



TECHNICAL UPDATE

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HOSTILE WORK ENVIRONMENT

Ms. Johnson worked for her employer for nearly three years before the harassment started. At that time, the work environment began to change when one employee started verbally harassing her and a co-worker. Another employee shared that the abuser did not approve of women in the workplace. About four months later, the employer was notified of the verbal harassment, which included making “oink, oink” and barking noises, inappropriate personal comments, and other sexual harassment.

The plaintiff informed both the office manager and plant manager yet heard nothing about the result of her complaint. She then expressed concern to her direct supervisor, Mr. Smith, who said the employee was told not to go near her. Within two weeks after Ms. Johnson’s complaint, the verbal harassment started again, continuing to worsen over a period of 18 months. It was only after another meeting and an escalated complaint to managers and the HR director that an investigation was launched.

As the investigation started, Ms. Johnson was off work for a death in the family. Upon her return, the harassment shifted to retaliation for her grievance, with other team members calling her a “liar” and making rude noises toward her. The plant manager told her she could avoid the staff break rooms and walk to another floor to use the restroom to avoid the harassment, but she said this was not viable. Ms. Johnson quit and filed suit.

The court found that the supervisor’s response to her further complaints were “negligible”. The court also discounted the attempts by the defendant’s attorney to make Ms. Johnson out as a liar, and under the stringent five-part test of proof that the plaintiff was required to meet, the court found the employer had constructive knowledge of the hostile conditions and failed to protect Ms. Johnson from an environment that forced her to quit.

While hopefully situations like this are rare, it is important to take proactive steps to limit the development of a hostile work environment and to respond quickly and responsibly to any such complaints.

TIPS FOR COUNTIES

1. Investigate promptly all complaints and verify the validity of witnesses’ information.
2. Take immediate action to definitively prevent further harassment or retaliation, even if it ultimately requires removing harassers from their jobs.
3. Inform the complainant that you have undertaken an investigation, whether the complaint was substantiated or not, and the respondent was reminded of the policy or warned. Tell the complainant that subsequent behavior is to be reported promptly if it has not ceased.
4. Follow up with all employees, to ensure that those involved understand their obligation to report continued harassment or retaliation, and to refrain from engaging in that behavior themselves.
5. Document the actions that you have taken and follow up with more effective discipline if employees do not cooperate or if they are insubordinate.
6. Employers do not have to tell the complainant if the respondent was ultimately disciplined under Colorado Open Records Act protection for personnel records.
7. Under the POWR Act, inappropriate actions need not be severe or pervasive to be considered unlawful in Colorado.



WHAT THIS MEANS FOR COUNTIES

A hostile work environment can be a challenging and stressful situation to deal with. It’s important to recognize the signs of a hostile atmosphere, which may include harassment, intimidation, aggression, or bullying from peers, supervisors, contractors, or customers. According to the United States Equal Employment Opportunity Commission (EEOC), workplace harassment is discriminatory behavior related to a unique identifier, such as race, religion, sexual identity, gender, age, or disability. For questions, contact CTSI at (303) 861-0507.