

Risk Monitor



Simple Steps to Reduce Sexual Harassment Liability Risk

As an employer, you can be held liable for any sexual harassment that occurs in your workplace. That's the bad news. The good news is that you can avoid, or, at the least, significantly reduce, your organization's liability exposure if you follow the sexual harassment prevention road map laid out in recent years by the courts. As the U.S. Supreme Court explained in a 1998 case – its last ruling on sexual harassment – the purpose of sexual harassment law is not to enable people to sue their employers. The purpose is to motivate employers to take reasonable steps to prevent sexual harassment. When employers can demonstrate they fulfilled this duty, they are unlikely to be stuck with sexual harassment liability damages. This article looks at the policies and practices that the courts view as showing that an employer takes seriously its obligation to prevent sexual harassment.

First and foremost, you should have a written policy against sexual harassment. To be effective, and to demonstrate your organization's concern with preventing sexual harassment, the policy should be comprehensive. It should define what sexual harassment is and give examples. It should explain that sexual harassment is determined by how the person on the receiving end experiences the behavior, not on whether the perpetrator intended to harass. It should state that male and female workers could be victims of sexual harassment by harassers of either gender.

The policy should avoid legal jargon and be written in language the average worker will understand. If there are workers who don't speak English, the policy should be translated into their language(s).

Some employers prefer to believe that sexual harassment doesn't or can't happen in their organizations. Their response to a complaint may be to disbelieve it or to view the person who complained as a troublemaker. Many times employers are liable for sexual harassment, not because of the actual harassment,

but because they didn't make employees aware of how to make a complaint, or did not respond correctly when an employee complained.

Risk-averse employers take every complaint seriously and investigate it -- using a consistent, reasonable process that is fair to all and has as its only aim making a truthful determination of what happened. Thus, it's critical that your sexual harassment policy covers how to make a complaint, identifying several persons on staff designated to receive complaints. It should explain how complaints are investigated and what happens after the investigation. It should describe how the final determination of whether sexual harassment occurred will be made; what the possible penalties are; whether the complaining party has the right to know what penalty, if any, the employer has decided to impose; and whether there is an appeal process.

The policy should strongly prohibit retaliation, giving examples of what retaliation is. It should state that retaliation against complaining parties or witnesses will be taken as seriously as harassment itself.

Some employers have good written policies and think that's enough. But it's no good to have a policy if employees can later claim they never saw it. To show that every reasonable effort was made to be sure employees knew the policy, each new hire should be given a copy of the policy and sign a receipt stating he or she has read and understands it.

If you want employees to remember the policy and to understand that you're serious about it, there must be ongoing exposure. Some employers have a brochure or pamphlet that summarizes the policy. Employees may be periodically

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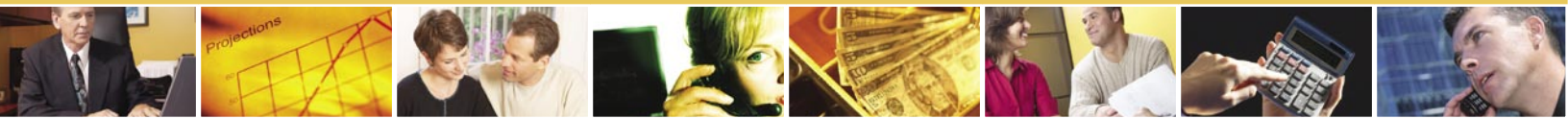
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How Employers Can Encourage Safe Driving on the Job

Highway accidents are the number one cause of death on the job. The National Safety Council states that in 2002 (the last time these statistics were compiled) there were approximately 4,900 on-the-job fatalities in the United States, 1,400 of which were the result of passenger car accidents. In fact, most of the fatalities were salespeople headed to sales calls or someone out for an occasional trip in the company vehicle. It's not surprising to learn that some employers are taking steps to reduce accidents by implementing driver's training for some or all of their employees.

Car accidents have a serious financial and emotional cost to a company. Offering a course to employees is an expense. However, the insurance company may offer a discount to companies who participate in driver's training programs, which may offset those costs. Programs range from videos and workbooks to online classes, some of which are available directly from the National Safety Council. With the National Safety Council program, for example, you can track which employees signed up for the online course. This way, you can individually reward an employee for participating in the program.

Teaching safe driving is not a new concept, of course. In the 1940's, Harold L. Smith introduced the Smith System to help prevent accidents before they happen. Today, the five basics of The Smith System are still taught to help drivers make good choices behind the wheel. The company offers driver safety classes throughout the country.

Even if a formal driver's safety course is not implemented in the workplace, you can encourage your employees to keep in mind a few common sense tips for being a safer driver. Fatigue and technology are both potentially deadly when combined with drivers on the road. Let employees know it's best to pull over



if they get tired. Being on time is not as important as arriving safely. In addition to fatigue, technology - cellular phones, mp3 players, PDAs - can be deadly. Instruct employees to pull over to make an important business call or to jot down a note. It may be the most important stop they make that day.

It's difficult for a company to enforce suggestions for improving an employee's driving habits. Driver's training courses offer a way to verify that employees are learning good driving skills and hopefully being more cognizant of their safety on the road. Safe driving skills may benefit the employer, but they also benefit the employee personally through reduced speeding tickets and fewer accidents. The financial costs associated with the implementation of such a program are quickly outweighed by the benefits to everyone involved.


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reminded through memos, articles in employee newsletters, announcements on company bulletin boards, in employee meetings, or some other means of regular communication.

We live in a culture where people may be frequently exposed outside of work to behavior that is highly inappropriate at work. The only way employees will know what behavior the employer requires is if they are trained and retrained. Even more important is the training of everyone with any supervisory authority, both because they must enforce the policy against sexual harassment and because, if a supervisor engages in harassment of a subordinate, the employer is strictly liable.

It's not unusual for someone accused of harassment to say, "I'm not the only one who acted that way." Often, it's true. If there is an atmosphere where behavior that skirts too close to the edge of sexual harassment and is inappropriate for work is tolerated, or where the role models don't take sexual harassment seriously, the risk of sexual harassment liability is high. It will not be a defense to liability to say, "But we had a policy." The policy must be comprehensive and thorough and it must be scrupulously followed. Employees will need to be trained and retrained. These are all simple steps, though not necessarily easy, since they require a substantial commitment of time and resources to do it right. The reward, though, is a reduction in sexual harassment liability risk and, for most employers, a more productive workforce.

Reduce Customer Bad Debts with Credit Insurance



When you sell to a new overseas customer, do you worry that you'll get paid in a timely fashion, or worse yet, will the client pay at all? How do you quickly obtain high quality, reliable credit information about a company in a small, foreign country before you ship the goods? The answer lies with credit insurance. Used extensively in Europe for years, credit insurance is now being used more often by U.S. businesses in overseas and even domestic transactions.

Credit insurance is also known as accounts receivable insurance, bad debt insurance or credit risk insurance. The types of risks covered by credit insurance involve non-payment by buyers due to insolvency, slow payment after delivery is made and for losses that resulted from a customer becoming insolvent before delivery of goods or completion of contract, but after the goods had been produced and shipped.

During times of economic downturn or gradual expansion, credit insurance provides an extra layer of protection for your company's growth, and helps to calm nervous lenders. Often, the credit insurance policy can be used to reduce the cost of a loan, as it is almost a certainty that revenue from a specific source will be forthcoming.

Credit insurance may enable you to sell more goods on credit terms while substantially reducing the overall risk of exposure due to non-payment. It also may enable you to take advantage of peak and cyclical selling periods and to safely expand into new product lines or territories.

Generally, it is recognized that 20% of a company's customers account for 80% of sales. Credit insurance protects against the devastating loss resulting from the insolvency of one of your key accounts. A credit insurance contract can insure your entire accounts receivable or be custom tailored to cover just your key customers. Lenders recognize that the insolvency of a company's key customer may jeopardize repayment of a loan. Credit insurance reduces this risk.

Credit insurance usually costs a fraction of one percent of insured sales and premiums are based on the type of business, annual sales, loss experience and countries where goods are sold. Letters of credit, an alternative to credit insurance, are more costly and can tie up your credit lines.

Premiums for credit insurance can be factored into your export prices. Buyers are often willing to pay the credit insurance premium, since your credit terms are probably more feasible than a buyer arranging financing from a bank in the foreign country.

Once a credit insurer accepts your account, it will investigate the credit background of your customers using data from banks, trade organizations, government agencies, credit and rating groups, and from its own extensive files. It will also examine your company's sales, credit history and shipment methods.

The detailed data and information provided by credit insurers can support your decision to establish credit limits for your customers. Sales to some foreign countries that have been designated by the government as "high risk" are not eligible for insurance, but these banned countries are small in number and change frequently.

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- persistent complaints of unfair treatment;
- unwillingness or inability to accept accountability and the need to put blame upon others;
- difficulty in accepting criticism;
- decline in job performance;
- behavioral/personality changes or mood swings; and
- difficulty in controlling feelings or emotional outbursts.

While workplace violence, unfortunately, cannot be eliminated, businesses can actively work to lessen the chances that an incident will occur. All employees, and especially managers and supervisors, should be made aware of behaviors that can indicate potential violence. Clear workplace policies should spell out that non-physical precursors to violence—such as bullying, intimidation, aggression, and threats—will not be tolerated. Policies also should encourage employees to report such incidents, with reasonable assurance of their personal safety. Managers and supervisors should be trained in how to effectively diffuse workplace tensions and deal with

confrontations before they turn violent. Employee assistance programs (EAPs) or other counseling services can be looked to as aids in taking these steps.

Though people can and do change, many perpetrators of violence have a history of such behavior, or of red flags for potential violence. For this reason, background checks, pre-employment screenings, thorough resume reviews, and pre-hire interviews can be valuable tools in workplace violence prevention, according to information from the International Risk Management Institute. Frequent job changes that are not adequately explained; mysterious holes in an applicant's work history; demeanor during a pre-hire interview that is unresponsive, uncooperative, or somehow unsettling; and, of course, any history of violent or threatening behavior are among the red flags to watch for.

With the right policies and preventive measures, a business can at least know that it has taken appropriate steps to protect itself—and its employees—from acts of workplace violence.

Workplace Violence: A Tragedy We Can Do More to Prevent

Homicides are the second leading cause of death on the job (after motor vehicle accidents), with an average of 20 workers killed each week and an estimated million workers non-fatally assaulted, according to data from the National Institute for Occupational Safety and Health, a division of the U.S. Centers for Disease Control and Prevention. Though the vast majority of workplace violence is robbery-related and perpetrated by individuals from outside a business, approximately nine percent involves co-workers or former employees.

Occurrences of workplace violence by current or former employees have a devastating impact on a business and its workers. Beyond the real and immediate injury to the victim(s), the business itself will suffer bad publicity and, likely, a costly lawsuit. Workers other than the direct victim(s) are likely to experience emotional after-effects, whether or not they witnessed the event.

What leads to workplace violence? According to a guide published by the Minnesota Department of Labor & Industry,



workplace violence can occur in any company, because the business environment is not the only trigger of violent incidents. An employee's psychological problems, substance abuse issues, or family stress can carry into the workplace and provoke an incident of violence. Or, an employee may develop an unrequited crush on a co-worker, be passed over for promotion, or feel unfairly treated by a supervisor, and cannot appropriately handle the resulting feelings of rejection. Or, everyday workplace stress created by pressure to produce, or by a fear of layoffs or firings can trigger violence in an unbalanced individual.

An analysis by USA Today of 224 incidents of workplace violence committed by employees concluded that, in eight out of 10 cases, the employee had exhibited clear warning signs of impending violence, which were ignored or downplayed by supervisors or co-workers. While some red flags of violence are clear—such as brandishing a weapon or making verbal threats—others are more subtle. Experts in the field point to the following behaviors as sometimes indicating potential violence—

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