



# Workplace Harassment





# Definition of Harassment

- According to the EEOC, harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the ADEA and the ADA.
- Harassment is unwanted and/or unwelcome behavior or conduct based on a protected class
- Anti-discrimination laws also prohibit harassment against individuals in retaliation for:
  - Filing a discrimination charge,
  - Testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws or
  - For opposing employment practices that they reasonably believe discriminate against individuals in violation of these laws





# Definition of Harassment, cont.

- Harassment becomes unlawful where:
  - enduring the offensive conduct becomes a condition of continued employment, or
  - the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.
- Petty slights, annoyances, and isolated incidents will often not rise to the level of illegality





# Examples of Harassment

- Offensive conduct may include, but is not limited to:
  - Demeaning remarks, offensive jokes, slurs, epithets or name calling
  - Flirting, advances or propositions of a sexual nature, including unwanted touching
  - Intimidation
  - Ridicule or mockery
  - Insults or put-downs
  - Offensive objects or pictures
  - Deliberately refusing to refer to someone by their preferred pronoun
  - Interference with work performance





# Categories of Harassment

- National Origin
  - It is illegal to discriminate based on an employee's birthplace, ancestry, culture or linguistic characteristics common to a specific ethnic group.
- Disability
  - The Americans with Disabilities Act (ADA) prohibits workplace discrimination on the basis of disability
- Sex Discrimination
  - It is illegal to discriminate on the basis of sex, gender identity or expression or sexual orientation.
  - Requests for sexual favors in exchange for preferential treatment, and workplace conditions that create a hostile environment for persons of either gender, also constitute sexual harassment.
- Pregnancy-based Discrimination
  - Pregnancy, childbirth and related medical conditions must be treated in the same way as other temporary illnesses or conditions and may not be used for discriminatory treatment.





# Categories of Harassment, cont.

- Age Discrimination

- The Age Discrimination in Employment Act (ADEA) protects individuals who are 40 and older from discrimination. An example of harassment based on age would be referring to an older worker as “gramps” or “granny,” thus creating a hostile work environment.

- Race/Color

- It is illegal to discriminate on the basis of race or color. Slurs or jokes, offensive or derogatory comments, or other verbal or physical conduct based on an employee’s race or color constitutes discriminatory harassment if that conduct creates an intimidating, hostile or offensive work environment

- Religion

- An employer cannot discriminate based on an employee’s religious beliefs or practices.





# Workplace Bullying vs. Illegal Discrimination & Harassment

- Petty slights, annoyances, and isolated incidents will often not rise to the level of illegality
- However, it could be *bullying*
- Workplace bullying is inappropriate and unacceptable behavior that is continuous/repeated and malicious in nature (has intent to harm)





# Examples of Workplace Bullying

- Social bullying
  - Sometimes referred to as relational bullying, this involves hurting someone's reputation or relationships
  - Examples include:
    - Telling other people not to associate with someone
    - Spreading rumors about someone
    - Deliberately embarrassing someone in public
- Verbal bullying
  - Saying or writing mean/inappropriate things about someone with the intent to harm
  - Examples include:
    - Teasing
    - Name-calling
    - Inappropriate sexual comments
    - Taunting
    - Threatening to harm the person



# Workplace Bullying vs. Illegal Discrimination & Harassment, cont.

- Bullying is not illegal under federal or state law unless the *basis* for it is tied to a protected class
- "Not illegal" does not mean "okay" behavior





# Retaliation

- In the employment context, retaliation occurs when an employer takes an adverse action against a covered individual because the employee engaged in a protected activity
- Retaliatory actions include:
  - Terminating employment
  - Demoting employees
  - Illegal harassment of employees for their filing a charge of discrimination, for participating in a discrimination investigation or proceeding, or for their opposing discrimination
- Retaliation is illegal, disrespectful and costly

