

IT'S NOT JUST ABOUT SEX ANYMORE



Harassment in the workplace

Agenda



1. Definition of harassment
2. Illegal harassment versus inappropriate conduct or behavior
3. The importance of preventing workplace harassment
4. Categories of harassment (other than sexual harassment)
5. Federal laws that prohibit and provide protection against harassment



What Is Harassment?



☞ In the workplace, when we hear the word “harassment,” many of us think only of sexual harassment. However, illegal harassment also occurs based on an employee’s race or color, religion, national origin, age, disability, genetic information, or military or veteran status.



What Is Harassment?



☞ In the employment and legal context, harassment is defined as conduct or actions—based on race, religion, sex, national origin, age, disability, genetic information, military membership or veteran status—severe or pervasive enough to create a hostile, abusive or intimidating work environment for a reasonable person.



What Is Harassment?



Harassment is:

- ⌘ A form of discrimination that violates Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Genetic Information Nondiscrimination Act (GINA) or the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- ⌘ Unwelcome verbal or physical conduct based on a person's race, color, religion, sex or gender, national origin, age (40 and over), disability (mental or physical), genetic information or military or veteran status.

What Is Harassment?



Harassment is:

- Severe, pervasive and persistent conduct that unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.
- An occurrence when an employee's status or benefits are directly affected by the harassing conduct of a manager or person of authority.
- Adverse employment actions (retaliation) against employees who complained of harassment or discrimination or who participate in a complaint procedure.

Illegal Harassment Versus Inappropriate Conduct or Behavior



- œ In the workplace and as used in this presentation, the term “harassment” refers to the illegal form of discrimination.
- œ Employees may say they are being harassed, however, when they are subjected to inappropriate conduct or behavior that is not illegal but that is unacceptable in the workplace.
- œ The term frequently used to describe this type of behavior and conduct is “workplace bullying.”

Illegal Harassment Versus Inappropriate Conduct or Behavior

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⌘ Workplace bullying is repeated mistreatment of one or more employees using humiliation, intimidation and denigration of performance.



⌘ Bullying behavior can exist at any level of an organization.

⌘ Bullies can be superiors, subordinates, co-workers and colleagues.

Illegal Harassment Versus Inappropriate Conduct or Behavior

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Examples of workplace bullying include:

- Verbal abuse and profanity.
- Humiliation.
- Constant criticism or teasing.
- Gossip.
- Stealing the credit for work performed by the victim.
- Personal and professional denigration.



Illegal Harassment Versus Inappropriate Conduct or Behavior

(cont.)


Examples of workplace bullying include:

- Overt threats.
- Assignment of unrealistic workloads.
- Aggressive e-mails or notes.
- Professional exclusion or isolation.
- Sabotage of career and financial status.



Scenario



A supervisor in the accounting department constantly and publicly criticizes his employees and calls them stupid and lazy. Is this illegal harassment or workplace bullying? Explain your answer.

The same accounting supervisor refers to one of his employees as an “old gal” who is “over the hill” and has problems using a computer because of her age. Illegal harassment or workplace bullying? Why?

Categories of Harassment



☞ Race/color:



☞ Ethnic slurs or jokes, offensive or derogatory comments, or other verbal or physical conduct based on an employee's race/color constitutes harassment if that conduct creates an intimidating, hostile or offensive work environment and prohibits an employee from performing his or her job.

Categories of Harassment



Religion:

- Harassment based on religion occurs when an employee is antagonized or ridiculed because of his or her religious beliefs.
- Another type of religious harassment occurs when a co-worker or supervisor “preaches” or proselytizes to an employee and the employee perceives that behavior to be unwanted and offensive, amounting to a hostile work environment.

To avoid claims of religious harassment, employers must reasonably accommodate an employee’s sincerely held religious practices unless doing so would impose an undue hardship on their business.

Categories of Harassment



National origin:

Harassment includes discriminating because of birthplace, ancestry, culture or linguistic characteristics common to a specific ethnic group or by requiring employees to speak only English unless an employer shows that the requirement is necessary for conducting business.

Age:

The ADEA protects individuals age 40 and older. Harassment can include, for example, offensive remarks about a person's age.

Disability:

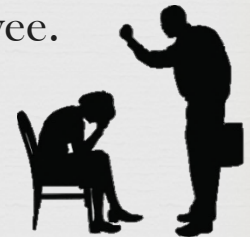
The ADA prohibits workplace discrimination on the basis of disability. Under this law, when an employee is constantly subjected to pervasive and severe harassment due to his or her real or a perceived disability that creates a hostile work environment, compensatory damages and punitive damages can be sought against the employer.

Categories of Harassment



⌘ Genetic information:

Under GINA, harassment can include, for example, making offensive or derogatory remarks about an applicant or employee's genetic information or about the genetic information of a relative of the applicant or employee.



⌘ Military or Veteran status:

USERRA protects employees or applicants against harassment based on their military status or military obligations.



Summary

The End



- ⌘ Harassment is conduct or actions—based on race, religion, sex, national origin, age, disability, genetic information, military membership or veteran status—severe or pervasive enough to create a hostile, abusive or intimidating work environment for a reasonable person.
- ⌘ Inappropriate conduct or behavior that is not illegal but that is unacceptable in the workplace is called workplace bullying, defined as repeated mistreatment of one or more employees using humiliation, intimidation and denigration of performance.