

# HOSTILE WORK ENVIRONMENTS

A hostile work environment exists when the harassment is so **severe and pervasive that it alters your ability to do your job. The behavior must be more than just offensive; it must be objectively abusive.** The harasser can be anyone in the workplace, including a supervisor, coworker, or even a customer or client.

## WHAT ARE THE 3 TYPES OF HARASSMENT?

- Verbal
- Visual
- Physical

## CONSIDERATIONS

- The **frequency** of discriminatory conduct.
- The **severity** of discriminatory conduct.
- Whether or not the conduct is **physically threatening or humiliating or a mere offensive utterance.**
- Whether or not conduct **unreasonably interferes** with an employee's work performance.

## WHAT IS A HOSTILE WORK ENVIRONMENT?

*In most cases, **personality conflicts, petty slights, annoyances, rudeness, and isolated incidents DO NOT constitute a hostile work environment.** To meet the requirements of a hostile work environment, the behavior must be: Pervasive, severe, and persistent. Disruptive to the victim's work.*

*What then separates, on the one hand, a **workplace that is miserable due to a boss who is a jerk** to the entire staff and, on the other hand, a Title VII hostile work environment claim? The key is that the abusive conduct **must be related to the employee's race, sex, religion, etc.** (otherwise known as a protected characteristic) in order for the mistreatment to be unlawful under Title VII and related laws. For example, if a manager has everyone walking on eggshells because they yell constantly and set unattainable goals/deadlines—but this abuse is directed to all employees—then this is not illegal under Title VII. If, however, the supervisor treated only female employees this way, then these women could pursue a hostile work environment claim if the inequity is based on their sex. Disagreements about a supervisors evaluation rating is not. Requirements to follow policy or dress code are not. Relaying expectations of job performance are not.*

## WHEN MAKING A DECISION ON A HOSTILE WORK ENVIRONMENT COMPLAINT, THE COURT WILL CONSIDER THE FOLLOWING ELEMENTS OF THE CASE:

- Consistency. A **one-off comment** will generally **NOT** give rise to a hostile work environment case. However, if the court finds that the discrimination occurs on a regular basis, it will be.
- Severity. The courts will consider how severe the instance of **discrimination** was and how thoroughly the **discriminatory behavior was allowed to permeate** the workplace.
- Intention. The court will determine whether the behavior was merely **meant to offend or if it constituted a physical threat or humiliation.** Often, cases involving harassment that includes physical touching will be viewed as more intentional than and offensive than verbal harassment will be.
- Interference. **NOT ALL** harassing behavior constitutes a hostile work environment, even if it involves statements that are discriminatory in nature against an employee of a protected class. Disagreement about a supervisors evaluation, supervisors expectations surrounding dress code, or relayed job performance expectations are not examples of a hostile work environment. In order to be considered a hostile work environment, the harassment must result in an unreasonable interference to the employee's work performance.