

When External Vendors Create Internal Problems: Managing Harassment from Outside Sources

Labor & Employment Law Update

By Laurie Smigielski on September 24, 2024

Most employers have policies and procedures in place to maintain an atmosphere of safety and mutual respect in the workplace. These policies often prohibit employees from engaging in unlawful behavior, such as harassment, discrimination, and retaliation. But what happens when a third party (i.e., a customer, vendor, or other party outside of an employer's direct control) engages in bad behavior – is the employer liable for a third party's behavior? It depends.

No two situations are the same. When assessing allegations of harassment or discrimination, courts will often evaluate whether an employer had notice or knowledge of the alleged behavior, whether the alleged behavior was unwelcomed, whether the alleged behavior was severe or pervasive, whether the employer had a designated channel for an employee to make complaints, and whether prompt action was taken to address the alleged behavior.

As the legal landscape in employment law continues to evolve, here are a few things to keep in mind to create and maintain an atmosphere of safety and mutual respect:

- **Consider establishing policies for third parties.** Employers may want to consider having third parties sign acknowledgements that they are prohibited from engaging in harassment, discrimination, retaliation, and/or any other unlawful behavior. Keep in mind that prohibited behavior may include offensive verbal or written statements as well as unwelcome physical conduct.
- **Keep all employment policies up-to-date.** Employment laws in Illinois and around the country are continually changing. It's good practice to routinely check in with your legal advisor to make sure that your company is up-to-date on the newest laws and legal trends.
- **Continually train employees on best practices.** Illinois requires employers to provide their employees with annual sexual harassment prevention training, among other things. While employers have no obligation to train independent contractors or third parties, employers should consider offering training to these individuals.

- **Encourage open communication.** Remind employees to speak up if they feel unsafe or uncomfortable. Having a confidential line of communication for employees is also a good idea to help alleviate any fears employees may have of reporting any unwelcome behavior.

The bottom line is that all employees and workers should feel comfortable in the workplace and be free from unwelcomed and unlawful behavior. It never hurts to remind all workers to behave professionally and treat one another with respect, even third party workers. If any issues arise, provide employees with channels to communicate any issues or concerns. And, employers should make sure to promptly respond to any such issues or concerns.

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