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A Compliance Check Newsletter

National Education Association and its Alaska Affiliate to Pay \$750,000 for Harrassment of Women

The U.S Equal Employment Opportunity Commission (EEOC) announced recently the \$750,000 settlement of a sex discrimination lawsuit against the National Education Association (NEA) and its affiliate NEA-Alaska on behalf of three female former employees who were subjected to persistent verbal abuse and intimidation by a belligerent high-level male manager. In addition to the monetary relief, the unions agreed to make policy changes to address any future discrimination.

EEOC's suit filed in July 2001, charged that manager Thomas Harvey, then interim assistant executive director for NEA-Alaska, subjected Carol Christopher, Carmela Chamara and Julie Bhend to abusive treatment on a daily basis. Harvey targeted the female staff by screaming and yelling at them with little or no provocation, often using profanity and frequently berating them in public, the EEOC said. The women described Harvey as turning bright red with bulging neck veins as he screamed, coming so close they often felt his saliva spit on their faces. He also physically intimidated the women by sneaking up behind them and watching over their work for no apparent reason. Further, Harvey would shake his fists at the women and come within striking distance, raising fears that he would physically attack the women.

The Alaska Federal District Court had dismissed the EEOC's case on the ground that the behavior was not overtly sexual and thus not unlawful sex harassment. The EEOC appealed that ruling and in September 2005, the San Francisco-based Ninth Circuit Court of Appeals reinstated the lawsuit, stating that it was wrong for the lower court to dismiss the case because harassing conduct does not have to be motivated by lust or blatant misogyny to be illegal sex discrimination.

The Ninth Circuit quoted Chamara describing her work environment as, "working with a ticking time bomb because you're sitting by and you're waiting for your turn to be next. You know its going to happen when you hear the sound of his feet walking towards your area. It... raises the hairs on your neck because you just don't know what you're going to get."

Although top NEA-Alaska management officials, such as the president and previous executive director, personally witnessed some of Harvey's behavior and received complaints about him, they failed to take action to stop the harassment. In fact, despite the complaints, Harvey was subsequently promoted to be NEA-Alaska's executive director.

The Focus

After filing the lawsuit against NEA-Alaska, the EEOC uncovered evidence that the national NEA helped place Harvey at the Alaska affiliate, despite knowing of his lengthy record of targeting women for abuse (including his behavior while working at NEA's Mississippi affiliate). As a result, the EEOC added the national teachers union as a defendant to the lawsuit.

After the Ninth Circuit reversed and remanded the case to the lower court, the unions and the EEOC engaged in mediation resulting in the settlement. In addition to the monetary relief to be shared by the three women, both NEA-Alaska and NEA agreed to review their employment policies, provide effective means to address discrimination complaints, and educate their employees about their rights and responsibilities in the workplace.

Protecting Workers in Hot Environments

Many workers spend some part of their working day in a hot environment. Workers in foundries, laundries, construction projects, and bakeries -- to name a few industries -- often face hot conditions which pose special hazards to safety and health.

HEAT STRESS CAUSES BODY REACTIONS

Four environmental factors affect the amount of stress a worker faces in a hot work area: temperature, humidity, radiant heat (such as from the sun or a furnace) and air velocity. Perhaps most important to the level of stress an individual faces are personal characteristics such as age, weight, fitness, medical condition and acclimatization to the heat.

The body reacts to high external temperature by circulating blood to the skin which increases skin temperature and allows the body to give off its excess heat through the skin. However, if the muscles are being used for physical labor, less blood is available to flow to the skin and release the heat.

Sweating is another means the body uses to maintain a stable internal body temperature in the face of heat. However, sweating is effective only if the humidity level is low enough to permit evaporation and if the fluids and salts lost are adequately replaced.

Of course there are many steps a person might choose to take to reduce the risk of heat stress, such as moving to a cooler place, reducing the work pace or load, or removing or loosening some clothing.

But the body cannot dispose of excess heat, it will store it. When this happens, the body's core temperature rises and the heart rate increases. As the body continues to store heat, the individual begins to lose concentration and has difficulty focusing on a task, may become irritable or sick and often loses the desire to drink. The next stage is most often fainting and death is possible if the person is not removed from the heat stress.

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HEAT DISORDERS

Heat stroke, the most serious health problem for workers in hot environments, is caused by the failure of the body's internal mechanism to regulate its core temperature. Sweating stops and the body can no longer rid itself of excess heat. Signs include (1) mental confusion, delirium, loss of consciousness, convulsions or coma; (2) a body temperature of 106 degrees F or higher; and (3) hot dry skin which may be red, mottled, or bluish. Victims of heat stroke will die unless treated promptly. While awaiting medical help, the victim must be removed to a cool area and his or her clothing soaked with cool water. He or she should be fanned vigorously to increase cooling. Prompt first aid can prevent permanent injury to the brain and other vital organs.

Heat exhaustion results from loss of fluid through sweating when a worker has failed to drink enough fluids or take in enough salt or both. The worker with heat exhaustion still sweats but experiences extreme weakness or fatigue, giddiness, nausea, or headache. The skin is clammy and moist, the complexion pale or flushed, and the body temperature normal or slightly higher. Treatment is usually simple: the victim should rest in a cool place and drink an electrolyte solution (a beverage used by athletes to quickly restore potassium, calcium, and magnesium salts). Severe cases involving victims who vomit or lose consciousness may require longer treatment under medical supervision.

Heat cramps, painful spasms of the muscles, are caused when workers drink large quantities of water but fail to replace their bodies' salt loss. Tired muscles -- those used for performing the work -- are usually the ones most susceptible to cramps. Cramps may occur during or after working hours and may be relieved by taking liquids by mouth or saline solutions intravenously for quicker relief, if medically determined to be required.

Fainting (heat syncope) may be a problem for the worker not acclimatized to a hot environment who simply stands still in the heat. Victims usually recover quickly after a brief period of lying down. Moving around, rather than standing still, will usually reduce the possibility of fainting.

Heat rash, also known as prickly heat, may occur in hot and humid environments where sweat is not easily removed from the surface of the skin by evaporation. When extensive or complicated by infection, heat rash can be so uncomfortable that it inhibits sleep and impedes a worker's performance or even results in temporary total disability. It can be prevented by resting in a cool place and allowing the skin to dry.

PREVENTING HEAT STRESS

Most heat-related health problems can be prevented or the risk of developing them reduced. Following a few basic precautions should lessen heat stress.

1. A variety of engineering controls including general ventilation and spot cooling by local exhaust ventilation at points of high heat production may be helpful. Shielding is required as protection from radiant heat sources. Evaporative cooling and mechanical refrigeration are other ways to reduce heat. Cooling fans can also reduce heat in hot conditions. Eliminating steam leaks will also help. Equipment modifications, the use of power tools to reduce manual labor and personal cooling devices or protective clothing are other ways to reduce the hazards of heat exposure for workers.

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2. Work practices such as providing plenty of drinking water -- as much as a quart per worker per hour -- at the workplace can help reduce the risk of heat disorders. Training first aid workers to recognize and treat heat stress disorders and making the names of trained staff known to all workers is essential. Employers should also consider an individual worker's physical condition when determining his or her fitness for working in hot environments. Older workers, obese workers and personnel on some types of medication are at greater risk.

3. Alternating work and rest periods with longer rest periods in a cool area can help workers avoid heat stress. If possible, heavy work should be scheduled during the cooler parts of the day and appropriate protective clothing provided. Supervisors should be trained to detect early signs of heat stress and should permit workers to interrupt their work if they are extremely uncomfortable.

4. Acclimatization to the heat through short exposures followed by longer periods of work in the hot environment can reduce heat stress. New employees and workers returning from an absence of two weeks or more should have 5-day period of acclimatization. This period should begin with 50 percent of the normal workload and time exposure the first day and gradually building up to 100 percent on the fifth day.

5. Employee education is vital so that workers are aware of the need to replace fluids and salt lost through sweat and can recognize dehydration, exhaustion, fainting, heat cramps, salt deficiency, heat exhaustion, and heat stroke as heat disorders. Workers should also be informed of the importance of daily weighing before and after work to avoid dehydration.

For additional information, go to www.osha.gov