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Sexual Harassment In The Non-Profit World

February 14, 2018 | Workplace Culture And Conduct,Labor And Employment

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Much of my time is spent advising non-profits on human resources issues, and the employment issues they face are typically no different than those faced by for-profit employers. Non-profits are legally obligated to put in place a policy that prohibits unlawful harassment in the workplace, to promptly investigate workplace harassment claims, and to take prompt and effective remedial measures to remedy the alleged harassment. This is true – in the non-profit workplace – regardless of whether the alleged harasser is a supervisor, coworker, vendor, board member, or even the board chair. But what about sexual harassment complaints by members against other members? Is the nonprofit **legally** required to do anything? The answer under federal employment laws is "no" – those laws only apply to harassment in the workplace (at least so far). But what about other theories of liability? Might a member claim that he or she was harassed by an employee or another member, and that the non-profit is liable? Perhaps – especially in light of the "Me Too Movement." Thus, when a harassment complaint is received by a non-profit (even from a non-employee), it is important to seek counsel as this is an area of the law that might rapidly change. The bottom line is this: These types of situations are always judged with the benefit of hindsight. And a response that may have been "good enough" a year ago may not be "good enough" when judged with the benefit of the "Me Too" hindsight lens.

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