



corporatecompliance.org

# Compliance & Ethics PROFESSIONAL®

A PUBLICATION OF THE SOCIETY OF CORPORATE COMPLIANCE AND ETHICS

NOVEMBER 2018

## Meet Julia Bailey

Senior Vice President,  
Chief Compliance  
Officer & Counsel  
Herbalife Nutrition  
Los Angeles, California



by Jennifer Farthing

# Unpacking New York anti-sexual harassment training needs

- » Exploring gray areas can help employees gain a deeper understanding of the issues being addressed.
- » Telling an evocative story or using interactive elements in a creative way can convey the importance of this urgent topic, making the material more memorable.
- » Bystander training means an end to walking away from bad behavior and filing such incidents under “none of my business”; no more “innocent bystander.”
- » Walk the talk: If you train your workforce to speak up, follow through. Take allegations, complaints, and reports of misconduct seriously and without premature judgment.
- » Build trust and demonstrate respect: Workplace culture matters. Adopt a zero-tolerance policy for inappropriate behavior, from the verbal to the physical, and the implicit to the explicit.

*Jennifer Farthing (jennifer.farthing@lrn.com) is Global Content and Learning Leader at LRN in New York City.*

**N**ew York City and New York State legislation will require companies, even very small ones, to provide sexual harassment prevention training to all employees, including interns and seasonal workers. This probably has a lot of business leaders wondering: How can I get the most out of my anti-harassment initiatives, and how can I make sure that the message sticks?



Farthing

It's important for anti-sexual harassment initiatives to build trust and respect in the workplace. Simple dos and don'ts conveyed in many training programs aren't

enough to accomplish that. Workforce education must be clear, but must also reinforce the specific, values-driven behaviors that your organization aspires to in order to be successful.

## Harassment prevention training

Here are a few proven components of workplace education on harassment prevention that we've found to be effective.

### Gray areas

Exploring gray areas can help employees gain a deeper understanding of the issues being addressed. Show perspectives of different employees with contradictory points of view on various incidences of misconduct. Their ambiguous vantage points paint a realistic portrait of harassment, leaving employees better able to identify and respond to real issues in your organization.

### Stories

Telling an evocative story in a creative way can convey the importance of this urgent topic, making the material more memorable. One of our courses, for example, depicts a victim of workplace bullying who develops physical

injuries as the verbal bullying he’s subjected to becomes more and more hurtful. This brings to life the emotional cost of the subject matter in a way that simple exposition couldn’t.

**Interactive feedback**

Using interactive elements in training, such as guided questioning, drag and drop activities, infographics, and short quizzes, ensures that employees are retaining the content presented through e-learning. Although employees may absorb some of what they’ve learned by simply watching a video or listening to someone speak, it’s difficult to measure whether the content is sticking.

**Speaking up**

Bystander training means an end to simply walking away from bad behavior and filing such incidents under “none of my business.” Gone are the days of the innocent bystander. More than ever, reputation and credibility are everything. As an employee, it is everyone’s responsibility to speak up, whether observing an improper remark, an ethically questionable alliance, or an illegal bribe. Reinforce this message alongside your topical trainings.

Still, training alone won’t change behavior or prevent misconduct. Your overall goal should be a respectful workplace where difficult conversations can be had and where disrespectful behavior won’t be tolerated. There is no substitute for a culture of trust and respect, where

employees feel comfortable speaking up and raising issues.

**Making the message stick**

One approach is to extend the shelf life of training by engaging in ethical discourse before and after learning events. Another approach is to evaluate performance on ethical merits, not just return on investment. Here are some ways companies can move away from “check the box” training and toward corporate learning that encourages ethical behavior

**Walk the talk**

If you train your workforce to speak up, follow through. Take allegations, complaints, and reports of misconduct seriously and without premature judgment. Do the work. If you don’t, employees will stop speaking up, morale will decrease, and retention will become problematic.

**Build trust and demonstrate respect**

Workplace culture matters. Adopt a zero-tolerance policy for inappropriate

behavior, from the verbal to the physical and the implicit to the explicit. By demonstrating a lack of tolerance for these behaviors, you provide a moral model for others.

**Share values**

When employees feel that others—supervisors, peers, direct reports, and leaders—share the same values, they take responsibility collectively. Provide opportunities for this at

Using interactive elements in training...ensures that employees are retaining the content presented through e-learning.

work, such as using authentic success stories in meetings to complement your training program.

### **Teach employees how to make ethical decisions**

It's challenging to weigh pros and cons from a cost or revenue perspective and take that discipline into the moral space. Give your employees a framework for moral evaluation. Start with a simple question, "Is it the right thing to do?"

### **Be mindful of their humanity**

Remind your constituents they have the power to grow and learn. As individuals, we can tackle tough topics through discourse. As adults, we can remember and relearn. Prompt them to get back in touch with life lessons learned before social influences may have clouded their judgment. Instead of asking, "What's in it for me?" inspire them to stand up for what's right. Then support them.

### **Legislative requirements for New York State and City required anti-harassment training**

The New York State mandate includes legislation from the New York State Department of Labor and the New York State Division of Human Rights to create a model sexual harassment training.<sup>1</sup> Employers can either use the model training, or, if employers create their own training, it must be equal to or exceed the standards contained in the model training. At press time, New York City had not released training. In October, New York State released final minimum standards for training and issued guidance that "all employees must complete the model training or a comparable training that meets the minimum standards by Oct. 9, 2019."

The bill took effect on October 9, 2018.

Similar to what other states have mandated (e.g., California, Connecticut, and Maine), training must be provided to employees on an annual basis, and for New York, this means *all* employees must be trained. The training specifications include "interactivity" but not a hard-and-fast rule for length of training. "Interactive" is not exclusive to face-to-face, live training; e-learning programs where learners engage through scenarios and must decide on the right action qualify. Videos watched and attested to do not count as interactive training. Ensure your learners are doing something and applying what they are learning to qualify in this area.

Named sexual harassment subtopics include:

- ▶ Explanation of sexual harassment
- ▶ Examples of conduct that would constitute unlawful sexual harassment
- ▶ Information regarding the federal and state statutory provisions concerning sexual harassment and remedies available to victims
- ▶ Information concerning employees' right of redress and all available forums for adjudicating complaints

New York State also requires development of a sexual harassment policy and requires that such policy be incorporated into the training.

New York City further stipulates that new hires over the age of 15 must be trained within 90 days of their initial hire. Interns count as employees, and by employees, this means anyone working in New York City more than 80 hours per year. Free online training with electronic certification will be provided by the New York City Commission on Human Rights. \*

1. New York State, "Combating Sexual Harassment," July 2018, <https://on.ny.gov/203AU13>.