

Your Guide to Drafting a Hostile-Workplace Prevention Program

by Kenneth J. Blaser
Risk Control Consultant

A hostile work environment threatens a city's productivity and performance, as well as the quality of the staff's working relationships. It also has the potential to create negative publicity that could damage public perceptions of a city's leadership and confidence in that leadership as the stewards of their tax dollars.

A quick internet search of hostile-workplace incidents involving cities provides examples resulting in large monetary settlements and legal costs, as well as bad publicity affecting elections and management terminations. There are cases of employees committing suicide due to harassment.

As employers, cities must incorporate active hostile-workplace prevention processes as key elements of their operations. The city must be vigilant in recognizing hostile workplace occurrences and must take immediate action to address these situations.

What is a Hostile Workplace?

A hostile workplace is one in which an employee or employees are being harassed. This can be defined as any unwelcome or unwanted conduct by a co-worker, management or the public that disrupts or substantially interferes with another's work performance or emotional well-being. This can take various forms and encompass various behaviors.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with his or her work performance or creates an intimidating, hostile or offensive work environment. Examples of workplace sexual harassment can include:

Persistent and pervasive requests for dates or sexual favors after the person responds in the negative. This includes, but is not limited to, dating and sexual favors in return for improved or continued work conditions.

- Sharing sexually inappropriate images or videos, such as pornography, with co-workers. Sending suggestive letters, notes or emails.
- Displaying inappropriate sexual images or posters in the workplace.
- Telling lewd jokes or sharing sexual anecdotes.
- Making inappropriate sexual gestures.
- Staring in a sexually suggestive or offensive manner, or wolf-whistling.
- Making sexual comments about appearance, clothing or body parts.
- Inappropriate touching, including pinching, patting, rubbing or purposefully brushing up against another person.
- Asking sexual questions, such as about someone's sexual history or orientation.
- Making offensive comments about someone's sexual orientation or gender identity.

Non-sexual Harassment: Harassment is unwelcome conduct based on race, color, religion, national origin, age, disability or genetic information. Harassment becomes unlawful when:

- Enduring the offensive conduct becomes a condition of continued employment, or
- The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

Bullying: Workplace bullying, including cyber bullying, is repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators. It is abusive conduct that is:

- Threatening, humiliating or intimidating to a co-worker or co-workers.
- Work interference that prevents an employee or employees from performing their assigned work.
- Verbal or physical abuse.

Examples of non-sexual harassment and bullying include:

- Making negative comments about an employee's personal religious or non-religious beliefs, or trying to convert them to a certain religion or ideology.
- Using racist slang, phrases or names.
- Making remarks about an individual's skin color or other ethnic traits.
- Displaying racist drawings or posters that might be offensive to a particular group.
- Making offensive gestures.
- Making offensive reference to an individual's mental or physical disability.
- Sharing images, videos, emails, letters or notes that are offensive in nature.
- Offensively talking about negative racial, ethnic or religious stereotypes.
- Sabotaging another's work, or city or private property.
- Instigating or spreading rumors or gossip.
- Purposely excluding or shunning people from work-related meetings and events.
- Unreasonable workloads, performance expectations and scheduling.

Harassment is not:

- Having a different point of view.
- Intellectual disagreements.
- Relationships of mutual consent, providing the relationship doesn't conflict with an established anti-fraternization policy.
- Innocent comments stated without malice but that might be personally hurtful.
- Management direction of staff.
- Insistence upon a standard work performance.
- Criticism of substandard work performance.
- Equal enforcement of city policies and rules.
- Singular and trivial behavior.

Singular and trivial behavior reflects that, on occasion, people might say something that slights another person or is inappropriate, but is not expressed with malice, or is a minor, isolated instance, through ignorance rather than malice, that is contrary to the person's established behavior.

The key difference is when a comment is followed with a sexual, racial, age, physical or mental impairment reference, is pervasive or creates a hostile work environment.

A City's Response

The city should be aware that a hostile work environment can involve co-workers of either sex, any race or any age, or between management and staff. A hostile work environment can be created by the general public's interaction with city staff. To avoid such an environment, a city needs to establish a hostile-workplace prevention program. The program should include a written policy and procedures. The city should have a documented program in place that provides information and guidance for all employees. The program should contain; but not necessarily be limited to; the following:

- A statement that it is the policy of the city to maintain a model workplace, free from harassment and other forms of discrimination that would constitute a hostile workplace. Accordingly, the city has zero tolerance for harassment or any other form of unlawful discrimination.
- Definitions and explanations of what constitutes a hostile work environment.
- Responsibilities and accountability of all employees to comply with the program and to not engage in any activities that could create or maintain a hostile work environment.
- Procedures for reporting hostile, harassing or bullying conduct.
- The city's zero tolerance for any retaliation against those reporting, witnessing or investigating hostile, harassing or bullying conduct.
- Management's responsibility and accountability for responding to claims of hostile, harassing or bullying conduct.
- Procedures should the hostility be generated by a non-employee – such as public or contractor or vendor.
- A description of the investigation procedures and appropriate corrective options. These include disciplinary actions as needed.
- Procedures for confidentiality, record-keeping and monitoring compliance.

In addition to the city's hostile-workplace prevention program that applies to all employees, consideration should be given to an addendum referencing the fire department, due to its unique situation of co-habitation at fire stations. They can include:

- Prohibition of any initiation or rookie rituals, including hazing and requiring new firefighters to perform work outside their normal job description.
- Sabotaging or pranking private property, including food, personal care items, linen, pictures or other such possessions unique to firefighters.
- Dispute-settlement procedures for personality conflicts before escalation to a hostile environment.
- On-duty fraternization.

- Management, supervision and staff education.

Education programs

A city's primary objective is to maintain a hostility-free, comfortable workplace with minimum interpersonal conflict. Achieving that objective necessitates providing hostile-workplace prevention education.

The purpose of hostile-workplace prevention education is to present employees on all levels with basic information about what constitutes harassment and bullying, as well as prevention and related policies. The education for all employees should include:

- Information so that all employees understand what constitutes harassment and bullying;
- A description of the consequences of engaging in harassment and bullying.
- The city's zero-tolerance posture regarding harassment, bullying and retaliation.
- Steps to take to prevent this type of conduct.
- Procedures for reporting a hostile-workplace incident, harassment or bullying.
- An explanation of the investigation process.
- The human resources department's role and responsibilities, and availability as a resource regarding any questions or problems experienced during any phase of the program.

All new employees should receive detailed education during orientation. For existing employees, if the city has already provided them with a detailed education, then they should receive refresher training on an annual basis. If the city has not conducted such training, or past training did not include all the points discussed in this article, then the city should provide a detailed program, including a refresher course, scheduled on an annual basis.

Managers and supervisors will need additional information to fulfill their responsibilities within the program:

- How to recognize hostile-workplace situations, behaviors and indications.
- Procedures when approached with a complaint of a hostile-workplace situation.
- Using and communicating with human resources.
- How to investigate a hostile-workplace complaint.
- Proper documentation.
- Reporting procedures, confidentiality and use of approved outside consultation – for example, with the city attorney.
- Procedures for disciplinary or corrective actions.
- Monitoring and follow-through responsibilities, and accountability.

Benefits of an Effective Hostile-Workplace Prevention Program

Such a program promotes a productive work environment – freeing employees from the distractions of harassment and allowing them to concentrate on performing their jobs to the best of their abilities.

It reduces employee turnover and absenteeism. When people don't want to report to work because they are being harassed, they tend to leave organizations or develop absenteeism. This costs the organization money through the continual hiring of new personnel and productivity problems with absent workers.

It reduces exposure to insured and uninsured costs. Litigation can be costly. Hostile-workplace litigation has cost cities between tens of thousands and more than \$1 million in legal fees and settlements. Although insurance can cover many of these costs, the time burden to management and staff during the legal process and its related harm to productivity are not.

Eventually, these legal expenses will be reflected in insurance premiums. Having an effective program helps control insurance costs.

Such a program can help maintain a positive perception by the public. Cities and their employees work hard to provide the services expected by their citizens. The goodwill generated by this dedication can be severely tarnished should details of a hostile-workplace incident become public knowledge.

Finally, these programs reduce the potential for workplace violence. Too often, news stories tell of disgruntled or bullied employees who seek vengeance on their co-workers and management. When an organization has a work environment free of such hostility, the potential for violence is reduced.

The Florida League of Cities Risk Control Department has resources available to assist with the development or evolution of a hostile workplace prevention program.

Kenneth J. Blaser provides [safety and risk-management consultation](#) for members of the Florida Municipal Insurance Trust. He can help with assessment, training and evaluation of safety programs.