

### 3. Hostile Environment Law

In order to establish a claim of harassment due to a hostile work environment, a complainant must show that: (1) she is a member of a statutorily protected class; (2) she was subjected to unwelcome conduct; (3) the harassment complained of was based on her protected class; (4) the harassment had the purpose or effect of unreasonably interfering with her work performance and/or creating an intimidating, hostile, or offensive work environment; and (5) there is a basis for imputing liability to the employer. Staib v. Social Security Administration, EEOC Appeal No. 01A22011 (September 26, 2003).

The harasser's conduct should be evaluated from the objective viewpoint of a reasonable person in the victim's circumstances. Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993); Enforcement Guidance on Harris v. Forklift Systems, Inc., EEOC Notice No. 915.002 (March 8, 1994) (Guidance). In assessing allegations of harassment, the Commission examines factors such as the frequency of the alleged discriminatory conduct, its severity, whether it is physically threatening or humiliating, and if it unreasonably interferes with an employee's work performance. Harris, 510 U.S. at 23; Guidance at 3, 6. Usually, unless the conduct is pervasive and severe, a single incident, or group of isolated incidents, will not be regarded as discriminatory harassment. Walker v. Ford Motor Company, 684 F.2d 1355, 1358 (11th Cir. 1982). Moreover, the alleged harassing conduct must also be sufficiently continuous, not merely episodic, in order to be considered pervasive. Faragher v. City of Boca Raton, 524 U.S. 775, 786 (1998). In Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 81 (1998), the Supreme Court found that the employment discrimination laws enforced by the Commission are not to be used as a "general civility code." Rather, they forbid "only behavior so objectively offensive as to alter the conditions of the victim's employment." Id. On the other hand, it is well established that an employer who creates or tolerates a work environment which is permeated with "discriminatory intimidation, ridicule, and insult," that "is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment," is in violation of the Commission's regulations. Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).