Harassment in the workplace: Document details and track complaints

Employers that create a complaint system for reporting harassment in the workplace and follow through on those complaints with appropriate action earn a defense to most harassment claims.

Key to using the defense: Tracking complaints, documenting details on the exact nature of the alleged harassment and explaining what actions you took to stop and prevent further incidents. If the matter gets to court, the more details you can provide, the better.

And if the employee who filed the initial complaint stops cooperating with your efforts, be sure to note that, too.

Recent case: Bridgette took a job with a general contracting company that performs services for the oil and pipeline industry. She was one of very few women working on a service truck.

The company had a policy manual prohibiting “unlawful workplace harassment and discrimination.” It promised as much confidentiality as possible. Employees got a copy of the policy.

They also knew that the company had “an open door policy” that promised that “if at any time you have any questions or concerns about company policies, procedures or any workplace problems, you are encouraged to raise them with your supervisor, or if you prefer, with any management personnel.”

Bridgette contacted her supervisor, alleging she had experienced several incidents of harassment. Management set up a meeting with her and got the names of six employees she said were the source of the harassment, which she believed was based on her status as one of the few women in the field.

Managers then met with the six employees and explained the company’s anti-harassment policy. They were warned that any further allegations or retaliation against Bridgette would result in discharge. The employees also received written reprimands in their employee files.

Soon after, the company followed up with Bridgette and asked if the problem had been resolved. She reported that two of the six were still harassing her.

Management then scheduled mandatory anti-discrimination and anti-harassment training for all 158 employees. Everyone, including Bridgette, attended the training, which focused on the company’s commitment to a workplace free of harassment and discrimination. The training outlined the consequences of harassing co-workers.

A manager observed the training session and reported that some of the attendees were staring at Bridgette during the session. She complained that she felt uncomfortable because “everyone in the room was staring at her.”

Bridgette then requested another meeting, but with her attorney present. Management told her they would meet with her and asked her to have the attorney call to arrange it. The attorney didn’t call, and the company

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sent Bridgette a letter urging the meeting and setting a date.

Soon, Bridgette was laid off. She sued, alleging she had endured a sexually hostile work environment.

But the case was dismissed after the company outlined all the efforts it had made to investigate Bridgette's allegations and train co-workers. The court also noted that Bridgette never provided evidence of the alleged harassment such as what happened during the company-wide training session.

The court concluded that the employer had done all it could to address her concerns and create a harassment-free workplace. (Allan v. United Piping, Court of Appeals of Minnesota, 2018)

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