



Hostile Work Environment: A Manager's Legal Responsibility

R-E-S-P-E-C-T

4 R's

R-E-S-P-E-C-T

Your position

Others

Yourself

The law



Sexual Harassment

- In 1991, the number of reports of sexual harassment cases reported increased 58%; reporting has climbed steadily ever since
- Average jury award against employers in sexual harassment cases is \$250,000

Facts!

- Managers can be named as co-defendants in harassment lawsuits.
- Managers need to take harassment extremely seriously.

Two Forms Sexual Harassment

- Quid pro quo harassment
- Hostile work environment harassment where speech or conduct is “severe or pervasive” enough to create a hostile or abusive work environment

Inappropriate Conduct

- **Displaying or telling sexually oriented jokes**
- **Sending or displaying sexually explicit e-mail, screen savers, posters, cartoons, and graffiti**
- **Using unwanted verbal and physical contact**

Standard

The standard used by civil rights agencies and courts in determining whether a hostile work environment exists is whether a reasonable person, in the same or similar circumstances, would find the conduct offensive.

Manager's Responsibility

You, as a manager, may be innocent of any kind of sexual harassment yourself, but if the workplace you manage is construed as sexually hostile by any one of your employees and you don't take appropriate action, you and your company can be held liable in a court of law.

Manager's Legal Responsibility

- **Make sure the workplace is free from harassment or discrimination.**
- **Ensure employees do not feel uncomfortable because of behavior in the workplace, such as obscenity, teasing, taunting, jokes, and inappropriate gestures.**

Our Harassment Policy

- **Prohibits all types of harassment**
- **Includes information on who to report harassment to**
- **Includes a non-retaliation provision**
- **Is provided to each employee**
- **Defines what could constitute harassment or create a hostile work environment**

Our Company

- Trains employees on what constitutes harassment and discrimination.
- Informs employees of steps they should take if they become victims of harassment.

Court Rulings

- When courts rule against a plaintiff in a sexual harassment suit, many times it is because a company can prove that it had a detailed harassment policy in place and it took appropriate action when a report was made.
- These measures can reduce a company's and a manager's liability.

Manager Responsibilities

- Know what is going on in the workplace at all times.
- Be aware if inappropriate behavior exists.
- Set an example by not engaging in harassment.
- Stop harassment immediately if you see or hear it.

Danger Zone Cautions

- **Avoid comments on personal appearance, jokes, cartoons, and nicknames that demean others on the basis of their race, gender, ethnic origin, religion, age, disability, and sexual orientation.**

Harassment Reminders

- Harassment can be created even if you did not intent to harass anyone.
- Even if no one complains to you, you need to be alert to conduct that is inappropriate and make sure you put an end to it.

Stop Harassment

- Report all violations immediately to Human Resources.



Our Responsibilities

- Take prompt remedial action to stop harassment and make sure it does not recur.
- Maintain a workplace free from harassment and discrimination.

Our Responsibilities

- **Stop behavior when first learning of it rather than waiting until someone complains.**
- **Train all managers and supervisors on what constitutes harassment.**
- **Train all managers and supervisors on how to deal with harassment if it occurs.**

Our Internet Responsibilities

Be concerned with the company's employees and conduct of third parties, such as customers, suppliers, and contractors, with the use of the Internet and e-mail to find, display, and share pornography.

Our Internet Responsibilities

- Regularly update firewalls and sophisticated filtering software.
- Monitor terminal usage logs to detect when users are accessing, or even attempting to access, prohibited materials.

Contractors

Require all third-party contractors and their employees who will be working on the premises to sign a written agreement that says they won't access inappropriate sites or send inappropriate e-mail. The agreement should disclose that the company monitors Internet and e-mail use and that anyone who violates the policy will be subject to sanctions, including contract termination.

Management Tips

- **Create sharply written policy that specifically addresses a hostile work environment.**
- **Amend Internet usage policies to specifically address the issue of sexual harassment.**
- **Train employees on what sexual harassment is and how to avoid it.**

Management Tips

- Reach out and inquire if a problem is suspected.
- Take each complaint and report seriously.
- Look into complaints and reports immediately.

Management Tips

- Know the policies and procedures.
- Document all information gathered in the investigation of a claim.

Management Tips

- Do not overreact and do not jump to conclusions.
- Managers who act too zealously toward an accused employee could end up in court just as quickly as those who do nothing.

Management Tips

- **Communicate with involved parties, but protect privacy and confidentiality rights.**
- **Stay connected! Watch extra closely for any signs of a hostile work environment.**
- **Update firewalls.**
- **Use filtering software and monitor usage logs.**

Reference

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