HARASSMENT IN THE WORKPLACE

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WHAT IS HARASSMENT?

EXPENSIVE!

A SAMPLING FROM THE EEOC'S "NEWSROOM" WEBSITE:

- Tres Hijas Berry Farms to Pay \$200,000 in EEOC Sexual Harassment Lawsuit.
- AMZ Manufacturing Co. to Pay \$110,000 in EEOC Sexual Harassment Suit.
- Weis Markets to Pay \$75,000 in EEOC Sexual Harassment, Disability Discrimination Suit.
- Honolulu Restaurant and HR Company to Pay \$115,000 in EEOC Sexual Harassment Lawsuit.
- Pacific Culinary and CB Foods to Pay \$245,000 in EEOC Sexual Harassment and Retaliation Lawsuit.
- The Cleaning Authority-Fox Valley to Pay \$200,000 to Settle EEOC Sexual Harassment and Retaliation Lawsuit.
- NorVal Electric to Pay \$50,000 in EEOC Sexual Harassment and Retaliation Lawsuit.
- Chipotle to Pay \$50,000 in EEOC Sexual Harassment Case.

WHAT IS HARASSMENT?

ACCORDING TO MERRIAM-WEBSTER DICTIONARY:



MORE SPECIFIC UNDER FEDERAL ANTI-DISCRIMINATION LAW

- All laws enforced by the EEOC prohibit workplace harassment that is based on a **protected characteristic**. The protected characteristics covered by the laws the EEOC enforces are race, color, religion, sex (including sexual orientation; gender identity; and pregnancy, childbirth, or related medical conditions), national origin, disability, age (40 or older), and genetic information (including family medical history).
- Further, to violate the law, harassment based on a *protected characteristic* must either:
 - involve a change to the victim's employment (e.g., an employee is fired, demoted, denied a promotion or transfer, reassigned, or receives reduced hours or pay because the employee rejected a supervisor's sexual advances); or
 - create a "hostile work environment."

HOSTILE WORK ENVIRONMENT

A "hostile work environment" exists when harassment is so severe or frequent (called "pervasive" in the law) that a reasonable person in the employee's position would find the situation to be abusive.







ELEMENTS OF A HOSTILE WORK ENVIRONMENT

To establish a prima facie hostile work environment claim, an employee must show the following:

- Conduct the employee was subjected to conduct based on a legally protected characteristic;
- Objective hostility the conduct was either so severe or frequent (it does not have to be both) that a reasonable person in the employee's position would conclude that the working conditions were abusive;
- **Subjective hostility** the employee actually found the conduct to be hostile (i.e., the employee did not welcome the conduct); and
- Liability the employer can be held liable for the harassment.

"NEW" EEOC GUIDANCE

- Issued April 29, 2024.
- 189 pages printed (pages 100-189 have citations).
- Legal challenges.
- "The contents of this document do not have the force and effect of law, are not meant to bind the public in any way...."
- "Nothing in this document should be understood to prejudge the outcome of a specific set of facts presented in a charge filed with the EEOC."

GUIDANCE HIGHLIGHTS

LGBTQ+

Pregnancy, childbirth, or related medical conditions, including lactation

Harassment based on "color"

Genetic information

"Retaliatory harassment"

"Intraclass harassment"

GUIDANCE RECOMMENDATIONS

Employers are strongly encouraged to:

- have a clear, easy-to-understand anti-harassment policy;
- have a safe and effective procedure that employees can use to report harassment, including more than one option for reporting;
- provide recurring training to all employees, including supervisors and managers, about the company's anti-harassment policy and complaint process; and
- take steps to make sure the anti-harassment policy is being followed and the complaint process is working.

PRACTICAL ADVICE

What is the culture of your workplace?

Does leadership take harassment seriously?

Q&A DISCUSSION

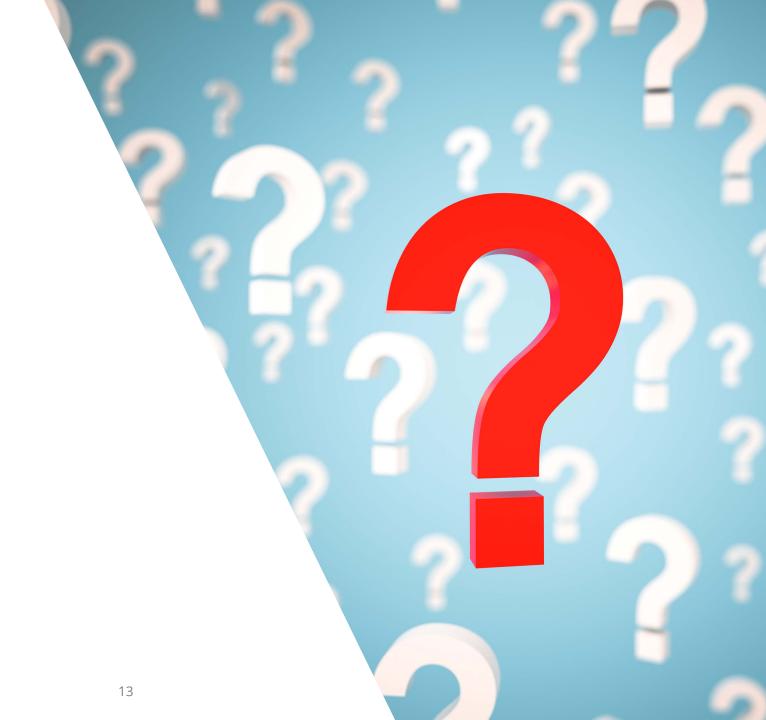
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