


**Sexual Harassment Compliance
and the #MeToo Era**

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Sexual Harassment in the #MeToo Era





After Weinstein: 71 Men Accused of Sexual Misconduct and Their Fall From Power The New York Times (Feb. 8, 2018)




Defining Sexual Harassment

- <https://www.youtube.com/watch?v=51-hepLP8J4>
- Has the definition of sexual harassment changed?
- Are our expectations different?
- Is “pervasiveness” an important part of the definition?
- Should we focus instead on a culture of civility?

Perhaps the definition of Sexual Harassment hasn't changed but how we interpret acceptable and unacceptable behavior has.

Using Compliance as a Sexual Harassment Prevention Tool

- If you are looking for where to start preventative measures, focus on compliance elements.
 - Most importantly:
 - Tone at the Top;
 - Training and Education;
 - Responding to Detected Offenses (Investigations)
 - Enforcement of Discipline

Leadership, Governance and Oversight – Tone at the Top

Leaders today must:

- exhibit and enforce a culture of respect;
- align conduct with mission, vision and values;
- communicate and enforce at all levels professional standards of communication and behaviors;
- understand that managers and supervisors have a role in identifying and escalating inappropriate conduct.

Policies and Procedures

- Review policies and code of conduct
- Look for
 - Clear definitions
 - Specific actions
- Eliminate
 - Tones of needing to tolerate behaviors



Open Lines of Communication

- Preserve the integrity of your hotline process.
- Anonymity can not (and should not) be guaranteed.
- Respecting the process by:
 - Thorough investigation
 - Follow through
 - Prompt attention



Training and Education

- Clearly state what is acceptable and not acceptable behaviors;
- Train employees and managers and supervisors what their role is if they observe unacceptable behaviors.



Auditing and Monitoring

- Hotline and other complaints or reports should be trended over time to understand:
 - Problem departments;
 - Problem employees;
 - Where additional resources or training may be needed.



Responding to Detected Offenses - Investigations

- One of the most important tools in your compliance program is a well run investigation.
 - Who should conduct?
 - What is your process of investigation?
 - Investigation toolkit



Enforcement of Disciplinary Standards

- When substantiated, enforcement must be uniform and appropriate.
 - Punishment will vary depending on the accusation but should not vary based on position or productivity of the harasser.
 - Potential discipline:
 - Termination
 - Demerits or written warnings
 - Remedial training
 - Separation of harasser and victim