

A year after #MeToo, executives are altering behavior that could be perceived as sexual harassment



One year ago, news of rampant sexual harassment by movie mogul Harvey Weinstein broke, and the #MeToo movement was born. That sparked a nationwide conversation on the prevalence of workplace harassment and what to do about it.

Since then, one-third of executives say they have altered their actions to avoid behaviors that could be perceived as sexual harassment, according to new data from the Society for Human Resource Management.

The executives SHRM surveyed said it's easy to see how sexual harassment harms personal and organizational performance.

Executives say sexual harassment causes...

Lower morale: 23%

Less engagement: 23%

Lower productivity: 18%

Hostile work environment: 15%

Greater turnover: 13%

And while 72% of employees said they were satisfied with their company's efforts to stop sexual harassment in the workplace, more than one-third still believe their workplace fosters sexual harassment.

Surveyed executives said they believe the most effective ways to influence workplace culture to stop sexual harassment and foster a safe environment are:

Enhancing HR's ability to investigate allegations without retaliation (cited by 45%)

Conducting independent reviews of all workplace misconduct investigations (44%)

Increasing diversity in leadership roles (39%).

“At its core, an organization must have the right culture to self-police,” said Johnny C. Taylor, Jr., SHRM’s president and CEO. “We have a long road to go, but positive strides have been made.”

Have a plan for sexual harassers in the C-Suite

HR professionals usually know how to handle co-worker or supervisor sexual harassment:

- Conduct an HR investigation
- Conclude what the facts are
- Discipline if it’s clear the sexual harassment occurred.

But what if the alleged harasser sits high up the company chain of command—say at the top of the org chart? How should you handle an investigation of the most powerful people in your organization?

In the era of #MeToo, you need to have a plan in place for exactly that contingency. Many of the past year’s highest-profile sexual harassment cases have implicated executives who occupy the C-Suite.

Case in point: Consider the EEOC lawsuit just filed against Blackwater Protection and Detective Agency, a Miami-based security service that provides bodyguards, conducts private investigations and monitors security systems.

The EEOC claims Blackwater owner and CEO Asdel Vazquez repeatedly harassed one of his female employees. He allegedly asked if she was gay and whether she found anyone at work attractive. Then he allegedly asked her to join him in a sexual threesome. The lawsuit says Vazquez petted the woman’s hair as she tried to work and repeatedly called her at home.

When she allegedly refused to meet him outside work and told him she wanted to “keep things professional,” he fired her.

In announcing the lawsuit, the EEOC noted that one of its enforcement priorities is litigating cases involving high-ranking managers, owners and executives who abuse their power to harass subordinates.

Online resource: The [EEOC’s Select Task Force on Harassment developed a tool](#) for identifying harassment risk factors and how to respond.

It includes advice on how to handle executives who harass, such as those in the C-Suite. Among the recommendations: Publicize the fact that you disciplined someone high up. That can be an intimidating prospect.

All the more reason to know in advance what you will do if a senior executive is accused of sexual harassment. Possibilities include informing the board of directors or enlisting help from your outside employment law attorney.

Hotel panic buttons are sign of #MeToo’s clout

It’s been almost a year since the #MeToo movement took off on social media, with women worldwide using the hashtag to post their personal experiences of being sexually harassed. In the span of 11 months, heads have rolled in the media, corporations, nonprofits and political world as women have identified their harassers. In addition to terminations, some harassers have had to pay large settlements.

But other than a flurry of anti-harassment training, concrete action to prevent workplace harassment has been notably absent—until now.

This fall, most major U.S. hotel chains announced they are providing “panic buttons” for employees to sound an alarm and call for help if they are attacked. The initiative covers more than 18,000 properties run by members of the American Hotel and Lodging Association—representing major brands such as Best Western, Hilton, Hyatt, Marriott, Radisson and several hotel holding companies.

The chains will issue portable “employee safety devices” to hundreds of thousands of workers vulnerable to workplace harassment. The devices are relatively inexpensive, costing hotels less than \$70 each. The goal is to have the panic buttons carried in the pockets of all employees who deal directly with guests by 2020.

On the food service side, female employees at McDonald’s franchises in nearly a dozen cities staged a one-day walkout to pressure the company to get tough on managers who sexually harass workers in the restaurants. The women said that when they’ve reported the behavior, they’ve been ignored or even punished by supervisors.

This was the first reported labor strike to target a company in connection with the #MeToo anti-harassment movement.

Advice: Employers in other industries may want to implement similar programs to prevent sexual harassment and assault. Along with hospitality, the food service, retail, manufacturing, health care and social assistance industries account for about 50% of EEOC sexual harassment charges.

Employers that don’t have an effective sexual harassment prevention program lose a legal defense if harassment does occur. Now that entire industries are establishing best practices to protect employees from harassment, smart employers should consider joining in. It’s quickly becoming a risk management imperative to adopt proactive measures such as panic buttons.

EEOC lawsuit filings surged in last 12 months

The EEOC is filing lawsuits at a rate that far surpasses the last four years, and sexual harassment lawsuits are causing much of the surge.

An analysis of EEOC filing statistics by the Seyfarth Shaw law firm found that the commission filed 217 lawsuits in fiscal year 2018, which ended Sept. 30. That surpasses the 202 actions filed last year and dwarfs the number filed in 2016 and 2015—136 and 157, respectively.

Credit much of the increase to a spike in sexual harassment suits following in the wake of the #MeToo movement, which took off just as FY 2018 was beginning last fall.

A full 74% of the EEOC’s Title VII lawsuit filings included a charge of sex-based discrimination, compared to 65% in FY2017. Forty-one of the FY2018 sex discrimination filings included a charge of sexual harassment, up from 33 in FY2017.

The EEOC considers sexual harassment a form of sex discrimination.

Very few EEOC complaints ever make it to the courtroom. For example, the EEOC processed more than 25,000 sex discrimination charges last year, but only filed 33 sexual harassment lawsuits. Most charges are dismissed, settled or resolved through the EEOC’s conciliation process.

The uptick in EEOC filings may have surprised many who thought the Trump administration would take a hands-off approach to discrimination and harassment litigation. However, two Republican seats on the EEOC remain

unfilled, and the EEOC general counsel is an Obama administration holdover.

“The dramatic increase in filings should be an eye-opener for employers in an era when many thought the EEOC might be hitting the brakes,” said Seyfarth Shaw attorney Christopher DeGroff. “Instead, the EEOC is increasing its enforcement activity, with a particular focus on sex discrimination and sexual harassment.”

The end of the fiscal year saw a flurry of activity, with 84 lawsuits filed in September alone.

Next to sex discrimination, retaliation was the second most-common Title VII cause of action, followed by race discrimination.

Resource: As an employer, you need to be prepared with a crisis plan in place if your organization is hit. *The HR Soapbox* recently published [David Rittorf's 8 steps to an effective crisis communication plan](#).