repeated brushing or bumping against a person’s body – Continual letters, telephone calls, visits, or pressure for dates or sexual favors – Continual, unwanted flirting – Sexually suggestive “gifts” – “Stalking” behavior – Sexually crude hand gestures, leering at the body, or sexually suggestive winking – Spreading gossip about or rating others on sexual activity or performance Liability Quid Pro Quo – Always, the employer is held liable – Always, the harasser is held liable Hostile Work Environment – Always, the harasser is liable – Always, the employer is liable for harassment conducted a supervisor or manager – Employer and manager/supervisor are both liable for harassment by coworker, or third party if they: – Knew or should have known, and failed to take prompt, effective action – Generally, employers are not liable for Hostile Work Environment sexual harassment when they: – Use a policy against harassment – Use proper complaint procedures – Sufficiently communicate the policy and provide training to all employees – Act quickly and appropriately when an incident is reported or witnessed Actions To Take When Harassed – If you are comfortable, talk to the harasser in private – Ensure the harasser knows the problem by being specific – Communicate with your supervisor, manager, or the Human Resources Department No matter if you choose to talk to the harasser or report the harassment through formal channels, always document your discussions and actions and keep records. Ensure you detail as much information as possible, and at the very least record the dates, times, places, behaviors, people involved, and witnesses. Very important, witnesses can help to establish a pattern of behavior that is part of a larger problem, especially if several people are involved. What Prevents Sexual Harassment? – Creating and publicizing a sexual harassment policy that explicitly states sexual harassment will not be tolerated and that explains what types of conduct will be considered sexual harassment. – Creating and publicizing a specific procedure for resolving complaints of sexual harassment. – Establishing methods to educate new management and employees on the company’s sexual harassment policy and reporting procedure. – More than annually conducting sexual harassment awareness training for all employees. Sexual harassment is a crime that creates a whole host of problems in the workplace. Foremost, no one should have to work with the fear of being subjected to unwanted advances from colleagues. Sexual harassment has a chilling effect in the workplace that fractures working and personal relationships in the workplace, and damages the reputation of employers that foster such an environment. Liability is high in sexual harassment situations, so there is good reason to take every measure possible to deter sexual harassment behaviors.