

Oh No, Not You (Again): Serious Enforcement of Harassment Policies Is Absolutely Necessary

Labor & Employment Law Update

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During the past several weeks, it seems that every day has featured new allegations of sexual harassment involving celebrities, politicians, and others in positions of power.

These allegations invite a question to employers: Do you want to be in the news for all the wrong reasons? No? Good, because this moment in time should impress upon all businesses the importance of vigilant enforcement of anti-harassment policies.

The first step in enforcement is ensuring that anti-harassment policies are properly communicated to all employees—from entry-level to C-Suite. All employees should be told, in no uncertain terms, on day one of their employment and regularly thereafter, that they have the right not to be sexually harassed at work. The company's management—all the way to the top of the organization—must also be put on notice that employees have the right not to be sexually harassed at work, and that credible allegations of harassment will carry real consequences for those who engage in such unacceptable behavior.

Employees must also be trained on how to make internal complaints of harassment within the company. On that point, employees should know that they can contact human resources, or any appropriate member of management with whom the employee is comfortable with, to disclose improper conduct without fear of retaliation.

Training must also extend to human resources and all members of management, so that they know to recognize harassment complaints for what they are—and so the company's investigation and enforcement procedures can promptly be put into action. Management must take all complaints or possible situations of harassment seriously, and investigate them to their reasonable conclusion. There can be no off-the-record complaints; companies cannot look the other way because an accused manager was "just kidding" or, even worse, because an individual "gets to do whatever he or she wants." In the end, appropriate disciplinary action and re-training must follow when the company's investigation

determines that harassment occurred.

While proper investigation procedures can shield companies from liability in certain circumstances, failures in implementation, training, investigation, and enforcement of anti-harassment policies are more likely to result in legal liability, negative publicity and adverse financial implications.

Attention employers: Do you have questions on how to implement or communicate anti-harassment policies? Are you uncertain how you should respond to employee complaints? Do you need help in training your employees and management on company anti-harassment policies and procedures? Or, like many employers, are you simply hesitant to investigate harassment allegations against high-level managers?

Ultimately, if you are asking these questions, the best approach is to seek the advice of experienced employment counsel so that potential areas of liability can be contained and minimized, or better yet, eliminated as soon as possible.

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