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Protecting Your Legal Rights-Preventing Workplace Harassment

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The federal anti-discrimination statutes such as Title VII (race, gender, religion or national origin), the Age Discrimination in Employment Act (an employee over 40) and the Americans with Disabilities Act, are created to protect employees from illegal discrimination and harassment. Harassment is generally defined as unwelcome conduct which adversely affects an individual's employment by unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment. Today, most companies have a written policy against harassment which is generally distributed to employees. The anti-harassment policy should direct the employee as to whom to complain regarding the offensive conduct without fear of retaliation. After receipt of the complaint, the company is legally obligated to investigate the allegations and take prompt remedial action to stop the harassing behavior. A company can be held liable if it fails to take prompt remedial action sufficient to stop the offensive behavior. Additionally, any adverse action by the company against the employee for reporting the harassing conduct can subject the company to legal action for retaliation.

A clear policy against harassment policy and employee training regarding the provisions of the policy help protect the employer from legal action in certain circumstances such as when an employee fails to bring a claim of harassment to its attention. To the contrary, the failure to have an anti-harassment policy and employee training can be detrimental to an employers defense. Because under some circumstances, if the employee fails to report the conduct which the company could not have reasonably known about, then the company will have a valid defense if the employee attempts to take legal action to hold the company responsible for the offensive conduct. As such, employers are recommended to have a well drafted anti-harassment policy which is distributed to employees along with employee training as to the provisions of the policy. Also, if you an employee are being subjected to harassing and offense behavior in the work place, you are well advised to review the policy and facts and circumstances surrounding the harassing conduct with legal counsel to be certain that your legal rights are being addressed without fear retaliation. For further information, please visit our web site at www.joettedoran.com

This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.

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