

Unwelcome advances

How to monitor and prevent sexual harassment in the workplace **Interviewed by Troy Sympson**

Now more than ever, employers must be aware of the sensitive nuances that come with running a business. There are sensitive data, business plans, company secrets and employee information that must be properly handled.

Another sensitive issue that must be monitored — and prevented — is sexual harassment. You may think that in this day and age, sexual harassment is a nonissue, but it's as prevalent now as in past decades. Only now it takes on many different forms and isn't always overt.

The U.S. Equal Employment Opportunity Commission (EEOC) defines sexual harassment as any unwelcome sexual advances and/or requests for sexual favors. It also includes other verbal or physical conducts of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

"Sexual harassment can happen even if the harasser isn't fully aware of his or her inappropriate behavior," says Peter B. Maretz, a shareholder with Shea Stokes Roberts & Wagner.

"A victim may consent or agree to certain conduct and actively participate in it, but that doesn't make other offensive and/or objectionable behavior appropriate or allowable."

Smart Business spoke with Maretz about how to prevent sexual harassment and what to do if it happens at your company.

How can a company educate its employees about sexual harassment?

Companies need to have harassment training once every two years. It's required by law for managers but strongly recommended for all employees. The training should focus on how to recognize harassment, handle complaints and discipline offenders. Thorough and consistent training is the best way to keep harassment from happening in the first place but will also enlighten employees who may have been harassed before but never knew it.



Peter B. Maretz
Shareholder
Shea Stokes Roberts & Wagner

What preventive policies should be in place?

You have to have an employee handbook that contains a clear and unequivocal sexual harassment policy that emphasizes zero tolerance of inappropriate behavior, an unambiguous nonretaliation policy, and clearly defined consequences of unacceptable conduct.

Your employees must know that the company will simply not tolerate sexual harassment. Employees also need to be assured that if they do experience harassment, their complaints will be taken seriously and promptly investigated and that the offenders will be properly disciplined. Your sexual harassment policy should also include specific examples of inappropriate behavior, so everyone knows exactly what is suitable and acceptable. Employees should also know that they can report sexual harassment to their supervisor, human resources or any other member of management, as they see fit. Employees must feel comfortable talking to management without fear of retaliation or continued harassment.

In addition to reporting procedures, the handbook must also ensure that harassment complaints will be handled discreetly and promptly and that employees will not be retaliated against for reporting misconduct.

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If harassment does occur, how should it be handled?

First, get a written statement from the victim, then meet with him or her. This meeting should not be one-on-one — have an HR member or another manager help interview the victim. Don't promise confidentiality but assure the victim that you'll use the utmost discretion in investigating the claim. Gather as much detail as possible — where and when the incident happened, who was involved, what was said and done. Don't judge the victim or question his or her behavior. Focus on facts, and assure that you will handle this quickly and quietly. Do not interview the victim and accused together.

After you determine that the incident is indeed sexual harassment, talk to the accused harasser. Inform him or her about the claims being made, and get the person's statement. Let the accused know full well about the company's retaliation policy as well as the possible consequences of his or her actions.

At this point, if there are witnesses, interview them. If you're worried friends may stick up for each other, make sure the employees know the consequences of falsifying information and interfering with a company investigation. Gather the information you need to make an educated and fair judgment.

While the investigation is going on, the accused should be suspended. The entire investigation process should only last a day or two. Once you determine the violations and their appropriate punishments, assure the victim that the situation was handled and that if they experience any further problems, especially retaliation, let them know that they should report it immediately.

Can the harasser and the victim work together again?

If the harasser isn't terminated, it's usually best to move him or her to another group or department. If the two parties absolutely must continue to work together, closely monitor the situation. Make sure the harasser knows that any more inappropriate behavior or retaliatory actions of any kind will not be tolerated and will lead to termination. Also, consistently follow up with the victim to make sure everything is OK. <<