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Defending Against Workplace Harassment Claims

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Defending Against Workplace Harassment Claims 3
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In harassment cases that do not involve harassment by a supervisor that resulted in a tangible employment action, an employer has a defense if it can prove two things:

1. The employer exercised reasonable care to prevent and promptly correct any harassment; and
2. The employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer, or to avoid harm otherwise.

The first prong of the test requires the employer to show that it took reasonable care to prevent and promptly correct any harassment. Simply having a policy is not enough; the policy must be implemented. Not having a formal policy will not necessarily defeat the defense if the employer exercised sufficient care through other means, but not having a policy makes it very difficult for an employer to show that it exercised reasonable care. Therefore, it is best to have a policy in place.

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