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EEOC Identifies Approaches to Revamping Workplace Culture to Prevent Harassment

One year into it, the #MeToo movement continues to shine a spotlight on workplace harassment. For fiscal year 2018, the Equal Employment Opportunity Commission (EEOC) saw a 13.6 percent increase in charges alleging sexual harassment and a 50 percent increase in lawsuits alleging sexual harassment. The good news is that there are steps employers can take to change workplace culture, prevent harassment, and enable employees and managers to respond effectively when they experience or observe harassment. An EEOC public meeting titled "Revamping Workplace Culture to Prevent Harassment," held on October 31, addressed some of these options, with witnesses discussing a variety of approaches to training, leadership and accountability to combat workplace harassment.

A public health professional, Rob Buelow, discussed the merits of harassment prevention training that reflects the positive outcomes an organization is trying to achieve rather than the negative consequences to be avoided. He said that training should not only tell employees what constitutes illegal behavior but also encourage employees to make decisions that are aligned with the employer's values and culture and reinforce how positive behavior supports positive culture. Buelow also advocated bystander intervention training that provides different options for taking action that align with employees' individual styles and strengths and also takes into consideration environmental factors, such as the setting of the incident and the organizational roles of the people involved.

Business school professor Christine Porath addressed civility, including how it relates to workplace harassment and how civility training can prevent harassment. Porath defined incivility as "rude, discourteous behavior that shows low regard for others," whereas civility involves "positive gestures of respect, dignity, courtesy, or kindness." Research has found harassment to be more likely in workplaces where incivility is present. Porath advocated civility training, which focuses on what employees and managers should do to build a workplace where people feel respected and valued. Training leaders to promote a culture of civility and hold people accountable for incivility has been shown to result in increased productivity.

Anne Wallestad of the organization BoardSource recommended steps that nonprofit boards of directors can take to prevent harassment in their organizations' workplaces. Wallestad said that every organization should have a whistleblower policy that enables staff to report wrongdoing directly to the board, as well as a protocol that alerts the board of any reports made at the staff level and how they are being addressed. She said that a board should not just commit the organization to addressing allegations when they arise, but also examine how the organization's own culture may be contributing to an environment that permits harassment and abuse. Organizations should also ensure that the metrics they use to evaluate employees' performance are not creating perverse incentives to ignore or silence allegations of harassment.

Business school professor Mary C. Gentile advocated an approach that she calls Giving Voice to Values, which assumes that most people want to act on their values but need support in adopting appropriate behaviors. She uses questions like "assuming you were a person who wants to respond to and stop harassing behaviors, what would you say and do to be effective?" The goal is to "rewire" the unconscious process that often prevents people from intervening when they see bad behavior.

Veronica Girón, a janitor and leader in the Service Employees International Union's (SEIU) Ya Basta Campaign, and Alejandra Valles, the Secretary-Treasurer of SEIU United Service Workers West, discussed a training program that is designed and delivered by janitors to teach them how to respond in the moment to sexual harassment. The program uses

training videos in which janitors who have experienced sexual harassment act out the most common situations they typically confront.

The EEOC's recent public meeting is the latest in a series of actions by the agency directed at workplace harassment. For example, a 2016 Report of the Co-Chairs of the EEOC's Select Task Force on the Study of Harassment in the Workplace found that workplace culture, starting with a company's highest level of management, has the greatest impact on preventing harassment or allowing it to flourish. The EEOC identified a number of risk factors for workplace harassment, including homogenous workforces, coarsened social discourse outside the workplace, workplaces having many young workers, "high value" employees, workplaces involving significant power disparities, monotonous or low-intensity work, isolated workspaces, tolerance or encouragement of alcohol consumption, and decentralized workplaces.

The increasing number of sexual harassment charges and lawsuits filed demonstrates that this issue is not going away any time soon. At the same time, states and municipalities, including New York state and New York City earlier this year, have enacted new laws focused on workplace harassment, and additional jurisdictions continue to contemplate similar laws. As the variety of approaches discussed at the recent EEOC meeting indicates, there is no one-size-fits-all solution to the problem of workplace harassment, and different methods may be more effective in different environments. Day Pitney can help employers identify and follow through on the most appropriate harassment-prevention approaches for their workforces.

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