

The McKenzie Mailer

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McKenzieHR In the News

“In the Employment Law area, knowledge isn’t power anymore, knowledge is survival.

Employers who do not keep up with the ever-changing employment legislative issues are playing with fire.”

- A quote from Bob McKenzie in the Jacksonville Business Journal April 16 -22, 2004

Bob McKenzie will be the guest speaker at The Counsel of Logistics Management Luncheon at UNF

The topic is an update on harassment and discrimination

**Tuesday, May 11, 2004
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Is It Really a Hostile Work Environment?

You have done a good job of communicating your policy against harassment and discrimination to all of your employees. Everyone knows that your company will not tolerate harassment or discrimination of any kind. So why are so many employees still confused about what the term “hostile work environment” means? Human resources professionals will tell you that they are receiving more and more complaints of hostile work environment that have nothing to do with discrimination, but everything to do with the way the employees are being treated by their supervisor or co-workers.

The EEOC describes a hostile work environment as “unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct has the purpose or effect of *unreasonably interfering with an individual’s work performance* or creating an *intimidating, hostile or offensive* working environment.”. This definition applies to harassment based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, and protected activity (*i.e.*, opposition to prohibited discrimination or participation in the statutory complaint process). This prohibition should cover harassment by *anyone* in the workplace – supervisors, co-workers, or non-employees.

Many employees are legitimately confused by the definition of a hostile work environment. For example, the manager who belittles, embarrasses and demeans employees is acting in an “*intimidating, hostile and offensive*” manner. But such behavior may not rise to the EEOC definition of a hostile work environment because the tirades are targeted at all employees and not one particular protected class.

Likewise, the definition of a hostile work environment does not apply to professional disagreements or personality conflicts. While, many people feel that these differences of opinion “*unreasonably interfere with their work performance*”, these types of conflicts are not covered under federal discrimination laws.

In the last 10 years, business climates have changed dramatically. The era of the type “A” personality boss is going the way of the dinosaur. So, when the boss manages through bullying or humiliation, or co-workers trade insults via e-mail, some naturally think this behavior is illegal harassment. This type of conduct may not be illegal, however it may be a violation of company policy.

Many harassment and discrimination policies include a statement that all employees will be treated with respect and dignity. If this is the case, ensure it is followed by all employees – especially managers. Conflicts in the workplace are inevitable and, depending on how they are handled, can be beneficial. Encourage employees to handle their differences in a constructive manner.

One more thing. Whenever reviewing your harassment and discrimination policies with employees, be sure to explain the difference between illegal harassment and the type of behavior that is a violation of your policy and how you expect individuals to handle both types of situations. This might reduce the number of complaints and greatly enhance the potential of your people.