



The Four Pillars of a Comprehensive Harassment Prevention and Compliance Strategy

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About The Author

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Elizabeth Owens Bille is an employment law attorney and currently serves as the subject matter expert on the prevention of harassment and discrimination in the workplace for EVERFI. Prior to joining EVERFI, Elizabeth was the General Counsel of the Society for Human Resource Management (SHRM). She also has served as the legal and policy advisor to the Vice Chair of the U.S. Equal Employment Opportunity Commission (EEOC); in this capacity, she provided advice to the EEOC regarding the federal laws prohibiting harassment and discrimination in the workplace and contributed to the development of EEOC regulations and enforcement guidance. Before joining the EEOC, Elizabeth counseled employers of all sizes as an attorney in the global law firm of Hogan & Hartson (now Hogan Lovells). She has provided training to EEOC investigators, HR professionals, and employment law attorneys on complex workplace issues, and her work has been cited in various outlets including National Public Radio, the Wall Street Journal, and the New York Times.



About EVERFI

Working with 1,900 corporations and municipalities, EVERFI designs global ethics, compliance, and prevention courses that educate employees on important skills relating to harassment, diversity, security and culture. Our industry-leading instructional design and subject matter expertise demonstrates our commitment to the core issues behind critical topics that are at the center of corporate success and corporate values.

**Learn more about EVERFI at
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Introduction

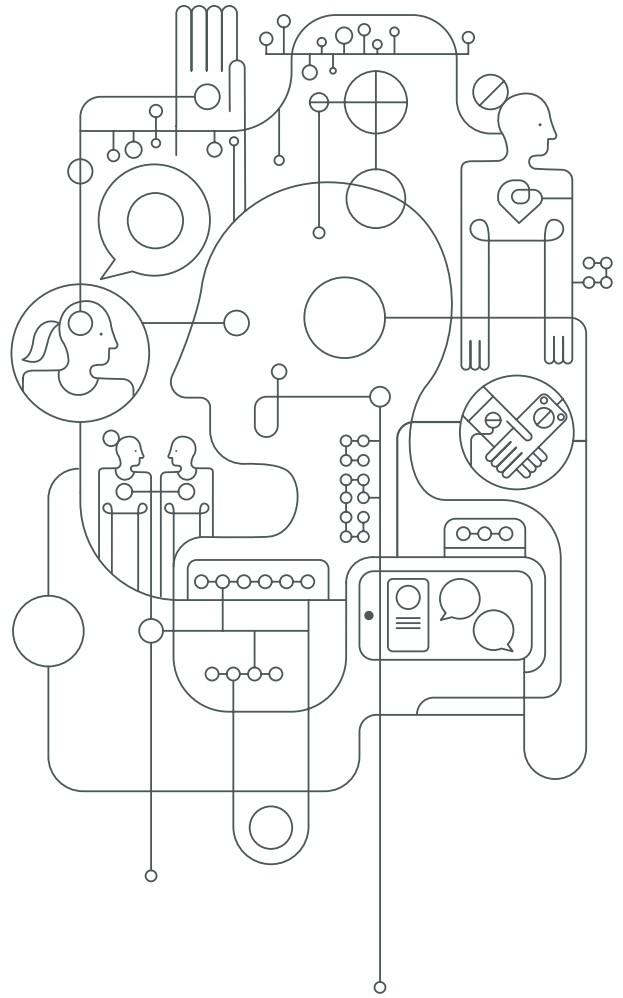
Companies around the world are facing an inflection point regarding several incredibly difficult workplace issues, such as harassment and discrimination, prescription drug abuse, and workplace violence. Though seemingly insurmountable, these challenges present us with the opportunity to have a monumental impact on our employees, businesses, and society as a whole.

With regard to harassment in particular, the groundswell of forces that have led to this point cannot be ignored. First, the scope and endurance of the #MeToo movement has kept the issue of workplace harassment top of mind for CEOs, shareholders, and employees alike, many of whom are now demanding increased corporate accountability and sweeping changes to workplace practices to combat its occurrence. At the same time, there is growing consensus that the traditional tools used to combat harassment, especially the compliance-based training of the past, are largely ineffective in preventing bad behavior at work.

In addition, state and municipal regulators have taken up the mantle, introducing and passing legislation that requires companies to greatly amplify their harassment prevention efforts. Finally, companies themselves are now keenly aware that the consequences of getting it wrong will be disastrous for their business and their people.

In short, we have reached a crossroads. The urgency to act now is real, but organizations cannot simply do more of what they have done in the past.

The work ahead requires a change in focus. Organizations have long taken a myopic approach to addressing issues such as harassment, viewing compliance and incident response as synonymous with prevention. The prevailing thought was that if a company had legally-compliant anti-harassment training and policies in place, this constituted a prevention program.

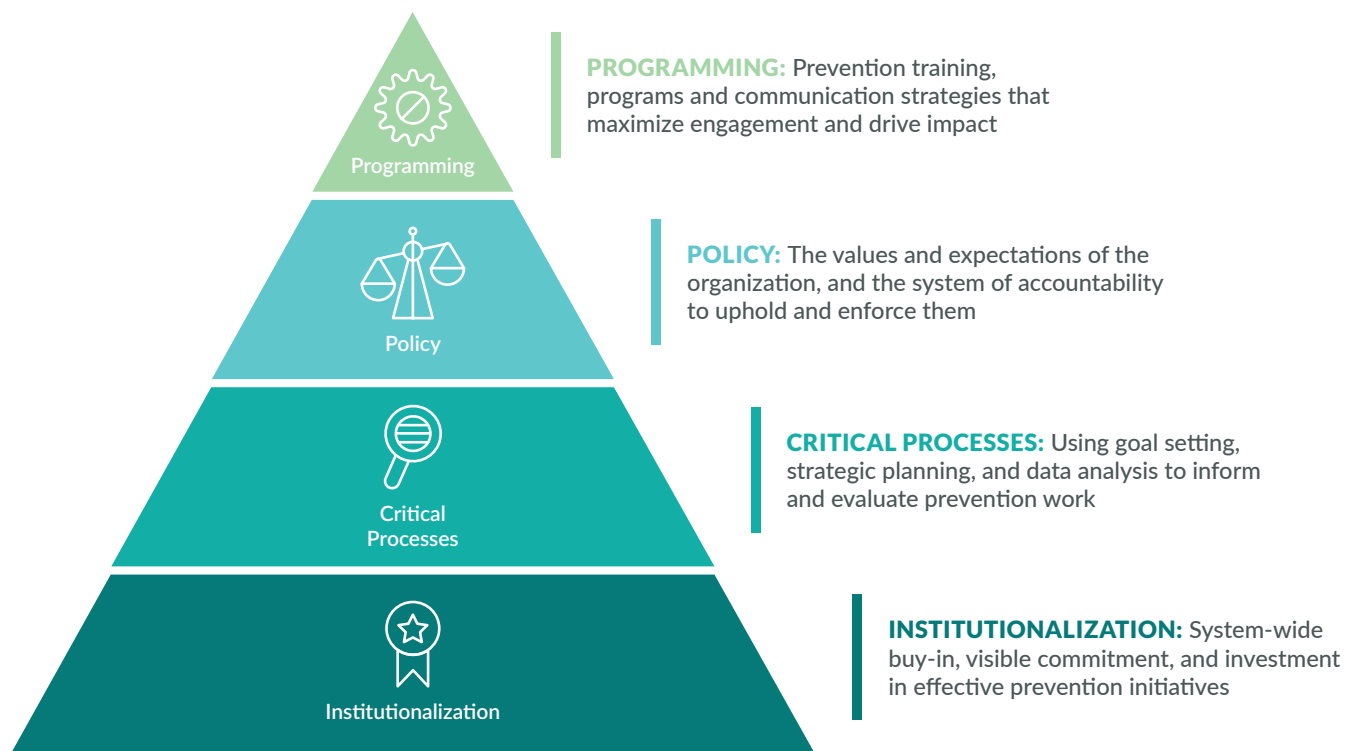


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While these discrete tools are certainly necessary elements of a prevention strategy, simply put, they are insufficient. They are the floor, the low bar, of what an organization must do to truly protect itself and its employees from workplace harassment (and therefore, by doing so, ensure its compliance with the law).

To that end, this paper will address the four critical components of a comprehensive workplace prevention strategy: programming, policies, critical processes, and institutionalization. Viewed as a pyramid, each of these components relies upon the foundational elements below and supports the elements above.

Figure 1. EVERFI's Framework for a Comprehensive Prevention Strategy



Taken together, this framework is a powerful tool that can enable an organization to dramatically refocus its approach to critical workplace issues in a way that not only ensures compliance but also drives positive business outcomes.

It is important to note that while this paper uses workplace harassment as an example of an issue for which this framework can be used, this model can be readily applied to many other critical workplace issues such as employee wellness, diversity and inclusion, drug and alcohol abuse, workplace violence, and safety.

Programming

Programming is one of the elements of a prevention strategy that is most familiar to today's organizations and which many already have in place in some form. The most common type of corporate programming is training, such as the mandatory sexual harassment training that many organizations roll out to their employees, often on a biennial basis. Training allows an organization to broadly and efficiently disseminate critical information in a consistent manner regarding legal standards, policy requirements, and company procedures. Training is often required to meet applicable regulatory standards, such as those outlined in legislation enacted post #MeToo; it can also be a valuable component of an organization's defense against certain legal claims.

But if training is delivered only to a subset of the workforce (such as supervisors) on an infrequent basis, or if the training simply shares information about legal definitions, policy requirements, and reporting channels, it misses a tremendous opportunity for impact. Indeed, training requires a large investment of time and resources for an organization; thus, organizations should use this vehicle more strategically to ensure they are maximizing its impact and return on investment.

Organizations should maximize the ROI of employee training by using this vehicle more strategically.

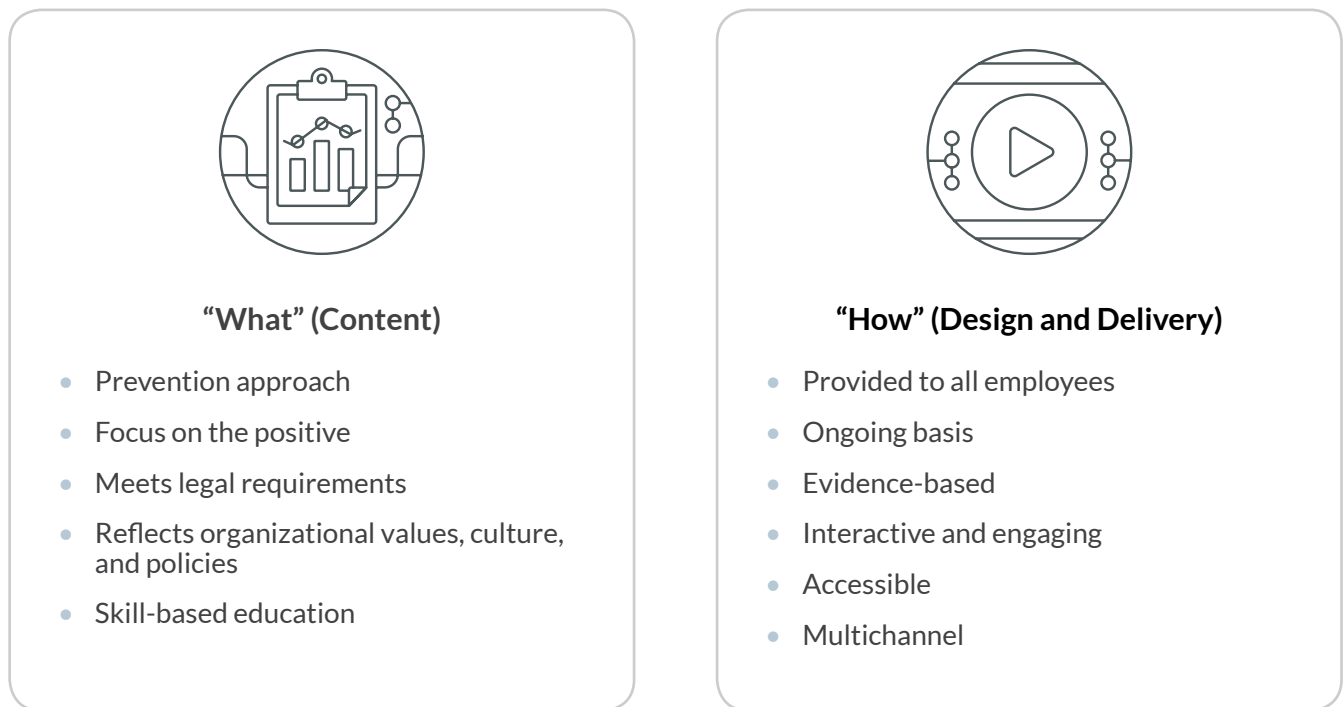
Research- and evidence-based best practices indicate that training must be population-level (i.e., provided to everyone within an organization, not just supervisors) to truly effect change. It can't be a one-and-done event; annual, or better yet, ongoing training presented in ways that feel new to learners is needed. This cadence helps reinforce learning and build new skills critical to a lasting impact.

In terms of content, if the organization's goal is to prevent conduct that violates the law or company policy, training should not simply define the rules and provide examples of the most egregious behaviors. This places focus on what not to do and negative consequences that are to be avoided. Rather, the messaging must reflect the positive outcomes an organization is trying to achieve. Specifically, effective trainings focus on the organization's values and culture and encourage employees to act in a way that is aligned with, and supports, those values and that healthy culture. Research has indicated that using this type of positive, values-based approach can be far more effective in shaping behavior than a consequence-avoidance focus.

Well-designed training should also provide real-time skill building and development, enabling employees to learn, practice, and master key skills and competencies. For example, instead of training that tells employees to report witnessed harassment to HR after the fact, training can instead lead employees through interactive scenarios, allowing them to practice what to say and do to intervene in the moment to prevent a concerning interaction from escalating into harassment.

Finally, to maximize impact, training can and should be complemented by other programming activities and initiatives. These could include workplace messaging campaigns, panel discussions, lunch-and-learn sessions, or even opening team meetings with a brief discussion of the issue. Ensuring that the organization engages in ongoing communication about a critical workplace issue (such as harassment prevention, safety, or wellness) through multiple channels not only keeps the issue top of mind for all employees, but also demonstrates organizational commitment to the same.

Figure 2. The “What” and “How” of Effective Programming



Policies

To be effective, prevention programming must be supported by, and rooted in, a related set of organizational policies. Indeed, programming is generally used to bring written policies to life, ensuring employee understanding through realistic scenarios, detailed explanations, or deep-dive discussions. Programming also provides a vehicle for additional, repeated communication about policies beyond their initial publication.

Policies convey an organization’s point of view and conduct expectations regarding issues of importance such as harassment and discrimination, drug and alcohol abuse, and safety. Like programming, they can also be critical components of an organization’s legal compliance and risk management efforts. The very fact that a set of expectations and values around a particular issue are documented in writing demonstrates a degree of organizational priority for that issue and facilitates a heightened awareness by employees about the same.

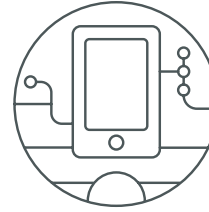
Given their importance, policies must be drafted carefully and thoughtfully. Organizations interested in prevention not only must ensure that policies reflect applicable legal standards, but also expectations for behavior that go above and beyond minimum regulatory requirements. Policies must contain a description of the consequences that may result from their violation, but they also can—and should—echo those positive values and behaviors that the organization seeks to reinforce. A set of procedures should be documented that provides multiple channels for employee reporting of possible violations, as well as how such reports will be objectively investigated.

Figure 3. Effective Policies



Contents:

- Applicable legal requirements
- Prohibited behaviors
- Positive conduct expectations
- Consequences for violation
- Multiple reporting channels
- Investigation/enforcement procedures
- Non-retaliation for good faith reports



Communication:

- Disseminated repeatedly
- Accessible at all times
- Included in organizational programming
- Acknowledged by all employees

Every organization also must ensure that they have an overarching, strict non-retaliation policy in place, one that ensures that individuals who report good faith concerns about policy violations or lack of enforcement are protected from reprisal.

Finally, it is critical that organizations communicate broadly about their workplace policies, ensure that they are always accessible to employees, and confirm that every employee reads, understands, and agrees to adhere to them. Requiring employees to sign a policy acknowledgment is a common method for ensuring that employees are aware of what is expected of them. This policy review and acknowledgment process should occur not only upon hire, but also at regular intervals throughout employment, such as in conjunction with policy-related training.

There is a vast difference between basic, check-the-box compliance policies and those policies that become part of the ethos of an organization.

It is important to note that the contents of policies, how top of mind they are for employees, and how they are enforced all contribute to the establishment and reinforcement of organizational norms and culture. There is a vast difference between basic, check-the-box compliance policies that are viewed simply as outdated pages in a handbook, for example, and those policies that become part of the fabric of an organization's corporate behavior and ethos through frequent communication, regular training, and consistent, meaningful enforcement. Indeed, when policies are not consistently followed or appropriately enforced, they not only become ineffective in and of themselves, but the inconsistency in their application also can cause significant harm to an organization's broader culture.

Critical Processes

To be effective, policies and programming cannot be developed and implemented in a vacuum. Best-guesses or past experiences alone are an insufficient basis on which to inform their design, contents, and delivery. Rather, like other types of business initiatives, an organization's prevention work also must be developed through rigorous intentionality and robust planning—and be continuously informed by current business data.

In practical terms, this means that organizations should utilize the same business-related processes they use to plan, execute, and monitor a new product line or entry into a new regional market—such as strategic planning, goal setting, and post-launch measurement—in their prevention efforts as well.

Thus, the effort to create a comprehensive prevention strategy starts with the following questions:

- 1 *What problem are we trying to solve?*
- 2 *What data do we currently have about this issue? What data do we need?*
- 3 *What are the unique opportunities and strengths of our organization in this area?*
- 4 *What are the risks of not acting?*
- 5 *Who are the internal (and possibly external) stakeholders we need to engage in this effort?*

By conducting this type of needs assessment, or an evaluation of strengths and opportunities for improvement, organizations can get a clearer sense of what—and who—needs to be addressed in their prevention efforts, and tailor their strategy accordingly.

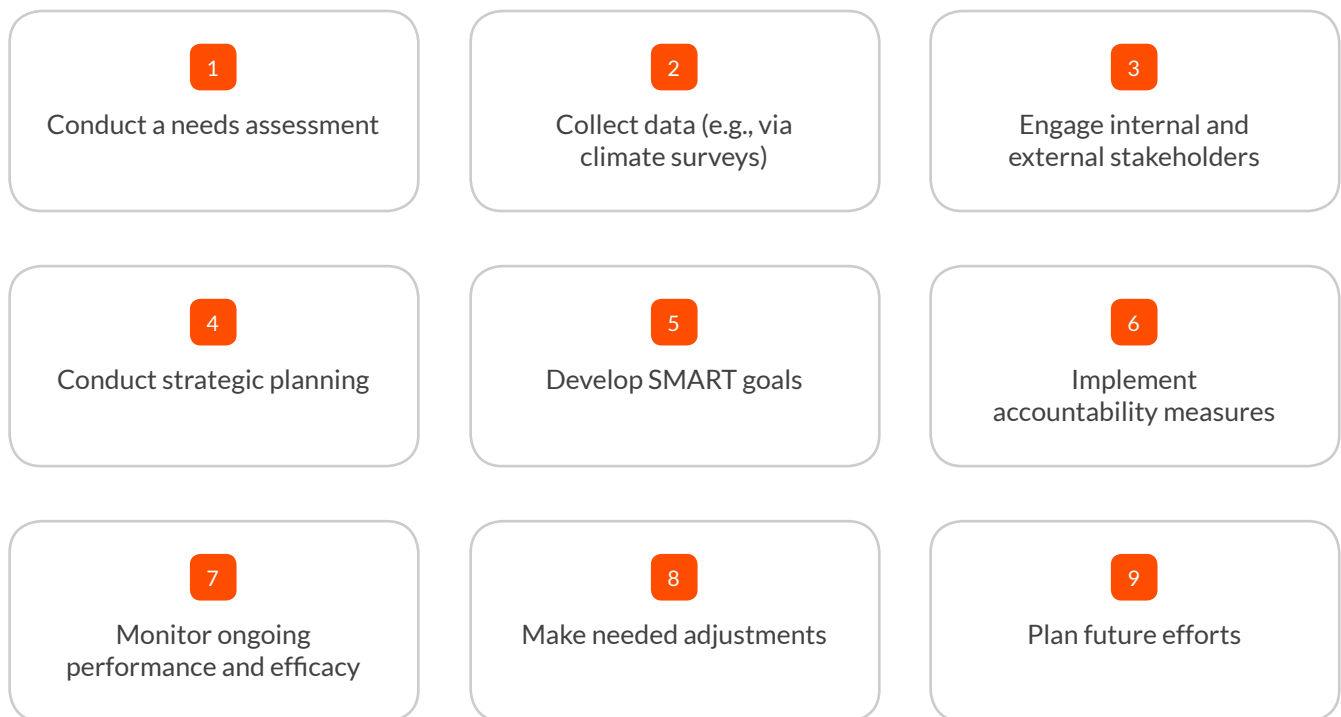
Once these critical questions are answered, the organization can determine which of its regular business processes should be leveraged to develop the organization's prevention strategy, as appropriate. In some cases, this effort may be documented in a long-term strategic plan, whereas other organizations may include the development and execution of a prevention strategy in its annual business operating goals at a corporate or divisional level.

SMART goals (i.e., Specific, Measurable, Attainable, Relevant, and Time-based), along with supporting objectives and milestones, should be drafted regarding needed programs and policies; these, of course, must be informed by current data and the inputs of key stakeholders. Progress should be monitored and incorporated into relevant employees' performance evaluations.

In addition, data must be collected and used on an ongoing basis to evaluate the impact of the programs and policies post-implementation, inform any needed adjustments, and guide future efforts. This data may be gathered through climate surveys, employee engagement surveys, exit interviews, hotline report statistics, or other channels.

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Figure 4: Using Critical Processes in Prevention Work



By employing these types of critical processes, prevention programming and policies can be truly effective.

Institutionalization

Institutionalization is the base of the pyramid, supporting critical processes, policies, and programming. Simply put, institutionalization means that an organization has made prevention an organization-wide priority. A strong commitment to prevention is woven into the very fabric of the organization, from the bottom to the top.

Given the influence and decision-making power of senior leaders, the importance of gaining meaningful—and visible—



Every dollar put towards prevention has the potential for significant financial returns.

buy-in from the highest levels of leadership is critical to institutionalization and the success of an organization's prevention efforts. But simply getting leaders on board with the idea of prevention is not enough. Their commitment must result in demonstrable investment in effective prevention initiatives.

The following chart outlines a list of criteria which are hallmarks of organizational commitment and investment:

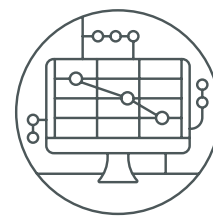
Figure 5: Achieving Institutionalization

- Integrating leadership-led prevention messages into a variety of organizational communications (CEO updates to staff, company newsletters, employee town halls, discussion by leaders at team meetings, etc.)
- Including prevention work in strategic plans and organizational goals
- Budgeting sufficient, recurring funding for prevention initiatives
- Dedicating an appropriate number of staff or staff hours to prevention work
- Ensuring accountability by including prevention work in performance evaluations and job descriptions, as appropriate

Even in lean financial times, prevention spending is worth the investment: in addition to creating safer, healthier workplaces, every dollar put towards prevention has the potential for significant financial returns by saving direct costs related to investigation, enforcement, and litigation, as well as indirect costs related to absenteeism, employee turnover, decreased productivity, and the like.

Conclusion

Developing a comprehensive prevention strategy to address challenging workplace issues is not an easy process, and it requires a change of focus away from many organizations' traditional response-based approaches. But if companies truly want to stop concerning behavior—and reap the rewards of a healthy, thriving workforce—they need a robust, coordinated plan that has the commitment of the entire organization. The stakes are just too high for anything less.



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