

Employee Harassed By Supervisor



Employer has no anti-discrimination policy

Strict liability for Employer.

Employer does have anti-discrimination policy (or other method for reporting complaints)

Employer is afforded an affirmative defense. Employer has the burden of establishing that Employee failed to take advantage of preventative opportunities.

Employee Harassed By Co-Worker



Employer has no anti-discrimination policy

Employer's liability is based on negligence standard. Employer is liable if it knew or should have known of harassment.

Employer does have anti-discrimination policy (or other method for reporting complaints)

Employer's liability is based on negligence standard. Employer is liable if it knew or should have known of harassment. However, Employee must follow policy to provide sufficient notice to hold employer liable.