



Creating the Respect Effect: Preventing Harassment, Discrimination and Retaliation

Facilitator Guide: Employee

Preview Only

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StoneArch Creative® and Engelmeier & Umanah, P.A.

StoneArch Creative
710 South 2nd Street, 7th Floor
Minneapolis, MN 55401
Tel: (612) 379-4678
www.stonearchcreative.com

Engelmeier & Umanah, P.A.
12 South Sixth Street, Suite 1230
Minneapolis, MN 55402
Tel: (612) 455-7720
www.e-ulaw.com

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Creating the Respect Effect: Preventing Harassment, Discrimination and Retaliation

Section 1

Facilitator Guide: Employee

This section is a presentation guide to assist you with facilitating the *Creating the Respect Effect* training program designed for employees.

There are three parts to the program. Each part is shown at the top of the page with its time allotment. Topics within each unit are also in bold type with their time allotments. This will help you plan your time so you can maintain the program length of approximately 100 minutes.

Pre-Program Preparation

This section of the *Facilitator Guide: Employee* provides an overview of the training materials and what you need to do to prepare for facilitating the *Creating the Respect Effect* training program. The materials for the two programs, one designed for employees and one for managers, are included in this guide.

Training Materials

This *Facilitator Guide* contains all of the audiovisual and written materials that you will need to facilitate both training programs. The table below lists the materials and their location.

Program Materials	Location in Guide
<i>Respect Effect</i> DVD	
<i>Respect Effect Support Materials</i> CD-ROM	
(See additional information below.)	
<i>Facilitator Guide: Employee</i>	Section 1
<i>Employee Workbook</i>	Section 2
<i>Facilitator Guide: Manager</i>	Section 3
<i>Manager Workbook</i>	Section 4
<i>Support Materials</i>	Section 5

The DVD contains all of the video segments used in the programs.

Directions for Using DVD

1. Insert the DVD into the DVD player.
2. Highlight and select Video Segments.
3. A menu will appear.
4. Highlight and select *At the Sales Meeting* to start the first video.
5. At the end of each video segment, you will be returned to the main menu.

The CD-ROM contains all of the PowerPoint® slides used in the programs. PDF files are included for printing, if desired. The CD-ROM also contains PDF files of the *Employee Workbook*, *Manager Workbook*, and employee and manager *Facilitator Guides*.

Directions for a PowerPoint® Slide Presentation

1. Insert the CD-ROM into the CD-ROM drive.
2. Double-click the My Computer icon.
3. Double-click the CD-ROM drive icon.
4. Double-click the Employee Training.pps icon.

To-Do List (Do at Least 1-2 Weeks before Training Program)

- Reserve TV/DVD player and laptop/LCD projector.
- Set up PowerPoint® presentation.



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- Review all program materials thoroughly and note where Company policy can be referenced.
- Make notes of examples specific to your Company and anticipate questions that participants are likely to ask.
- Look up the discrimination law about protected categories in the jurisdictions where your employees work or with which your employees interface. You will need to add comments about those protected categories to address particular issues in your Company's work environment if necessary.
- Consider whether your Company's policy on avoiding harassment, discrimination and retaliation should be updated. (The program works nicely with the rollout of a policy update.)
- Practice presenting the program.

Facilitator:

- *Please note that the optimal group size for this session is 20-30 employees to facilitate communication among employees.*
- *Scheduling sessions in close proximity to one another is important and should occur 1-2 weeks before the sessions.*
- *Check to ensure the sessions have the right number of people assigned to each.*

An up-to-date listing of the protected categories and the law on whether there is individual liability in each jurisdiction is available from Engelmeier & Umanah, P.A. for a fee. Fee-based consultations are also available if you need a resource for legal consultation about the program or related issues.

To-Do List (Do at Least 24 Hours before Training Program)

- Gather all materials.
- Make copies of your Company policies on the issues relevant to harassment, discrimination, retaliation and respect (e.g., offensive behavior policy).



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CONTENTS

Welcome and Introduction	4 minutes
Review the Learning Objectives	1 minute
Part 1: Defining Discrimination, Harassment and Retaliation ...	20 minutes
Total Minutes	25 minutes
Part 2: Identifying Sexual Harassment, Gender Discrimination and Retaliation Issues	
• Video and Discussion: <i>At the Sales Meeting</i>	15 minutes
• Discussion: Why Don't People Speak Up?	5 minutes
• Video and Discussion: <i>Keeping the Customer Happy</i>	10 minutes
Total Minutes	30 minutes
Part 3: Identifying Other Harassment, Discrimination and Retaliation Issues	
• Video and Discussion: <i>Welcome Aboard</i>	10 minutes
• Video and Discussion: <i>Conversations at Lunch</i>	10 minutes
• Video and Discussion: <i>His New Bride</i>	7 minutes
• Report Harassing Behavior	1 minute
Total Minutes	28 minutes
Post-Test	15 minutes
Summary and Ending	2 minutes
Program Total Minutes	100 minutes



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POWERPOINT® SLIDE #1 Title Screen

Welcome and Introduction (4 minutes)

- Welcome the employees to the training program.
- If a Company executive is going to kick off the program, have the Company executive briefly introduce you and bolster your credibility on the subject matter at hand—avoiding discrimination, harassment and retaliation in the workplace and taking steps to increase respect in the workplace.
- Introduce yourself and your background.

Remind folks of the rules of the employee program:

- There are no right or wrong answers or silly questions.
- Maintain respect for other employees' opinions and issues.
- Refer employees to the *Employee Workbook* to use for taking notes during the program.

As a facilitator, it's important to remember that the topics presented here touch participants personally and emotionally, not just cognitively. Some employees may have experienced a form of disrespect, harassment, retaliation or discrimination at some time in their life, and other employees may feel defensive. It is, therefore, essential for you as the facilitator to be sensitive to the participants' emotions and opinions. Listen for and respond to employees' emotions and opinions, as well as the substance of the employees' reactions. Do not debate points of view that are incongruent with the program. Instead, model respectful communications. For example, you might respond to a comment such as "This is all liberal propaganda" with:

- Will you share with us why you feel that way?
- Do you have some life experiences that would assist us in discussing the issue of respect as you see it?

Then conclude with:

- That's an interesting point of view. Are there others in the room who would like to share their view?
- Other participants in the program have said _____ (a position congruent with the program); or
- Does anyone have any comments or experiences they would like to share in connection with the points raised?

POWERPOINT® SLIDE #2

Overview

Provide an overview of the program agenda.

There Are Three Parts of Information in the Program

- Part 1: Defining Discrimination, Harassment and Retaliation
- Part 2: Identifying Sexual Harassment, Gender Discrimination and Retaliation Issues
- Part 3: Identifying Other Harassment, Discrimination and Retaliation Issues

Explain What to Expect during the Program

- View video clips and engage in thoughtful discussion.
- This is a workshop, which means it's important for participants to share their views. The more participation, the more we can learn from each other, and the more successful we are as a company.



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Review Housekeeping Details

- Length of program—100 minutes
- Other details as needed (e.g., bathroom location, emergency exit, turning off cell phones and pagers)
- Make sure everyone has a pen and a name tag to facilitate optimal discussion.

POWERPOINT® SLIDE #3

Introduce the Program

A respectful workplace is important to everyone.

- Today's program is called *Creating the Respect Effect*.
- It is a program about our commitment not only to comply with the law and our Company's policies, but also to a work environment that is respectful of each other.
- A core element to having a respectful work environment is making sure that our work environment is free from illegal harassment, discrimination and retaliation.

POWERPOINT® SLIDE #4

- As an employee, it is your responsibility to behave respectfully and report to a manager or Human Resources when inappropriate behavior occurs, as per our Company policies and procedures.
- We want to make sure our work environment is a place where differences are welcomed and respected. This means having a culture of respect at our Company.
- A culture of respect increases productivity and makes us more competitive and successful as an organization, which benefits all.

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POWERPOINT® SLIDE #5

Review the Learning Objectives (1 minute)

(Refer Employees to Workbook, page 3)

Upon completion of this program, you will be able to:

1. Define the two types of harassment: **quid pro quo** and **hostile work environment**.
2. Explain why harassment and discrimination based on a person's **age, race, color, sex, disability, national origin, religion** and other protected categories are prohibited at our Company.

POWERPOINT® SLIDE #6

3. Describe the difference between **the intent versus the impact** of behavior.
4. Become our Company's **first line of defense** against harassment, discrimination and other disrespectful behavior by complying with Company policies and engaging in respectful behavior, which includes no retaliation.
5. Understand how the *Respect Effect* benefits our Company and each of you individually as employees.

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POWERPOINT® SLIDE #7

PART 1:

Defining Discrimination, Harassment and Retaliation (20 minutes)

Transition

Most people understand that treating one person unfairly according to factors unrelated to their ability, such as sex, race, age, disability or national origin, is discrimination. A more difficult concept to define under the law is harassment. We will, therefore, touch on defining discrimination, and then spend some more time defining “harassment.”

(Note to facilitator: Discussing the law works best as a question-and-answer session. Quiz participants based on what they already know, since most have attended some sort of avoiding harassment and discrimination program previously. Once they give the answers consistent with the information below, use the PowerPoint presentation as reinforcement.)

POWERPOINT® SLIDE #8

Introduce Topic

- The 1964 Civil Rights Act prohibits discrimination. Discrimination is a rather straightforward concept; that is, treating others differently because of their status as a protected category. It includes treating employees differently with respect to the terms and conditions of their employment.
- Now we will describe how Title VII of the Civil Rights Act has been interpreted with regard to harassment in the workplace.

POWERPOINT® SLIDE #9

The Legal Definition of Sexual Harassment

Sexual harassment is a form of unlawful sex discrimination under Title VII. The Equal Employment Opportunity Commission (EEOC) is the federal agency that enforces Title VII. It defines sexual harassment as:

- Unwelcome sexual advances;
- Requests for sexual favors;
- Sexually motivated physical conduct; or

POWERPOINT® SLIDE #10

- Other verbal or physical conduct of a sexual nature, when:
 - Submission to that conduct is made a term or condition of an individual’s employment;
 - Submission to that conduct is used as a factor in making employment decisions affecting an individual;or
- The conduct has the purpose or effect of unreasonably interfering with an individual’s employment, or creating an intimidating, hostile or offensive employment environment.

POWERPOINT® SLIDE #11

In 1986, the United States Supreme Court recognized two different types of harassment:

- *Quid pro quo* harassment.
- Hostile work environment harassment.



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POWERPOINT® SLIDE #12

Quid Pro Quo Sexual Harassment

- *Quid pro quo* is a Latin term that means “this for that,” and implies an exchange of one thing for another.
- *Quid pro quo* harassment generally occurs when an employee is encouraged or pressured to trade sexual favors in return for an employment-related benefit, such as continued employment or a promotion.
- The person who is pressuring the employee must have the authority to control the employee’s working conditions; this person is usually a supervisor. In a typical *quid pro quo* case, a supervisor abuses his or her supervisory authority by pressuring a subordinate for sexual favors.

POWERPOINT® SLIDE #13

Examples of *quid pro quo* sexual harassment:

- Demanding sexual favors in exchange for a promotion, raise or other job benefits.
- Threatening to deny an expected raise, promotion or other job benefit if sexual favors are not provided.

POWERPOINT® SLIDE #14

Hostile Work Environment Harassment

- A pattern of ongoing harassing conduct that is so offensive or unpleasant that it unreasonably affects the employee’s working conditions and creates a hostile work environment.
- This covers more than sexual conduct. It may be based on an employee’s age, race, color, sex, disability, national origin, religion, or other protected characteristic.
- The conduct must be based on or affect a protected category under the law or it does not constitute a hostile work environment under the law.

POWERPOINT® SLIDE #15

- Conduct may be verbal, physical or visual, and the harasser may be a supervisor or a co-worker.
- Harasser can be someone who interacts with employees but does not work for our Company, such as customers or vendors.

(Note to facilitator: This would be an important time to emphasize that simply because certain conduct does not violate the law does not mean it is okay at our Company. It may violate our Company’s policy or it may be disrespectful, whether or not it violates a specific Company policy.)

POWERPOINT® SLIDE #16

Examples of sexually hostile work environment harassment (either alone or in combination with other factors) may include:

- Pornographic pictures or magazines in the workplace and vulgar comments about them.
- Offensive sexual comments made to and about the person based on his or her sex.
- Unwanted touching on someone’s shoulder, arm, back, knee, etc.

(Note to facilitator: An important message for employees to hear—especially those who utilize the phrase “harassment” loosely to refer to any kind of “mean” behavior—is that not all bad things that happen at work amount to illegal harassment. An equally important message is that simply because misconduct doesn’t rise to the level of illegal doesn’t make it appropriate for the work environment.)



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POWERPOINT® SLIDE #17

What Determines if Conduct Is Harassing?

(Refer Employees to Workbook, page 5)

Other factors contribute in determining whether a hostile work environment exists:

- How **frequently** the offensive or discriminatory conduct occurs.
- Whether the conduct is **unwelcome**.
- The **severity** of the conduct.
- Whether the conduct is **physically threatening or humiliating**.
- Whether the conduct **unreasonably interferes with an employee's work performance**.
- The **impact** of the conduct on **the employee's psychological well-being**.

The courts apply a "reasonable person" standard to judge these factors.

The conduct must be because of, or directed at, a protected characteristic. Federal anti-discrimination laws prohibit harassment of an employee based on certain protected characteristics, such as the person's sex, race, color, religion, national origin, age or disability.

POWERPOINT® SLIDE #18

Who Is Liable for Harassment?

(Refer Employees to Workbook, page 5)

- An employer is liable for conduct it engages in, and, in addition, an employer may be liable for harassment committed by a co-worker against another employee, if the employer fails to take action to address the problem, once it becomes aware of the issue.
- Employees who engage in harassing behavior may be individually liable in some states.

(Note to facilitator: Prior to conducting this workshop, you should review the applicable state anti-harassment laws, as some states do hold an employee individually liable for discrimination, harassment and/or retaliation.)

POWERPOINT® SLIDE #19

An employee has to establish that:

- There was **conduct** that was
- **Related to a protected category**; and it was
- **Unwelcome**; and
- **Offensive to a reasonable person**; and
- So **severe or pervasive** that it
- **Affected a term or condition of his or her employment**.

Ask:

If an employee proves the six items above, is our Company liable for the hostile work environment?

Look for:

It depends. Generally, our Company is liable for harassment by others if it knew or should have known about the harassment and failed to take prompt action to address it.

(Note to facilitator: Elaborate below, using applicable PowerPoint® slides.)



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POWERPOINT® SLIDE #20

Retaliation (Reprisal)

Federal law and most state laws also protect from retaliation employees who oppose or report discrimination or harassment. Specifically, it is unlawful for an employer to retaliate against a person for opposing an unlawful practice, filing a charge, or participating in an investigation into unlawful conduct.

To establish a claim of retaliation, the individual must show that:

1. He or she opposed discrimination, he or she participated in a Company investigation of claimed discrimination or harassment or other conduct prohibited under the EEO laws, he or she exercised other rights available under the EEO laws (e.g., requesting reasonable accommodation) or he or she participated in a covered proceeding (e.g., helping someone file a charge, providing information to the EEOC or testifying as a witness);
2. He or she suffered an adverse employment action; and
3. A causal relationship exists between the “protected activity” as noted in Paragraph 1 above and the adverse employment action.

In addition to engaging in a protected activity, an individual making a claim of retaliation must show that the employer took an “adverse action” against him or her. Adverse actions generally include significant employment actions such as termination, discipline, demotion or reduction in wages and benefits. In contrast, less important matters that the employee may not like, such as not getting a new computer or being assigned to a different truck, usually do not constitute adverse actions under Title VII.

Under the Law

- Filing a charge is protected.
- Providing information or being a witness is protected.
- Voicing opposition to illegal conduct may be protected.

If any employee is mistreated as a result of engaging in these protected activities, our Company could be liable for illegal retaliation.

POWERPOINT® SLIDE #21

Employees May Have Individual Liability

Generally speaking, individual employees are not personally liable for employment discrimination, retaliation or harassment under Title VII, the Americans with Disabilities Act (ADA) or the Age Discrimination in Employment Act (ADEA).

However, some state and local equal employment opportunity (EEO) laws prohibit both employers and individual employees from discriminating, harassing or retaliating behavior. In addition, individual employees may be liable under state common law theories for their harassing behavior. Thus, an individual employee who sexually harasses someone may be personally liable for state common law violations, such as intentional or negligent infliction of emotional distress or assault and battery.

(Note to facilitator: You will want to be able to address whether there is individual liability in the states where your Company has a presence.)

Transition

Now that we’ve defined what the law considers harassing, discriminatory or retaliatory behavior, let’s look at how to identify when those behaviors occur and what to do to create a respectful work environment.



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POWERPOINT® SLIDE #22

PART 2:

Identifying Sexual Harassment, Gender Discrimination and Retaliation Issues (30 minutes)

Transition to Video

- Now you are familiar with some of the legal terms describing discrimination, harassment and retaliation.

(Note to facilitator: This point in the program would be a good opportunity to discuss the Company's policy.)

- Next, we are going to look at a video about Trish, a new salesperson. Observe the behaviors of each person.

Video and Discussion: *At the Sales Meeting* (15 minutes)

(Refer Employees to Workbook, page 7)

Employees should make sure to note their thoughts in response to the questions while watching the video.

Play Video Segment: *At the Sales Meeting*

Discuss Questions/Answers as a Group

Goals for Discussion

- Understand both *quid pro quo* sexual harassment and hostile work environment.
- Describe the distinction between a compliment and harassment.
- Understand the concept of welcomeness.
- Understand the issues associated with Company-sponsored and non-Company-sponsored events.
- Understand the employee's obligation to speak up and complain under, if applicable, our Company's policy; this supports the policy as well as helps the Company address any issues that need to be resolved.

(Note to facilitator: Make sure to check the Company's policy to ensure you are accurately representing its contents.)

Question 1

What inappropriate behaviors did you see while Trish was talking to her co-workers?

Look for:

- Gives Trish the "elevator eyes."
- Physical touching.
- Comments about her clothes.
- Comments with sexual innuendo: "She's hot."
- Comments about the other female employee's success/attire.
- Comments about getting into the "President's Club."
- Comments about after-hours partying and the "professionals."

Ask:

Could these comments and behavior be harassment? If yes, is it *quid pro quo* or hostile work environment harassment?



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Look for:

- Co-workers' and managers' comments could be hostile work environment harassment.
- Manager's conduct could be considered *quid pro quo* sexual harassment.

Question 2

What did Trish do or say to indicate that she found the behavior of her co-workers to be offensive or unwelcome?

Look for:

- Crossed her arms.
- Pulled away.
- Tried to change the subject.
- Left the room.

Question 3

Do you think a "reasonable person" would have been offended by the behaviors of Trish's co-workers? Do you think her co-workers intended to offend her?

Look for:

- It's fairly safe to say that most people would conclude that a "reasonable person" would be offended in this scenario.
- Whether or not her co-workers meant to offend Trish is not the issue. What matters is the impact of their behavior on Trish.

(Note to facilitator: Go to PowerPoint® slide #19 in Employee Training and note that intent is not a requirement. Rather, illegal harassment can arise from unintentional behavior.)

Question 4

Does it matter that this behavior occurred outside of the office? Does our Company's policy allow such behavior in this context?

Look for:

- The individuals still had their name tags on and were talking about work even though the meetings were done.
- Social events can be part of "work."
- The employer must address the inappropriate behavior, regardless of whether it takes place at a Company-sponsored function or at another event, if it has a negative impact on the work environment.
- Even if this is not a Company-sponsored event, the individuals were all co-workers and the inappropriate behavior inevitably will affect their work environment.

Question 5

If you were a co-worker of Trish, standing with her while these conversations were going on, what would you do?

Look for:

- Tell your co-workers that the type of comments they are making are inappropriate. Just because they are out of the office does not mean that Company policies do not apply to the current business function.
- You could also discuss the inappropriate behavior with a proper reporting resource, as well as encourage Trish to do the same.
- Remember, it's everyone's job to encourage respect, comply with the law and follow our Company's policy. A respectful workplace benefits all of us.



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Question 6

Do you think these men laughing and talking to Trish may have been sending unintentional messages? Does this matter when assessing compliance with the law and our policy?

Look for:

- Yes; they genuinely may have been kidding, but not intending to hurt her feelings or make her uncomfortable.
- Not wearing a wedding ring when married may cause Trish to believe there is disrespect to the married employee's wife.
- Commenting on the appearance of women at work could be interpreted as saying only "hot" women can succeed by using their sexuality.
- It doesn't matter what the men's intent was. The comments were still disrespectful and could be considered harassing.

Question 7

What inappropriate behaviors did you see when Trish talked to her manager?

Look for:

- Tells her that "boys will be boys."
- Tells her that she's "making too big of a deal out of this."
- Gives Trish "elevator eyes" and touches her inappropriately.
- Tells her the conference rule: "What happens here, stays here."
- Comments about how she could be the top seller and the need for "one-on-one" time.

Ask:

What type of behavior would make you most comfortable in taking a concern to your supervisor/manager?

Look for:

A good discussion about what would make managers and/or Human Resources personnel more approachable.

Question 8

Could Trish have done or said more in these situations? Did she need to?

Look for:

- Yes, Trish could have done and said more.
- No, she didn't need to.
- The pros and cons of whether she should have done more.

Ask:

What are some reasons she might not have said more?

Look for:

- She was new to the organization.
- The comments took her by surprise.
- She was embarrassed.



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POWERPOINT® SLIDE #23

Discussion: Why Don't People Speak Up? (5 minutes)

(Refer Employees to Workbook, page 8)

Individuals often do not complain about workplace harassment, discrimination, retaliation or other forms of disrespect. Below are some common reasons why people who have been harassed, disrespected and/or discriminated against often stay silent about their experiences. Ask, "Can you think of any others?"

No one will believe me. Individuals who have experienced harassment, discrimination, disrespect or retaliation may be reluctant to report misconduct because they are afraid no one will believe them. Particularly when sexual favors are solicited in exchange for a job benefit, no witnesses may be available to verify what happened.

I am embarrassed and afraid I will be blamed. Individuals may be concerned their own behavior is going to be closely scrutinized to see if they "asked for it." In addition, the individual may be embarrassed about what happened.

Whom would I tell? An individual may be unaware that our Company has a policy prohibiting harassment, discrimination or retaliation, as well as a procedure for individuals to report problems. More important, an individual may be reluctant to talk to the designated Company representative because he or she has not developed trust in or rapport with that person.

(Note to facilitator: Make sure to check the Company's policy to ensure you are accurately representing its contents. Remind employees to whom they should report problems if they experience or see them.)

Nothing will be done or no one will take me seriously. Individuals may believe nothing will be done about a harassment, discrimination or retaliation complaint, or there may be a concern that any investigation will be a mere formality. In many companies, because the managers and Human Resources personnel cannot talk much about the results of what happens when complaints are brought forward, rumors circulate that nothing happened in response to the issues raised.

Everyone will find out. Individuals may be afraid that they will lose their privacy because the situation will not remain confidential. Sexual harassment allegations, for example, can be a juicy topic for office gossip.

I can handle it on my own. Individuals may think they can handle the harassment without realizing the physical and emotional impact it may have on them. Even though employee assistance programs, Human Resources or other avenues for help may exist within our Company, the employee may be reluctant to use these resources, believing he or she should "tough it out."

(Note to facilitator: Remind employees they do not have to tough it out; resources are there and available because our Company does not want its employees to suffer. Also remind employees that some resources—such as employee assistance programs—are confidential.)

I just applied for a promotion and I'm afraid I will jeopardize my chances if I complain. Individuals may be afraid they will suffer retaliation for complaining. Or, a concern they will be branded a "troublemaker," overly sensitive or "not a team player" may make some individuals hesitate to report misconduct.



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Transition to Next Video

- So far, we have been talking about harassment, discrimination or retaliation by other employees. Conduct by “third parties” such as customers or vendors also may affect a person’s work environment.
- Next, we are going to look at a video about Brad, a driver, and his customer, Lisa.

Video and Discussion: *Keeping the Customer Happy* (10 minutes)

(Refer Employees to Workbook, page 9)

Employees should make sure to note their thoughts in response to the questions while watching the video.

Play Video Segment: *Keeping the Customer Happy*

Discuss Questions/Answers as a Group

Goals for Discussion

- Explain the dynamics of customer-based harassment, discrimination, retaliation and/or disrespect.
- Describe the employee’s responsibility to speak up or complain when he or she finds certain conduct or comments inappropriate or uncomfortable.
- Describe our Company’s commitment to addressing complaints about the behavior of an employee, customer, vendor or contractor.
- Understand that businesses (i.e., customers) cannot retaliate because an individual employee of our Company complains about inappropriate or offensive behavior.

Question 1

What inappropriate behavior did you see happening between Brad (the driver) and Lisa (the customer)?

Look for:

- There was no inappropriate behavior by Brad, who tried to remain professional with Lisa.
- Lisa physically touched Brad in an inappropriate manner.
- Lisa’s comments about Brad’s physical appearance were inappropriate and unwelcome.
- Lisa’s threats to pull business from Brad’s employer were inappropriate.

Question 2

Does it make any difference that it is a woman “complimenting” a man in this scene?

Look for:

No. It does not make any difference under the law that the person engaging in this inappropriate behavior is a woman. It was clearly unwelcome by Brad.

Remind employees that men experience and complain about harassment and discrimination too.



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Question 3

What do you think about how Brad handled the customer? What else might he have done?

Look for:

- Brad's reaction was appropriate.
- Point out that Brad was brave to speak up to the customer. Ask the group if they could be like Brad and speak up to the customer if they do not like the behavior.

(Note to facilitator: Advise the group that if someone is not comfortable speaking up, they should report the problem to their manager or other EEO resource at your Company instead. This may also be a good opportunity to reinforce what the Company's policy states about the proper reporting procedure for employees who experience or see discrimination, harassment, disrespect or retaliation in any work environment.)

Question 4

Did Brad do the right thing by discussing the situation with his manager?

Look for:

Yes, he did. Even though Brad may feel he handled the situation with Lisa, it is important to speak up and let his Company know what has occurred. The Company is committed to addressing complaints about the behavior of customers, not just co-workers, so Brad shouldn't feel he has to handle it on his own.

(Note to facilitator: This is a good scenario to reiterate that Brad cannot be retaliated against based on his complaint about inappropriate behavior by Lisa, the customer. He should be reminded to tell his manager if Lisa treats him adversely for rebuffing her advances. This is a good opportunity to remind employees what the Company's policy states about prohibiting retaliation.)

Question 5

If, on Brad's next visit, Lisa continues to engage in the same type of behavior, what should he do?

Look for:

Brad should speak with his manager again, telling him what occurred. He may also speak to someone in Human Resources about his previous complaint and the ongoing harassment that he is experiencing.

Question 6

Is it okay for the customer to refuse to work with the Company or Brad because he will not "play along?"

Look for:

- No, that is retaliation, prohibited under the law.
- Perhaps the Company should move Brad to a different route to avoid this type of disrespect, but it should do so in a way that does not cause harm to Brad.



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POWERPOINT® SLIDE #24

PART 3:

Identifying Other Harassment, Discrimination and Retaliation Issues (28 minutes)

- Title VII prohibits more than just sexual harassment, gender discrimination and retaliation.
- We will now discuss some other forms of harassment, discrimination and retaliation.

POWERPOINT® SLIDE #25

In this unit we will cover other types of harassment, discrimination and retaliation:

- Age
- Race
- Color
- National origin
- Disability
- Religion

Transition to Video

- What can happen when someone “different” comes into the workplace?
- Observe the behaviors between Gloria and Richard in the video.

Video and Discussion: *Welcome Aboard* (10 minutes)

(Refer *Employees to Workbook*, page 10)

Employees should make sure to note their thoughts in response to the questions while watching the video.

Play Video Segment: *Welcome Aboard*

Discuss Questions/Answers as a Group

Goals for Discussion

- Introduction to other “protected classes” as defined by federal and state laws.
- Understand race-based harassment.
- Explain the legal problems that can occur with retaliation.
- Learn that our Company prohibits retaliation following complaints of harassment and/or discrimination.
- Understand the distinction between intent versus impact.
- Explain a person’s obligations to speak up when uncomfortable with another person’s comments or conduct.

Question 1

What did you think about the comments Gloria made to the new financial analyst, Richard, in the first scene?

Look for:

- Gloria did not seem mean or malicious, and is probably happy that Richard is there. The problem, however, was that Gloria appeared to focus on the color of Richard’s skin, not on his qualifications.
- Comments about hiring a “person of color” tend to belittle the person’s qualifications.
- Comments about meeting the “minimum requirements” suggest that people of color are not smart.



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Question 2

Was there anything “illegal” about Gloria’s comments?

Look for:

Typically, a one-time conversation like this will not rise to the level of unlawful harassment because it is not severe or pervasive enough to affect a term or condition of Richard’s employment. However, it certainly may be against Company policy and is not the message you want to convey to a new co-worker. And, the Company needs to stop the conduct before it gets to the level of severe or pervasive.

Question 3

Did Richard regard Gloria’s comments as welcome or unwelcome? How can you tell?

Look for:

- Richard regarded Gloria’s comments as unwelcome and inappropriate.
- His facial expressions and body language showed how he felt.

Question 4

Did Gloria intend to offend Richard? Does it matter?

Look for:

- Gloria probably did not intend to offend Richard.
- However, the impact on Richard was that he perceived her behavior as unwelcome and inappropriate.
- There is a difference between intent vs. impact. Intent does not matter under the laws regarding harassment, discrimination and retaliation.

Question 5

If you were in the area and overheard the conversation between Richard and Gloria, what would/could you do to help?

Look for:

- Talk with Gloria, especially if you know her, and explain that you know she wouldn’t try to hurt someone but what she said may not have been received in a positive way.
- Talk with Richard at some point and say something like, “I’m really glad you’re here and I’d like to get to know you better.”
- Talk with a manager in case Richard does not do so, to ensure that the issue can be worked on to create a more respectful and welcoming work environment.

Question 6

Do you see any significant problems in the second conversation between Richard and Gloria?

Look for:

- Gloria was obviously angry that Richard had spoken to Mr. Wyatt; she was not respectful.
- Gloria did not act as though she understands how her comments impacted Richard.
- Gloria’s behavior may be considered retaliation against Richard based on his complaint.
- Gloria could be subject to discipline for retaliating.
- Richard may feel even less welcome.

Question 7

If the objective is to have a respectful workplace where everyone feels comfortable, what might Gloria have done differently in this vignette? What might Richard have done differently? What might Mr. Wyatt, the Company owner, have done differently?



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Look for:

- Gloria: She simply could have welcomed him as a new member of the team without referring to the color of his skin or the other candidates. She could have apologized to Richard when she realized he was offended.
- Mr. Wyatt: He could have told Richard that he (Mr. Wyatt) would need to talk to Gloria. He could have told Gloria that any retaliation directed at Richard was not appropriate behavior and explained to her what constitutes retaliation (e.g., not doing work for him, not talking to him).
- Richard: Overall, nothing different needed to be done. He might have been more direct with Gloria about the impact of her behavior on him.

Transition to Next Video

- Gloria demonstrated a lack of understanding and training on inappropriate behaviors in the work environment, resulting in a negative impact on another employee.
- It's important that this is not happening at our Company.
- Next, we are going to look at a conversation in a lunchroom.

Video and Discussion: *Conversations at Lunch* (10 minutes)

(Refer Employees to Workbook, page 11)

Employees should make sure to note their thoughts in response to the questions while watching the video.

Play Video Segment: *Conversations at Lunch*

Discuss Questions/Answers as a Group

Goals for Discussion

- Understand that the law is consistent in terms of hostile work environment between sexual harassment and other forms of harassment.
- Understand that religion and national origin discrimination issues are the new hotbeds of employment litigation.
- Understand the change in workforce demographics and how that impacts employees' need to understand others' differences.
- Understand that employees of private employers do not have the right to free speech at work.
- Understand an employer's duty to accommodate religious issues to the extent that is reasonable.
- Reiterate behaviors that encourage respect in the work environment.

(Note to facilitator: For some work environments, religious accommodation is a discussion that's too complex for the allotted time. Consider whether this is true for the employee session.)

Question 1

What do you think about the comments that were made in the lunchroom? Do these comments alone constitute harassment? Were they appropriate or inappropriate?

Look for:

- The comments made were inappropriate.
- The comments may constitute harassment based on national origin, religion or gender. Frequency and severity, the impact on the employee's ability to work, and the employer's response to the situation would also be considered.
- The comments violate our Company's policy prohibiting discrimination and harassment, if applicable, and/or are disrespectful (if the Company policy would not prohibit the conduct).



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Question 2

Does it matter that the employees in the lunchroom did not know Nadia could hear them?

Look for:

- No. It doesn't matter that the employees in the lunchroom did not know Nadia could hear them.
- Their comments were inappropriately focusing on Nadia's religion and national origin, and possibly her gender (e.g., she should stay home because she has children).
- Employees should be respectful to each other, even when outside the presence of the other employee.

Question 3

Do you have a right to free speech at work?

Look for:

Employees may think they have the right to free speech at work, especially at lunch. However, employees who work at a private Company DO NOT have the right to free speech in the workplace, and employers may regulate and monitor such speech. Remember, our goal is a respectful workplace free from harassment and discrimination, as well as retaliation, so respectful speech at work is required.

Question 4

If you were in that lunchroom, what would/should you have done?

Look for:

- Comment on the fact that we all have different customs related to our culture and we need to respect all cultures. Talk about parts of your own culture or background that differ from others, or the things about Nadia's culture that you enjoy.
- Talk about: good things that Nadia does at work. For example, it is likely that she performs duties that others do not perform in place of covering the reception desk.
- Note that the law requires companies to accommodate religious beliefs, if the accommodation is necessary and reasonable.
- Change the subject. Let others know that you like and respect Nadia and you do not think it is right to speak disrespectfully about her.
- Note that there are certain aspects of your personal beliefs that you are glad others respect.
- Report the behavior to a manager.

Transition to Video

Next, we are going to look at a conversation that Ray is having with some other employees. Let's see if Ray has any concerns about the comments made by his co-workers.

Video and Discussion: *His New Bride* (7 minutes)

(Refer *Employees to Workbook*, page 12)

Employees should make sure to note their thoughts in response to the questions while watching the video.

Play Video Segment: *His New Bride*

Discuss Questions/Answers as a Group



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Goals for Discussion

- Explain that the law is consistent in terms of hostile work environment between sexual harassment and other forms of harassment, regardless of the gender of the recipient.
- Explain disability harassment and discrimination.
- Explain age harassment and discrimination.
- Explain the impact of the behavior on the individual, the team and the business.

Question 1

What was going on here? What kind of comments did Ray, the older worker, have to listen to? Were they appropriate?

Look for:

Identifying these inappropriate behaviors:

- Calling him “Gramps.”
- Comments about the age of his wife and comparing his age to hers.
- Comments about being out on disability.
- Comments about missing work.
- Comments about taking pills at lunch.
- Comments about Ray “keeping up” with his wife.

Question 2

Do you see anything wrong with the comments that were made?

Look for:

- Yes. These comments were disrespectful and offensive.
- Many of the comments were based on Ray’s age or possible medical condition.
- Some were sexual in nature and prying into Ray’s sex life.

Question 3

Are comments made in the workplace about a person’s health issues, like Ray’s back trouble, a cause for concern? Why or why not?

Look for:

Yes. Employees should not joke about a person’s medical condition. Not only is it disrespectful, but it may also violate the Americans with Disabilities Act (ADA), the ADA Amendments Act of 2008, and/or state discrimination laws if the condition meets the legal definition of “disability,” generally a very fact-specific assessment.

Question 4

What impact are these comments likely to have on Ray? What is the impact on the team? What is the impact on the business as a whole?

Look for:

- Impact on Ray: Anger, frustration, decreased productivity.
- Impact on team: Decreased productivity, negative impact on teamwork.
- Impact on business: Higher turnover rate (Ray may leave the Company), higher absenteeism (Ray may call in sick more often).



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Question 5

What could/should you do if you observed this behavior in your work area?

Look for:

- Ask Ray if there is anything you can do to help.
- Let Ray know you value his work.

(Note to facilitator: These answers are similar to question 5 on page 19 regarding Gloria and Richard and would be appropriate to revisit here as well.)

Transition

- At this point in the program, we have discussed many different types of harassment.
- Now we'll briefly discuss what you need to do if you believe that you have been the victim of harassment, discrimination or other disrespectful behavior.

POWERPOINT® SLIDE #26

Report Harassing Behavior (1 minute)

- You should report harassing behavior immediately to your supervisor, another member of management or a Human Resources representative.
- For other resources or assistance, talk to Human Resources if applicable or another EEO person.
- The only way the Company can address problems is to know about them.

(Note to facilitator: If applicable, note the Company's policy, which may require reporting by both the witnesses who observe and the employees who experience disrespectful conduct.)

Ask:

- Does anyone have questions about what to do if you experience harassment?
- Respond to questions, noting the relevant parts of the law discussed at page 5, the Company's applicable policy and/or the Company's intolerance for disrespectful conduct.



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Post-Test (15 minutes)

- Let's take a few minutes to review what we've learned today.
- Administer post-test.
- Review answers as a group.

(Note to facilitator: The post-test and answer key can be found on the Support Materials CD-ROM.)

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POWERPOINT® SLIDE #27

Summary and Ending (2 minutes)

- Thanks for coming today.
- We've covered a lot of information.
- Important action items to remember:
 - When there is a problem on a respect issue, educate others about what you feel is appropriate and inappropriate behavior, and be receptive when others educate you on those issues.
 - Speak up when you see or experience disrespectful behavior. Tell the person to stop his or her behavior immediately. Respect each other by keeping the *Respect Effect* in mind when you interact with other employees.
 - Report harassing behavior to a supervisor or Human Resources.
 - Don't allow disrespectful, discriminatory, retaliatory or harassing behavior to occur in our work environment.

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