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LHRMA
Lincoln Human Resource Management Association

AFFILIATE OF
SHRM
SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

February Program

Program on February 13 Features “Recent Developments in Employment Law”

Workshop: “Preventing, Responding to, and Investigating Sexual Harassment Claims”

Join us for our February Program and Workshop on February 13. Susan Sapp, Henry Wiedrich, and Lily Amare with Cline Williams Wright Johnson & Oldfather, L.L.P. will present from 12:00 to 3:15 p.m.

About the Presentation

Recent Developments in Employment Law

Presenters will discuss recent developments in federal and state employment law, along with employment law trends to follow in 2018. Topics will include recent developments in EEO law,



harassment claims and responses, new legislation and regulations, key judicial and administrative decisions, and enforcement guidance from state and federal agencies.

Workshop Topic:

Preventing, Responding to, and Investigating Sexual Harassment Claims

This Workshop will outline best employer practices to prevent, investigate, and eliminate sexual harassment in the workplace, with specific emphasis on the lessons learned from the recent, high-profile incidents of sexual harassment. Attendees will learn how to apply these lessons and best practices to develop a company culture that values and promotes a workplace free from harassment.

WHEN AND WHERE

Tuesday, February 13, Program 11:00-1:00 p.m., Workshop from 1:00-3:15 p.m. at Lincoln Firefighters Reception Hall, 241 Victory Lane, Lincoln

Lunch Program Registration Fee: LHRMA members – \$15

All Other Attendees – \$25

College Student Chapter Members—FREE (You must register with Jenessa Keiser, College Relations Chair)

Workshop Registration Fee: All Attendees—\$35

REGISTRATION DEADLINE

Register by Friday, February 9th at noon.

**MEMBERSHIP
RENEWAL**



2018 LHRMA Membership Renewals

If you have not yet renewed your membership for 2018 you still have time. Please be sure to do so right away!

Visit www.lincolnhr.org to renew!

WELCOME NEW MEMBERS

LHRMA welcomes the following new members:

Molly Ducker
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President's Message

By Lindsay Selig, LHRMA President



It's the topic that every HR professional has on their mind these days – and no, I don't mean who is going to win the Super Bowl. I'm talking about sexual harassment.

I recently reviewed a SHRM article that outlined key highlights of 2017. Out of the 47 events that the article highlighted, over 10% of the events were related to sexual harassment charges. It has been all over the news from Uber to Bill O'Reilly to Bill Cosby. In many cases, I know it has left companies asking the question of – “is the training we offer sufficient?” Or in worst cases, “when was the last time we hosted a sexual harassment training?”

Trust me if you have been asking these questions of yourself or your company – you are not alone! Good news, though, our wonderful LHRMA programs committee is well aware of your concerns and has planned an outstanding workshop following our February membership meeting centered on this very topic.

Susan Sapp, an attorney with Cline Williams, will present information centered around employer practices to prevent, investigate, and eliminate sexual harassment in the workplace. What more could a HR Professional in 2018 want?

I hope to see everyone at the meeting on Tuesday, February 13th!!



Legal Update

Five Tips to Prevent and Respond to Sexual Harassment in the Workplace

Cline Williams Wright Johnson & Oldfather, L.L.P

Recently, there has been an influx of news stories about sexual harassment in the workplace. Unfortunately, sexual harassment in the workplace is not a new phenomenon and continues to be a significant problem. The number of harassment charges filed with the Equal Employment Opportunity Commission (“EEOC”) has remained steady over the past several years.

With sexual harassment in the spotlight, it is a great time to review your policies and procedures to make sure you can prevent sexual harassment and adequately respond to complaints about harassment in the workplace. This article provides five tips your organization can follow and implement to prevent and respond to harassment in the workplace.

What is Sexual Harassment?

We all understand that sexual harassment is unlawful. However, it can be confusing for employees to know what does and does not constitute sexual harassment.

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. The EEOC defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of the conduct:

- Affects an individual’s employment;
- Unreasonably interferes with an individual’s work performance; or
- Creates an intimidating, hostile, or offensive work environment.

There are two categories of sexual harassment: quid pro quo and hostile work environment.

Quid Pro Quo

Quid pro quo is a Latin phrase meaning “this for that.” Quid pro quo harassment applies to situations in which a supervisor seeks sexual favors in return for a job benefit or to avoid a job detriment. For example, a supervisor telling an employee that going on a date with the supervisor will lead to career advancement. In the alternative, the supervisor stating that not going on a date will result in the employee never being promoted.

To establish a case of quid pro quo harassment, the employee must prove the following:

- The employee is a member of a protected group;
- The employee was subjected to



unwelcome sexual harassment in the form of sexual advances or requests for sexual favors;

- The harassment was based on sex; and
- The employee’s submission to the unwelcome advances was an express or implied condition for receiving job benefits or the refusal to submit resulted in a tangible job detriment.

Employers are strictly liable for harassment that results in a tangible employment action. Tangible employment action can include termination of employment, failure to hire, failure to promote, reassignment with significant changes in quality or quantity of work, a significant change in benefits, and unfavorable compensation decisions.

Legal Update (continued from page 5)

• **Hostile Work Environment Harassment**

Whereas quid pro quo harassment generally only applies to sexual harassment, hostile work environment harassment applies to all forms of unlawful harassment. Harassment based on any protected class can constitute hostile work environment harassment.

To establish a hostile work environment sexual harassment claim, the employee must demonstrate:

- The employee is a member of a protected group;
- The employee was subjected to unwelcome sexual harassment;
- The harassment was based on sex; and
- The harassment affected a term, condition, or privilege of employment.

However, employers can avoid potential liability by asserting the *Faragher-Ellerth* defense. To assert the defense, employers must be able to demonstrate:

- No tangible adverse employment action was taken against the employee;
- The employer exercised reasonable care to prevent and promptly correct the harassing behavior; and
- The employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or to otherwise avoid

the harm.

The defense protects employers who exercise reasonable care to prevent workplace harassment. The availability of the *Faragher-Ellerth* defense demonstrates the importance of having an effective anti-harassment policy and a Human Resources department that can properly implement and respond to harassment complaints.

Tips on How to Prevent and Respond to Harassment

The following five tips apply to both sexual harassment and any other unlawful harassment in the workplace. An organization that is effectively prepared can help prevent and properly respond to harassment.

• **Implement and Maintain an Effective Anti-Harassment Policy**

Employers should have an anti-harassment policy in place. The policy should be consistent with applicable federal and state law. An anti-harassment policy should prohibit all forms of unlawful harassment.

The policy can be part of the employee handbook or a stand-alone policy. However, the policy should be readily available to both current employees and new hires. If you have not reviewed or updated your anti-harassment policy in the past few years, now is a good time.

The policy should reiterate that there is no tolerance for any harassment in the workplace. In addition, the policy should also prohibit retaliation for complaining about harassment.

The policy should also include instructions for reporting harassment. It can be beneficial to have a stand-alone policy on how to report harassment. The reporting policy should be in plain language and easy to understand. Generally, reporting involves a two-step process. First, asking the harasser to stop, unless this would make the individual uncomfortable. Second, report the harassment to superiors.

• **Promote Compliance**

Instill within your organization a culture of compliance regarding the anti-harassment policy. Implement a zero tolerance harassment policy. Even though certain comments or actions may not be actionable under the law, a zero tolerance policy enforces the organization's commitment to a safe and harassment free workplace.

If a supervisor or Human Resource professional observes harassment, even if no one complains, the harassment should be eliminated immediately. Supervisors and Human Resource professionals should be proactive in preventing harassment and promoting the organization's anti-harassment policy.

Legal Update (continued from page 6)

Encourage employees to use the internal complaint procedure outlined in the anti-harassment policy. When an employee makes a complaint, take the complaint seriously. Employees will feel more comfortable informing the organization about harassment if they know their complaints will be taken seriously.

- **Train Employees**

All supervisors, managers, and other supervisory personnel should be trained on the organization's anti-harassment policy. In addition, supervisors should be trained on how to promptly and adequately respond to harassment complaints or questions. Since supervisors can be a points of contact for complaints, supervisors must understand how to react when a situation arises.

All new employees should also receive training on the anti-harassment policy. Moreover, all employees should receive training on the organization's anti-harassment policy on a regular basis.

Consider having someone from outside the organization come and conduct the anti-harassment training. Outside resources, such as legal counsel, can present real-life situations and examples to demonstrate what harassment looks like in the workplace. Often, employees may be more comfortable discussing harassment with someone not associated with the organization.

Document all employee training by obtaining sign-in sheets or written acknowledgement forms.

- **Promptly Investigate**

Respond to any allegations of harassment promptly and in a manner to end harassment. A prompt investigation can identify the problem and an appropriate solution and potentially reduce the risk of litigation.

A Human Resource professional should interview the complaining employee, witnesses, and the accused employee in a timely manner. Often our memories fade with time. A prompt investigation is likely to produce more accurate facts. In addition, be sure to document the entire investigation process.

- **Enforce the Policy Consistently**

Failure to consistently enforce the anti-harassment policy can result in further discrimination claims in addition to harassment claims. Employees should be trained on how to adhere to the anti-harassment policy in a consistent manner.

Conclusion

The five tips outlined above can help your organization prevent and properly respond to harassment in the workplace. Not only will implementing the tips promote a safe and harassment free workplace, but they can also reduce the risk of costly litigation.

Jobs, Jobs and More Jobs!

If you are an employer with an employee that is a current LHRMA member, then you can post your HR-related job opening on our website for FREE! Just email lhrma0048@yahoo.com.

If you are looking for a human resource position, then check it out! Go to: <http://lincolnhr.org/blog/hr-job-openings/>

This is also an excellent resource for students who are seeking an HR position or for companies to advertise if they have summer

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *EEOC Seeks Public Input on Proposed Enforcement Guidance on Harassment*, <https://www.eeoc.gov/eeoc/newsroom/release/1-10-17a.cfm>.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *Facts About Sexual Harassment*, <https://www.eeoc.gov/facts/fs-sex.html>. See *Cram v. Lamson & Sessions Co.*, 49 F.3d 466, 473 (8th Cir. 1995).

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742, 765 (1998). *LeGrand v. Area Resources for Community and Human Services*, 394 F.3d 1098, 1101 (8th Cir. 2005).

See *Faragher v. Boca Raton*, 524 U.S. 775 (1998); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998).

Tackling Tough Management Issues

“Management: The process of dealing **with or controlling things or people.**”

Oxford dictionary

PROBLEM:

A manager just gives orders to employees and doesn't put requests into context or explain the goals or desired outcomes. He or she is seen as a dictator.

Impact:

Employee disengagement. The manager is inadvertently disempowering his or her employees, especially if you have smart people who want to have input and are very strategic themselves. For those individuals, it is especially important to see the big picture and understand the context in order to contribute on a greater level.

SOLUTION:

It's essential to have a clearly articulated goal for the company that everyone understands and how their role fits into it. Most managers are in a hurry and just want results, so they don't always understand the importance of context. **The manager doesn't mean to withhold information, but that's often the way it's perceived by employees.** Managers must understand and realize the importance of communication surrounding each action that's related to the company's goal.

To improve the process, the manager needs to be open to feedback from the

team in one-on-one meetings and better understand what motivates each employee.

To really be successful, the manager needs to start with the overall department goal, then break it down into what each employee's responsibilities and roles are in relation to that objective. The manager could work with the employee to come up with a matrix of daily, monthly and weekly tasks in order to meet those department goals. Management does need to buy into this because it does take extra time. But when it's done, they'll gain productivity, innovation and engagement.

Looking for help managing your staff? Need a refresher course? We have just the program for you, here is a list of our upcoming training events:

CONFLICT RESOLUTION BOOT CAMP

MARCH 6/\$199 PP

Dealing With Unacceptable Employee Behavior

APRIL 12/\$119 PP*

MANAGEMENT BOOT CAMP

MAY 15/\$199 PP

LOCATION: 9239 W. Center Road, Suite 223, Omaha, NE, 9 am – 4 pm

[Current Best Care EAP clients receive a discount on these classes.](#)

To register, call 800 801-4182 or send an email to EAP@bestcareeap.org. *half-day class, 9 am till noon.



BEST CARE
EMPLOYEE ASSISTANCE PROGRAM

Wellness News

The Importance of Knowing Your Numbers

Knowing your numbers is one of the best ways to evaluate your health by identifying your risk and providing motivation for managing your health. Even if you feel great and look healthy, **you may not know what's going on inside.** Many diseases are "silent" and affect your health long before you feel anything wrong. Some risk factors you **can't do anything about, but others you can treat, manage or control** with the help of a health screening or your **medical provider.** Those risks you can't change, like your family history, are still important when assessing your risk for certain diseases through your health screening.

Your cholesterol, blood pressure, blood sugar, waist circumference and body mass index numbers are key indicators of your risk for serious illness.

What's healthy?

- Waist circumference - 35 inches or less for females and 40 inches or less for males
- Body Mass Index (BMI) - 18.2-24.9 kg/m²
- Blood pressure - less than 120/80 mm Hg
- Cholesterol - less than 200 mg/dL
- Blood sugar - fasting blood glucose level of less than 100 mg/dL

If you know these important numbers, you can make changes to improve your health and reduce your risk of

developing heart disease, diabetes and other serious illnesses. Whether you need to lower your blood pressure, cholesterol, or BMI, positive lifestyle choices often lead to a healthier you. More importantly, you feel better, you have an increase in work performance, and you are less likely to sustain a work related injury.

At the workplace, unhealthy lifestyles have been shown to reduce productivity and increase absenteeism and presenteeism. By making healthy changes and engaging in health promotion efforts directed towards improving the health of a workforce through initiatives such as health screenings, and occupational health and safety, those efforts can be made positive for all. Occupational health and safety encompasses efforts that prevent injury or illness due to workplace specific exposures, ergonomic adjustments, and ensuring proper use of protective equipment.

Madonna Fit for Work specialists can assist you in saving your company money, reduce the number of work related injuries and medical claims, boost employee productivity, and employee satisfaction. To schedule a health screening or Occupational health services, call Karen Rehm, Manager of Madonna Fit for work at 402.413.3938 or send an email to krehm@madonna.org.





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