

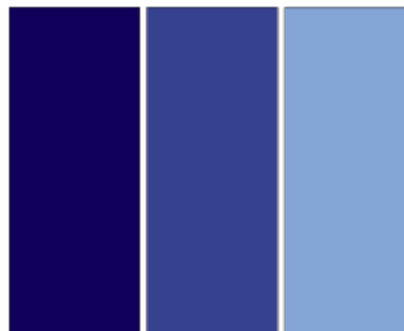
# NEWS & VIEWS

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**Sexual Discrimination Cases  
Per Day: How to Avoid  
Becoming a Statistic**



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## Sexual Discrimination Cases Per Day: How to Avoid Becoming a Statistic

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In 2016, a total of 26,934 cases of sexual discrimination and harassment were lodged with the Equal Employment Opportunity Commission (EEOC), a statistic which translates to 73 instances every day. Even worse, these cases make up only 30 percent of the total number of 91,503 charges of workplace discrimination lodged with the EEOC.

With the number of incidents continuously increasing, it has become clear that all institutions-including long-term care (LTC) facilities-need to urgently develop procedures to deal with what appears to be a growing problem. In this regard, it is important that no one is flippant or dismissive of sexual or workplace discrimination, or harassment, even if it takes the form of "jokes" or remarks which in previous times might have been dismissed.

Whether one likes it or not, times have changed, and there are far too many cases coming forward where employers or institutions failed to realize the potential seriousness of events taking place under their noses. The adverse publicity which accompanies such allegations and investigations can be seriously damaging to an institution's reputation, and false allegations-of which there are sadly a high number-can be equally damaging to an individual's reputation.

How then should employers and facility leaders ensure that they are equipped to deal with this phenomenon? What is the best strategy to avoid such incidents completely, or, if they do occur, how to deal with them?

The answer to these questions is simple: Be prepared. Have a plan and procedure in place.

- This plan must have a strict definition of what constitutes sexual discrimination or harassment, based on current law and case studies. This is critical to classifying whether an incident is serious enough to warrant further investigation. Incidents which were incorrectly identified as "not serious" at the beginning-and which later turned out to be important-have often proven to be the ones which become most serious.
- There must be a defined procedure in place through which all complaints and incidents are to be handled. This should be a written policy which not only prohibits the earlier defined behavior, but which spells out the exact steps to be taken to collect, collate, and present all the evidence. This is vital to prevent any later claims of "missing evidence" or favoritism, a problem which has bedeviled many EOCC cases.
- All institutions must have a staff training program in place which will ensure that all personnel are aware of what sexual harassment is, and how it will be dealt with if it does occur. This training-which should be signed off by all staff members-will ensure that everyone is aware of behavioral boundaries, and, equally important, that no one can claim ignorance of what constitutes sexual harassment, which makes dealing with any real cases much more straightforward.
- There should also be a policy in place to deal with EOCC charges, if the situation comes to that. Such a policy can also serve as the basis for a successful defense of a charge of unlawful harassment, a factor which is ignored all too often.
- This policy must not only define sexual harassment, but should also provide examples of sexual misconduct so that staff have a very clear idea of what is not acceptable. It should clearly state that the law applies to all levels of the organization-coworkers, third parties, supervisors, and managers-in fact, anyone with whom the employee comes into contact.
- The policy must create a defined complaint process-including an anonymous hotline if necessary-to ensure that complaints receive full confidentiality to the greatest extent possible.
- In addition, there should be a definition of what constitutes a "timely response," and a plan for allocating impartial and suitably qualified investigators to evaluate all evidence.
- Furthermore, the policy must allow for the preservation of all documentation and for the tracking of progress in the investigation-which has to be completed in a reasonable time to avoid accusations of procrastination.
- Finally, the policy must spell out what the appropriate options for remedial actions might be, and all possible resolutions to allow for timely closure on all incidents.

It is clear, therefore, that an effective and well-communicated policy is the foundation for an effective prevention and remediation program for all instances of sexual discrimination and harassment.

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