

Preventing Retaliation in the Workplace

Recognize. Respond. Resolve.

Preview Only

Facilitator Guide

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The following program was developed in cooperation with the Employment & Labor Law Practice Group at Dickinson, Mackaman, Tyler, & Hagen, P.C.

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Letter from the President

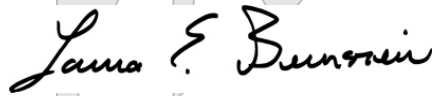
Thank you for selecting this VisionPoint program to meet your training needs. This program has been used and approved by trainers and organizations in several industries and has been developed to reflect current laws, best practices and trends in the workplace.

We're committed to providing you with resources! Reproducible participant materials, video scripts, optional activities and other valuable materials are available to you at www.visionpoint.com. Resources are updated and added regularly so check back while preparing for any new training session.

We're here to support you through the entire training experience! Should you have any questions before, during or after any training session, please feel free to contact us at trainer@visionpoint.com or the VisionPoint TrainerTALK™ helpline, 800-300-8880 x302. Our master trainers, course developers and TrainerSelect™ team are available to answer questions, share ideas, facilitate training and customize materials to meet your needs.

Thank you again for choosing VisionPoint! If there is anything I can personally do to make your experience of working with us and our programs more enjoyable or effective, please feel free to contact me directly.

Sincerely,



Laura E. Bernstein

Program Overview

This program provides participants with a basic understanding of key legal concepts and definitions of retaliation, examples of situations that are or have the potential to become retaliatory and a process for recognizing, responding to and resolving such situations before they escalate.

There are at least five urgent reasons why organizations should be diligent in preventing retaliation:

1. Retaliation is the fastest growing type of discrimination reported to the Equal Employment Opportunity Commission.
2. A Supreme Court decision in 2006 has made it significantly easier for employees to prove that they are victims of unlawful retaliation.
3. Organizations are generally familiar with and know how to respond to overt retaliation, but are much less familiar with subtle forms of retaliation and retaliation that is perceived, rather than real.
4. Baseless claims of illegal, unsafe or unethical conduct can easily become successful claims of retaliation if organizations do not appropriately recognize, respond to and resolve retaliatory situations.
5. Failure to prevent retaliation may result in the loss of millions of dollars in fees and damages awarded in administrative proceedings or lawsuits.

This program also recognizes and addresses the responsibility of managers to maintain a culture of trust, respect and compliance in their workplace that will advance the goal of preventing retaliation.

Facilitator Note: This *Facilitator Guide* provides instruction on conducting a session for managers. If you wish to conduct an overview training session for all employees, please refer to *Retaliation: An Overview for All Employees*, beginning on page 63 of the *Facilitator Resources* section.

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Program Benefits

For participants

- Increase knowledge of management responsibilities that will lead to job and personal satisfaction
- Increase knowledge of key legal concepts regarding retaliation
- Renew familiarity with their organizations' policies and procedures regarding retaliation, as well as other types of illegal, unsafe or unethical behavior
- Ability to recognize both overt and subtle situations and behaviors that have the potential to become or already are valid claims of retaliation
- Ability to apply a model to recognize, respond to and resolve retaliatory situations before they escalate
- Awareness that maintaining a culture of trust, respect and good ethics in their organization reduces the likelihood of retaliation

For organizations

- Educate and gain commitment from managers regarding the organization's policies, procedures and culture of integrity
- Augment the knowledge and skills of managers who will contribute to corporate compliance, a culture of integrity and workplaces that provide job satisfaction and respect for all employees
- Enhance the organization's compliance training and education programs
- Reduce legal risk and liability

How to Use this Training Kit

This training kit is designed to provide all the information and materials you need to conduct an effective training session.

The complete package includes:

1. This *Facilitator Guide*, which contains multiple agenda options
2. *Facilitator Resources*, which contain optional activities, handout masters and additional suggestions to assist facilitators
3. PowerPoint slides and other reference information, available as online resources*
4. Reproducible *Participant Materials*, found both in this kit and as online resources*
5. Reproducible *Self-Study Guide*, available as an online resource*
6. VHS videos – *Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.* and *Retaliation: An Overview for All Employees*
7. DVD**
 - *Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.* video
 - *Retaliation: An Overview for All Employees* video
 - *SMART-START® Retaliation: The Retaliation-Free Workplace* video
 - Insights Interview
8. One Trainer Pack* * (10 highlighter pens, 10 notepads, 10 name tents, 10 certificates of completion)

* To access online resources for this program, visit www.visionpoint.com. From the **Resources** menu, select **Program Resources**. Login and select the program title from the list. If you do not see this program title listed, please contact trainer@visionpoint.com.

**These items included in the Complete Kit only (not the Basic Kit).

If you are an experienced training professional, use this guide as a starting point as you prepare for training, and be sure to insert your own style, experience and examples into the session. If you are new to training or the program content, follow the step-by-step instructions, and use the scripted language to help you stay focused on the key points and facilitate an effective session.

As you prepare for a session, be sure to select the agenda option that best meets your organization's training needs, and review the agenda from beginning to end. Determine whether you will use any of the supplemental activities provided in the *Facilitator Resources*, and if so, where you will insert them. Estimated timeframes for each agenda option assume a group size of 8–15 people. If your session will have fewer or more participants, it is important to review each step of your agenda and decide how to best modify discussions and activities to accommodate your group size.

There is always more than one way to approach setting up and positioning activities. This guide provides best practices, based on trainer review and general market needs. Should you have any questions about how to best conduct a particular activity for your organization's unique needs, please contact our TrainerTALK™ helpline at 800-300-8880 x302 or trainer@visionpoint.com. VisionPoint's master trainers and TrainerSelect™ team are happy to answer questions, share ideas and help customize materials.

Overview of Agenda Options

This *Facilitator Guide* provides step-by-step instructions for both a One-Hour Overview and a 90-Minute Workshop.

The program can easily be incorporated as an add-on module for other compliance or ethics training programs. For example, *Preventing Retaliation in the Workplace* makes an ideal supplement to any of the VisionPoint ethics and compliance training programs found on page 74 of the *Facilitator Resources* section.

You can reinforce key points, customize the training to your organization or provide refresher workshops by selecting from several optional activities that give participants the opportunity to practice and apply what they are learning.

Suggestions for prework and optional activities can be found in the *Facilitator Resources*.

The matrix on the page 19 will help you select the agenda option that is best for your training session. The agenda options are designed to communicate the maximum amount of information in the minimum amount of time. As such, they incorporate minimal open questions and answer opportunities. If you anticipate your participants will have a lot of questions on this topic, we recommend allowing for an additional 30 minutes of open Q & A at the end of the session.

Facilitator Note: This *Facilitator Guide* provides instruction on conducting a session for managers. If you wish to conduct an overview training session for all employees, please refer to *Retaliation: An Overview for All Employees*, beginning on page 63 of the *Facilitator Resources* section.

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Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.

Selecting the Agenda Option that is Best for Your Training Session

		Learning Activities					
		Video	Discussion Opportunities	Self-Assessments	Key Concepts in Detail Through Activities	Case Studies	Guided Application
One-Hour Overview	This agenda introduces key concepts through video and discussion. It is ideal for organizations that want to provide participants with an overview of issues regarding retaliation and an introduction to the model: Recognize. Respond. Resolve.	X	X				
90-Minute Workshop	This agenda provides opportunity for exploration of key concepts of retaliation. It is ideal for organizations wanting to provide a more detailed coverage of the material and increased time for discussion of the model: Recognize. Respond. Resolve.	X	X	X	X	X	
Supplemental Activities	This agenda enhances and expands the 90-Minute Workshop with activities that give the opportunity to discuss key issues regarding retaliation and apply the model, Recognize. Respond. Resolve.	X	X			X	
Self-Study	Self-study materials are available as an online resource and are ideal for individuals who missed the One-Hour Overview or 90-Minute Workshop.	X		X	X	X	X
All Employee Overview	This optional 20 – 40 minute agenda provides the opportunity to inform all employees of their responsibilities in preventing retaliation, helping them become familiar with key legal concepts about retaliation and the organization's policies and procedures regarding retaliation. Materials for conducting this agenda are found on page 63 of the <i>Facilitator Resources</i> section.	X	X				

Agenda for One-Hour Overview

This agenda is designed to introduce key concepts about retaliation, using video and discussion. *Participant Materials* are not used in this agenda option. You may want to provide each participant with a copy of *Handout #1*, found in the *Facilitator Resources*, as a reference during video presentations.

Step	Item	Time
#1	Arrival of Participants	N/A
#2	Getting Focused	10 minutes
#3	<i>Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.</i> (Video and Discussion)	40 minutes
#4	Wrap up the Session	10 minutes

Total Estimated Time: 60 minutes

Step 1

One-Hour Overview Arrival of Participants

Time it takes:

From the time you show up until you start the workshop

What it is about:

Managing the environment and getting people settled

What you will need:

- Markers
- Name tents
- PowerPoint Slide #1

How to do it:

1. Get there first! This demonstrates organization and excitement—and sets a good example. Be sure the room is set up, the equipment works and everything is arranged the way you want it.
2. Display Slide #1 at least 15 minutes before participants arrive.
3. Greet participants as they enter the room.
4. Ask each participant to use a marker to write his/her name on a name tent (both sides) in letters that are big enough for everyone to read.



Step 2

One-Hour Overview Getting Focused

Time it takes:

10 minutes

What it is about:

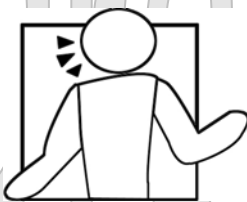
Introducing the learning objectives and what participants will experience and learn

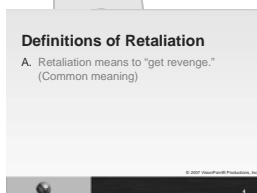
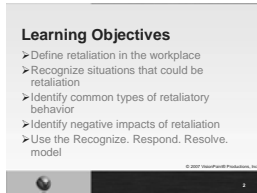
What you will need:

- *Participant Materials*
- PowerPoint Slides #2 and #4 – 6

How to do it:

1. Introduce yourself in whatever way you think is appropriate and welcoming.
2. Go over session logistics, including:
 - How long the session will take
 - Where the restrooms and emergency exits are located
3. Introduce the workshop. Say: **During today's session, we will discuss reasons why our organization should be diligent regarding issues of retaliation. Our discussions will be enhanced by video illustrations of legal concepts of retaliation, a clear business case for preventing retaliation, responsibilities of managers to create a safe environment and culture of trust within our organization and a**





process for recognizing, responding to and resolving situations of retaliation before they intensify.

4. Display Slide #2. Refer participants to page 2 in their *Participant Materials* and review the learning objectives. Say: **Upon completion of this workshop, you should be able to:**

- **Define retaliation in the workplace**
- **Recognize situations that could be retaliation**
- **Identify common types of retaliatory behavior**
- **Identify negative impacts of retaliation**
- **Use the Recognize. Respond. Resolve. model**

5. Display Slide #4 and say: **We can prime our thoughts for today's session by reflecting on these three definitions of retaliation. Each definition is technically correct, but some are more detailed and legal than others. The first definition is the common meaning of retaliation from the dictionary.**

Step 3

One-Hour Overview Preventing Retaliation in the Workplace Video and Discussion

Time it takes:

40 minutes

What it is about:

Viewing the video and discussing key concepts

What you will need:

- *Handout #1 – Video Observation Form for One-Hour Overview* (found on pages 31 – 36 in the *Facilitator Resources*)
- PowerPoint Slides #4 – 14
- Video – *Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.*

How to do it:



1. Introduce the video by saying: **The video is in three parts. All three parts remind us of our responsibility as managers to create a safe environment and culture of trust and to recognize situations and behaviors that might become or are already retaliation. We are further reminded to respond to situations by reporting and investigating them and to resolve situations by following our organizations' policies and procedures. In Part 1, a narrator introduces key legal concepts and definitions of retaliation, as**

well as facts that reinforce a business case for preventing retaliation. Part 2 presents three case studies that will help us recognize situations of retaliation in the workplace. And in Part 3, we'll observe a video case study that illustrates steps we can take in responding to and resolving retaliation before it escalates.



2. Distribute *Handout #1* and review the directions and questions for Part 1.
3. Start the video. Select Video by Section from the DVD main menu and then select “Introduction” to play the first section of the video. The video will stop automatically.

If you are using the VHS, play the video from the beginning and stop it when it fades to black right before the chapter graphic that reads “Recognizing Retaliation.”

Step 4

One-Hour Overview Wrap up the Session

Time it takes:

10 minutes

What it is about:

Summarizing the overview

What you will need:

- PowerPoint Slide #15

How to do it:



1. Wrap up the session by saying: **We opened today's session with attention to several factors about retaliation that translate into imperatives for organizations.**
2. Display Slide #15 and review the facts.
3. Ask: **What comments or observations do you have about any of these factors? What was the most significant learning you gained from this session?**
4. Thank the participants for taking time out of their busy day to attend the session.

Agenda for 90-Minute Workshop

This agenda introduces key legal concepts regarding retaliation through video and discussion. It also provides time for several learning activities to reinforce what is learned through the video and discussion. Remember that you can add activities to the agenda by incorporating optional activities found in the *Facilitator Resources*. This agenda uses the *Participant Materials*. Handouts can be found in the *Facilitator Resources*. Masters for PowerPoint slides are available online.

Step	Item	Time
#1	Arrival of Participants	N/A
#2	Getting Started	10 minutes
#3	Getting Focused	5 minutes
#4	Video – Part 1: What is Retaliation?	20 minutes
#5	Video – Part 2: Case Studies of Retaliation	25 minutes
#6	Video – Part 3: Responding to and Resolving Retaliation	20 minutes
#7	Wrap up the Session	10 minutes

Total Estimated Time: 90 minutes

Step 1

90-Minute Workshop Arrival of Participants

Time it takes:

From the time you show up until you start the workshop

What it is about:

Managing the environment and getting people settled

What you will need:

- Markers
- Name tents
- PowerPoint Slide #1
- Video – *SMART-START® Retaliation: The Retaliation-Free Workplace* (optional)

How to do it:

1. Get there first! This demonstrates organization and excitement—and sets a good example. Be sure the room is set up, the equipment works and everything is arranged the way you want it.
2. Display Slide #1 on the screen and begin playing the *SMART-START®* video 15 minutes prior to the session start time.
3. Greet participants as they enter the room.
4. Ask each participant to use a marker to write his/her name on a name tent (both sides) in letters that are big enough for everyone to read.



Step 2

90-Minute Workshop Getting Started

Time it takes:

10 minutes

What it is about:

Introducing the topic, workshop logistics and one another

What you will need:

- Ground Rules flipchart page
- Parking Lot flipchart page
- *Participant Materials*
- Video – *SMART-START® Retaliation: The Retaliation-Free Workplace* (optional)

How to do it:

1. Introduce yourself in whatever way you think is appropriate and welcoming.
2. Go over session logistics, including:
 - How long the session will take
 - When there will be breaks
 - Where the restrooms and emergency exits are located
 - Ground Rules
 - Parking Lot
3. Introduce the workshop. Say: **During today's session, we will discuss reasons why organizations should be diligent regarding issues of retaliation. Our discussions will be**



enhanced by video illustrations of legal concepts of retaliation, a clear business case for preventing retaliation, responsibilities of managers in preventing retaliation and a process for recognizing, responding to and resolving situations before they intensify. We'll reinforce what we learn from the video and our discussion by participating in several brief activities.



4. Transition to participant introductions by saying: **Now that I have introduced the workshop, it's time that you introduce yourselves. Please share your name and your job title or job responsibilities. We'll learn more about one another through our discussion and other workshop activities.**



5. After introductions have been completed, thank participants and hand each participant a set of *Participant Materials*. Say: **Please take a few minutes to fill out the Pre-Assessment on page 1 of your materials. Just fill out the Pre-Assessment column for now. At the end of the workshop, you'll complete the Post-Assessment column and you'll be able to**

Step 3

90-Minute Workshop Getting Focused

Time it takes:

5 minutes

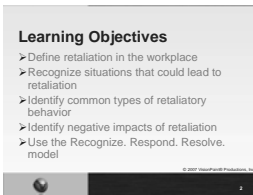
What it is about:

Introducing the learning objectives and what participants will experience and learn

What you will need:

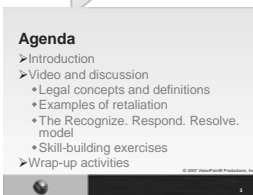
- *Participant Materials*
- PowerPoint Slides #2 – 6

How to do it:

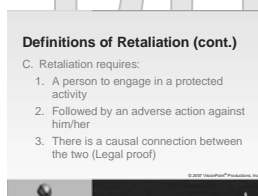
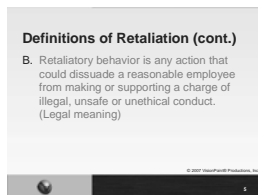
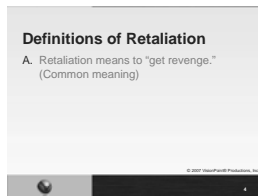


1. Display Slide #2. Refer participants to page 2 in their *Participant Materials* and review the learning objectives. Say: **Upon completion of this workshop, you should be able to:**

- **Define retaliation in the workplace**
- **Recognize situations that could be retaliation**
- **Identify common types of retaliatory behavior**
- **Identify negative impacts of retaliation**
- **Use the Recognize, Respond, Resolve, model**



2. Display Slide #3 and say: **The agenda we'll follow will help you achieve the learning objectives.**



3. Review the agenda, highlighting any item you feel might require a little explanation in order to clarify its purpose on the agenda.
4. Display Slide #4 and say: **We can prime our thoughts for today's session by reflecting on these three definitions of retaliation. Each definition is technically correct, but some are more detailed and legal than others. The first definition is the common meaning of retaliation from the dictionary.**
5. Display Slide #5 and say: **The second definition, which is a legal one, says retaliatory behavior is any action that could dissuade a reasonable employee from making or supporting a charge of illegal, unsafe or unethical conduct.**
6. Display Slide #6 and say: **The third definition says retaliation requires:**
 1. **A person to engage in a protected activity**
 2. **Followed by an adverse action against him/her**
 3. **And there is a causal connection between the two**

This definition includes the elements

Step 4

90-Minute Workshop Video – Part 1: What is Retaliation?

Time it takes:

20 minutes

What it is about:

Introducing key legal concepts and definitions of retaliation, a business case for preventing retaliation and responsibilities of managers in preventing retaliation

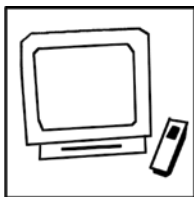
What you will need:

- *Participant Materials*
- PowerPoint Slides #4 – 6
- Video – *Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.*

How to do it:



1. Introduce the video by saying: **The video is in three parts. All three parts remind us of our responsibility as managers to recognize situations and behaviors that might become or are already retaliation. We are also reminded to respond to situations by reporting and investigating them and to resolve situations by following our organizations' policies and procedures. In Part 1, a narrator introduces key legal concepts and definitions of retaliation, as well as facts that reinforce a business case for**



preventing retaliation. Part 2 presents three case studies that will help us recognize situations that are or have the potential to become retaliation. And, in Part 3, we will observe a video case study that illustrates steps to take in responding to and resolving retaliation before it escalates.

2. Refer participants to pages 3 – 4 in their *Participant Materials, Video Observation Form for Part 1*. Review the description, directions and questions.

3. Start the video. Select Video by Section from the DVD main menu and then select Introduction to play the first section of the video. The video will stop automatically.

If you are using the VHS, play the video from the beginning and stop it when it fades to black right before the chapter graphic that reads Recognizing Retaliation.

4. Ask for responses to the questions on the *Video Observation Form*.

- **What are examples of “protected**

Step 5

90-Minute Workshop Video – Part 2: Case Studies of Retaliation

Time it takes:

25 minutes

What it is about:

Case studies of workplace situations that may be examples of retaliation

What you will need:

- *Participant Materials*
- PowerPoint Slides #7 – 9
- Video – *Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.*

How to do it:

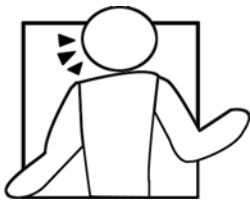


1. Introduce the video. Say: **The first video case study is entitled “You’re not a team player . . .” As you did for the previous video example, use the *Video Observation Form* in your *Participant Materials* to note your thoughts about the questions asked.**
2. Refer participants to pages 6 – 7 in their *Participant Materials, Video Observation Form for Part 2: “You’re not a team player . . .”* Review the characters, directions and questions.



3. Start the video. Select Video by Section from the DVD main menu and then select “You’re not a team player . . .” to play the video. The video will stop automatically.

If you are using the VHS, play the video until you see the graphic, “What do you think?” at the conclusion of the vignette.



4. Ask for responses to the questions on the *Video Observation Form* concerning Dennis and Abe:

Does Dennis have grounds for a claim of retaliation? Or is he simply making an excuse for unsatisfactory job performance?

[Possible Responses: because there seems to be a number of related incidents, there may be grounds for a claim of retaliation: Abe apparently has a history of expecting team members to party together, and if they didn’t he might label them as “not team players”; Abe may have crossed an ethics line by asking Dennis to lie to his wife about having to work late as a cover for going to a gentlemen’s club; Abe added pressure by saying that “everyone else is going”; Abe told Dennis that he “was beginning to wonder just how committed you are to this team”; then an unsatisfactory rating on Dennis’s performance review that seemingly was closely connected to Dennis’s refusal to join Abe at the gentlemen’s club]

Step 6

90-Minute Workshop Video – Part 3: Responding to and Resolving Retaliation

Time it takes:

20 minutes

What it is about:

A video case study illustrating how to respond to and resolve a situation of retaliation

What you will need:

- *Participant Materials*
- PowerPoint Slides #10 and #11
- Video – *Preventing Retaliation in the Workplace: Recognize. Respond. Resolve.*

How to do it:



1. Refer participants to pages 14 – 15 in their *Participant Materials, Video Observation Form for Part 3: “The perfect storm . . .”* Review the directions and questions.
2. Start the video. Select Video by Section from the DVD main menu and then select “The perfect storm . . .” to play the video. The video will stop automatically.

If you are using the VHS, play the video until you see the graphic, “What do you think?” at the conclusion of the vignette.



3. Ask for responses to questions posed on the *Video Observation Form*.

- **What are the indicators that signal the potential for a claim of retaliation?**

[To answer this question, participants must identify (a) the protected activity (the report of Fritz's alleged policy violation); (b) who know of her protected activity (the department, because she broadcast it to everyone, and Susan); (c) the adverse action that she was being subjected to or could be subjected to (Fritz's friends began avoiding Angie and refused to work with her and Susan's need/desire to issue unrelated discipline)]

- **What actions should be taken to prevent the situation from becoming a claim of retaliation?**

[Possible Responses: monitor employee interactions with Angie; actions and decisions must be objectively made and documented appropriately]

- **What advice does Kahlil give Susan?**

[Possible Responses: meet individually with Angie and Fritz and outline the process that will be followed in the investigation of Angie's complaint against Fritz; ensure that the entire team is reminded of the retaliation policy and that they need to continue to treat one another with respect; document all actions and decisions]

Step 7

90-Minute Workshop Wrap up the Session

Time it takes:

10 minutes

What it is about:

Formulating a plan of action and evaluating the effectiveness of the workshop

What you will need:

- *Participant Materials*
- Workshop Evaluation forms (found in *Online Resources*)

How to do it:



1. Wrap up the session by saying: **As part of our wrap up, let's take a look at the Parking Lot. Is there anything that we need to address? Are there any additional questions that need to be addressed?** [Answer any questions.]
2. Refer participants to pages 18 – 19 in their *Participant Materials, Focus on the Future* and *Suggested Actions*. Ask participants to complete the *Focus on the Future* form. [Allow three minutes.]
3. Ask participants if any of them are willing to share their plans—or any highlights of what they have learned during the workshop.



4. Refer participants to page 1 of their *Participant Materials, Pre and Post-Assessment*. Say: **It's time to look at the self assessment that you completed at the start of the workshop. Please complete the Post-Assessment column and then compare them to your ratings from the Pre-Assessment column.**



5. Distribute copies of the *Workshop Evaluation* and say: **Your evaluation of this workshop is very important, so please be specific about what you liked, what you did not like and how the workshop could be improved.**

6. Collect the evaluations when participants have completed them. Follow your organization's guidelines for recording, assessing and implementing information gained from the evaluations.

7. Thank participants for taking time out of their busy day to participate in the workshop.