

*Krista V Hiddema*

FOR THE GREATER GOOD



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# Krista Hiddema

- ED of For The Greater Good for 3 years
- 5 degrees in human resources including a MA in organizational development
- Doctoral Candidate – employment experiences of animal rights activists
- 6 years a VP for Mercy For Animals
- Founding Board President of HEEFS for 6 years (home of Esther the Wonder Pig)
- Advisory for: One Protest, Rancher Advocacy Program, Egg-Truth, Dairy-Truth
- 10 years as the Co-Founder and Partner of a boutique employment and labour law firm in Toronto
  - Only non-lawyer partner of a law firm in Canada
  - Consulted to organizations in Canada and the United States
- 15 years in the for-profit sector in senior human resources roles
  - Vice President of Human Resources for the largest software company in the world (SAP AG)



**RESPECT IN  
THE  
WORKPLACE**

## Respect in the Workplace Agenda – for employers

- A bit of History
- Why we're doing this
- Roles and Responsibilities
- Respect in the Workplace policy
- What you do when someone comes forward
- Suggested Next Steps

HISTORY



# Where and When did it come from?

- U.S.
  - First codified into law in the 70's and 80's
    - Primarily because of the work Black women civil rights activists bringing up issues of sexual harassment
  - Was largely unknown until Anita Hill in 1991, marking the first time sexual harassment hit public consciousness
    - The year following, the number of cases filed rose by 50%
  - Paula Jones / President Bill Clinton (as governor of Arkansas) – 1991
    - Claimed he exposed himself to her in a hotel room and asked for oral sex
  - Mitsubishi – 1998
    - Mitsubishi paid \$34 million to female workers at the Normal, Illinois plant where the work environment was anything but normal
    - The company was charged with allowing a hostile setting for women since at least 1990
    - In addition to the \$34 million, Mitsubishi paid out several more million in individual suits

# Where and When did it come from?

- (con't)
  - Fast Forward – Harvey Weinstein
    - “The Weinstein Effect”
  - #MeToo
  - #ARMeToo
    - Public allegations against: Wayne Pacelle, Paul Shapiro and more
  - Jian Ghomeshi (Canada)

The list is long . . .

Why?



## Why are we doing this?

- It's the law
- Mental, physical, and emotional well-being
- Positive team morale
- Culture
- Productivity
- Long-term sustainability of the organization
- Certificate of completion
- And, for the animals!

## What happens when we don't?

- Low employee morale
- High stress
- Employee absences and turnover
- Reduced productivity
- Burnout
- Damaged professional and organizational reputation
- Costly hours before tribunals and courts
- Personal and corporate liability
- Litigation

## Possible Legal Remedies

- Might include:
  - Back pay
  - Out of pocket losses, such as the cost of therapy or expenses associated with looking for a new job
  - Court costs
  - Attorney fees
  - Injunctive relief, such as an order that your employer provide harassment training or adopt a complaint and investigation policy
  - Damages for pain and suffering (also called emotional distress damages or compensatory damages)
  - Punitive damages, intended to punish the employer for egregious behavior



**ROLES AND**



**RESPONSIBILITIES!**

# Roles and Responsibilities

- Boards of Directors
  - Overall responsibility for program development and implementation
- Managers and Supervisors
  - Responsible for prevention, correction, and overall accountability
  - Treating employees consistently
  - Must set an example
  - Comply with policy
  - Make HR decisions based on these principles
  - Have an obligation to inject themselves
  - Must not 'look away'
  - Involved in any remedial or disciplinary action

# Roles and Responsibilities

- Employees
  - All employees are responsible for maintaining a respectful workplace
  - Are requested to report all situations immediately
    - By-stander Intervention
  - Are free from retaliation
- It is important to foster a culture of openness
- It can be useful to have a workplace conflict resolution policy

# Designated Persons

- What?
- Why?
- Who?
- How? – Specialized Training

## By-Stander Intervention

- Encourage employees who see harassment/discrimination in progress to:
  - Let the 'offender' know this behavior is not appropriate or acceptable
  - Offer the 'hurt person' your support and encourage them to take action
  - Help the 'hurt person' prepare to meet with or write to the 'offender' or a Designated Person
  - Speak with a Designated Person (more on this in a few minutes)
  - Keep detailed, factual records of any incidents they witness



## Retaliation

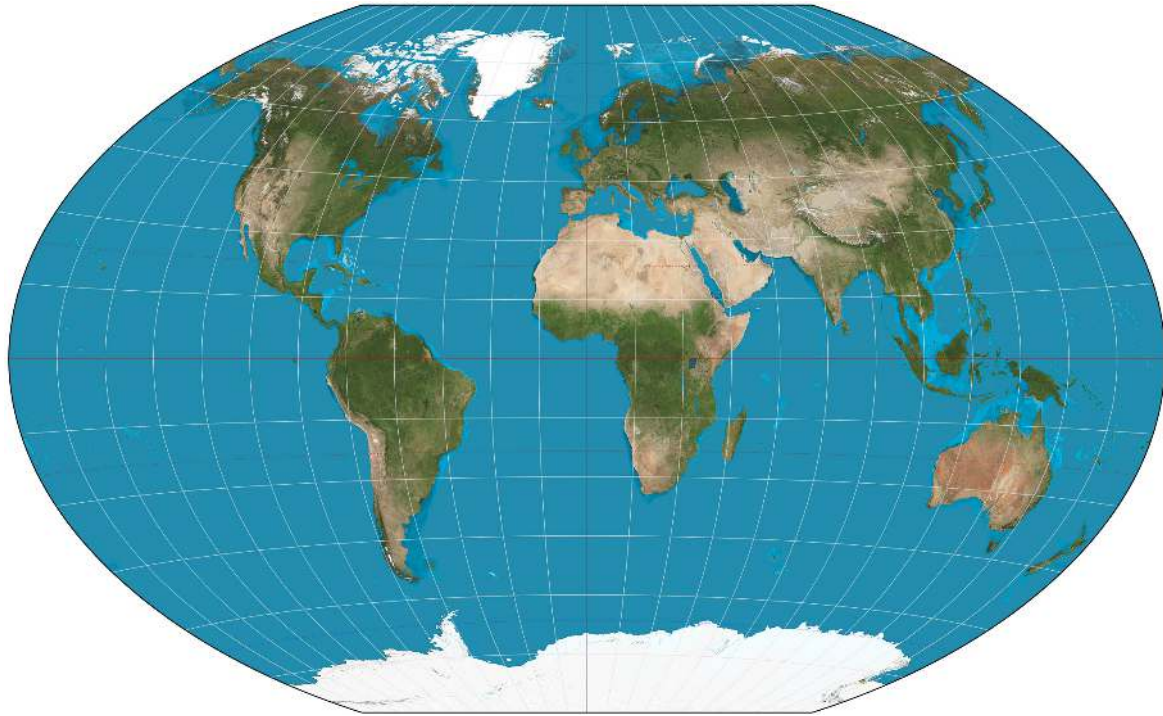
- This means that employers cannot punish employees for making discrimination or harassment complaints or participating in workplace investigations
- And punishment doesn't just mean firing or demotion – it can include other negative employment actions such as being denied a raise, being transferred to a more desirable position, missing out on training or mentoring opportunities, or being given less desirable tasks and projects

*There must be no retaliation for bringing forth a sincere claim*



# THE POLICY

# PROCESS



## The Policy

- I will be sharing four Respect in the Workplace policies with you all:
  - Faunalytics
  - Vegan Outreach
  - Animal Charity Evaluators
  - HEEFS (*Ontario, Canada -specific*)

# The Policy

- You will need to determine:
  - If you will provide what is covered:
    - Option 1 – “The Law”, or
    - Option 2 – “More than the Law”
  - Who the policy applies to
  - Where it applies
  - Name designated persons (DPs)
  - Consider what behaviours will and will not be included
  - Educate employees about what to do
  - Consider your culture and any unique circumstances

# Legislative Protections . . . vary by jurisdiction

Age	Ethnic Origin
Race	Place of Origin
Creed (religion)	Marital Status
Colour	Family Status
Ancestry	Sex
Same-sex Partnership Status	Gender Identity / Gender Expression
Citizenship	Sexual Orientation
Veteran Status	Genetic Characteristics
Record of Offenses (for which a pardon has not been granted)	
Disability / Perceived Disability	

**Canada** – Prohibited Grounds of Discrimination: <https://ccdi.ca/media/1414/20171102-publications-overview-of-hr-codes-by-province-final-en.pdf>

**United States** – Protected Classifications: <https://www.eeoc.gov/employers/small-business/3-who-protected-employment-discrimination>

## The Law or “More than the Law”

- Option 1 - The Law
- Option 2 – ‘More than’ the Law - goes beyond the general categories of discrimination and harassment:
  - May include protections not ‘required’ in law, but are a moral and ethical perspective of the organization
  - Can include other inappropriate conduct

# Who does the policy apply to?

- “Employees”
  - Employees
  - Interns
  - Contractors
  - Board Members
- “Other”
  - Donors
  - Partners
  - Consultants
  - Volunteers
  - Supporters



## Where does the policy apply?

- What is “the Workplace” - anywhere employees are in performing the essential duties of their job:
  - Meetings
  - Conferences
  - Travel
  - Barns and Outbuildings
  - Social
  - Electronic communications

## What behaviours are usually included in a Policy?

- Discrimination
- Bullying and non-sexual harassment
- Sexual and gender-related harassment
- Other inappropriate conduct

## Discrimination

- Discrimination occurs when an employee or job applicant receives less favorable treatment because of a specific characteristic they have
- It is any distinction, exclusion, or preference of a person because of one or more of the legislative protections which has the effect of impairing a person's right to equal treatment with respect to employment, *except where such distinction is justified by law*

# Harassment

- A pattern of unwelcome behaviour (verbal or non-verbal) based on one or more of the prohibited grounds of discrimination which is hurtful, malicious, or intimidating
- Harassment can occur between co-workers
- Harassment does not have to include a promise of a job related benefit or loss
- Harassment need not be explicit, but can be based on a distinction
- Harassment does not always involve intent . . . the harasser may not intend to harass but still have the effect of harassing someone

## Harassment – Types of Behaviours

- "Quid pro quo" sexual harassment occurs when a supervisor makes certain employment benefits contingent on the performance of sexual favors or other inappropriate behaviours
- "Hostile work environment" harassment occurs when one party in the workplace engages in severe or pervasive offensive behaviour that alters the work environment for another employee
  - Can be either sexual or non-sexual
  - Can be committed by non-supervisors as well as by supervisors

## Bullying and Non-Sexual Harassment

- Bullying is a form of harassment
- May not be connected to one of the legislative grounds (e.g. age)
- It includes any unwanted physical or verbal behaviour that offends, humiliates, undermines, or hinders an employee from being able to perform the essential duties of their job
- Generally, it is a behaviour that persists over time
- Serious one-time incidents can also sometimes be considered harassment

## Sexual and Gender-Based Harassment

- Sexual harassment in the workplace is a form of sex discrimination
- Sexual harassment refers to both unwelcome sexual advances, or other visual, verbal, or physical conduct of a sexual nature and actions that create an intimidating, hostile, or offensive work environment based on an employee's sex
- The offensive conduct need not be motivated by sexual desire, but may be based upon an employee's actual or perceived sex or gender-identity, actual or perceived sexual orientation, and/or pregnancy, childbirth, or related medical conditions
- This includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser, and actions that subject co-workers to a hostile work environment

## What is NOT Harassment and Discrimination

- Directly supervising employees, including setting out performance expectations and providing constructive feedback about work performance
- Taking measures to correct performance deficiencies, such as placing an employee on a performance improvement plan
- Taking reasonable disciplinary actions
- Assigning work and directing how and when it should be done
- Requesting updates or status reports
- Approving or denying time off
- Requesting medical documents to support an absence from work



## Examples of 'Other' Inappropriate Conduct

- **Demonstrating bias:** When personal relationships outside of the workplace impact the assignment of special projects, or other favouritism
- **Oversharing:** Many people feel uncomfortable when a coworker overshares details of their personal or professional lives
- **Gossiping:** Sharing negative, and often untrue or incomplete, information about colleagues or company management can create tension and distrust in a workplace
- **Being non-productive:** Employees who are uncommunicative, regularly missed deadlines or fail to complete assigned work will, over time cause tension in a workplace



# What can employees do if it happens to them?

- Ideally, employees report the conduct to their supervisor, to the ED, or a DP
  - The organization can then treat the matter internally
- Employees also have the right to:
  - File a claim with the appropriate governmental body
    - e.g. Ontario Human Rights Tribunal
    - Various Federal (EEOC) and State agencies
      - <https://www.workplacefairness.org/sexual-harassment-legal-rights#12>
  - There are many free legal services
  - Hire a lawyer
  - Go to the police – if the matter rises to the level of criminality
  - Sexual assault support centres

## What should you do if an employee comes forward?

- Thank them – first and foremost!
- Work with them
- Provide support and coaching
- Ensure their personal safety
- Investigate the matter

# Confidentiality

- You cannot guarantee confidentiality
- Only as much as is possible and reasonable in the circumstance

## Critical Record Keeping

- This will be done by the DPs
- Separate from human resources files
  - Be aware of patterns of behaviour
  - Transcends any one leader, or any one DP
  - Usually one Board member has access

# Discipline

- Disciplinary actions may be taken, and should be appropriate based the nature and severity of the offense
  - *The punishment to fit the crime*
- It may include:
  - Apology
  - One-on-one specialized training
  - Suspension without pay
  - Termination

# NEXT STEPS





## Next Steps

- Create a policy for your unique organization
- Have your Board of Directors sign off/approve
- Choose and Train DPs
- Issue the policy
- Training managers
- Training employees
- Add to your orientation program (at least within 6 months)
- Stay abreast of any changes to the law
- And, regularly review and update the policy as needed, and provide on-going training

# Training – by Qualified Trainers

- United States - Sexual Harassment Training by State (U.S.)
  - <https://www.opensesame.com/site/blog/sexual-harassment-training-by-state>
- Canada
  - Federal
  - Provincial
    - Ontario - Employers are required to provide adequate training and instruction on the program. Previous training provided by an employer may be out of date. There are also requirements to prevent violence in the workplace under the Occupational Health and Safety Act's "general duty" clause.
- In all cases – employers should keep documentation of training
  - Employee Name
  - Date of Training
  - Certificate (if possible)
  - Type of Training
  - Training Materials
  - Name of Trainer

# Conclusion

- Let's
  - Increase our own knowledge about discrimination and harassment
  - Be open to discussions on the topic
  - Increase awareness
  - Encourage by-stander intervention
  - Ensure safe and healthy workplaces
  - Cultivate inclusive workplaces



*Thank You*

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