

HR Landmines

Presented by:

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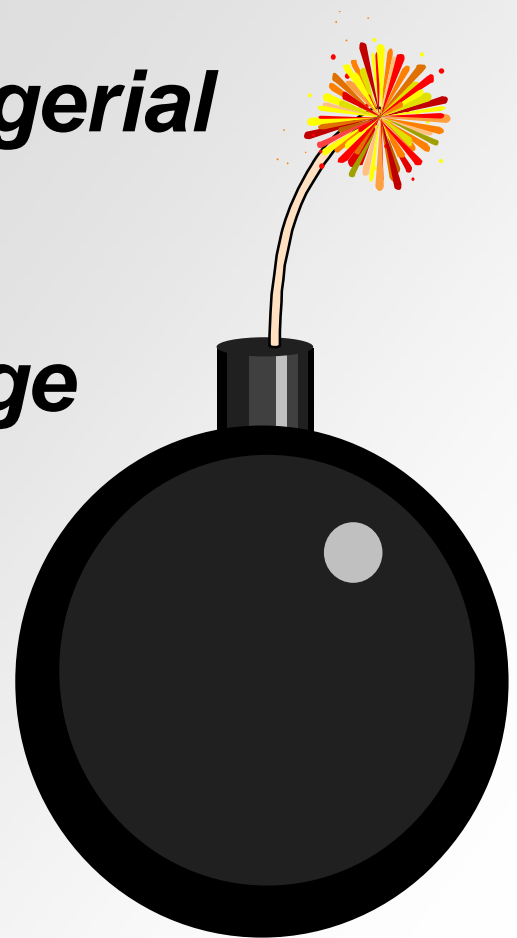
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Employment Practices

The legal aspects of employment exist for every employer and range from the beginning of the application process to the last day of benefit coverage or employment. It is critical that each organization understands the actions and practices that are necessary to comply with laws and regulations.

Where are the Landmines?

- ***Hiring***
- ***Benefits coverage***
- ***Compensation***
- ***Supervisory/managerial language***
- ***Discipline/discharge***
- ***Recordkeeping & compliance***



Employment-At-Will

All states except Montana are considered Employment-at-Will states

This means that either the employee or the employer may terminate the employment relationship with or without reasons and with or without notice

It is important to retain this right even if you don't use it often (or at all).

**Federal
Non-Discriminatory
Considerations**

Age

Sex

Race

Color

National Origin

Religion

Disability

Veteran Status

Workers' Compensation History

***Relationship/Family Status
(Washington)***

***Sexual Orientation
(Selected Cities/Counties)***

Fair Labor Standards Act Information

**New changes to FLSA become
effective in August 2004**

- ***Covers child labor***
- ***Provides for minimum wage
(state version is higher)***
- ***Sets working hours for overtime***
- ***Defines non-exempt and exempt
(change in minimum pay)***

Qualifications for Exempt Status

Executive

Computer professional

Professional

Administrative

Outside sales

Combination

Definitions of Harassment

Harassment is the act(s) of irritating, disturbing, or otherwise causing distress, interference, or interruptions to another. Illegal harassment occurs when the cause of harassment is based on the individual's age, gender, race, religion, disability status, sexual orientation, etc.

HR Answers Policy Manual

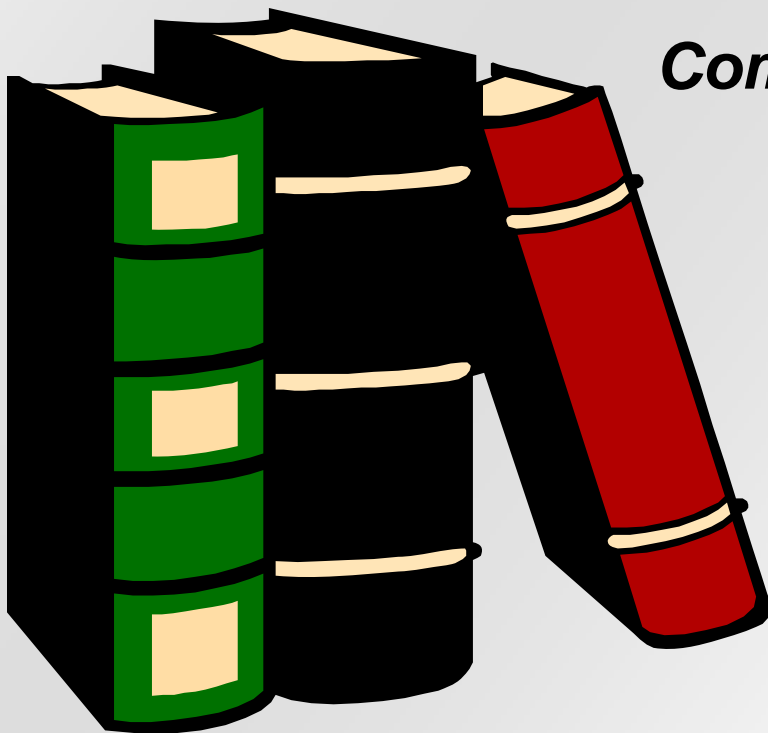
Definitions of Harassment

Harassment is a violation of Title VII when “such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.”

Brown v. City of Guthrie

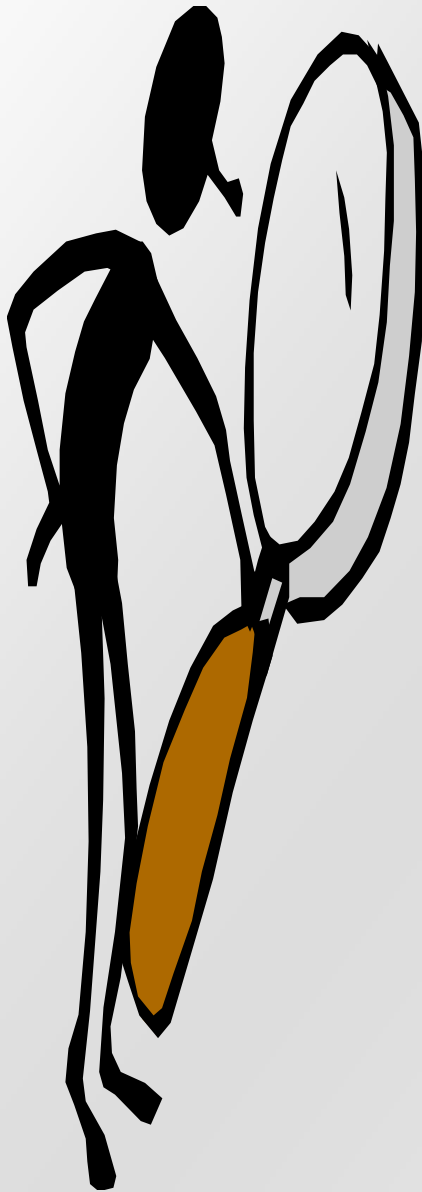
Definitions of Harassment

Harassment is “deliberate and/or repeated behavior that is not welcome, not asked for, and not returned.”



Common Sense

Types of Harassment



1. *Quid Pro Quo*

2. *Hostile Work Environment*

Guidelines for Management

- 1. Raise the subject.***
- 2. Express strong disapproval.***
- 3. Respond with appropriate sanctions.***
- 4. Inform employees of their rights, responsibilities and course of action.***
- 5. Sensitize **ALL** concerned.***

Employee Responsibilities

- 1. Understand what harassment is.***
- 2. Understand that others may perceive harassment differently.***
- 3. Refrain from harassing others.***
- 4. Be aware of non-verbal cues.***
- 5. If feeling harassed - speak up - ask person to stop.***
- 6. If person doesn't stop - follow internal complaint procedure.***

Why Discipline?

- *To correct improper conduct and help an employee improve performance.*
- *To improve efficiency and quality of the workforce.*
- *To reinforce the need for safety and concern for the employer's property and equipment.*
- *To discourage employees from engaging in inappropriate behavior in the future.*
- *To indicate that justice exists in the workplace.*

Things to Consider ...

- ***Was a known rule violated?***
- ***Was the employee properly trained?***
- ***Is the employee's alleged conduct part of a pattern of carelessness?***
- ***Does the employee seem willing to learn from the mistake?***
- ***What actual, or potential, damage resulted from the employee's conduct?***
- ***What influence will the discipline have on other workers?***
- ***Did the employee's act of carelessness have any negative effects on the employer's public image?***

Recordkeeping - Retention

Most records need to be kept 3 years with the following exceptions:

<i>Applications/Resumes</i>	<i>1 year</i>
<i>Personnel Records</i>	
<i>Recruiting Information</i>	
<i>Time Cards/Sheets</i>	<i>2 years</i>
<i>Payroll Information</i>	<i>3 years</i>
<i>I-9's</i>	
<i>Child Labor Information</i>	
<i>Collective Bargaining Agreements</i>	
<i>Medical Information</i>	
<i>FMLA Information</i>	<i>4 years</i>
<i>ERISA Information</i>	<i>6 years</i>
<i>OSHA Information</i>	<i>5 years</i>