



HOW SMALL BUSINESSES AND START-UPS CAN EFFECTIVELY MANAGE SEXUAL HARASSMENT IN THE WORKPLACE

Sexual harassment in the workplace has risen to the forefront of employment issues in recent months amid allegations of misconduct in the sports and entertainment industries, news media and the political arena. For employers, there are lessons to be learned and changes to be made. Small businesses and start-ups in particular face challenges in addressing prevention and problems without the benefit of a human resources or legal department. The following are tips to help avoid, and if necessary deal, with sexual harassment incidents in the workplace:

Review or Create a Policy

A personnel policy should define sexual harassment, provide examples of offending behavior and establish disciplinary actions for violations of the policy. The policy should provide a detailed procedure for victims or witnesses of sexual harassment to report the offending conduct to designated management in a confidential manner. A clear policy will help govern employee behavior and provide the employer with the necessary documentation to handle an adverse employment action or defend against resulting litigation. If an employer has not adopted a policy it should consider doing so, but at the very least ensure that it has posted the state-issued notice regarding sexual harassment.

Conduct Training

The best way to handle a sexual harassment claim is, obviously, to avoid one in the first place by creating a zero-tolerance culture. To that end, bringing in a third party to conduct training is a worthwhile investment. Not only will a training program educate employees, but it will also demonstrate that the employer takes the issue seriously. Moreover, in Connecticut, employers with fifty (50) or more employees are legally required to provide training for all supervisory employees within six (6) months of assuming their new roles. Those to whom complaints of harassment are reported should have additional training.

Investigate Carefully

If a sexual harassment claim is reported, how the employer handles the complaint is of paramount importance. The employer must keep three major considerations in mind: (1) how to discover relevant facts; (2) how to resolve the complaint; and (3) how to handle the investigation properly to avoid the risk of a claim being made against the employer.

In any investigation, employers must avoid jumping to conclusions or taking hasty employment actions, including terminating the employment of the accused. Instead, with the assistance of counsel, an investigative strategy should be outlined covering key components such as who will perform the investigation; how to maintain confidentiality throughout the investigation; how to maintain records of the investigation; and whether any employees should be placed on leave pending the results of the investigation. Notwithstanding the outcome of the investigation, it is vital that both the complainant and the accused feel that they were heard and treated fairly. *For more information, please contact Daniel B. Fitzgerald (dfitzgerald@brodywilk.com).*