



## **Sexual Harassment Claims: No One Is Immune**

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At one time, sexual harassment claims were relatively rare. Not anymore. This area of the law is suddenly proving to be a noticeable source of litigation. Now more than ever, business owners and managers must take special precautions with allegations by employees.

There are two basic types of sexual harassment claims. *Quid pro quo* harassment occurs when employment decisions are determined by whether or not a person submits to sexual advances or demands. Environmental harassment represents unwelcome sexual conduct that creates an intimidating or offensive work environment.

According to the Equal Employment Opportunity Commission (EEOC), a single incident or isolated incidents of offensive behavior generally does not create a hostile environment unless the conduct is severe. Both types of harassment have been recognized as being actionable by the courts but environmental harassment is generally more difficult to prove.

How should an employee react to sexual misconduct? The first thing the employee should do is verbally communicate displeasure. This shows that the behavior is unwelcome (although physical expressions can also indicate displeasure). Furthermore, the employee should make an immediate complaint about the harassment. Typically, the sooner the employee makes the complaint, the stronger his/her position is. However, the EEOC will still consider a complaint even if the worker doesn't notify the employer about the unwelcome conduct until he/she quits the job.

Once the company is notified, it should thoroughly investigate the complaint, even if the employee did not communicate displeasure at the time of the alleged harassment.

Is the employer automatically liable for a supervisor's actions? No. Each case is decided on its own merits. Nevertheless, the EEOC guidelines provide that an employer will be held responsible for the unreasonable acts of its employees regardless of whether the acts were authorized or forbidden and whether the employer knew or should have known of the occurrence.

What can be done about the situation? Try to maintain an environment that is free of sexual harassment. This can be accomplished in many ways including establishing and following policies against harassment, using a handbook to define company expectations related to acceptable conduct, and providing harassment training at all levels, including separate supervisory-level harassment training.

In the event a claim occurs, follow these steps:

- Obtain a specific description of the event from both parties
- Ask for the names of any witnesses
- Collect all other relevant facts, such as how long the conduct has been going on and whether the alleged victim has shown disapproval
- Keep records of the meetings
- Find out what course of action the alleged victim is seeking
- Check to make sure that unwanted conduct has stopped
- When it's appropriate, respond with action

If your company hasn't already established a grievance procedure for complaints, it should do so. Spell out the policy in the company handbook. Finally, try to educate all employees about sexual harassment issues.

**If you would like more information on this topic, please contact Diana Moroney at 888-556-0123 or [dmoroney@honkamp.com](mailto:dmoroney@honkamp.com).**

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