Harassment, Hostile, and/or Unsafe Work Environment
The following information is provided to help members understand their rights.

What constitutes harassment and/or hostile work environment?

Some teachers believe that an ineffective principal, a rude/annoying coworker, petty slights, or isolated incidents of bad behavior (unless extremely serious) are illegal. This is generally not true. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. A harassing or hostile work environment is created by a boss or coworker whose actions, communication, or behavior makes doing your job impossible. This means that the behavior altered the terms, conditions, and/or reasonable expectations of a comfortable work environment for employees. For a workplace to be hostile, certain legal criteria must be met.

While the federal and state laws as well as Department of Education policies vary slightly; the following conditions must be met for behavior to be considered a harassing or hostile work environment:

- An employee is subjected to negative behavior in the workplace, based on: race, color, national origin, religion, age, disability, sex, sexual orientation, or other legally protected characteristics such as union membership, which unreasonably interferes with an employee’s work performance or creates an intimidating, hostile or offensive work environment.
- The hostile behavior, actions, or communication must be significant, severe, and pervasive, lasting over time, and not limited to an off-color remark or two that a coworker found annoying.
- The employer knows about the discriminatory behavior but takes no action to stop it.

What is not harassment?
The anti-discrimination statutes are not a general civility code. Thus, the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not extremely serious. Rather, the conduct must be so objectively offensive as to alter the conditions of the individual’s employment. The conditions of employment are altered only if the harassment culminates in a tangible employment action or is sufficiently severe or pervasive to create a hostile work environment.

What if I feel unsafe and/or bullied in the workplace?
In addition to the HSTA contract protections against discrimination and unsafe work and learning environments, the Board of Education Safe Workplace Policy 1110-7 states that “the Department of Education is responsible for providing a safe and harmonious workplace.” The policy states that “workplace violence will not be tolerated” and goes on to define “workplace violence includes but is not limited to acts involving physical attack, property damage, as well as verbal statements that a reasonable person would perceive as expressing or suggesting intent to cause physical or mental harm to another person.” In 2016, the DOE also instituted a code of conduct (https://www.hawaiipublicschools.org/DOE%20Forms/CodeofConduct.pdf), establishing standards of conduct for all employees, contractors, and volunteers. The code of conduct outlines ethical conduct including but not limited to non-discrimination, anti-harassment, anti-bullying, and an expectation of a safe workplace and learning environment.

The information provided herein is a general guide for HSTA members and is not intended to provide legal advice on specific problems.
Changes in laws and cases may modify the information provided. Please contact HSTA if you are in need of further consultation.
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What options do employees have in dealing with a harassing, hostile, and/or unsafe work environment?

Discrimination is monitored and guided by the following federal and state agencies, which have the responsibility to investigate complaints of civil rights violation or discrimination:

**The U.S. Equal Employment Opportunity Commission (EEOC)** (Civil Rights Act of 1964) [https://www.eeoc.gov/](https://www.eeoc.gov/)

**The Hawaii Civil Rights Commission (HCRC)** (Hawaii State Constitution in 1989) [https://labor.hawaii.gov/hcrc/](https://labor.hawaii.gov/hcrc/)

The Hawaii Department of Education has an internal office that deals with complaints and compliance with the law and Board of Education policy, which is called the **Civil Rights Compliance Branch (CRCB)** 808-586-3322 or info@crco.k12.hi.us. You may also search CRCB or “report an issue” for links to complaint forms.

The first step an employee needs to take if he or she is experiencing a hostile work environment is to ask the offending employee to stop their behavior or communication. You want to put the offending employee on notice that their behavior is offensive, discriminatory, inappropriate, and that you won't tolerate the behavior. If an employee finds this difficult to do alone, solicit help from a supervisor or union representative.

Notify the administration in writing of your concern. If your administration is part of the problem, you may need to go to their supervisor to complain. Your employer must have the opportunity to investigate the complaint and put a stop to the behavior. They are obligated under the contract and under the law to address your concerns about a harassing, hostile and/or unsafe work environment. If they fail to address the situation, you can consult with HSTA staff in regards to pursuing a grievance and/or filing a complaint with the DOE’s CRCO, the state’s HCRC, or the federal EEOC.

**When filing a complaint**, the complainant will generally be asked for any of the following elements, in all cases, the more detailed the better:

1. Testimony, preferably firsthand from the victim and witnesses
2. Documents such as notes and emails, that show evidence of behavior
3. Statistical data, that can help prove unequal treatment

**Examples of actions that may create harassment, hostile or unsafe work environment include but are not limited to:**

- **Harassing behavior** includes but is not limited to: use of racially derogatory words, phrases, epithets, gestures, pictures or drawings; making disparaging remarks about an individual's gender that are not sexual in nature; negative comments about an employee’s religious beliefs (or lack of religious beliefs); negative comments regarding an employee’s age; derogatory or intimidating references to an employee’s mental or physical impairment.

- **Sexual harassment** includes but is not limited to: leering, e.g., staring in a sexually suggestive manner; touching in a way that may make an employee feel uncomfortable; telling sexual or lewd jokes, hanging sexual posters, making sexual gestures, etc.; sending, forwarding or soliciting sexually suggestive letters, notes, emails, or images.

- **Violent or unsafe behavior** includes but is not limited to: hitting, pushing, or shoving; throwing or breaking of an object; shouting or yelling; threatening gestures or remarks; disruptive or hostile actions; abusive or belligerent language; sabotage of equipment; repetitive unwanted phone calls, notes, emails; or other similar acts.