

# Sexual Harassment Culture Shift Traditional Training & Policies Have Failed Us

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**O**n February 20, 2018, Sports Illustrated published a bombshell report on the interworking of the Dallas Mavericks' back-office that included a story of the organization's leaders asking co-workers if they wanted to be "gang-banged," tolerating crude and derisive jokes and "water cooler" talk, and even allowing an employee to openly watch porn at his desk. The ensuing media storm was fierce and the fallout swift. The Mavericks' outspoken owner, Mark Cuban, claimed he had "no prior knowledge" of the pervasive workplace culture issues. Of course, ignorance is not a defense to the law; nor is it an effective way to run a company.

The steady drumbeat of allegations against fallen celebrities, and reports from survivors of assault and harassment, has sparked a renewed national discussion about sexual harassment in the workplace; a stubbornly persistent issue that never left, but also never felt so visible. All employers should use this moment to review how they can improve the work experience for all employees regardless of gender, race, ethnicity, disability or any other protected status, because it is good policy, and a bottom line business issue.

Businesses that think this movement cannot reach them should think again. Even the best



run businesses maintain echoes of outdated and ineffective sexual harassment prevention strategies, putting well intentioned businesses at risk of significant exposure. Businesses that believe they are protected from liability because they have a policy

forbidding sexual harassment and conduct occasional trainings must be reminded that the Mavericks also likely had a policy forbidding sexual harassment and conducted occasional training, to no avail.

Employers that make positive changes will accomplish several goals, and obtain an advantage over the competition. First, they will avoid costly lawsuits, that can be expensive and devastating, even when the employer ultimately prevails. Furthermore, they will better retain and recruit top talent, key at a time of historically low unemployment. To succeed today, employers must build and maintain a healthy, diverse and respectful work environment that abandons broken paradigms of the past. Recent studies and academic reports support what many of us already knew; that lecturing people not to harass and policies without action will not change hearts and minds. A cultural moment of this magnitude requires fresh thinking.

## Step one: Take inventory

Take this opportunity to perform

a comprehensive review of your workplace sexual harassment and discrimination policies, reporting guidelines, investigation process and discipline tools. Set your company standards higher than "don't sexually harass people." Encourage reporting of issues or concerns. Establish a "code of conduct" that goes above and beyond the legal baseline.

Don't assume that because people don't report harassment, that you don't have an issue. On the contrary, if people do not feel comfortable reporting concerns, that is the problem. Throw

out "zero tolerance" policies that may prevent employees from reporting anything for fear that the transgression will result in immediate termination, instead of potentially receiving a more appropriate corrective counseling. Also, employers should review investigation and disciplinary policies to ensure a fair process and measured response to complaints. Good coaching and counseling can address minor issues and offenses before they become

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