A HOSTILE RELIGIOUS ENVIRONMENT: HOW HOSTILE DOES IT HAVE TO BE?

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ABSTRACT
A hostile religious environment is an important issue in the workplace. In fact, cases filed with the EEOC over the last decade have more than doubled; this is interesting, given sexual harassment charges decreased during the same period. Few studies have examined the courts' interpretation of the harassment guidelines based on the rules set forth by the Supreme Court in 1998. This article reviews over 150 cases and provides guiding principles and recommendations for practitioners.

Harassment has long been recognized as a violation of the Civil Rights Act under Title VII since the late 1970's (Findley, Dodd-Walker, Vardaman, and He, 2011). In 1980, the Equal Employment Opportunity Commission (EEOC) propagated guidelines regulating sexual harassment in the workplace (29CFR1604.11). While the EEOC harassment guidelines do not explicitly address religion, the courts generally utilize these guidelines when considering religious harassment (*Shabestari v. Utah Non-Profit Housing*, 2010; *William v. Arrow Chevrolet*, 2005).

For various reasons, interest in religion has been growing over the last decade, and the effects of this movement are spilling over into the workplace (Lanham, 2010). This is not surprising, given there are more than 1500 religions in the United States, and only 900 being Christian-based (Findley, Ingram, and Amsler, 2001). Correspondingly, over the last 13 years, religious harassment charges with the EEOC have risen 122%, while the

more popular sexual harassment issue from a media and scholarly perspective decreased 26% (EEOC, 2009).

Contrary to extant trends little academic attention has been directed at court interpretations of the harassment guidelines from a religious perspective. Given that religious harassment litigation is exhibiting such a dramatic rise, is a highly charged emotional issue, and is costly to organizations, it would be useful to review the recent case law interpreting the EEOC regulations on the subject. In particular, the review should focus on the area where there is the most confusion and litigation--hostile environment (Findley, et. al, 2011). To that end, a LEXIS-NEXIS key word search was conducted that yielded over 150 cases since the Supreme Court set forth its hostile environment guidelines in *Faragher v. City of Boca Raton* (1998). Over 50 usable cases were identified and examined for guiding principles as to the circumstances that constitute a hostile religious workplace. Cases cited are representative or highlight special issues/circumstances that assist in determining the hostile environment threshold. Recommendations for administrators and legislators are provided.

HOSTILE ENVIRONMENT: RELIGIOUS DEFINITION

Religious harassment maxims have been extracted from the sexual harassment guidelines issued by the EEOC in 1980 (29CFR1604.11).

> Sexual harassment is defined under the EEOC guidelines as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature…when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment" (29CFR1604.11).

It is the third prong of this definition that deals with hostile environment cases as it relates to religious harassment and is the subject of this article.

The Supreme Court has upheld the EEOC guidelines (*Meritor Savings v. Vinson*, 1986) and distinguished between quid pro quo and hostile environment claims. , In *Faragher v. City of Boca Raton* (1998), the Supreme Court summarized the factors from several other Supreme Court decisions (*Harris v. Forklift Systems*, 1993; *Meritor Savings v. Vinson*, 1986) to be considered in determining hostile environment claims filed under Title VII (*Faragher v. City of Boca Raton*, 1998) and these factors have been applied to religious harassment litigation (*Shabestari v. Utah Non-Profit Housing*, 2010;*William v. Arrow Chevrolet*, 2005). First, it must "be both objectively and subjectively offensive, one that a reasonable person would find hostile or abusive" (*Faragher v. City of Boca Raton*, at 286). Second, all circumstances must be examined, including the "frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive

utterance; and whether it unreasonably interferes with an employee's work performance" (*Faragher v. City of Boca Raton*, at 286).

The Supreme Court pointed out that "Title VII does not prohibit genuine but innocuous differences in the ways men and women routinely interact with members of the same sex and the opposite sex"(*Faragher v. City of Boca Raton*, at 286). Correspondingly, the same would be true of those of different religious faiths." Simple teasing, offhand comments, and isolated incidents (unless extremely serious) will not amount to discriminatory alterations in the terms and conditions of employment" (*Faragher v. City of Boca Raton*, at 286). In fact, the Supreme Court had previously made clear in *Meritor Savings v. Vinson* that no one is guaranteed a pristine work environment whether the conduct be sexual or racial or some other type of harassment protected under Title VII (*Meritor Savings v. Vinson*, 1986). The *Faragher* Court underscored this point when it said that the guidelines when properly applied would filter out "the ordinary tribulations of the work place, such as the sporadic use of abusive language, gender-related jokes, and occasional teasing" (*Faragher v. City of Boca Raton*, at 286).

The following discussion will delineate three types of hostile religious environments—religious indifference, religious intolerance, and religious propagation. As stated previously, approximately 50 useable cases were identified from a LEXIS-NEXIS key word search. These cases highlight special issues/circumstance that assist in determining the threshold for a hostile religious environment. Unless otherwise noted in the cases discussed herein, all of the victims usually complained to management but little or nothing was done to ameliorate the situation.

HOSTILE ENVIRONMENT: RELIGIOUS INDIFFERENCE

Workers can perceive a hostile environment when management and coworkers are indifferent or insensitive to their religious beliefs. Vulgar/crude conduct and nonreligious behavior, which may or may not be considered vulgar/crude, represent two types of religious indifference.

VULGAR/CRUDE COMMENTS

In *Rivera v. Puerto Rico Aqueduct and Sewers* (2003), a devout Catholic technician at a water utility filed a harassment claim after being subjected to a number of vulgarities/expletives. Other workers called her "Mother Teresa," and used her name used in a vulgar workplace Christmas carol. The courts concluded that the vulgar remarks and pranks were common in the work environment and not religious related and therefore not protected. There was one religious related incident; the technician was depicted as a pig wearing a rosary, however, this was determined to be an isolated one-time event that was neither severe nor pervasive enough to be considered a hostile work environment (*Rivera v. Puerto Rico Aqueduct and Sewers*, 2003).

In another case, a Christian sales manager for a local television station objected to her supervisor's repeated use of the phrases "God," "Goddamn it," and "Jesus Christ" in his conversations with her and other employees *(Bentley v. Allbritton Communications Company* at 8). However, testimony was provided that he made these comments to everyone and had been doing so before the plaintiff was hired. Consequently, the court in awarding a

summary judgment to the defendant found that these remarks were not directed at the plaintiff because of religion and did not constitute religious harassment (*Bentley v. Allbritton Communications Company*, 2008).

NONRELIGIOUS BEHAVIOR

Nonreligious behavior is not covered by the guidelines. However, these cases do occur. Even though nonreligious behavior can be boorish and unprofessional and at times may rise to the level of workplace bullying, it is still unprotected activity (*Rivera v. Puerto Rico Aqueduct and Sewers*, 2003). For example, in *Martin v. Enterprise Rent-A-Car* comments made to a Seven-Day Adventist were ruled to be unrelated to religion or harassment. These comments included the following: (1) "Why don't those people wear deodorant." (2)"Women can be bitches" (the worker also indicated that his own girlfriend acted like a bitch). (3) The worker "was better off becoming an accountant than working for Enterprise because he couldn't communicate. (4) The "guys find that you're not a team player, being the only guy here, so we're going to have to get around that" (*Martin v. Enterprise Rent-A-Car* at 11).

In one case, religion was discussed or brought up twice during a Child Welfare Specia7list's period of employment. Once she was asked if she was Jewish by her supervisor because the supervisor was Jewish as well. After learning that the plaintiff was Jewish the supervisor invited her to attend a Friday night worship group. After a work-related demotion, she filed a case for religious harassment. The courts found no evidence of religious hostility but rather reasoned the supervisor's actions were friendly in nature and not actionable conduct (*Goldman v. Administration for Children's Services*, 2007). Moreover, the request to attend the worship service was never repeated.

HOSTILE ENVIRONMENT: RELIGIOUS INTOLERANCE EQUAL TREATMENT

Although we found no cases, unequal treatment of employees of different faiths can be ruled religious harassment, even though it appears benign on the surface. For example, in a race related hostile environment case, reprimanding a black employee for negative job-related behaviors in which her white counterparts engaged without being counseled is considered harassment if the criticisms are sufficiently frequent, severe, or pervasive enough (Findley, et al., 2011, *Clay v. United Parcel Service*, 2007).

Other examples of unequal treatment that can contribute to an illegal hostile workplace include not allowing a worker to listen to their radio at work as part of ongoing religious harassment while other workers were permitted to listen to theirs can also be found to contribute to a hostile workplace (*Dawson v. Monaco Coach*, 2005). In *Abramson v. William Paterson College* (2001), a supervisor monitored the actions (i.e., conferences attended and absences from work) of a Jewish faculty member far more than other faculty.

RELIGIOUS ACCOMMODATION

Under the Civil Right Act of 1964, employers must accommodate religion unless there is an undue hardship (Findley, et. al., 2001). In some cases, failing to accommodate and/or

preventing a worker from practicing his/her religion can be ruled to be a hostile work environment (*Abramson v. William Paterson College*, 2001).

In *Abramson v. William Paterson College* (2001), an Associate Professor in the School of Education was harassed for two years because she was Jewish. Supervision did not permit her to take time off for religious observance without using a sick day when she was not scheduled to teach. Additionally, management repeatedly scheduled meetings on Jewish holidays and refused to change them so she could attend. All of these actions would have been a reasonable accommodation with no hardship on the institution.

In the same case, supervisors also criticized and raise their voices at the employee due to her lack of availability on the Sabbath. Regarding her faith and religious behavior, her supervisor once rudely said to her, "The trouble with you is that it doesn't show that you are Orthodox" (*Abramson v. William Paterson College* at 283). Over time, she felt like a beaten puppy and testimony indicated that she became sallow, and appeared stooped and broken. Taken together, the repeated failure to accommodate her known religious needs and the other harassing behavior, the Appeals Court concluded that the conduct was harassing in nature and pervasive. It also noted that "a jury could find that a reasonable person of her religion would find the conduct alleged to be so harmful that it altered her working conditions" (*Abramson v. William Paterson College* at 284).

PHYSICALLY THREATENING CONDUCT

There are relatively few religious harassment cases that involve physical contact or actions that are physically threatening. However, they do occur and are usually coupled with derogatory slurs. Comparatively speaking, in a case that involves physical contact or is physically threatening, it takes relatively few occurrences to reach the hostile environment threshold.

For example, in *Zarina Khan v. United Recovery Systems, Inc.* (2005), co-workers of a Muslim female debt collector routinely made malicious and vitriolic remarks to her for nearly a year about Muslims. One worker said he wanted to shoot Middle Eastern clerks whenever he saw them working in a convenience store: Other remarks included "all Muslims should be bombed because they are f---ing terrorists," he wished "all Muslims were wiped off the face of the earth" (*Zarina Khan v. United Recovery Systems, Inc.* at 11). She was also told that she needed to take off her pendant because it said "Allah" and she "just might get shot" if she left it on (*Zarina Khan v. United Recovery Systems, Inc.* at 11). Other hateful and threatening comments were made to her, and a supervisor while pointed his finger in her face in a threatening fashion while making a religious slur and standing close to her. The District Court found the actions to be threatening and pervasive and allowed the case to go to trial (*Zarina Khan v. United Recovery Systems, Inc.*, 2005).

In *Johnson v. Spenser Press* (2004), a Christian custodian was subjected to many religious-related insults and threats over a 3-year period after requesting and receiving Sundays off to attend church; on multiple occasions the supervisor threatened to kill him with a hand grenade, run him over with a car, shoot him with a bow and arrow, and cut him with a knife(the point of which the supervisor held under the custodian's chin). His supervisor

also made sexually explicit comments to him daily because he thought the employee to be too chaste and sober such as "help hold my d—k " and if Al f—ks like he works he must be as slow as a n---er" (*Johnson v. Spenser Press* at 375). He also made many made religious-related statements, such as "Al doesn't f—k, drink, or smoke, he must be Catholic"; when the custodian refused to look at a Playboy magazine, he said, "he must be Catholic" (*Johnson v. Spenser Press* at 375). The supervisor also called the employee a "religious freak"; when the custodian said he would rather love Jesus rather making more money, the supervisor yelled "take Mary and turn her upside down and pull her dress over her head" (*Johnson v. Spenser Press* at 376). Not surprisingly, the Appeal's Court upheld a jury award of over a million dollars in the plaintiff's favor because the remarks/actions were frequent, pervasive, and physically threatening (*Johnson v. Spenser Press*, 2004).

In another case, *Kenneth M. Shanoff v. State of Ill.* (2001), a Jewish development/training coordinator at a hospital endured six rather severe instances of harassment during the four months he worked there. While there was no physical contact, he was clearly physically threatened by his supervisor's actions. His supervisor referred to him by his religion in an intimidating/threatening manner by declaring his "white Jewish ass would be kept down," and when he told her that his health was failing, she responded "good" (*Kenneth M. Shanoff v. State of Ill* at 705). On another occasion, she told him that "she knew how to handle white Jewish males, and once and for all he needed to leave" (*Kenneth M. Shanoff v. State of Ill.* at 705). Not only did she try to drive him away from the medical center, she also took steps to impede his career by prohibiting him from teaching medical students. Despite his objections she made further hurtful remarks, such as telling him that she hated everything he stood for and expressing her approval of his failing health and diminished professional responsibilities (*Kenneth M. Shanoff v. State of Ill.*, 2001). As the Court stated, "she used her supervisory position to bully, intimidate, and insult Shanoff because of his…religion, which is the hallmark of a hostile environment claim"(*Kenneth M. Shanoff v. State of Ill* at 705).

INSENSITIVE/CRUDE RELIGIOUS RELATED COMMENTS

Overwhelmingly, religious harassment charges involve verbal comments of a religious nature. In general, verbal remarks are considered less serious by the courts as compared to physical contact. Unless threatening or particularly humiliating, verbal conduct must be relatively frequent as in *Johnson v. Spenser Press* (2004) discussed above in order to meet the requirements for a hostile environment.

A hostile environment does not exist, however, in situations where there are only a few religious slights. For example, in *Weiss v. Hustedt Chevrolet* (2009), a worker at a Chevrolet dealership after resigning, filed a constructive discharge case based in part on a religious hostile environment. He only experienced one religious related incident during the 8 years he worked there; one of the managers told others in the office that he was a "Russian Jew Spy" (*Weiss v. Hustedt Chevrolet* at 1). As a result, the district court granted a summary judgment for car dealership.

In another case, a Muslim car sales representative heard two religious related jokes directed at him over a two-year period. Specifically, he was jokingly invited by a manager to a nearby restaurant operated by Muslims that served pork chops. (Muslims do not eat pork.) Additionally, when the plaintiff was working with a female customer dressed in traditional Muslim attire, a manager asked him "what would happen if he pulled his d—k out and shook in her face" (*Williams v. Arrow Chevrolet* at 125). The Court saw these remarks as isolated and simple teasing and not severe or pervasive enough to create a hostile environment (*Williams v. Arrow Chevrolet*, 2005).

In *Mack Muhammad v. Cagle's Inc.* (2010), the insensitive comments were more frequent but still failed to rise to the level of hostile environment. In this case, a Muslim was subjected to religious-related comments soon after his promotion to poultry superintendent; during the year after his promotions, he was often referred to as "Mr. Bin Laden," "Osama," and "the Muhammad Man" over the radio/intercom by supervision. In addition, from time to time management provided the team a meal at company expense which included pork that Muslims are not allowed to consume. His supervisors and other coworkers made various remarks about his religious dietary restrictions (*Mack Muhammad v. Cagle's Inc*, 2010). After his termination for documented performance problems he filed a religious harassment charge with the EEOC. The courts decided the conduct was insensitive and rude, but it was neither threatening nor adequately frequent to be pervasive or severe (*Mack Muhammad v. Cagle's Inc*, 2010).

Similarly, in *Marcus v. West* (2002), a secretary with the Veteran's Administration (VA) experienced several incidents of religious harassment, but these were determined to be too infrequent and minor to be illegal. In the first incident, there was a work-related dispute where the VA Equal Employment Opportunity officer exploited her religious beliefs by asking her, along with several others, to swear on a Bible to resolve their differences. In a second another VA official told her that people at the hospital did not like her "church lady act" (*Marcus v. West*, 2002).

FREQUENT/PERVASIVE REMARKS/ACTIONS

When religious-related slurs or actions (not physically threatening) are frequent and pervasive they create a hostile environment. *EEOC v. Sunbelt Rentals* (2008) is an illustrative case where a Muslim American working as a rental manager endured persistent and unrelenting Muslim-related hostility, often in front of customers. On a daily basis, his supervisor would refer to him as "Ben Laden," "Hezbollah" "Ayatollah," "Kaddafi," "Saddam Hussein," "terrorist," "sun n----r" "Taliban, and a "towel head" (*EEOC v. Sunbelt Rentals* at 314). Often employees made fun of his appearance, challenged his allegiance to the United States, suggested that he was a terrorist, and made statements associating all Muslims with senseless violence (*EEOC v. Sunbelt Rentals*, 2008).

Based on the frequency and pervasiveness of these actions, the Fourth Circuit Court of Appeals ruled in favor of the plaintiff, stating "any of the above incidents, viewed in isolation, would not have been enough to have transformed the workplace into a hostile or an abusive one…We cannot ignore, however, the habitual use of epithets here or view

the conduct without an eye for its cumulative effect" (*EEOC v. Sunbelt Rentals* at 319). Consequently, the appeals court reversed the summary judgment for the defendant and remanded the case for trial.

In *Dawson v. Monaco Coach* (2005), a born again Christian who was working as a temporary hourly worker at production plant experienced frequent religious-related verbal slurs and pranks for about 18 months. He was referred to daily as "preacher man," "Jesus freak," and other profane names such as "prickface," "shithead, and "queer bait" (*Dawson v. Monaco Coach* at 6). He also encountered numerous derogatory statements, such as "you need to leave you f--king Christian and get out of here," "we don't need your kind around," and "Hey goddamn preacher man, how's it going? Why don't you leave?" (*Dawson v. Monaco Coach* at 7). In addition, he was the target of many pranks, such as someone greasing his glue gun and taping his screw gun to the worktable, someone hiding his timecard, and someone drawing a burning cross on his worktable and the like (*Dawson v. Monaco Coach*, 2005). The District Court found that the incidents were frequent and pervasive and that a reasonable jury could conclude that hostile religious environment existed (*Dawson v. Monaco Coach*, 2005).

HOSTILE ENVIRONMENT RELIGIOUS PROPAGATION

In some situations, workers will promote or attempt to persuade other employees to join a particular religion. This can lead to a charge of a hostile environment based on religion as in *Nichols v. Snow* (2006). In this case, the plaintiff worked for the IRS as a customer service representative for about a year. During that time, his supervisor chastised him many times for not going to church, and not having his priorities in order; according to the supervisor, religion should be at the forefront of the employee's life as it was in the supervisor's life. His supervisor would also make inappropriate gestures behind his back and would question his morals and priorities in front the of other employees. Additionally, the supervisor would often talk about religion and its important role (*Nichols v. Snow*, 2006). The District Court felt the conduct was frequent and pervasive enough to establish a prima facie case of a hostile religious environment and allowed the case to go to trial (*Nichols v. Snow*, 2006).

In *Tiller v. ATSI, Inc.* (2003), an office worker with a communications company began experiencing religious problems after her promotion to office manager by the owner of the company. He was Catholic and she Baptist. The owner repeatedly criticized the conduct in her personal life (e.g. the legitimacy of her children and whether her divorce would be recognized in the eyes of God) on religious grounds and subjected her to many lectures about her prospects for salvation during working hours. This went on for several years. After she was terminated, she filed religious harassment charge. The District Court allowed the case to go to trial on the basis that the conduct was unwelcome, repeated, and pervasive in the workplace (*Tiller v. ATSI, Inc.*, 2003).

Pro-religious conduct does have to be directed at a particular person to lead to a hostile environment charge(*Schiltz v. School Board*, 2002). Over a one-year period, the plaintiffs experienced 11 documented unwelcome incidents related to the promotion of religion.

Even though both plaintiffs were Christians themselves, they found Christian-related conduct of others in workplace objectionable. This included co-workers speaking in tongues, playing gospel music, posting scriptures on the main office wall, placing Bibles on employee desks, reading from their Bible, praying at staff functions, and displaying various religious articles on their desks. In dismissing the case, the district court decided that none of the conduct was threatening, or humiliating, frequent, or pervasive enough based on the time period to rise to the level of a hostile work environment (*Schiltz v. School Board*, 2002).

PUBLIC SECTOR ISSUES

The United States Constitution requires separation of Church and State, which has been interpreted by the Supreme Court, in part, to mean that government-related entities cannot promote one religion over another (Findley, Ingram, and Moten, 2003). Such actions could also lead to a valid harassment charge (*Warnock v. Archer*, 2004). In *Warnock v. Archer* (2004), the plaintiff objected to the school conducting mandatory prayers at mandatory teacher training meetings. Although the case was decided on constitutional grounds, such actions could create a hostile environment. This would be a particular hazard in the private sector where public sector constitutional protections do not exist.

Those in the public sector are also entitled to free speech under the First Amendment of the U.S. Constitution. For example, in the *Warnock v. Archer* (2004) case discussed above, the court ruled that employees could continue to wear religious T-shirts and jewelry and display their Bibles and framed scripture verses, even though the plaintiff found them objectionable. However, the Eight Circuit Court of Appeals did note that if such actions and any other conduct of a harassing nature were directed at the plaintiff for purposes of harassment it would be unprotected behavior and could constitute a hostile work environment. In the few incidents that were, the school system took immediate and corrective action. As a result, the court rule there was no violation by the school system.

HARASSMENT POLICIES

Organizations in both private and public sector can issue anti-harassment policies. However, in the public sector these policies cannot be overly broad in that it hinders free speech (*Warren v. State College*, 2001). For example, prohibiting any unwelcome verbal conduct as found in many harassment policies covers more speech than is prohibited by federal and state laws (*Warren v. State College*, 2001).

In some cases, the proselytizing/promoting religious beliefs violate established harassment policies. Organizations are under no obligation to accommodate such conduct because allowing someone to impose his/her beliefs on others can be harassment and produce a hostile work environment (Findley, et. al, 2001). As such, no religious accommodation can be made because allowing the proselytizing to continue would be an undue hardship on the organization.

In one such case, *Claudette Mitchell v. Univeristy Medical Center, Inc.* (2010), a staff nurse at a hospital regularly shared her revelations with about two dozen co-workers; she believed that she had, had a divine experience with God, and he told her to read certain scriptures

and "calculate" them to determine the date for the end of the world. Many of her co-workers found these "revelations" of doom offensive and troubling. She refused to stop these conversations in the workplace when ask to do so. She was disciplined and eventually terminated because it was a violation of the hospital's harassment policy. The district court subsequently upheld the termination (*Mitchell v. Univeristy Medical Center, Inc.*, 2010).

In *Richard D. Peterson v. Hewlett-Packard Co.*, (2004), the employer initiated a diversity campaign using posters that included a picture of an employee that was labeled "gay." One self-described "devout Christian" employee responded by posting Bible scriptures in his work cubicle that were large enough to be visible to those passing through an adjacent corridor. These Scriptures included the following: "The Shew of their countenance doth witness against them; and they declare their sin as Sodom, they hide it not. Woe unto their soul! For they have rewarded evil unto themselves. (Isaiah 3:9)" and "If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination; they shall surely be put to death; their blood shall be put upon them. (Leviticus 20:13)" (*Richard D. Peterson v. Hewlett-Packard Co.* at 603). Hewlett-Packard determined these passages could be offensive to certain employees. After a number of attempts to resolve the situation, the employee was fired for insubordination and violation of the harassment policy. In upholding the termination, The Ninth Circuit Court of Appeals agreed that it would be an undue hardship for the employer to accommodate the employee by allowing him to post messages intended to demean and harass his co-workers or to exclude homosexuals from its voluntarily adopted diversity program (*Richard D. Peterson v. Hewlett-Packard Co.*, 2004). Similarly, distributing religious literature and pamphlets on company property can be a violation of an organization's harassment policy (*Favors v. Alabama Power*, 2010).

CONCLUSION

Evaluation of a hostile environment requires that each case be considered in its own context with varying circumstances requiring interpretation of the conduct involved, which is inherently complex. While it is challenging to provide a precise demarcation point as to a clear legal hostile environment threshold, some general guidelines can be offered. As Findley, et. al. (2011) noted, it usually takes a significant amount of unwelcome behavior over a considerable period of time to cross the hostile environment threshold point unless it is clearly humiliating and involves physical contact or is physically threatening. It appears that religious-related slurs by themselves must generally be more frequent and often take a year or more in order to become hostile unless they are very frequent. It takes comparative fewer incidents to be ruled a hostile religious environment when the conduct is physically threatening. Teasing, joking, or vulgar language is not protected activity.

Administrators are under no legal constraints to withhold corrective action until the hostile environment boundary is breached. Nor are they required to tolerate teasing, vulgar, crass, or unprofessional behavior (religious-related or not) in the workplace. In fact, negative religious-related behavior and any unprofessional or vulgar conduct can affect workplace productivity and morale long before legal statutes are violated.

Although workers are not guaranteed a pristine environment, organizations are well within their legal rights to propagate policies and procedures that have little or no tolerance for such conduct (Findley, et. al., 2011). In fact, as Findley et. al. (2011) has argued, legislators at both the federal and state level should consider tightening the harassment rules governing high profile management, media, government and educational occupations.

Such policies would not breach the Civil Rights Act's requirement of religious accommodation. Exceptions to the accommodation requirement are allowed for undue hardship, which includes imposing one's religious beliefs/harassment on others (Findley, et. al., 2001). Regardless, it makes much more sense for organizations to disseminate policies that are intolerant of such behavior. These policies may be in addition to or incorporated into the organization's current harassment policy. As a result, there will less litigation and generate a more positive work environment in which to work. This should ultimately encourage increased productivity, morale, and performance.

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