

Follow Donald Trump's Advice on Sexual Harassment? Not A Good Idea.



Human Resources Package Case Study

Executive Summary

Sexual harassment is one of the most frequently discussed topics in employee relations today. Even Donald Trump has advice for victims of sexual harassment. In an [interview with USA Today](#), Trump said that if his eldest daughter Ivanka were ever subjected to sexual harassment, he “would like to think she would find another career or find another company.”

It seems Donald Trump's daughter, Ivanka, has a better understanding of employment law and workplace behavior issues than her father. Ivanka Trump told Fox News: "I think harassment in general, regardless, sexual

or otherwise, is totally inexcusable and if it transpires it needs to be reported and it needs to be dealt with on a company level." "We have a very strong HR team at the Trump Organization, who is equipped to deal with these issues if they arise and you hope they never arise, you hope you have a culture in which they don't arise, but when they do they needs to be dealt with swiftly."

The Supreme Court, says that if an employer has a published sexual harassment policy, the victim has to report sexual harassment according to the policy and give the company a m chance to fix it.

Challenges

There are a few key challenges when dealing with sexual harassment cases. These types of claims are not only ugly, but can also be costly. No other kind of claim has quite the scare and shock value that a sexual harassment claim carries. That is because most people associate sexual harassment with sexual overtures, unwelcome touching, or outright assaults on an employee. Most sexual harassment creates a hostile work environment for the employee which has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive working environment. The recent case against [Fox News and its \\$20M settlement](#) is a classic example of the serious nature of this subject. The following case studies are intended to illustrate how employers can proactively avoid or mitigate claims of harassment and the high cost of litigation associated with it.

Illustrative Cases

Case 1. Over the course of several months an area director “**Brandon**” of a financial services company “**Lucrative Finance**” makes sexual advances toward a female subordinate named **Jennifer**. Jennifer rejected the advances and filed a complaint to the Human Resources Department of Lucrative. While working hand-in-hand with its in-house legal team Lucrative HR Department launched an investigation on Jennifer’s complaint, but found the results to be inconclusive. During a regional meeting, Brandon’s advances continued and he left several drunken explicit messages on Jennifer’s hotel room phone. Jennifer recorded the message and launched a second complaint with the human resources department, but this time she provided a copy of the sexually explicit phone messages. Lucrative conducted an investigation immediately, and found Brandon has violated the company’s harassment policy and he was terminated. Jennifer later filed a charge with the Equal Employment Opportunity Commission (EEOC). Here, Lucrative was able to show that it promptly investigated the two complaints of harassment, and the latter resulting in the termination of Brandon. The EEOC dismissed the complaint. Lucrative did not have to pay anything to Jennifer and its timely action saved Lucrative a ton of money by way of expensive legal cost and or damages.

Case 2. A startup company of three employees “**Neglijex**” quickly grew to over sixty with offices in the US and abroad. The founder’s of Neglijex had established an “open door” policy for its employees that appeared on the HR handbook, but the handbook was never implemented. The open door policy of Neglijex was created to empower employees and boost morale. At Neglijex’s first Christmas party, a QA manager named “**Justin**” made certain inappropriate sexual remarks to one of his new female testers “**Testie**”. During the weeks that followed, Justin continued to engage in sexual banter and dirty jokes against Jennifer until Jennifer decided to quit her job and filed a charge of sexual harassment with the Human Rights Commission (HRC). The Neglijex’s defense before HRC was that it was never given the opportunity to investigate and take corrective action. The commission conducted a full investigation and found that the company failed to act reasonably to prevent the harassment because the company’s open door policy was not a clear harassment policy with a reporting procedure. The HRC made a finding in favor of Testie. Testie and Neglijex agreed for mediation that resulted in a settlement. It was important to note that Neglijex did not have an HR and Labor Law savvy in-house counsel or team that provided review and feedback on the adequacy of its open door policy to satisfy the Sexual Harassment Policy obligations of Neglijex. Neglijex also did not have access to a legal team that conducted onsite training for its employees.

Results, Strategies and Future Plans on Dealing with Clients

There are a few key lessons to be drawn from the illustrative cases discussed above to provide guidance when dealing with sexual harassment issues:

1. Adopt a clear disciplinary policy and an explicit policy on sexual harassment in your employee handbook.
2. Have a formal complaint process.
3. Have a provision or a process that allows for going outside the chain of command to make a complaint.

4. Educate all employees on the various forms sexual harassment that can take place and on the harm it can cause via on-site training conducted by legal experts.
5. Have an organized procedure for quickly and effectively dealing with such complaints and ensure that everyone knows about it.
6. Set an example for the employees - the best policy in the world will be useless if management ignores it and does not take the problems or complaints seriously, or worse, if management is part of the problem.

© 2016 TeqLaa Group Inc.. All Rights Reserved.

Learn more about TeqLaa™ Smart Legal Solutions at www.teqlaa.com.

Email info@teqlaa.com or call 425-442-5797.