

THE OKLAHOMAN

Q&A with Paula Williams: #MeToo movement must start with organization's leaders



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Paula Williams is an attorney of GableGotwals who advises and defends clients in the area of labor and employment law

Q: What constitutes harassment?

A: Employers often narrow their focus to sexual harassment claims, however, harassment involves any protected trait, such as an employee's race, age or disability. Harassment includes same-sex and opposite-sex harassment, and a harasser may originate inside or outside your organization, on or off duty. For a hostile work environment claim, courts require "severe and pervasive" conduct, meaning both a severe one-time instance of harassment, as well as more muted, ongoing harassment may give rise to a hostile work environment.

Q: What should we learn from the #MeToo movement?

A: It starts at the top. An organization's leaders must set the example for corporate culture and clearly communicate expectations. Policies should reflect that culture and be realistically enforceable. For example, if an employer has a "zero tolerance" policy, it must be sure it's willing to follow through with that policy. Otherwise, exceptions to "zero tolerance" will give the appearance of partiality and fuel potential harassment claims. An employer also should consider employees' perception of leadership, human resources, and whether anyone within the organization is perceived as "untouchable." Finally, leadership should encourage open communication and regularly touch base with employees on how the organization is doing with regard to harassment in the workplace.

Q: What else should employers do now?

A: Hopefully, employers already have developed and implemented harassment, discrimination and retaliation prevention policies and practices that evidence a business is exercising reasonable care to prevent and promptly correct any harassing behavior. Employers should review and update policies annually. A policy needs to do more than just exist, however. Employers should offer a training program to all employees, not just managers and supervisors and, ideally, this training will be provided live, in-person. It's the Equal Employment Opportunity Commission's expectation that all employees be trained regularly. Finally, employers should make sure every employee understands the actual procedures for reporting harassment, such as to whom they report harassment

and what actions the employer will take in response to a harassment complaint. Posting a notice in the break room isn't enough.

Q: How should companies investigate harassment complaints?

A: Today's harassment complaints require swift action by an employer. A delay in investigation may be perceived as tolerance or ambivalence. When investigating a harassment complaint, be sure not to prejudge the allegations before conducting the investigation, keeping an open mind throughout the process. An employer should consider which person is the most appropriate investigator, and whether to involve legal counsel. Interviews should occur with the victim, any witnesses, as well as the accused. If termination isn't warranted, an employer may discipline, suspend or reassign an employee, often in conjunction with remedial training or referral to an employee assistance program.

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