



# Harassment in the Workplace: Where Do We Stand? Where Are We Going?

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# **Harassment in the Workplace: Where do we stand? Where are we going?**

*Written by Christopher Meyers*

The Equal Employment Opportunity Commission (“EEOC”) recently created a Select Task Force, comprised of 16 highly qualified individuals from diverse professional and personal backgrounds, to examine where U.S. employers collectively stand in their fight to end workplace harassment. The Task Force held private and public meetings and then issued a comprehensive report which includes valuable insights on the causes of workplace harassment and a blueprint of what employers can do to combat harassment and minimize liability.

**So, where do we stand?** While the Task Force concluded that much progress has been made over the past 30 years, employers still have a long way to go to end pervasive harassment issues in the workplace. During fiscal year 2015, the EEOC received approximately 89,385 charges from private and public sector employees in the workplace, with 27,893 of these charges alleging harassment. The Task Force focused not just on harassment of a sexual nature, but also harassment based on sexual orientation, gender identity, pregnancy, race, disability, ethnicity/national origin, color and religion. Perhaps most disturbing, the Task Force concluded that around three out of four victims of workplace harassment do not raise it with their

employer for fear of reprisal, inaction, blame, social or professional retaliation, etc. Since 2010, employers have paid a whopping \$698.7 million through the EEOC's enforcement process alone.

**What are the causes of harassment?** The Task Force spent significant time delving into the factors that tend to lead to harassment, relying on numerous studies showing that organizational conditions are the most powerful predictors of inappropriate workplace behaviors. Some factors are perhaps obvious, while others were less intuitive. For instance, the Task Force concluded that deeply homogenous workforces—where there is a striking lack of diversity in the workplace—tend to create atmospheres conducive to harassment.

Ironically, the same risks apply on the opposite end of the spectrum. For instance, when a workplace is extremely diverse, or where a workplace contains significant blocs of workers from different cultures or nationalities, the diversity itself can lead to a collective frustration among employees.

Other risk factors are less obvious. For instance, the Task Force concluded that workforces with many teenagers and young adults increase the risk of harassment because these employees tend to be less aware of workplace norms and applicable laws. In the case of workforces with significant power discrepancies among employees, low-power employees are more likely subject to harassment. The paradigm is the so-called “rainmaker” employee, who acts as if he/she are above the rules, but due to high performance supervisors are reluctant to discipline. Other

workplaces with significant risk factors include those where employees rely on customer satisfaction (such as tipped employees), workplaces consisting of monotonous or low-intensity tasks, isolated workspaces and decentralized workplaces.

**What can we do to stop it?** A significant portion of the Task Force's report was devoted to devising strategies for employers to help prevent harassment before it ever starts. Some of its recommendations are fairly obvious—it noted that harassment prevention “starts at the top” and employers must foster an organizational culture in which harassment is not tolerated, but newer and more specific recommendations included the following:

- Arranging for multiple methods and multiple points of contact for employees to report harassment, as opposed to telling them to report to their immediate supervisor;
- Recognize that, when an employee notifies the organization about possible harassment, the probability of retaliation skyrockets and employers should consider implementing written procedures and training to prevent retaliation at the outset;
- Employers should consider dedicating resources to train specifically middle-managers and front-line supervisors to identify and respond effectively to observed harassment;
- Employers should consider an alternative to traditional workplace harassment training—such as civility or

bystander training methods, rather than simple prevention of “legally actionable” harassment;

- Employers should consider implementing focus groups to discuss harassment and civility issues in the workplace and identify where improvements can be made.

These and the other prophylactic measures identified in the Task Force’s report are a valuable resource to help companies reduce incidents of workplace harassment.

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