

MANAGEMENT

Liability Focus

Best Practices for Preventing Workplace Harassment Claims

Employers have a legal and ethical responsibility to keep the workplace environment free from harassment. Federal and state laws obligate them to do so, and adhering to this duty not only ensures compliance but also protects employees, improves morale and boosts productivity. A harassment-free workplace also safeguards the company's reputation and minimizes the chances of facing costly lawsuits.

This article provides more information on harassment and presents actionable strategies for employers to prevent claims.

What Is Harassment?

According to the Equal Employment Opportunity Commission (EEOC), harassment is a form of employment discrimination prohibited under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA).

Harassment typically involves unwelcome conduct that is based on a protected class (e.g., race, color, religion, sex, national origin, older age, disability or genetic information), but it can also be based on other characteristics such as educational background or socioeconomic status.

Harassment can occur when offensive conduct becomes a condition of employment or when the conduct is severe or pervasive enough to create an intimidating, hostile or abusive work environment. Offensive conduct can include slurs, offensive jokes, physical assaults or threats of assaults, intimidation, offensive objects, mockery and interference with work performance. Harassment can also be sexual in nature (e.g., sexual language, requests or advances) and can occur online (e.g., cyberbullying) or through visual media (e.g., offensive images).

Furthermore, harassment can be carried out by a supervisor, co-worker, agent of the employer or nonemployee. A victim does not have to be the person harassed but can be anyone affected by the offensive conduct. States may have additional laws regarding harassment (e.g., California's Fair Employment and Housing Act) that employers must be aware of and follow.

Strategies to Prevent Workplace Harassment

Employers can implement several measures to prevent harassment from occurring in the workplace. These actions can also improve employee morale and productivity, as well as strengthen employee relationships. Strategies to consider include the following:

Develop a Comprehensive Anti-harassment Policy

Employers should have a comprehensive anti-harassment policy in the employee handbook that applies to all employees, regardless of rank. It should be clearly written, easily understandable, readily available on digital platforms and routinely disseminated to employees. The policy should define prohibited behaviors and include examples. It should also include procedures for reporting and investigating complaints and emphasize that employees will not be punished for bringing forward issues or participating in investigations of wrongdoing.

Promote a Zero-tolerance Approach

A zero-tolerance approach to harassment should be implemented in the organization. It should be unequivocal that any form of harassment is not accepted, and consequences should be outlined for breaking this policy. This helps reinforce the company's commitment to preventing these issues from occurring and ensures those who break the zero-tolerance policy are held accountable.

Hold Mandatory Training and Provide Ongoing Education

Employers should ensure all employees receive tailored training sessions that address harassment, cover the company's policies regarding acceptable conduct, and explain reporting procedures. Interactive methods, including role-playing and case studies, should be included in these presentations to enhance engagement. Managers should also receive specialized training that equips them with the tools to recognize and address harassment complaints effectively. These sessions should include real-life scenarios to build confidence in handling sensitive issues. Business leaders should also ensure education is ongoing and periodic refresher courses are provided to reinforce the importance of the topic. Additionally, employers should keep detailed records of the information covered and the personnel who completed the required training.

Build a Positive Workplace Culture

Business leaders can help prevent harassment by fostering a respectful and inclusive workplace culture. They should model appropriate behavior, create safe reporting mechanisms that are accessible to employees and include multiple ways to report harassment. Business leaders should encourage open communication and create an environment where employees are free to report any issues or concerns. It should also be regularly emphasized that filing complaints or participating in a harassment investigation or lawsuit will not result in retaliation.

Respond to All Harassment Complaints

A key aspect of a company's anti-harassment policy is the requirement to investigate all harassment complaints in a timely and thorough manner. Procedures should be standardized and call for an impartial investigation that protects potential victims and follows due process requirements. Business leaders should keep complainants informed about progress while maintaining confidentiality and ensuring their safety. Independent investigators and outside counsel should also be utilized, and policies and procedures should dictate that corrective actions are taken immediately when harassment has been proven.

Conclusion

Harassment is a serious issue, and employers have an obligation to ensure their workplace is free of it. By taking action to prevent harassment from occurring, employers can protect their employees, comply with applicable laws, and safeguard their business's reputation.

Contact us today for more information.