

SECTION

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ASK A LAWYER

Harassment claims are serious business

Q. How should employers respond to a claim of harassment?

Employers must be proactive when it comes to sexual and other forms of harassment. New Jersey law requires every employer, no matter how small, to have a written anti-harassment policy and to properly train supervisors and staff on the subject.

This is not enough, however. The law also requires employers to timely investigate and take prompt and effective steps to remediate harassment.

To respond to a claim of harassment, an employer first should take all complaints seriously. There have been many large jury awards against companies that have not responded in a timely manner and appropri-

ately to these types of claims.

Second, someone should be designated by the company as the person responsible for dealing with these types of matters. Managers receiving a complaint should never take it upon themselves to investigate. If the corporate designee is unsure how to appropriately investigate, he or she should know to contact outside legal counsel for assistance.

Third, the company also needs to consider separating the parties pending the investigation. At the outset, the alleged victim should be told there will be no retaliation taken against him or her. The employee should also be told that the matter will be investigated and he or she will be informed of the results. To prop-

erly investigate, others may need to be interviewed, so do not promise complete confidentiality. Thereafter, the alleged victim should be required to submit a detailed written statement about what occurred, including the dates, locations and witnesses to the harassment.

The next investigative steps will depend upon the allegations. Witnesses should be interviewed as well as the alleged harasser. The investigator should document all steps taken. If the investigator concludes that harassment occurred, the company must decide the appropriate discipline to impose, which can range from a reprimand to immediate termination. Keep in mind that if strong enough disci-

pline is not imposed and the harasser does it again, the company potentially will be exposed to punitive damages should the second victim sue.

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