

From #MeToo to #NotHere:

Essential Strategies to Prevent Workplace Harassment

May 2019



offensive, unwelcome
GESTURES, COMPLIMENTS, PICTURES
negative, derogatory
NAME-CALLING, STEREOTYPING
intimidating, invasive
TOUCHING, QUID PRO QUO
threatening, insulting
JOKES, COMMENTS

What We'll Cover

- The different types of workplace harassment
- What your no-harassment policy must include
- Practical tips to prevent workplace harassment
- The surge in states requiring employers to conduct anti-harassment training

Understanding Harassment

What Is Harassment?

Harassment occurs when someone shows hostility toward another based on:

- Gender
- Age
- Race or color
- National origin
- Religion
- Disability
- Genetic Information
- Any other protected class

Physical Harassment

Common examples of physical harassment include:

- Unwelcome physical contact
- Invading someone's physical space
- Damaging someone's property
- Making offensive gestures
- Any other offensive or demeaning act directed at someone because of his/her protected class

Verbal/Visual Harassment

Common examples of verbal and/or visual harassment include:

- Unwelcome comments
- Offensive jokes
- Threats or insults
- Name-calling
- Negative stereotyping
- Possession or display of derogatory pictures

When Is It Illegal?

1. The conduct occurred because of a person's legally protected characteristic
2. The conduct was uninvited or unwelcome
3. The conduct was sufficiently severe or pervasive

Sexual Harassment

Sexual harassment occurs in two forms:

- Hostile environment
- Quid pro quo

Hostile Environment

Hostile environment harassment covers a wide range of behaviors. Common examples include:

- Telling dirty jokes or using sexual innuendo
- Unwelcome touching, such as hugs or pinching
- Sexual propositions or repeated requests for dates
- Practical jokes of a sexual nature

Quid Pro Quo

Quid pro quo (“this for that” in Latin) sexual harassment is a more serious form of harassment.

- It occurs when a manager threatens or takes employment action based on an employee’s willingness or unwillingness to participate in a sexual relationship
- The perpetrator can be anyone in a position of authority who can influence the employee’s job

Preventing Harassment

Anti-Harassment Policy

Your policy should:

- Include a clear explanation of harassment and specific types of prohibited conduct
- Encourage employees to report harassment immediately
- Explain the internal complaint procedure
- Designate at least two contacts within your company who can receive harassment complaints

Anti-Harassment Policy (cont.)

Your policy should also:

- Indicate that complaints will be treated confidentially to the extent possible under the circumstances
- Prohibit retaliation for reporting harassment or participating in an investigation
- Inform that complaints will be taken seriously and investigated promptly, thoroughly and impartially
- Confirm that appropriate corrective action will be taken if warranted

Anti-Harassment Training

Training should address all types of harassment (race, religion, age, etc.). In addition, it should:

- Reinforce that harassment will not be tolerated
- Highlight specific examples of unacceptable behavior
- Explain that it is the employee's responsibility to avoid questionable behavior and to report any incidents

Anti-Harassment Training (cont.)

- Formal training can go a long way in preventing harassment
- Training should cover all types of harassment – not just sexual
- All employees should be trained in general prevention, including that harassment will not be tolerated
- Managers should have additional training

State Training Requirements

States with mandatory training requirements for private employers:

- California
- Connecticut
- Delaware
- Maine
- New York

Other states strongly encourage employers to provide training

State Notification Requirements

Employers may be required to provide employees with

- Posters
- Policies
- Employee handouts

Responding to Complaints

Harassment Claims

- Take all complaints seriously, even if your initial judgment is that the complaint is trivial or unwarranted
- A complaint should never be ignored because the victim refused to put the complaint in writing
- Keep the complaint and investigation as confidential as possible

Harassment Claims (cont.)

If you receive a complaint:

- Listen to all the details and let the employee know you take his/her concerns seriously
- Promptly report the concerns to appropriate members of management for investigation
- Tell the employee that retaliation against any person for reporting or providing information is prohibited
- Prepare a written report of the complaint to give to the investigator

Investigation Process

Investigations may consist of:

- Interviews
- Written statements
- Review of personnel records
- Examination of relevant evidence

Post-Investigation Considerations

- Response time is critical – the EEOC urges employers to respond within 48 hours
- Advise parties of conclusion of investigation
- Take appropriate action if warranted

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Get Started

The graphic features a woman with grey hair, wearing a green top and red pants, sitting at a wooden desk with a laptop and a white mug. To the right, a dark blue box contains a list of six HR topics, each preceded by a teal square bullet point. Above the list are three circular icons: a document with a checkmark, a folder, and a calendar. A teal 'Get Started' button is positioned at the bottom of the list box. The background is a dark blue gradient with faint icons of a desk, a chair, and a computer monitor.