



# Compliance & Ethics

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See page 18

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# What a shock! Policies and mandatory training don't prevent harassment!

**I**t's big news in the employment field: According to some studies, having a policy and mandatory training doesn't prevent harassment. So when California mandates two hours of training every two years, harassment doesn't disappear? Having a policy and showing a video doesn't change people?



Murphy

Sorry, but there is no surprise here. Based on a couple U.S. Supreme Court cases that have been widely misread, the idea has taken hold in the employment law area that all we need is for companies to have an anti-harassment policy, do training, and have a reporting system. Some states

have even mandated training.

How is this a mistake? First, the Supreme Court did not say just train and write policies. It calls for "reasonable" preventive steps. How could anyone consider such limited actions as reasonable, in an environment where compliance efforts in other areas routinely go much further, following the excellent guidance of the Sentencing Guidelines?

Second, in compliance and ethics we have known for a long time that policies, training, and even reporting systems are only parts of a compliance and ethics program. Without the other key elements, you cannot really expect change.

What does it take for real change in fighting harassment? First, recognize that mandating something can easily lead to a tick-the-box approach. Training can seem more punishment than motivational—as one writer described it, more like a scene from TV's *The Office*. It is better

to use an incentive system for companies that distinguishes different levels of effort, with positive benefits based on the degree of serious compliance effort. Programs need to be assessed on a sliding scale; "pass-fail" approaches invite companies to do the minimum to pass.

Most important is to get real about what changes behavior. Policies and training are just two tools. Real results require the full range of management steps: strong management support, an empowered and independent CEEO in charge of the effort, a program that reaches into all parts of the business, constant evaluation and improvement of the program, a strong effort against retaliation, a reporting system that employees trust, audits/monitoring to find weaknesses and violations, discipline that is consistent and holds managers accountable for not taking preventive steps, an incentive system that promotes compliance, ongoing risk assessment, careful background reviews on hiring and promotions, training and communications that are practical, controls designed to prevent violations, and all of this characterized by an effort that is diligent.

For more detail, see everything that SCCE has taught, spoken about, and written over these past years. Until then, don't be so surprised if those on their iPhones during the training, or signing the policy without reading it, do not suddenly show a change in behavior. Good management steps work; poor ones do not. ☺

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