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Promptly and Appropriately Responding to Sexual Harassment Complaints Is Important to Help Shield a Public Employer from Title VII Liability

Sexual harassment in the workplace continues to be a major topic of concern in our society, garnering widespread media attention. It seems that every day a new high-profile sexual harassment case appears in the headlines and although a specific employee may have committed the acts of harassment, his/her employer is often named as a defendant in these cases for not stopping the harassment, or for creating a hostile work environment.

Negative publicity is just the tip of the iceberg in terms of consequences for a public employer facing a claim of sexual harassment. A prevailing plaintiff is often awarded a variety of damages, as well as court costs and attorneys' fees, which can collectively total hundreds of thousands of dollars. While the employee is directly responsible for injury to the plaintiff, damages sometimes come out of the pocket of the public employer.

Given the prevalence of sexual harassment claims and the associated costs, public employers must quickly and efficiently respond to employee complaints. A case recently decided by the District Court for the Eastern District of Michigan demonstrates how a prompt, thorough response to sexual harassment claims can shield a public employer from liability in a sexual harassment lawsuit.

In *Beauvais v. City of Inkster*, E.D. Mich. No. 16-cv-12814, 2017 WL 5192249 (Nov. 9, 2017), the Plaintiff filed a Complaint against the City of Inkster and former Inkster Police Officer Snow alleging, in part, violations of Title VII based on sexual harassment. The Plaintiff, also a former Inkster police officer, claimed that Officer Snow had made various inappropriate sexual comments to the Plaintiff during their employment with the Inkster Police Department.

When the alleged harassment occurred, the Plaintiff orally notified her supervisors of Officer Snow's actions, following up with a formal

complaint about a week later. Upon receipt of the complaint, the City promised to keep the Plaintiff and Officer Snow on separate shifts (although, the two worked together on one last shift the day after the City received the complaint). The City then held a disciplinary hearing conducted by the chief of police. The chief concluded Officer Snow had violated the City's sexual harassment policies, and he was given a three-day suspension. Additionally, the City hired an independent law firm to investigate whether gender or sexual harassment issues permeated the entire Police Department. Finally, the City's human resources director ordered sexual harassment training for the Police Department and other City departments.

The Plaintiff argued that the City did not take appropriate remedial action because: (1) Officer Snow's three-day suspension was not harsh enough; (2) Officer Snow and the Plaintiff worked a shift together the day after her complaint was submitted; and (3) The City's human resources director stated that the sexual harassment training the City's departments underwent was only partially motivated by the Plaintiff's complaint (it was also due to the fact that some departments had not undergone sexual harassment training in some time.)

The Court disagreed. Quoting the Sixth Circuit Court of Appeals, the Court stated, "[c]ompanies that take affirmative steps reasonably calculated to prevent and put an end to a pattern of harassment – such as personally counseling harassers, sending them letters emphasizing the company's policies and the seriousness of the allegations against them, and threatening harassers with serious discipline if future allegations are substantiated – are more likely to be deemed to have responded appropriately." Given the immediate response to the Plaintiff's complaint, and the fact that Officer Snow's personnel file did not contain prior allegations of harassment, the Court found the City's remedial actions were prompt and appropriate, and ruled in favor of the City.

What You Need to Know

To help protect against liability for sexual harassment claims, public employers must promptly and effectively respond to complaints of

sexual harassment. While a procedure to investigate allegations of sexual harassment can apply to every complaint, remedial actions taken in response to these complaints should be tailored on a case-by-case basis. “Appropriate” responses will depend on various factors, including the seriousness of the complained of act and a history of similar complaints against the employee. It is also a good practice to have mandatory sexual harassment training for all employees on an annual basis, as well as initial training for newly hired employees.

If you have any questions related to this issue, please contact [Joe Scholler](#), [Alex Ewing](#), [Carly Sherman](#) or any other attorney in Frost Brown Todd’s [Government Services Practice Group](#).

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