



# Is There a Locker Room Mentality on Your Jobsite?

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Male locker rooms pride themselves on not being bastions of sensitivity. No topic is off limits. Having “good natured” fun at the expense of others is considered then norm within these walls.

However, neither professional sports teams nor other employers with traditionally male-dominated workforces are exempt from the rules prohibiting harassment, discrimination and retaliation, and the risks associated with violating those rules. Nevertheless, some employers or managers act as if these rules do not apply to them due to the nature of their business.

A mentality seems to exist, often in predominantly male workforces, that anyone who signs up for the job also signs up for the jokes, comments and other forms of “harmless” horseplay. Employees not willing or able to tolerate “innocent” jokes and comments about race, age, gender, religion, disability or national origin, or don’t find talking about sex or being propositioned acceptable, need to work elsewhere because they don’t fit in. Get used to it or get out. Those who complain will pay the price. In sports terms, these undesirables will be “cut” from the team or forced to leave.

Even in today’s environment, some employers and managers still find nothing objectionable about locker room conduct. Some view it as a test or initiation process to determine an employee’s “toughness.” Others view it as an unofficial way to eliminate the weak and produce a crew capable of dealing with adversity.

On some level, this outlook is not surprising given how many leaders came up through the ranks and endured or participated in the same behaviors they still consider acceptable. Some have the attitude that because it’s fun and there has never been a problem (so far), what’s the big deal? Employees work hard and should be able to have fun at work.

Some employers believe putting a lid on the offensive, and perhaps illegal, conduct could have a chilling effect on workplace enthusiasm. Others think they would not be able to hire and retain “good” employees if they feel like their comments and actions are constrained.

Construction employers that tolerate a locker room mentality may find their views are shortsighted, risky and expensive. The U.S. Supreme Court first recognized same sex harassment as a viable legal claim in a case involving employees working on an offshore oil rig. An employee on the rig complained that his coworkers made inappropriate comments to him and engaged in inappropriate

horseplay of a sexual nature. More recently, a car dealership settled with the Equal Employment Opportunity Commission for \$2 million based on allegations that the dealership knew about and did not stop a male employee from making comments and engaging in horseplay of a sexual nature with other male employees.

The nature and longstanding cultures of typically male-dominated industries provided no protection against these claims. Note: There are no official or unofficial business exceptions to these rules, and there is no viable defense theory that the employee knew what he or she was getting into when he or she accepted the job, even if the employer warned him or her that it could happen (another bad idea).

So, what (if anything) should employers do? There's no need to eliminate fun across the board, but it's imperative to eliminate the fun at the expense of others that could create legal liability for the business. Good policies and manager training are essential, as is consistent enforcement. Take affirmative steps to get rid of the locker room mentality. Don't retaliate against those who raise concerns. Once managers and employees understand from the company's actions that a locker room mentality will not be tolerated, many of these problems will go away, along with the employees who create the risks in the first place.

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This article by Tillman Coffey was first posted on [ConstructionExec.com](https://www.constructionexec.com).

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