



Management Solutions: Ten Quick Tips To Minimize Sexual Harassment Issues In Your Workplace

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Editor's Note: Questions or comments can be directed to Attorney Howe at P.O. Box 5828, Wyomissing, Pennsylvania 19610; or e-mail at ahowe@HartmanShurr.com. The information in this article is applicable in the U.S. although the principles apply to most companies in general. The article was submitted by Richard Bashore of Reading Electric in Reading, Pennsylvania and member of EASA's Management Services Committee.



In recent years, a dramatic increase in sexual harassment claims have occurred in workplaces across America. One predominant theme out of these cases is the employer's failure to implement certain basic precautions in their workplace to avoid these claims. Specifically, the courts, as well as the Equal Employment Opportunity Commission (EEOC) (the agency enforcing sexual harassment laws at the federal level), repeatedly have warned that employers must take certain basic precautions in order to minimize liability for potential sexual harassment claims. Despite these warnings, an abundance of recent cases show that employers in large measure have ignored or refused such warnings to their detriment.

Below is a list of ten tips for your workplace designed to minimize or eliminate sexual harassment problems. Although no one can guarantee the elimination of sexual harassment problems or claims asserting such problems, the following tips are help-

ful in proactively addressing sexual harassment in your workplace:

1. Create And Implement A Written Sexual Harassment Policy

This item is the most important primary tool to the reduction or elimination of sexual harassment liability in the workplace. A well-written and disseminated policy is critical to not only preventing sexual harassment but addressing sexual harassment if it occurs in your workplace.

2. Train, Train, Train

The next most important precautionary tool for sexual harassment in the workplace is thoroughly training all employees regarding sexual harassment in the workplace. This training would include all employees in your workplace, not simply certain categories of employees. Furthermore, the training should involve specific discussion of issues that may arise in the workplace as well as discuss the company's written policy on sexual harassment.

3. Practice What You Preach

As a business owner, often times one forgets that he or she is subject to the same policies he or she imposes on the work force. Also, owners lead by example. Thus, it is extremely important that owners of businesses, as well as those with authority over the majority of the work force, adhere to principles against sexual harassment in the workplace, both by word and by deed.

4. Do Not Minimize The Problem

Often times, when an employee raises an issue regarding poten-

tial sexual harassment in the workplace, the immediate reaction is to minimize or dismiss the concern as something other than a legitimate complaint of sexual harassment. It is important not to fall prey to that instinct but instead treat all concerns and/or complaints of sexual harassment by employees very seriously to assure a consistent message is sent to the work force and that any problem is addressed appropriately.

5. Timely Investigate All Complaints

Recent pronouncements from the United States Supreme Court as well as the EEOC instruct that any complaint of sexual harassment in the workplace be timely and thoroughly investigated. The investigation must not simply be a brief meeting with the accuser but instead must involve interviews with potential witnesses and parties to the purported harassment; written statements from those who may be involved; and follow-up interviews or request for information. A thorough and timely investigation is a significant defense to a later lawsuit against sexual harassment.

6. Appropriately Remedy Any Acts Of Harassment

If your timely investigation reveals that an act of sexual harassment occurred, then you must take actions designed to eliminate that harassment and prevent that type of harassment occurring again. Implementations of such actions must be done quickly and must involve a reasonable belief that those actions will eliminate the harassment and prevent it from occurring ever again. These actions vary in

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nature but range from termination of the harasser to implementation of additional training, policy or programs designed to further eliminate harassment.

7. Don't Forget The Complaining Party

When a complaint of sexual harassment occurs, it is important that the complaining party not be forgotten in the process. Specifically, if your investigation reveals that harassment occurred, then you should take steps to address any potential harm or concern of the complaining party that resulted from the harassment. Also, when the investigation of the complaint is complete, it is important to notify the complaining party that an investigation occurred; that the investigation was completed; and that some action will or will not be taken at the conclusion of the investigation. The amount of information provided to the complaining party varies dramatically depending on the nature of the harassment and the nature of the conclusions reached in the investigation.

8. Be A Leader, Not A Follower

When complaints of sexual harassment are made to either the EEOC or filed before a court, one issue that can arise is what "profile" the employer fits with respect to harassment in the workplace. Both the EEOC and juries want to label employers when determining whether harassment occurred and whether the employer should be found liable for such harassment. A company that is seen by the EEOC or a jury as a leader in preventing harassment in the work-

place and promoting diversity in the workplace will often times fair much better than an employer who is seen as only acting begrudgingly to implement legal requirements or stop repeated complaints. Therefore, it is important that an employer's corporate philosophy and actions embrace promoting elimination of harassment in the workplace.

9. Avoid Labels

When complaints of sexual harassment are made in the workplace, it is easy for employers to immediately attempt to label a complaining party and/or the alleged harasser. As Alice once said in looking through her looking glass, "all is not as it appears to be." Certainly, that sentiment applies when complaints of sexual harassment are made. It is important to not prejudge or to label those who may be involved in an allegation of harassment but instead to remain neutral and accept all facts and understand all issues before making determinations regarding the parties involved. A misstep in labeling either the complaining party or the harasser can be fatal in a successful defense to a claim.

10. Avoid Retaliation In All Forms

The law equally protects those who complain about sexual harassment in the workplace from any forms of retaliation. Additionally, these same laws extend protections to those who participate as witnesses or as "support" to a complaining party in a claim of sexual harassment. Retaliation claims are on the rise and are very easy to make. Simply stated, if an employer takes any action that a complaining

party or someone who is supporting the complaining party can argue or cause them to not come forward or assist with a claim in the future, then a retaliation claim exists. Recently, the United States Supreme Court has opined on this issue and has established a very broad standard under which employees can bring claims for retaliation. Thus, an employer must take great means to avoid any retaliation against a complaining party and/or one who supports the complaining party in the complaint process.

The above are 10 tips that are designed to insulate an employer from claims of sexual harassment in the workplace as well as eliminate harassment issues in the workplace. Although this article highlights some of the main tips it is not a substitute for understanding all the requirements imposed by the law on this issue. Thus, the readers are strongly encouraged to seek professional advice when addressing these issues.