

The McKenzie Mailer

WHY DO SOME PEOPLE STILL NOT GET IT?

Why is harassment and discrimination still in the news? It seems that every week, there is another article in the newspaper describing a discrimination or harassment lawsuit. Lately, we have seen news on lawsuits from a number of very large companies such as Coca Cola, Boeing and Wal-Mart. The newspapers do not mention the thousands of smaller companies who have to defend themselves from these allegations. According to the employment law firm of Fisher & Phillips in Orlando, over 650 employment related lawsuits are filed each week in the United States. There is no doubt that some of these lawsuits are frivolous. However, most are based on a deep-seated feeling on the part of the plaintiffs that they were treated unfairly.

With all of the news and publicity with regard to bias in the workplace, why is it still occurring? I usually, ask this question when I facilitate harassment seminars. At a recent session, one of the participants replied, "Stupidity!" Another piped in, "Ignorance!" Both are correct. It is true that a number of people just don't get it. Still others just don't know – because they have never been told.

With two decisions in 1998, the Supreme Court made it apparent that employers are liable for the harassing behavior of their supervisors and managers. The Justices also made it clear that the best defense to discrimination and harassment charges is a good offense. Employers should have a harassment policy that includes multiple avenues to file a complaint of discrimination or harassment. The complaint mechanism should be clearly defined and any complaint should be promptly investigated. Employees who violate the policy should be disciplined appropriately. This policy should also include a prohibition on retaliation against those who file a complaint or participate in an investigation.

If this policy and procedure is followed, it sends a strong message to your employees that harassment and discrimination in your workplace is unacceptable. If you have not done so already, develop and communicate a zero tolerance policy for harassment and stick to it. Many companies have been able to use their policy and training as a defense because the employee unreasonably failed to

register a complaint with the company who complied with the above recommendations.

How does this apply to the small company? Even though companies with less than 15 employees are not covered under the Federal discrimination laws, it is still wise for them to develop and communicate a policy that prohibits harassment and discrimination.

Common sense dictates that employees who feel comfortable in their work environment will be more productive. When people are subjected to offensive behavior on the job, how can they possibly work at a high level of production?

If an employee files a charge with the Equal Employment Opportunity Commission (EEOC) – even if the charge is unfounded, the company loses. Think of the time and expense to investigate the charge, interview witnesses, collect data from your records and files, write a statement for the EEOC and compile all of the necessary back up records to defend yourself. It is much easier if you have and abide by your policy.

Prevention is the key. If you already have a policy, make sure it is enforced and reinforced. If you don't have a harassment and discrimination policy in place, have one developed, communicate it and provide training for your employees. In today's business environment, this is just good business practice.

Don't let a stupid comment by an employees who is ignorant of discrimination or harassment in the

McKenzie & Company is a human resources management firm specializing in effective employment practices and management development programs.

Contact Bob McKenzie, President

Telephone (904) 273-8637

Cellular – (904) 501-4083

E-mail bobm@mckenziehr.com

www.mckenziehr.com

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