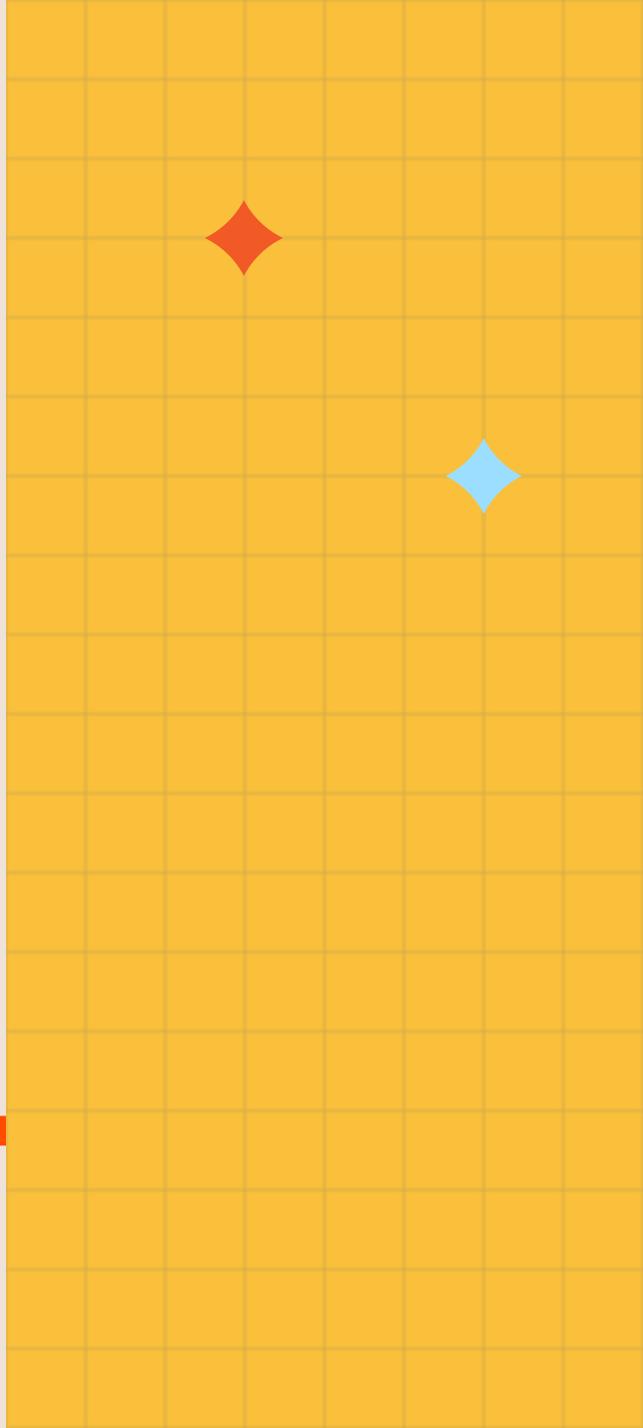
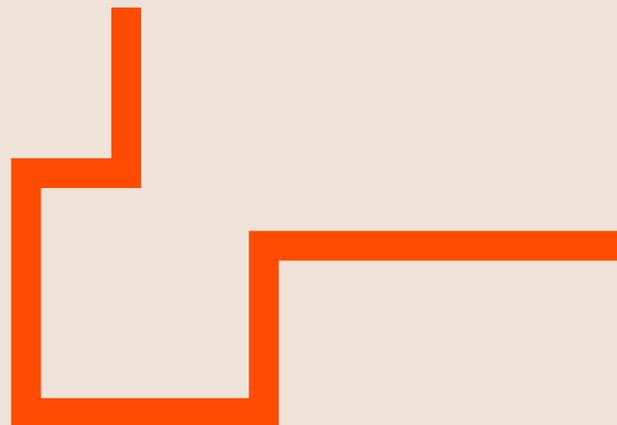


# Preventing & Addressing Unlawful Harassment

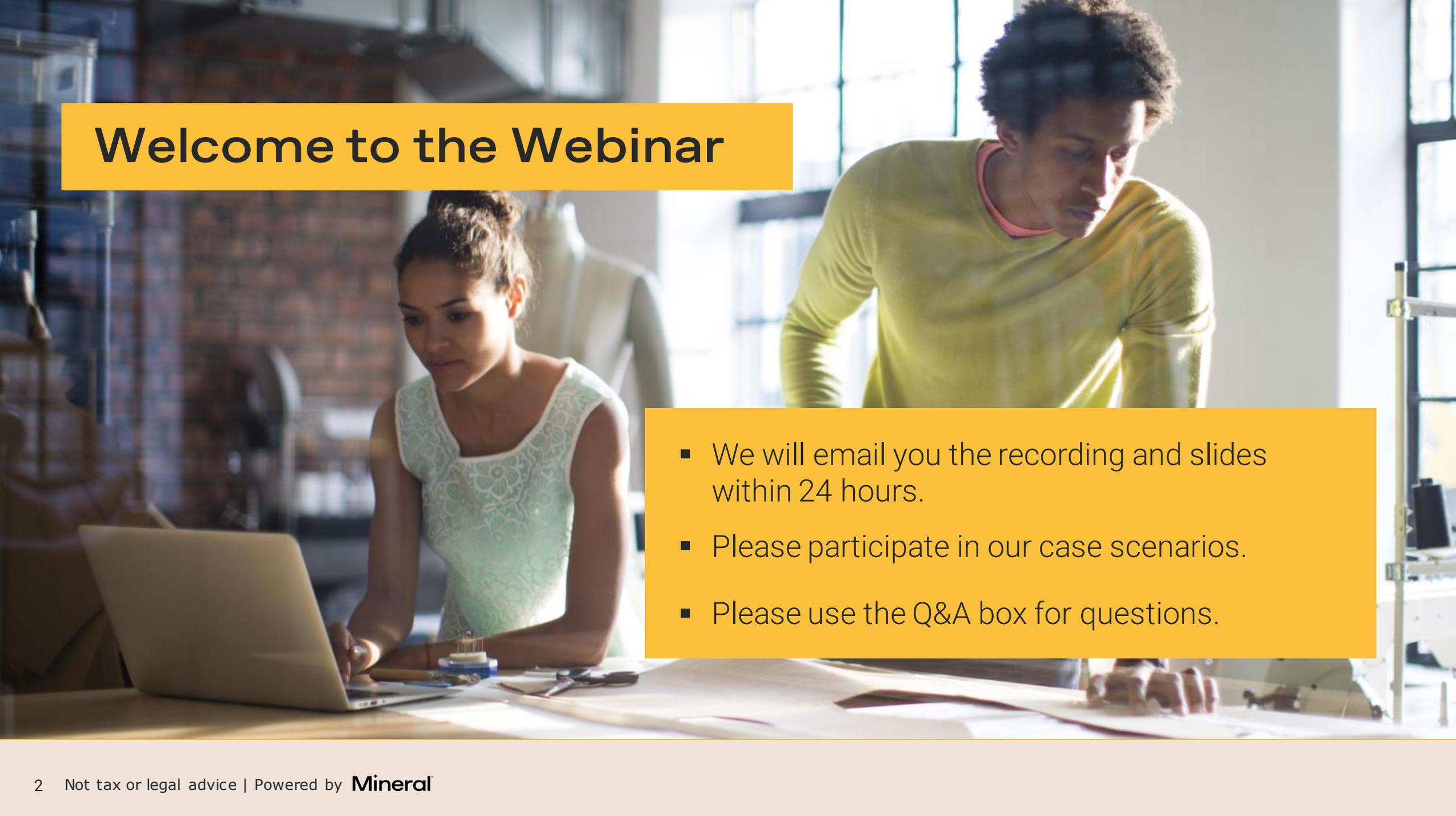
Presented by Sarah B., PHR

July 21, 2022

Not tax or legal advice | Powered by **Mineral**



# Welcome to the Webinar



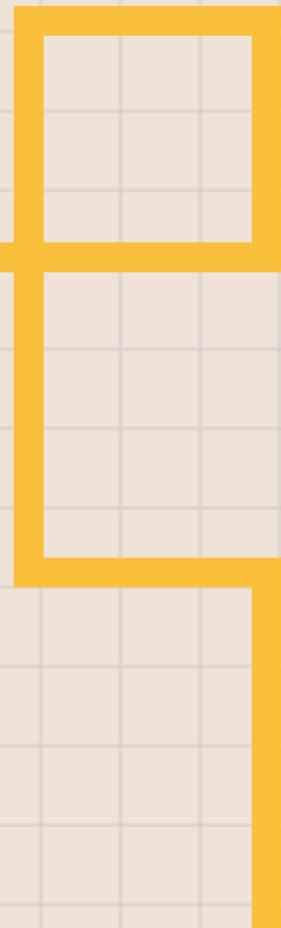
- We will email you the recording and slides within 24 hours.
- Please participate in our case scenarios.
- Please use the Q&A box for questions.

# Agenda

- Federal Laws
- Unlawful Harassment
- Handling Complaints
- Q & A

Note: This webinar does not meet any state training requirements

# Federal Laws



A photograph of the United States Capitol building in Washington, D.C., showing the iconic dome and the portico with columns. The image is partially obscured by a yellow banner and a white text box.

# Federal Regulations

- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1967 (ADEA)
- Americans with Disabilities Act of 1990 (ADA)

# Federal Agency

## Equal Employment Opportunity Commission (EEOC)



- Independent agency that enforces federal laws related to employment discrimination and harassment
- Employers with at least 15 employees are covered, with some exceptions and state law considerations
- They play a major role in investigating charges, producing findings, making settlements or pursuing litigation

# Protected Categories

Race

Color

Age (40+)

Sex

Pregnancy

Gender Identity

Sexual Orientation

Religion

Disability

National Origin

Ethnic Background

Genetic Information

Military Service

Citizenship



# Unlawful Harassment



# Harassment Defined

- Unwelcome verbal or physical conduct based on a protected class can constitute harassment
- Unwanted sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which threatens job security, working conditions, or advancement opportunities is considered sexual harassment
- Conduct is sufficiently severe or pervasive to create a hostile work environment or harassing conduct resulting in harm to an employee
- Sexual and other forms of harassment violate state and federal law



## Sexual Harassment: Quid Pro Quo

- Typically involves a manager giving or withholding employment benefits based on an employee's willingness to grant sexual favors
- Submitting to, or rejecting, sexual advances cannot be a condition on which a person's job, career, or upcoming promotion depends





# Sexual Harassment: Hostile Work Environment

1. Unwelcome comments or conduct based on legally protected classes from other employees, supervisors, vendors, etc.; and
2. Unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment



## What Isn't Harassment

- Simple teasing or offhand comments
- Isolated incidents that are not serious
- Situations where no adverse employment action occurred

### Remember:

Unwelcome Behavior

+ Based on Protected Class

= Illegal Harassment



# Verbal Harassment

## Based on:

### Sex:

- Dirty or off-color jokes
- Discussing sexual topics
- Flirting and sexual advances
- Intimate nicknames
- Excessive compliments
- Whistling, cat-calls, harassing voicemails, etc.

### Other Protected Categories:

- Slurs and insults
- Ethnic jokes
- Name-calling
- Mocking cultural behaviors
- Threatening comments
- Derogatory references

# Visual / Physical Harassment

## Visual:

- Posters, pin-ups, calendars
- Magazines
- Emails or text messages
- Websites
- Screensavers

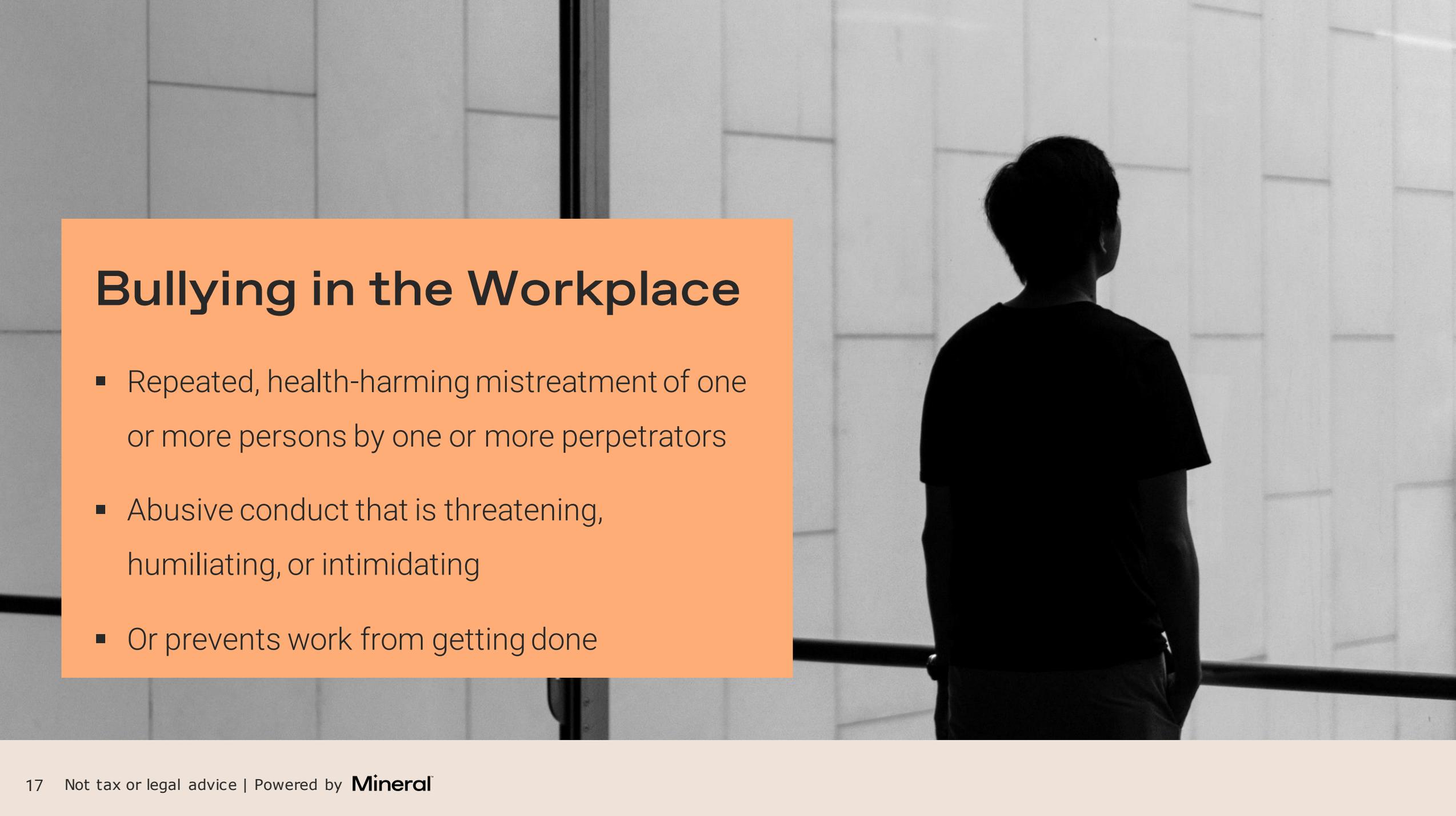
## Physical:

- Hugging and kissing
- Touching body, hair, or clothing
- Massaging
- Leaning over or cornering
- Pinching
- Assaulting

# Harassment Based on Gender and Sexual Identity



- Complaining about an employee's voice being too masculine or effeminate
- Ongoing or deliberate use of incorrect pronoun
- Forcing a transgender employee to use the bathroom you think is most appropriate, or making them travel to a distant location to use the bathroom
- Asking intrusive questions about previous names used, transition surgery, or sexual history

A person is shown in silhouette, standing and looking out of a window. The window has a grid pattern, and the light from outside creates a strong contrast with the dark interior. The person is wearing a dark t-shirt and light-colored pants. The overall mood is contemplative or somber.

# Bullying in the Workplace

- Repeated, health-harming mistreatment of one or more persons by one or more perpetrators
- Abusive conduct that is threatening, humiliating, or intimidating
- Or prevents work from getting done

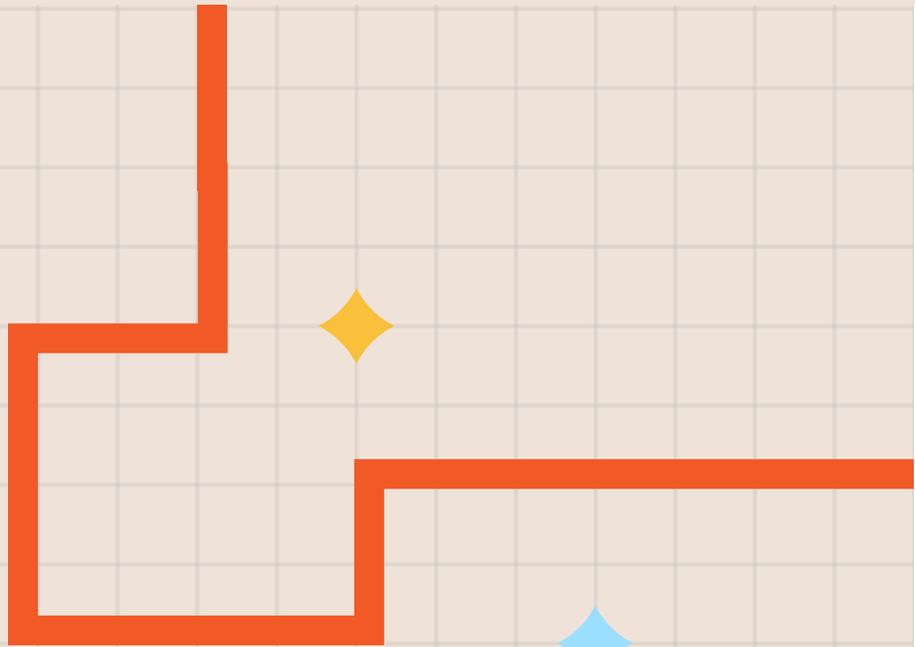
# Handling Complaints



# Employee Options for Complaint Reporting

- Supervisor or chain of command
- Human Resources representative
- Harassment or Complaint Reporting Procedure
- Open Door policy
- Formal complaint to state or federal agency

# Manager Role



- Held to a higher standard when it comes to harassment prevention
- Help prevent a workplace culture that allows harassment to occur
- Obligation to report harassing, discriminatory, or retaliatory behavior when aware of it
- Help demonstrate that the employer took prompt, appropriate steps and action



## Responding to Complaints

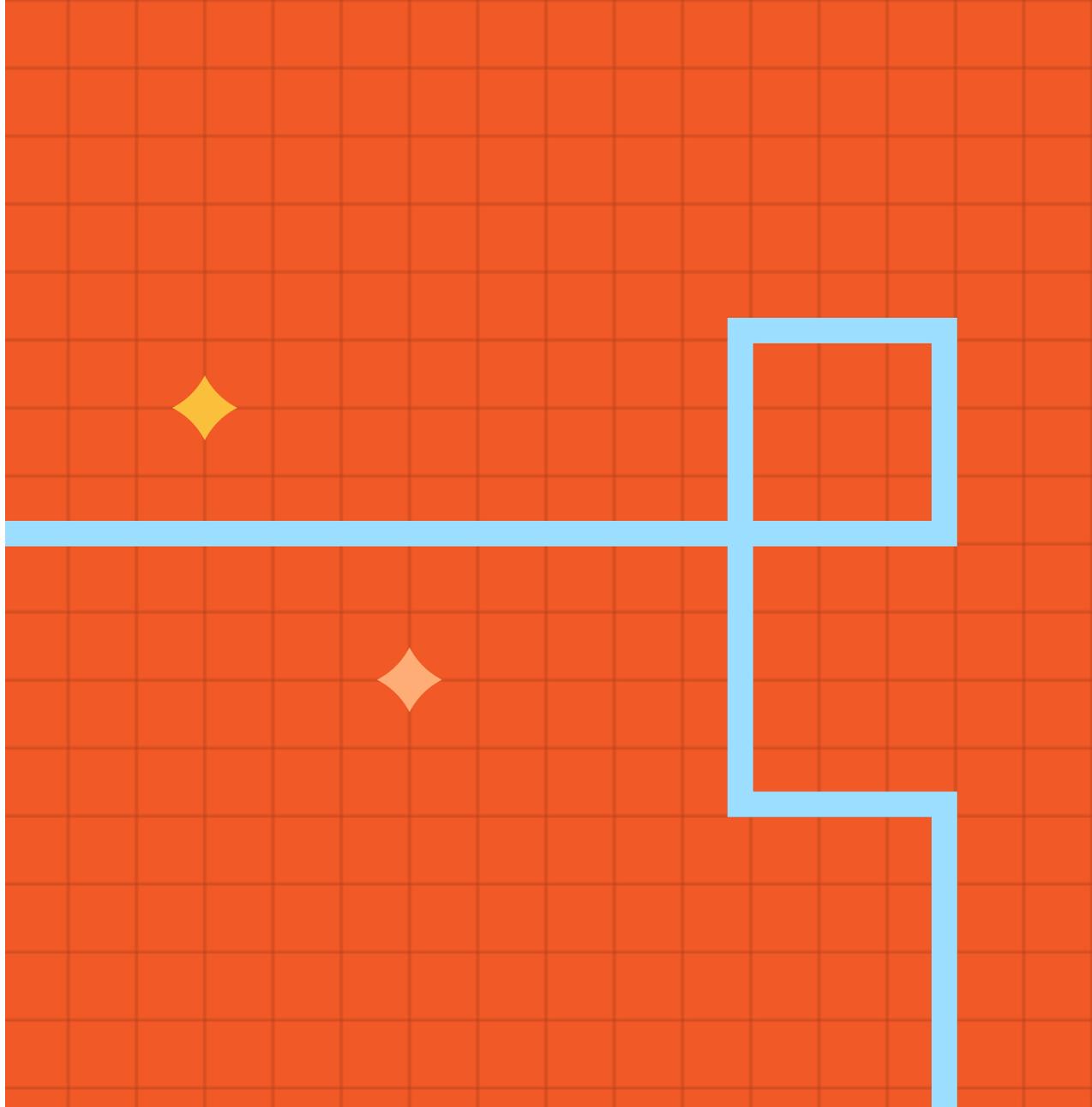
- Accept complaints both verbally and in writing
- Take all employee complaints of discrimination, harassment, or retaliation seriously, and investigate each complaint fully and promptly
- Don't promise confidentiality
- Don't retaliate



# Case Scenario

Raj and Annika have both worked in the same department for four years and sit next to each other. Lately, Raj has been joking about Annika being his “work wench”. While she was amused initially, he then started calling her Work Wench in front of other employees. Annika complained, saying she is tired of the term and feels offended by it. When you ask Raj about it, he says “Oh come on, it’s just a joke. Annika even laughed... a silly nickname like that can’t be illegal!”

Is Raj out of line? As their manager, do you need to do anything at this point?

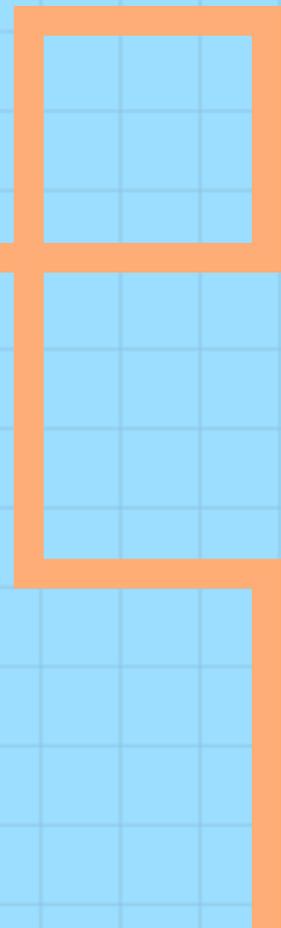


# Unlawful Retaliation

- Illegal to retaliate against anyone who has lodged a harassment complaint, expressed a concern about harassment, or cooperated in a harassment investigation
- The definition of retaliation is very broad
- An employee who reports harassment or discrimination may not be retaliated against
- No questions or criticism for bypassing the “chain of command” when reporting harassment



Q+A



Thank you!

