

The U.S. Supreme Court and the EEOC have stated that liability is reduced if:

1) there is a company policy which specifically prohibits sexual harassment; 2) there is a company grievance procedure designed to resolve sexual harassment claims; 3) the grievance procedure does not require the victim to first complain to their immediate supervisor. (Ledvinka, 1991, p. 76). The interim guidelines on harassment by the EEOC states that the employer will be liable for harassment when 1) the employer knew, or should have known of the conduct and failed to take immediate and appropriate corrective action 2) where the harassing supervisory employee is acting in an 'agency capacity' (this would be established if the employer failed to establish a policy which conforms to the above standards) 3) when co-workers engage in harassment and the employer knew or should have known about the harassment and the employer failed to take corrective action 4) non-employees harass employees where the employer and the employer's agents knew or should have known about the harassment and failed to take immediate and corrective action (this will be decided on a case-by-case basis and will be partially dependent on how much control the employer has over the non-employee) and 4) if employer does not take proper preventative measures (having an explicit policy against harassment that is clearly and regularly communicated to employees, explaining sanctions for harassment, developing methods to sensitize all supervisory and non-supervisory employees on the issue of harassment, and informing employees of their right to raise and the procedures for raising, the issue of harassment under Title VII, the ADEA, the ADA, and the Rehabilitation Act.) (Federal Register, 1993, p. 51269; Popovich, 1988).