

Visit our website:
<http://careplussolutions.com>

Brought to you by [Care Plus Solutions](#)
Employee Assistance Program
1-800-832-8902

You Investigated A Harassment Claim: Now What?

In our last piece on "Investigating Claims of Harassment Effectively" we noted if no determination can be made on a claim of harassment because the evidence is inconclusive, employers should still undertake further preventive measures, such as training and monitoring.

If you have determined harassment did indeed occur, now what? The following guidelines can help you determine next steps. Consulting with an attorney prior to taking your next steps is always a prudent idea.

First make it clear to all parties involved that management will take immediate and appropriate corrective action, including discipline.

Keep in mind that any action you take should be designed to stop the harassment, correct its effects on the employee and ensure that the harassment does not recur. The actions need not be those that the employee requests or prefers, as long as they are effective.

Keep in mind that an employer could be found liable if the harassment does not stop. At the same time, management may have concerns that overly punitive measures may subject the employer to claims such as wrongful discharge and/or may simply be inappropriate. Therefore, disciplinary measures should be proportional to the seriousness of the offense. If the harassment was minor, (ex: a few "off-color" remarks by an individual with no prior history of similar misconduct, then counseling and an oral warning coupled with referral to the EAP might be all that is necessary. On the other hand, if the harassment was severe or persistent, then discharge or a formal referral to the EAP coupled with suspension may be appropriate.

Be sure any actions taken do not adversely affect the complainant. For example, if it is necessary to separate the parties, then it is the harasser who should be transferred (unless the complainant prefers otherwise). Transferring the complainant may be seen as unlawful retaliation and are not effective in correcting the harassment.

Examples of Measures to Stop the Harassment and Ensure That it Does Not Recur:

- oral or written warning or reprimand
- transfer or reassignment
- demotion
- deduction of wages
- suspension
- discharge
- training or counseling of harasser to ensure that s/he understands why his or her conduct violated the employer's anti-harassment policy
- monitoring of harasser to ensure that harassment stops

Examples of Measures to Correct the Effects of the Harassment:

- restoration of leave taken because of the harassment
- expungement of negative evaluation(s) in complainant's personnel file that arose from the harassment
- reinstatement
- apology by the harasser
- EAP counseling to process the victim's feelings relating to the incident
- monitoring treatment of employee to ensure that s/he is not subjected to retaliation by the harasser or others in the work place because of the complaint
- correction of any other harm caused by the harassment (e.g., compensation for losses)

Organizational Preventive or Corrective Measures

- Advise your Managers and Supervisors that should an employee file a complaint with the EEOC alleging unlawful harassment, an internal investigation should be launched even if the employee did not complain to management through its internal complaint process.
- Management should also take care to address any conduct that could be unwelcome and lead to complaints of harassment, whether or not a complaint has been lodged with the employer. For example, if there are areas in the workplace with graffiti containing racial or sexual epithets, management should eliminate the graffiti and not wait for an internal complaint.
- Conduct periodic training and ensure your supervisors and managers understand their responsibilities under the organization's anti-harassment policy and complaint procedure.
- An employer should keep track of its supervisors' and managers' conduct to make sure that they carry out their responsibilities under the organization's anti-harassment program. Note their compliance in formal evaluations.
- Screen applicants for supervisory jobs to see if any have a record of engaging in harassment. If so, it may be necessary for the employer to reject a candidate on that basis or to take additional steps to prevent harassment by that individual.
- Keep records of all complaints of harassment. Without such records, the employer could be unaware of a pattern of harassment by the same individual. Such a pattern would be relevant to credibility assessments and disciplinary measures.
- Lastly, remember the legal adage: "If it isn't written, it didn't happen."

If you want an EAP that will work for you and with you to get the best results, let us know.

1. Call us at 1.800.765.8263 to discuss what we can offer your company.
2. [Email](#) us and request a brochure detailing our program
3. Contact us via our website: <http://careplussolutions.com/contact/>