



Putting Your Sexual Harassment Knowledge Into Practice

SHRM GUAM CHAPTER BREAKFAST BRIEFING
February 6, 2019

Dana A. Gutierrez, Esq., Calvo Fisher & Jacob LLP
Rose Ayuyu Morales, GTA
Joann W. Muna, Guam Community College

#ME TOO ..What Is It?

- It all began with the October 2017 *New York Times* article
 - Numerous accusations of sexual harassment and assault against movie mogul Harvey Weinstein
- Boosted the #MeToo movement into nation's awareness
- Unleashed a media earthquake
 - ✓ Women formerly silenced came forward sharing their stories of sexual harassment and assault on social media
 - ✓ We learned the hashtag, #MeToo
 - ✓ Powerful people tumbled in disgrace
- Let's take a look at some notable #MeToo events

Timeline Of The #ME TO♀ Movement

2006

Tarana Burke coins the phrase “Me Too.” Ms. Burke is a survivor of sexual assault and wanted to help women and girls of color who had also survived sexual violence.



October 5, 2017

Ashley Judd and Rose McGowan accuse Harvey Weinstein of sexual harassment and misconduct.

Timeline Of The #ME TO ♀ Movement

October 15, 2017

Actress Alyssa Milano is credited with reigniting the #MeToo movement with a tweet.



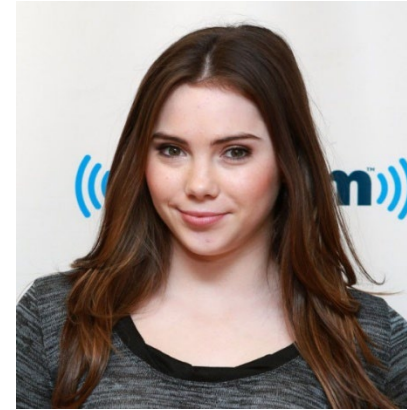
October 29, 2017

Anthony Rapp makes the first accusation against Kevin Spacey, claiming that he made sexual advances towards him at age 14.

Timeline Of The #ME TO♀ Movement

November 9, 2017

Olympic gymnast McKayla Maroney acknowledges in a tweet that she was sexually assaulted by former team doctor, Lawrence Nassar, who has now been sentenced to 60 years in federal prison.



November 10, 2017

Louis C.K. confirms a New York Times report that several women had accused him of sexual misconduct. He stated, "These stories are true."



Timeline Of The #ME TO♀ Movement

November 29, 2017

The “Today” show announced that its co-host, Matt Lauer was fired after NBC received detailed allegations about his sexual misconduct.



December 7, 2017

U.S. Senator Al Franken, D-Minn., announces he will resign from Congress following sexual misconduct allegations against him.



#MeToo...Where Are We Now?

The New York Times

Another Side of #MeToo: Male Managers Fearful of Mentoring Women





#MeToo...Where Are We Now?

- **Has #MeToo gone too far?**
 - **Concerns that #MeToo has resulted in backlash against women**
 - **Males in leadership roles are “uncomfortable” and “afraid” to work with women because of fear of false claims of sexual harassment**
 - **This fear may result in decreased opportunities for women at work**



#MeToo...Where Are We Now?

➤ **Has it gone too far?**

- ✓ **Males who make hiring decisions may be less likely to hire women**
- ✓ **Males may not be willing to invite female colleagues**
 - **on trips**
 - **to evening networking events; or**
 - **into their inner circles to avoid any situation that could be perceived incorrectly**
- ✓ **Males may not be willing to mentor female colleagues**



#MeToo...Where Are We Now?

➤ Has it gone too far?

✓ How can we remedy these concerns?

- If you take your mentee to a meal, make it a lunch rather than a dinner
- Skip wine or cocktails, and order sparkling water or coffee instead
- Schedule meetings for public spaces, rather than closed-door settings
- Invite a third person, perhaps another mentee, or another colleague; consider it an opportunity to help your mentee make a helpful professional connection

#MeToo...Where Are We Now?

- Has it gone too far?
 - ✓ How can we remedy these concerns?
 - Promote/put females in leadership positions



#MeToo...Where Are We Now?



U.S. Equal Employment
Opportunity Commission



EEOC Files Seven Suits Against Harassment

Agency Enforces the Law in Filings Around the Country

WASHINGTON - The U.S. Equal Employment Opportunity Commission (EEOC) has filed seven lawsuits against various employers across the country, charging them with harassment. This multi-state action by the EEOC should reinforce to employers that harassment - on all bases - is a violation of federal law.

"As the nation has seen over the past nine months, harassment at work can affect individuals for years in their careers and livelihoods," said EEOC Acting Chair Victoria A. Lipnic. "There are many consequences that flow from harassment not being addressed in our nation's workplaces. These suits filed by the EEOC around the country are a reminder that a federal enforcement action by the EEOC is potentially one of those consequences."

She continued, "I commend our investigative and trial teams, and our Office of General Counsel, for their work on these important cases. I also commend the individuals who came forward, for bringing their stories to the EEOC in the first place."

The EEOC's Birmingham District Office sued [Master Marine, Inc.](#), a Gulf Coast shipbuilder, for racial and same-sex sexual harassment for allowing one of its lead welders to sexually and racially harass a male Asian-American welder at its Bayou La Batre, Alabama, headquarters. In addition, Master Marine subjected three African-American employees to racial harassment, the EEOC said. According to the EEOC's lawsuit, a supervisor repeatedly referred to the welder in racially derogatory terms, including making insensitive remarks regarding the victim's Asian heritage. In addition, the suit alleges that the supervisor repeatedly made unwanted sexual comments and inappropriately touched the welder. The EEOC also charged that the harasser discriminated against three black employees by subjecting them to racial harassment. The alleged harasser, who also supervised these employees, reportedly referred to them as "n----r," "monkey," and "boy."



#MeToo...Where Are We Now?

➤ Has it resulted in legal implications?

- ✓ EEOC has increased its enforcement activity with particular focus on sex discrimination / sexual harassment
- ✓ Lawsuits filed by the EEOC in 2018 increased by 50% over 2017
- ✓ On June 14, 2018, EEOC issued press release that it had filed seven (7) lawsuits against harassment
 - ✓ Example: *Master Marine, Inc.* (Alabama) = racial & same-sex sexual harassment; allowing one of its lead welders to sexually and racially harass a male Asian American welder; supervisor repeatedly made unwanted sexual comments and inappropriately touched the welder
 - ✓ Example: *Real Time Staffing Services, Inc.* (Dallas) = allowing a group of female employees to be subjected to sexual harassment via unwelcome touching & pervasive sexual comments, including comments about their breasts and buttocks; females referred to as “prostitutes” and “sluts”



#MeToo...Where Are We Now?

- **Has it resulted in legal implications?**
 - ✓ On June 14, 2018, EEOC issued press release that it had filed seven (7) lawsuits against harassment
 - Example: *Sierra Creative Systems* (Los Angeles) = female workers subjected to ongoing verbal and physical sexual harassment and retaliation; supervisor rubbed the backs of female employees while making comments about their underclothes and “accidentally” grazed their breasts with his elbows while working at printing machines; employees were called “whores” or “sluts” and were referred to as “cows” and “donkeys”; called “useless,” “stupid” and “ignorant”; the company did nothing to stop the abuse and those that reported misconduct were subjected to harassment and retaliation
- On August 9, 2018, the EEOC issued a press release that it filed seven (7) more suits against harassment



#MeToo...Where Are We Now?

➤ Has it resulted in legal implications?

- ✓ **Since #MeToo, the number of sex discrimination claims / sexual harassment complaints filed with the EEOC has gone up**
- ✓ **In 2018, charges filed with the EEOC alleging sexual harassment increased by more than 12% from 2017**
 - **The first increase in year-to-year harassment complaints in a decade**
- ✓ **“Reasonable Cause” findings by the EEOC in sexual harassment investigations jumped by 23%**
- ✓ **Successful EEOC conciliation (or mediation) proceedings rose by 43%**



#MeToo...Where Are We Now?

- **Has it resulted in legal implications?**
 - ✓ **EEOC website traffic—specifically the Agency’s sexual harassment page—more than doubled over last year**
 - ✓ **Total recovery for sexual harassment complainants in 2018 jumped to approximately \$70 million from \$47.5 million in 2017**
 - ✓ **Some argue #MeToo may help plaintiffs prove the existence of a hostile work environment**
 - **Increased attention could mean that the “reasonable person” would view subtle comments about appearance or behavior as sufficiently “severe” or “pervasive”**

Post #METOO...Should We Still Be Concerned?



U.S. Equal Employment
Opportunity Commission

Atlantic Capes Fisheries & BJ's Service Co. to Pay \$675,000 to Settle EEOC Sex Harassment and Retaliation Lawsuit

BOSTON - Atlantic Capes Fisheries, Inc. (ACF), a New Jersey-based shellfish harvester and processor, and BJ's Service Co., Inc., a staffing agency located in New Bedford, Mass., will pay \$675,000 and furnish other relief to settle a lawsuit charging sex-based harassment and retaliation filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced today.

According to the EEOC's suit, women at ACF's Fall River, Mass., facility have been subject to ongoing and egregious sex harassment since at least 2013. The sex harassment, which the EEOC alleged was perpetrated by male managers, line supervisors and co-workers, included unwanted touching, solicitations for sex, and crude comments about female workers' bodies. Despite knowledge of the pervasive harassment, neither ACF nor BJ's made any efforts to stop the harassment or punish the harassers, the EEOC charged. Additionally, the two companies fired two of the women, Mirna Pacaja and Paula Carrillo, after they filed charges of discrimination with the EEOC, according to the lawsuit.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964. The EEOC filed its suit (Civil Action No. 1:17-cv-11860) in U.S. District Court for the District of Massachusetts on Sept. 27, 2017 after first attempting to reach a pre-litigation settlement through its conciliation process.

Under the terms of the four-year consent decree resolving the lawsuit, women who have worked at ACF's Fall River facility at any time since January 2013 and who have experienced sexual harassment will be eligible to receive a portion of the settlement. The decree requires both employers to create and/or revise policies prohibiting sex discrimination (including harassment) and retaliation and provide related training to their managers and workers. The policies and training must be available in both English and Spanish, as most workers in ACF's Fall River facility are Spanish speakers.

In addition, the decree requires both employers to retain, track, and investigate complaints of sex harassment and to provide copies of those complaints to the EEOC for the duration of the decree. The decree also requires that ACF employ a human resources professional who is bilingual in English and Spanish.

The consent decree resolving the case, which was approved by the court today, enjoins ACF and BJ's from violating Title VII by allowing sex harassment of employees to occur and by retaliating against any individual who has opposed practices made illegal under the statute, including opposition to sexual harassment.

"Even in the era of the 'Me Too,' movement, many employees, especially low-wage and immigrant workers, fear bringing complaints of sex harassment forward," said EEOC Senior Trial Attorney Sara Smolik. "The brave four women who filed discrimination charges with the EEOC in this case alerted the agency to widespread sex harassment that was adversely affecting them and many of their female co-workers in the facility. Because they had the courage to step forward, the EEOC was able to investigate and bring this lawsuit to improve the working conditions for everyone."

EEOC Regional Attorney Jeffrey Burstein said, "The decree ensures that ACF and BJ's comply with the law and provide crucial training and policy changes that will educate their workforce about their rights under Title VII. We are hopeful that with these changes, ACF and BJ's will exemplify best employment practices in the seafood industry on the Massachusetts South Coast."

EEOC New York District Director Kevin Berry added, "All employers should be aware that they have a responsibility to prevent sexual harassment of their employees. Employers must also make sure that they have multiple avenues for employees to complain about harassment and that those avenues of complaint are clear and shared with all staff."

Sara Smolik and Adela Santos were the EEOC's lead trial attorneys for this case.

EEOC's New York District Office oversees New York, Northern New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire and Maine.

The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at www.eeoc.gov. Stay connected with the latest EEOC news by subscribing to our [email updates](#).



Post ...Should We Still Be Concerned?

- Employers still paying \$\$\$ to settle sexual harassment lawsuits
 - ✓ Jan 30, 2019: Atlantic Cape Fisheries & BJ's Service Co. to pay \$675,000 to settle EEOC sex harassment/retaliation lawsuit
 - ACF = New Jersey-based shellfish harvester/processor & BJ = staffing agency
 - Since at least 2013, women subject to ongoing and egregious sex harassment perpetrated by male managers, line supervisors and co-workers
 - Unwanted touching, solicitation for sex, & crude comments about female workers' bodies
 - Did not stop the harassment, punish the harassers and fired 2 women who filed EEOC charges

Post ...Should We Still Be Concerned?

- Employers still paying \$\$\$ to settle sexual harassment lawsuits
 - ✓ Dec 11, 2018: Draper Development LLC to pay \$80,000 to settle EEOC sexual harassment lawsuit
 - Draper = Owner/operator of Subway franchises in New York
 - Former General Manager sent texts to two 17 year old female applicants offering jobs in exchange for sex
 - One text message read, “Bang my brains out, and the job is yours”
 - In both cases, the applicants did not comply and were not hired
 - In addition to paying the two victims, the company will distribute a revised policy prohibiting sexual harassment; conduct anti-harassment training for managers and employees; post a public notice about the settlement; and report all sexual harassment complaints to the EEOC

Post ...Should We Still Be Concerned?

- **Guam employers are not immune from EEOC enforcement**
 - ✓ **Even before #MeToo, Guam employees exercised their Title VII rights through the EEOC**
 - ✓ **May 24, 2012: Guam employer paid \$77,500 to settle an EEOC sexual harassment lawsuit filed in the District Court of Guam**
 - ✓ **June 24, 2014: Guam employer paid \$75,000 to resolve a sexual harassment case with the EEOC**

Is This Sexual Harassment?



Is This Sexual Harassment?



Is This Sexual Harassment?



Is This Sexual Harassment?



The Basics

What Is Sexual Harassment?

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

The Basics

What Is Sexual Harassment?

The two forms of sexual harassment are:

- ✓ Quid pro quo (Latin for “this for that” or “something for something”).
- ✓ Hostile work environment.



The Basics

What Is Sexual Harassment?

➤ Quid Pro Quo:

- ✓ Commonly referred to as “supervisor” harassment
- ✓ Tangible employment action against the victim.
- ✓ Involves monetary loss or change in job.



The Basics

What Is Sexual Harassment?

Examples of Quid Pro Quo Sexual Harassment:

- **A Manager/Supervisor demands sexual favors in exchange for promotion or raise.**
- **A Manager/Supervisor disciplines or discharges an employee who ends a romantic relationship.**
- **A Manager/Supervisor changes job performance expectations after subordinate refuses repeated requests for a date.**
- **A person in authority threatening to discredit a subordinate employee if they won't attend a party with them after work.**

The Basics

What Is Sexual Harassment?

- **Hostile Work Environment:**
 - ✓ Speech or conduct that is severe and/or pervasive enough to create an abusive or hostile work environment.
 - ✓ Example: Mike Cruz is giving elevator eyes and intentionally brushing against Sally Rivera.



The Basics

What Is Sexual Harassment?

➤ Hostile Work Environment (cont.)

- ✓ In addition to speech and/or conduct, covers explicit or suggestive items that are e-mailed, texted, electronically provided or displayed in the workplace that interfere with job performance or that create an abusive or hostile work environment.
- ✓ Example: Maria Diaz texts and instant messages her co-workers with sexually explicit jokes and pictures.



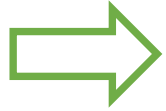
The Basics

What Is Sexual Harassment?

- **Who can commit sexual harassment:**
 - ✓ **Employees at all levels.**
 - ✓ **Customers or vendors.**
 - ✓ **Members of the same sex or opposite sex.**
 - ✓ **Who can be a victim of sexual harassment:**
 - ✓ **Individual or individuals targeted by statements or actions.**
 - ✓ **Bystanders or witnesses not directly targeted.**

The Basics

What Is Sexual Harassment?

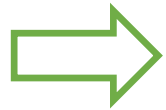


Remember – Liability for supervisor misconduct

- ✓ **The actions of supervisory employees are considered actions of the employer**
- ✓ **An employer will be “strictly” liable when a supervisor’s conduct results in a tangible employment action**

The Basics

What Is Sexual Harassment?



Remember – Liability for supervisor misconduct

Absent a tangible employment action, an employer may put forward an affirmative defense:

- ✓ **The employer took reasonable steps to prevent and promptly correct sexual harassment in the workplace; and**
- ✓ **The aggrieved employee unreasonably failed to take advantage of the employer's preventive or corrective measures**
- ✓ **a/k/a the *Faragher / Ellerth* affirmative defense**
- ✓ **If the employer can meet these two elements = no employer liability**

sexual harassment

Scenarios

Scenario 1

Josefa was employed with B Industries for 15 months. A few months after she was hired, while on a business trip with another employee – who had the authority to make hiring and promotion decisions subject to the approval of his supervisor, but who was not Josefa’s immediate supervisor – invited Josefa to the hotel lounge. Josefa felt compelled to accept the invitation. While there, the employee made remarks about her breasts, and when she did not respond, he told her to “loosen up,” and warned that he could “make [her] life very hard or very easy at [work].”

Was Josefa sexually harassed by the employee?

If yes, what type of sexual harassment was it?

sexual harassment

Scenarios

After she had been employed for one year, Josefa was being considered for a promotion and the same employee expressed reservations during the promotion interview because she was not “loose enough.” The comment was followed by his winking at her. Ultimately, Josefa received the promotion; when the employee called to tell her that she was promoted, he told her that she would be working with men who “certainly like pretty women who are in shape.”

During her last month of employment, Josefa called the employee and asked permission to include a customer’s logo in a fabric sample. He responded “I don’t have time for you right now, . . . unless you want to tell me what you’re wearing.” A few days later she called to ask permission again; the request was denied, and he also asked whether she was “wearing shorter skirts yet, . . . because it would make [her] job a whole heck of a lot easier.”



sexual harassment

Scenarios

Shortly after that incident, Josefa's immediate supervisor spoke with her about returning telephone calls to customers in a timely fashion; in response, she quit. Her letter of resignation listed reasons other than the above incidents. Three weeks later, she sent a letter indicating that she had quit because of the other employee's behavior.

While she was employed, Josefa did not inform anyone about the employee's conduct, despite knowing that her employer had a policy against sexual harassment. She intentionally kept the information from her immediate supervisor because he would have a duty to report any sexual harassment.

Ultimately, she filed suit, alleging violations of Title VII of the Civil Rights Act of 1964.



Scenarios

- ✓ Was Josefa sexually harassed? If yes, what kind of sexual harassment?
- ✓ Did Josefa suffer a tangible employment action? Yes or no?
- ✓ Did she experience a hostile work environment?
- ✓ Was the employee's conduct severe and pervasive?
- ✓ As a supervisor was involved, isn't the employer automatically liable for sexual harassment? Why or why not?
- ✓ Does the employer in this case have an affirmative defense against supervisor hostile work environment sexual harassment?



sexual harassment

Scenarios

Scenario 2

In June 1997, Lourdes was hired by her employer. She was the only female employee. In September 1997, Lourdes complained that her immediate supervisor had repeatedly told her that women should not be working in her department. He had also made insulting and inappropriate remarks to her in front of her other colleagues. After an internal investigation, the supervisor was suspended for 10 days and was required to attend a sexual-harassment training session.

On September 26, Lourdes was told about the discipline. That same day, she was reassigned to another position though her job classification remained the same. She was told that this occurred because other co-workers had complained that she was given a position that should have gone to a more senior employee.



Scenarios

On October 10, Lourdes filed a complaint with the Equal Employment Opportunity Commission. She claimed that the reassignment constituted unlawful gender-based discrimination and retaliation for her earlier complaints.

In early December, she filed a second complaint with her employer, claiming that another employee had placed her under surveillance and was monitoring her daily activities.

A few days later, Lourdes had a disagreement with her immediate supervisor; he told the other employee (his supervisor) that Lourdes had been insubordinate. Lourdes was immediately suspended without pay.



Scenarios

Lourdes invoked grievance procedures, which led to a determination that she had not been insubordinate. She was reinstated after 37 days and received full backpay. She filed an additional retaliation charge with the EEOC based on the suspension.

Thereafter, Lourdes filed suit against her employer, alleging violations of Title VII. She also claimed that the change in job responsibilities and the suspension without pay constituted retaliation.



Scenarios

- ✓ Did the employee experience sexual harassment?
- ✓ Did the employer's conduct constitute retaliation? Why or why not?
- ✓ Although the employee was reassigned, weren't the employee's duties within the same classification?
- ✓ Wasn't the employee's entire pay eventually reinstated after suspension?
- ✓ Would the employer's conduct deter a reasonable employee from making or supporting a charge of discrimination?



Scenarios

Scenario 3

A female worker in a small company of 15 employees is asked every 3-4 weeks by a male coworker to go out for drinks after work. The invitations are never more than simply an invitation. The female employee has always politely declined with phrases such as “not today” or “maybe next time” and similar refusals. The female employee is known by all in the company, including the male coworker, to be dating someone outside the office. The repeated requests have started to make her uncomfortable, but she has not formally reported her coworker’s conduct.

Is this sexual harassment?



Scenarios

The Twist

The male coworker invites all of his coworkers, male and female, out for drinks every 3-4 weeks for happy hour and the group goes to a local pub to have a drink or two. Not everyone attends every time, but most of the coworkers do go regularly. All other behavior by the male coworker is appropriate, he just likes to socialize with his coworkers after work hours.

Is this sexual harassment?



Scenarios

Scenario 4

The local delivery driver comes into the office at least every other day with deliveries. The driver takes a liking to the new receptionist who is signing for the packages and asks her out once. The receptionist is not interested and says no. But our wannabe Don Juan takes it upon himself to woo the new receptionist. While not every day but usually once a week or so, the driver brings little gifts like candy, empanada, and buchi buchi just for the receptionist.

Is this sexual harassment?



sexual harassment

Scenarios

The Twist

What if the delivery driver is a woman?

Does it matter?





Scenarios

Scenario 5

You own a restaurant and the back of the house staff, the cooks, dishwashers, prep cooks, are a rowdy bunch. Although they cannot be heard from the front of the house by patrons, they are loud. Crude, sexually-based jokes, insults and jibes abound. None of the back house staff, which include male and female workers, ever complain, but you notice that the servers and hostesses all seem pretty shaken and upset by the behavior, particularly when the conduct is more extreme than normal.

Is this sexual harassment?

sexual harassment

Scenarios

The Twist

The executive chef, who is also your business partner, acts the same way as the rest of the back of the house staff.

Is your life now better or worse?



sexual harassment

Scenarios

Scenario 6

One of the employees at your office tells you she has been sexually harassed by another employee. The situation she describes doesn't sound like sexual harassment to you; to you, it seems like the employee is too sensitive. You also suspect the employee may be making more out of this than there is, to try to get out of an unwanted assignment.

Do you have to take action?





Scenarios

Scenario 7

You are a supervisor and Fred, one of your employees, tells you that one of your colleagues, another supervisor, is a sexual harasser. You ask Fred why he says that, and Fred says “I’ve heard it around.” This is the first indication of anything like this you have heard about the supervisor.

Do you need to report this information or take action?





sexual harassment

Scenarios

Scenario 8

You are a unit head and Ana, an employee in your unit, writes you a note saying that Julie, another employee in your unit, is being given a negative performance evaluation by her supervisor. The supervisor reports to you. Ana says that the negative evaluation is part of a series of negative actions the supervisor has taken against Julie and that the supervisor treats female employees this way except for one or two female employees that “play the game” with the supervisor. You reviewed and approved the performance evaluation and you believe it is based on weaknesses in Julie’s job performance, not anything to do with her being a woman.

Do you need to report this matter?

sexual harassment

Scenarios

Scenario 9

You are a supervisor of custodial workers. You notice that one of your employees talks a lot about women – famous women he thinks are “hot,” what physical traits he likes, how his old girlfriend looked. You have also heard him make comments about female co-workers looks and attire, although these comments haven’t been crude. None of your other employees have complained about him.

Do you need to take action?



sexual harassment

Scenarios

Scenario 10

Pam, an attractive female employee, likes to wear blouses with low necklines, short tight skirts and high heels. When she walks down the hall in the office, many times her male co-workers and some females stare at her, some with a knowing smiles, others just shake their heads.

Occasionally, one individual silently acts as if he is having a heart attack. She has repeatedly indicated to her co-workers that their conduct embarrasses her.

Some of her female co-workers have mentioned that she causes her problems by the way she dresses.

Do you need to take action?



So What Now?

- **Management Buy-In**
 - ✓ Unless management supports a harassment-free environment it's difficult to require compliance
 - ✓ Top-down mentality, devote sufficient resources to prevention efforts, diversity and inclusion strategy, accountability
- **Must have a written anti-discrimination/anti-harassment policy that**
 - ✓ Defines harassment
 - ✓ Gives examples of prohibited conduct
 - ✓ Has a clear complaint procedure, with multiple points of access
 - ✓ Statement about confidentiality – but cannot promise
 - ✓ Provides for effective corrective action and remedial measures
 - ✓ Non-retaliation statement
 - ✓ Disseminated to all new hires and employees
- **Must periodically review and update the policy**

So What Now?

- **Must train all employees on the policy**
- **Must train HR/other employees on how to investigate and respond to complaints of “harassment”**
- **Identify possible outside investigators**
- **Consider having dating/fraternization policies**
 - ✓ **What do you do if employees (or supervisors) date?**
 - ✓ **Will you allow? Will you prohibit? Will you require the supervisor to report the dating?**
- **When in doubt, consult legal counsel**



**“Our lives begin to end the day we
become silent about things that matter.”**

-Martin Luther King, Jr.