

ETHISPHERE®

A SPECIAL REPORT:

#METOO: A YEAR INTO A MOVEMENT

In Partnership with
EVERFI



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Our Mission Statement

The Ethisphere® Institute is the global leader in defining and advancing the standards of ethical business practices that fuel corporate character, marketplace trust, and business success. We have a deep expertise in measuring and defining core ethics standards using data-driven insights that help companies enhance corporate character. Ethisphere believes integrity and transparency impact the public trust and the bottom line of any organization. Ethisphere honors superior achievements in these areas with its annual recognition of the World's Most Ethical Companies®, and facilitates the Business Ethics Leadership Alliance (BELA), an international community of industry professionals committed to influencing business leaders and advancing business ethics as an essential element of company performance. Ethisphere publishes *Ethisphere Magazine* and hosts ethics summits worldwide.

Dear readers,

The last year has seen a seismic shift in the way our society – and by extension our workplaces – think about sexual harassment. The #MeToo movement, so named for the hashtag invented by Tarana Burke and popularized by actress Alyssa Milano, began as a social media reckoning with stories of sexual harassment in the media and entertainment industry. Over the next few months, that conversation sparked thousands more, shining a light on the experiences of victims who had never told their stories.

Although much media attention has been paid to misconduct allegations against prominent figures in entertainment, no industry has avoided a reckoning. Numerous Fortune 500 companies have seen top executives step down or be forced into resignation after substantiated allegations of misconduct. Even worse, multiple companies have dealt with the realization that they had not just a few bad eggs, but an entire culture of harassment and bullying.

Private Sector Leading the Way

Because the #MeToo movement emerged so quickly, many private organizations were caught unawares and had to quickly determine how to respond. Many turned to their written policies to make sure that they provided clear guidance to employees and managers. The National Science Foundation unveiled new rules for reporting harassment by grant recipients. The rule will apply to all new grants and any extensions to existing grants.

Some companies went above and beyond and distinguished themselves by directly taking and then additionally advocating for proactive steps to create a safer work environment for all employees.

Leading the way, Microsoft's President Brad Smith announced in December that the company would discontinue the use of mandatory arbitration clauses for harassment claims, and throw its weight behind national legislation to do the same for all companies. These mandatory arbitration clauses deny victims of harassment their day in court, and significantly reduce victims' leverage by limiting awareness of allegations against an individual who might engage in repeated acts of misconduct.

Following Microsoft's lead, multiple other companies came out with similar measures. Both Uber and Lyft announced that they were eliminating arbitration in cases involving their drivers, a population vulnerable to exploitation. At Ethisphere, we support this long-overdue step to empower victims of harassment, and encourage all companies to follow this example with their own workforces.

Legislative Responses

Of course, culture changes inevitably lead to changes in the law, and legislators across the United States have been at work over the last year introducing new legislation to protect and empower victims of harassment.

At the national level, Senators Kirsten Gillibrand and Lindsey Graham introduced a bipartisan bill to nullify mandatory arbitration clauses in cases of sexual harassment. In a notable and rare show of national support, all fifty state Attorneys General signed an open letter in support of such legislation. Even so, that bill has now stalled in Washington gridlock.

State-level legislation has seen more success. Six states have passed bills to restrict the use of non-disclosure agreements in cases of sexual harassment, and ten more saw such bills introduced. In some cases, they are waiting for committee action or to be taken up for a vote. New York passed legislation that prevents harassment settlements from including confidentiality clauses unless the victim desires one, and California law now bans such settlements entirely. New York also joined the group of states that mandates training for managers on how to prevent harassment in the workplace.

Moving Forward

At Ethisphere, we strongly believe that a commitment to protecting all employees from harassment, assault and bullying is a key part of being an ethical company. The #MeToo movement's progress over the last year has shown how much work remains.

The data from our Ethical Culture and Perceptions Assessment work shows just how widespread an issue harassment is. It is the most common form of misconduct witnessed across our dataset, which now stands at more than 400,000 current employee responses representing the views of over 3 million employees worldwide. The #metoo stories are rife with personal details around an underwhelming or unfortunate company response; that trend is tracked in our data, where an employee who witnessed harassment was 25 percent more likely to cite "nothing would be done about it" as the reason they did not raise the issue.

These kind of metrics offer an opportunity to look closely at employee perceptions of organizational justice inside a company, and consider whether employees are not raising concerns because they do not have faith the company would take action.

The contributions contained in this issue detail a variety of ways that different companies have responded to the #MeToo movement and taken steps to protect all of their employees. U.S. Bank's Katie Lawler discusses a new training resource the company has created to empower managers to discuss harassment with their reports, with a particular focus on listening to employees. Aflac's Catherine Hernandez-Blades and Jon Sullivan discuss how gender equality has risen in importance in consumers' ideas about corporate social responsibility. PSEG's Antonio Fernandez discusses how his company responded by making their investigations process more transparent. Finally, Blue Shield of California's Hope Scott lays out how #MeToo should be seen as an impetus for companies to start surveying more thoroughly about harassment and gender in the workplace.

We hope that you find these insights of assistance, and invite you to follow our continued work in this area over the rest of this year and beyond. Ethisphere aims to foster these important discussions, both in our publications and within the BELA community.



Erica Salmon Byrne
Executive Vice President, Ethisphere

Harassment Reported Differently

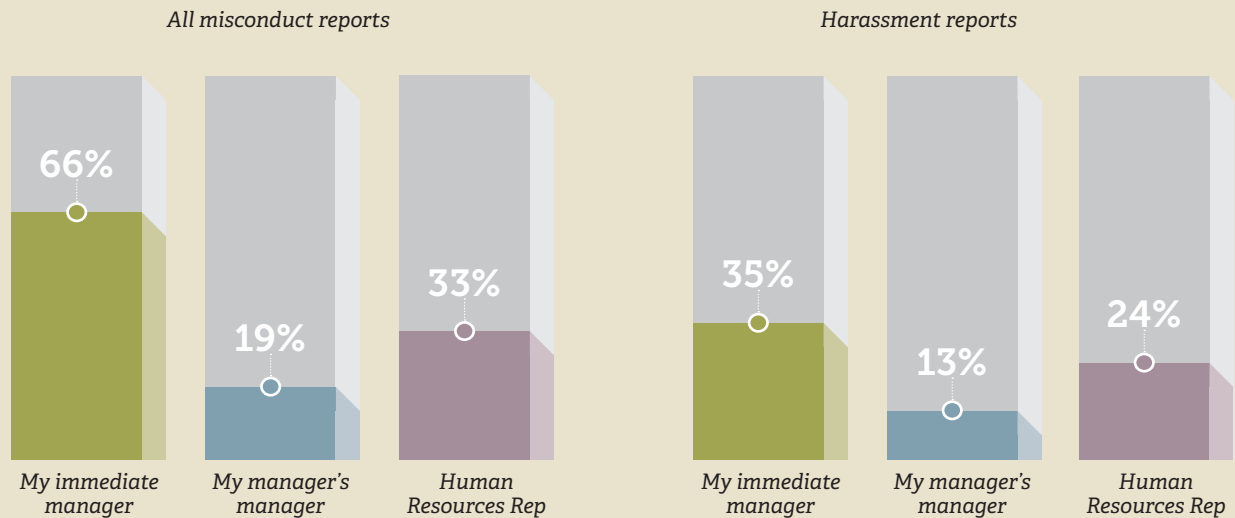
One of the questions in Ethisphere's "Ethical Culture & Perceptions Assessment," which has been administered to over 400,000 employees of client companies around the world, asks all employees who have witnessed misconduct which type of unethical behavior or business misconduct they observed.

51%

of those who observed harassment say they reported the behavior, which is similar to the percentage who reported all other kinds of misconduct.

However, there's a difference in how those who witness harassment report it.

How did you report the suspected misconduct or unethical behavior? (may choose multiple)



Conclusion:

Although harassment claims are reported with roughly the same frequency as other kinds of misconduct, they get reported through very different channels, with harassment claims much less likely to be routed through managers or HR personnel. There are likely many reasons for this difference, including social norms, potential shame, and the possibility that the harasser is actually a manager. Companies should keep this in mind when designing reporting avenues and investigations.



Training to Combat (and Prevent) Harassment

Interview by Tyler Lawrence



New Ethics Training Program Encourages Speak-up Culture

Written by Katie Lawler



The Power of the Hashtag

Written by Catherine Hernandez-Blades and Jon Sullivan



#MeToo is Here to Stay

Written by Antonio Fernandez



Measuring #MeToo

Written by Hope Scott

Training to Combat (and Prevent) Harassment

An Interview with
EVERFI's Elizabeth
Bille on Training and
#MeToo

Interview By
Tyler Lawrence



Now that the #MeToo movement has been in force for almost a year, many companies have begun to pivot from their initial responses to allegations to an even thornier question: how do we fix these systemic problems? EVERFI's Elizabeth Bille, a human resources veteran, explores how training can play a role for companies moving forward in this interview with [Ethisphere](#).

Elizabeth, you've just joined EVERFI as Senior Director of Prevention Education, but you have a long history of working on the legal side of human resources concerns like harassment and discrimination. Does the #MeToo movement compare with anything else you've seen in your career?

The #MeToo movement has been truly unprecedented. To start, the sheer number of individuals who have come forward reporting harassment, across industries and organizational levels, is almost difficult to fathom. We knew from the data that sexual harassment was under-reported, but it wasn't until so many people came forward and shared their stories publicly that the nation began to truly understand the devastating scope of the problem. Also unprecedented is the endurance of the movement: unlike the past when reports of workplace misconduct made headlines but then faded away during the next news cycle, the continuing nature of the activism and allegations, particularly against prominent figures, has kept this issue top of mind for a year. These dynamics have led to an equally extraordinary result: a widespread, shared understanding by employers, employees, boards of directors, shareholders, lawmakers, and the general public alike that more must be done to address harassment in the workplace—and the collective resolve to make it happen.

EVERFI offers training modules to companies to help them build and sustain healthy corporate cultures, which of course includes building a culture that does not tolerate harassment. What are the best training tools available to companies currently to combat harassment?

To have a meaningful impact on workplace behavior, new and different approaches to training are needed than those employed in the past. So, for example, instead of focusing simply on conduct that meets the legal definition of harassment, training should focus on a broader spectrum of behaviors--such as disrespect or bullying—that, if left unchecked, can escalate into harassment. Training should also contain evidence-based best practices such as bystander intervention techniques, which engage the "healthy majority" of employees as part of the harassment prevention

solution. Bystander training gives employees the tools to not only help create workplace environments that are hostile to harassing behavior but also to intervene in a safe and effective way if they see warning signs of harassment. And finally, training must use realistic, learner-centered language and scenarios that reflect the diversity of the organization's workforce. Remember: if one of the goals of training is to make employees more attuned to what is going on around them and able to recognize (and hopefully stop) concerning behavior, it is important that employees can see themselves in the content, with scenarios that feel relevant and realistic to them.

Workforce education often falls under the remit of HR, but in the case of anti-harassment education, many other functions such as legal, ethics and compliance should also be engaged. How can organizations ensure quality training on issues that involve so many stakeholders?

All of these stakeholders are key contributors to the shaping of an organization's anti-harassment strategy. Thus, it is very important to engage these groups in the training selection process and seek consensus about what goals they are seeking to accomplish through such training. Legal and compliance will need to confirm that the selected training meets the current legal standards in all of the jurisdictions in which the company operates, and further, is updated by the training provider promptly to reflect changes to state and local law. This is critical, given the flurry of state legislative activity regarding harassment training that we have seen since the advent of #MeToo. Ethics and HR should be confident that the organization's values, policies, and reporting procedures are incorporated into the training--and that the training expresses intolerance for concerning behaviors that damage culture, even if they do not rise to the level of illegal harassment. Confirming that the training reflects the diversity of the organization's employees and uses evidence-based best practices such as bystander intervention techniques will be key for HR. And, of course, ensuring that the training can be administered effectively and efficiently to all employees, regardless of work location, is crucial for all.

Once a company has a robust workforce education program in place around harassment, what are the next steps? How do companies follow up training modules to ensure their efforts are working?

One of the misconceptions about harassment training is that it is a standalone activity, a one-and-done event. But to truly impact behavior, an anti-harassment education program must be an ongoing, comprehensive effort. For example, brief follow-up courses which reinforce previous learning in a way that feels new to the learner and which build new skills are critical to lasting impact. In addition, data collected before, during, and after the training about employee attitudes and perceptions can be used by organizations to shape targeted follow-up initiatives. For example, if training survey questions reveal that employees are unsure of how to report workplace concerns, an employer could promptly launch an internal communications initiative to publicize the organization's hotline or ombudsperson's contact information. Finally, a word of caution: an organization may see a slight uptick in reported incidents of harassment after implementation of an effective prevention program. This does not mean that the program hasn't worked; on the contrary, it may signal that your efforts to communicate to employees that

your organization takes workplace misconduct seriously have been heard.

Although it began almost a year ago, #MeToo isn't slowing down, and seems to have permanently changed the kinds of behaviors that companies will tolerate. Now that we are taking harassment more seriously, and holding people accountable, where do you want to see companies go from here?

While many organizations have taken solid initial steps, from here we need to fundamentally change the way we approach the problem of harassment in the workplace. Traditionally, organizations have tackled the issue more through the lens of incident response than prevention: for example, using training that solely focused on recognizing and reporting harassment (after it has occurred), maintaining hotlines, and outlining investigation processes and disciplinary procedures. While these tools are important pieces of the puzzle, to move the needle on stopping harassment from occurring in the first place, the organization must develop a comprehensive harassment prevention strategy. At EVERFI, we believe such a strategy has four elements: programming, policy, critical processes, and institutionalization. In other words, it includes not only regular, robust, and effective training (programming) and the strong enforcement of clear policies (policy), but also data-driven strategic planning (critical processes) that is supported by significant organizational investment in harassment prevention with meaningful and visible commitment from organizational leaders (institutionalization).

Are you optimistic or pessimistic about the way companies are handling harassment, and whether positive change will be accomplished by these efforts? How will you define success with your time at EVERFI?

I am optimistic about the future. I see many organizations engaging in serious self-reflection post-#MeToo. They are seeking to understand why the traditional anti-harassment tools of the past may not have done enough to stop harassment—and they are committing to doing things differently moving forward. At EVERFI, we are partnering with organizations to help them do just that: to radically change the way that employers work to prevent harassment and thereby stop it from occurring in the first place. As an attorney and HR professional, I am incredibly excited and proud to be a part of this groundbreaking effort.



Elizabeth Bille

Elizabeth Bille is an employment law attorney and HR leader who currently serves as the Senior Director of Harassment Prevention at EVERFI. As EVERFI's subject matter expert on the prevention of harassment and discrimination in the workplace, Elizabeth conducts and presents cutting-edge research, informs the development of evidence-based educational tools and courses for organizations, and builds strategic partnerships with leading experts and organizations. Prior to joining EVERFI, Elizabeth was the General Counsel of the Society for Human Resource Management (SHRM).

New Ethics Training Program Encourages Speak-up Culture

Written by
Katie Lawler



The #MeToo movement is a powerful, and hopefully transformative, moment for our society. Through it, many who felt they had no voice are now empowered to share their experiences and shift how we as a society treat people who speak up about wrongdoing.

The #MeToo movement underscores why organizations of all sizes need to build a culture that goes beyond encouraging employees to speak up about their concerns. Managers and senior executives must embrace a listen-up culture to understand what employees are saying and a follow-up culture to act on it and value it.

For many years, U.S. Bank has made it a priority to support a culture of ethics and integrity. We base every decision not on “can we do it,” but “is it the right thing to do.” That’s because as a financial institution, every relationship we have is built on trust, and we know that we must do the right thing by our customers, our more than 70,000 employees and our communities. Our reputation—our most valuable asset—depends on it.

In 2017, U.S. Bank established our Global Ethics Office to provide a singular focus on cultivating and maintaining a strong culture of ethics and trust. As a company, we want to make sure we have the right structures, programs and resources in place so that ethics always informs our business decisions and affects the day-to-day work of every employee. A stand-alone ethics team underscores the importance we place on ethics and its connection to every facet of our business.

Speak-up, Listen-up, Follow-up

One of the Global Ethics Office’s most important responsibilities is to foster a culture built on three pillars: speak-up, listen-up and follow-up. We have sought to combine industry best practices with our own innovations. This includes creating infographics to explain what happens when employees call the ethics hotline, launching a series of videos that demonstrate the link between ethics and business strategy, and introducing new, unique approaches to training.

From our first day of operation, the Global Ethics Office, with full support from the bank’s senior leadership, set out to build on our existing culture to encourage company-wide discussions about what behaviors are and are not acceptable in our workplace. Our goal was to bring a new, innovative approach to the topic and

renew the focus on it from across all levels of the company. Through a variety of channels across the company, our senior executives clearly and directly communicated their expectation for acceptable behavior in our workplace. They reinforced our commitment to a safe and respectful work environment. They also encouraged employees who experienced or witnessed contrary behavior to speak up. And they committed to addressing such concerns swiftly and appropriately.

At the same time, our Human Resources division refreshed the company's policies and training aimed at creating a work environment free of inappropriate behavior and harassment. Leaders at all levels of the company then received education materials and guidance to help them communicate with their teams about our expectations. Leaders were required to escalate any issue related to workplace sexual harassment directly to HR. We also centralized the investigation and decision-making on these issues to ensure consistent and appropriate action if we did identify a breach of our standards.

Developing a New Ethics Training Approach

U.S. Bank's long-standing commitment to ethics is clear to all employees across the company. The #MeToo movement highlighted a need to go beyond our current approach and give U.S. Bank employees a better understanding and comfort level with reporting harassment or misconduct. We also had to do more to help managers understand how to respond. At its core, #MeToo is about speaking up and having a voice. That's also the essence of our role as an ethics office. We had an opportunity to focus on a current, critically-important topic to train employees and leaders on how to foster a speak-up, listen-up, follow-up culture.

We set out to create training materials that HR or individual managers could use to host ethics discussions on workplace conduct. Our first step was to work with HR to develop a case study involving a workplace harassment scenario that was both realistic and complex.

With the case study as the launching point, we then developed a suite of training materials for what we call "Ethics Meetings-in-a-Box." These in-person meetings are designed to generate employee conversations about matters where right and wrong aren't clear-cut, or that touch on sensitive, emotional or controversial topics. The materials, which are available on the company's intranet, include the case study, an ethics Q&A, and leader guides for sessions ranging from 10 to 45 minutes. We also created a set of quick coaching tips to help meeting leaders who might not be ethics experts.

Once the materials were completed, the Global Ethics Office worked with our HR business partners to distribute them across the company. We also promoted the program through a variety of internal communications channels, including articles from the company's top leadership. Outside U.S. Bank, we shared information about the program with our fellow members of the Business Ethics Leadership Alliance (BELA), an organization of industry experts that is part of Ethisphere.

Employee feedback and participation have been very positive. Over 700 U.S. Bank employees accessed the training materials in just the first three months.

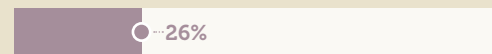
Stats & Data

Harassment Hurts Perceptions of Justice

"I believe the rules and discipline for unethical behavior are the same for every employee."



"Agree/Strongly agree," All respondents



"Agree/Strongly agree," Witnessed harassment

Ethics as Catalyst for Growth, Stability

Now more than ever, companies and organizations of all sizes need to look at ethics as a driver of business growth and stability. At U.S. Bank, we're proud that the Ethisphere Institute has recognized us as a World's Most Ethical Company for four consecutive years – the largest U.S.-based bank to receive this honor. Our culture of ethics and integrity will always be the foundation for serving our customers, communities and shareholders. We also know we need to keep getting better.

A key to this effort is continuing to strengthen our speak-up, listen-up, follow-up culture, with an emphasis on training leaders to listen effectively. Companies are basically coalitions of human beings. And if one thing is certain in this world, it's that human beings are fallible. We all make mistakes. The key test is how a company responds to those mistakes – how do we make it right?

It starts with listening to our people. The #MeToo movement presents an opportunity that all companies should seize to build stronger, more ethical workplace cultures for all employees.



Katie Lawler

Katie Lawler is senior vice president, global chief ethics officer at U.S. Bank, where she is the company's ambassador on the importance of maintaining a strong ethical, compliance-based corporate culture. Since joining U.S. Bank in 2002, she has also held senior leadership roles in the company's law and human resources divisions.

The Power of the Hashtag

How Business Must Respond

Written by

Catherine Hernandez-Blades
and Jon Sullivan



Recent high-profile allegations awakened a public outcry to address a cultural challenge that has silently permeated communities and workplaces. While harassment may not be as overt as it was portrayed in a typical 1970s sit-com, clearly it still exists covertly, sitting in the shadows, at least in some parts of society.

The #MeToo movement was borne out of a deep concern in that as much as our culture has evolved since the days of glass ceilings being at ground level for women, it appears that in some cases the elevator is still stuck in the basement. While it remains to be seen what the ultimate outcome of this highly publicized movement will be, one thing is for sure: businesses better take heed.

Gender Equality More Important to Consumers

The #MeToo movement was borne out of a deep concern in that as much as our culture has evolved since the days of glass ceilings being at ground level for women, it appears that in some cases the elevator is still stuck in the basement. While it remains to be seen what the ultimate outcome of this highly publicized movement will be, one thing is for sure: businesses better take heed.

In each of the past three years Aflac has conducted an annual survey on corporate social responsibility. This research is not designed to provide insights about the company's efforts, more so it is designed to gauge public opinion about the importance of ethics, civic responsibility and corporate "goodness." In past years, issues of governance, compliance, philanthropy, and sustainability have dominated the responses. As you can imagine, the 2018 results are somewhat different.

Actually, the attitudes of both consumers and investors began to change in 2017, as the top issue in the minds of respondents was gender pay equity. In fact, 72% of investment professionals and 81% of consumers said that a company cannot pay men more than women for the same work and still be seen as responsible. To

further emphasize the atmosphere, 74% of consumers said that they would not forgive a company for paying men more than women for the same job.

Fast forward to 2018, and gender issues are at the forefront of opinions regarding how consumers define corporate social responsibility. In the latest survey, 23% of women report that they have experienced situations wherein their ideas were ignored only to be accepted when the same idea was proposed by a man. But that is only the tip of the iceberg.

Perhaps the most interesting result is that a chasm exists between employees and human resource managers. For example, 87 percent of HR managers report that their company has a formal policy on sexual harassment, while 45 percent of employees report that their company has no sexual harassment policy. In addition, 17 percent of employees say that it is not clear what their company's sexual harassment policies are, while a third of senior managers, including C-suite executives, report that they don't know what to do if an employee reports sexual harassment to them.

Goodness is Contagious

While these statistics, in the shadow of the #MeToo movement, seem alarming, the good news is that sunlight has a way of unmasking issues that are in need of attention. We are proud to say that at Aflac, we have strong policies in place that define harassment and aim to limit indiscretions. In addition, each year we highlight in our Corporate Social Responsibility Report our compensation practices, clearly showing how employees are compensated in accordance with the value they bring to the company, rather than gender or any other issue. In fact, like any business, Aflac has many jobs that are held by only one person, but when one considers roles that are shared by multiple individuals, women, on average, are actually compensated slightly ahead of men. Equally interesting is that 67% of Aflac's workforce is female.

We have found that the key to success in building an effective equity program is to codify the expectations of each and every employee through our code of conduct and then, equally importantly, we communicate these expectations regularly. Through lunch-and-learns, relevant posts on the company's intranet, annual mandatory training on sexual harassment, and even participating in publications such as this, we send a message to our employees about our authentic belief in treating every employee with respect, dignity and fairness. We also believe that "goodness" is contagious, and we focus significant efforts on reminding people about our commitment to community. Whether it is through our philanthropic causes or our dedication to education in our communities, we want our employees to understand that working for Aflac is something for which we can ALL be proud. This filters down to how employees treat one another on a daily basis and serve as ambassadors for good.

If one thing is clear, the infamous drumbeat has heightened awareness of a systemic problem that still exists in our society. The companies that respond appropriately, that is to say, monitor and enhance their harassment prevention techniques, will live to see bright days. Those who don't could well find themselves in the dark, wondering why they are receiving unwanted attention about something preventable.

How Aflac helps prevent harassment at the workplace

- Instructor-led training for all people leaders, including newly promoted leaders.
- Leaders sign an anti-harassment pledge to display prominently in offices or cubes.
- Monthly talking points for leaders about harassment prevention.
- Annual Code of Conduct training with a section on harassment (all employees).
- Regular intranet stories reminding employees of compliance and reporting obligations.
- Regularly communicate zero tolerance policy.
- Stories placed in the company's in-house magazine, such as a Q&A with General Counsel regarding harassment policy.
- Ethics contacts page on in-house intranet for the company intranet linking to anti-harassment information including ethics hotline for anonymous reporting.



Catherine Hernandez-Blades

As SVP, chief brand and communications officer at Aflac, Catherine Hernandez-Blades is responsible for Advertising, Brand Strategy, Cause Marketing, Sponsorships, Social Media and Corporate Communications. She is a 2017 World Communications Forum Davos "Relations of the Future" awardee and a 2017 PR Week Hall of Femme inductee. She has previously held high level communications and marketing positions at Flextronics, Raytheon and Lockheed Martin.



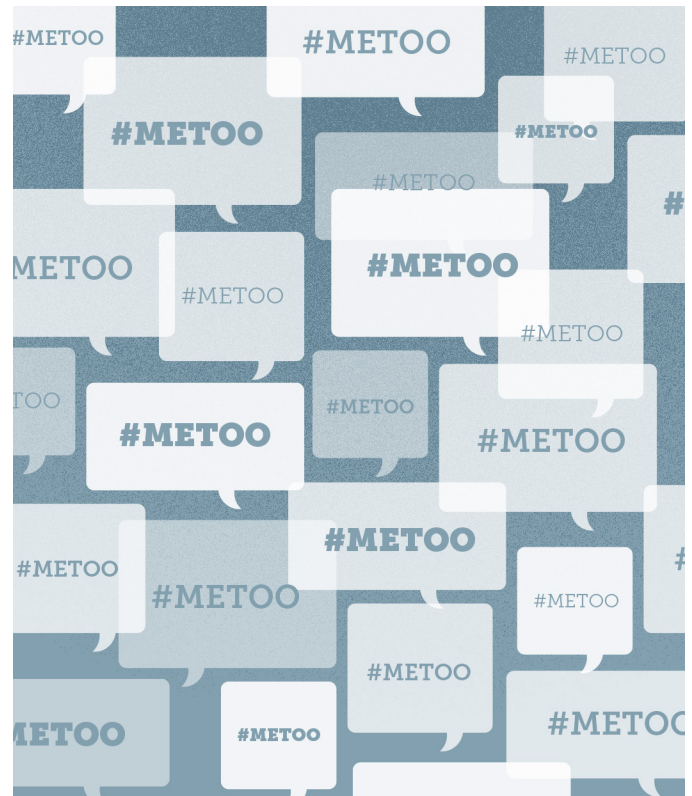
Jon Sullivan

As Aflac's Director of Corporate Communications, Jon Sullivan was twice named the PR News PR Professional of the Year and the 2016 American Business Awards PR Executive of the Year. He spent six years in broadcast journalism and 8 years as a communications professional in the administration of Governor George Pataki.

#MeToo is Here to Stay

What are you going to do?

Written by
Antonio Fernandez



In the fall of 2017, the #MeToo hashtag went viral, and stories of sexual harassment dominated news cycles, social media and workplace conversations. The hashtag created a catalog of ubiquitous, familiar and shared experiences of sexual assault, harassment and discrimination. #MeToo quickly became an internet phenomenon and sparked a conversation that, I believe, forever changed society's view of these issues.

Social media's expansion – or redefinition – of the public square, coupled with #MeToo's ability to rally people around an issue, present a unique challenge for organizations that care about their reputation. The ability to so broadly and quickly disseminate information relating to unacceptable conduct at work has changed the landscape in which we operate. Historically, the risks associated with an employment matter were primarily the potential for litigation, arbitration or, in some cases, government action. Generally, these can be slow, drawn-out processes. After #MeToo, companies now are faced with unexpected stakeholders, such as national media and advocacy groups, as well as the possibility that individuals leverage social media to rally support from a vast circle of individuals online.

While #MeToo has expanded who may be interested in how an organization addresses issues of discrimination, harassment or assault, the expectation that a company do the right thing in the face of these concerns remains the same. Organizations now will be called to demonstrate that their processes worked and that they lived up to their values to people not previously perceived as stakeholders. Stakeholders are no longer just shareholders, employees, customers or regulators — they are now participants in the redefined public square. An organization's reactions to a particular incident now

Facts & Figures

Harassment Hurts Perceptions of Colleagues

"I believe my co-workers act ethically at all times."



"Agree/Strongly agree," All respondents – 85%



"Agree/Strongly agree," Witnessed harassment – 50%

are subject to scrutiny from a growing list of external parties; perhaps it's a reporter passionate about the movement, or a celebrity who saw an employee's blog. What we do and how we do it is now of interest to new and unforeseen audiences.

Message from the Top

How should organizations handle new levels of interest and scrutiny? What is the best response to an issue so meaningful to so many? At PSEG, we understand the importance of #MeToo, but we also are acutely aware that this is not a new problem. The movement has helped reinforce what we have always understood: harassment, assault and discrimination cannot be tolerated. To that end, we have doubled down on existing efforts and started new initiatives.

We recognize that it is important for employees to understand that our commitment to preventing and ending sexual harassment starts at the highest level. As such, at the beginning of the year our chairman, president and CEO sent a video message to all employees that conveyed PSEG's zero tolerance policy for harassment. In the video, he encouraged employees to come forward with concerns and committed to address issues swiftly. Later, our chairman was joined by the company's senior leaders for a live conversation broadcast to all our locations. This conversation provided an opportunity for senior leaders to reemphasize expectations around workplace behaviors and allowed employees to ask senior leaders directly about these issues. Recently, we also conducted a "behavior stand down," delivered in-person to small groups. As part of the stand down, leadership teams addressed details of misconduct in the workplace and reemphasized expectations.

Making Investigations More Transparent

Long before #MeToo, PSEG began its journey to create a "speak up" culture that encourages employees to raise

questions and concerns without fear. Once a concern is raised, we investigate all allegations that, if true, would constitute a violation of our Standards of Conduct. A recent addition to our concern-management program was the creation of an Investigators' Code of Conduct. In it, we articulate our commitment to anyone raising a concern under investigation. For example, we commit to: be independent from the concern-raiser's management; be fair; be thorough; be timely; and be transparent about our process and findings. Notably, we always had considered these commitments to be hallmarks of a mature concern-management program. However, based on feedback from employees, we decided to more clearly articulate and publicize these commitments to ensure our stakeholders could hold us accountable.

In addition to the Investigators' Code of Conduct, we've made other changes to our concern management program to specifically address harassment concerns. While we historically have tracked broad trends relating to the nature and volume of concerns, we now scrutinize concerns more granularly, including those of sexual harassment. We also have established an escalation process that brings together a multi-disciplinary team (e.g., human resources, compliance, labor & employment counsel, senior management) to triage serious harassment or discrimination concerns within 48 hours of a report.

Additionally, we have focused on broadening the transparency of our concerns program. We now provide all employees detailed examples of real concerns at the company and the outcomes of investigations. This effort promotes awareness around the concern-management process in order to engender trust with employees and create greater comfort speaking up.

Prior to #MeToo's arrival, we had initiated a company-wide campaign, led by compliance, to train managers and supervisors on what to do when employees raise a concern. Leaders are now better-equipped to handle and escalate issues when necessary. We also redesigned training around issues of harassment. The training will be provided to all employees and explore employees' obligations, and emphasize what to do when they see sexual harassment, and the channels for raising concerns.

At PSEG, we believe #MeToo has presented us an opportunity to continue to raise the bar on our programs and processes. However, our commitment to creating an environment where individuals are able to come to work every day feeling safe, respected and included has never wavered.



Antonio Fernández

Antonio Fernández was named PSEG's chief compliance officer in April 2016. In this role, he is responsible for overseeing PSEG's compliance program, which involves managing PSEG's respected ethics and compliance group and its highly successful NERC compliance group. Mr. Fernández joined PSEG from General Electric (GE), where he served as GE Power's global ombuds leader and executive counsel.

Measuring #MeToo

Strategies for Investigating
(and Fighting) Harassment

Written by
Hope Scott



Every day, my 93-year-old mother asks me, “How’s your health?” And most days I say, “Fine, good!” But my answer is usually entirely based on my own perception of my health. I feel fine, nothing hurts, I don’t have any weird symptoms, so...I’m fine, right?

Of course, if I meant to give my mom an accurate assessment of my health, I would have to do more than make assumptions. I would see a doctor, have tests run, and find out if there are things going on beneath the surface that need my attention.

Drawing conclusions about whether your company has a sexual harassment problem based on assumptions, an absence of complaints, or your own experience as an employee, is just as superficial – and dangerous – as assuming you are healthy because you feel fine. In addition to all the other implications sexual harassment may have for your company and your workforce, depending upon where your company operates, it may also be illegal. In the United States, sexual harassment is a form of sex discrimination that violates, among other laws, Title VII of the Civil Rights Act of 1964, which is enforced by the Equal Employment Opportunity Commission (EEOC). But legalities aside, we all know that it’s just plain wrong.

Even if you believe that your corporate culture is strong, if you want to understand and positively influence your employees' experience in this area, you have to proactively engage with them in a discussion about sexual harassment.

The challenge for compliance professionals when it comes to identifying and mitigating sexual harassment risk is that most employees work because they need the money. There is a logical tension between an employee's need to keep his/her job and the company's mandate for employees to speak up and report experienced or observed misconduct. Sexual harassment is so personal, insidious, and reprehensible as to be "unspeakable," and thus, can and does go unreported.

Shining A Light on Open Secrets

The #MeToo Movement, as it is called, has shone a light on this particularly destructive type of workplace misconduct which has been "hiding in plain sight" in many parts of society for generations. This means that we cannot simply look at easily-available reporting metrics and trends to assess our company's level of (in)tolerance for sexual harassment.

Television shows like *Mad Men* and movies have focused on, and even made light of, this topic (remember, *9 to 5* was a comedy). And sexual harassment and misconduct have been an openly ignored "secret" in nearly every industry and societal institution. Sometimes the misconduct was reported and ignored, or the complainant was demoted or dismissed. But it is likely that much of this behavior was tolerated by leaders and others, and simply not reported by those who experienced and/or observed it. They knew that they would be ignored, blamed, or punished for making these types of reports – especially if the allegations were made against powerful, successful, company leaders.

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Facts & Figures

Pervasive and Preventable

After the Weinstein scandal spread out of Hollywood and the #MeToo movement began to force a broader reckoning with workplace sexual harassment around the world, ABC News and the Washington Post conducted a poll of American women about their experiences with and attitudes toward harassment in October 2017.

Have you ever received unwanted sexual advances from a man... Who worked for the same company as you?



Yes



No

Who had influence over your work situation?

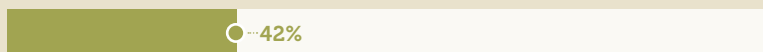


Yes

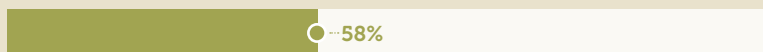


No

For those responding "yes" to either of the preceding questions, did you ever report unwanted sexual advances to anyone in a supervisory position?



Reported it



Did not report

Conclusion:

Nearly one-third of women reported having been sexually harassed in a workplace environment, and fewer than half of those women reported the advances to somebody in a supervisory role.

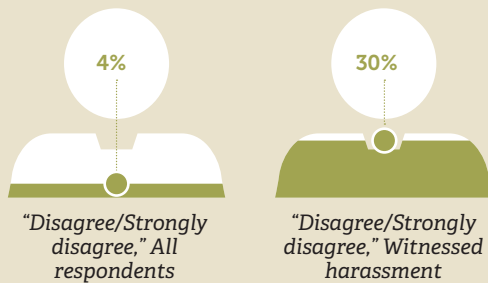
Reasons for not reporting are individual and complex, but research has shown that victims who believe that harassers generally "get away with" their behavior are significantly less likely to report. For this reason, having a consistent disciplinary policy for sexual harassment cases is absolutely vital – even a small number of cases where harassers go unpunished can make employees less likely to report, allowing harassment to continue.

Source: "Unwanted Sexual Advances: Not Just a Hollywood Story." ABC News and the Washington Post. 2017.

Facts & Figures

Harassment Hurts Perceptions of Leadership

"I believe our senior leadership team acts ethically at all times."



To combat this "culture of silence," compliance professionals must take the responsibility for educating ourselves and our companies about how to identify and respond to sexual harassment. Get expert guidance when and as necessary, because you can't diagnose the problem if you can't recognize the symptoms. Remember that in our highly diverse workforces which, for many companies, span the globe, not everyone has the same frame of reference for what constitutes sexual harassment or intimidation. Generally, sexual harassment is defined as including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature – regardless of gender.

Workforce Surveys: A Vital Tool

Given the cultural moment, now is an ideal time to ask your colleagues direct questions about their experiences on the job, especially if you have never done so before. Should you choose to survey your workforce about sexual harassment, ask specific, sometimes uncomfortable, questions. Don't worry that you might get responses that don't add up to "legally prohibited" sexual harassment. All the feedback will help you to improve your company's culture of ethical behavior. Just conducting the survey may have a positive effect on your workforce, although follow-up is essential. Give examples of the behaviors you hope not to find.

Don't simply ask, "Have you observed or experienced behavior that you believe to be sexual harassment? If so, did you report it? If you did not report it, why not?" Ask the uncomfortable questions, giving general examples to spark conversation about what forms sexual harassment may take in your workplace. By doing so, you may help employees realize that behavior that had been tolerated was in fact inappropriate.

Ask: "Have you ever experienced or heard about a situation in our company where a supervisor threatened to fire, demote, or transfer an employee who refused to submit to sexual advances,

or where a supervisor promised to promote an employee in exchange for sexual favors?"

Or ask: "Have you ever felt offended, uncomfortable, or intimidated because someone at work (another employee, a manager, even a customer or vendor) made offensive sexual comments or jokes, discussed sex, or displayed sexually oriented materials in your presence?"

As with other compliance issues, you want to elicit information that you can filter, assess, investigate, and act upon. Your employees don't have to diagnose workplace sexual harassment, and they don't need to understand its legal definitions and implications. They simply need to provide you with the information you need. Therefore, it is critically important to create safe opportunities for employees to speak up about sexual harassment now, even if they chose not to do so in the past. Taking swift and appropriate action to investigate and hold harassers accountable both rewards employees for speaking up now, and encourages people to know that they will be taken seriously if they speak up in the future.

Supporting Each Other

There are many practical drivers for identifying and eliminating sexual harassment from our workplaces, including complying with the law, protecting the company's reputation, credibility, stock price, and ability to execute on strategic goals. But our primary concern, based on shared corporate values, must be for our fellow employees. These behaviors directly and negatively impact employees' daily lives, both on and off the job. Our collective safety, physical and psychological wellbeing, and, frankly, our ability to be thrive and effectively perform our job duties, depend upon our willingness to support one another by reporting and working to eradicate these abhorrent behaviors from our workplaces and our society.



Hope Scott

Hope Scott is Vice President, Chief Risk & Compliance Officer for Blue Shield of California ("BSC"). With 29 years of legal practice experience in the fields of health care and privacy law, Hope leads and oversees the operations of BSC's Corporate Integrity & Risk Management organization within the BSC Law Department. This includes oversight of the company's Corporate Compliance & Ethics, Enterprise Risk Management, Medicare Compliance, and Privacy programs.

Prior to joining BSC in 2012, Hope was the Global Chief Privacy Officer and Senior Privacy Counsel for Cigna. Hope has also been the principal of her own private law practice which focused on providing legal and compliance counsel to health care providers and consumers. Her privacy and regulatory compliance background also includes eleven years as Senior Counsel for Independence Blue Cross, where she provided joint leadership and legal counsel for the company's initial implementation of the HIPAA Privacy Rule.