

Q&A WITH VIC ALBERT

EMPLOYERS MUST TRAIN WORKERS ON HOW NOT TO HARASS OTHERS

Q: The U.S. Equal Employment Opportunity Commission recently filed a lawsuit against DynCorp International LLC, military contractor and aircraft maintenance company, for allegedly violating federal law by subjecting a male aircraft sheet metal/structural mechanic to a hostile work environment, and by transferring him after he complained. The worker allegedly was subjected to harassment by a male co-worker who allegedly daily accused the married 5-foot-4 man of being gay and engaged in homosexual acts, and gave descriptions of homosexual acts. Is this lawsuit an expansion of anti-harassment laws?



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A: No. The federal and Oklahoma laws forbidding harassment in the workplace have always been broad enough to cover same-sex harassment claims. The norm used to be that harassment lawsuits were filed by females after they were fired from employment. In the past few years, we have seen an increase in the number of lawsuits alleging harassment and retaliation filed by current, active employees against their present employers, as well as an increase in claims filed by male employees and claims filed by temporary and part-time employees.

Q: What steps should employers take to address these trends?

A: Employers must have a written anti-harassment policy on which all employees are trained. The policy needs to cover all forms of harassment, not just sexual harassment, and that all employees, including men, are protected by it. The policy should explain conduct that is off limits, provide the means for reporting a complaint of harassment and specify the name and contact information for the person to whom complaints are to be made. The policy also needs to state that retaliation against employees reporting harassment is strictly forbidden.

Q: Is having a policy enough to insulate employers from liability?

A: Absolutely not. Employers should have annual training with all employees on the anti-harassment policy. Most importantly, employers need to back a written policy with appropriate investigation and action when a valid complaint is made. If harassment has occurred, then disciplinary action and corrective action should be taken. If offensive conduct is repeated by the offending employee, termination of employment should be strongly considered. Steps should also be taken to make sure the reporting employee is not retaliated against by other employees or managers.

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