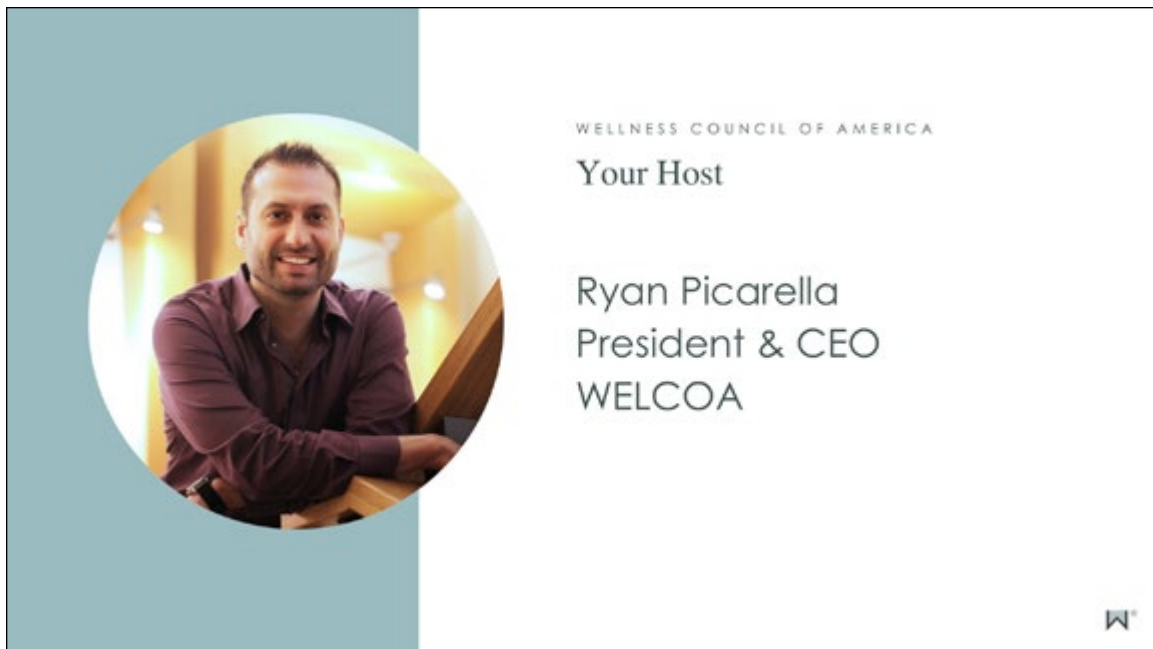


Protecting Culture and Preventing Harassment

Andie Gordman & Bryn Schoening



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WELCOA
WELLNESS COUNCIL OF AMERICA
WELLNESS WORKS HERE

ABOUT
WELCOA

OUR MISSION
WELCOA will recognize, educate, and provide tools and resources to improve behaviors, cultures, and the organizations we serve.

TRAINING
Achieve professional development goals through wellness training and certifications.

RESOURCES
Use the industry's most sought-after benchmarking tools to measure wellness program effectiveness.

WELL WORKPLACE
Gain recognition for making big impacts in the wellness community.

W*

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WELCOA★ **SUMMIT**
SAN DIEGO // AUGUST 15-17, 2018
#WELCOASUMMIT

Go to: welcoa.org/training/annual-summit

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WELLNESS COUNCIL OF AMERICA
WELCOA's 2018/Q2 Training Schedule



 <p>LIVE CURRENT EVENT COURSE Who Are You at Your Best? Presenters: Chris White, MBA and Monica Worline, PhD Wednesday – April 11 10:00 AM – 11:00 AM CT</p>	 <p>LIVE CURRENT EVENT COURSE Movement Motivation @ Work Presenter: Celestee Roufs Wednesday – June 13 10:00 AM – 11:00 AM CT</p>
 <p>WELCOA INSTITUTE CERTIFICATION Staying on Top of Your Game Presenter: Dr. Steven Stein Wednesday – May 16 24/7 on the WELCOA Institute</p>	 <p>LIVE MONTHLY WEBINAR SERIES Health Promotion Program Legal Updates: 2018 Presenter: Barbara Zabawa, JD, MPH Every Third Wednesday (May 16) 10:00 AM – 11:00 AM CT</p>


Learn more: welcoa.org/training Members register: welcoa.org/certifications




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TODAY'S PRESENTERS

 <p>Andie Gordman, SPHR, SHRM-SCP, CCP SilverStone Group agordman@ssgi.com</p>	 <p>Bryn Schoening, SPHR, SHRM-SCP SilverStone Group bschoening@ssgi.com</p>
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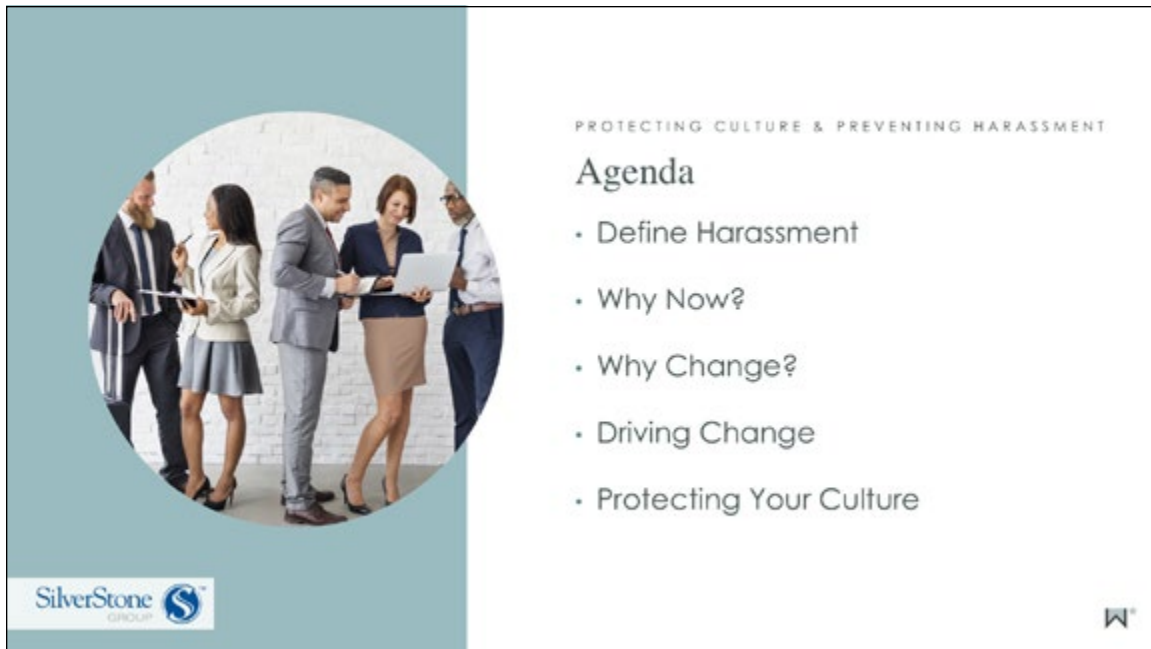




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Protecting Culture and Preventing Harassment


Andie Gordman & Bryn Schoening




PROTECTING CULTURE & PREVENTING HARASSMENT

Agenda

- Define Harassment
- Why Now?
- Why Change?
- Driving Change
- Protecting Your Culture

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PROTECTING CULTURE & PREVENTING HARASSMENT

Harassment is Not a New Issue

- Organizations established best practices in the early 1980's
- Providing training and reporting processes to employees

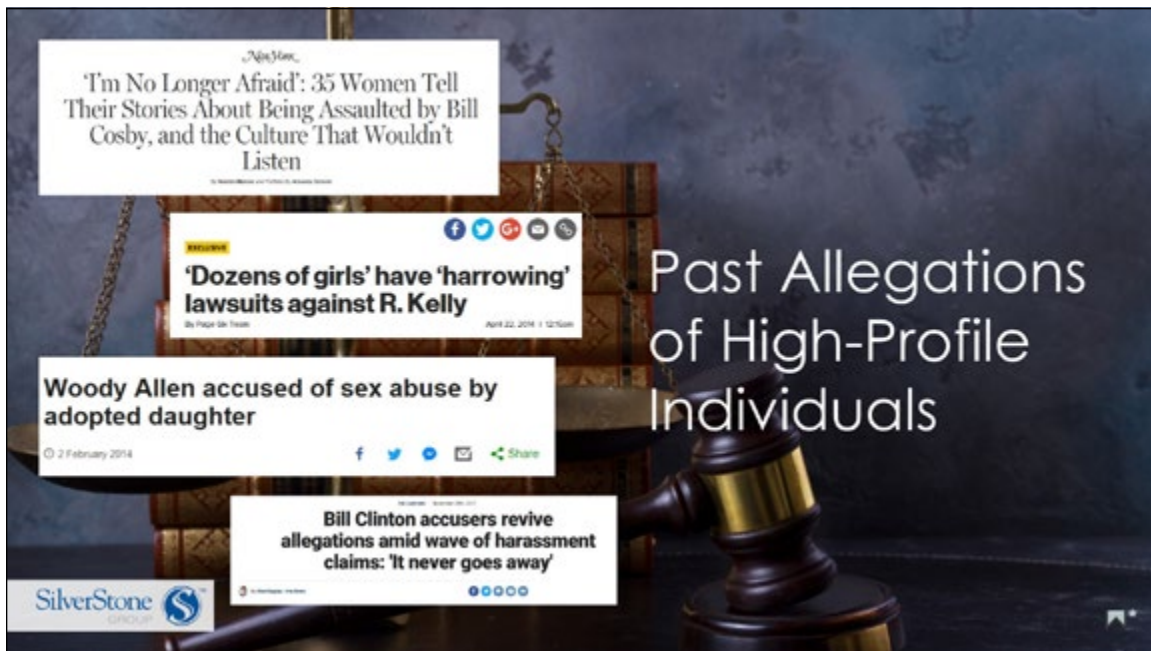
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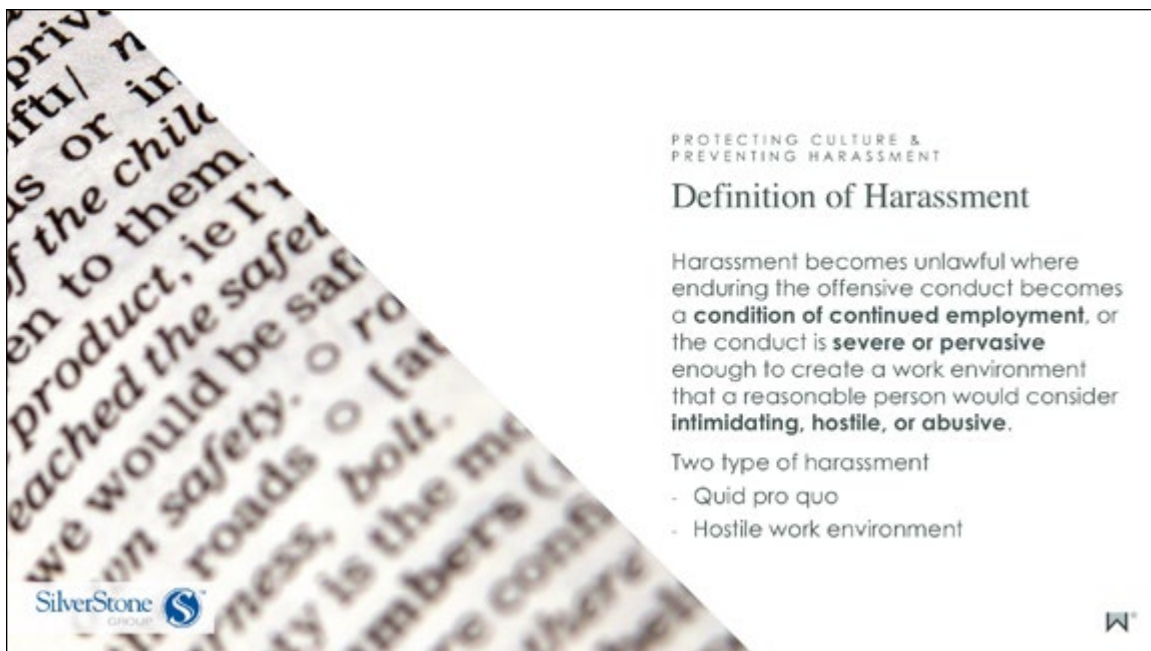
Protecting Culture and Preventing Harassment

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Past Allegations of High-Profile Individuals

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PROTECTING CULTURE & PREVENTING HARASSMENT

Definition of Harassment

Harassment becomes unlawful where enduring the offensive conduct becomes a **condition of continued employment**, or the conduct is **severe or pervasive** enough to create a work environment that a reasonable person would consider **intimidating, hostile, or abusive**.

Two type of harassment

- Quid pro quo
- Hostile work environment

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PROTECTING CULTURE & PREVENTING HARASSMENT

Reasonable Person

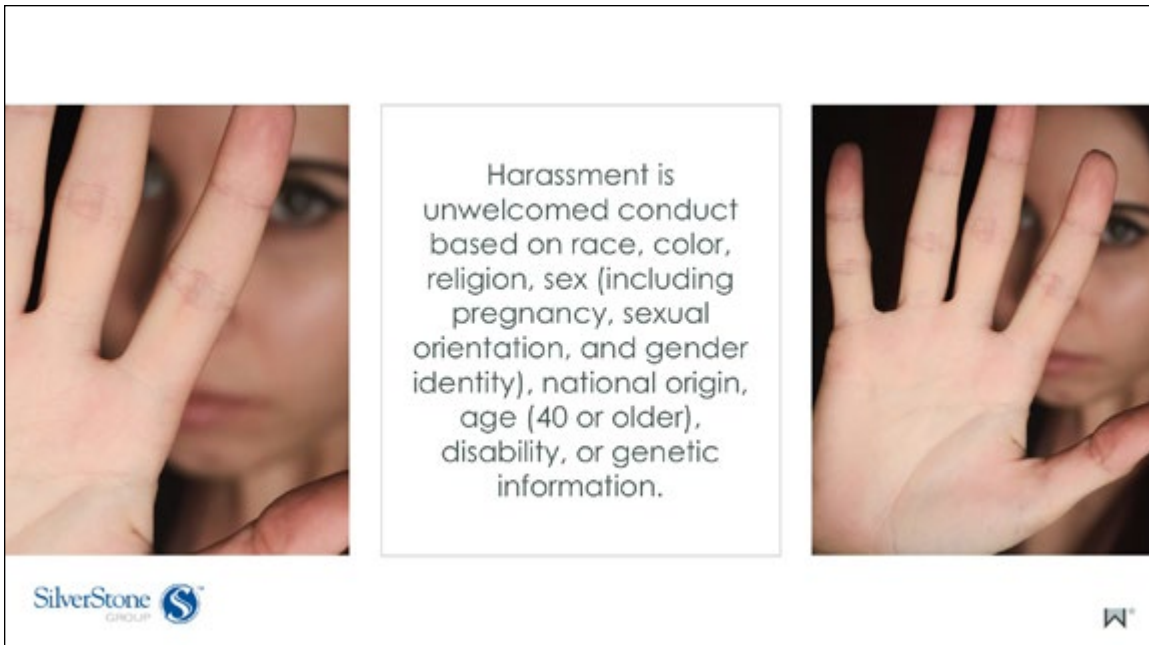
EEOC guidelines on using reasonable person standard:

- › The reasonable person standard should not be applied in a vacuum.
- › Consideration should be given to the context in which the alleged harassment took place.
- › The reasonable person standard should consider the victim's perspective and not stereotyped notions of acceptable behavior.


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Harassment is unwelcomed conduct based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age (40 or older), disability, or genetic information.

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Protecting Culture and Preventing Harassment

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The thumbnail slide features a diamond-shaped collage of four images: a hand pointing, a woman covering her face, a hand covering a man's mouth, and a woman covering her face. The SilverStone Group logo is in the bottom left, and a small 'W' icon is in the bottom right.

PROTECTING CULTURE & PREVENTING HARASSMENT

Workplace Harassment Examples

- › Degrading or demeaning words or gestures
- › Put downs
- › Jokes
- › Graffiti
- › Derogatory pictures
- › Slurs
- › Physical contact

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PROTECTING CULTURE & PREVENTING HARASSMENT

Workplace Harassment Examples (continued)

- › Pointing out that someone is too fat or old
- › Using racist slang, phrases or nicknames
- › Asking sexual questions
- › Comments about religious beliefs, or trying to convert to a certain religious ideology
- › Remarks on ethnic traits such as skin color, food, dress
- › Did you hear the one about how many _____'s it takes to screw in a light bulb?

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Protecting Culture and Preventing Harassment

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PROTECTING CULTURE & PREVENTING HARASSMENT

Intent vs. Perception

To the perpetrator, the display of behavior may or may not be intended. However, the individual receiving the message may find it offensive.

It is not the intent, but is the perception and impact which determines whether or not an act is harassment.

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Religious Harassment

John is continuously preaching to his coworkers about religious matters, going too far as to give them pamphlets and leaving bibles on their desks. John is asked repeatedly by the coworkers to stop these behaviors, to no avail.



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PROTECTING CULTURE & PREVENTING HARASSMENT

Gender Discrimination

After retiring from Air Force, with the rank of Master Sergeant, Sandra Robertson was hired to use her expertise in inventory and equipment management. Robertson became the only female supervisor. Robertson was subjected to repeated harassment and gender-based discrimination, with male colleagues calling her **"Big Girl"** in reference to her height, making obscene gestures toward her, and engaging in other offensive acts.



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Race & National Origin Harassment

Supervisor of the mailroom regularly addressed an employee, a native of Ghana, with slurs such as "monkey" and "gorilla" and insults such as "go back to your cage" and "do you want a banana?" The supervisor also derided the employee's accented English as "gibberish," and expressed hostility toward immigrants, particularly Africans.



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PROTECTING CULTURE & PREVENTING HARASSMENT

Sexual Preference Harassment

Gay male employee at a Medical Health Center was subjected to harassment from his manager. Manager repeatedly referred to him using various anti-gay names and made other highly offensive comments about his sexuality and sex life. Employee reported these comments to the center's Director and was told to "keep his gay stuff private." Employee decided to quit rather than endure continuous harassment.



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Sexual Harassment & Retaliation

College graduate male employee at a magazine was groped by female editor who was twice his age. He reported to his manager who said this happened often but would slow down in time. Two weeks later he received an email with a full nude picture of the editor. He reported to human resources and was fired two days later based on low performance.



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Protecting Culture and Preventing Harassment


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PROTECTING CULTURE & PREVENTING HARASSMENT


Legislative Acts

- › Title VII of the Civil Rights Act of 1964 prohibits employer discrimination
 - Sex, race, ethnicity, national origin, religion, age, pregnancy
- › The Americans with Disabilities Act (both applicable to employers with 15 or more employees)
- › Age Discrimination in Employment Act (applicable to employers with 20 or more employees)


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Why now?

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Protecting Culture and Preventing Harassment

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PROTECTING CULTURE & PREVENTING HARASSMENT

Movements

#MeToo

TIME'S UP

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Between October and December of 2017, 71 high-profile individuals were accused of sexual harassment

Anthony Rapp accuses Kevin Spacey of trying to seduce him when he was 14

George H.W. Bush Sexual Assault Allegations Rise To Six

Senior White House official to resign after ex-wives' allegations of abuse

What's Current: 190 victims have now testified against USA Gymnastics doctor Larry Nassar

Sexual misconduct allegations against Shaun White have become a big part of the discussion about his performance at the Olympics

Matt Lauer Fired By NBC Amid Sexual Misconduct Allegations

Peter Martins Retires From New York City Ballet After Misconduct Allegations

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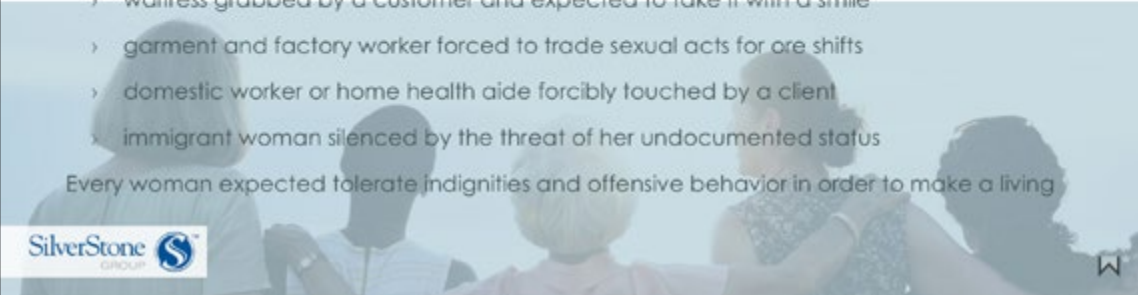

PROTECTING CULTURE & PREVENTING HARASSMENT

Letter of Solidarity

To every woman in:

- › agriculture who has had to fend off unwanted sexual advances from her boss
- › housekeeper who has tried to escape an assaultive guest
- › janitor trapped nightly in a building with a predatory supervisor
- › waitress grabbed by a customer and expected to take it with a smile
- › garment and factory worker forced to trade sexual acts for ore shifts
- › domestic worker or home health aide forcibly touched by a client
- › immigrant woman silenced by the threat of her undocumented status

Every woman expected tolerate indignities and offensive behavior in order to make a living



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Time's Up Legal Defense Fund

- Setup to provide subsidized legal support for women and men — especially working-class women and men — who have experienced sexual misconduct in the workplace
- Raised \$21 million so far.
- 1,800 individuals have applied for assistance.



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In 2015, the EEOC reported that 1,165 men complained about sexual harassment, compared to 5,656 women.

According to a 2016 report by the EEOC, 85% of women reported that they have been sexually harassed.


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Males Are Affected Too

- › Female sergeant at Genesee County Sheriff in Michigan has been accused of harassing a male subordinate for years.
- › 2014 a Texas jury awarded \$567,000 to a male deputy who claimed his female boss at the Galveston County Sheriff's office sexually harassed him.
- › LensCrafters former male lab technician won \$192,500 settlement because the company allowed him to be sexually harassed by a female co-worker.



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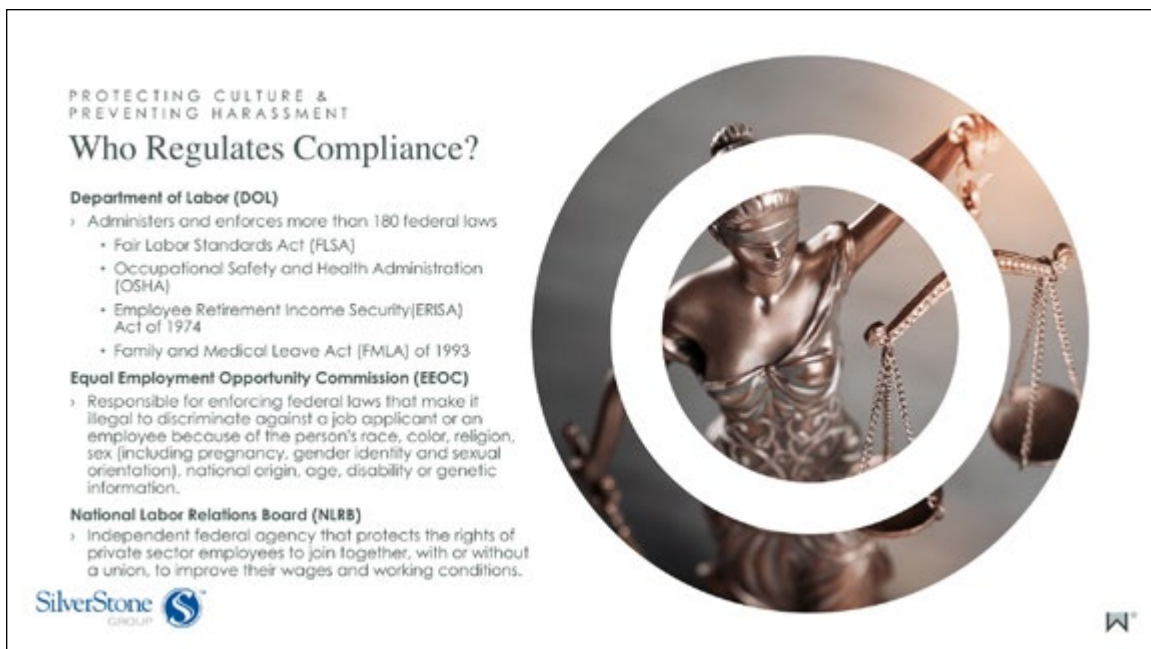
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Protecting Culture and Preventing Harassment

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PROTECTING CULTURE & PREVENTING HARASSMENT

Harassment Training Isn't New

- › Began in the early 1980's
- › Response to guidance from the EEOC enforcing Title VII of Civil Rights Act



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Historical Training Content

- › Disproportioned to only address sexual conduct and not including race and religion.
- › Focused only on direct supervisor to subordinate.
- › Training programs aim to educate employees about the employer's harassment policies and procedures.
- › Explicitly prohibited behavior.



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Does Training *REALLY* Work?

- › Does company culture tolerate harassment
- › How training is viewed in your company
- › Does training have defined attainable goals
- › Training is meaningful

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Training

Conducting regular, interactive, and comprehensive harassment prevention training for all employees

- › Supervisors and Managers
 - How to prevent, recognize, and respond to objectionable conduct
- › All Employees
 - Effectively train all employees about the harassment policy and complaint system

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Training Opportunities


- › Classroom
- › PowerPoint
- › Interactive
- › Webinar

As a best practice tracking and saving attendance logs is highly suggested.




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Protecting Your Culture

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Protecting Culture and Preventing Harassment


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PROTECTING CULTURE & PREVENTING HARASSMENT

Mishandled Complaint

- › Viral blogpost
- › Uber Engineer
- › Day after viral post — anonymous hotline was created
 - 215 claims made
 - 100 complaints never addressed
- › Outside firm came in and with their recommendation Uber terminated more than 20 employees

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Organizational Impact

- › Brand recognition
- › Turnover/cost of acquiring replacement employees
- › Absenteeism
- › Employee engagement
- › Productivity
- › Profitability
- › Stress/mental health
- › Recruitment and retention
- › Managers time diverted to responding to conflict



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PROTECTING CULTURE & PREVENTING HARASSMENT

Armed Services and National Guard Sexual Harassment Complaints

In 2016 report by the Defense Department

- > 2015 they received a total of 601 complaints
- > 415 alleged offenders reported
- > 326 substantiated complaints
- > 95% of the harassers were male (396)
- > 5% were female (19)



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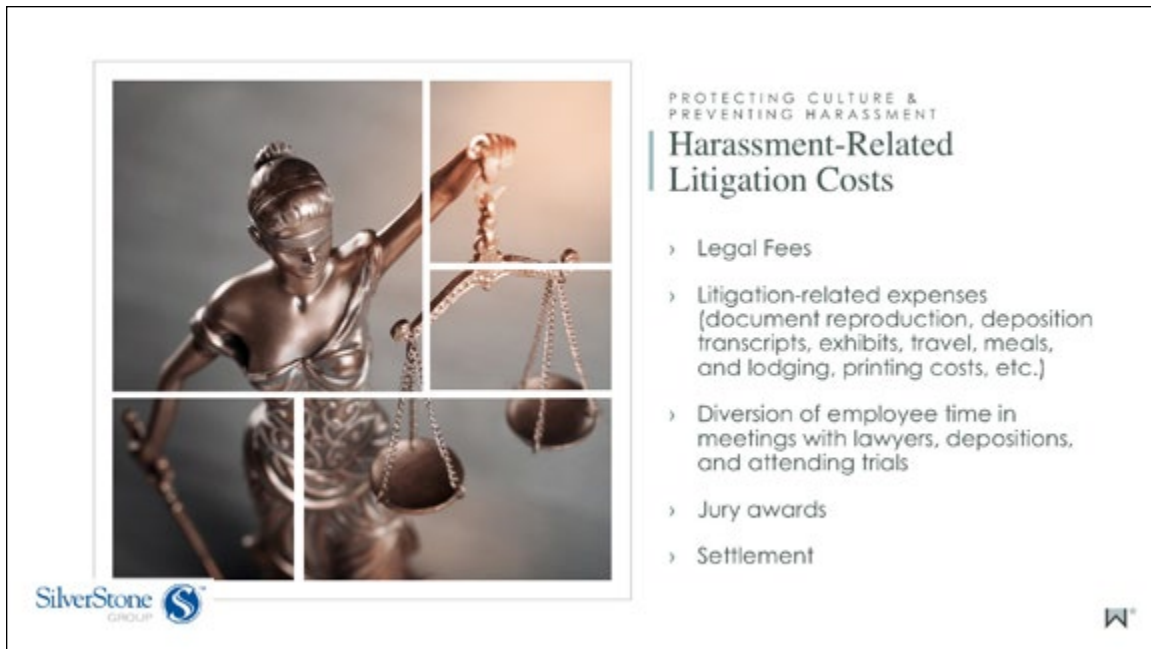
Driving Change

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Harassment-Related Litigation Costs

- › Legal Fees
- › Litigation-related expenses (document reproduction, deposition transcripts, exhibits, travel, meals, and lodging, printing costs, etc.)
- › Diversion of employee time in meetings with lawyers, depositions, and attending trials
- › Jury awards
- › Settlement

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The average out-of-pocket expense of the defense of a harassment-related lawsuit exceeds \$250,000, whether or not the organization prevails.

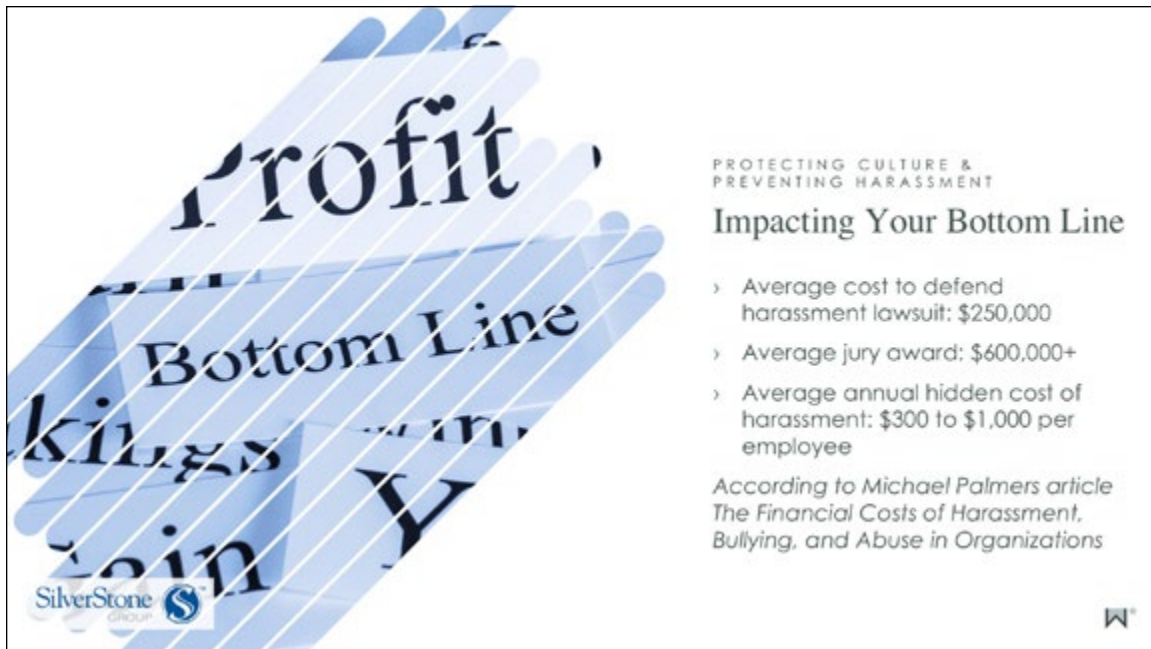
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Protecting Culture and Preventing Harassment

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The slide features a background of blue hands holding a stack of papers. The papers have the words 'Profit', 'Bottom Line', 'Kills', and 'Gain' written on them. The SilverStone Group logo is in the bottom left corner.

PROTECTING CULTURE & PREVENTING HARASSMENT

Impacting Your Bottom Line

- › Average cost to defend harassment lawsuit: \$250,000
- › Average jury award: \$600,000+
- › Average annual hidden cost of harassment: \$300 to \$1,000 per employee

According to Michael Palmers article *The Financial Costs of Harassment, Bullying, and Abuse in Organizations*

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The slide features a background of hands holding a yellow figure with arms raised. The SilverStone Group logo is in the bottom left corner.

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Employment Practices Liability Insurance (EPLI)

EPLI provides protection against many kinds of employee lawsuits, including claims of:

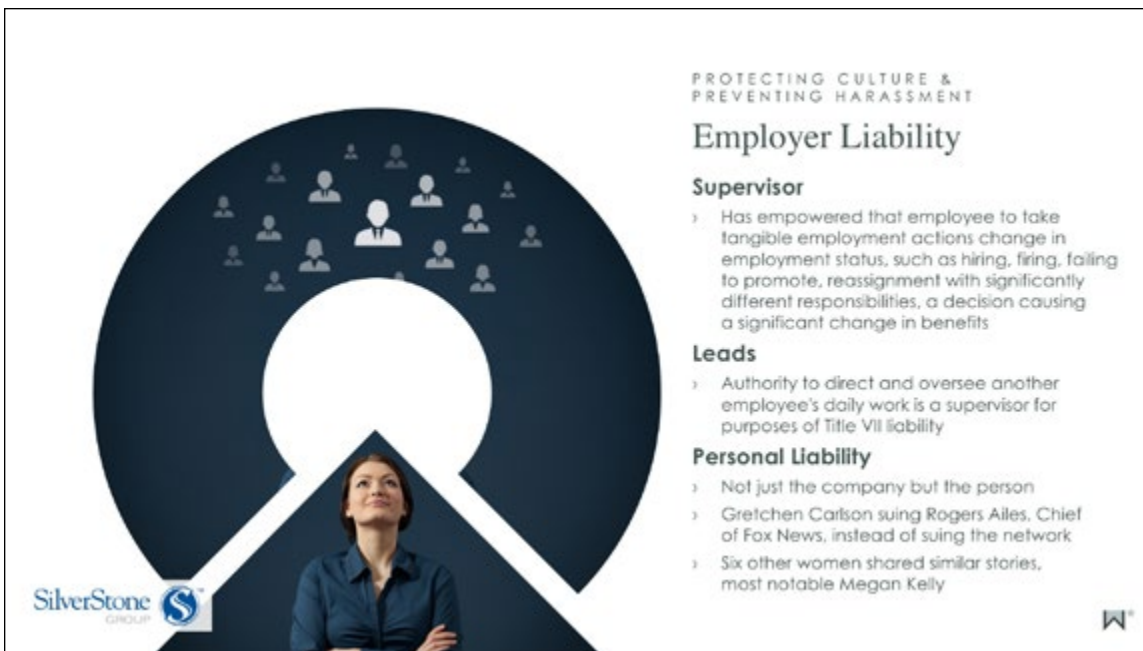
- Sexual harassment
- Discrimination
- Deprivation of career opportunity
- Wrongful infliction of emotional distress
- Failure to employ or promote
- Wrongful termination

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Protecting Culture and Preventing Harassment

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PROTECTING CULTURE & PREVENTING HARASSMENT

Employer Liability

Supervisor


- › Has empowered that employee to take tangible employment actions change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, a decision causing a significant change in benefits


Leads


- › Authority to direct and oversee another employee's daily work is a supervisor for purposes of Title VII liability

Personal Liability

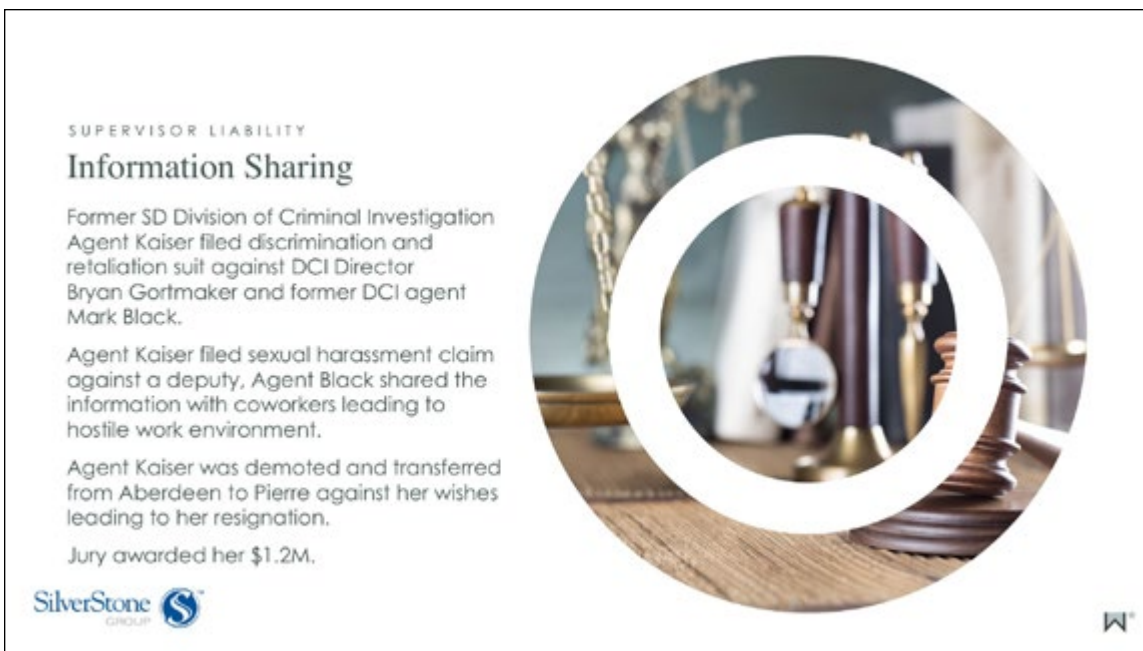
- › Not just the company but the person
- › Gretchen Carlson suing Rogers Ailes, Chief of Fox News, instead of suing the network
- › Six other women shared similar stories, most notable Megan Kelly

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SUPERVISOR LIABILITY


Information Sharing


Former SD Division of Criminal Investigation Agent Kaiser filed discrimination and retaliation suit against DCI Director Bryan Gortmaker and former DCI agent Mark Black.


Agent Kaiser filed sexual harassment claim against a deputy, Agent Black shared the information with coworkers leading to hostile work environment.

Agent Kaiser was demoted and transferred from Aberdeen to Pierre against her wishes leading to her resignation.

Jury awarded her \$1.2M.

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SUPERVISOR LIABILITY

Avoidance

- Mary works in an auto repair shop as the customer service representative and accountant.
- She is subjected to a constant slew of sexual jokes, innuendos, and inappropriate touching, by her two male co-workers.
- Mary brought her concerns to their manager.
- He always chuckled and said "they're harmless, ignore them," failing to take action against the employees.



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LARRY NASSAR


175 Years In Prison

140 civil suits against:


- USA Gymnastics
- Michigan State University
- Texas Training Center – 2 Coaches

USA Gymnastics

- Entire board resigned
- CEO was fired




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Protecting Culture and Preventing Harassment


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PROTECTING CULTURE & PREVENTING HARASSMENT

Proactive Approach to Best Practices

By engaging in a proactive approach, you will be able to better identify, prevent and respond to potential or existing issues.

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PROTECTING CULTURE & PREVENTING HARASSMENT

Workplace Harassment Policy Review

Harassment policy must be comprehensive, easy to understand, and regularly communicated to all employees

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Protecting Culture and Preventing Harassment

Andie Gordman & Bryn Schoening



This thumbnail slide features a central white box with the title "Leadership Accountability" and two bullet points. To the left is a photo of a speaker at a podium, and to the right is a photo of an audience. The SilverStone Group logo is in the bottom left, and a small icon is in the bottom right.

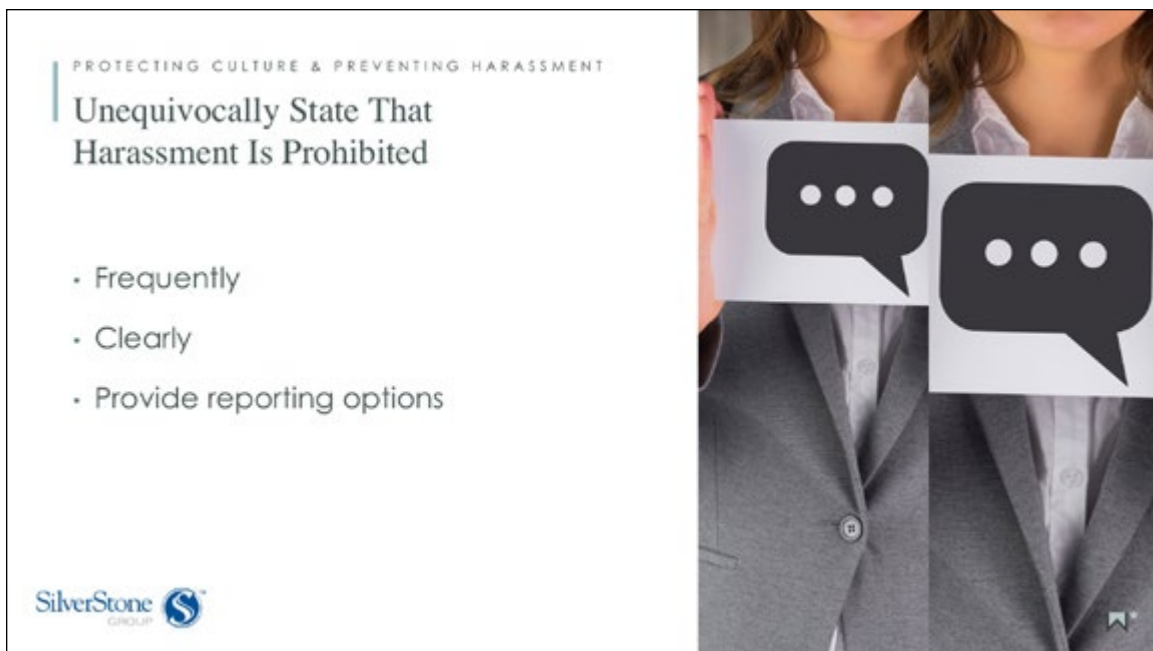
Leadership Accountability

- › Engaging organizational leadership in harassment prevention and correction efforts
- › Allocating sufficient staff time for harassment prevention efforts

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This thumbnail slide features a central white box with the title "Unequivocally State That Harassment Is Prohibited" and three bullet points. To the right is a photo of two women in business attire with speech bubble icons overlaid. The SilverStone Group logo is in the bottom left, and a small icon is in the bottom right.

PROTECTING CULTURE & PREVENTING HARASSMENT

Unequivocally State That Harassment Is Prohibited

- Frequently
- Clearly
- Provide reporting options

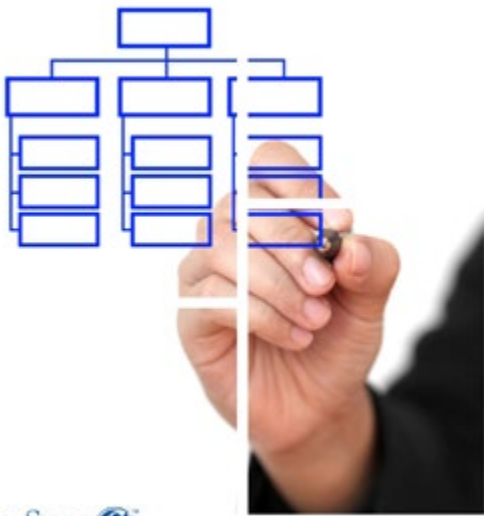
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PROTECTING CULTURE & PREVENTING HARASSMENT


Establish Consistent Procedures


Who can report

- › Personally effected
- › Observed harassment

Where to report

- › Manager/Leadership within any department
- › HR
- › Hotline

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Prompt Responses

- Be prepared to responded to an allegation
- Know your initial steps
- Have investigation questions prepared in advance
- Do not overreact
- Do not wait



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PROTECTING CULTURE & PREVENTING HARASSMENT

Prevent Further Interaction

- › Scheduling changes to avoid contact between parties
- › Transferring the alleged harasser
- › Placing the alleged harasser on non-disciplinary leave with pay, pending investigation
- › Complainant should not be involuntarily transferred or otherwise burdened; this could constitute unlawful retaliation





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Investigations

- › Conducted under the direction of HR and in compliance with company policy and law
- › Conduct a prompt, thorough, and impartial investigation of any harassment complaint
 - Alleged harasser
 - All witnesses
- › Weight evidence
- › Take immediate measures to stop confirmed harassment



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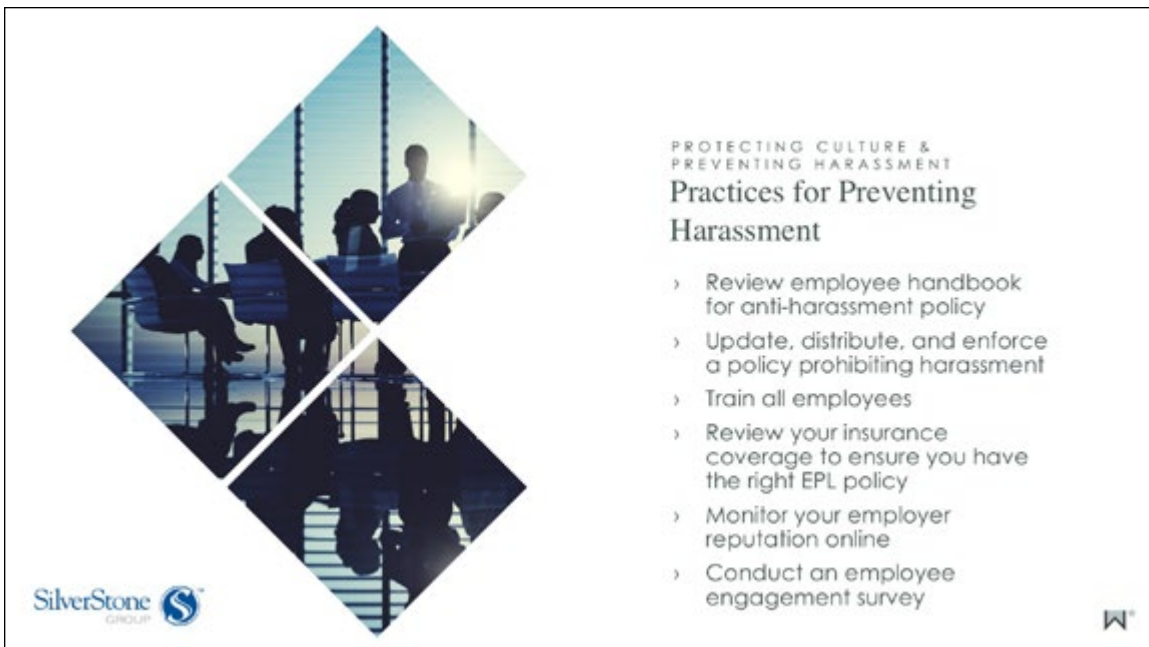
Consistent Disciplinary Actions

- › Take Action
- › Disciplinary measures may include:
 - Oral or written warning or reprimand
 - Transfer or reassignment
 - Demotion
 - Reduction of wages
 - Suspension
 - Discharge
 - Training or counseling
 - Monitoring

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PROTECTING CULTURE & PREVENTING HARASSMENT

Practices for Preventing Harassment

- › Review employee handbook for anti-harassment policy
- › Update, distribute, and enforce a policy prohibiting harassment
- › Train all employees
- › Review your insurance coverage to ensure you have the right EPL policy
- › Monitor your employer reputation online
- › Conduct an employee engagement survey

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Protecting Culture and Preventing Harassment

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Articles, blogs, news reports, studies are all focused on one thing **CULTURE.**



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They all impress the importance of leadership vocalizing and leading the culture change



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PROTECTING CULTURE & PREVENTING HARASSMENT

Culture Inclusion

- › Unable to ignore the acknowledged correlation surrounding company culture and harassment
- › As an employer, it is vital to consistently monitor your workplace and communicate with employees, including managers, regarding the work environment.
- › By engaging in a proactive approach, you will be able to better identify, prevent and respond to potential or existing issues.

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PROTECTING CULTURE & PREVENTING HARASSMENT

Inclusive Workforce

Respect and embrace differences among employees


Create level playing field and give access to equal opportunities and rewards

Capitalize on the variety of experiences, abilities, approaches, and perspectives different employees bring to the job

Don't assume the identity or racial affiliation of any individual or categorize workers because of physical or cultural differences

Don't use derogatory terms, slang, profanity when speaking about others

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A new day is on the horizon – when that new day finally dawns it is because of **magnificent** women and **phenomenal** men fighting hard to make sure they are the leaders that take us to the time when nobody ever has to say **me too again!**

OPRAH WINFREY




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CONTACT US



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