

Understanding **WORKPLACE HARASSMENT**

What is Workplace Harassment?

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Title VII EEO Bases

Harassment Based on Age

Harassment Based on Disability

Harassment Based on Genetic Information

Harassment is any unwelcome verbal or physical conduct based on **one of the protected bases** that is so objectively offensive as to alter the conditions of the victim's employment. This standard is met when:

- < The conduct culminates in a tangible employment action, or
- < The conduct was sufficiently severe or pervasive to create a hostile work environment

Is Everything Harassment?

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The EEO laws do NOT prohibit simple teasing, offhand comments, or isolated incidents that are not very serious.

Harassment Based on Race

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- Title VII does not define race.
- OMB has created five racial categories.
 - American Indian or Alaska Native
 - Asian
 - Black or African American
 - White or Caucasian
 - Native Hawaiian or Other Pacific Islander

Scenario #1

Carl overhears Larry tell Seth a joke with a derogatory connotation about American Indians. This is followed up by two e-mails with jokes about several races and ethnicities, including American Indians, which Carl discovers on the printer one afternoon. Carl reports this to his supervisor who does nothing. Has there been a violation of law or agency policy? What if Carl is Black and not the subject of any of the jokes?

National Origin Harassment

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- Based on a person's native country or part of the world, because of ethnicity or accent, birthplace, ancestry, culture, linguistic characteristics common to a specific ethnic group, or because they appear to be of a certain ethnic background (even if they are not).
- Also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

Scenario # 2

Frazier relocated from Maine two years ago and has a very distinct accent. From the very beginning, his co-workers and some managers made jokes about his manner of speech. Some of his co-workers ask him questions about and attribute to him stereotypical New England traits. After enduring a year of joking and teasing, Gregory approached his supervisor with his concerns. At a staff meeting shortly thereafter, his supervisor informed the group that they should tone down their joking because someone might be offended.

Frazier tells the Counselor that while some have stopped their behavior, a few co-workers still persist in making derogatory comments about his New England accent. He is the only Caucasian and wants to file on race discrimination.

Harassment Based on Color

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Discrimination based on skin pigmentation (lightness or darkness of the skin), complexion, shade, or tone.

Color discrimination can occur between persons of different races or ethnicities, or even between persons of the same race or ethnicity.

Scenario #3

Jermaine , dark-skinned Black, dreads the yearly agency symposium because of Walter, the business company representative who shares his division's booth. Walter, fair-skinned Black, always greets Jermaine with his version of a "soul handshake" and refers to Jermaine in terms such as "My Man" and "Brother J." Jermaine has complained to his supervisor, but the agency supervisor says he does not have any control over Walter's behavior since he is employed by their public sector partner.

When Jermaine comes to the Counselor, should the Counselor talk with someone in Walter's company?

Harassment Based on Religion

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Title VII protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also atheists, agnostics and others who have sincerely held religious, ethical or moral beliefs.

In addition, an employee cannot be forced to participate (or not participate) in a religious activity as a condition of employment.

Scenario #4

Daniel is a member of the Church of Jesus Christ of Latter Day Saints. He believes his supervisor's comments regarding his religion and questions about whether he has multiple wives is harassment. After he finally tells the supervisor that he doesn't find these comments or questions funny he is no longer assigned overtime. Daniel's supervisor informed him that there was less overtime because there was less work.

Daniel tells the Counselor that his co-workers have continued to be assigned overtime at the same rate. He files a complaint of harassment.

Harassment Based on Sex

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- Covers disparate treatment based on sex
- Covers harassment based on sex/gender
- Covers sexual harassment
- Covers pregnancy discrimination

Scenario # 5

After Cass returned to work from maternity leave, she told her supervisor, Rochelle, she would be using her lunch break to breastfeed her child at the child's day care center. Rochelle responded, "Now that you're a mother, you won't have the same dedication to the job. That's why I never had any kids! Maybe you should rethink your future with this agency." Rochelle also began monitoring Cass' time, tracking when Cass left and returned from her lunch break and admonishing her if she was late, even only a few minutes. Others were not similarly monitored or reprimanded.

Cass approached the Counselor to discuss the situation and wants to file a complaint, if it can't be resolved immediately.

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ADEA prohibits
harassment on the basis
of age against
individuals forty and
over.

Scenario # 6

Wyatt, 53, believes he is being subjected to unwelcome conduct based on his age because his supervisor, Marilyn, distributes assignments on post-it notes imprinted with comments like, “You know you’re old when getting lucky means you find your car in the parking lot.” Another reads, “You know ... when your pharmacist has become your new best friend.” After receiving the first such note, Wyatt informed Marilyn that he felt the notes were inappropriate for the workplace. Marilyn responded that Wyatt shouldn’t be so sensitive about his age.

Harassment Based on Disability

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Harassment Prohibited against Someone Who:

- * Has a physical or mental impairment that substantially limits one or more of that individual's major life activities; or
- * Has a history of such an impairment; or
- * Is subjected to an action "prohibited by this Act: because of an actual or perceived physical or mental impairment

Also, protects someone harassed because of association with an individual meeting the above standards.

Scenario # 7

Shortly after Supervisor Adam learned that Martin's wife has a severe form of multiple sclerosis, his relationship with Martin deteriorated. Although Martin had always been a good performer, Adam repeatedly questioned whether Martin's responsibilities caring for his wife would prevent him from being able to meet the demands of his job. Adam removed Martin from team projects, stating that Martin's coworkers did not think that Martin could be expected to complete his share of the work "considering all of his wife's medical problems." Adam also began requiring Martin to follow company policies that other employees were not required to follow, such as requesting leave at least a week in advance except in the case of an emergency. Martin comes to the Counselor to discuss this.

Genetic Information Nondiscrimination Act

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**Harassment Based
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- 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 is prohibited.

Scenario # 8

Floyd proudly followed in his father's footsteps and became an IG Inspector for his agency. Most of Floyd's current co-workers were IG employees at this agency or his father's agency during his father's tenure as IG Inspector. Floyd enjoys the stories they tell about his father but is becoming annoyed because several co-workers started including references to his father's diabetes in their stories. In addition, Floyd has been scolded by several of his co-workers because he has gained so much weight this last year.

