How Much Training is Sufficient After a Harassment Complaint?

The 10th Circuit Says 10 Minutes is NOT Enough!

We frequently receive calls asking us to conduct training after a harassment complaint has been lodged. Sometimes, the request is to train one particular employee who engaged in the harassment, other times it’s to train the entire department. Rarely, I find, does the organization take a step back and look at their entire harassment and discrimination prevention program in order to determine what kind of culture they have created that would tolerate such behavior.

A recent 10th Circuit Federal Court decision makes it clear that a ten minute refresher after such an incident is not enough. *Lounds v. Lincare, Inc.*, No. 14-3158 (10th Cir. 2015). [https://www.ca10.uscourts.gov/opinions/14/14-3158.pdf](https://www.ca10.uscourts.gov/opinions/14/14-3158.pdf)

In the case brought by Shawron Lounds, an African-American customer service employee, Ms. Lounds alleged that she was called “Shaquita” and “Shaniqua” by her new supervisor, Ms. Kraft; that Kraft said an aggressive customer on the phone was probably “a big African-American man”; and that Ms. Lounds should “get ghetto with him”. (It later turned out that the customer was white.)

Lounds also alleged that a co-worker said that “we need to bring back lynching”, in talking about a recent news event involving an African-American man and that he was “not racist, and there was nothing wrong with lynching,” and that “I’m not trying to offend you[,] it’s not like I said ‘let’[s] go down [to] 9th and Grove (the Black Neighborhood) and drag every black person with a noose, tie them to a truck and drag them after hanging them.” When Lounds objected, the employee responded that she should not be so sensitive.

Another co-worker returned from “the 'Hood' seeing a patient” and began chanting, "BOOM!" and "Boom, Nigga!"

Lounds alleged six instances of harassment in about a four-month period. After a complaint, HR did an investigation and the District manager led an in-service training that lasted ten minutes, several harassing employees did not attend. Lounds alleged that other harassing comments continued after these efforts and that she was given the cold shoulder by employees.

While the involved employees were placed on final written warning, none were fired. When the complaint reached the court, it noted that an employer is liable for harassment "only if the employer fails to take adequate remedial and preventative responses." In this case, the court ruled the ten minute training and warnings were not enough.

**WHAT SHOULD YOU DO?**
**Ideally, you would:**

1. Have a strong enough **prevention program** so that such incidents never occur.

2. After a complaint, make sure that you engage in sufficient **corrective action** such that the harassment stops, including discipline and training.

3. Training should include **education on retaliation** so that employees who have filed complaints - as in this case - are not ignored and the harassment does not continue.

4. Make sure training is given to the **entire organization** or at least the relevant department, not just the alleged harassers. In our experience, harassment that is allowed to continue is a part of the culture and not just a few individuals. All employees should be educated so that they help stop such behavior if they see or hear it - even if they are not the active participants.

5. Training should be **comprehensive and mandatory**. We do at least four hours for managers - so that they understand their responsibility to intervene if they see or hear about harassment - and at least two hours for employees. We always include diverse teams of male and female trainers so that we walk the talk and present trainers that are relatable for your group. We present interactive sessions including quizzes, videos and role plays to keep participants learning and engaged. We also use a lively and humorous presentation style so that learners look forward to our sessions.

**Did You Know?**

You can receive a FREE assessment of your current harassment and discrimination prevention program. Just call or email us and we will help you determine if your efforts are adequate or if you need to step up your game in order to make sure that you don’t end up in court. For more information, visit our website [www.workplacet(at)work.com](http://www.workplacet(at)work.com) or read my books:

*"We Need to Talk" - Tough Conversations with Your Employee and Sexual Harassment.*

**MORE INFO ABOUT PREVENTING HARASSMENT IN THE WORKPLACE**

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