

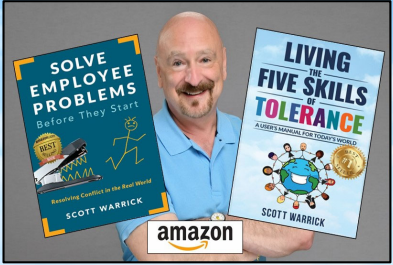


“You’re Doin’ It Wrong!”

*How To Comply With The
New EEOC Harassment
Training Guidelines*

Scott Warrick, JD, MLHR, CEQC, SHRM-SCP
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1



**FREE
Lunch &
Learn Videos
Are Posted!**

(<https://scottwarrick.com/living-the-five-skills-of-tolerance/>)

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Where Are We Going?

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TRUST:

Is
It
SAFE?

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Where Are We Going?

TRUST

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Trust Will ALWAYS Change

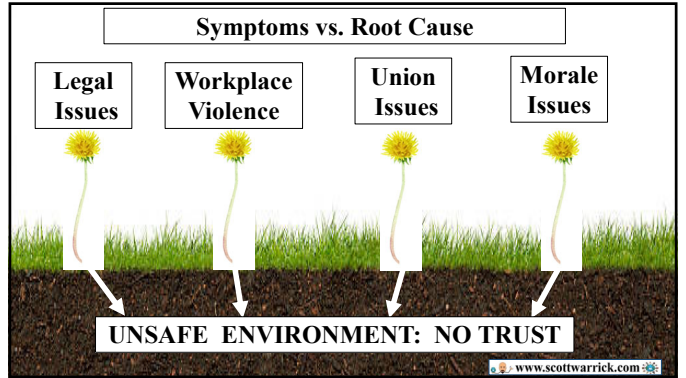


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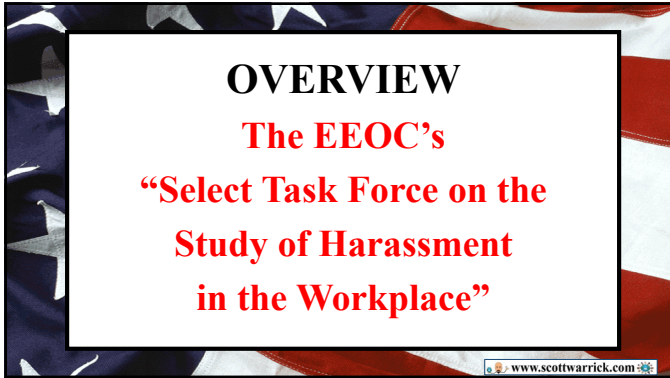
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OVERVIEW
The EEOC's
“Select Task Force on the
Study of Harassment
in the Workplace”

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WHAT IS THE PROBLEM?

- Up to 85% of all women have experienced sexual harassment in the workplace.
- Up to 60% of employees have experienced racial or ethnicity-based harassment.
- Up to 41% of LGBT employees have experienced harassment, which includes having their workspaces vandalized ... and the harassment rates for transgender individuals are even higher.

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WHAT IS THE PROBLEM?

- Up to 20% of employees with disabilities have experienced harassment or unfair treatment due to their disability.
- Up to 25% of workers over the age of 50 have been harassed or subjected to unwelcome comments about their age.

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WHAT IS THE PROBLEM?

Up to 94% of all workers who experienced harassment on the job never talked to anyone in management about it.

The vast majority of victims will not report it to management because they do not feel that it is SAFE. These workers are afraid they will not be believed, nothing will happen, they will be blamed (victim shaming) and/or they will be retaliated against.

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WHAT IS THE PROBLEM?

These fears are actually VERY well founded.

75% of employees who do speak out against workplace mistreatment have been retaliated against

Reporting sexual harassment to management is often followed by the organization being indifferent to the situation or trivializing the harassment, in addition to the acts of retaliation that are often committed against the victim.

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WHAT IS THE PROBLEM?

Astonishingly, one researcher concluded that the most “reasonable” course of action for a victim of harassment to take in many organizations is to not report the harassment.

Professor Lila Cortina, University of Michigan

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SO, WHAT DO VICTIMS OF HARASSMENT *REALLY* DO?

Up to 75% simply try to avoid the harasser.

Up to 73% try to downplay the gravity of the situation.

Up to 70% try to ignore, forget or endure the behavior.


Up to 70% turn to friends for support.

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Why the Under-Reporting?

FEAR



- Humiliation
- Ostracism
- Damage to Reputation
- Damage to Career
- Retaliation
- Inaction
- Blame
- Disbelief

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Fears of Retaliation Are Well-Founded



- One study found that **75%** of employees who spoke out against workplace mistreatment faced some form of retaliation.
- Other studies found that sexual harassment reporting is often followed by:
 - organizational indifference
 - trivialization of the harassment complaint
 - hostility and reprisals against the victims



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DEVASTATING PERSONAL EFFECTS

The EEOC took specific notice of the personal harm victims suffer from the harassment they experience, which includes ...

diagnosable depression, anxiety and posttraumatic stress disorder (PTSD) ...

just as our soldiers experience from being subjected to combat.

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DEVASTATING PERSONAL EFFECTS

The results of these conditions often results in ...

eating disorders, emotional exhaustion, abuse of drugs and alcohol, sleep problems, gastric problems and respiratory, musculoskeletal and cardiovascular issues ...

to mention just a few.

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ENABLING "SUPERSTARS"

The EEOC concluded that one of the biggest problems in dealing with harassment is that far too many organizations simply enable the harasser.

The EEOC stated that one of the worst things an organization can do when it discovers that one of their "best" employees, or one of its "Superstars," is a harasser is to ignore it or cover it up, but that is usually what happens in most organizations.

That is just good old fashioned "ENABLING."

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ENABLING "SUPERSTARS"

So, why do "superstars" engage in this behavior?

According to psychologists, and the EEOC, "power" can make individuals feel uninhibited and not subject to society's norms and the rules that govern everyone else.

(How many leaders have we seen where this principle applies and organizations fail?)

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ENABLING "SUPERSTARS"

Harvard Business School calls them "toxic workers."

I call them emotional children.

So, what SHOULD happen?

INTERVENTION!

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POLICIES

A clear explanation of prohibited conduct, including examples;

- Clear assurance that employees who make complaints or provide information related to complaints, witnesses, and others who participate in the investigation will be protected against retaliation;
- A clearly described complaint process that provides multiple, accessible avenues of making a complaint;
- Assurance that the employer will protect the confidentiality of harassment complaints to the extent possible;

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POLICIES

- A complaint process that provides a prompt, thorough, and impartial investigation; and
- Assurance that the employer will take immediate and proportionate corrective action when it determines that harassment has occurred, and respond appropriately to behavior which may not be legally- actionable "harassment" but which, left unchecked, may lead to the same.

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POLICIES

According to the EEOC, it is not enough to simply adopt a policy.

It must be communicated to employees on a regular basis, with particular emphasis being put on how to file a complaint or report unwelcome behavior.

Employers must also communicate to employees that anyone who participates in an investigation will be protected from retaliation.

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TRAINING: CULTURAL CHANGE IS NEEDED

The EEOC found that most of the training that employers have conducted over that last 30 over has failed to prevent harassment because its focus has been on avoiding liability ... NOT on prevention.

The Key? PREVENTION!

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Simple is BRILLIANT!



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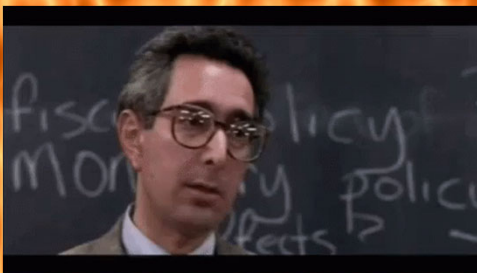
**GET BETTER TRAINERS
FOR A CULTURAL CHANGE**



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EEOC: Trainers Must Be Engaging



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*Lawyers Do
More Harm
Than Good.*



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**The focus has always been on
AVOIDING LIABILITY ...**

NOT on PREVENTION.

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The law is a REMEDY ...

and that is it.

It does not prevent anything.

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TOPICS FOR TRAINERS

Trainers must not only know the law, but they must also be able to address and train in the areas of workplace civility, which includes such topics as trust, tolerance and conflict resolution all of which focus on how to handle such situations in a more positive manner, rather than from an attacking or punitive standpoint.

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TRAINING: CULTURAL CHANGE IS NEEDED

BULLYING
(Unwelcome & Offensive)

vs.

HARASSMENT
(Illegal)

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TOLERANCE



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What Is Diversity?

ANYTHING
THAT MAKES YOU
DIFFERENT

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What Is ...

“TOLERANCE”?

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What Is

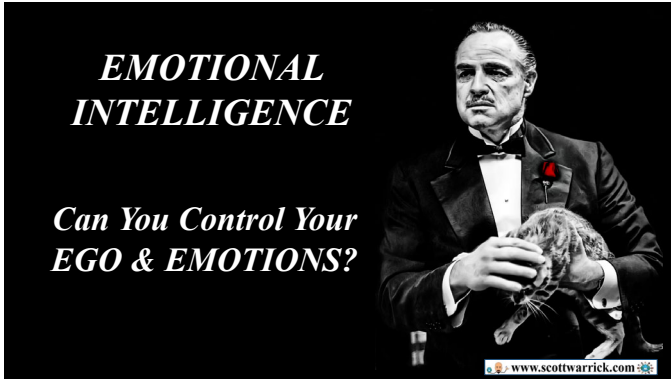
TOLERANCE?

NOT
Persecuting Those
Who Are Different!

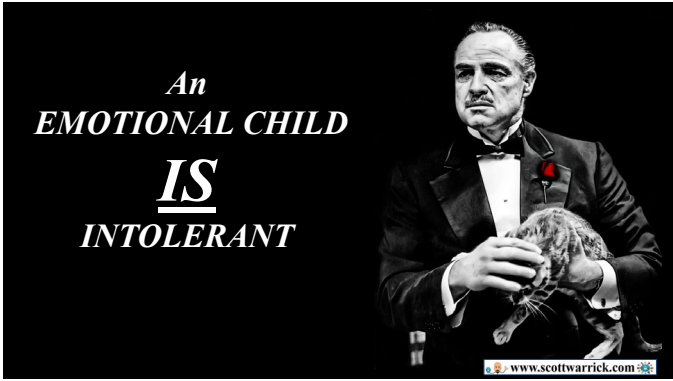


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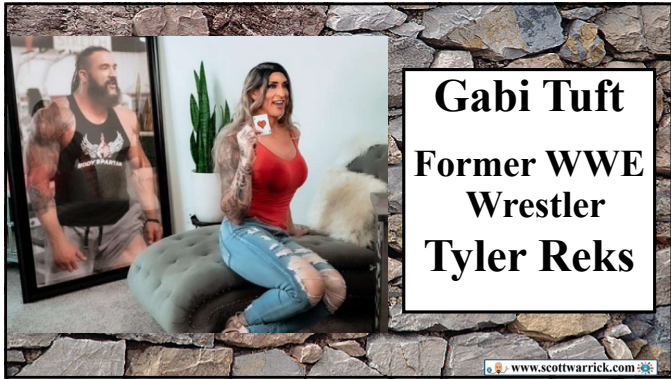
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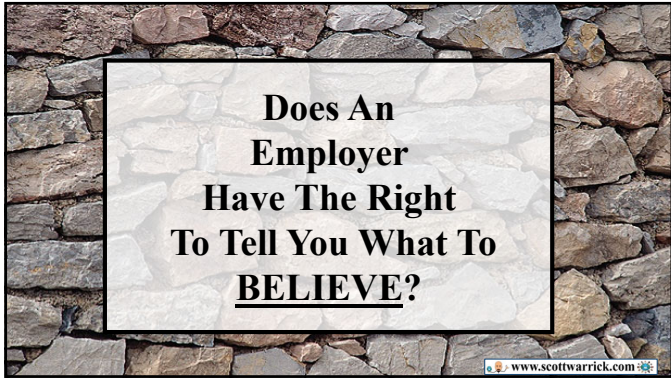
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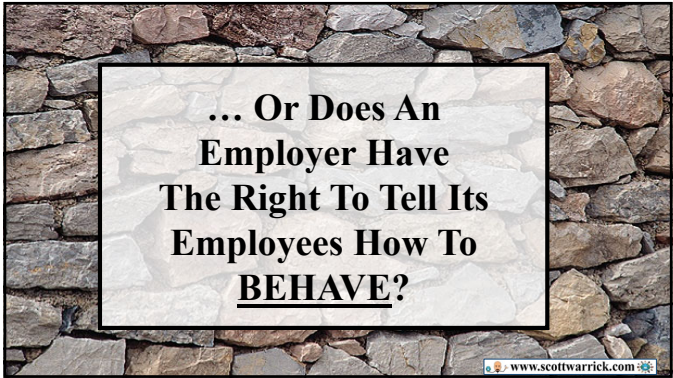
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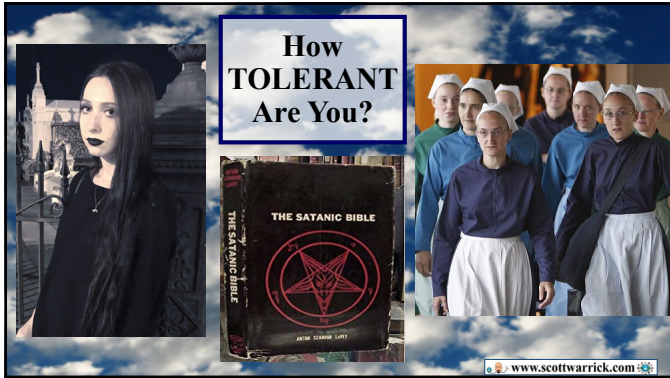
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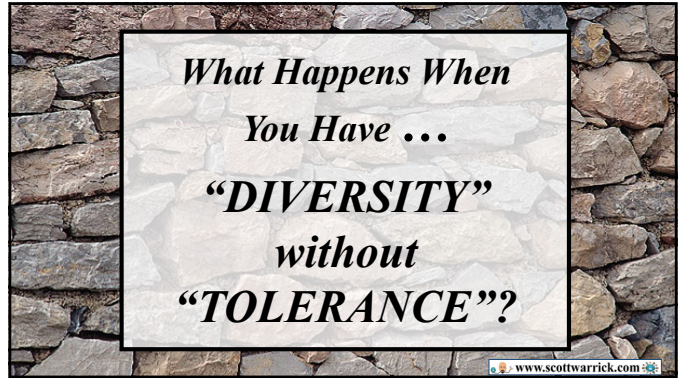
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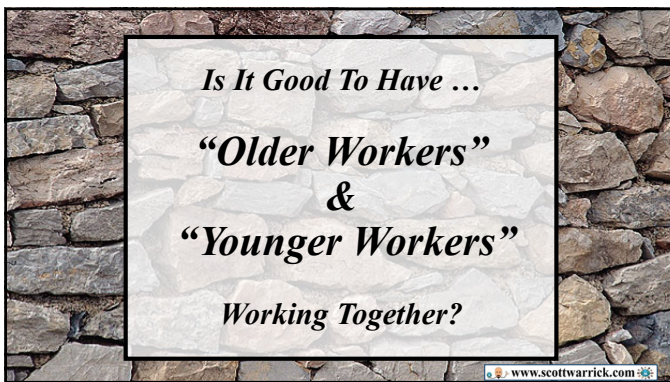
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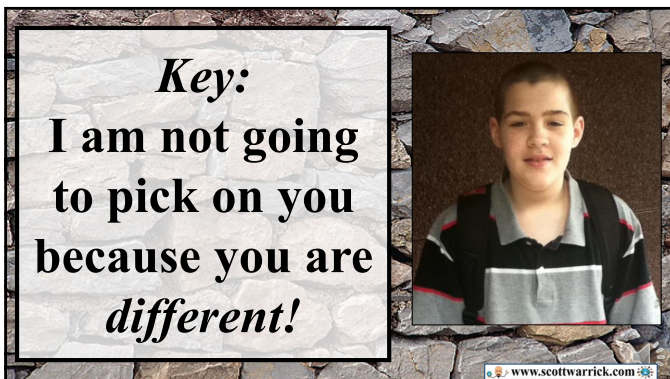
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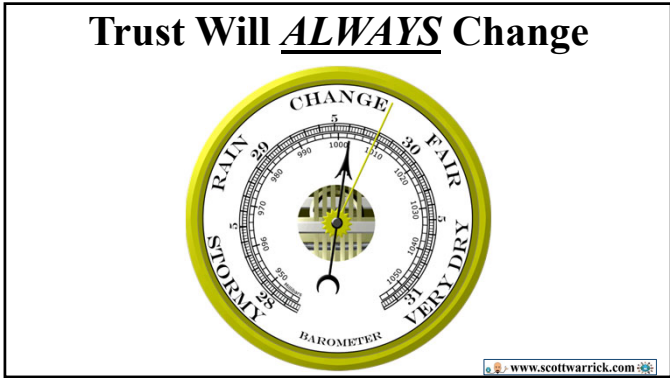
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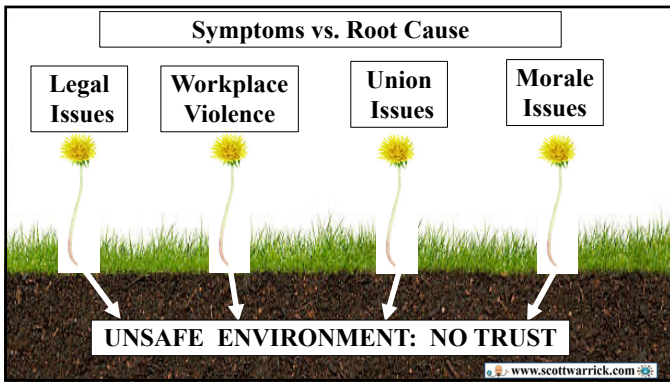
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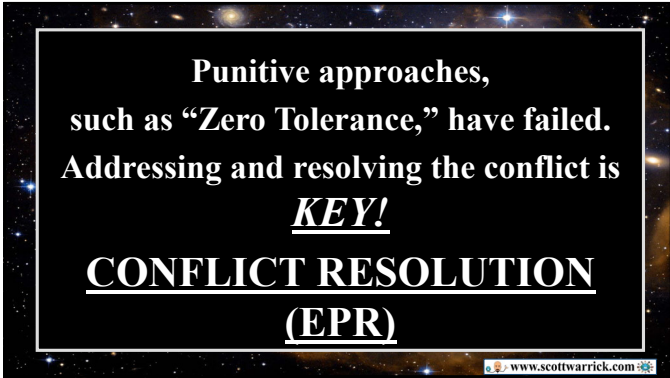
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EPR
Empathic Listening, Parroting & "Rewards"

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Retreaters

"I'm a nice person."

I would NEVER say anything to your face..."

"I wait until you leave!"

ANGEL PITCHERS

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Are YOU HONEST?

Do YOU SEEK OUT Others When There Is CONFLICT ...
Or Do You Just STAB Them In The Back When They Are Not Around?

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Nice People Stink!

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Attackers

"I tell it like it is!"

"Hey! I'm just being honest."

"Well, you have to understand ... I feel very strongly about this!"

DEVIL PITCHERS

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"Would you talk to the president like that?"

"Would you talk to a customer like that?"

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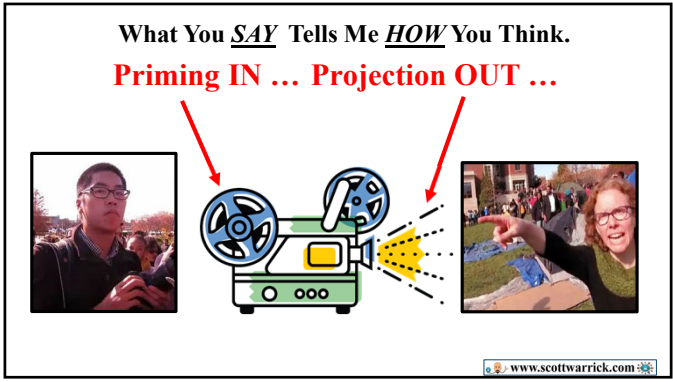
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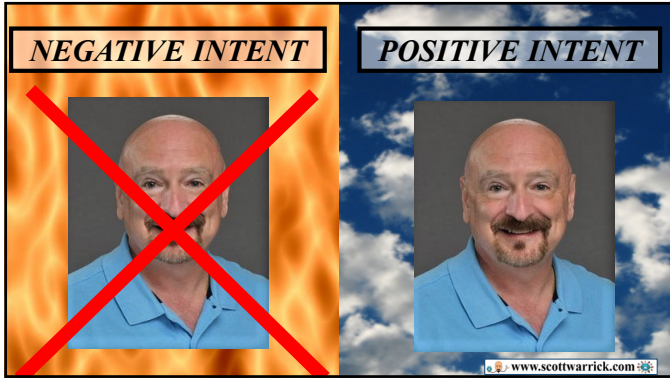
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DEFINE "BULLYING"



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BULLYING
(Unwelcome & Offensive)

vs.

HARASSMENT
(Illegal)

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LEGAL/ILLEGAL vs. RIGHT/WRONG

Major Federal Protected Classes

Civil Rights Act of 1964:
Race, Color, Religion, National Origin & Sex
(Now includes Sexual Orientation & Gender Identity)

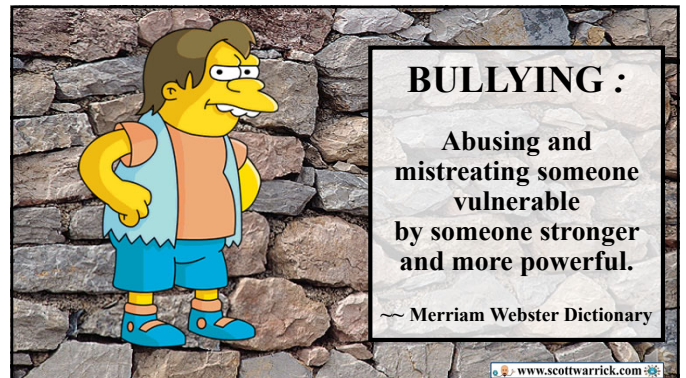
Age In Discrimination Act of 1967

Pregnancy Discrimination Act of 1978

Americans With Disabilities Act of 1990

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BULLYING :

Abusing and mistreating someone vulnerable by someone stronger and more powerful.

~ Merriam Webster Dictionary

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Hostile Environment

Harris v. Forklift Systems
(U.S. Supreme Court 1993)

"I was just kidding!

She is
HYPERSENSITIVE"

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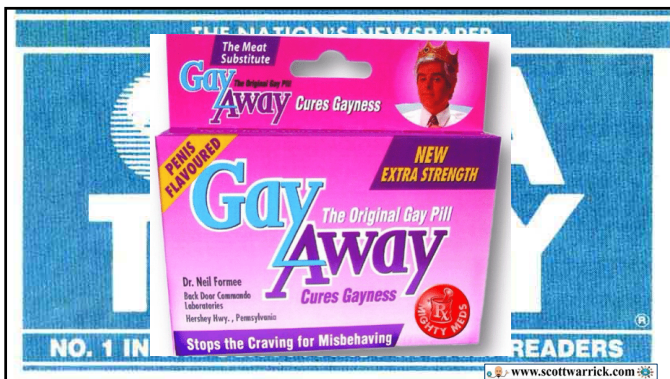
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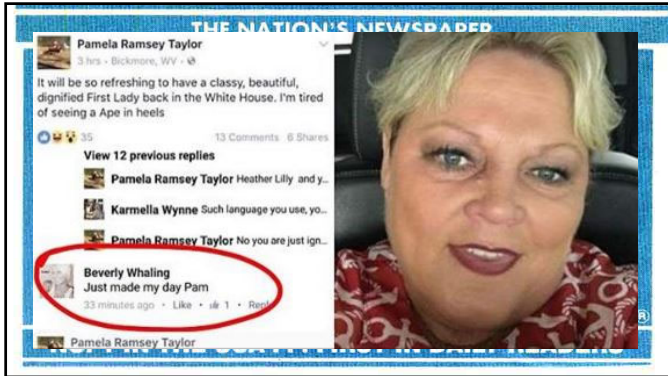
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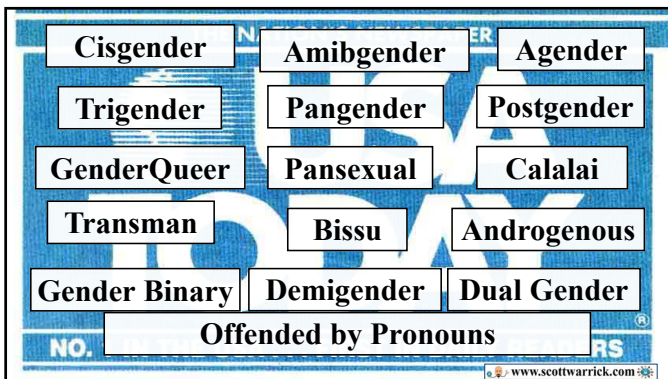
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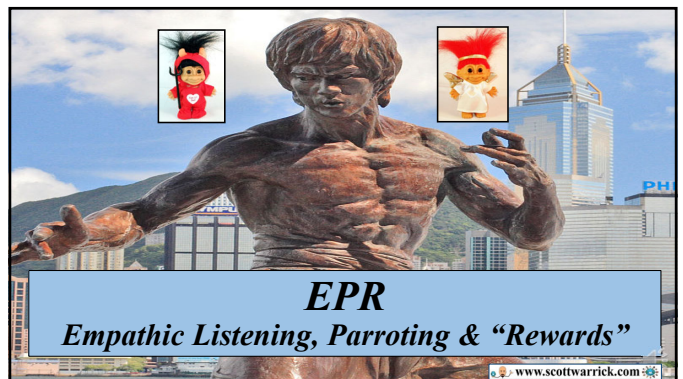
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THE NATION'S

Frank is
Offended
by
Pronouns

NO. 1 IN THE USA . . . FIR

ADERS

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EPR
Empathic Listening, Parroting & "Rewards"

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BYSTANDER INTERVENTION

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BYSTANDER INTERVENTION

Everyone is responsible for intervening on behalf of a victim.

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When bystanders intervene, bullying stops within 10 seconds 57% of the time.

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Nice People Stink!

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96

When bystanders intervene, bullying stops within 10 seconds 57% of the time.



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SOCIAL MEDIA



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TRAINING: SOCIAL MEDIA



Texas Fire Captain Alfred Decker Posted A Photo On Facebook Of Lynching President Obama

NO. 1

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LEGAL ISSUES



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Quid Pro Quo & Hostile Environment



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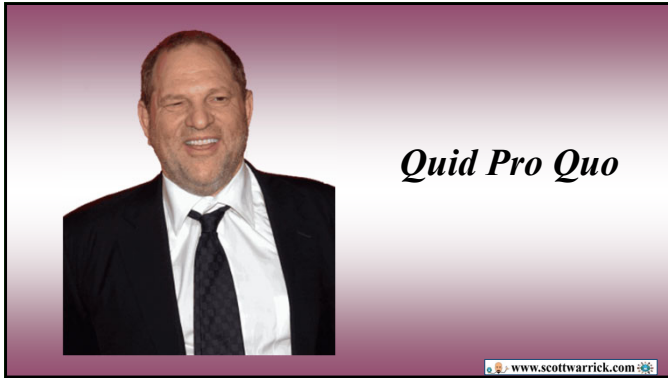
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Two Types Of Sexual Harassment:

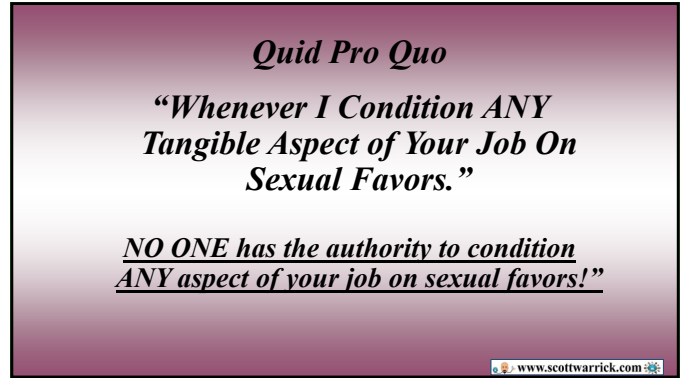
Quid Pro Quo & Hostile Environment

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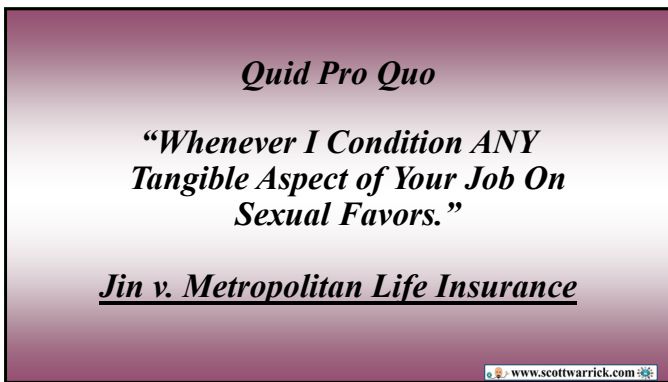
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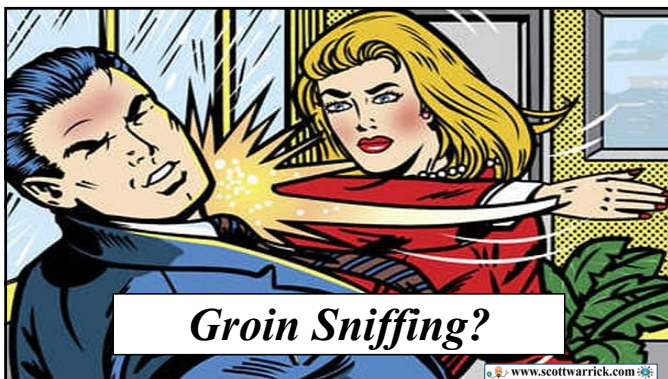
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Would the
REASONABLE PERSON in the COMMUNITY
be so offended that they
COULDN'T FUNCTION IN THEIR JOB
and
TWO OR THREE
ISOLATED INCIDENTS ARE NOT ENOUGH.

109

Off The Job Conduct



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**What I Do On My Own Time
Is My Own Business**

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Bystander Harassment



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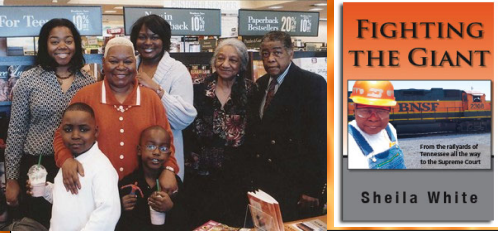


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The New Retaliation Standard



Burlington Northern Railway v. White
(U.S. Supreme Court 2006)

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The New Retaliation Standard

Burlington Northern Railway v. White
(U.S. Supreme Court 2006)

The Supreme Court held that a retaliatory action, which it defined as one that:

“well might have dissuaded a reasonable worker from making or supporting a charge of discrimination.”

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Retaliation Against Third Parties Counts

Thompson v. North American Stainless
(U.S. Supreme Court 2011)

Are you within the
“Zone of Interests”
sought to be protected by the statute.

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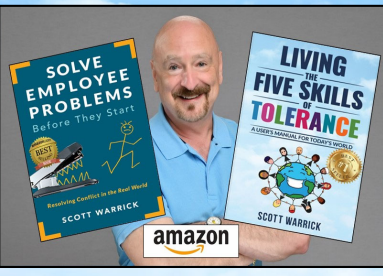


**What Kind of Environment
Are YOU Creating?**

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FREE Lunch & Learn Videos Are Posted!



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HRCI Program ID: 662688

“You’re Doin’ It Wrong!”
How To Comply With The New
EEOC Harassment Training Guidelines

Start Date: 3/11/2024
End Date: 12/31/2024

3 Recertification Credit Hours: General



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SHRM Program ID: 24-J6UD6

***“You’re Doin’ It Wrong!”
How To Comply With The New
EEOC Harassment Training Guidelines***

**Start Date: 3/11/2024
End Date: 12/31/2024**

3 Recertification Credit Hours



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