Sexual Harassment in the 21st Century

By Stephanie K. Rawitt / Oct 18, 2017

In the wake of the Harvey Weinstein scandal, there has been a social media "Me Too" movement where women have been asked to post "Me Too" if they have ever experienced sexual harassment or intimidation in the workplace. The response has been overwhelming. Women across the globe have been sharing that they have indeed been the victims of sexual harassment in the workplace, even though in most instances they chose not to report the inappropriate treatment. The response also mirrors an ABC news piece called "Crossing the Line: A Look at the Sexual Harassment Women Face in the Workplace" that initially aired in December 2016. Add same-sex and reverse sex harassment to the mix and the number of employees who experience sexual harassment in the workplace increases. Clearly, even though we hail ourselves as a more enlightened society, sexual harassment and discrimination are still a major problem in the workplace.

The Equal Employment Opportunity Commission convened a task force this past summer to evaluate harassment in the workplace and concluded that workplace harassment remains a persistent problem because (1) many employers do not place sufficient emphasis on curbing harassment in the workplace or sending clear messages that the employer will not tolerate harassment; (2) many employers either do not have sufficient anti-harassment policies or do not follow through with the policies that they do have to hold employees accountable for impermissible conduct and (3) employers tend to focus on litigation prevention instead of harassment prevention.

There are several steps an employer can take to strengthen its anti-sexual harassment program. In order to properly assess company anti-harassment policies and practices, employers should:

- Evaluate their work environment and determine if there are any harassment risk factors that require attention;
- Focus on harassment prevention, and work with their management team to foster an environment where sexual harassment is not tolerated or excused;
- Make sure that their anti-harassment policy is clearly written so that all employees can understand what behaviors are prohibited;
- Ensure that the reporting procedure is clearly set forth in the policy and that employees have several different complaint reporting options;
- Emphasize the company's anti-retaliation policy;
- Ensure that supervisors are able to identify sexually harassing behavior, know how to stop it and report it;
- Provide anti-harassment training to the workforce once a year and remind employees of the company's complaint process at least semi-annually;
- Focus training not only on prohibited conduct, but also on general workplace civility, anti-bullying and bystander intervention;
- Keep accurate records of the training and who attended; and
- Consult with counsel to make sure that they have assessed their workplace risk factors and to verify that their anti-harassment policies are clear and in compliance with current law.

With these few simple steps, employers can prevent sexual harassment in the workplace and limit the threat of a civil or administrative agency complaint of sexual harassment.

If you have any questions about workplace harassment, anti-harassment policies or workplace anti-harassment training, please contact Stephanie Rawitt at srawitt@clarkhill.com | (215) 640-8515 or another member of Clark Hill's Labor and Employment Practice Group.