



Promoting Workplace Respect and Preventing Harassment

What Employers Need To Know

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Workplace Respect – What’s Going On?

- “Civility in America” study
 - 65% reported performance has declined due to incivility encountered at work
 - 43% have experienced a “major incident” of disrespect at work
 - 38% believe the workplace has become increasingly uncivil and disrespectful over the last several years
 - Nearly 65% blame the problem on workplace leaders; almost as many fault co-workers

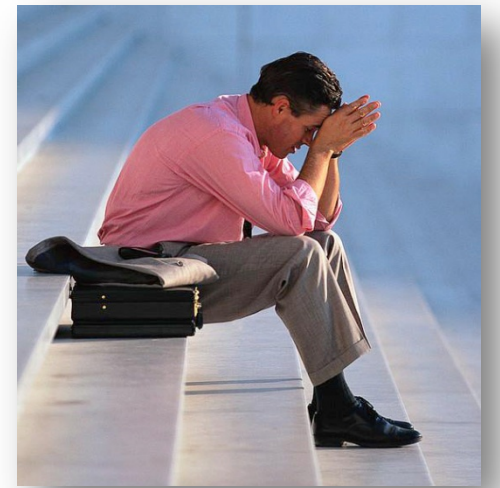
Contributing Factors

- Workplace stress
- Media messages/social media
- Polarization of ideas
- Increased diversity/personality conflicts/differing viewpoints
- Lack of knowledge on what being “civil” means



Disrespect Damages the Workplace

- Without a climate of respect...
 - Energy and focus are diverted from job goals and tasks
 - Employees experience increased stress
 - Workplace relationships are damaged and communication is hindered
 - Productivity is lowered
 - Companies experience a higher rate of turnover and absenteeism
 - Customer service may suffer
 - Potential litigation – harassment/discrimination claims



What About Harassment?

EVERYONE HAS A RIGHT
to work in a
harassment-free environment

EVERY Company HAS A RESPONSIBILITY
to maintain a
harassment-free environment

What is Workplace Harassment?

- Unwelcome or offensive workplace conduct, *based on a protected class*
- Legally actionable harassment
 - Conduct must be endured as a condition of continued employment;
or
 - Conduct is severe or pervasive; **and**
 - A reasonable person would find the conduct to be intimidating, hostile, or abusive

Actionable harassment does not include all rude, uncivil, or disrespectful behavior

Federal and NY State Protected Classes

- Race/Color
- Sex
- Religion
- Veterans Status
- Citizenship
- Disability
- National Origin
- Age
- Predisposing Genetic Characteristics
- Marital Status
- Sexual Orientation
- Military Status
- Arrest/Conviction Records
- Political Activities
- Domestic Violence Victim Status
- Familial Status
- Gender Identity
- Lawful outside activities

Sources of Harassment

- Co-workers
- Customers
- Vendors
- Third party or bystander
- Social media



Remember that harassment can occur on or off-duty/premises





New York Sexual Harassment Law

- Fully in effect by October 9, 2018
- Expands the anti-sexual harassment protections to certain nonemployees
- Prohibits nondisclosure provisions in settlement agreements for sexual harassment claims
- Requires all employers to adopt a sexual harassment prevention policy to be distributed in writing to employees
- Requires all employers to conduct annual sexual harassment prevention training



Company Liability

- Employer is always liable for a supervisor's harassment that results in a tangible employment action
- The Company may avoid liability by establishing an affirmative defense if:
 - It exercised reasonable care to prevent and promptly correct any harassing or discriminatory behavior
 - The employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the Company



Retaliation

- It is illegal to fire, demote, harass, or otherwise “retaliate” against employees because they...
 - Filed a charge of discrimination/harassment
 - Complained to the Company about discrimination/harassment on the job
 - Participated/cooperated in a discrimination/harassment proceeding
- Examples of retaliation may include:
 - Discipline/termination
 - Scheduling change
 - Reassignment of duties
 - Delaying promotion
 - Negative performance reviews

Preventing Harassment, Discrimination and Bullying

- Promote a respectful workplace and demonstrate positive workplace behaviors
- Hold supervisors accountable and provide the necessary training
- Ensure consistent demonstration of the Company's core values when interacting with employees
- Ensure vigilance and address inappropriate behaviors the first time it is noted



Proactive Steps for Minimizing Risk

- Conduct periodic “stay interviews” with employees
 - Ask: “Do you feel we have a respectful working environment here?”
 - Document responses
 - Remind employees of Company’s Open Door policy
 - Encourage employees to come forward if they have a concern
- Regular, proactive communication and documentation by the supervisor can assist the Company’s defense in the event of a harassment/discrimination claim
 - Courts are indicating even if the supervisor “didn’t know,” he/she “*should have*” known

Questions?



Thank you for your participation