



HR in the Crossfire: Managing Employee Expression, Conflict, and Workplace Expectation

Presented by:

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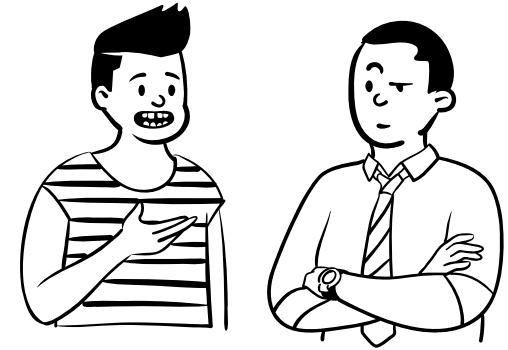


Agenda

- Understanding the Buzzwords
- When is it Relevant to the Workplace?
- When Does it Break the Law?
- Navigating the “Gray Zone”
- Policies & Procedure
- Best Practices



Understanding the Buzzwords



- “My supervisor has been harassing me about my attendance”
- “I feel that I am being discriminated against in this evaluation”
- “With all the negativity I feel like I work in a toxic workplace”
- “I feel unsafe after reading my manager’s political opinions on their social media”
- “I told my coworker to stop but they keep hitting on me at work, at this point they’re creating a hostile work environment”

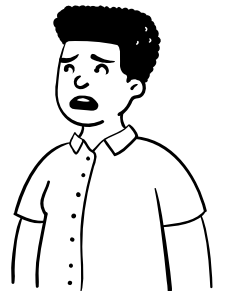
Where do these words come from?

Anti-Discrimination Laws

- Federal
 - Title VII of the Civil Rights Act
 - Protected Classes: Race, Color, Sex, National Origin, Religion
 - Pregnancy Discrimination Act (PDA)
 - Americans with Disabilities Act (ADA)
 - Age Discrimination in Employment Act (ADEA)
- Maine
 - Maine Human Rights Act (MHRA)
 - Protected Classes: Race, Color, Sex, Sexual Orientation, Gender Identity, Age, Religion, National Origin, Marital Status, Physical or Mental Disability, Familial Status, Whistleblower, Genetic Information

Discrimination v. Harassment

- **Discrimination**- involves adverse actions taken against individuals based on their membership in a protected class (e.g. race, gender, etc.) that affects their employment.
 - Hiring, firing, demotion, change in benefits
- **Harassment**- is a *form of discrimination* that involves unwelcome conduct or mistreatment because of an individual's membership in a protected class.



- *Who does it?*
 - Supervisors, Management
- The conduct may be sexual in nature
 - Requests for sexual favors in exchange for employment benefit
- But it also may be non-sexual gender-based behavior
 - If the conduct becomes a term of employmentOR
 - Accepting or Rejecting conduct is used for an employment decision



Harassment: *Quid Pro Quo*

- *Who does it?*
 - Supervisors, Co-workers, Customers, Contractors
- Conduct that is **severe** or **pervasive**
 - **Severe**- extreme act
 - **Pervasive**- a pattern of more subtle inappropriate conduct
- *Overall impact is to create an offensive work environment!*



Harassment: Hostile Work Environment



Is The Complaint Relevant to the Workplace?

- Does it directly affect the workplace, employee relationships, or the company's reputation?
- Is the complaining employee's ability to work or feel safe at work affected?
- Does it violate company policy?
- Are there legal boundaries to addressing the workplace conduct (i.e., political expression outside of work)

When Does it Break the Law?

Often Legally Actionable

A workplace in which harassment or discrimination fosters an intimidating or hostile environment that may breach legal protections.

The EEOC says:

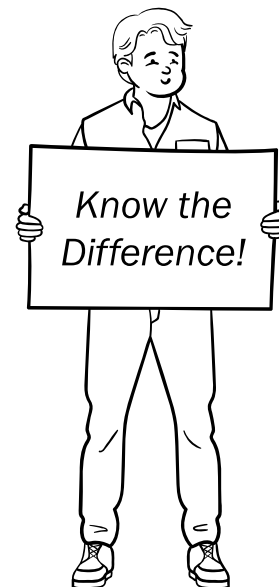
“Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.”

Generally Not Legally Actionable

A workplace where toxic behaviors, ineffective management, or an unhealthy culture harms morale without necessarily breaking the law.

The EEOC says:

“Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.”



- **Employee approaches you with a complaint:**

- *“My supervisor, Larry, is harassing me.”*

- **Response**

- Ask the employee to describe the “harassing” behavior
- Keep questions open ended
- Remain objective
- Don’t jump right into an investigation

- **Goal**

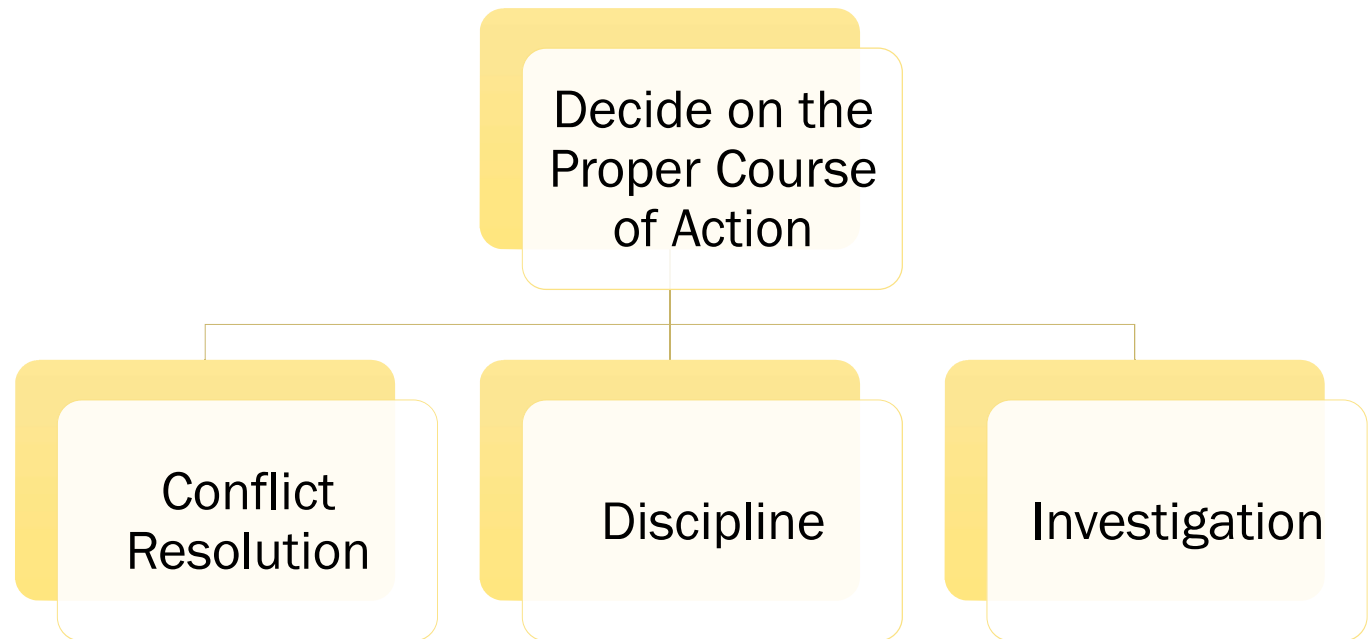
- Sort the wheat from the chaff
- Identify violation of company policies
- Identify complaints related to protected classes
- Recognize illegal harassment and discrimination complaints



**Navigating the
“Gray Zone”**



Navigating the “Gray Zone” – Next Steps



Policies and Procedures

- Harassment and Discrimination
- Code of Conduct
- Social Media
- Political Expression
- Dress Code and Attire
- Non-solicitation/No Distribution
- Use of Company Resources
- Complaint and Investigation Procedures
- Conflict-Resolution



Best Practices

- Establish clear policies that define acceptable and unacceptable behavior inside and outside the workplace
- Consistently enforce policies and procedures across the organization
- Implement well defined procedures that outline the steps to follow when handling employee complaints
- Regularly communicate and update employees on company policies and expectations
- Provide ongoing training for supervisors and managers on handling complaints appropriately
- Recognize when to involve external resources or expertise



Thank you



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