

Sexual Harassment CLAIMS BRIEF



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Spotlight-Sexual Harassment

It's not just Bill Clinton who has raised awareness of sexual harassment issues in the American workplace. The Supreme Court has recently handed down two decisions which make it easier for employees to hold employers liable for sexual harassment of a subordinate by a supervisor. Liability will apply even when the employer did not have actual knowledge of the harassment. Furthermore, the Court emphasized the importance of having anti-harassment policies that include effective complaint reporting procedures.

In *Faragher v. City of Boca Raton* a female lifeguard was constantly harassed by two male supervisors. She complained to another male lifeguard that the harassment included sexual advances, crude comments, and offensive touching. However, she did not complain to upper management. The Court held the City liable for the actions of the supervisors but recognized that the city could have avoided liability by showing that a strong anti-harassment policy with complaint reporting procedures was available to employees. The City was unable to argue that the lifeguard had failed to use the city's policy because the city had failed to disseminate its policy to beach employees.

In *Burlington Industries v. Ellerth*, a female salesperson alleged harassment by her male supervisor which consisted of sexually offensive remarks. However, she could not establish any tangible job effects – in fact she received a promotion. She continued to refuse her supervisor's advances without complaining to management, despite her awareness of the company's anti-harassment policy. She quit after 15 months on the job and filed suit against the company. The Court sent the case for further proceedings concerning the reasonableness of the employer's policy and complaint procedures.

Please Route to:

Sheriff _____
Attorney _____
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Human Resources _____
Risk Management or Claims _____
Manager _____
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How do you protect your local government-

- Adopt an effective, legally sufficient sexual harassment policy which contains the following:
 - A definition of sexual harassment (including same sex harassment)
 - A clear “zero tolerance” prohibition of sexual harassment
 - An invitation to report sexual harassment which promotes confidentiality, if possible and prohibits retaliation against reporters.
 - Multiple avenues of reporting that allows a victim to bypass the harasser
 - Procedures for prompt and thorough investigation
 - Disciplinary procedures and measures if harassment is found to have occurred
- Train supervisors and managers. Make them aware that it is their responsibility to enforce the company’s sexual harassment policy. They should understand if they engaged in sexual harassment or fail to report violations, they will lose their jobs!
- Disseminate the company’s policy to each and every employee including seasonal help. Hold meetings and trainings to review the policy and make employees aware of the reporting avenues available to them.
- Have each employee sign an acknowledgement that they have received, read, and reviewed the harassment policy.

Adopting a proactive approach to the issue of sexual harassment can avoid liability in the future.

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