Harassment in the Workplace

When harassment occurs in workplaces, it can turn jobs that workers love into ones that they dread. Unlawful workplace harassment occurs when employees suffer severe and pervasive unwanted conduct based on a protected trait, such as age, sex or race. This type of offensive conduct may include name-calling or epithets, offensive jokes, slurs, threats or physical assaults, offensive pictures or objects, or interference with workers' abilities to perform their jobs. Such behavior may also be considered harassing if workers are forced to endure it in order to maintain their employment. While they can be upsetting, annoyances, petty slights and isolated incidents do not commonly qualify as illegal harassment.

Victims of harassment in the workplace do not only have to be those who are harassed. Rather, anyone who is affected by the inappropriate behavior may claim workplace harassment. Employees' direct supervisors, supervisors in other areas, co-workers and agents of employers, as well as non-employees, may perpetrate such conduct.

Even if they are not directly involved, employers may be held accountable for harassment that occurs in the workplace under certain circumstances. Employers have a responsibility to take reasonable actions to prevent workplace harassment and, should it occur, they are required to take prompt corrective action. When supervisors are involved in the alleged harassment, employers may be held liable unless they are able to show that they took these reasonable preventative and corrective actions and that the employees involved neglected to follow take advantage of the appropriate policies. Employers may be held automatically responsible when a supervisor's unlawful conduct leads to a negative employment action such as a loss of wages, a failure to promote or termination. Also, employees can make negative reviews of working for your business deterring others from applying for needed positions.

Should harassment occur in the workplace, it is important for employees to take swift action to stop the conduct. The EEOC advises first trying to handle such issues at the lowest level; speaking directly to the person committing the harassment and informing him or her that the behavior is offensive. If the harassing conduct does not stop there, it is suggested that people follow their employers' reporting procedures or lodge a formal complaint with the EEOC.

Although there are always two sides to every story, the general consensus regarding harassment is that if the person being subjected to the offense considers it harassment, then the business should treat it as harassment regardless of whether the harasser intended or considered it harassment.

If a third person witnesses the harassment, that person is equally responsible to report the incident to a supervisor.

Harassment comes in many forms from uncomfortable humor to outright bullying. The major forms of harassment include:

1. Discriminatory
2. Personal
3. Physical
4. Power
5. Psychological
6. Online
7. Retaliatory
8. Sexual
9. Quid Pro Quo
10. Third Party
11. Verbal

The first and main recommendation for any employee who feels they experienced harassment is to speak up. If something someone did or said makes the employee uncomfortable, that employee has the responsibility to say something. No one is a mind reader, and while others may find the actions funny or simply part of the norm, no one will know an employee is uncomfortable unless something is said.

If the person is told that his/her words or actions made someone uncomfortable and it does not stop, then that employee should go to management. If the action or words continue, then the harassment can be considered pervasive. Whether an instance or a pattern of harassing conduct is *severe or pervasive* is determined on a case-by-case basis, with consideration paid to the following factors:

1. the frequency of the unwelcome conduct;
2. its severity;
3. whether the conduct was physically threatening or humiliating, or only offensive words and phrases;
4. whether the conduct unreasonably interfered with the victim’s work performance;
5. the effect on the employee’s psychological well-being; and
6. whether the harasser was a superior within the organization.

The Fair Employment and Housing Act requires that employers take “all reasonable steps necessary to prevent discrimination and harassment from occurring. An employer is responsible for the harassment in these cases:

* Harassment by a supervisor that ends in termination, failure to promote, failure to hire, or loss of wages, the employer is automatically liable
* When a supervisor makes requests to the employee for sexual favors in exchange for work benefits, the employer liable. This is because the supervisor acts on behalf of the employer when managing employees
* When non-supervisory employees that is under the control of the employer (co-workers, customers, contractors, etc.) are the harassers AND the employer knew (or should have known) of the harassment but did not take any action to stop it from happening again

The employer is not liable when:

* The employer knows about the harassment by a supervisor and can provide proof that 1) it made reasonable efforts to stop the harassment; and 2) the employee made unreasonable choices not to take advantage of preventive or corrective opportunities that the employer has provided

Workplace harassment and bullying create a hostile work environment. The effects are not isolated to the involved parties. Other employees feel the discomfort and intimidation. The affect to morale and productivity not only affects profitability, but affects retention and the cost of hiring and training new staff. Not to mention, it is just wrong.

Employers should establish a policy for the prevention, reporting, investigation, and punishment of workplace bullying and harassment. It is the employer's responsibility to maintain a workplace that is free from harassment, bullying, and intimidation.

An employer can be held liable for harassment committed by their employees whether or not the employee is in a supervisory position. The employer can also be held liable for harassment committed by non-employees. Therefore, it is in the employer's best interest to prevent harassment in the workplace and, if harassment occurs, to take immediate action to resolve the issue before it escalates.