Sexual Harassment: What Are Your Responsibilities?



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Safety Talk

What's at Stake?

More than half of adult women have experienced "unwanted sexual pressure" and more than one in 10 – both men and women – say sexual harassment of women in their workplace is "really quite common," according to a recent study.

From a moral and legal standpoint, it is simply unacceptable to ignore the issue of sexual harassment in the workplace. Employers, supervisors, and employees all have responsibilities they must know, understand, and follow.

What You Should Know

Employer Responsibilities

- Provide and require all employees, at all levels within the organization, to attend and complete training on sexual harassment.
- Establish, distribute, and enforce a policy prohibiting harassment and setting out a procedure for making complaints.
- Check with your jurisdiction, but in most cases, the policy and procedure should be in writing, posted and accessible to employees, and include:
    - A definition of what is considered sexual harassment.
    - A non-retaliation policy.
        - Complainants and witnesses must be protected from retaliation resulting from initiating or supporting a sexual harassment allegation.
        - Otherwise, the likelihood of people coming forward with concerns and complaints, will be drastically decreased.

    - Specific prevention procedures.
        - e. Making sexual harassment a disciplinary offense that could be punishable with termination.
    - An established reporting procedure that every employee is comfortable and familiar with.
        - The policy must actively encourage victims of sexual harassment to report the behavior, and identify several appropriate individuals authorized to receive the harassment complaint.
    - A timely, clear, and thorough investigation and remediation procedure that is enforced.

Supervisor Responsibilities

- Know and comply with company policies and procedures on harassment.
- Report any complaint they receive or incident they witness, immediately.
- Demonstrate a willingness to hear and objectively discuss complaints and assist employees in reporting their complaint. This includes;
    - Responding to any complaint as soon as possible.
    - Clarifying to the employee that confidentiality will be maintained as much as possible, but can't be guaranteed, in order to investigate a claim fully and properly.
- Don't object if an employee prefers to or does bypass the standard chain of command.
- During a complaint investigation:
    - Make employees available for interviews.
    - Be available for interviews.
    - Provide as much information as possible.
- Don't engage in or condone retaliation by following these guidelines:
    - Treat any employee who complained the same as every other employee.
        - e. Don't make an example of them or single them out – in either a good or bad way.
    - Take disciplinary action against any employee who retaliates against an employee who made a complaint.
        - Act quickly but fairly.
    - Ensure your own conduct is fair in both fact and in appearance.
    - Never discourage any employee from asserting their legal rights.

Employee Responsibilities

- Be knowledgeable – know and understand company policies and applicable laws.
- Be watchful.
    - Pay attention to co-workers so you can avoid inadvertent offences.
    - Be on the lookout for subtle forms of harassment and report any instances to your supervisor or HR.
- Be active by confronting harassers directly, if you are comfortable doing so.
    - If this fails, file a grievance and always document in detail any harassing behavior.
    - Report harassing behavior.
    - Document instances of harassing behavior, retaliation, reporting, and follow-up.

What You Should Do

Know and follow the laws designed to prevent sexual harassment and protect workers.

Regarding sexual harassment, federal law is found in the Canada Labour Code (CLC). If you allege that you have, or are experiencing sexual harassment at work, and the company that you work for in Canada falls under federal jurisdiction, then that sexual harassment is covered under Division XV.1 of Part III (Labour Standards) of the Canada Labour Code (R.S.C., 1985, c. L-2).

Although all provincial and territorial jurisdictions have passed legislation regarding sexual harassment and sex discrimination, they are covered under human rights legislation and not under the individual labour codes or acts.

In the United States, the Equal Employment Opportunity Commission enforces the federal harassment regulations and many states have laws that go above and beyond the federal requirements.

Final Word

Having a clear understanding of your responsibilities and the responsibilities of others, will inform and empower you when it comes to sexual harassment.