

# Practical Ways to Address Workplace SXH\* Problems

**H**ow would you respond to this question, taken from an actual errors-and-omissions insurance policy questionnaire?

“In the past year, what specific steps have you taken to educate your employees and managers about workplace sexual harassment?”

Imagine the impact of a “nothing” response to this question on a jury weighing an employer’s liability in a sexual harassment suit. If this scenario strikes a nerve, it is time to update and reinforce your sexual harassment policy. The alternative to a proactive, responsible SXH program could be corrective action by the courts, including compensation and punitive damages.

If tested in court, could your SXH program pass judicial muster? Could you prove that the policy is current, thoroughly distributed throughout the workforce, and clearly understood by all employees?

SXH of women is prevalent in positions historically held by males, such as police officers, firefighters, utility line workers, construction workers, power plant operators, railroad engineers, and aircraft pilots. Because these are high-risk, high-stress occupations that demand teamwork and mutual trust, sexual harassment can be particularly destructive in these jobs.

The stakes are high in workplace harassment, both in human and financial terms, as Jacqueline Peavy described

.....  
**The Stakes**

.....  
**Are High in**

.....  
**Workplace**

.....  
**Harassment**

.....  
**Joe Schumacher  
 And  
 Judy Fester**

---

\*Sexual Harassment

in her article "Stopping Sexual Harassment in the Workplace," published in the September 1995 issue of *PM*. This article offers additional strategies for public managers seeking to prevent harassment. A sample SXH policy statement, several illuminating police and fire department case studies, and tips for addressing common SXH problems also are included.

### First, Let It Be Known

To begin with, notify employees in writing of the organization's official

SXH policy. Ensure that it is unequivocally clear, impartially fair, and deadly serious. This critical policy must be delivered to each employee.

The Arvada, Colorado, Fire Protection District mailed out its SXH policy as an "Important Memorandum" (see feature box) to the homes of employees, distributed the policy during SXH training classes, placed a copy in each employee's personnel file, and attached a copy to the employee's annual evaluation, with a reference in the evaluation itself.

Note the strong tone and clear

message of this memorandum. The employer affirmatively introduces the issue of SXH, firmly rejects harassing behavior, provides examples of SXH, guarantees that each complaint will be taken seriously, specifies whom to contact to report SXH, and pledges protection to the potential plaintiffs from retribution or retaliation. (Juries find retaliation, especially by management, particularly repugnant.) It also states possible sanctions against the offending employees.

The lesson here is that the phrase "up to and including termination" places potential offenders on notice that SXH is a terminable breach of a strictly enforced personnel policy.

### Sample Sexual Harassment Policy

#### Important Memorandum for Arvada Fire Protection District Personnel

All of us deserve a work environment that values human dignity and is free of unlawful discrimination and unacceptable behavior—both of which hinder performance. Each of us must play a vital role in creating and maintaining this high-quality, healthy, and productive work climate. Thus, your acknowledgment, active involvement, and continued commitment to preventing unlawful discrimination and unacceptable behavior is required.

The Arvada FPD's policy on discrimination and sexual harassment is unequivocally clear: No discrimination or sexual harassment to any degree will be tolerated. For the official record:

Any Arvada FPD supervisor or manager who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of another staff member is engaging in unlawful sexual harassment. Any Arvada FPD staff member who repeatedly makes unwelcome physical contact, gestures, jokes, comments, terms of endearment, or questionable compliments or who displays pictures, all sexual in nature and within the workplace, is engaging in unlawful sexual harassment.

The recent class we attended, given by the Colorado Civil Rights Commission, and its descriptive handouts are our guides to acceptable workplace behavior. You must notify [the district manager] directly and immediately to report unacceptable workplace behavior. Indicators like unwelcome physical contact, gestures, etc., of a sexual nature constitute possible sexual harassment or discrimination. I assure you complete confidentiality, objectivity, and a timely response in the handling of all complaints without reprisal or retaliation. Please note that sanctions for violating this important policy include termination.

*Source: Memo issued by the Arvada Fire Protection District, Arvada, Colorado.*

### Further Steps

Other strategies that an organization can take include the following.

**Make SXH guidelines part of the organization's guiding values.** Employees first must recognize unacceptable behavior before they can eliminate it. To help them, provide meaningful SXH guidelines. Include specific examples of what is appropriate and inappropriate behavior, then thoroughly distribute the guidelines. Reinforce these guidelines in training sessions and staff meetings, post copies on bulletin boards, and mount a framed copy on the wall of each manager's office.

Common examples of risky behavior include deliberate staring, patting, stroking, pinching, cornering, lip smacking or throwing kisses, howling, or catcalls; sending unwanted letters, notes, or phone calls of a sexual nature; personal gifts; and referring to an adult as a girl, babe, sweetie, or stud.

Urge employees to tell colleagues when a comment or behavior is offensive to them. During training, provide such examples of appropriate behavior as making courteous comments rather than physical con-

tact or complimenting merit and performance, never physical appearance. The authors recommend the Corning Company's ingeniously simple Common-Sense Behavior Test:

- Would you make this comment or act this way in front of your spouse or parents, or in front of a colleague of your same gender?
- Would you like your comments and behavior reported on the front page of the local newspaper?
- Does this need to be said or done at all?

Lesson: Reduce workplace SXH by providing sensible and specific guidelines.

**Use training to strike down problems preemptively.** In many cases, employees need only a heightened awareness and a better understanding of this complex issue. Thus, effective SXH training can set the standard for staff interactions grounded in mutual respect and professional dignity. Training also can establish a baseline for fairness and objectivity in dealing with an SXH incident by explaining the procedures for investigating complaints, corroborating information, determining appropriate sanctions, and handling a classic standoff.

To be effective, however, training must be both universal and mandatory. Use a sign-up sheet, and excuse no one. As important, make sure that managers and department heads attend training sessions, and have them publicly restate the organization's zero-tolerance SXH policy in each session. One municipal police department conducted mandatory SXH classes for all employees but exempted the command officers, seeding discontent.

Lesson: Exempting the brass from SXH training undermines the organization's commitment to eliminating SXH.

**The best training may be free.** Why

## Checklist for Sexual Harassment Investigation

Ensure that each investigation is:

**Timely.** Start the investigation within days of the complaint, and finish investigating as soon as possible.

**Thorough.** Speak to anyone who may have personal knowledge of the situation; make no assumptions; seek facts and pertinent background information. Take careful notes, and construct a factual chronology of events.

**Objective.** In most instances, give each party a chance to rebut the other's claims. Use your best judgment, however, in each individual case. There have been instances in which the accused harassers were unstable and volatile, and confronting them with the charges triggered episodes of stalking and violent assault against the charging parties. Two cases in the metropolitan Denver area resulted in the deaths of a female line worker and a female cable installer. Both women had filed SXH complaints with their employees before the stalkings and assaults.

**Confidential.** Use the need-to-know rule when discussing any SXH case. Avoid defaming the character either of the complainant or of the accused.

pay top dollar for an SXH consultant when the state's civil rights or human relations agency probably offers outstanding classes free or for a nominal fee? State and local government civil rights trainers are exposed to hundreds of widely varied, real-life cases that illustrate different points, heighten interest, and drive home invaluable lessons. Moreover, these agencies have tremendous intrinsic credibility because they enforce SXH and antidiscrimination laws.

Lesson: Use case studies in classes so that employees can learn from the mistakes of others.

**Take all complaints seriously,** no matter the source and how sketchy or shallow the complaint. Case in point: Two veteran members of a high-volume emergency rescue squad, one male and one female, worked together for many years, openly swapping sexual banter and crude jokes to relieve stress. Other station members shrugged off the

comments until a new female firefighter arrived.

She objected to the bawdy talk and complained to her station's captain. He told her to "just ignore it," as it was not aimed at her. She filed a charge of hostile-environment sexual harassment and won.

To advise an offended employee to ignore what he or she considers sexual harassment, suggesting that the person is overreacting, only compounds the problem. The complainant may turn elsewhere for redress.

Lesson: The person with the lowest threshold of sensitivity establishes the standard for the entire work group.

**Safeguard the reputations of both the plaintiff and the accused during an SXH investigation.** Handling any complaint flippantly or indiscreetly is inexcusable and may generate a lawsuit from either side. Equally perilous is acting arbitrarily or precipi-

tantly against the accused.

Consider this example: An employer received an SXH complaint from a female employee alleging a salty, sexual comment from a male coworker. The personnel director investigated, confirmed the remark, then suspended the male coworker for three days without pay. During the second day of suspension, the employer terminated the accused. At trial, the employee received a handsome damage award to compensate for the organization's capricious and arbitrary response.

Lesson: Allow the first-time offender an opportunity to correct unacceptable behavior.

**Use care with the classic standoff.** Many SXH incidents occur without witnesses, creating the he-said/she-said deadlock wherein insufficient evidence exists to support either party's claim. It is important to treat both parties, particularly the complainant, objectively and with sensitivity. Whether or not this is done may determine whether the matter is dropped or litigation is pursued.

A poorly handled standoff is a no-win situation. The charging party may feel that management's failure to convict implies that the accused is innocent and that the charging party is guilty of making false accusations. The demoralized employee may feel twice victimized and file a charge with the EEOC or the state civil rights agency and proceed to court.

**Constantly**

**reinforce the**

**organization's**

**commitment to a**

**zero-tolerance,**

**harassment-free**

**workplace.**

What to do? Counsel the charging party carefully, citing classic American jurisprudence. Explain your duty to assume that the accused is innocent until evidence clearly indicates otherwise. Reassure the complainant that lack of evidence does not negate her/his credibility.

Try to empathize with the feelings of the plaintiff, and demonstrate your commitment to his or her well-being. Share the job wellness plan that you are implementing for the accused; declare your concern that all interactions with staff be professional, appropriate, and free of retal-

iation. Restate your commitment to eliminating workplace SXH, and urge the plaintiff to contact you directly if harassed or retaliated against.

The lesson: Helping the plaintiff to save face may avert a lawsuit.

**Exercise constant vigilance to detect incidents of SXH on the premises.** Supervisors and managers have a duty to protect employees from workplace SXH—no matter who the offender.


For example, once each week, a male employee of a private vending-machine company refilled soft drinks machines in police headquarters. Invariably, he would stare at the receptionist from top to bottom and adjust the private parts of his body. Although he was not a police department employee, the department was duty-bound to halt this behavior.

Lesson: The organization owns each and every SXH incident on its premises.

As a workplace leader, an organization must make a good-faith effort to maintain an environment free of sexual harassment and discrimination. This effort will require both reactive and proactive measures. Adopt a strong, clear SXH policy; convey and enforce it emphatically and evenly. Train staff members in SXH prevention, and reinforce the training regularly. Investigate each complaint promptly, objectively, and thoroughly, and when proof of SXH exists, impose sanctions that fit the offenses.

Treat both parties with sensitivity and fairness, and constantly reinforce the organization's commitment to a zero-tolerance, harassment-free workplace. **DAI**

*Joe Schumacher is district manager for the Arvada, Colorado, Fire Protection District. Judy Fester is public information officer for the Colorado Civil Rights Division, Denver, Colorado.*

**Job opportunities bulletin for minorities and women in local government** 

**J.O.B.** **Local Government Job Opportunities**

J.O.B. is a service of the International City/County Management Association and 23 other local government public interest groups.

J.O.B., ICMA, 777 North Capitol St., N.E., Suite 500, Washington, DC 20002-4201  
Phone: 202/962-3662 Fax: 202/962-3500