

Who's next?

Is your company prepared to respond to claims of sexual harassment?

It used to be when employees made a sexual harassment complaint to human resources, the department would investigate and the matter stayed confidential from the public until it was resolved. Things have changed.

The slew of recent high-profile sexual harassment claims has caused a sense of unease among owners, managers and executives, which has led them to take steps to mitigate their risks, both legal and reputational.

“Review and revise your policy on sexual harassment and discrimination,” says Michael J. Torchia, a managing member at Semanoff Ormsby Greenberg & Torchia, LLC. “Work with an expert, such as an employment attorney, to craft a user-friendly policy that includes specifics about procedures for making a complaint. And equally as important, train upper and middle management on how to respond to claims of sexual harassment and what to do if news of the allegation spreads outside the company’s walls.”

Smart Business spoke with Torchia about sexual harassment policies, how a company should prepare to respond ahead of any allegations, and the role attorneys play in the event of an emergency.

What steps should a company take to prepare for possible sexual harassment allegations?

To ensure a company is in the best position to respond to a claim of sexual harassment, a response team should be identified to handle it. This way, there is no confusion about who should be notified and who will make initial decisions if a complaint is levied against a company official.

It’s important to determine who will be involved in the decision making if a

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complaint is accompanied by publicity and if this will be handled differently from normal procedures.

Some companies pre-draft statements to the press before a claim is made stating how it has a commitment to keeping employees harassment free, strong anti-harassment policies, how they have never before had a claim, etc. Of course, these drafts need to be amended by the facts of the particular claim, but the basics are prepared so they can act quickly and respond to the press if there is a charge. This is a much better approach than “no comment.”

Upper management should be involved, but the group might also include human resources, risk management, the company’s general counsel and outside counsel.

How often should a harassment policy be updated?

Generally, it should be standard procedure that the anti-discrimination and harassment policy is reviewed every two years or when there has been a change in the law or regulations. In the current environment of high-profile sexual harassment claims, however, employers need to be more conservative. Now is a good time to revisit whatever policies you have in place.

What role should a board of directors play?

News of a sexual harassment claim can

travel quickly — sometimes in a matter of hours — especially when allegations are made against an executive at a large or high-profile company, so it’s prudent to be prepared at every level.

The board of directors should be made aware that their involvement could be necessary if a complaint is made. Companies should designate a single member of the board to handle such issues when they arise, or they may prefer to establish a special committee.

For complaints against rank-and-file employees, the board does not usually need to be directly involved.

Why is it important to have your attorney's cell phone number?

Thankfully, it’s not usually necessary to call your attorney in the middle of the night. However, harassment claims can become public late at night or on weekends, and reach the press or spread through social media before the company is aware of what’s happening. For this reason, it’s a good idea to have both in-house and outside counsel’s cell phone numbers in the case of an emergency. You’ll also need emergency contact numbers for the other members of the response team. It could give a company the time it needs to address the issue before an inaccurate or damaging narrative takes hold. ●