

Human Resource Administrators



Best practices for addressing workplace sexual harassment without a report

Disclosing is not Reporting

Disclosing workplace sexual harassment simply means telling someone. Reporting means making a formal report under your harassment policy.

Complainants may disclose, without wanting to make a formal report, for various reasons. These include seeking accommodation, support, or information. You should have procedures in place to respond to disclosures in a survivor-centered manner.

Do I have a legal obligation to act on a disclosure?

A disclosure does not trigger a specific legal obligation. However, you do have a legal duty to ensure a safe workplace, so if you receive any information to show that there is workplace harassment or discrimination making people feel unsafe, you should take action.

- making your policy clear and available
- consulting with a lawyer to understand your obligations in the specific situation

In taking these steps, safeguard the wellbeing and privacy of the person making a disclosure: do not identify them. Keep in mind that you also have a legal obligation not to punish anyone for raising issues of workplace sexual harassment.

What action can I take in the absence of a report?

Your ability to investigate is limited without a report saying who was sexually harassed in the workplace and when, but you still have a legal obligation to maintain a safe workplace. Other steps you can take include the following:

- conducting a workplace safety audit or risk assessment
- learning about the institutional risk factors for workplace sexual harassment, and changing workplace culture from the top
- providing training to all staff on workplace sexual harassment and their obligations

What if there is a report, but it has few details?

Sometimes reports identify the harasser with few accompanying details. Other times, the witness will identify themselves, but the complainant themselves does not report (this is known as a "Third Party Report").

In these situations, ensure that you act consistently with your policy if your policy deals with bystander reports. You can also consult with an employment lawyer to understand your legal obligations in these situations.