

June 2008

**Re: The Importance of a Written Sexual Harassment Policy**

Dear Madam or Sir:

Many employers mistakenly assume that their employees understand their rights and responsibilities in connection with sexual harassment, and imagine that the inappropriateness of sexual harassment is too obvious to necessitate a formal written workplace policy. In fact, every employer should have a written sexual harassment policy – for the benefit of both the employee and the employer.

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964 and corresponding state laws. Sexual harassment includes any unwelcome sexual advances or conduct on the job that creates an intimidating, hostile or offensive work environment. It can be sexual in nature or non-sexual (i.e., based on the victim's gender). Misconceptions abound. Did you know that...

- The victim may be a woman or a man?
- The victim does not have to be of the opposite gender of the harasser?
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or even a non-employee?
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct?
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim?

An employer has a duty to take reasonable steps to stop harassment and may be held vicariously liable for harassment conducted by a supervisor. In the event that an employer is named in a lawsuit, the presence of a strong written anti-harassment policy and a formal procedure for the investigation of complaints will have a far stronger defense than the employer who never developed and implemented written policies. Of course, prevention is the best tool to eliminate sexual harassment in the workplace. Employers are urged to communicate to their employees, in both word and deed, that sexual harassment will not be tolerated.

Employers who neglect to establish, publicize and enforce a formal sexual harassment policy do so at their peril. Consider the following:

- In Fiscal Year 2007, the Equal Employment Opportunity Commission (“EEOC”) received 12,510 charges of sexual harassment.
- 16.0% of those charges were filed by males.
- The EEOC resolved 11,592 sexual harassment charges in FY 2007 and recovered \$49.9 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

# FRIER LEVITT

A T T O R N E Y S   A T   L A W

If you have any questions about this topic, or you would like our assistance in drafting a new sexual harassment policy or reviewing an existing policy, please feel free to contact me or my associate, Theresa M. DiGuglielmo, Esq.