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INSIGHT: Lessons From #MeToo—A Road Map for Return-to-Work Policies

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Employers are entering a new world as they begin to bring employees back to work in the midst of the Covid-19 pandemic. Morgan, Lewis & Bockius attorneys explain how the lessons employers learned about creating safe and respectful workplaces during the height of the #MeToo movement can be applied to the pandemic.

A year ago, employers were focused on #MeToo, and creating cultures of safety and respect where harassment would not be tolerated. Now employers are dealing with another crisis and entering a brave new world as they begin to bring employees back to work in the midst of the Covid-19 pandemic.

But the lessons learned for preventing harassment provide a road map for creating successful workplaces in the face of current challenges.

In order to bring people back to work during the pandemic and prevent the spread of Covid-19, we must create workplace cultures of safety and respect, where employees feel valued and protected, and where everyone feels they have a role to play in keeping each other safe.

The same principles we recommend for stopping harassment are equally applicable to the current crisis: leadership, policies and procedures, accountability, training, and a sense of collective responsibility.

Everything Starts With Leadership

Many of the steps that the [CDC recommends](#) that employers take as precautions against Covid-19 are largely in the control of an employer. This includes everything from changing the physical layout of a workplace, to disinfecting workspaces, to deciding how many workers to bring back and whether to bring them back in staggered shifts, to setting up health screening mechanisms.

But many of the safety precautions that the CDC recommends will require that workers consistently follow the employer's rules. This will include everything from maintaining a six foot social distance, to wearing face coverings, to not using a co-worker's equipment, to frequent

hand washing. It will be difficult, if not impossible, for an employer to monitor compliance of all of these rules all of the time.

The best way to ensure uniform and consistent compliance with safety protocols is to create a workplace culture in which workers feel collectively responsible for adherence to the rules and in which workers feel comfortable speaking up when the rules are violated. Leaders can help by setting the tone from the beginning.

A Message of Respect

The message must be that leaders respect their workers and are therefore committed to creating a safe workplace for them. The rules are intended to do that. Leaders must also clearly state that every worker is similarly expected to respect their co-workers and comply with the rules designed to protect everyone.

Leaders can demonstrate respect for employees from the beginning of the process of bringing them back to the workplace. Employees can be asked if they are comfortable returning to work and if not, why they are uncomfortable.

If the reason is that the employee has an underlying health condition that places them at high risk for serious illness if they contract Covid-19, the employer must reasonably accommodate the employee under the Americans with Disabilities Act. This may take the form of continued work-from-home, if possible, or a job-protected leave, if working from home is not possible.

There is no similar legal obligation to accommodate an employee who is at higher risk of severe illness because they are older than 65, who lives with someone who is at high risk, or who must stay home for child or elder care purposes. But an employer may wish to engage in the same interactive process with those employees and provide an accommodation if possible. Doing so conveys respect.

Clear Communication Is Essential

An employer must also have clear policies establishing and describing each action the employer is taking to respond to Covid-19, whether those actions concern requirements around personal protective equipment, screening and monitoring, alternative or flexible workplace arrangements, paid or unpaid leave, or any other action the employer has chosen to adopt.

Clear communication is essential. Employees feel respected when they understand the steps their employers are taking to keep them safe and the reasons for those steps. Employers must also tell all employees what is expected of them and must implement clear procedures for holding employees and managers accountable for following the rules.

It is impossible to overstate the importance of accountability. It will not matter what leaders say, or how many policies and procedures are in place, if employees do not see that every person in the organization, no matter at what level, is held accountable if the person does not follow the

rules. The message behind every rule must be that the employer has adopted the rule because it cares about and respects its employees. If employees, managers, or senior leaders are allowed to flout the rules, that undermines the entire message.

Training Should Reinforce Safety and Respect

Finally, the training that employers provide should be designed to reinforce a culture of safety and respect. Of course, training should give employees information about safety precautions and the consequences of not following those precautions. But the training should also explain the reason for the new rules and instill in employees a sense of responsibility to each other in following the rules.

This includes empowering employees to talk to co-workers who are not following the rules and giving them suggestions for how to engage in such conversations—as deliverers of the feedback, but also as recipients. It includes training managers on how to deal constructively with employees who are not complying with the rules. The training can be an opportunity not just to provide information, but to convey the type of workplace culture the employer is seeking to achieve.

The Covid-19 era poses significant challenges to employers. It also provides an opportunity for them to take a fresh look at their workplace culture and to adopt steps to make employees feel respected. The dividends of that will extend beyond the immediate crisis and create a more productive and supportive workplace for the future.

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