

# HARASSMENT IN THE WORKPLACE

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# WHAT IS HARASSMENT?

# EXPENSIVE!

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

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- 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:

## harass **verb**

ha·rass (hə-ˈras ◀) ˈher-əs, ˈha-rəs ◀)

**harassed; harassing; harasses**

[Synonyms of harass >](#)

*transitive verb*

**1 a : EXHAUST, FATIGUE**

I have been *harassed* with the toil of verse  
— William Wordsworth

**b (1) : to annoy persistently**

was *harassing* his younger brother

**(2) : to create an unpleasant or hostile situation for especially by uninvited and unwelcome verbal or physical conduct**

was being *harassed* by her classmates  
claims that the police were unfairly *harassing* him

**2 : to worry and impede by repeated raids**

*harassed* the enemy

**harasser *noun***

**harassment** (hə-ˈras-mənt ◀) ˈher-əs-ˈha-rəs- ◀) **noun**

# MORE SPECIFIC UNDER FEDERAL ANTI-DISCRIMINATION LAW

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- 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

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**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

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- 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 prejudice the outcome of a specific set of facts presented in a charge filed with the EEOC.”

# GUIDANCE HIGHLIGHTS

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LGBTQ+

Pregnancy,  
childbirth, or related  
medical conditions,  
including lactation

Harassment based  
on “color”

Genetic information

“Retaliatory  
harassment”

“Intraclass  
harassment”

# GUIDANCE RECOMMENDATIONS

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## 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

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What is the  
culture of your  
workplace?

Does leadership  
take harassment  
seriously?

# Q&A DISCUSSION

PRESENTER

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