

## Legal Perspective: Fighting harassment in the workplace

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Since the Supreme Court's 1998 landmark decisions in *Burlington Industries v. Ellerth* and *Faragher v. City of Boca Raton*, employment lawyers and human resources professionals have spent the last 20 years preaching no tolerance and aggressive implementation of robust harassment prevention practices to cultivate a workplace free from costly, brand-destroying harassment claims.

So, what should we learn from the #metoo movement and what should employers do now? In a word: lead.

Most, if not all, headline grabbing #metoo claims involve high-profile leaders, people who should not only know better but also should be setting the standard of proper, professional behavior.

That highlights the single most glaring missing ingredient from effective harassment prevention efforts: leadership.

An effective strategy will rise or fall on leadership. Show me an employer whose leaders are visibly and genuinely at the forefront of fostering a harmonious harassment-free culture, and I'll show you an employer that not only experiences fewer, if any, harassment claims, but also enjoys high-performing teams.

*Ellerth* and *Faragher* still set the standard for critical steps employers must genuinely and regularly take to establish and maintain an effective harassment prevention strategy.

**First**, develop updated policies and procedures that prove you're exercising care to prevent any harassing behavior. Review and update them regularly.

**Second**, just having policies isn't enough. You must be able to prove all employees and temporary workers received them.

**Third**, you must provide regular, high-impact training and education for all managers and employees regarding your policies and procedures. Leaders at the highest level must take a visible lead.

Employees must know what constitutes prohibited harassment, what is expected of them, how to report harassment and what you're going to do about it. The Equal Employment Opportunity Commission expects all employers to be conducting regular training. Courts do, too.

**Fourth**, the law doesn't expect employers to be perfect and knows people will still misbehave. But the law does expect employers to take all complaints seriously, respond promptly, investigate thoroughly and discreetly, and take swift corrective action to deter any further harassing behavior.

Investigations are a great opportunity for employers to demonstrate how seriously they take harassment prevention. They also give employers the chance to send the right message.

**Fifth**, continuously evaluate and improve upon your harassment prevention efforts. Don't be content with how things are today, even if things seem to be going great. Always look for ways to enhance your efforts and your message.

**Most importantly**, leaders must lead. In doing so, they show they really care. That's what people want. That's who people follow.

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