



**Donyetta D. Bailey**  
Of Counsel

Email: [DDB@Rendigs.com](mailto:DDB@Rendigs.com)  
Direct: 513 381 9244  
Fax: 513 381 9206

**Rendigs, Fry, Kiely & Dennis, LLP**  
600 Vine Street, Suite 2650  
Cincinnati, Ohio 45202

## How To Handle a Harassment Complaint

As an employer you have a duty to prevent and correct harassment in the workplace. The best way to do this is by creating an effective anti-harassment policy, and a solid method for resolving harassment complaints.

The U.S. Supreme Court has held that a good anti-harassment policy is one that does the following:

1. Requires supervisors to report incidents of harassment,
2. Allows employees to make both formal and informal complaints of harassment,
3. Provides a method for employees to bypass a harassing supervisor when making a complaint, and
4. Provides for training concerning the policy.

*Crawford v. Metro. Gov't of Nashville and Davidson Cnty.*, 555 U.S. 271, 278 (2009).

In addition, the Equal Employment Opportunity Commission (the agency charged with enforcing the anti-harassment provisions of Title VII of the Civil Rights Act of 1964) has also issued guidance on what constitutes a good anti-harassment policy. According to the EEOC, a good anti-harassment policy should provide:

- A clear explanation of the prohibited conduct;
- Assurance that employees who make complaints or provide information related to complaints will be protected against retaliation;
- A clearly described complaint process that provides accessible avenues of complaint;
- Assurance that the employer will protect the confidentiality of harassment complaints to the extent possible; and
- Assurance that the employer will take immediate and appropriate corrective action when harassment occurs.

So, when drafting or revising your company's anti-harassment policy, you should use the U.S. Supreme Court's decision in *Crawford* and the EEOC's pronouncements as a guide.

But, an employer's duty to prevent and correct harassment in the workplace does not end with a good anti-harassment policy. An employer also needs to enforce the policy and properly handle harassment complaints.

## The top 10 best things employers can do when an employee complains of harassment at work:

1. Consult with an attorney for serious violations and/or violations involving high-level executives.
2. Respond to the employee's concerns promptly.
3. Separate the victim from the accused until the investigation is complete, and after completion of the investigation if warranted.
4. Investigate the complaint thoroughly by interviewing all persons with knowledge of the harassing events (including the victim and the alleged harasser); and maintaining confidentiality during the investigation to the extent it is possible.
5. Document the investigation results and the action taken as a result.
6. Comply with your anti-harassment and discipline policies.
7. Discipline the harasser at a level equal to the offense, including retraining, if appropriate.
8. Follow up with the victim to ensure the harassment has stopped and he/she is satisfied with the outcome.
9. Correct any harm suffered by the victim as a result of the harassment, i.e., missed pay raises, promotions, negative performance reviews and/or job duty reassignments, etc...
10. Prevent retaliation against the victim and the investigation participants.



*Donyetta D. Bailey represents some of the largest employers in the country and in the Cincinnati region regarding employment law matters and litigation. She frequently advises employers on various human resource matters such as reviewing employee handbooks, terminations, employee discipline, pre-employment screening and drug testing. Donnie also represents employers in all aspects of workers' compensation claims before the Industrial Commission, as well as in various Ohio courts.*