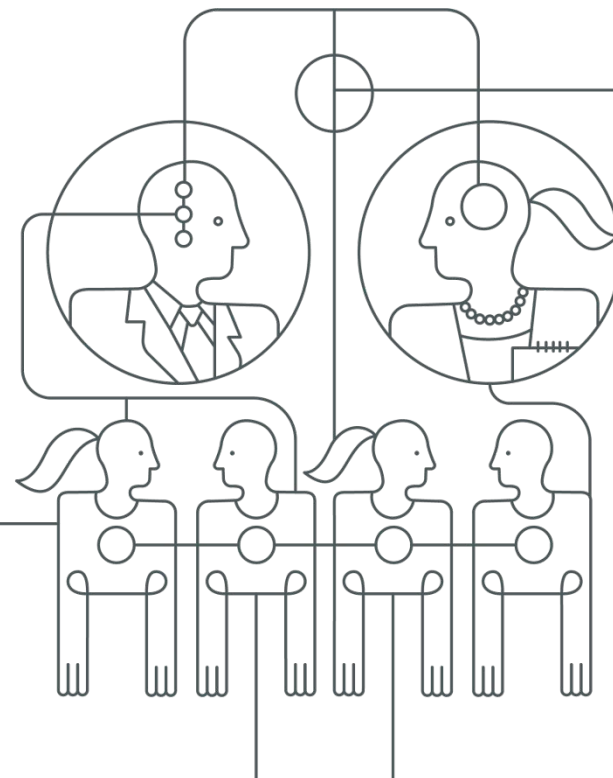# Lead With Integrity: How to Promote an Ethical Culture Within Your Workforce

Steven J. Pearlman, Partner, Proskauer and a *Compliance Week* "2019 Top Mind"

Elizabeth Bille, JD, SHRM-SCP, EVERFI

Featured Speakers

Steven J. Pearlman is a partner in the Labor & Employment Law Department of the Proskauer law firm and co-head of the firm's Whistleblowing & Retaliation Group. Based in Chicago, Steven's practice covers the full spectrum of employment law, corporate governance, and ethics; he was also appointed to serve as a Special Assistant Attorney General for the State of Illinois in employment litigation matters. He has received numerous honors and accolades from Chambers USA, Law 360, and Ethisphere, and was recently named one of *Compliance Week's* Top Minds of 2019.
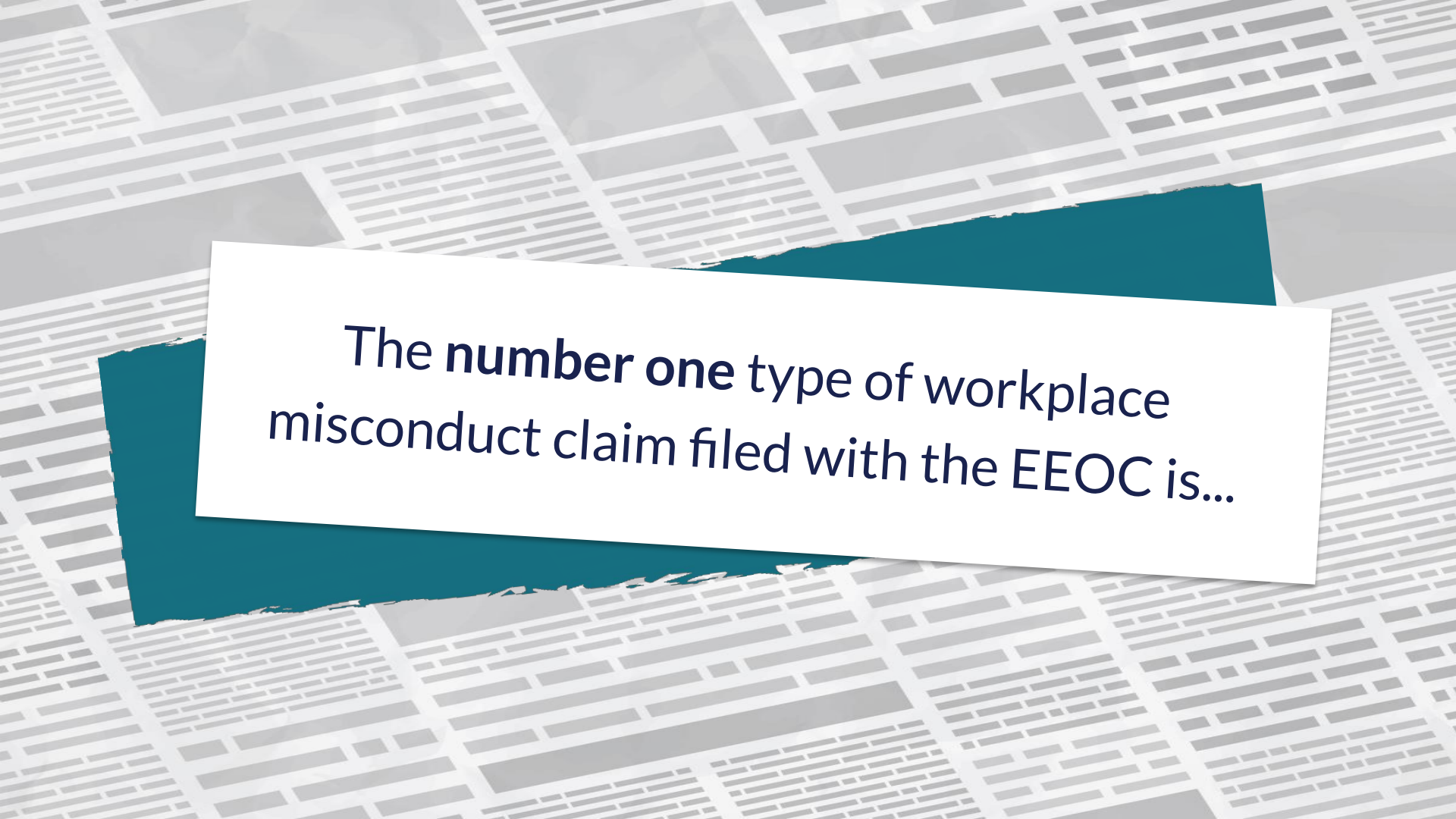
Elizabeth Bille is an employment law attorney and currently serves as the subject matter expert on the prevention of harassment and discrimination in the workplace for EVERFI. Prior to joining EVERFI, Elizabeth was the General Counsel and Ethics Officer of the Society for Human Resource Management (SHRM); served as a legal and policy advisor to the Vice Chair of the EEOC; and counseled employers as an attorney at the law firm of Hogan & Hartson (now Hogan Lovells). Elizabeth's work has been cited by several news outlets such as National Public Radio, The Wall Street Journal, and The New York Times.

Note: The information provided via this webinar is not intended as legal advice. Please consult with your counsel regarding applicable legal requirements, risks, and practices for your organization.

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In 2018, **more CEOs were dismissed** for ethical lapses than for financial performance or board struggles.

In the first year following the start of #MeToo, more than **425 prominent leaders were publicly accused** of sexual misconduct.

The **number one** type of workplace misconduct claim filed with the EEOC is...
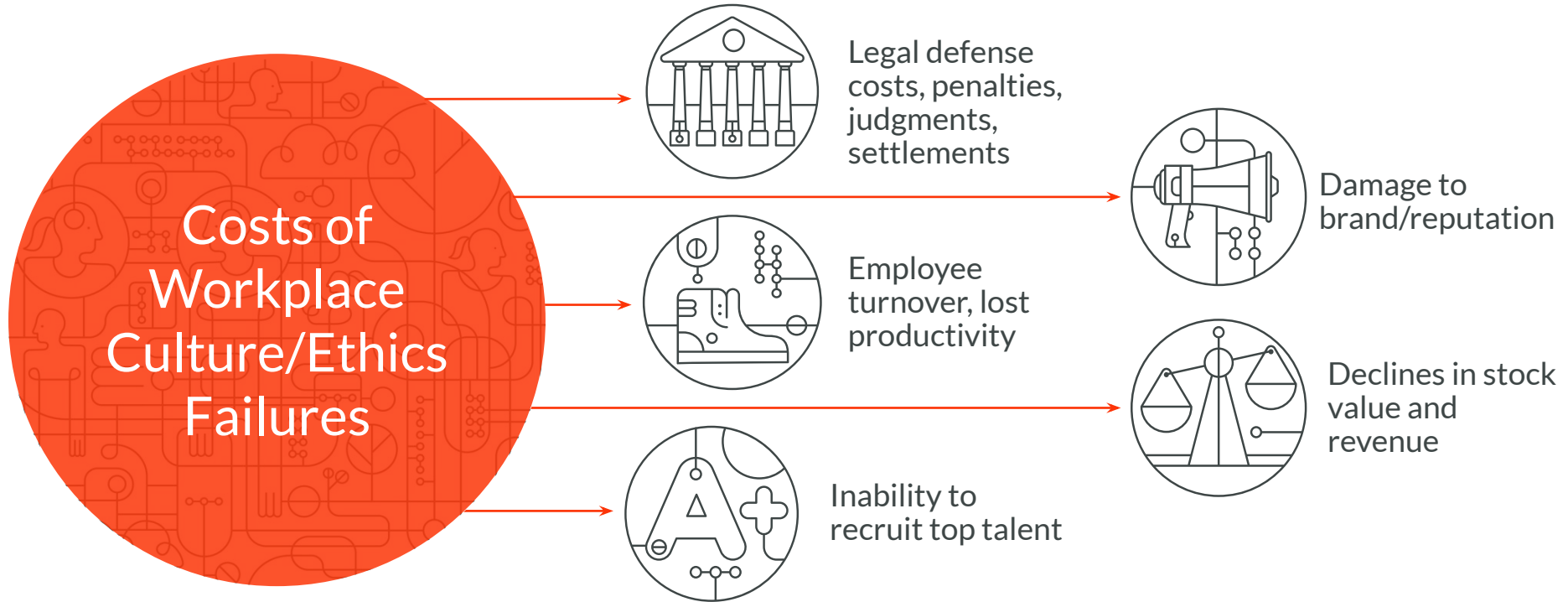
Retaliation

1.5 times more workplace retaliation claims than the next most common EEOC claim

Unprecedented Leadership Accountability

- Employee, shareholder, consumer, and public demands

- Board of directors involvement

- Legal actions

- Regulatory investigations, penalties

- Law enforcement investigations

- Media scrutiny

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The Ethics Imperative: Organizational Impact

Costs of Workplace Culture/Ethics Failures

Legal defense costs, penalties, judgments, settlements

Employee turnover, lost productivity

Inability to recruit top talent

Damage to brand/reputation

Declines in stock value and revenue

The "Ethics Premium"

Stock prices outperformed by 14.4% over five years and 10.5% over three years at businesses recognized by Ethisphere as the World's Most Ethical Companies.[1]

[1] Ethisphere: https://ethisphere.com/128-worlds-most-ethical-companies-for-2019/

DOJ Guidance:
Evaluation of Corporate Compliance Programs

Issued April 30, 2019

DOJ Guidance

1 Encourages Reports of Misconduct

2 Focuses on Preventing Retaliation

3 Creates Incentive Structures to Ensure Compliance

Prosecutor's Tools

1 Determining Resolution or Prosecution

2 Monetary Penalty

3 Compliance Obligations in Criminal Resolutions

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Build A Culture of Compliance

1. **Take a top-down approach:** Start with the words and actions of the board of directors and senior management.

2. **Message core values:** Discuss how those values are applied in a practical way.

3. **Measure culture:** Seek input from all levels of employees to determine if they perceive management's commitment to compliance.

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Company Policy

- Code of conduct that is continuously reviewed
- Evolve policies and procedures to keep pace with business, legal, and regulatory landscape

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Training

- **Assess your workforce:** Consider your audience size, sophistication, and subject matter expertise.

- **Make it relatable:** Give practical, real-life scenarios.

- **Identify resources:** Provide guidance on how to obtain ethics advice.

- **Communicate:** Disclose when there has been a discharge or discipline for a failure to comply with policies, procedures or controls.

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Confidential Reporting Structure

- Utilize a **"trusted mechanism"** by which employees can anonymously or confidentially report allegations of a breach

- Focus on **routing of complaints** to proper personnel, timely completion of thorough investigations, and appropriate follow-up and discipline.

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Incentives

- Maintain clear, consistent and fair disciplinary procedures

- Communicate reasons for discipline clearly to all employees

- "Are there legal or investigation-related reasons for restricting information, or have pre-textual reasons been provided to protect the company from whistleblowing or outside scrutiny?"

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EVERFI's Compliance and Prevention Framework
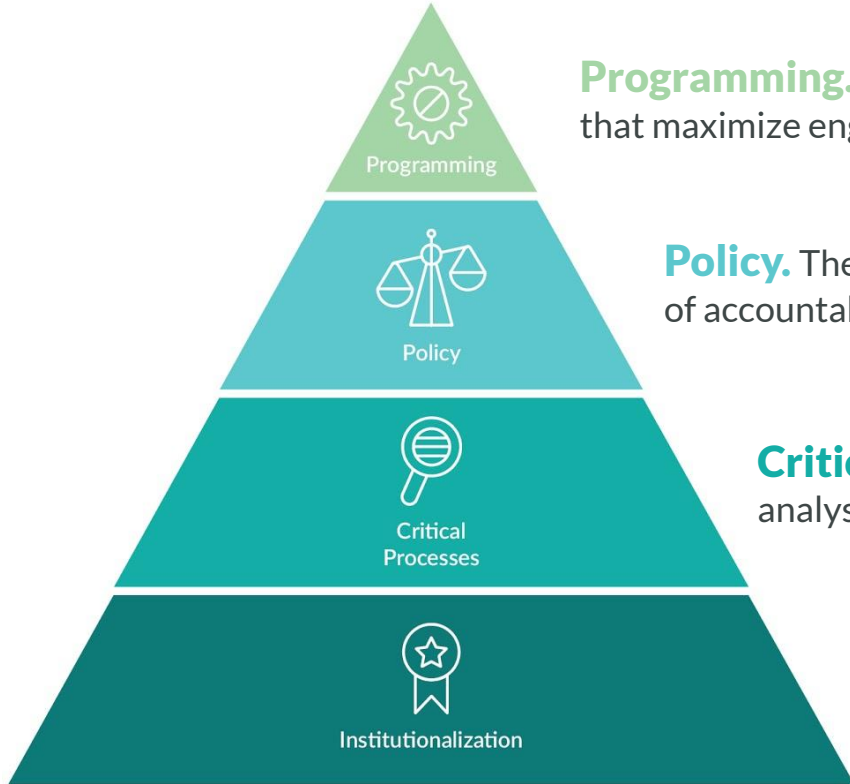
Programming. Prevention training, programs, and communication strategies that maximize engagement and drive impact.

Policy. The values and expectations of the organization, and the system of accountability to uphold and enforce them.

Critical Processes. Using goal setting, strategic planning, and data analysis to inform and evaluate prevention work.

Institutionalization. System-wide buy-in, visible commitment, and investment in effective prevention initiatives.

Programming

Policy

Critical Processes

Institutionalization

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DOJ Guidelines

Training and Communications. Reinforce with ongoing and consistent reinforcement.

Policy and Procedures. Create and foster a culture of ethics and compliance with the law.

Measurement of Effectiveness. Determine if learners have retained knowledge and built skills through climate surveys or other means.

"Tone at the top." Leaders demonstrate commitment to the requirements.

EVERFI Framework

Programming. Prevention training, programs, and communication strategies that maximize engagement and drive impact.

Policy. The values and expectations of the organization, and the system of accountability to uphold and enforce them.

Critical Processes. Using goal setting, strategic planning, and data analysis to inform and evaluate prevention work.

Institutionalization. System-wide buy-in, visible commitment, and investment in effective prevention initiatives.

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The Practice of Leading with Integrity

Create a Speak Up Culture → **Demonstrate Accountability** → **Communicate Transparently**

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The Practice of Leading with Integrity

Create a Speak Up Culture

KEY STRATEGIES INCLUDE:

The Practice of Leading with Integrity

Create a Speak Up Culture		

KEY STRATEGIES INCLUDE:

1. Follow the "Al Capone theory" of misconduct

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People who engage in one type of misconduct are likely to engage in others

A report in one area should prompt us to look for other breaches.

The Practice of Leading with Integrity

Create a Speak Up Culture

KEY STRATEGIES INCLUDE:

1. Follow the "Al Capone theory" of misconduct

2. Bystander intervention training

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The Practice of Leading with Integrity

Create a Speak Up Culture

KEY STRATEGIES INCLUDE:

1. Follow the "Al Capone theory" of misconduct

2. Bystander intervention training

3. Prevent retaliation

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Prevent Retaliation

A non-retaliation policy alone is not enough

- **Communicate** leadership's unequivocal commitment to non-retaliation

- **Follow-up with reporters**, proactively and periodically

- **Scrutinize** all proposed work changes before finalized communication

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The Practice of Leading with Integrity

Create a Speak Up Culture

Demonstrate Accountability

Balance high-stakes competing risks

- Flag them

- Bring in other perspectives

- Talk through scenarios and outcomes

- Recognize short-term and long-term, micro- and macro-level impacts

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The Practice of Leading with Integrity

Create a Speak Up Culture   **Demonstrate Accountability**

- Receive, investigate and escalate complaints appropriately

- Reinforce/reward integrity and reporting

- The zero tolerance conundrum
    - Appropriate and proportional outcomes

- The power of leaders' specific words

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The Practice of Leading with Integrity

| Create a Speak Up Culture | Demonstrate Accountability | Communicate Transparently |

> **I reported something...**
> **but nothing happened.**

Benefits of Closing the Information Gap

Build Trust

Preserve Culture

Demonstrate Accountability

Encourage Reporting

Prevent Future Lapses

Strategies for Increasing Transparency
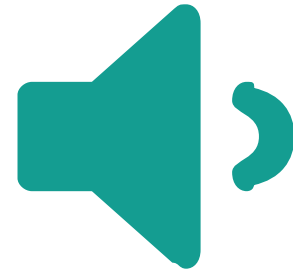
Explain your Process

- Complaint handling
- Investigation Procedures

Follow up

- Reporters
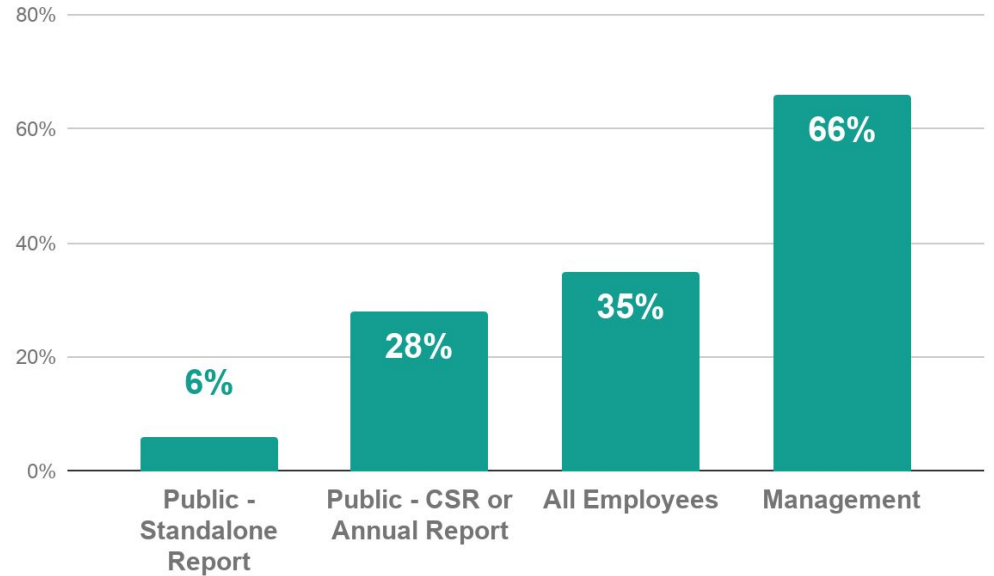- Witnesses

Gather and Share Information

- Steps taken
- Report handling and outcomes

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Sharing Information About Complaint Handling

Companies that disclosed **aggregated** information about:

- Number of complaints

- Types of complaints

- Results of reports and investigations

Bar chart:
- Public - Standalone Report: 6%
- Public - CSR or Annual Report: 28%
- All Employees: 35%
- Management: 66%

The EVERFI Difference

Engaging Design

Gain lifelong skills applicable in everyday interactions that can drive business outcomes and shape workplace culture

Robust Technology

Best-in-class, online workplace training with engaging content and interactive modules

Data Impact Driven

Platform dashboards display actionable information about the perception, behaviors and attitudes of your employees

Customizable Content

Incorporate your company logo, images, welcome letter and policies

SHRM-CP or SHRM-SCP Credentialled Attendees:

SHRM Activity ID:

20-3ANYJ

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This program is valid for 1 PDC for SHRM-CP® or SHRM-SCP® credential holders.

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Questions?

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Save The Date

August 27
2pm ET / 11 am PT

Live Webinar

Are You Maximizing Your Investment in
Workplace Culture Training?

everfi.com/MaximizeYourImpact