

# Sexual Harassment

## Practical Approaches for Oregon Businesses

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**W**ith the heightened focus on sexual harassment in the workplace, it's a timely reminder for us all to consider our workplace environments and evaluate how we can take the best actions to support our employees and foster a workplace that is productive and healthy, as well as compliant with employment laws and regulations.

### Training Towards Success

It can't be overstated: structure trainings that speak to your team. Whether you are handling training in-house or teaming with an outside expert to provide sexual harassment training, it's important to consider your business environment, your specific team, and how your employees are likely to respond best. Ultimately, compliance is mandatory, but training must be effective to be worthwhile.

Depending on the size and structure of your business, it can be very impactful to differentiate between training for rank-and-file employees (who may need information on everything from specific instances of behavior, to bystander intervention or support, to the company's reporting processes) versus training for management-level and executive employees (who may need to understand more about power dynamics, legal obligations, company liability, or common assumptions and misconceptions about employee complaints). Similarly, the tone and approach for the training should differ depending on what type of business you are running, what type of company culture you have or are working towards, and what types of challenges your employees are facing.

Our team of attorneys have been conducting sexual harassment trainings for over 30 years, even before that kind of training was common. We have recognized that this issue can be mission-critical for both legal compliance and for the ultimate success of a business. We continue to make refinements to these trainings based not only on changes to the law, but also on changes in public perception, the business environment, and issues prevalent for specific industries. Over time, we have explored a wide variety of tools and methods of delivery, all with the same idea in mind: to reach the greatest number of employees with the best-tailored content at the lowest cost for employers.

### Take a Good Look at Your Policies

When we create employment policies for our clients, we often start with a desired outcome, and then work backwards through the steps the employer will want to take to facilitate that result. Written policies are of course important for compliance purposes, but there is greater value in creating policies that focus on the practical outcomes that the company and the employees need.

Your goal may be to encourage an increase in the number of reports, so that the company can bring issues to the surface in order to address them. Your goal may be to centralize reports through a specific person or team, in an effort to promote consistency and thoroughness of responses. Your goal may be to create a greater level of responsibility and involvement from the managers of the employees at issue. The written policies which are most useful and effective are those which have been created (or revised) to ensure that specific scenarios or outcomes have been thought through and addressed.

### Respond with Intention

Sexual harassment in the workplace is not only a serious issue for the individuals directly involved, it can have an impact on others who are affected by future instances of similar or escalating behavior, it can erode the company culture and values, make it more difficult to hire and retain the talent and workforce you need, and tarnish reputation amongst colleagues and clients alike. And ultimately, we should feel responsible to provide our employees with a work environment which is sustainable and healthy-how else can they be expected to do their jobs?

While a response to unexpected and difficult situations will necessarily involve evaluating risk and legal liability and addressing compliance obligations, most successful businesses understand that this

is the start of the inquiry, with the ultimate goal involving not just a clean-up of the mess, but a broader resolution.

Responding to the situation with intention means taking all reports seriously, even if they seem minor. It may mean that you conduct a formal investigation, so that you have done your due diligence to review various sources of information or witnesses and not just the employees directly affected by the complaint, such that your workforce has confidence in the company's response process. It may mean that you conclude a separation or termination is necessary. It may mean that you work with employees on communication and positive adjustments to behavior, even in the absence of a finding of "fault." It may mean that your ultimate resolution also includes a broader communication (or training) for the rest of your employees, or perhaps a refinement to your policies.

Preventing harassment by clearly stating it is prohibited is an excellent place to start, but following through on steps that are calculated to actually address the situation at issue is how you lend action to that assertion, how you support your employees, and ultimately how you promote the productive business environment you want.

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