



Eliminating Sexual Harassment in the Workplace

The last thing a township needs to spend its money on, when revenues are down and budgets are tight, is an expensive and time-consuming sexual harassment lawsuit. A conservative amount to defend a sexual harassment lawsuit today is \$150,000, not including liability costs if the township loses. Even with employment practices liability insurance to help defray the cost of a claim, the human resource expenditure during litigation can be overwhelming. And, of course, there is the possibility of a trial that can last for weeks.

That is why a proactive plan to eliminate sexual harassment, and all other forms of harassment, in the workplace—especially in public sector workplaces, such as townships, with fiduciary responsibilities to its citizens—is the best defense to avoid potential liability and the headaches that go with it.

“This is an area that affects *all* employers, including townships,” said **Kristin Orlowski**, SPHR, human resources director for **Pittsfield Charter Township** (Washtenaw Co.), which has long-had anti-harassment policies in place. Its current policy has been in effect since 2005. “As an organization, we must be able to attract, recruit, progress and retain quality employees, and provide them with a safe and professional work environment, free of any harassment, where they are treated with dignity and respect.



This continuing education article and accompanying self-assessment is worth 2.0 elective credits as part of MTA's Township Governance Academy. See pages 24-25 for details.

OBJECTIVES

- To define sexual harassment, and describe acceptable and unacceptable workplace behavior
- To emphasize the importance of having a sexual harassment policy and what townships can do to prevent harassment in the workplace
- To discuss the role of the board and department heads, and discover tips for investigating harassment

CORE COMPETENCIES

- To be aware of legal matters that could impact the township
- To understand the elements of risk management
- To understand how township policies and procedures are set

“Every individual has the right to work in a professional atmosphere that is free of bias, promotes equal employment opportunities and prohibits discriminatory practices. This is simply just the right thing to do.”

Being proactive, however, requires that township officials and department heads have an understanding of sexual harassment and an affirmative commitment to address the issues before they occur and if they do occur, to promptly and appropriately respond.

SEXUAL HARASSMENT DEFINED

First, it is important to understand the statutory definition of sexual harassment. Michigan's Elliott-Larsen Civil Rights Act (ELCRA) prohibits sexual harassment and other discrimination.

Under the ELCRA, discrimination because of sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal and/or physical conduct, or communication of a sexual nature when:

1. Submission to such conduct or communication is made a term or condition of employment either explicitly or implicitly, and
2. Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment; or
3. Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile or offensive employment.

Michigan's statutory definition of sexual harassment is essentially the same as the federal regulations under Title VII of the Civil Rights Act of 1964 (Title VII). The first two provisions above define *quid pro quo* ("this for that") sexual harassment. The last provision above defines hostile work environment sexual harassment. Commission of either or both can be costly for an employer.

Unlike hostile environment cases that are characterized by varied combinations and frequencies of hostile sexual exposures, *quid pro quo* cases may be predicated upon a single incident of sexual harassment. Plaintiffs in a *quid pro quo* case must prove that the employee's submission to the unwelcome advances was an expressed or implied condition of receiving job benefits or that the employee's refusal to submit to an official's or department head's sexual demands resulted in a job detriment. A job benefit may include, among other examples, being hired or promoted, while a job detriment may include being fired, a demotion, failing to promote, or reassignment with significantly different responsibilities.

In *quid pro quo* cases, the harasser must have the authority to affect the victim's job. Accordingly, township employment policies that prohibit romantic relationships (even consensual ones) between a superior and his or her subordinates are strongly advised. Consensual romantic relationships are ill-advised between a superior and subordinate because relationships that begin consensually can quickly "go sour." If one of the parties to the relationship tries to end it and suffers a job detriment as a result, a sexual harassment claim may follow.

In a hostile environment sexual harassment claim, the employee must prove:

- That the employee belongs to a protected group.
- The harassment complained of was based on the person's sex (gender).

- The employee was subjected to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.
- The unwelcome sexual conduct or communication had the intention or effect of substantially interfering with the employee's work performance, and creating an intimidating, hostile or offensive work environment.
- *Respondeat superior*—Proof that a "master-servant" relationship existed between the wrongdoer and the defendant at the time of the injury sued for, in respect to the transaction from which it arose. The concept is based on the doctrine that, in some cases, an employer is liable for the wrongful acts of its employee performed in the course of his or her service to the employer.

The sexual harassment in a hostile work environment claim must be severe or pervasive and not simply a mere annoyance. The courts rely on a "reasonable person" standard to evaluate what constitutes conduct so pervasive that the psychological well-being of the employee is affected.

It is interesting to note that victims of sexual harassment may be male or female. In fact, according to Equal Employment Opportunity Commission statistics for 2007, sexual harassment claims filed by men are at an all-time high of 12 percent of all discrimination claims filed. The harasser also does not need to be of the opposite sex. Men can sexually harass men and women can sexually harass women regardless of their sexual orientation. A harasser may be a department head, co-worker, elected or appointed official, or non-employee, such as a township resident, vendor or independent contractor. Sexual harassment may occur without economic injury to, or discharge of, the victim. Moreover, damages can include punitive or "exemplary" awards where an employer explicitly or implicitly condones the harassment.

The law also does not require that the unwelcome conduct or communication be targeted at the plaintiff. For example, co-workers within hearing range of unwelcome communication may be victims of hostile environment sexual harassment. In *quid pro quo* cases, an employer is strictly liable for the harassment by a superior whether or not the employer had notice or took measures to prevent the harassment. In hostile environment sexual harassment cases, the plaintiff must prove *respondeat superior* liability. Michigan case law relevant to *respondeat superior* liability in hostile environment sexual harassment cases dictates that an employer is liable for the hostile environment sexual harassment of a co-worker only if the employer had actual or constructive notice of the harassment and was negligent in failing to stop it.

WHO MAY BE LIABLE FOR SEXUAL HARASSMENT?

Under Title VII, an employer must have at least 15 employees to be subject to a claim for sexual harassment. Contrary to federal law, under Michigan's ELCRA, an employer only needs one employee to be potentially liable for a sexual harassment claim. Title VII and ELCRA also apply to employment agencies, labor organizations, and providers of public accommoda- ►

If an employee, or someone on his or her behalf, files a verbal complaint, the official or department head should ask the employee to put the complaint in writing on a form that allows the employee to be as specific and detailed as possible, preferably in the employee's own writing.

tions, public services, education and housing. It is significant that under Michigan law, as opposed to federal law, not just the employer may be liable for a claim of sexual harassment, but any harasser may also be held individually liable.

Townships must also keep in mind that they may be liable for sexual harassment that their officials or department heads commit regardless of whether the township knew or should have known, or had even prohibited the unlawful behavior.

An employer may assert an affirmative defense to a hostile environment sexual harassment claim if the employer can show that it took quick and appropriate corrective action. Alternatively, if an employer knew or should have known of the sexual harassment and fails to take swift remedial measures, such failure to act can be fatal to any defense.

EXAMPLES OF UNACCEPTABLE BEHAVIOR

Certainly with all of the attention sexual harassment lawsuits have received in recent years, one would expect that everyone is aware of what constitutes unacceptable behavior. Yet, one can still observe at many worksites e-mail messages circulating jokes laced with sexual innuendo (if not unabashed sexual commentary), or degrading, insulting or offensive messages based on gender. Pictures portraying a gender in a degrading or sexual way are unacceptable, as are verbal commentary about sexual prowess or attractiveness or about perceived sexual deficiencies. Repeated unsolicited or rejected advances or propositions are also inappropriate. And workplace displays of sexually suggestive objects, pictures, posters, graffiti or cartoons are on the unacceptable list.

Employers must be aware that under federal law (but not Michigan law) hostile, demeaning or intimidating conduct that is consistently targeted at only one gender, even if the content is not sexual, may also constitute sexual harassment.

"Employees need to be told the boundaries or the accused can be difficult to deal with because they can claim they did not know what behavior was considered inappropriate," said **Rob Seeterlin**, director of fiscal and human resources for **Waterford Charter Township** (Oakland Co.), whose anti-harassment policy, first passed in 1993, was updated in 2004.

EXAMPLES OF ACCEPTABLE BEHAVIOR

It is just as important for employees to understand that every personal comment made to a co-worker or subordinate does not necessarily constitute sexual harassment. For example, it is still acceptable to compliment occasionally a person on their appearance, such as telling someone that his or her new haircut or outfit looks nice. Asking a co-equal employee for a date, provided there is no pressure or retaliation if he or she declines, is also acceptable. Flirting, flattery, joking or even subtle innuendo between co-equal employees are acceptable, provided it is welcomed, reciprocated and does not interfere with or become pervasive at work.

It is important for employees to understand the difference between, and be sensitive to, invited conduct, uninvited but welcome conduct, offensive but tolerated conduct, and unwelcome conduct. Most harassers do not understand there is a difference or know at which level to stop. Sexual harassers also often mistake a person's friendliness for romantic interest.

PROHIBITING SEXUAL HARASSMENT IN THE WORKPLACE

The first step in a proactive plan against sexual harassment in the workplace is establishing a township policy that prohibits unlawful sexual harassment and sets forth disciplinary consequences for unacceptable behavior. "A proactive policy protects all—the victim (or alleged victim), the accused, the management and the public treasury," said Seeterlin. "It prevents problems from occurring, and if they do occur, we can get a handle on the situation before it gets worse."

Echoes Orłowski, "A township must practice reasonable care to prevent and correct behavior, and implement effective guidelines and complaint procedures for employees to seek preventative or corrective opportunities.

"Our township has benefited from having an anti-harassment policy by maintaining a more harmonious work environment

where employees focus on their jobs,” she continued. “We have set the expectation with employees that harassment in the workplace is strictly prohibited and will not be tolerated. We have improved employee relations, increased productivity and the township has also saved money on costly litigation. This has also allowed us to enhance the public image and reputation of the township.”

An effective policy should also include the definition of *quid pro quo* and hostile environment sexual harassment. It is helpful to employees to include in the policy the types of behaviors that are unacceptable. The policy must require employees who believe they have been discriminated against or harassed, or a person on their behalf, to file a complaint with the employer and identify a process for doing so. If the employee fails to file a complaint, this may serve as an affirmative defense to a later suit. The employees should understand from the policy that the employer will not tolerate any form of retaliation against any employee who files a complaint of sexual harassment or who serves as a witness in any sexual harassment investigation or claim.

Furthermore, the township’s policy should explain that the employer will investigate all claims of sexual harassment promptly and thoroughly, and to the *extent possible* will keep the matter confidential. Neither the policy nor the township should guarantee or promise complete confidentiality. Finally, it should indicate that any person who violates the sexual harassment policy will be subject to discipline up to and including discharge, including any employee who knowingly files a false claim of sexual harassment.

Once a policy has been established and distributed to all township employees, with each employee acknowledging in writing its receipt, the next step is to provide all employees, and especially all board members and department heads, with sexual harassment training. “It is important that townships provide training and education to employees as to what constitutes harassment under the law and to make sure that employees clearly and fully understand the anti-harassment policy, the reporting procedures, and the serious consequences of unlawful harassment behavior,” said Orłowski. “Education and training are absolutely essential and critical in this area.”

Other Forms of Prohibited Discrimination

Sexual harassment is only one form of prohibited discrimination. Federal law also prohibits discrimination based on race, national origin, color and religion—all under Title VII of the Civil Rights Act of 1964. In addition, separate federal laws prohibit discrimination based on age, disability or pregnancy under the Age Discrimination in Employment Act, Americans with Disabilities Act and Pregnancy Discrimination Act, respectively. More information about federal anti-discrimination law is available on the Equal Employment Opportunity Commission Web site, www.eeoc.gov.

Michigan law is even more expansive than federal statute, and also prohibits employment discrimination based on height and weight. In November 2007, Gov. Jennifer Granholm also signed an executive order that prohibits public employers from discriminating based on gender identity, expanding an earlier order that also prohibits discrimination based on sexual orientation. The Michigan Department of Civil Rights, which enforces the state’s anti-discrimination laws, has more information on its Web site, www.michigan.gov/mdcr.

—Compiled by Neil E. Reichenberg, CAE, executive director, and Tina Ott Chiappetta, senior director of government affairs and communications, International Public Management Association for Human Resources.

Effective sexual harassment training should include a definition of prohibited conduct with examples, a thorough explanation of the township’s anti-harassment policy, a discussion of how the township will enforce the policy and each person’s role in enforcement, and the consequences of policy violations. Training must make it clear that reporting sexual harassment in the workplace is *every* employee’s obligation. Effective training will reinforce a township’s message to its employees that the township board will not tolerate sexual harassment and that swift measures will be taken to eliminate sexual harassment in the workplace.

It is important in defending litigation matters not only to identify that the township has an anti-sexual harassment policy in place, but that the township took the necessary steps to train its workforce on understanding and enforcing the policy’s requirements. A jury needs to know that the township instituted action to support its words.

Because technology is such a critical part of all workplaces today, a technology use policy should go hand-in-hand with the sexual harassment policy. The technology policy should prohibit the use of business equipment for personal use, prohibit specific unacceptable use, such as creating, sending or receiving e-mail or voicemail that contains sexually explicit, vulgar or profane language, or depicts a gender in a degrading, humiliating or offensive way, or contains jokes or pictures that are ▶

Notable Sexual Harassment Case Law

The following federal cases have had a significant impact on defining sexual harassment in the workplace:

Meritor Savings Bank v. Vinson 477 U.S. 57 (1986)—The U.S. Supreme Court defined hostile environment sexual harassment in this case, saying that “Title VII affords employees the right to work in an environment free from discriminatory intimidation, ridicule and insult.”

Harris v. Forklift Systems, Inc., 510 U.S. 17—In 1993, the U.S. Supreme Court had another opportunity to expand on the definition of a hostile environment and stated that the harassing conduct must be “severe and pervasive” enough to create an environment that a reasonable person would find objectively hostile or abusive, and the employee must also find it subjectively hostile and abusive. The Court also ruled that an employer will be liable for a coworker’s harassment of another if the employer’s response manifests indifference or unreasonableness in light of the facts it knew or should have known. (See the main article for more on hostile environment harassment.)

Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75—In this landmark 1998 ruling, a unanimous U.S. Supreme Court decided that a male employee working on an offshore oil rig could sue his employer based on sexual harassment by a male coworker whether such conduct was prompted by sexual desire or not, as long as it impacted the work environment.

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998) and *Faragher v. Boca Raton*, 524 U.S. 775—The U.S. Supreme Court redefined sexual harassment in these cases, laying out a new way to analyze cases and at the same time provided guidance to employers on how to avoid liability (as discussed in the main article).

Amanda Hawkins, et al., v. Anheuser-Busch, Inc., Docket No. 07-3235—In this 2008 case, the U.S. Court of Appeals for the Sixth Circuit ruled that two women should be allowed to pursue their hostile environment workplace claims based on a coworker’s conduct because the company failed to adequately respond to numerous complaints of sexually harassing behavior.

Vicky Crawford v. Metropolitan Government of Nashville and Davidson County, Tennessee et al—Currently before the U.S. Supreme Court, this case involves the question of whether or not participating in an internal investigation, instead of a formal one, is sufficient to trigger the protections of Title VII’s anti-retaliation provisions. The *Crawford* case highlights the fact that even with decades of anti-harassment laws on the books, it can still be a challenge for employers, including townships, to manage the harassment incidences in the workplace. The Supreme Court is expected to issue a decision during its 2008-09 term.

—Compiled by Neil E. Reichenberg, CAE, executive director, and Tina Ott Chiappetta, senior director of government affairs and communications, International Public Management Association for Human Resources. For more information visit www.ipma-hr.org.

sexual in nature or show gender prejudice. The technology policy should also include at a minimum that the township maintains the right to monitor and access all business technology.

It is critical that all township officials and department heads understand their roles in the proactive plan against sexual harassment and actively enforce the plan’s requirements.

THE ROLE OF THE TOWNSHIP

Policies are only as good as those who enforce them. The role of township officials in the consistent application and enforcement of sexual harassment policies is vital to the success of a proactive plan. If township officials fail to enforce the sexual harassment policies, or apply the policies inconsistently, the township, as an employer, will lose credibility with its employees and will expose itself to potential liability for sexual harassment claims.

Sexual harassment training that educates and sensitizes township officials and employees on the warning signs and how to eliminate sexual harassment at the earliest stages before claims occur is a “must.” Here are some further responsibilities that township officials and department heads should—or in some cases, must—consider:

1. Read and thoroughly understand the township’s sexual harassment policy.
2. Communicate the township’s policy to all employees, affirmatively raising the subject, and expressing a strong disapproval of unacceptable behavior and of any policy violation.
3. Support and reinforce the policy with subordinate employees.
4. Enforce the policy consistently.
5. Maintain a work environment of mutual respect.
6. Keep your eyes and ears open for warning signs.
7. Speak to those employees who show warning signs, such as withdrawal or detachment, or avoiding certain persons.
8. If a romantic relationship develops in the township between co-equal employees, it is a good suggestion to obtain clarification or confirmation from both parties that the relationship is consensual. The township may wish to document any such conversation, and possibly have the



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employees provide a signed statement in their handwriting and words confirming that the relationship is consensual. While this will not ensure against a sexual harassment claim, it may be useful in defense of a claim.

9. If a township official or department head is susceptible to a romantic relationship with a subordinate, he or she must bring it to the attention of upper management and do one of the following:
 - a. Step down from his or her position.
 - b. Ask to be moved to a new position or location so that he or she is no longer supervising the subordinate employee.
 - c. Have the subordinate employee moved to another position or location so that the he or she is no longer supervising the employee.
 - d. Resign.
 - e. Not begin a romantic relationship.
10. Once a complaint is filed under the procedures, take it seriously and deal with the situation effectively. Seek assistance from human resources and/or labor and employment counsel.
11. Maintain confidentiality to the extent possible and ensure against retaliation.
12. Address concerns immediately with employees whose conduct makes them highly susceptible to sexual harassment complaints.

Most importantly, township officials must set the proper standard with their own personal conduct. In other words, they must “walk the talk,” including, but not limited to, not sending e-mails that are sexual in nature or circulating jokes, pictures or comments that are sexual or offensive, or condoning any violation of the sexual harassment policy. Officials should never assume that behavior is okay because no one has complained about it. And if someone does complain, officials should never minimize the complaint by telling the person that the alleged

harasser was “just joking” or by telling the alleged victim to “just ignore it.”

“Our township’s position is that we view any form of harassment to be a major offense that will result in disciplinary action being taken against the offender, up to and including suspension or discharge, regardless of the offender’s position with the township,” Orłowski said. “We will not condone or tolerate sexual harassment, or harassment based on sexual orientation or any characteristic protected by federal, state, or local law, by or against any of our employees, applicants, visitors, or members of the general public.”

PRACTICAL INVESTIGATION TIPS

If an employee, or someone on his or her behalf, files a verbal complaint, the official or department head should ask the employee to put the complaint in writing on a form that allows the employee to be as specific and detailed as possible, preferably in the employee’s own writing.

Alternatively, the official or department head may interview the alleged victim and document his or her statements, again identifying as much detail as possible. Obtaining detailed statements helps to obtain the facts for further investigation. It also may be beneficial should the employee later file a complaint with the Equal Employment Opportunity Commission (EEOC) or the Michigan Department of Civil Rights, or files a lawsuit. Management should also separately interview the

alleged harasser and any witnesses, again taking written statements or well documenting verbal ones.

An internal investigation, as outlined in the township's anti-harassment policy, can aid in keeping an incident from escalating beyond the township. "Victims need a process to complain in-house," Seeterlin advised. "An internal process can resolve and prevent problems from escalating to the EEOC, Civil Rights Commission or courts."

It will be important to reinforce the township's no retaliation policy for filing a complaint of sexual harassment or for providing witness testimony. Look for a resolution that eliminates the alleged harassment, but be fair and consistent with all involved. As quickly as possible separate the alleged harasser from the alleged victim, and the victim from the hostile environment to ensure that there is limited or no further contact, interaction or exposure. If separation is not feasible, ensure that the alleged harassment stops. It is appropriate to ask the alleged victim what he or she wants as a resolution, without any legal obligation or promise the victim's requested resolution will be obtained. Management must apply discipline appropriately and consistently, as necessary, to the alleged harasser or to the alleged victim if the township discovers that the report of harassment is fraudulent or made in bad faith.

During and after a thorough investigation that may take several weeks to complete, the township must monitor the situation to guarantee that no further harassment occurs and there is no retaliation. Significantly, always remember that anything you put in writing will be discoverable in the event of litigation unless the document is subject to attorney-client or other privilege. Therefore, never put anything in writing that you would be unable or embarrassed to explain to a jury later.

A SERIOUS MATTER

Sexual harassment is a serious matter that can result in great expense, major staff expenditure and a media nightmare for townships. Smart townships take EEOC guideline advice and understand that "prevention is the best tool for elimination of sexual harassment."

When township officials and management expect no less than a professional work environment where sexual harassment will not be tolerated and all individuals are treated with respect and dignity, sexual harassment is far less likely to occur. But if it does, smart townships will have an action plan in place to promptly address the alleged harassment and eliminate the unacceptable behavior. This will result in decreasing liability risks and increasing fiscal responsibility, which will make all township taxpayers happier. ■

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Continuing Education Self-Assessment



Participants enrolled in the Township Governance Academy (TGA), a credentialing program offered through MTA, may obtain 2.0 elective credits for successful completion of the quiz on page 25. To obtain credit, participants must answer the 10 multiple-choice questions by circling the correct answer and receive a minimum passing score of 70 percent. The questions are based on content from the article, "Eliminating Sexual Harassment in the Workplace," beginning on page 18.

There is no charge to take the quiz or to obtain TGA credit. Completed quizzes should be sent to: MTA Education Center, 512 Westshire Drive, Lansing, MI 48917, or faxed to (517) 321-8908. MTA will notify you of your results within three weeks after receiving your quiz. *IMPORTANT: Please keep a copy of your completed quiz in your TGA binder.*

Township officials interested in enrolling in TGA may call Shelley Tucker, MTA education specialist, at (517) 321-6467, ext. 251, or for more information, visit www.michigantownships.org/tga.asp.



TGA Continuing Education—September 2008

“Eliminating Sexual Harassment in the Workplace”

2.0 Elective Credits (To receive credit, this quiz must be completed by September 1, 2012.)

NAME: _____ TOWNSHIP & COUNTY: _____

ADDRESS: _____ CITY/STATE/ZIP: _____

E-MAIL ADDRESS: _____

1. The first step in a proactive plan against sexual harassment in the workplace is:

- a. Ensuring employees do not fail to file a complaint, which could serve as an affirmative defense to a later suit
- b. Advising employees that the employer will investigate all claims of sexual harassment promptly and thoroughly
- c. Establishing a policy that prohibits unlawful harassment and sets forth disciplinary consequences for unacceptable behavior
- d. Ensuring employees understand that the employer will not tolerate any form of retaliation against any employee filing a complaint

2. In a hostile environment sexual harassment case:

- a. The harassment can simply be an annoyance to the employee
- b. The employee must prove that he or she is part of a protected class
- c. The harassment does not have to have the intention of, or effect of, interfering with the employee's work performance
- d. The harassment does not have to be based on a person's gender

3. During and after a thorough investigation of a sexual harassment claim, the township must:

- a. File a complaint with the Equal Employment Opportunity Commission or Michigan Department of Civil Rights
- b. Interview the alleged harasser and any witnesses together, taking written statements
- c. Separate the alleged harasser from the alleged victim and the victim from the hostile environment
- d. Monitor the situation to guarantee that no further harassment or retaliation occurs

4. Victims of sexual harassment:

- a. Are typically of the opposite sex than the harasser
- b. Can be male or female, regardless of sexual orientation
- c. Must be subordinate to the harasser
- d. Do not include co-workers within hearing range of unwelcome communication

5. A proactive sexual harassment policy:

- a. Protects the victim, the accused, the management and the public treasury
- b. Ensures the matter is kept confidential
- c. Indicates that persons violating the policy be subject to discipline including immediate discharge
- d. Includes employees who knowingly file false claims be subject to discipline including discharge

6. Examples of unacceptable workplace behavior includes:

- a. Flirting, flattery and subtle innuendo between co-equal employees
- b. Forwarding personal e-mail messages and jokes
- c. Asking more than one co-worker on a date
- d. Verbal commentary about attractiveness or perceived sexual prowess

7. When it comes to additional responsibilities, it is most important for township officials and department heads to:

- a. Not send e-mails that are sexual in nature or circulate jokes, pictures or offensive comments
- b. Assume the behavior is okay if no one has complained about it
- c. Set the proper standard with their own personal conduct
- d. Minimize complaints by reassuring the victim that the alleged harasser was “just joking”

8. Which of the following is true regarding sexual harassment liability:

- a. A township must have 15 or more employees to be subject to a sexual harassment claim
- b. Under Michigan law, an employer only needs one employee to be liable for a sexual harassment claim
- c. Either the employer or the harasser may be held liable, but not both
- d. Townships may not be held liable if they prohibited the unlawful behavior

9. Once a policy has been established and distributed to all township employees:

- a. The department head should acknowledge its receipt in writing
- b. Training must make it clear that reporting sexual harassment is a department head's obligation
- c. Effective training and education should be provided to all board members and department heads
- d. Reporting procedures should be discussed

10. Sexual harassment cases:

- a. Are costly in terms of dollars, staff time and potential damage to the township's reputation
- b. Incur large defense costs but no liability costs, even if the township loses
- c. Do not apply to townships because of governmental immunity
- d. Typically cover costs using employment practices liability insurance