

Let's Talk...
HARASSMENT-
IT HAPPENS!

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The Legal Definition of Harassment

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Harassment has a legal definition—
because it's against the law. So, what is the
legal definition of harassment?

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**Under Title VII of the Civil Rights Act, and
several other acts that amend or extend it,
such as the Age Discrimination and
Pregnancy Discrimination acts,**

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and the Americans with Disabilities Act, as well as the more recent Genetic Information Nondiscrimination Act, it's illegal to discriminate on the basis of the following categories:

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- ✓ race
- ✓ color
- ✓ religion
- ✓ sex (including gender-identity and pregnancy, childbirth, or pregnancy-related medical conditions)

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- ✓ national origin
- ✓ age (for those over 40)
- ✓ sexual orientation
- ✓ parental status
- ✓ disability
- ✓ genetic information

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Abusive conduct—offensive, inappropriate, discriminatory behavior against an individual or group in violation of the law—is considered harassment, and legally it comes in two basic forms.

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Quid Pro Quo

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Quid pro quo, which is Latin for “this for that” — is a simple idea. It's harassment that involves an exchange, or a trade.

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For example, a manager who implies that a promotion can be had in exchange for sex is guilty of illegal, quid pro quo harassment.

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Hostile Work Environment

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The second type of illegal harassment is known as Hostile Work Environment harassment. When the atmosphere at work is severely and pervasively intimidating, hostile, or offensive—and—the harassing behavior involves a federally protected category that is:

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- ✓ age
- ✓ disability
- ✓ gender
- ✓ sexual orientation
- ✓ race or color
- ✓ religion
- ✓ national origin
- ✓ pregnancy or parental status
- ✓ genetic information

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**Some examples of harassing behavior that
can lead to an illegal
Hostile Work Environment are:**

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- ✓ Sexual harassment, which is any ongoing unwelcome behavior of a sexual nature.
- ✓ Telling hurtful jokes that include gender or racial stereotypes, spreading rumors, or gossiping.

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- ✓ Engaging in unwelcome physical contact such as hugging, back rubs, or intentionally brushing up against someone.
- ✓ Sending inappropriate e-mails or texts, such as those containing insulting humor or sexual content, sexting, or cyber-bullying on social networking sites.

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- ✓ Displaying derogatory pictures or cartoons in the workplace.
- ✓ Ridiculing others for their physical appearance, beliefs, or abilities.

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- ✓ Bullying, abusive conduct, or physical intimidation.
- ✓ Using crude or obscene gestures and/or language.
- ✓ Put-downs, name-calling, or even the regular use of demeaning terms of endearment.

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The legal definition of a Hostile Work Environment is one with a severely and pervasively hostile atmosphere.

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It's an environment with a pattern of inappropriate and disrespectful behavior, rather than one in which there are occasional isolated instances of bad behavior.

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The courts use a commonsense guide known as the “Reasonable Person Standard” to help determine whether illegal harassment has occurred. What would “a reasonable person” think? Would “a reasonable person” find the behavior offensive and unacceptable?

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Tangible Employment Action and Vicarious Employment Action Liability

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Under federal law, a “supervisor” is someone with the authority to take so-called **TANGIBLE EMPLOYMENT ACTION**—in other words, someone with the authority to hire, fire, demote, promote, or reassign another employee.

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Most organizations are subject to legal liability, known as VICARIOUS EMPLOYMENT ACTION LIABILITY, when one of their supervisors engages in harassing behavior.

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Effects of Harassment in the Workplace

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**Workplace harassment
can adversely affect:**

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- ✓ **Physical health.** The stress, fear, and shame of being targeted at work can lead to headaches, digestive problems, and insomnia.
- ✓ **Emotional health.** Harassment can cause depression, anxiety, and panic attacks.

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- ✓ Creativity. Creativity requires positive energy, not stress and fear.
- ✓ Self-esteem. Targets of harassment often wonder whether they're somehow at fault.

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- ✓ **Productivity.** Workplace harassment causes absenteeism and makes being effective at one's job a challenge.
- ✓ **Morale.** Low morale is common not just for the target of the harassment, but for others in the environment as well.

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Remedies and Prevention

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If you experience harassment, or see someone else being harassed, politely ask the harasser to stop, if you feel comfortable doing so.

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If you don't feel comfortable confronting the harasser directly, if the harassment continues after you do try to discuss it, or if you feel intimidated, talk to a supervisor, or to Human Resources.

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Retaliation

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**It is illegal for an organization to retaliate
against someone complaining of
harassment.**

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Let's strive to make our organization free from all forms of harassment. Together, we can ensure a safe, productive, and respectful environment for all.

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