PRESENTS

DIVERSEFORCE VIII

VIOLENCE, BULLYING & HARASSMENT IN THE WORKPLACE

YOUR TOOLKIT FOR REDUCING RISK

Friday, May 18, 2018
8:00 a.m. to 1:00 p.m.
Doors open at 7:30 for breakfast buffet
Best Western, Routes 512 and 22
Bethlehem, Pennsylvania

Thanks to Our Primary Sponsor
Dear All,

Thank you so much for attending our program this year! It is wonderful to see such a fantastic turnout for such an important social and legal issue.

I also want to thank so many who have made this program possible. First of all, I’d like to thank our Legislative & Diversity Committee members: Lisa Spradlin (especially for being *SUCH* a good sport during our icebreaker), Tom Heimbach, Esq., Eric Meyer, Esq., Keely Collins, Esq., Jamie Hanchett, and Beth Carey. Our programming and Legalese publications wouldn’t exist without the hard work, consistent involvement and collaborative efforts of this Committee. We also would like to thank the SHRMLV Board for allowing us to present our topic, and giving us such freedom to do it “our way.” I’d also like to thank our speakers for taking time out of their busy schedules to offer their incredible expertise to us. Finally, we’d like to thank our primary sponsor, Gross McGinley, for assisting us in the financial support of this program.

[Signature]

[Name]
From bullying to online harassment to workplace violence, employees are experiencing more physical and emotional harm than ever at work. According to the U. S. Department of Labor:

- 20 employees murdered each week at work.
- 18,000 employees attacked each week at work.
- $36,000,000,000 cost to employers per year in the U.S.

With an all-star list of presenters, this program will offer insight into complex issues, such as:

- Workplace cultures where harassment or bullying is the norm
- Failure of leadership to consider own actions
- Workplace culture-accepted discrimination
- Bullying vs. violence
- Harassment not barred by law
- Third party and spousal abuse
- Eroding efforts by employees to curb harassing behavior
- Supervisor/boss and coworker abuse
- Workplaces where death or depression is part of work
- Preseveration of evidence
- Civil liability
- Emotional intelligence
- Mental health issues
- Passive victims
- Eroding efforts by employees to curb harassing behavior

This program will afford you a host of best practices and solutions, including:
SESSION I

COMPLIANCE AND WORKPLACE HARASSMENT: WHAT IS AND IS NOT PROTECTED

Presenters
- Michael Hardiman, Esq., Pennsylvania Human Relations Commission
- Kathy Morrison, Esq., Pennsylvania Human Relations Commission

SESSION II

EMOTIONAL INTELLIGENCE: BULLYING AND VIOLENCE AT WORK

Presenter
- Shawn Kent Hayashi, The Professional Development Group

SESSION III

PERSPECTIVES AND SOLUTIONS ON WORKPLACE HARM: A PANEL DISCUSSION

Panelists
- Ed Wurster, Director, Protective Services PPL
- John Harrison, Esq., Broughal & DeVito
- Carolyn Lamparella, Director, Preferred EAP
- Miriam Rivera, Domestic Violence Advocate, Turning Point of the Lehigh Valley
- Kimberly Mitchell Silvestri, Supervisor, Victim Witness Unit at Lehigh County, Office of the District Attorney

Moderated by
- Deirdre Kamber Todd, Esq, The Kamber Law Group, P.C.
Began his employment with the Pennsylvania Human Relations Commission (PHRC) in January 1979 as an Assistant General Counsel in the Harrisburg Regional Office. In July 1982, he was promoted to supervising attorney and moved to the Philadelphia Regional Office where he remained until June 2005 and his appointment as Chief Counsel to the Commission. He retired in July 2012. During his tenure at the PHRC, his work centered on employment discrimination litigation. He also was involved with a number of urban area school district desegregation and educational equity cases. He also litigated sex equity/athletic program cases; physical disability/accessibility cases; age discrimination/pension cases; and private club/access cases. In June 2016, Hardiman returned to the PHRC as a Commissioner, legislatively appointed to serve a five-year term. Additionally, in January 2018 he was appointed by the Commissioners to serve, on an interim basis, as the Executive Director of the PHRC. Apart from the PHRC, Hardiman has served as Of Counsel to the Philadelphia Lawyers for Social Equity (PLSE). PLSE is a non-profit corporation that works in the community to reduce negative collateral consequences for those who have interacted with the Pennsylvania Criminal Justice System.

Serves as Chief Counsel for the Pennsylvania Human Relations Commission. She acts as legal advisor to the Executive Director and the Commission, oversees legal staff and legal functions within the agency, provides advice regarding human resources and other matters, and handles litigation involving the agency. She developed supervised the implementation of the PHRC’s award winning mediation program. She comes to the PHRC with over thirty years of litigation and justice system advocacy experience. Prior to joining the PHRC, Ms. Morrison was Senior Attorney for the Pennsylvania Coalition Against Domestic Violence, providing training and technical assistance for judges and court personnel and working with the advocacy community and justice system to facilitate effective justice system response to domestic violence. Under the guidance and direction of a group of judicial leaders from across Pennsylvania, Ms. Morrison authored the Pennsylvania Domestic Violence Benchbook in 2005. During her career, Ms. Morrison has presented a variety of seminars and workshops on the local, state, and national levels, including trainings about employment discrimination for the Pennsylvania Bar Institute and the Commonwealth of Pennsylvania’s Office of General Counsel.
SPEAKERS’ BIOGRAPHIES

SHAWN KENT HAYASHI

Is the founder and CEO of The Professional Development Group LLC, Executive-in-Residence for the Lehigh University MBA Program, and a global expert in developing inspiring leaders and high performing teams. Growth, innovation, and elevated performance and profits are the results of Shawn’s work as an executive coach, speaker, and high performing team consultant. Shawn facilitates growth in leadership ability, emotional intelligence, communication skills, collaboration, and building trust and stronger relationships. Her clients include entrepreneurial companies, Fortune 500, and associations around the globe. Shawn has been featured in The New York Times, Forbes, and FastCompany. Her TEDx talk on The Future of Talent@Work forecasts coming changes to the workplace, the growing need for collaboration, and the power of engagement. Shawn is also the author of six business communications books, including the best-selling Conversations trilogy and How to Improve Your Emotional Intelligence at Work & in Relationships.

JOHN HARRISON, ESQUIRE

Is a partner in the law firm of Broughal & DeVito LLP, where he focuses his practice in general civil and trial practice and employment law. He was admitted to the Pennsylvania Bar in 1988. Mr. Harrison earned his B.A. degree from the University of Pennsylvania and his J.D. degree, with honors, from George Washington University. He is a member of the Lehigh County, Northampton County and Pennsylvania bar associations. He is also a member of the Board of Trustees for the Bethlehem YMCA.
Is director-Protective Services for PPL Corporation, one of the largest investor-owned utilities in the United States with more than 10.5 million customers and 13,000 employees in the U.S. and U.K. Since joining PPL in 2012, Wurster has been instrumental in developing the corporate emergency management and physical security strategies.

Wurster has made significant contributions to the field of public safety throughout his 30-year career. He has served as director of curriculum and certification for Bucks County Public Safety Training Center and Bucks County Community College as well as training and exercise section chief for the Southeastern Pennsylvania Regional Task Force – a five-county multi-disciplined coordinating organization for enhanced homeland security and emergency preparedness in Southeastern Pennsylvania.

Active in his community, Wurster is a member of the Board of Directors and Vice Chair for the Burn Prevention Network and serves on the Occupational Advisory Committee at Middle Bucks Institute of Technology.

Has been an advocate and counselor for victims of violent crimes, over the last twenty-five years, including domestic violence, sexual assault, and human trafficking. She is currently the Counseling Director at Turning Point of Lehigh Valley, an organization that provides supportive services for victims and survivors of domestic violence and their families. Her work for Turning Point includes serving as Group Facilitator, answering the crisis line, drafting advocacy letters, one-on-one counseling for victims and domestic violence and for their children, educating the community on domestic violence, and creating a plan for financial empowerment to teach victims on how to reach financial independence, and providing case management and assisting with development of goal plan and resources necessary to accomplish goal plan.
SPEAKERS’ BIOGRAPHIES

CAROLYN LAMPARELLA, LPC

Is a Licensed Professional Counselor and Director of Lehigh Valley Health Network's employee assistance program, Preferred EAP. Carolyn graduated from James Madison University with an Ed.S. in counseling psychology and has more than 25 years of counseling and consultation experience with individuals, families and organizations. During her tenure with Preferred EAP, she has presented on numerous topics including stress management, communication, work-life balance, managing emotions, workplace conflict, and coping with change. Carolyn has a particular interest in holistic wellness and the benefits of meditation and exercise for the treatment of stress, anxiety and depression. Carolyn's personal mission is to destigmatize mental and emotional health services and incorporate them into a more comprehensive plan for personal and corporate wellness.

BEGAN HER CAREER IN VICTIM SERVICES VOLUNTEERING FOR WOMEN ORGANIZED AGAINST RAPE IN PHILADELPHIA IN 1999. SHE RECEIVED SEXUAL ASSAULT ADVOCACY TRAINING AND COMPLETED HER SERVICE WORK IN PHILADELPHIA. IN OCTOBER 2000, SHE MOVED BACK TO THE LEHIGH VALLEY AND BEGAN WORKING FOR CRIME VICTIMS COUNCIL, WHERE SHE WORKED PRIMARILY IN THE VICTIM WITNESS UNIT IN JUVENILE AND ADULT CRIMES. IN 2010, SHE RETURNED TO CRIME VICTIMS COUNCIL AS SUPERVISOR OF THE VICTIM WITNESS UNIT. IN 2012, SHE MOVED TO THE LEHIGH COUNTY DISTRICT ATTORNEY'S OFFICE AS THE VICTIM WITNESS COORDINATOR. AS COORDINATOR, SHE WORKS WITH VICTIMS AND WITNESSES OF CRIME AND ASSISTS WITH COURT ADVOCACY NEEDS, SUCH AS ACCOMPANIMENT, NOTIFICATIONS, AND VICTIMS' RIGHTS. AS A BOARD MEMBER FOR LEHIGH COUNTY STOP VIOLENCE AGAINST WOMEN, SHE MEETS WITH COURT PERSONNEL, LAW ENFORCEMENT AGENCIES, SERVICE PROVIDERS, GOVERNMENT AGENCIES, AND COMMUNITY GROUPS TO DEVELOP PROTOCOLS AND ENHANCE SERVICES TO ADDRESS THE NEEDS OF VICTIMS. HER CRISIS AND TRAUMA TRAININGS INCLUDE WORKING WITH FAMILY SURVIVORS OF HOMICIDE VICTIMS, VICTIM/OFFENDER CONFERENCING AND MEDIATION, DEATH NOTIFICATION, TECHNOLOGY AND VICTIMIZATION, WORKING WITH DOMESTIC VIOLENCE VICTIMS, AND PERFORMING CRISIS INTERVENTIONS AND RESPONSE IN MASS VIOLENCE. IN AUGUST 2017, SHE COMPLETED TRAINING WITH CANINE PARTNERS FOR LIFE AND RECEIVED A COMFORT DOG FOR THE LEHIGH COUNTY DISTRICT ATTORNEY'S OFFICE. A GRADUATE OF WILLIAM ALLEN HIGH AND WITH A B.A. FROM MUILENBERG COLLEGE, SHE IS COMPLETING HER M.E. FROM WIDENER IN HUMAN SEXUALITY EDUCATION.
What was your impression?
SESSION I

COMPLIANCE AND WORKPLACE HARASSMENT: WHAT IS AND IS NOT PROTECTED

Presenters

Michael Hardiman, Esq., Pennsylvania Human Relations Commission
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SHRM LV PRESENTS
DIVERSEFORCE VIII

VIOLENCE, BULLYING & HARASSMENT IN THE WORKPLACE
YOUR TOOLKIT FOR REDUCING RISK
Workplace Harassment: What is and Is Not Legally Protected

PA Human Relations Commission
Chief Counsel’s Office
Today’s Presenters

• Michael Hardiman, Interim Executive PHRC Director and PHRC Commissioner
• Kathy Morrison, PHRC Chief Counsel
We are Seeking Your Help

- Overview of survey results from last year
- What efforts are you undertaking with regard to risk management /prevention of discrimination complaints?
- How do you think PHRC can best assist you in preventing unlawful discrimination in your workplace and/or addressing discrimination when it arises?
What Does the PHRC Do?

Two-Part Mission:

• Enforce PA non-discrimination laws
  • PA Human Relations Act
  • PA Fair Educational Opportunities Act
• Promote Equal Opportunity for ALL in PA
PHRA - Police Power and Civil Right

43 P.S.§952 Police Power
The PHRA is an exercise of the Commonwealth’s police power for the protection of the welfare, prosperity, health, and peace of the people of the Commonwealth.

43 P.S.§953 Civil Right
The opportunity of individual to obtain employment for which he is qualified without discrimination...is declared to be a civil right enforceable under the PHRA.
What Does PHRA Cover?

- Employment
- Housing
- Commercial Property
- Public Accommodations
- Education
How is the PHRA Interpreted?

• Broad Construction-Remedial Law

• “The provisions of this Act shall be construed liberally... and any law inconsistent with any provisions hereof shall not apply.” 43 P.S. § 962 (a)
The PHRA: Pennsylvania Human Relations Act, 43 Pa. Stat. Ann § 951, et seq. The PHRA prohibits discrimination on the basis of race, color, religious creed, ancestry, age (40 or older), sex, national origin, disability, the use of a guide or support animal because of blindness, deafness or physical handicap, and possession of a general education development (“GED”) certificate rather than a high school diploma. It covers employers with four or more employees. The PHRA also applies to certain independent contractors and provides individual liability for aiding and abetting prohibited discrimination.
How is the PHRA Enforced?

- Complaint investigations-nondiscretionary statutory responsibility;
- Engage in voluntary and informed predetermination settlements;
- Investigative determinations of no probable cause/probable cause;
- Prosecution of cases where probable cause found and matter not resolved thru conference conciliation and persuasion;
- Adjudication of case via public hearing.
Complimentary Federal Statutes

- **Title VII** – EEOC (Employment)
- **Age Discrimination in Employment Act** (ADEA) – EEOC
- **Americans with Disabilities Act** (ADA) – EEOC
- **Equal Pay Act** (EPA) – EEOC
- **Vocational Rehabilitation Act of 1973** – §§503 & 504
- **Title VIII** – HUD (Housing)
- **Title IX** – U.S. Dept. of Education Office of Civil Rights (Education)
PHRA Protections

• RACE (includes white)
• SEX (includes male)
• AGE (40 and above)
  – NOTE: Not in public accommodations or PFEOA
• RELIGIOUS CREED
• COLOR
• ANCESTRY
• NATIONAL ORIGIN
PHRA Protections (cont.)

• DISABILITY
  – NOTE: In employment, non job-related
  – Known relationship or association with a person with a disability
  – User, trainer or handler of guide or support animals

• GED (employment only)

• Familial Status (housing only)

• Protection Against Retaliation
Graph showing the basis of complaints for the years 2016-17:

- Retaliation: 27%
- Disability: 21%
- Race/Color: 13%
- Sex: 11%
- Age: 11%
- Ancestry: 3.0%
- National Origin: 2%
- Multiple Class: 2%
- Religion: 2%
• Harassment can take many forms and can be based on many different characteristics or protected classes

• Sexual harassment is a common form of harassment, but it is not the only type

• Anyone can be a victim/target of harassment

• Harassment can be expressed verbally, physically, or by any other means of communication.
All forms of harassment are analyzed similarly, regardless of the protected characteristic that motivated such harassment. See Harris v. Forklift 510 U.S. 17 (1993) (defined hostile environment in a way that encompassed race, color, religion, national origin, and gender)
What is harassment?

Unwelcome verbal or physical conduct motivated by an individual’s membership in a protected class, when either:

(1) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, OR

(2) The conduct is sufficiently severe or pervasive to create a hostile work environment for a reasonable person in the plaintiff’s circumstances.
Sexual Harassment includes: *Unwelcome* sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or physical conduct of a sexual nature, when:
• Submission is either a term or condition of employment, or a basis for employment decisions, or

• Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating hostile or offensive working environment.
Types of sexual harassment

- Quid pro quo - let’s make a deal
- Hostile work environment
Benefits of employment are conditioned, either directly or indirectly, upon submission to supervisor’s sexual advances, like:

- If you sleep with me I’ll give you the assignment you want
- Since you don’t seem to like me, I won’t be including you in the sales training workshop-you no longer seem like a good fit for sales.
Hostile Environment

Discriminatory intimidation, ridicule, and insults which is sufficiently severe or pervasive to alter the conditions of the victim’s/target’s employment

Includes comments, jokes, graffiti, sexual advances and remarks, touching, questionable comments, pornography or other offensive verbal or physical conduct relating to one’s sex.
Conduct must be based on an employee’s protected characteristics, and:

- must be severe or pervasive,
- must be unwelcome, and
- must unreasonably interfere with an employee’s working conditions
Factors used in determining severe or pervasive include:

• Frequency
• Severity
• Extent to which it interferes with the workplace
• Physical conduct
What is Unwelcome Conduct?

The *unwelcome* nature of the conduct is generally determined by examining the complaining party’s *response to the conduct*.
When is an Employer Liable?

- An employer is *always liable* for a *supervisor’s sexual harassment* if it culminates in a *tangible adverse employment action*.
- When *no tangible employment action* is taken the employer may raise an *affirmative defense*. 

Pennsylvania Human Relations Commission
When is an Employer Liable?

- When a hostile environment is created by a non-supervisor, an employer is not automatically liable, unless the employee can establish a factual basis for imputing liability to the employer.

- The assessment is: Did the employer know or should have known about the harassment and failed to take prompt remedial action?
Employer Affirmative Defense

Defense exists where an employer can establish that:

- the employer exercised reasonable care to prevent and remedy promptly any harassing behavior, and
- the employee unreasonably failed to take advantage of the preventive or corrective opportunities.
Sexual Harassment Impacts

- Sexual harassment may involve: heterosexual, homosexual, transgender, gender identity
- And includes supervisors, supervised employees, coworkers, and third parties like customers, vendors, and visitors
Retaliation is harassment’s frequent companion. What constitutes retaliation?

- EE engages in protected activity
- After or contemporaneously, ER takes adverse employment action against EE
- The adverse action was materially adverse
- There is a causal connection
Stoplight Game

• Red means: “Stop, that is unlawful harassment!”

• Yellow means: “I need more facts because I am not sure.”

• Green means: “It is not unlawful harassment- full speed ahead.”
Case Scenario #1

- Over her objection, plaintiff continues to work in close proximity with former (nonsupervisory) harasser
- Former harasser bumped her arm while she talked to a coworker
- He stationed himself by the door in a room both occupied
- She came face to face with him when she exited bathroom
Case Scenario #2

- Employee complained of harassment by coworker
- Employee’s personnel file showed no real investigation into her complaints of harassment from a coworker
Case Scenario #3

Supervisor was mean to everyone. Supervisor belittled all staff and cursed at them using foul language for body parts as the nickname for employees.

Supervisor called male employees a generic foul name for a body part and called female employees a foul name for a female body part.
Case Scenario #4

- Out of employee’s presence, her male supervisor allegedly made a comment in front of two other employees about employee’s breasts
- Specifically, it was reported that he said “What I wouldn’t do to get my face in those breasts.”
- Was an isolated comment
- No evidence of interference with her work
Case Scenario #5

- Plaintiff notified management that a co-worker made her feel uncomfortable on several occasions.
- The co-worker subsequently folded dollar bills and placed them under plaintiff’s bra strap.
- Plaintiff resigned because the employer failed to make her feel safe at work.
Case Scenario #6

- Employee alleged that she regularly observed a male supervisor watching pornographic videos in his office.
- Employee alleged bystander harassment—she was not the specific target of her supervisor.
- Did she state a claim for harassment?
Case Scenario #7

• Waitress complained to manager that a customer pulled her hair and told manager she did not want to wait on the customer anymore.

• Manager told her to continue to wait on the customer.

• Customer then grabbed waitress and put his mouth on her breast. She quit and sued.
Case Scenario #8

- IHOP’s anti harassment program included:
  - Requiring all employees to watch antiharassment videos
  - Requiring all employees to notify a supervisor and manager about any unwelcome conduct
  - Requiring all employees to sign a document promising not to engage in harassing behavior.
  - IHOP conducted an internal investigation and fired alleged harasser.
Case Scenario #9

• EE’s coworkers placed drawings of hooded figures with the letters “KKK” on restroom wall and on different occasions, on EE’s locker.

• EE’s coworkers referred to EE and other African Americans using racially derogatory terms.

• EE filed a racial harassment claim
Case Scenario #10

- EE was promoted without a pay raise and his supervisor told him company was happy to have him because he is “a smart young black man.”
- A few weeks later, EE is unhappy that he got no raise, meets with his supervisor.
- Heated discussion ensues.
- EE says his supervisor used the N word during their argument and supervisor repeatedly denies it.
Case Scenario #11

- African American EE complained after learning of coworkers posting on Instagram.
- Coworkers posted a picture of EE on Instagram comparing EE to a chimpanzee from the movie Planet of the Apes.
- Investigation revealed coworkers’ involvement in the incident.
- ER only verbally reprimanded one employee and failed to discipline the other employee.
Case scenario #12

- Arab American EE asked whether he was a practicing Muslim and he said yes
- His supervisor and coworkers stated they did not like Arabs and Muslims
- Coworkers said Arabs and Muslims are stupid people who are killing each other and are treating their women badly.
- Supervisor showed a video of a beheading by a terrorist and said “These are Muslims” in front of EE.
- After EE complained to management, supervisor apologized verbally and in writing.
Case Scenario #13

• EE’s national origin was Haitian/Creole
• Supervisor said “This is America, you need to speak English.”
• Supervisor asked EE about his immigration status and whether his marriage was solely for the purpose of receiving immigration papers.
• No evidence that the comments affected EE’s work performance.
Case Scenario #14

• The Philadelphia Eagles play the Pittsburgh Steelers in the Super Bowl.

• Before the game, half of your employees who are Steelers fans are trash talking the Eagles players calling them babies and no talent wimps.

• After the Eagles win the Super Bowl, the Eagles fan employees all wear their Eagles team T-shirts and jerseys to work and do victory dances singing “Fly Eagles Fly” in the faces of the Steelers fans.
Scenario Cases

- Steiner v. Showboat Operating Co., 25 F.3d 1459
- Patane v. Clark, et. al. 508 F.2d 106 (2d Cir 2007)
Scenario Cases

- Lockard v. Pizza Hut, Inc. 162 F.3d 1062 (10th Cir. 1998)
- EEOC v. Mgmt. Hosp. of Racine Inc. 666 F.3d 422 (7th Cir. 2012)
- Ayissi-Etoh v. Fannie Mae 712 F.3d 572 (D.C. Cir. 2013)
- Fisher v. Mermaid Manor Homes for Adults, 192 F. Supp. 3d 323 (E.D. N.Y. 2016)
Scenario Cases

Thank you! To Contact Us:

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SESSION II

EMOTIONAL INTELLIGENCE: BULLYING AND VIOLENCE AT WORK

Presenter

Shawn Kent Hayashi, The Professional Development Group

VIOLENCE, BULLYING & HARASSMENT IN THE WORKPLACE

YOUR TOOLKIT FOR REDUCING RISK
1. Our boss is a bully. He doesn’t yell, but he’s demeaning. What can I do, as I report directly to him?

2. Domestic Violence: when it occurs, everyone knows and gets upset. What do we do about spouses and significant others creating drama and panic? What do we do when our employee won’t do anything to solve the problem?
3. Female on female bullying/violence is a problem, and our male bosses don’t take it seriously.

- What can we do to lessen female bullying issues? How do they differ from men?
- How can we make the higherups understand how serious this is?
4. Policy and Procedure: our policy/procedure for violence is only call the police or evacuate; that isn’t sufficient. We’ve had some scary moments. What should our policy and procedure include to protect us from violence?

5. We know online bullying occurs at our work. How do we deal with online bullying when we can’t get access to online comments? Also, we have a union and they do not cooperate with us when there is an online harassment issue; thoughts?
1. When do we take these comments seriously when we receive so little information?
2. Other than trying to do an investigation, what are we supposed to do?
7. The Angry Guy: we have an employee who is always angry. He hasn’t “done” anything, but he’s always on the verge of blowing up. Other employees fear him; what can we do?

8. Isolation: we have a bunch of secretaries at work who don’t like one secretary because she smells bad. They ignore her/pretend she isn’t there. It’s very clique-ish, but is this bullying?
9. An employee has repeatedly created dangerous situations for others (like turning on machinery when being fixed by another employee). Is this bullying/violence?

10. Managers and supervisors at our job receive training, but they still do things that place us at risk, like allowing in visitors without badges or failing to write people up when appropriate. What can we do to get through to our staff that our policies and procedures are important for safety?
In regards to Weapons in the Workplace policies, what is the definition of workplace and premises in Pennsylvania? Does it include parking lot and employee vehicles? For example, can you state the business prohibits weapons in the workplace, including personal vehicles.

Session III
SESSION III: OTHER ISSUES

- Workplace cultures where harassment or bullying is the norm
- Failure of leadership to consider own actions
- Workplace culture—accepted discrimination
- Bullying vs. violence
- Eroding efforts by employees to curb harassing behavior
- Civil liability
- Third party and spousal abuse
- Aggressor Profiles
- Compliance
- Security
- Online activities
- Bullying vs. violence
- Emotional intelligence
- Harassment not barred by law
- Passive victims
- Preservation of evidence
- Supervisor/boss and coworker abuse
- Workplaces where death or depression is part of work
- Mental health issues
- Eroding efforts by employees to curb harassing behavior
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- Harassment not barred by law
- Passive victims
- Preservation of evidence
- Supervisor/boss and coworker abuse
- Workplaces where death or depression is part of work
 Doesn't set clear expectations
Hypercritical -- focuses on weaknesses
Micromanager: treats you as incompetent
VIOLENCE, BULLYING & HARASSMENT IN THE WORKPLACE

YOUR TOOLKIT FOR REDUCING RISK

No
doesn't provide proper directions/intentionally leaves you stuck
Doesn’t defend you in a dispute
Rewards friends, not competence
VIOLENCE, BULLYING & HARASSMENT IN THE WORKPLACE

YOUR TOOLKIT FOR REDUCING RISK

Doesn’t believe in recognition for hard work
#3. Doesn’t care if you’re overworked or stressed -- it’s never enough anyway.
Your boss steals your work
Q4 What are the challenges you face in handling workplace violence issues at your organization?
- Managers being consistent, holding people accountable and getting HR involved right away.
- Alternate exits for an emergency.
- To date we have been very fortunate and have not had any workplace violence issues. We do have a strong zero tolerance policy in place and a strong weapons policy in place as well.
- Safety in general - we are a service business with a lot of guests in and out each day.
- People holding doors open for others and they don’t badge in the building. This creates risk.
- Limiting access to the office
- Domestic violence and people feeling embarrassed or ashamed; not wanting to divulge their personal affairs in the workplace.
- Have not had any incidences – 3 responses
- We are very spread out. It becomes a trust issue with our employees.
- Lack of site security, process, and training
- You have to prepare for any situation because you never know.
- Education - managers and employees not knowing what to do. HR is a new position to this business and they don't know what they don't know, essentially, and just hope for the best.
- Overall security of the building - Hard to limit access.
- How to conduct effective workplace violence training.
- Not having any training for employees on what to do asap if there is an incident of workplace violence.
- Very large company with a lot of acreage, hard to remain secure.
- Small town changing into large city with increase gang activity, crimes
  - My organization is a County so there are many different departments to oversee ... one of which happens to be a correctional facility.
  - Easy access to the property. Union labor issues.
- Currently do not have a plan but are in the process of developing and training staff
- Although we have a policy in place, not certain our employees would know what to do.
- Our building is public and harder to secure.
- We have a small professional office and do not see any challenges at this time.
- Privacy
  - Finding out exact cause and how to handle each situation.
  - Breadth and scope of unknown variables and scenarios
  - I don't even know where to begin if one would happen. We've had to call the cops for arguing temps in the warehouse, but that's really the extent of it here. My challenge - being the head of HR and also being aware that I can't defend myself in a time of workplace violence. I have no one to step in on my behalf either.
- We are currently discussion the best course of action. We want employees to be prepared but don't want to frighten them with no good cause.
- Employees bringing personal issues into work.
- None as of yet, although with every "shooting" incident we get questions
- Individual responsible is located at corporate headquarters, which sometimes results in delayed availability or responses.
- Multiple doors, limited security personnel,
- We are a home care agency - so much of the work environment is outside of our control. Employees are sent into clients’ homes. We conduct home environment checks prior to starting a case and over the course of time while we have a case. As we are not there in person while the employee is working and due to the work environment being in someone's home, our controls are limited. If someone does not feel safe returning to a home, or if we deem a house/client unsafe, the employee will not be returned to the home and we potentially may discharge the client from receiving our services.
- Financial institution with the possibility of a robbery turning violent.
  - Knowing best practices when event does happen and having appropriate staff to handle the situation when an event occurs. (Total staff of 32)
  - Not always knowing the correct way to handle or be prepared
- We have a general policy that outlines how to respond but we have no one with advanced training that could respond or handle. We call 911 and evacuate/flee the area.
- Many entrances leave us very exposed.
- Some employees don't believe it could happen here.
- 1st - not having good training. 2nd - not being able to find affordable training. We had a presentation from the police about 10 years ago which was very good and helpful. We've been trying to find something like that again.
- Unreported incidents
- The challenge is identifying all of the potential risks for multiple programs in different settings.
- Drills for all employees
- No management support
- Balancing the need for preventative education with a desire to not terrify the staff unnecessarily.
- Figuring out when a threat is real and serious (a desire to not over-react).
- Low security
- Unreported issues
- Ongoing training

Q5 Has your organization held on site active shooter training?

Q6 Has your organization experienced an active shooter incident?

Q7 Has your organization experienced high risk terminations?
Q9 If yes to #8, briefly describe your policy here:
- Plan first; ensure security is near; be cautious and aware
- FT security onsite and there is a process in place to partner with that team with high risk terms.
- Neutral location, multiple managers present.
- Dr. Diana Sorrentino is on standby!
- assess the risk and if warranted, have a security person in the area to escort the person out.
- We have the individual escorted and meetings are handled with 2 or more people.
- Have additional personnel in meeting and contact local authorities
- We notify local police and request their presence on our grounds. Usually in parking lots.
- Not a formal hard copy policy. However, we do have a procedure in place what to do prior to conducting the high risk terminate
- have maintenance/security on hand. Do phone terminations if anger management is issue. Have 'panic' button under HR desk
- Termination letters include no trespassing language. Meetings held in specific location with security support. In some cases, verbal notification so associate does not come back on property. Scripted exit plan with two key management participants
- we have multiple staff escort individual out, we do not allow them to collect personal belongings, we remove staff from the area, if necessary we contact police depending on the severity of termination (i.e. theft)
- We list at least 10 examples of what would constitute workplace violence including the procedure for reporting such.
- Nothing formal - we discuss each separation individually to assess risk. If needed, we would secure a security firm to assist high risk separations.
- We had 1 high risk termination. We brought in a private security company (armed) and they handled the situation extremely well
- It depends. We would have an HR rep there, conference room near an exit, nothing that could be a weapon on the table, Managers and HR sit near the door. We would have another senior staff stationed outside the room so s/he could hear if the conversation is escalating. In extreme cases, the police would be alerted and asked to be in the parking lot.
- Time of day is carefully chosen, and we have hired outside security to remain in the parking lot during the termination and for rest of day in case anything occurs (nothing has)
- Contact Corporate Security prior to separation and develop communications and separation timeline; Engage and inform facility leadership prior to separation and advise of roles (collect employee’s assets/pack up personal belongings, witness to separation meeting, 911 caller); Notify local law enforcement to be on standby; Ensure all systems access is shut off as separation is taking place; Escort employee out of building and observe leaving property; Inform Corporate Security of separation and outcome.
- Two managers, escort from building.
- Not really a policy. We've only had one concerning termination which didn't involve an explicit threat, but our concern over potential violence led us to contact the police, make EEs aware of the potential, and change all entrances to a secure electronic entry system.
- Police are notified and on standby depending on the situation. Additional managers are staffed close by in the event extra manpower is needed. Non-essential personnel are removed from the area. Front desk, AA, night supervisors notified and sent a picture of the employee and how to handle if he/she shows back up on premises.
- Usually if we feel we have a high-risk termination, we will offer the employee something that will help alleviate the situation, such as pay their benefits for a certain time period, offer to pay for a semester at the community college, severance pay.
- We terminate over the phone or if we must do it in person we have more than one manager present and notify police.
- On site security
- I believe we have safety and security officers present on site during the termination process.
- Security handles
- Building security and local police are involved for support. Termination takes place outside the office. Ex-ee is banned from returning to office. All staff are informed while the termination is happening.
- We would involve Bank Security Officer and make decision whether Law Enforcement needs to be notified prior to termination
- Local law enforcement is involved.
- The individual is removed from the building by a member of management and denied reentry - the building is secure.

Q10 Does your organization have policies in place for your response when threats are received?

Q11 In workplace violence situations where evacuation is called for, what do your employees do once they evacuate?
- Do not have a plan/unsure - 11 responses
- Meet at a designated area for a head count and to cooperate with law enforcement if needed.
- They are directed to a nearby facility.
- Go to designated area of parking lot
- There are designated meeting locations across the parking areas for departments and teams. Specific individuals are identified to ensure everyone is accounted for based on rosters.
- Gather at a neighboring business so everyone is accounted for and wait for police to arrive. to a designated area
- They report to their designated areas and are accounted for by a team leader.
- Leave the area and reconvene at an outside location.
I am not sure that there is an evacuation plan on where to meet. I just started two weeks ago and am quickly learning there is a great deal of training and planning which needs to occur.

- Stay evacuated until further notice
- No specific plan other than to scatter and get away from the building.
- We do not have a workplace violence policy however our employees are directed to specific spots outside of our building that are numbered. Similar to what would need to occur if there is a fire emergency.
- We have a designated place to meet in the far corner of our parking lot.
- Go to a designated location
- Follow instructions of law enforcement or management
- Healthcare – remain with residents.
- They do not return to the building until they have received the all clear message.
- Follow active shooter guidelines advised by homeland security.
- We have not trained staff yet
- Same as fire drill
- There is a designated meeting area adjacent to the building.
- Go to a common area that is deemed for each unit
- Leave premises
- We need to determine this. We are working on emergency plans but do not yet have processes in place.
- Depends on severity/outcome-validity of threat. They may be sent home or returned to work.
- Stay on premises
- Wait for approval to go back to offices
- Depends on the situation – we want them to go to safety and also preferably where we can account for them (similar to fire drills) but they’d need to use judgment on whether the normal designated location is safe.
- They congregate at the agreed meeting point (varies from office to office) and emergency services are contacted.
- Go to designated area
- Designated on and off-site meetings locations. Stay in designated location until all are accounted for and receive further instruction. NO cell phones, videos to be used until authorized.
- We will go to the front of the building and we all have a team of people we are responsible for. Those employees report to the leader in their group for attendance.
- Remain in location
- We don’t have a policy or communications specific to a workplace violence situation. We are looking for affordable training
- Our employees move to a set location at a safe distance from the building and await further instructions from the identified building safety supervisors.
- Stay in evacuation area until released
- Each business unit is assigned a particular place to meet. Leaders take roll call
- Report to designated areas and check in with their emergency preparedness contact
- Assemble at a specific location
- Not sure, our policy doesn’t address this. They would probably stand around in the parking lot where we evacuate for a fire. And wow, that’s really bad... 
- Stand in a safe zone
- They are instructed to go to a designated meeting place and then a head count is done
- At this point we tell them not to leave (unless they notify their department head). We do not have designated and organized areas, just tell them to congregate away from the building.
- Currently setting up a policy for this
- Report to corporate security, call 911
- Proceed to a safe location
- Wait for instructions from our safety warden

Q12 In the aftermath of a workplace violence event, does your company have a written business continuity plan to guide them?

Yes
No
Unsure

Q13 Does your organization have an Emergency Action Plan?

Yes
No

Q14 How confident are you in the security of the entry(s) to your workplace?

Very Confident
Somewhat Confident
Not Confident
Unsure
Q17 Additional Comments:
- The one saving grace is that we have security personnel manning the main entrance 24-7 and an employee must swipe their company ID card at the only 2 entrances in order to gain access.
- Didn't even realize OSHA regulated this.
- I will look into OSHA. This is a "hot topic". Thanks for the opportunity to get info from others.
- Looking forward to seeing what other companies do. This sensitive topic is very timely.
- We are seeking affordable management training.
- Our program is just starting out and in the development stages and will look into and include OSHA information.
- We are updating our Corporate Health and Safety program and will look to include workplace violence policies and procedures.
DIVERSEFORCE VIII

VIOLENCE, BULLYING & HARASSMENT IN THE WORKPLACE

SHRMLV SURVEY: PHRC
Q1 I have been involved in:

Q2 I believe having a group discussion that involves SHRMLV members and PHRC staff to more fully discuss issues such as best ways to address workplace discrimination/harassment, best way(s) for the PHRC to respond to such issues, and other matters would be a useful endeavor both for SHRMLV and the PHRC:

Q3 In general, the most frustrating part of the PHRC investigation process is:
04 I find that PHRC investigations, in general, are: (you can select more than one answer)

Conducted In a professional...
More focused on getting...
Do not involve an effort to...
Appear more formulaic...
None of the above

Q5 I am familiar with the PHRC's pre-investigation mediation process and have:

Participated
Participated
Have not had an opportunity...
Prefer to have complaints...

Q6 I my experience, the PHRC continues to significantly assist in reducing workplace discrimination.
07 In my experience, most individuals who file complaints do so only because they believe they have been treated differently without any real examination of the role of their own actions as being the cause of the treatment.

True
False

08 In my experience, most complaints filed with the PHRC are without merit and should not be investigated.

True
False

09 In my experience, the time and expense involved in responding to complaints filed with and investigated by the PHRC far outweighs any incremental impact that such investigations have in addressing workplace issues related to unlawful discrimination.

True
False
Q10 In my experience, the discrimination issues that most frequently arise in today’s workplace, including issues such as: harassment; reasonable accommodations involving disabilities; and religious accommodation issues do not lend themselves to individual case investigation.

Q11 In my experience, I do not believe there is significant unlawful discrimination that occurs in today’s workplace that can be effectively addressed by individual complaint investigations.

Q12 In my experience, the PHRC could more effectively enforce its statute by working with employers on an ongoing basis to address today’s discrimination issues.

Additional Comments:
- This survey is well over due. Employers need to have some input into the process
- I think that it would be a great idea for the PHRC to coordinate with the local SHRM chapters.
SHRM WHITEPAPER:
TOXIC EMPLOYEES
4 Ways to Deal with a Toxic Co-Worker

By Abby Cumow-Chavez
Apr 16, 2018

Editor's Note: SHRM has partnered with Harvard Business Review (https://hbr.org/) to bring you relevant articles on key HR topics and strategies.

Lately, we have been hearing a lot from our clients about “toxic” co-workers and teammates. This issue isn’t new; there have been bad co-workers since the beginning of organized work. But these days, their impact feels bigger and more destructive. Businesses need teamwork to function. And teams need to be more collaborative, adaptable and proactive than ever. The days of top-down decision making are long gone in many companies and industries, as it’s replaced by grassroots innovation that’s unleashed through co-workers openly networking and sharing information across boundaries. Because of this new dynamic, dysfunctional teammates can damage the results of a whole team in a way that was much harder to do in the old, siloed models of working.

The most common and destructive toxic behaviors we see include:

- backstabbing, criticizing and blaming
- gossiping and spreading rumors
- agreeing in meetings, but not following through afterward
- hoarding information
- purposely undermining others
- caring only about personal agendas (over team and company goals)

We’ve studied thousands of teams and collected data across all industries, sectors and geographies to learn what makes some teams high performers and what makes others fail. Our research indicates that the single most important factor in team success or failure is the quality of relationships on the team. In fact, 70 percent of the variance between the lowest-performing teams, which we call saboteur teams, and the highest-performing teams, or what we have labeled loyalist teams, correlates to the quality of team relationships—not some or most of the relationships, but all of them. Thus, one toxic team member is all it takes to destroy a high-performing team.

Toxic team members are destructive because they:
Create unnecessary drama and distraction. They suck the positive energy and creative brainpower out of the room. Team members waste precious time watching their back, instead of openly innovating, taking risks and speaking up candidly about what's on their minds.

Erode the "team brand." Their bad behavior poorly represents the team and creates a negative impression with colleagues outside the team. In fact, in our research, stakeholders outside the team are 2,000 times more likely to view loyalist teams as being effective in delivering results, as compared with saboteur teams. It's clear that team dysfunction is highly correlated with team brand and results.

Undermine the values of the leader and the company. It breeds cynicism when companies espouse values and norms of behavior, but don't hold some employees to the same standards.

Degraded the team culture. The saboteur's behavior becomes the norm de facto. Well-intended team members begin to reflect this bad behavior as well, treating a toxic teammate with disrespect, griping behind their back and keeping them out of the loop whenever possible.

If you are the team leader, the way forward is clear. You need to acknowledge what's happening with the team, and you must hold the toxic team member to a higher standard of behavior. Regardless of their productivity, results, technical expertise, raw intelligence or invaluable experience, you cannot tolerate behavior that drags down everyone else on the team.

But what can you do if the toxic person is your peer? Many employees tell us that they feel powerless to change peer behavior. In fact, some end up just leaving the team or company after the impact becomes insufferable to them.

Here are four steps you can take to deal with a toxic co-worker:

1. Have an honest, candid conversation with the person. If you don't attempt to do this, you are 100 percent ensuring that the relationship will, at best, continue in its current, dysfunctional state. You cannot assume this person will suddenly wake up and realize the error of their ways, so make an honest attempt to provide productive feedback. Focus on the impact the behavior is having on you. Ask for feedback on your own behavior as well. Sometimes, others don't realize the impact they are having on you. Research shows that most of us lack self-awareness, especially at work.

Members of loyalist teams are 106 times more likely to give each other feedback than those of saboteur teams, even when it's tough. Act as a loyalist yourself by opening up an honest, candid dialogue.

2. Raise your own game, and keep your ego in check. Don't stoop to their level. Watch for and manage your fight-or-flight response. The more you can maintain your focus on team goals, the less likely you are to become blinded by win/lose thinking with this toxic peer. Be the role model for how you want the team to act. Set a standard with the rest of the team that supports collaboration and open dialogue, not retaliation.

On loyalist teams, team members are 35 times more likely to show a visible commitment to each other's success, and 47 times more likely to work hard to build and maintain trust, as compared with saboteur teams.
3. Talk with your boss. Proactively suggest to your boss that the team hold a meeting to set up team norms and begin to address some of the challenging behaviors and conflicts on the team. This session should not be a ruse for taking the toxic team member to task. It should be a real and authentic interaction, in which team members can gain insight into one another's perspectives, set clear standards of expected behavior, and increase peer-to-peer accountability.

On loyalist teams, team members are 73 times more likely to have a set of norms and behaviors they live by and 125 times more likely to address unacceptable team behaviors promptly.

4. Finally, take care of yourself. Don't let this toxic behavior damage your emotional and physical health. Own what you can, let go of what you can't influence, and make a change if you have to. If you have worked your tail off to develop better relationships with your saboteur co-worker(s), and it's going nowhere or getting worse, consider seeking the advice of an HR professional or trusted mentor on what else you might try. But if you've done everything you can, you should consider leaving. Life is too short for work to suck the life out of you.

When you're working with a toxic co-worker, there is no question that you're suffering from the experience. And it's likely that business results are suffering, too. Quite often, the pain provides strong motivation to address the problems and propel things forward, but the work ahead is not easy, and we aren't going to lie to you: Rebuilding relationships and developing new habits takes a lot of energy and courage. However, once you fully commit to turning around your difficult relationship, you are likely to see improvements. Be well-intentioned in your efforts — and persistent — and you'll reap the rewards.

Abby Curnow-Chavez is a partner at The Trispective Group in Boulder, Colo., and the co-author with Audrey Epstein, Linda Adams, and Rebecca Teasdale of The Loyalist Team: How Trust, Candor, and Authenticity Create Great Organizations (PublicAffairs, 2017). For more information, please visit www.trispectivegroup.com. This article is reprinted from Harvard Business Review with permission. ©2018. All rights reserved.
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