



**Statement of Johnny C. Taylor, Jr., SHRM-SCP
President and Chief Executive Officer
Society for Human Resource Management**

**Submitted to
Joint Committee on Rules
Subcommittee on Sexual Harassment Prevention and Response**

**Hearing on
Best Practices for Changing Culture on Sexual Harassment
Wednesday, January 24, 2018**

Introduction

Chairwoman Friedman, Chairwoman Mitchell, and distinguished members of the committee, I am Johnny C. Taylor, Jr., President and Chief Executive Officer of the Society for Human Resource Management (SHRM). I appear before you today on behalf of SHRM, the world's largest HR professional society, representing 290,000 members, including 25,000 in California. Our members, in turn, influence the lives of over 100 million individuals in the workforce—about one in three Americans.

For nearly 70 years, SHRM has been leading organizations in their people management, including creating workplaces that foster a culture of respect. We are committed to eliminating all forms of harassment in the workplace including sexual harassment, educating our members not only on complying with the law, but on building a positive and productive workplace culture. We believe that creating and maintaining a harassment-free workplace is not just a legal priority, but a business one that all employees share.

I am pleased to have the opportunity to be here today to discuss how these concepts apply to high-profile and dynamic workplaces such as the California State Senate and Assembly. Most importantly, I will address the role of workplace culture in preventing and addressing sexual harassment in all workplaces.

Power-driven Workplaces at Risk

Exactly 20 years ago this week, we watched this country divide itself over an ethical crisis involving a U.S. President and a young intern. Fast forward to today, and we find ourselves still struggling with the same issues around sex, power and consent—all of which intersect in the workplace.

Let's remember that even after impeachment, that President finished his final term with the highest end-of-office approval rating since World War II, and he continues to rank high in popularity among Americans. Clearly, we have a long way to go as a country before our aspirational words are consistent with our collective actions.

Like Hollywood and Wall Street, the legislative environment is uniquely susceptible to sexual harassment situations. What they all have in common is that these workplaces are driven by complex power dynamics. A few people hold the careers and futures of many others in their hands. Some of those people are deemed "too big to fail."

Also, these workplaces tend to be male-dominated. I want to be clear that sexual harassment is not a woman's issue alone. Not by a longshot. Men are also victims, and women are also perpetrators. Sexual harassment is about power and is committed by whoever is in control. It just so happens that in many workplaces, much of the power belongs to men—at least for now.

Another commonality among high-power workplaces is a wealth of young, aspiring, competitive employees enthralled by powerful, often older, people. This culture creates perfect conditions for sexual harassment, but one that is also ripe for positive transformation. It's time for a cultural transformation in your legislative workplaces. And as a leader in workplace change, California must start right here, right now.

Culture always trumps compliance

SHRM's perspective is unique because we represent not just one segment of the employment sector, but a profession that spans *all* industries, including companies and workforces large and small. Our members have seen it all, and they let us know what works—and what doesn't.

Here's what doesn't work: relying solely on compliance—rules, education and training—to prevent or address sexual harassment. In its 2016 Select Task Force Report on Harassment, the Equal Employment Opportunity Commission (EEOC) recognized that, "Even effective training cannot occur in a vacuum—it must be part of a holistic culture of non-harassment that starts at the top."

Compliance is a key component of a harassment-free workplace, but in reality, we could demand that every employee take 10 hours of sexual harassment training every week, and accusations would still happen. By the same token, we could enforce the strictest policies

forbidding workplace relationships, but office romance would still happen. You simply can't legislate human behavior.

We have also seen case after case where problematic behaviors and situations never rise to the legal definition of harassment. Professor Kim M. Cobb of the Georgia Institute of Technology, who is active in helping more women advance in the sciences, said it perfectly in her recent interview with the *Chronicle of Higher Education*: "There's a big gray zone between legal sexual harassment and a culture of inclusion.... In that gradient, real damage is done on a daily basis that changes people's lives and changes people's careers."

This is why I urge that you not be lured by the cottage industry springing up around sexual harassment compliance programs. Consider that 98 percent of U.S. workplaces have sexual harassment policies, and yet, here we are.

Let me be clear: Rules, education and training are necessary. In fact, SHRM is working with the National Conference of State Legislatures (NCSL) to cohost a free training for NCSL members on harassment and establishing a culture of respect in their legislative offices. Last week, we conducted a similar webinar with EEOC Acting Chair Vicki Lipnic. SHRM also provides numerous programs at conferences throughout the country on creating and maintaining a harassment-free workplace, including in California through our State Council, CALSHRM, and our 17 chapters.

But rules, education and training will never be enough. Even zero-tolerance policies have no effect when people don't feel safe to report harassment, when there is no mechanism to protect people who report, and when there is no trust in what will eventually happen to the person who reports. These individuals are too often marginalized, distrusted, bullied and even forced out. Manuals and training are useless in workplaces where bad behavior is silently tolerated. It is culture, not compliance, that guides workplace conduct.

Understand that an organization's culture is more than being a nice place to work, where everyone is engaged and happy. We must take the concept far beyond that, to where culture—not HR policies—represents who we are and what we believe as an organization. The bottom line is: Culture will always trump compliance.

Culture Steps in Before Compliance is Needed

Now, let's bring this discussion here to this state and this legislative body. Both the State Senate and the Assembly have an ethics committee and standards for reporting sexual harassment; however, these standards are not aligned, are unclear and obviously didn't work.

Employers in California with more than 50 employees must provide two hours of anti-sexual harassment training every two years to supervisory employees and must distribute information to all employees. New supervisors must engage in this training within six months of taking

their position. Yet, according to the Department of Fair Employment and Housing, 554 sexual harassment claims were filed in 2016.

In any case, none of this would have mattered if the culture had been the right one. Situations would have been averted or resolved long before getting to the level of committees and claims being filed.

The organizational culture is like a human body. When it is working properly, viruses and toxins are naturally expelled. In a healthy workplace culture, when sexual harassment is observed or experienced, the community takes over and shuts it down collectively, with a message that such behavior will not be tolerated by anyone at any level. Ideally, sexual harassment doesn't occur at all, because the "body" is inoculated with healthy norms, expectations and standards.

Let's be Practical

One way to get to a healthy culture that will not tolerate sexual harassment is by choosing to be practical about people.

Let me ask you, what is your policy on workplace relationships? Here in the Capitol, you employ a lot of young people—many of them single, most of them ambitious. They will pursue each other or their mentors and role models. That's just human nature.

If workplace relationships are forbidden, the "outlaws" will go underground, contributing to a culture of dishonesty and secrecy. If they are discovered, you are faced with the choice of firing one or the other, or both, and you have lost key talent.

Instead, you could follow a policy of disclosure when two coworkers become involved. Think of it somewhat like a conflict of interest disclosure. Allowing them to come forward without fear of reprisals gives them another pathway—honesty. And honesty is a key element of a healthy culture.

Two other elements in establishing a healthy culture are swift action and transparency. Claims of harassment should be investigated immediately, quickly, and ideally by an independent panel. If a behavior is found to violate the culture of the organization, that individual should be subject to progressive disciplinary procedures up to and including firing.

This brings up a critical point, however. In the zeal to root out sexual harassment, organizations must not swing too far in the other direction, creating a culture of "guilty until proven innocent." Many sexual harassment allegations are found to be unsubstantiated and, in some cases, outright untrue. A trustworthy due process should protect the accused until he or she is found either responsible or innocent of wrongdoing. I recommend that you take every allegation seriously, investigate it promptly and adjudicate it fairly, quickly and appropriately, always maintaining the highest possible standards of confidentiality.

SHRM has developed many best practices and resources for sustaining a healthy workplace, including a member toolkit for [understanding and developing organizational culture](#). Chief among these practices is having a strong statement of values. But mainly, they come down to people—who you bring in, who you retain, and who you allow to move up. You must be willing to get rid of bad actors, no matter where they rank, with no second chances.

That takes courage, but there is no other choice anymore.

How do you know your culture is working? When it mostly runs on its own. Healthy cultures self-police bad behavior, self-select good people, self-regulate effective policies and self-perpetuate—no matter who comes in or out.

Conclusion: Culture is a Competitive Gamechanger

In the end, a healthy culture is a competitive gamechanger, allowing you to get and keep the best people to meet your mission of serving the people of this great state. Isn't that why you are all here today?

Sexual harassment in the workplace wreaks havoc on your ability to do your jobs as legislators. Even if a situation never reaches the level of a complaint, but it pushes good people out or down, you have lost the talent game. With California's unemployment rate down to 4.9 percent and falling, this is a risk you cannot afford.

This body now has the opportunity to transform its culture, and as the bellwether state for the country, the nation beyond. As you go about this critical work, I urge you to remember that compliance matters, but that healthy culture staves off sexual harassment.

Cultural change is the most important thing you can do—*all* of us can do—to make sure that all people in the workplace are respected, valued and empowered to succeed. SHRM, CALSHRM and our members stand with you in putting an end to sexual harassment at work and in building better workplaces for a better world.

SHRM pledges to work with the committee as it addresses this important issue. I thank you for the opportunity to appear before the committee, and I look forward to your questions.