

# IT IS TIME TO FIX HOW WE VIEW HARASSMENT!

## HARASSMENT IS A FORM OF DISCRIMINATION

Harassment is unwelcomed conduct based on race, disability, sex, gender identity, sexual orientation, etc. Harassment creates an environment that is hostile, intimidating, and abusive. Students and workers who experience harassment, often report their allegations are not taken seriously, internal investigations are not thorough and their school or employer fails to protect them.

## INDIVIDUALS EXPERIENCING HARASSMENT FACE AN UPHILL BATTLE

Victims of harassment must show that they suffered from hostile, intimidating and abusive behavior that was either "severe or pervasive;" a legal standard that comes from case law. Lawyers, courts, and enforcement entities have no choice but to follow previous court decisions interpreting "severe or pervasive" when analyzing whether Vermonters have been harassed in schools and the workplace.

## THE STANDARD MUST BE FIXED. HERE'S WHY

**!** **FIRST:** The standard is unclear, unreasonably high, and restrictive. How horrible must harassment be before it is considered "severe"? How long must one endure harassment before it is "pervasive"? Women who have been groped, stalked for months and even years by their supervisors have failed to meet this burden. The legal standard does not reflect a society free from discrimination where all are treated equally and with dignity.

**!** **SECOND:** Courts do not understand how to view people with intersecting identities. A young woman of color with a disability must prove that she was subjected to severe or pervasive harassment on each separate basis. The totality of all harassing behavior is ignored.

**!** **LAST:** Employers and schools rely on the law to dictate what they will investigate, what they will correct and where their resources will go for prevention. A new law upholds a new standard for behavior in schools and workplaces in Vermont.

## VERMONT'S LEADERS HAVE BEGUN THE CONVERSATION

Two bills have been introduced in each chamber: [H.359](#) and [S.103](#). Both bills seek to correct and replace the severe or pervasive standard in Vermont's Fair Employment Practices Act and Public Accommodations Act.

[H.359](#) also looks to correct the standard under Title 16 of Vermont's Education Laws relating to harassment.

## STUDENT RIGHTS AND WORKER RIGHTS ARE THE SAME HERE

Every person, regardless of their age, has the right to learn and work in an environment free from harassment. How an employer or school addresses harassment may differ, but the expectation for behavior should be the same. Changing the harassment standard does not mean more expulsions or suspensions of students. Schools have many tools to address harassment such as the implementation of a safety plan, which may include assigned seats on school buses, different buses, separate entrances into the facility, separate classrooms, additional staffing during recesses, tuition reimbursement, and more.

## VERMONT IS NOT THE FIRST STATE TO ADDRESS THE HARASSMENT STANDARD

New York, California, Delaware, and Washington have enacted new laws to make it easier to bring workplace sexual harassment claims in state court. In 2022, Vermont changed harassment under its Fair Housing Laws, capturing more cases that would have failed to meet the legal standard previously.

## HAVE QUESTIONS? NEED HELP?

If you think you have been the victim of discrimination, contact us:

**Vermont Human Rights Commission (VHRC)**

☎ 802-828-2480

☎ 800-416-2010 (in-state only)

✉ [human.rights@vermont.gov](mailto:human.rights@vermont.gov)

To learn more, visit:

**[HRC.VERMONT.GOV](http://HRC.VERMONT.GOV)**

12 Baldwin Street, Montpelier, VT 05633

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