

Robinson+Cole

Preventing Sexual Harassment and Improving Workplace Culture

**PRESENTATION PREPARED SPECIALLY FOR:
THE CONNECTICUT CHAPTER OF THE
AMERICAN INSTITUTE OF ARCHITECTS**

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JANUARY 22, 2019

Objectives

- Identifying situations that could have future legal implications
- Preventing issues from escalating into a major workplace disruption
- Achieving cultural competency in the workplace
- Improving workplace culture so that employees treat each other with respect and dignity

Importance to AIA and its Members

AIA's stated mission is to drive “positive change through design.”

In order to strive towards such a goal, architects must work collaboratively and as members of a team. Unlawful discrimination and harassment are huge obstacles to projects of any size.

Moreover, a toxic workplace culture prevents each architect or team member from performing his or her best work and limits contributions which negatively impacts a project's success.

Agenda

- Welcome & Introduction
- 21st Century Workplace
- Part 1 – Legal Review & Preventing Sexual Harassment
 - Sexual Harassment in the Architectural Industry
 - Law on Sexual Harassment
 - Preventing/Responding to Sexual Harassment
- Part 2 – Workplace Culture
 - Improving Workplace Culture
 - Professionalism
 - Cultural Competence
 - Bias in the Workplace
- Takeaways

21st Century Workplace



- **Social Media/Cell Phones & Distractions**
 - Interruption-prone workplaces cause employees to be unmotivated, frustrated, and stressed
 - 70% of workers admit they feel distracted at work
 - 16% of workers admit they are almost always distracted at work
 - 36% of millennials/Gen Zers say they spend 2 or more hours per work day looking at their phones for personal activities
 - *See Survey by Udemy*
- **Multigenerational Workplace**
 - Workplaces may have employees from four or more generations
- **Diverse Workplace**
 - Workplaces may have employees of various genders, races, religions, ages, etc.
- **Job-Hopping & Uncertainty**
 - The typical worker will have 12 different employers in his/her lifetime with younger workers averaging even more
 - *See Survey by Visier*

21st Century Workplace



- #MeToo & Time's Up Movements
 - Celebrities, Politicians, Business People, etc.
 - News and Social Media
 - Impact on Workplace, Brand, and Reputation



21st Century Workplace



- **Political/Economic Issues and Turmoil**
 - Economic unrest and uncertainty
 - Political climate that includes divergent political and emotional views/responses

- **Discrimination in the News**
 - Instances of implicit bias
 - Think – Incident at Starbucks where African-American patrons were asked to leave
 - Instances of explicit bias
 - Think – Uber board member who said women talk too much (during a meeting regarding sexism at the company).

21st Century Workplace – What does this mean?



Owners and managers must focus on:

- *being conscious of potential bias at work.*
- *placing genuine value* on the experiences, cultures, and backgrounds of employees.
- *improving the workplace* so it meets the needs, including professional needs, of employees.
- *fostering an environment of professionalism, respect, and cultural competence.*

Part 1 – Legal Review & Preventing Sexual Harassment

- Sexual Harassment in the Architectural Industry
- Law on Sexual Harassment
- Preventing/Responding to Sexual Harassment

Law on Sexual Harassment – Harassment in Architectural Field



- July 2018 survey by *Architectural Record* and *Engineering News-Record* included interviews of 1,200 architects and architectural designers; according to the survey:
 - 67% of respondents experienced sexual harassment in workplace
 - Of the female respondents (just over 2/3 of respondents), 85% reported being harassed at work
 - Of the male respondents (just under 1/3 of respondents), 25% reported being harassed at work
 - Of the respondents who alleged they were harassed:
 - 65% described it as “inappropriate jokes, questions, or personal requests”
 - 30% of those experienced sexual assault in form of inappropriate physical contact

<https://archpaper.com/2018/10/sexual-harassment-architecture/> and
<https://www.architecturalrecord.com/articles/13677-in-record-survey-66-percent-of-architects-report-harassment>

Law on Sexual Harassment – Harassment in Architectural Field



What is the significance of this survey?
What does it mean?

Law on Sexual Harassment



It is important for owners and managers to understand the law on sexual harassment, especially small firms that may not have human resources personnel, so they can effectively handle issues involving, and reports of, harassment.

Law on Sexual Harassment – Defining “Sexual Harassment”



- Under Connecticut state law, “sexual harassment” is any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature. when:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
 - Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual; or
 - Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Law on Sexual Harassment – What is Sexual Harassment?



- Physical conduct: touching, patting, kissing, or brushing against someone in a sexual manner;
- Verbal conduct: offensive comments, off-color jokes, lewd remarks, repeated requests for dates, sexual propositions, discussion of sex life or fantasies; or
- Non-verbal conduct: sexual pictures, cartoons, calendars, screen savers, or other objects; sexually suggestive e-mails or texts; sexual gestures, leers, wolf whistles.

Law on Sexual Harassment – What is not Sexual Harassment?



- Simple teasing
- Offhand comments
- Isolated incidents that are not extremely serious

Is This Sexual Harassment?



A client contact consistently flirts with female employees who answer the phone at the firm. The flirting does not appear to bother the employee. Should you take any action?

Is This Sexual Harassment?

Employees sometimes text each other dirty jokes or memes to make the day go by faster. They think that it creates a bond between them. Everyone on the group text thinks the messages are funny.



Law on Sexual Harassment – Types of Sexual Harassment



- *Quid Pro Quo* - Occurs between a supervisor and a subordinate when the supervisor suggests that the subordinate will receive something of value in exchange for a sexual favor.
- *Hostile work environment* – Severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or offensive because of unwelcomed sexual conduct that interferes with the employee's work performance.

Law on Sexual Harassment – Retaliation



- The law prohibits taking adverse action against employees for:
 - Consulting with an attorney
 - Making/filing a complaint
 - Asking a harasser to stop
 - Assisting a co-worker to make/file a complaint
 - Meeting with other co-workers during non-working hours to discuss concerns about discrimination or harassment
- However:
 - Participating in protected activity is not an insurance policy against the consequences of performance or conduct issues

Law on Sexual Harassment – Special Issues For Architectural Firms



- Conduct may occur off-site.
- Harassment may come from third party such as a client, independent contractor, vendor, supplier, etc.
- Teams working closely together may lead to workplace relationships such as romantic relationships and inappropriate physical contact.
- Workplaces with imbalances of gender and diversity may lead to higher instances of harassment or ineffective handling of sexual harassment.

Law on Sexual Harassment – Special Issues For Architectural Firms



Are there other special issues that architectural firms are facing related to sexual harassment that you can share for discussion?

Preventing Sexual Harassment



While many architectural firms are small, the following are best practices regardless of size:

- Maintain a sexual harassment policy
- Ensure that the policy lists 2 or 3 individuals to whom employees can report complaints (e.g., if the harassment involves the owner of a small firm, employees must know who else they can report claims of harassment to such as the office manager)
- Communicate the policy to employees at orientation and at least annually
- Stop inappropriate jokes and comments
- Check for and remove inappropriate visual displays
- Ensure that clients and third parties are interacting appropriately with employees
- Create an environment that is truly “open door” where you have enough credibility with employees that they speak with you when an issue arises

Owners and managers cannot be passive about preventing sexual harassment.

Handling Sexual Harassment Complaints



- Act promptly
- Take all complaints seriously no matter how informal the complaint or how minor it appears
- Remain neutral; don't jump to conclusions
- Report all complaints to the owner or HR promptly
 - Supervisors/managers should generally not investigate any complaints without coordinating with the owner, HR, etc.
- Take appropriate corrective action if necessary
- Follow up

Note: By following these guidelines, firms are in the best position to: 1) prevent small or solvable issues from escalating; and 2) eliminate or mitigate legal risk.

Unacceptable Responses to Complaints



- He/she did not file a formal complaint
- He/she didn't want us to do anything about it
- I promised I would keep it absolutely confidential
- He/she was only joking
- Everyone acts that way
- He/she is "just like that"
- It was a personal dispute or a personality conflict
- I told him/her to speak with the owner (without following up)

Note: When owners and managers respond in an unacceptable manner, such as those listed above, the firm is put at risk of: workplace disruption and unrest, creating/maintaining a toxic culture, loss of trust by employees, and future legal issues.

Teachings from #MeToo Movement

#metoo

- Owners and managers must ensure that employees are comfortable coming forward and reporting incidents candidly.
 - Think – Why did so many of the employees in recent news stories opt not to report issues to their supervisors/managers?
- Owners and managers must follow-up on reports.
 - Think - How many recent news stories involve complaints that were made but ignored?
- Owners and managers must address relationships in the workplace.
 - Think – Many recent news stories involve intimate or romantic relationships in the workplace.
- Firms must investigate thoroughly and not overreact.
 - Think - CEOs that have been fired within hours of when a complaint was made against them.
- Firms must pay attention to culture and *shifting culture!*
 - Think – NBC’s culture (Matt Lauer)

Part 2 – Workplace Culture

- Importance of Workplace Culture
- Professionalism
- Cultural Competence
- Bias in the Workplace

Importance of Workplace Culture



What is “workplace culture”?

How is it related to harassment?

Importance of Workplace Culture



- “Culture” is the beliefs and values that are shared by the people in an organization
- All groups of people have a “culture”
 - Think of your family culture or the culture of other social groups, as well as the hallmarks of that culture:
 - Honesty
 - Trust
 - Generosity
 - Respect
 - Among others

Importance of Workplace Culture



- **Culture IS**

- Ever-changing and dynamic
- A reflection of people
- In need of constant attention and reevaluation
- A company's identity
- Behaviors that create safety and connections
- Provides clarity and aligns with a specific vision
- Linked with leadership
- Is like the air or the landscape, it may be in the background but it is always there and influencing the company

Importance of Workplace Culture



If someone asked you to describe in three words the “culture” at your firm, what would you say?

If someone asked your employees to describe in three words the “culture” of your firm, what do you think they would say?



Importance of Workplace Culture

Professional workplaces do not form “by accident.”

They are the result of employees’, owners’, and managers’ commitment to cultivating and safeguarding a strong workplace culture.

Importance of Workplace Culture – Role of Management in Fostering Strong Culture



- Management is linked with culture.
- And owners and managers must be culture ambassadors and warriors, regardless of the size of the workplace.



Importance of Workplace Culture



How is today's 21st century world (discussed earlier) impacting culture in the workplace? What does that mean for workplace culture?

Importance of Workplace Culture – Psychological Safety



- Google studied 180 teams to see what made a good team thrive.
- The Finding: the most successful teams had traits like “conversational turn-taking” and “average social sensitivity” (being able to understand how others feel based on voice, expression, etc.).
- This is known as “**Psychological Safety**.”
- “Psychological safety” (or comfort) is created in workplaces where employees are comfortable being, and expressing, themselves.
- Feelings of discomfort or not being safe are unsettling, create psychological chaos, and exhaust cognitive energy.

What Google Learned from its Quest to Build the Perfect Team, *NY Times*, Feb. 25, 2016.

Importance of Workplace Culture – Psychological Safety



- Psychological safety may be even more important in architectural firms where:
 - The team is small
 - Employees regularly work very collaboratively and closely with each other

What are examples of how firms can increase psychological safety in a firm or on a team?

Professionalism



Anyone in a supervisory role must understand:

- Managers and supervisors must be professional as:
 - Role Models – Words and Actions
 - Leaders
 - Resources
 - Tone/Culture-Setters
 - *“Management is doing things right; leadership is doing the right things.” Peter Drucker*
- Managers and supervisors must support the firm.

Professionalism



Anyone in a supervisory role must understand:

- Managers and supervisors must foster a culture of:
 - “Speak Up”
 - Zero Tolerance
 - Respect/Dignity/Inclusion
 - Doing Things the “Right Way”
 - *“The time is always right to do what is right.” Martin Luther King, Jr.*

One person who is unprofessional can have a big impact especially on a small team. How do you handle someone who is routinely unprofessional and how can you ensure that he/she does not influence others?

Cultural Competence



The ability to think, feel, and act in ways that acknowledge, respect, and build upon racial, ethnic, socio-cultural, and linguistic diversity as well as other kinds of diversity

More than “cultural awareness” or “tolerance”

- *Cultural Awareness*: understanding of members of other groups
- *Cultural Competence*: ability to effectively operate within different cultural contexts

Cultural Competence – Group Activity in Awareness



- What influences how you think about groups to which you do not belong?
- Where do you get information about individuals and groups related to race, gender, socioeconomic class, and other social and cultural identities?
- How do you process that information? Do you fact-check and/or consider how your own experiences or worldview impacts that information?

Cultural Competence



Culturally competent firms:

- Acknowledge the importance of race, ethnicity, gender, and other types of diversity
- Assess interactions that cross these cultures
- Build cultural knowledge
- Adapt to meet culturally unique needs
- Believe and model that diversity is good for business

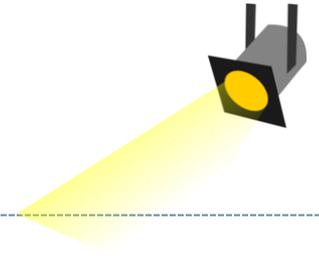
Cultural Competence – Achieving it in the Workplace



Culturally competent organizations:

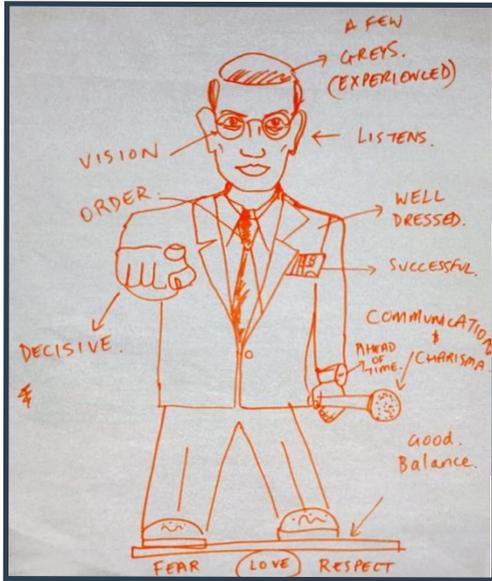
- Have increased sensitivity to alienating behaviors
- Value diversity
- Self-assess development of cultural competence
- Identify and are vigilant about maintaining positive cross-cultural dynamics
- Create an environment where people can communicate candidly and respectfully about culturally-based values and perceptions

Bias in the Workplace – Group Exercise



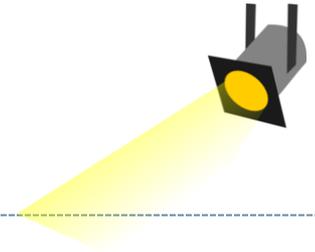
**A Quick Game of Pictionary:
Draw an Effective Leader
(in your mind)**

Bias in the Workplace – “Draw an Effective Leader” Exercise Results



Heather Murphy, Picture a Leader.
Is She a Woman?, N.Y. Times,
March 16, 2018.

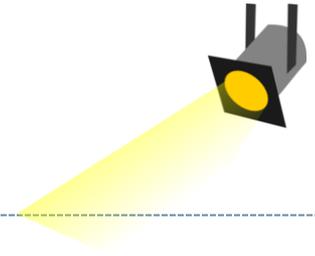
Bias in the Workplace – “Draw an Effective Leader” Lessons



- Results are almost universal: both men and women almost always draw men
- This is an example of implicit bias at work
- Implicit bias: having preferences or associations without conscious awareness of them
- In the “leader” example, people generally associate leadership, and the qualities associated with leadership (such as “taking charge”) with men
- This phenomenon exists even when people don’t subscribe to negative stereotyping of women – it’s a result of our culture shaping our unconscious minds
- Implicit bias in the workplace can negatively impact workplace culture.

Remember: Explicit Bias is conscious and controllable while *Implicit Bias* is unconscious and has been programmed subconsciously.

Bias in the Workplace – Strategies for Combatting Implicit Bias



- Assess your own implicit biases
 - Visit Project Implicit to find out which implicit biases you may hold
- Seek exposure to different and disconfirming images
 - For example, to uncouple the “man = leader” association, seek out references to and images of women leaders.
- Use concrete criteria when evaluating the performance or ideas of others

Are there ways you have combatted implicit bias?

Takeaways



Workplaces that are:

*high in professionalism,
high in cultural competence,
create psychological safety for employees, and
are low in explicit/implicit bias*

lead to positive workplace culture
and can assist in preventing sexual harassment
and ensuring that harassment complaints are
handled appropriately.

Questions?



Thank You



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