

Yellowstone Cracks Down on Workplace Harassment

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In late July 2017, Yellowstone National Park's superintendent announced that he would be taking disciplinary action against 10 Yellowstone employees after an investigation found that female employees at the park had been victims of sexual harassment. The announcement comes at a time when the National Park Service and its parent agency, the Department of the Interior, are under increased scrutiny amid allegations of sexual harassment at a number of the agency's parks. The problems at the National Park Service draw attention to issues that confront employers and employees located in remote areas.

A History of Workplace Harassment at the National Park Service

In 2016, reports of sexual harassment at many National Park Service sites, including major parks like Yosemite, Yellowstone, and the Grand Canyon, made headlines as victims of [sexual harassment](#) began to tell their stories to media outlets. Beginning in 2016, the Department of the Interior's Office of the Inspector General (OIG) conducted an investigation into reports of misconduct at Yellowstone. The House Oversight Committee further investigated misconduct at the National Park Service, conducting hearings with victims and agency leadership. In January 2017, Sen. Tammy Duckworth (D-ILL) questioned Interior Secretary Ryan Zinke about sexual harassment in the National Park Service during his confirmation hearing.

In many cases, National Park Services employees work in remote locations with less oversight than government employees in more populated locales. Such conditions, combined with a male-dominated workplace culture, can foster a hostile work environment for workers. The EEOC's Select Task Force on the Study of Harassment in the Workplace has published [a chart of risk factors for harassment](#), along with responsive strategies that employers can take to counteract those risk factors. Several of the risk factors outlined by the EEOC are present at national parks.

First, many national parks are located in unpopulated areas where employees are isolated. According to the EEOC, in isolated environments, harassers have easy access to their targets, and when workplace harassment occurs, there are usually few witnesses to corroborate a victim's account. Relatedly, the National Park Service is an example of a decentralized workplace. Employees report to management that is located many miles away. The physical distance between employees and managers can make it difficult for employees to report harassment within the organization. Finally, the National Park Service has many more male employees than female employees, especially in some of its more remote locations. Homogeneity in the workplace is a risk factor for harassment because, as the EEOC has noted, employees in the minority can be vulnerable to pressure from the majority, and employees in the majority often feel threatened or uncomfortable around those they perceive as different or "other."

Other Work Environments Share Risk Factors

The risk factors for sexual harassment present in the national parks are not unique to national parks. Isolated and homogenous workplaces exist in a variety of public sector jobs such as law enforcement,

firefighting, and the military, and in private sector jobs in such industries as mining and long-haul trucking. For example, women who work as long-haul truckers have filed numerous sexual harassment complaints against trucking companies. Like employees of national parks, truckers work in isolation from their managers, often in remote parts of the country. Often truckers are paired together for weeks-long trips, sitting, driving, and sleeping in close quarters, and those conditions can foster egregious sexual harassment.

The courts have not consistently evaluated the culture of such workplaces in analyzing harassment claims. Many courts considering such claims have noted the existence of widespread vulgarity, crude humor, and obscene language, but do not think Title VII was meant to change this. In one leading case, the court essentially said that if a woman wanted to work in a non-traditional environment, she had “assumed the risk” of being subjected to such harassment. See *Rabidue v. Osceola Refining Co.*, 805 F.2d 611 (6th Cir. 1986). Other courts repudiated this view, saying that traditionally accepted discrimination against women underscores rather than mitigates an employer’s culpability. See *Jensen v. Eveleth Taconite Co.*, 130 F.2d 1287 (8th Cir. 1997).

More recently, in addressing harassment claims against CRST trucking, the subject of multiple complaints of harassment including allegations of sexual assault and rape, a state court in California upheld a \$1.5 million verdict for the plaintiff. In a different case litigated in federal court, the Ninth Circuit Court of Appeals this year reversed summary judgment for the company and sent the female truck driver’s case back for trial, while in March 2017 a district court in Iowa certified two classes of women to proceed with harassment claims against CRST.

Stopping Sexual Harassment Before It Starts

Although the courts’ more progressive responses to some cases of sexual harassment are a positive development, employers have much more power to [stop sexual harassment](#) before it starts. While risk factors such as isolation and decentralization cannot be eliminated, employers can combat the risk factors by taking proactive steps to eradicate harassment. To combat the risks caused by isolation:

- Employers must ensure that harassment training reaches all employees regardless of location.

- Employees must know how to report harassment

- Managers must know how to respond to such reports and escalate them through the proper channels.

- Harassers must be disciplined to reinforce a message of zero tolerance for harassment.

- Employers in remote locations can attempt to increase diversity by hiring a more gender-balanced workforce because greater gender balance is likely to reduce harassment.

Yellowstone’s disciplinary action against 10 employees implicated in misconduct is an encouraging step, but the Department of Interior, the National Park Service, and individual parks will need to continue to act proactively and implement stronger strategies, policies, and procedures to protect their employees from sexual harassment. The National Park Service’s recently exposed troubles highlight broader issues confronting a wide range of employers. Employers can and must do more to ensure that employees can work in an environment that is free from harassment.