

Power Harassment in the Workplace

Japan's Ministry of Health, Labour, and Welfare report addresses a growing problem in the country's workplace; definition and proposed guidelines offer new level of clarity to employers.

February 28, 2012

A working group established by the Japanese Ministry of Health, Labour, and Welfare (MHLW) has issued a report that for the first time defines “power harassment” in Japan and makes proposals to both prevent and address the problem.

Although power harassment is not a new claim in Japan, over the last few years there has been a marked increase both in public awareness of the problem and in the number of claims filed with MHLW. In fiscal year 2010, for example, the MHLW received 39,405 inquiries to its consultation line with respect to power harassment—a sixfold increase over 2002.

Definition and Guidelines

The report defines “power harassment” as any kind of behavior in which a superior takes advantage of his or her position in the workplace to cause co-workers physical pain or emotional distress, whether the person is superior by means of relative work position, physical size, or otherwise. Power harassment includes the actions of a supervisor toward a subordinate, interactions between equal colleagues, and the actions of a subordinate toward a supervisor.

The report defines six types of power harassment:

- Physical attacks (such as acts of force or violence)
- Psychological attacks (such as intimidation or verbal abuse)
- Segregation (such as ostracism)
- Excessive demands (such as assigning work that is impossible to perform or obviously unnecessary)
- Demeaning demands (such as assigning work clearly below the employee's capability or providing no work at all)
- Intrusion upon the individual (such as intrusion into an employee's personal life)

The report states that physical and psychological attacks and the disruption of personal relationships are never appropriate in a business context. However, there may be cases where certain excessive or demeaning demands or intrusion into an employee's personal life may be appropriate depending on the type of business, corporate culture, or specific situation. It is recommended, therefore, that each company clearly define the scope of power harassment appropriate to its own workplace environment.

The report provides the following proposals that companies should adopt to prevent power harassment in the workplace:

- Make it clear that power harassment in the workplace will not be tolerated
- Establish appropriate employment regulations and guidelines and ensure that all employees are aware of and understand such regulations and guidelines
- Provide questionnaires to employees regarding power harassment
- Provide employee training on how to prevent and deal with power harassment
- Provide consultation services both inside and outside the company
- Determine who in the workplace is responsible for monitoring and handling reports of harassment
- Cooperate with outside experts
- Provide offenders with training to prevent any re-occurrence

Implications

With the new level of clarity offered by the MHLW's definition and prevention guidelines, we anticipate that the number of power harassment claims will increase significantly. Accordingly, we recommend that employers in Japan review their current harassment policies closely and take appropriate steps to address power harassment in the workplace, such as by providing clear avenues of complaint and procedures for investigation and training.

How We Can Help

Both Morgan Lewis and TMI Associates have experience handling workplace harassment claims, including investigations, compliance reviews, general counseling, and litigation—always with an eye toward efficient and effective resolution.

If we can be of assistance to you in these matters, please feel free to get in touch with your Morgan Lewis contact or any of the following attorneys:

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