

Damages: Making Anti-Harassment Policies Work in the United States

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Harassment has been in the news a lot lately in the United States, with several high-profile terminations at well-known companies. Companies are losing millions of dollars, not just in settlements and verdicts, but in lost customers and bad publicity. The Equal Employment Opportunity Commission, or EEOC, is the administrative agency responsible for enforcing laws prohibiting workplace harassment in the United States. The EEOC has issued new guidance suggesting that conventional anti-harassment training isn't enough. So what is an employer to do?

Maintaining an effective harassment reporting procedure is simple, but not always easy. Often, it means a willingness by the company to put its money where its mouth is. This involves taking the time and spending the money to educate employees about harassment in the workplace, adopting procedures for employees to report harassment, and educating employees about those procedures.

First, the company needs to demonstrate that it takes reports of harassment seriously. This means immediately investigating all complaints and taking swift remedial action where there is evidence of harassment. A track record of taking complaints seriously and dealing with wrongdoers promptly gives other employees confidence that their own concerns will be heard and acted upon. This means taking action against harassers, even if they are rock star performers.

Second, the company needs to make its employees aware of its harassment reporting procedures. The best way to do this is during mandatory anti-harassment training and by having employees acknowledge in writing that they have received and reviewed a copy of the company's anti-harassment policies, which should contain the reporting procedure. Training takes time and money, but it gets the word out and demonstrates the company's commitment to its anti-harassment policies.

In addition to the moral and morale benefits likely to result, an effective reporting procedure can also be part of a legal defense to a harassment claim. Employers can

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avoid liability if they have an effective reporting procedure that the accusing employee failed to utilize. Courts look at the same issues discussed above when assessing this defense. Does the company have a robust anti-harassment policy? How has the company handled prior complaints? What steps has the company taken to inform employees about its anti-harassment policy and reporting procedure? A hotline is meaningless if a company has a history of ignoring complaints or has failed to inform employees about it.

A hotline is really just one tool in the anti-harassment toolbox. Employers should train employees to recognize and report harassment in the workplace, swiftly investigate and respond to complaints, and make sure that employees know how to report harassment. If these other components are not established, an anti-harassment hotline is just a dial-in circular file.