



Implementation Of Policies And Procedures Prohibiting Unlawful Discrimination, Harassment, And Retaliation

Publication

6.19.13

The number of charges of discrimination and lawsuits being filed against employers has increased during the past several years. In addition, awards against employers for violations of antidiscrimination laws have also increased during this period.

This article discusses the adoption and implementation of policies and procedures that can help employers avoid and minimize the risk of legal actions alleging unlawful discrimination, harassment, and retaliation being filed against them.

In order to comply with their legal responsibilities, employers must adopt a clear policy prohibiting unlawful discrimination, harassment, and retaliation. The anti-discrimination policy should define the prohibited conduct, and provide a description of how and to whom an employee should report a violation to management. The policy should include a “bypass” reporting procedure to ensure employees have more than one supervisor or manager to report a violation to, a statement informing employees that they will not be retaliated against for making a report or complaint, and an explanation of the consequences of violating the policy. In this regard, the policy should inform employees that a violation will subject them to disciplinary action up to and including termination of employment.

Employers must publicize their anti-discrimination policy to all employees, demonstrating a management commitment to its compliance and enforcement. All employees should receive a copy of the policy and training about it. The publication of the policy to employees should take place when they are hired and be included in the employer’s orientation program, during which employees should be given an opportunity to ask questions. The policy should stress the importance of reporting discriminatory misconduct to the person or persons identified in the policy.

Employers should train their managers about the anti-discrimination policy, and how to handle reports and complaints of discrimination, harassment, and retaliation. The training should stress the importance of taking all reports and complaints seriously, and of informing upper management when a report or complaint is received.

In summary, employers must take all necessary steps to ensure they maintain a workplace free from unlawful discrimination, harassment, and retaliation. The necessary steps include the adoption, implementation, and publication to all employees of a clear policy or policies prohibiting

adoption, implementation, and publication to all employees of a clear policy or policies promoting such activity, the training of managers to ensure compliance and enforcement, the investigation of all complaints, the determination of the appropriate remedial action to stop the misconduct and prevent it from recurring, the avoidance of retaliation against the employee who makes a report or complaint, and the periodic review of anti-discrimination policies, practices, and procedures. Employers who take these steps will be in the best position possible to minimize the likelihood that a charge of discrimination or an employment lawsuit will be filed against them.

This article appeared on June 19, 2013 on [Dentistry IQ](#).

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