

RISKY BUSINESS

Insurance Info & Risk Management Tips

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February is a great time to get cozy and share the love but keep that amorous itch far away from your place of business!

Each year, thousands of claims for sexual harassment are filed against businesses and business owners, by both women AND men. Sexual harassment carries a broader definition than most people think and includes both Quid-Pro-Quo (sexual favors for reward) and Hostile Work Environment (unwelcome sexual comments and/or actions) scenarios.

Sexual harassment includes verbal harassment, sexual comments, physical harassment, impeding movement/blocking, telling sexual jokes, sending sexual cartoons/drawings, passing along sexual joke emails, and conditional bonus/rewards for sexual favors.

- *38% of women and 12% of men have experienced sexual harassment in their place of business.*
- *Sexual harassment costs an estimated 2.6 billion in lost productivity annually.*
- *55% of victims experience retaliation after speaking up or making a claim.*
- *The 'Harasser' can be anyone – an owner, manager, co-worker, vendor, subcontractor.*

Let's be real. This has always been a workplace problem but since the **#MeToo** Movement, more people are now confident to speak up and take action. So, what can a business owner do to protect the company?

1) Make sure your business is compliant with the current state law surrounding this. You can visit: [Sexual Harassment in the Workplace \(ncsl.org\)](http://SexualHarassmentintheWorkplace.ncsl.org) for more information about this. Annual manager and employee training is a must.

2) Be aware and act immediately if you suspect any wrongdoing. If an employee comes to you with even a hint of improper conduct activity – take it seriously, address the situation and document your actions. If you do nothing, you are liable too.

3) If you do not have an HR department, hire an outside HR consultant to help navigate employee relations and issues.

4) Monitor company-owned employee computers for any unlawful or unsavory usage.

5) Set up cameras around common areas to have a visual record of what is going on. This can prove or disprove the actions and conduct of your employees.

6) Understand that your current business insurance policy likely excludes coverage for this. The insurance for these claims falls under EPLI coverage – Employment Practices Liability Insurance and is generally purchased separately from your General or Professional Liability. EPLI coverage can cover claims arising from:

- *Sexual Harassment*
- *Wrongful Termination*
- *Discrimination – age, race, religion, sexual identity, disability*
- *Unsafe/Hostile work environment*
- *Whistleblower retaliation*

Look over your insurance policy and talk with your Broker to make sure this coverage is included. I suggest a minimum of 500,000 in coverage and premiums can be as low as \$500 per year depending on the nature and size of your business. The average sexual harassment claim that makes it to court costs the defendant over \$200,000. If your business does not have EPLI coverage, this will be coming out of your pocket. And that's a love letter you do not want to receive!

****Claim of the Month: An employee at a distribution center complained to her manager that a co-worker was repeatedly sending lewd email jokes to her and other co-workers. The manager did nothing about it and the victimized employee ended up getting fired for not showing up to work - due to the stress this harassment was causing her. She filed a wrongful termination claim AND sexual harassment claim against the company and was awarded over \$350,000 in damages.*

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