



# Preventing Harassment in the Workplace

Building a healthy culture at work starts at the top.

By Jim Pytell, Assistant Editor

**O**ver the past several months, a story has been breaking in the news, almost daily, of yet another individual being accused of some type of harassment or assault. From Hollywood to politics, and everywhere in between, the news has been unavoidable.

One could reasonably conclude that these are not necessarily just a series of isolated incidents, but instead are cracks shedding light on a much larger, broader, cultural issue, especially when it comes to the dynamics in the workplace.

This recent “movement” of sorts, has made it so something that has always been in the back of employer’s minds – preventing sexual harassment and discrimination within their organizations – is now moved to the top of the list of issues that need to be addressed as a company.

“It is without question, on every employer’s radar – probably now more than ever,” says Joseph DeBlasio, principal at Jackson Lewis P.C. and the litigation manager for the firm’s Monmouth County office. “We’ve been fielding a lot of client requests about things they can do to be proactive, and to be sure that they are

not the next company to be featured in the news.”

This phenomenon is true at law firms across the state – and undoubtedly the country – as employers are taking the incidents revealed in the news seriously, and want to do everything they can to protect their own employees.

There are several things that employers can do to lessen the chance of harassment, bullying and potentially even assault within their companies, but in all instances, it starts at the very top.

“I think companies now, more than ever, are more sensitive to their work environment and their culture,” DeBlasio says. “I always tell clients that it all starts at the top and trickles down. It is incumbent upon members of upper management, ownership and board members to not only implement the

**Patrick T. Collins, Esq.**

**\\ Clearly state that the company has a zero-tolerance policy with this kind of conduct. [Say something like:] ‘... Here is what harassment is. ... Here are some examples. ... Here is what you should do ...’**

right measures, but also to live by them, set the culture and lead by example.”

Patrick T. Collins, Esq., chair, New Jersey Labor and Employment Law Group, Norris McLaughlin and Marcus PA, echoes this sentiment, emphasizing the importance of a truly healthy workplace culture as being the best deterrent for reprehensible behavior.

Two of the most tangible ways to

increase employee awareness about harassment and ultimately limit the likelihood of an incident happening, are training and a well-written anti-harassment policy. Both of these are interconnected with company culture, and when implemented properly, aid in making that culture positive, healthy and comfortable for everyone.

“The policy has to be more than just a policy in a handbook or words on paper,” DeBlasio says. “It has to set the tone for the work environment and be a guide for all employees, but particularly for upper management as a guide post for their own behavior.”

Steve Adler, co-chair of Mandelbaum Salsburg’s Labor and Employment Law Practice Group and a member of the litigation department, recalls a specific instance that struck him when he was

**AVOID EXPENSIVE FINES & LITIGATION!**

*According to the EEOC,  
Employee Training Should be Conducted by  
Qualified, Live, and Interactive Trainers!*

*We deliver a variety of effective employee training programs on  
harassment, discrimination, and employer best practices!*

*For more details, scheduling, and pricing, please email [training@nmmlaw.com](mailto:training@nmmlaw.com)*

**Norris  
McLaughlin  
& Marcus, P.A.**  
ATTORNEYS AT LAW

Bridgewater, NJ • New York, NY • Allentown, PA

[www.nmmlaw.com](http://www.nmmlaw.com)



conducting training at a large public relations firm many years ago. "When the program started, the CEO of the firm stood up in front of the entire company to introduce me. He began talking about the subject, and despite the company having a [seemingly positive and healthy] culture, he [still] told everyone that if it was determined that anyone was found to have sexually harassed or harassed anyone based on a protected category, he would not hesitate to fire them - regardless of how high up they were in the organization. ... That sent the right message to everyone and really set the tone."

Leading by example is the key here, and there needs to be an understanding that no organization is immune to toxic behavior. When a CEO or top level executive vocally expresses the company's stance on harassment and discrimination, and shows he or she is serious through actions such as carrying themselves in a way in which they show compassion, openness, understanding, respect and civility, the attitude reverberates through the entire organization.

Still, having a written policy is a vital and necessary tool to help employees understand what type of behavior is not allowed in the workplace, and, in the event that an issue does arise, people within the organization will have something to look at to understand what their roles are and what actions are to be taken.

Collins says that the human resource department is a good place to start when looking to write an anti-harassment policy. Adler adds that seeking guidance from an attorney who specializes in employment and labor law would also be a wise move, as he or she has the expertise to understand the intricacies of certain state-specific laws.

"The language within a policy should be as non-legalese as possible," Collins adds. "I like policies that are conversational, and easy to understand."

He continues, "Clearly state that the company has a zero-tolerance policy

with this kind of conduct. [Say something like:] 'We want you to join us in making sure that this doesn't happen. Here is what harassment is. ... Here are some examples. ... Here is what you should do if you feel you have been subjected to this

kind of conduct or if you see one of your co-workers being subjected to this."

A policy should make it clear that the company wants individuals to feel empowered to come forward and that it will protect any individual that does. It



**LINDABURY**  
McCORMICK, ESTABROOK & COOPER, P.C.  
Attorneys at Law

# \$698.7 million

The amount the EEOC has collected from employers for claims of workplace harassment since 2010\*

**How will your company's anti-harassment policies fare against employee claims?**



**Control the situation before the scandal. Speak with us today.**

Kathleen Connelly  
908.233.6800  
kconnelly@lindabury.com  
lindabury.com

\*EEOC Select Task Force On The Study of Harassment In The Workplace

is important to reinforce the notion that there is a zero-tolerance policy for retaliation against any individual who brings forward a complaint or participates in an investigation.

It is also important to make it clear that the company will address any complaint made under the policy with as much confidentiality as possible.

“You want to give the accuser the comfort to know that [a complaint] will be held confidential to every extent possible, but you also want to make it clear that absolute confidentiality cannot be promised,” DeBlasio says.

“I always have my clients put [into their policy] a person or group of people to act as a committee to field any complaints. [These people] need to know how to handle the situation, and know when to bring in outside counsel,” Adler says.

It is important to provide employees with multiple avenues to seek out if they do have a complaint, to ensure that they feel comfortable speaking up. For example, if a company does decide to form a committee, it should have a diverse array of individuals on it, including women.

Implementing anti-harassment, and similar training, will also help to increase organizational awareness of potential issues.

Having someone who is a bonafide expert in performing such training is essential. As is the case when drafting a policy, employment lawyers are likely the best bet, though there are also a variety of third-party organizations that focus solely on corporate training as well.

“There should be separate training sessions for upper management and the lower level employees,” DeBlasio says. “This is so the managers can have a particular focus and education on things that they need to do when they wit-



**Patrick T. Collins**, of *Norris McLaughlin and Marcus PA*, says, “I like policies that are conversational, and easy to understand.”



**Steve Adler**, of *Mandelbaum Salsburg*, says, “I always have my clients put [into their policy] a person or group of people to act as a committee to field any complaints.”

ness inappropriate behavior in the workplace, or when an employee complaint comes to them by the accuser or by someone who witnessed someone else be a victim of inappropriate conduct.”

He adds that it is important that the training not only focuses on sexual ha-

arrassment, but all forms of harassment prohibited by law. That would be harassment based on any characteristic protected by law such as age, religion, race or disability.

If employers do find themselves in a situation that needs to be investigated, they need to address it immediately, and not make the mistake of putting it off until later, even if they are swamped with other, seemingly important work.

“When you get all your facts, you need to sit down, create a chronology and try to determine what happened,” Collins says. “If you are the investigator, you have to make a judgment call and ultimately decide how the situation should be handled. You need to determine if it is something serious enough to warrant termination, or perhaps it was a situation where someone didn’t understand that they were being offensive. In a situation like [the latter], maybe extra training and/or counseling is the appropriate measure.”

“The biggest pitfall for an employer is to take the approach that is motivated by checking off the boxes of taking the steps [to investigate and handle an isolated issue] versus truly attempting to address the root issue, such as the workplace culture,” DeBlasio says. “The biggest pitfall is trying to satisfy the legal steps and not focusing on the main problem that allowed the conduct to happen in the first place.”

He continues, “Employers need to make their employees feel valued. Employees who are valued, have clear methods of communication with management, and have proper leadership that sets the tone and culture for the company the right way – these are the companies where you are probably not going to see these harassment issues, or they are at least going to be minimized.” **NJB**