welcome to today's webinar everyone

best practices for harassment prevention

i'm anna hopson from hr simple and i

just have a few announcements before we

get started today

today's webinar is in partnership with

constanti

if you do have any questions for robin

we will get to them throughout the

webinar

just go ahead and answer them in the

question box and we will get to those

throughout the presentation

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i will be sending out a recording of the

webinar along with the slides within 24

hours so be checking your inbox for that
hr simple provides federal and state specific manuals written by top labor attorneys vacation policies cover 19 in the workplace and how to fill out the i-9 form are just a few of the topics the manuals cover you can view these credible resources at hrsemple.com before we get started i just wanted to go over rap and style robin has 30 years experience in employment litigation she provides preventative advice to employers and conduct training for hr professionals management and employees on a wide variety of topics she's also editor-in-chief of constituencies legal bulletins and its three law blogs affirmative action alert california snapshot and employment and labor insider
she also produces constantia tv's close-up on workplace law
she's also written a couple blogs for us so i'd highly recommend to check those out
at hrsimple.com forward slash blog
so on that note i'm going to go ahead and hand things over to robin so we can go ahead and get started
foreign okay can everybody see that it looks good i think if you hit display settings and then slot presenter at the top it will full screen i couldn't understand what you said if you hit display settings at the top oh it was kind of hearing the pi position yes there you go okay thank you perfect it looks great so we're good okay okay hi everybody thank you for
joining us today
um we're going to talk about harassment
best practices
how to handle harassment claims and i
think a lot of employers are probably a
little rusty on this because
uh many of us have been shut in
for a year and a half and um
that really reduces the chances of
harassment it's still possible
to harass somebody over a zoom
conference or something like that
but it's going to be a lot easier to get
back to
mischief now that people are coming back
into offices
in person again so we'll talk about some
of the things
that employers should be doing to
prevent harassment claims and also to
address them appropriately
and uh we've got a little bonus session
at the end about some of the special precautions that I think employers need to take post-pandemic in our current world which is a little bit different from what we were advising two years ago so um as Anna said uh feel free to ask questions at any time you don't have to wait till I'm at the end of a slide or at the end of a section just go ahead and send any questions you have to her and she will read them off to me and hopefully we can get everything answered that you might have.

uh why we care about all of this uh of course as most employers know harassment claims are difficult to defend they have often very complicated facts which requires
a lot of witness interviews uh
review of other types of evidence to
determine whether
um the harassment actually took place
what how severe it was etc
and if any of you are following now
the allegations against governor cuomo
in new york
the report that the law firm put
together on his allegations which were
made by i believe
11 women is
168 pages long without exhibits
and then there i think there's something
like 400 pages
worth of exhibits that that law firm
reviewed in single space too i should
add
um so the facts are often very complex
and that makes them harder to defend and
also
expensive to defend which is the next
they're almost always expensive for employers because you do have so much factual detail you have to dig into and a lot of times it may be one employee's word against the alleged harasser or there may be multiple claims against one person which requires a great deal of time and a great deal unfortunately of billable attorney time again now that the pandemic is easing up as workers get back together in person we do expect to see a boom lit at least if not a boom in harassment claims uh just because people have been separated for so long and they're back together um and it's possible people will be a
little overly enthusiastic when they get back together which could result in more harassment claims. So having your ducks in a row at the very beginning will help you avoid claims and also help you do the right thing when you do get a claim so that the liability to your company will be at a minimum. So we're just going to go through best practices and I'll be happy to talk about anything any questions you have related to each one of these. Number one if you don't already have it make sure your harassment policy is in plain language. It you should use regular words that people normally use avoid legalese avoid quoting the supreme court.
definition of hostile work environment harassment

and just to use plain language and use examples that people can relate to in their everyday lives um telling a joke that has a sexual component to it uh telling a racial or ethnic joke at work um that type of thing if you give examples like that in your policy it'll make it much easier for the employees to first off read the policy and not tune out second to understand oh okay this is the type of thing i shouldn't be doing or if somebody's doing it to them uh this is this is what the company means by harassment and so you know i need to look into how to make a complaint um
also if you have a multilingual workforce
make sure that policy is published in
the languages that your employees are fluent in
if it's English Spanish that's usually really easy to do
but a lot of workplaces are more diverse than that and may have people who speak Vietnamese or other types of languages
just make sure that policy is available to employees in the languages they speak so they understand how they should conduct themselves at work and also will understand when they're a victim of harassment
I think we did just have a question come in oh great okay it says is there a statue of limitations
on workplace sexual harassment claims

08:47
oh i could the person asking that

08:51
uh give us their state what state

08:54
ty they're in

09:02
georgia georgia okay

09:07
i'm not sure what the georgia statute of

09:09
limitations would be it might be

09:11
i'm i'm guessing it this is a guess

09:13
because i'm in north carolina

09:14
it would be three years probably under

09:18
state law under federal law and this

09:20
would apply to everybody

09:22
if the employee is asserting a federal

09:24
claim of sexual harassment

09:28
you have to file a charge with the equal

09:30
employment opportunity commission

09:34
depending on the state you're in i

09:35
believe in georgia it would be within

09:37
180 days or six months

09:39
from the last harassing act

09:42
that would be the case in north carolina

09:44
as well uh in
other states that have their own human rights agencies it would be 300 days so almost a year from the last harassing act and you file that charge the eeoc or the state agency you know presumably will do an investigation they'll make their determination and the agency can either file suit against the company or they can issue what's called a right to sue letter to the person making the allegation and uh if they do that the person making the allegation has 90 days from receipt of that letter to file a lawsuit in federal court kind of complicated i'm sorry about that generally most people are using
federal law to file harassment claims
except maybe in states like california
which have much
more employee friendly state laws
and so most of the time
as an employer you can count on that
180 data 300 days statute of limitations
to file a charge
of course there’s no telling how long
the charge is going to sit there at the
agency before
the right to see letter is issued so it
can still be a long time before
the employee’s deadline kicks into place
anything else okay
okay uh number two conduct
training on a regular basis and if
you’re like most employers right now
you may be behind on your training only
because you haven’t had anybody in the
workplace for a while
so do check on that it should be
conducted on a regular basis and in normal times my recommendation is do it about once a year um management definitely should get training at least once a year on harassment and we'll talk some as we go along about why that's so important but i also think it's important for employees to get training non-management employees because they need to understand what kind of behavior can get them in trouble and they also need to understand what do i do if i'm a victim of harassment in the workplace and if you have regular training that's the best way to make sure everybody understands what they're supposed to be doing the other nice thing about having
12:21
regular training is it really does win
12:23
you brownie points with the eeoc and
12:26
other
12:26
agencies who enforce these laws
12:29
if you conduct regular training on
12:32
harassment and you’re unfortunate enough
12:34
to get a claim
12:36
the fact that you had that training and
12:38
that it’s relatively fresh
12:40
um and hopefully high quality too which
12:43
we’ll talk about in a minute
12:45
will help you defend yourself in that
12:48
claim
12:50
ideally and this is a recommendation
12:52
from the eeoc
12:53
the training should be interactive if
12:56
possible
12:57
and that could include having a live
12:59
person come do the training
13:02
and the audience is able to ask
13:03
questions and express their opinions
13:06
about things
if you can't do that or you may have you
know depending on what kind of a
business you're in you may have
you know one or two employees scattered
all over the united states
interactive computer training is another
good alternative
because it requires the employee to do
something to indicate they're paying
attention to the training
um and it doesn't require people to get
together in a central location for
training
so that's another good alternative
probably the
least ideal of the options would be to
have it
by uh you know having the employees
watch a video or something like that
where there's no interaction going on at
all although i must say there have been some
videos some training videos that have been very good and sometimes they're entertaining enough that you think people would probably prefer this to a computer program the training should be appropriate to the audience for managers and supervisors i would recommend at least two hours and and sometimes a little more than that maybe two and a half employees don't need nearly that much time and they'll probably start getting bored if you go on too long so for employees who are not in management roles i would suggest roughly 45 minutes or so for the for that training uh and and i would say i i've had some clients
who were shut down uh during the pandemic and they're bringing people back and they really do seem to be trying to catch up on the training that they missed during the time that everybody was remote so this is a good time to get that done if you are able uh what rank and file non-management employees need to know in their harassment training they need to know what kind of behavior is going to get me in trouble what's going to get me fired what's going to cause me to be disciplined um they need to understand that they have the right to be in a workplace that's free from harassing behavior they need to know how to make an internal complaint of harassment into
whom
so even if you don't want to designate a
specific individual you can at least
designate a department like the hr
department
um go there they need to know what to do
and they need to understand that they
will not be retaliated against
for making a good face harassment
good faith sounds like i'm leaving a big
loophole there
but they need to understand that
this really isn't a loophole because
we're going to assume that any complaint
an employee makes
is made in good faith in other words
they had an honest belief that something
inappropriate was going on
or might have been going on even if they
turn out to be wrong and the only time
we would recommend considering somebody
to be making a complaint in bad faith is if we catch them red-handed saying i’m you know my manager wrote me up yesterday i’m gonna falsely accuse him of sexual harassment it would have to be about that strong for us to say it was a bad safe complaint and that’s kind of a tricky point is does anybody have any questions or comments about that before i go on you don’t have anything yet okay all right uh now supervisors and managers need to know everything that the rank and file employees need to know what harassment is how to make a complaint that we do not condone harassment in the workplace but in addition to all those things they need to know what to do if they get a complaint of harassment
or if they observe a situation in their
department
that doesn't look right to them
they need to know what to do when that
happens
so that is why the management training
is going to be a lot longer
they also need to understand that they
cannot retaliate against
an employee who makes a good faith
complaint of harassment
and that's true even if the complaint is
against them individually
so they need to really understand all
that that's why that management
training takes two and a half hours and
the employee training takes only 45
minutes
because we usually have a lot of
discussion about what do we do
what if we see something what if
somebody just makes a casual comment
about an inappropriate thing that a
coworker said they're not even really
complaining they're just
referencing it what do we do the
training ought to cover
all those topics so that managers feel
very comfortable
dealing with harassment issues as
as they come to their attention
and the other thing that and this is
another eeoc
recommendation and i think it's a good
one
supervisors and managers should
understand that the policy
is endorsed by senior leadership and it
is a priority for the employer
if the ceo or president can actually
come in and make a little
couple of introductory remarks before
the training begins
i think that's great because people will
really take it seriously if they hear that um if that's not possible it may be possible to get somebody you know the most senior person at the facility to do the introduction and stay for the session i think that's important too um and they may have to do it for more than one if they're live sessions they may have to unfortunately sit through several harassment training sessions but i think that sends such a good message to employees that this really is something we're serious about we're not fooling around here best practice number three is an accessible complaint procedure um and and what we mean by that way back in the old days when i first
started practicing law

um harassment policy and harassment was

kind of a new

legal concept when i started practicing

um

policies would say you know if you feel

like you're being harassed at work

tell your supervisor and that

wasn't really a very good

way to handle it because what if the

supervisor was the one doing the

harassing

and the policy just says go to the

supervisor

so what we've done you know over the

years as we

learning about harassment claims is give

employees multiple avenues to make

complaints

yeah sure going to your supervisor is

great if you have a good relationship

with your supervisor
then that's probably the best place to go if you feel you're being harassed but maybe you don't have a really good rapport with your supervisor or maybe the supervisor is one of the harassers or you feel like he or she is complicit in what's going on in that case people ought to be able to go to hr with a complaint and there may be other places they may be able to bypass the supervisor and go directly to their department head. Um years ago we started recommending that employers tell employees you can go to any member management in this company and they will make sure the complaint goes to the right place and of course we cover that in the
management and supervisory training so that they all know okay if I get this what do I do and they know to take it to the right spot uh so make it as easy as possible for employees to make complaints if they feel they're being harassed in the workplace and one thing we learned with me too a few years ago is companies also need to have a way to let employees make harassment complaints when the person doing the harassing or the alleged harasser is very high up uh maybe a CEO maybe a very high senior vice president uh or it may be what we also see is extremely talented people their their title may not be quite that lofty but
they have certain skills or talents that are almost irreplaceable which means the company isn't going to want to terminate them employees need to have a place to go if that if harassment is coming from somebody like that and again i'm picking on governor cuomo again i shouldn't probably but um you know he's the governor of the state of new york who else are you going gonna go to if you feel like you're being harassed um the president of the united states i you know who knows so you you need some type of independent person who can receive those complaints and since we've been making that recommendation to employers um some solutions they're coming up with
is
you know if they have a board member

who's very sophisticated you know maybe

it's a lawyer or

or a human resources person who's very

sophisticated about

uh harassment law and and what an

employer's obligations are

it may be possible if the ceo is the

alleged harasser it may be possible to

take that complaint to

a member a designated member of the

board of directors

um that needs to be in your policy

so that employees know that that's where

they should go if it's

somebody very high up in the

organization or somebody with

irreplaceable talent um another

solution people have come up with is

they have just designated an

outside third party to receive that type
of complaint and they put that person's
name and contact information
on the policy so that could be uh you
know a law firm
or an hr consultant somebody like that
who's outside the company entirely and
employees if they are being harassed
from somebody high level can go to that
individual
report the complaint and then an
investigation can take place
hopefully by people who aren't afraid
they're going to get fired if they don't
pull their punches
practice number four is have
disinterested
unbiased investigators who know what
they're doing
and
we want somebody investigating the
complaint
to have the authority to let the chips fall
you know to do a fair investigation if it turns out the CEO is harassing somebody then we want an investigator who isn't going to be afraid that there could be adverse consequences for them if they tell the truth
so um ideally you know if it's a lower level member of management who's the alleged harasser like a supervisor or a manager uh that should be pretty easy to do you can get you know somebody maybe at the director level hopefully in human resources or in-house counsel to conduct the investigation they would outrank the person who's accused so they would have the authority
to
let the facts go where they may uh
the other possibility is to have
somebody who's completely independent
and again i'd say you know maybe an
outside law firm or
a an hr consultant he's not part of the
company
and if they're independent it'll be much
easier for them to just
follow the leads where they go find
whatever facts are appropriate
and not be worrying about their career
security their
job security depending on what they find
so that's very important
and then next the investigator ideally
should not already know the parties it's
nice
and in a big company that's pretty easy
to do in small companies it can be very
difficult
but what we would prefer ideally would be an investigator who didn't know anybody before they got into this investigation. um had no relationship prior with the accuser or the accused or with any of the at least the key witnesses and again that's just a way of making sure that that person doesn't have preconceived notions. um that might influence the outcome of the investigation. uh in a small company of course that may not be possible. maybe everybody knows everybody and that's a time when you might want to look at possibly bringing in an outside third party to conduct the investigation. or if if somebody high up enough can do it maybe get somebody at least.
who's high up enough that they can feel free to be fair and objective
uh the next one is extremely important too the investigator should know how to conduct an investigation this is not something anybody can do it's difficult
years ago i had a harassment case a woman had made some accusations that her lead person had sexually harassed her and she reported those allegations to the department manager who was over both her and in the lead person well the department manager went back to the lead person and said did you do this stuff and he said no i'm not crazy and that was the end of the investigation and the department manager found that no harassment took place
um that is an extreme example
even though it's a true story that is an
extreme example of a
very poor investigation no follow-up no
nothing
uh just taking the guy's word for it
and it turned out of course you know we
ended up our client got sued we ended up
spending a lot of time digging into the
facts and although the accuser was not
perfect there was neither was the
accused
person so there was a lot more to it
than
the department managers investigation
would have led us to believe
and again if you don't have anybody
in-house
who has the expertise or who has the
lack of bias
to be able to conduct a good
investigation then consider going
outside there are lots of independent human resources consultants who do very good work and they might be less expensive than going to an outside law firm but of course going to an outside law firm is another option so just make sure it's somebody who knows what they're doing and they're not biased all right number five an investigative process that's fair to the accuser and the accused we hear the slogan believe all women that's okay to some extent but that's really not a good philosophy to have if you are doing a harassment investigation i cannot tell you the number of times
we've done investigations and found that the person making the accusation may have had ulterior motives and and many of you may have been in that boat as well um a lot of times what we'll find and and this is probably the most common scenario when there actually wasn't harassment going on the accused harasser and the accuser were actually in an extramarital affair uh it broke up usually it's the he decides he wants to stay with his wife and his family so he breaks up uh she's hurt she may have already left her husband um and so she accuses him of sexual harassment using the things they did when they had a consensual relationship going on
that is more common than i would like to
have to admit that it it really is a
fairly common scenario
um so you can usually get at that
and if
again i'm using the term man it could be
the other way around but
in my experience it's usually the man
who's accused of
harassment after a scenario like that
um if he will fess up quickly to the
affair
and share whatever proof he has
that there was a consensual relationship
going on
then it's not that hard to find out
that there was no actual harassment
taking place
that it was uh you know
things he did in the context of the
consensual relationship are you
being used against him as evidence of
sexual harassment um other things that can happen is you might have two people who were buddies and they used to talk about everything together and they had a falling out and then um you know for whatever reason one party to the friendship starts using comments that were not offensive at the time and suddenly become offensive after the fact there can be other ulterior motives you know i talked about a supervisor who was getting ready to discipline an employee that is not unheard of either that sometimes the employee you know may know she's in trouble her job is in jeopardy for legitimate performance related reasons or disciplinary reasons and
to protect her job she will accuse the supervisor of sexual harassment or some other type of harassment so i'm not saying don't believe all women definitely not because many times the complaints are legitimate but do be a little skeptical and don't just automatically assume that if a man is accused of sexual harassment but you know it must have happened these false claims occur more often than you'd think uh once the investigation is over uh either you as an hr person or maybe with the help of your in-house counsel or others you have to determine what happened to the best of your ability you may or may not be able to do that i mean you may not be able to
33:02
definitively know
33:04
whether harassment had actually taken
33:06
place
33:08
but some of the things i would look at
33:09
is were there other were there witnesses
33:13
um were there emails or text messages
33:19
that indicate you know that would push
33:21
you one direction or the other
33:24
was there any other evidence that would
33:26
cause you to go one way or the other
33:28
and who was more credible you usually
33:31
want to save that till the end
33:34
but when you're done with reviewing all
33:36
the other evidence that's been gathered
33:38
during the investigation
33:40
uh you can look at how credible
33:45
the accuser and the accused were during
33:48
their interviews
33:50
or based on whether um things that they
33:53
told you were corroborated by other
33:56
witnesses or by other types of evidence
33:59
um and so you're you're sort of really
making your best guess as to what actually happened unless the accused person just admits to it right off the bat in which case you don't even have to do an investigation but otherwise you're really doing the best you can and fortunately for employers the legal standard doesn't require you to find the accused person guilty beyond a reasonable doubt as long as you have a reasonable basis for believing that the policy was violated and you take appropriate action based on that belief you are gonna be okay legally and i'm not gonna say you won't get sued because people can see you about anything but you should win eventually
um figure out what you're going to do
about it and be fair
you may conclude when the investigation
is over that no harassment occurred at
all
maybe somebody made an inappropriate
comment but it's not really
an unlawful harassing type of comment
uh or maybe there really is just
no evidence at all that any
inappropriate behavior occurred
you may also find that there was a
violation of your policy and most
employer
harassment policies are pretty strict
so so it would be easy to find that
somebody violated the policy but maybe
it wasn't a severe violation
for example maybe an employee who's been
with you a long time has a good record
told a dirty joke to the wrong person
one day
that is a violation of the policy
absolutely and i do think they should
get formal discipline over that but um
i think firing them would be a little
harsh
under those circumstances so um
you know it may be a violation of the
policy that can be dealt with through
counseling or through lesser
disciplinary action
um or you may find that the harassment
occurred and termination really is the
appropriate remedy for it
and then we come to the one i
hate the most that he said she said
if you think you have a he said she said
uh make sure you really do
don't just you know if if the accuser
tells you one thing
and the accused denies it
yes that's what he said she said
but that isn't the end of the
investigation

you should try to talk to witnesses if you think there were any witnesses uh and you should follow up with witnesses identified by the accuser as well as the witnesses identified by the accused party.

review all other relevant evidence again because that may sway you in one direction or the other.

and i would confer with legal counsel and you may have in-house attorneys and you can talk to them or if you have outside employment lawyers you can talk to them and just go over everything with them to make sure you didn't miss something before making a determination because people who do this all the time will possibly have suggestions of things you could follow up on.
to get a little closer to deciding who's
telling the truth
so i think that's a good idea when
you've got you know
somebody makes an accusation the other
person vehemently denies it
and you've got to figure out who's
telling the truth
but one thing i would say is if you
follow all your leads
you still can't figure out who's telling
the truth there's no corroborating
evidence one way or the other
um it's okay to say that the
investigation is inconclusive
and if you do that just let both parties
know the accuser and the accused
that you were not able to determine
whether
any harassment occurred and
you know thank them for cooperating in
the investigation
38:27 and let the accuser know that if
38:30 anything happens in the
38:32 future to please be back in touch and
38:35 we'll look into that as well
38:48 okay best practice number eight
38:52 at least in my experience with
38:54 harassment investigations
38:56 and also defending employers in
38:58 harassment lawsuits
38:59 there is always room for improvement
39:04 when the investigation is over or when
39:06 the case settles or the
39:09 grant summary judgment i hope to you to
39:12 your side
39:13 uh it's always a good idea to look back
39:16 and see what could we have done better
39:19 what could we have done that might have
39:20 prevented this from happening altogether
39:23 um and usually there are some things
39:26 that could be done better
39:27 i i think i can't even think of a case
39:30 where we didn't have that happen
so some of the things you might want to look at is where are existing policies adequate should they be adapted or updated maybe they’re out of date do the employees need to have more training on how to behave in the workplace do any of our practices need to be changed i deserve you know our reporting or harassment reporting options adequate there are all kinds of things you can look at and maybe everything was perfect and you just got really unlucky but um we usually do find that there are some things that could be improved and then once you find those things go ahead and make the changes right away because it’s best to do this while it’s fresh in your mind you’re going to move on everybody’s
going to forget about it
and a few years later you'll get a
harassment claim again
and you'll still have all these old
policies in place that you should have
fixed
years before so um go ahead and do it
while it's all still fresh in your mind
and do whatever you need to do to adapt
your policies
and of course in consultation with your
employment council
follow up this is number nine put it on
your calendar
and what i mean here is follow up with
the accuser
um especially if there was an
inconclusive
resolution or if there was a resolution
short of termination of the alleged
harasser
and maybe they're still working together
just go ahead and mark on your calendar for the next couple of years i would say you know every couple of months check in with the accuser and ask whether everything's all right any concerns that she i'm going to say she because the accuser usually is a she but any concerns that he or she needs to bring to your attention um and document the answers you get and that will help you defend against a claim if anything else happens later on so uh and and again it's one of those things that will also win you browning points with the eeoc or with agencies or juries or courts that you cared enough to follow up and it's probably going to also mean a lot to the employee who made the complaint that
you're doing that
if you don't put it the reason i say put
it on your calendar is because if you
don't
time will get away from you we all know
how that works at least
that's the way it is for me if i just
thought to myself oh i need to follow up
with her
two months from now if i didn't put that
down on my calendar
i'd probably never do it and two years
later i'd be thinking
oh you know no i never did follow up
with that
person about how things were going
um so it's easiest to just put it on the
calendar
at certain intervals every couple of
months i would say
and that way you won't forget to do it
okay what are some new breast best
practices for the times we live in now
um i'll talk about these and then if we have uh
if anybody has questions based on anything we've talked about today i'll be happy to stay as long as you want to answer them
number one if you are doing an investigation yourself and you're having to do this by zoom or some other video conferencing product or by telephone make sure that the people you're talking to are not recording the interview and make sure they're not hi this really happens hiding somebody in the room or in the next room who's listening in and taking notes uh because they can hear everything that's going on now they could lie to you and tell you nobody's here i'm all by myself
and they can still have somebody there and you'll never know but if you get them to certify that over the call i think it probably will have a chilling effect on that type of secret activity in most cases the other thing and i should have put this on the slide and but if you are going to record the interview be sure you tell the person you're doing it if you're in a state where you have to ask for permission ask for permission and have that on the recording and have the person grant the permission on the recording before you start asking any questions um and even if you're in a state like mine where in north carolina we have one party
consent so

i could call somebody and record a conversation without telling them anything. That's legal but as an employer I think it's better to hold yourself to a higher standard. So even in a state like mine, I would recommend that the employer get the employee's permission for recording the interview and get it on the recording and then proceed with the interview.

If you're in a state that doesn't have one party recording — you know where both parties have to consent — you're actually probably committing a criminal violation by doing a one-sided recording without consent. This is one that I have.

Oh my gosh, text messages are the greatest things in the world.
i thought they were going to be bad for employers but so far they could be bad for employers but so far the ones i'm finding are so helpful to employers so don't forget to ask for text messages there are apps available that can let you dump your text messages into a nice little tidy file or you can just take screenshots from your cell phone we had a harassment case where a woman accused her manager of sending her a photo through a text message of his private part or should i say private part anyway he did that we got a copy of it from her lawyer it was very clear what that picture was
we asked the manager the manager said
yes that's me
i admit it and then he said but look at
the stuff she sent me
and he sent us his text messages which
were much more complete and not
selective like hers was
and she had actually sent him videos of
herself
in very obscene poses so
you know if you don't think to ask about
text messages
you may miss that kind of thing it's
very helpful in determining who's
telling the truth and who isn't
uh the other thing you know in other
cases you may have some people just
saying the boss made inappropriate
comments
and you get the text messages and you
know the two of them are going at it all
the time
very mutual very friendly nobody's expressing any concern about anything and uh you know of course if people were just talking to each other in person you would never have that kind of evidence but the pandemic has really helped us in that regard because people were having to communicate via text and email a lot of the time and those texts have saved a couple of accused individuals in harassment cases so don't ever forget that and they're much better than email because people are generally more professional i think now in their email communications but with the text messages anything goes and people have not caught on to the fact yet that they need to be careful about what they
say in texts as well especially with people they work with um also uh hopefully everybody's already done this but number three is if you haven't already done so update your harassment and eeo policies to include sexual orientation and gender identity in uh the summer of 2020 i think 2019 or 2020 the united states supreme court decided that sexual orientation discrimination and harassment and gender identity discrimination and harassment are forms of sexual you know sex discrimination or sexual harassment in violation of title vii which is the federal law that prohibits discrimination and harassment so if you haven't already done it when you're listing the
protected categories in your policy
make sure they do include sexual
orientation and gender identity
and do take those complaints seriously
too if you see
that going on for example if you have a
transgender employee who's
being harassed by co-workers because of
their transgender status
by all means follow up with that just as
urgently and seriously as you would
if a biological woman claimed that a
biological male
supervisor was harassing her
and then finally be aware of the law in
your state
georgia and north carolina are pretty
loose
and we pretty much just follow what the
federal law says
but other states like california have
adopted standards for finding workplace
harassment
that are more and sometimes much more
victim-friendly
than federal law so watch out for that
if you have
operations in those other jurisdictions
or if you're based in those jurisdictions
it may be more important to be worrying about complying with your state law
than it is to worry about federal law because if you're in compliance with your state's law you'll automatically be over compliant with federal law which is probably a good thing so um that's all i have in the way of prepared comments but again if you all have any questions uh i will caution you that this isn't an attorney-client privileged session because we have lots
of different companies represented here but um so so be careful if you have a specific situation try to disguise it a little bit and not provide individually identifiable information but with that caution i’d be happy to answer any questions you may have i think we answered all the questions that came in today if anyone does have any additional questions please go ahead you can email me at