

THE MANDATORY TRAINING DEBATE

When it comes to the worst offenders in your workplace, the debate over training tactics misses the point.

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When it comes to dealing with the worst offenders in your workplace, training is only one piece of a broader whole.

As part of its commitment to end workplace sexual harassment, California has joined a number of states requiring employers to offer sexual harassment training to managers and supervisors. The legislation, known as A.B. 1825, requires that managers and supervisors complete harassment training every two years. Regulations regarding the elements of such training were to be issued after an extensive period of comment. Much of the debate has focused on the tactical issues of the required training – whether it can be delivered online as well as in the classroom, how long online sessions must actually last, whether faster learners need additional content to ensure they participate in a full two hours of online training, which group of individuals needs to be trained, who can conduct the training, and similar concerns. While all of this is well intentioned, it likely misses the point.

Certainly training is a more effective device than litigation for setting standards of professionalism, lawfulness, and civility

in the workplace. But the details being debated here will not have much impact on whether California experiences a decrease in sexual harassment claims or their underlying behaviors.

This ongoing discussion fails to consider what constitutes harassment, why people engage in harassing behavior despite clear standards (at least as they relate to the most egregious violations), and finally, what is actually required to stop such misconduct. The behaviors that cause the grossest forms of harassment are easy to communicate and would be quickly eliminated if managers and supervisors did not:

- participate in sexual jokes or engage in such banter in the workplace
- engage in gratuitous physical touching
- attempt or in fact become personally involved with those they supervise or with whom they work

Additionally, managers need to:

- realize that patterns of behavior can emerge from what may seem like individually innocuous or trivial infractions,
- take action to prevent such behavior, and
- intervene when made aware of conduct that may violate these standards

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The challenge is in providing persuasive training that addresses why people fail to behave properly and apply clear standards.

These are not obscure principles. The most serious behavioral issues could be explained in detail in a one-page memo. In fact, what creates the greatest harm is no more difficult to communicate or understand than other work standards such as those prohibiting individuals from drinking, fighting, discharging firearms, or rifling through the possessions of others. Mandatory training courses are not offered on these subjects just as no courses are required to explain to managers why they shouldn't tout their competitors' products. Custom and culture combined with basic communication and decisive action taken against violations ingrain these standards – not hours in front of a computer or in the classroom.

Furthermore, while case law has evolved, broad behavioral standards about what is and isn't permissible haven't significantly changed over the past 25 years. It may seem counter-intuitive, but simply communicating legal principles and areas of risk via the classroom or computer, no matter how engagingly and accurately presented, won't solve this problem.

At least as to the most overt sexually harassing behaviors, the issue is not that people lack the understanding of what is permissible or illegal but rather that they choose to disregard the standards. Where training is involved, the challenge is not in designing courseware that accurately explains legal issues, lasts a certain length,

or includes a requisite number of interactive clicks. Instead, it's in providing persuasive instruction that addresses why people fail to behave properly and apply what are relatively obvious, clear standards that, in most organizations, have already been included in policies, memos, legal statements, and in prior trainings.

The reason managers, leaders, and others disregard what they have been told or learned is priority and credibility. In other words, individuals may know what they should or shouldn't do but, weighed against the benefits they perceive from their conduct or the sense they have that it's their "right" to engage in such behavior, choose to ignore the standards. They may do so for a variety of reasons – some may believe there are no consequences to their actions, others don't see how their conduct relates to important business objectives, and still others may be "turned off" because the actions of their leaders contradict the messages of the training.

To deal with these issues, explaining the law and outlining personal and organizational penalties is important but insufficient. Without leadership commitment, role modeling, and then training that reflects that commitment, what is presented – particularly to those who most persistently misbehave and are the hardest offenders – is seen as an abstraction unconnected to their daily work lives.



Effective training should be an instrument to help communicate, change behavior, and build the appropriate skills.

Ask many California employers what they are doing about sexual harassment and most will tell you reflexively they are, as required, implementing training in line with A.B. 1825. Of course, they should and must comply with the law. However, if California’s true objective is to end harassment, training should be viewed as a component rather than the overall solution to the problem. The content of the training should fit within a strategy to set standards of conduct that align with organizational values.

These questions need to be answered:

What are leaders at all levels doing to communicate their commitment to organizational standards?

How are they communicating standards of behavior in the context of workaday performance and business expectations as opposed to abdicating that responsibility to mandatory training?

How committed are leaders to taking corrective action to deal with improper behaviors no matter who is involved, just as they would with other serious infractions affecting the organization’s values and mission?

They need to be answered before rather than after problems arise because these are the very same questions that will be asked when complaints or litigation arise.

Effective training, whether online or in the classroom, should be seen as an

instrument to help communicate the concerns, change behavior, and build the appropriate skills that relate to addressing these concerns.

A few years ago, a brilliant surgeon who was attending a training class on sexual harassment and related behaviors challenged the reasons why he needed to manage his personal conduct in the operating room. The content of the program addressed all the required elements – there were citations of law and cases where surgeons who failed to manage their behavior had lost millions. But he still challenged the message. At that point, his leader, an eminent surgeon who knew much about surgery and little about the law, spoke up: “I’ll tell you why: Because it’s important to what we’re doing. If you want to work with me and learn from me, this is how you’ll behave.”

This physician’s mentor made a simple statement that fit right in with the institution’s strategy around which all of the instruction had been designed. He let everyone in that room know that if they thought the message didn’t apply to them, they were wrong. The questioning surgeon, sat back, listened – and got the point. More online clicks and recitations of legal cases wouldn’t have made the difference.



ABOUT THE AUTHOR

Stephen M. Paskoff, Esq., is the founder and president of ELI®, a training company that teaches professional workplace conduct, helping clients translate their values into behaviors, increase employee contribution, build respectful and inclusive cultures, and reduce legal and ethical risk. A former trial attorney for the EEOC and partner in a management law firm, Paskoff pioneered the development of interactive, results-driven training addressing fair employment issues by linking behavior to achieving an organization's mission and providing practical skills people can apply everyday at work. He is a recognized expert in helping companies build cultures that foster fairness, ethics, and integrity while minimizing the risk of lawsuits and scandals.

ABOUT ELI®

Founded in 1986, ELI® works with clients across the globe to help them build civil, legal, and ethical workplace cultures that align with their vision, mission, and values. Since the company's inception, more than one million people have participated in ELI® training, building practical skills that help bring to life their organization's commitment to civility, fairness, and professionalism in the workplace. Whether delivered online or in the classroom, ELI®'s award-winning

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training solutions are based on a proven learning methodology that focuses on outcomes that impact bottom-line business results.

To ensure organizational objectives are met, ELI® also offers an array of strategic services to help clients identify learning issues and needs, align training with key business initiatives, plan effective implementations, and measure results.

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