

Can employees' music create a hostile work environment? Stay tuned

Question: Does your company allow employees to play music while they work? Do you ever pay attention to the words? The EEOC says maybe it's time you plug in.

A work environment can be considered "hostile" if, in part, the harassment affects a "term, condition or privilege" of a worker's employment. We've all seen cases where oogling, touching and talking have created workplace liability. But now songs and singing, too? Some companies that don't monitor their employees' choices in music just might be singing the "*EEOC blues*," as the following case shows.

Case in Point: Michael Cooke worked for 10 years as an assembly technician for a California tech company, Novellus Systems. One day, a Vietnamese co-worker began playing rap music on his radio and singing along karaoke style. Some lyrics included the "N" word.

Cooke, who is black, asked his co-worker to stop, but to no avail. Cooke reported this to his supervisor, but the boss ignored his plea. Five months later, Cooke took his complaint to upper management, who responded by prohibiting the playing of racially offensive lyrics in the workplace.

But the tune played on ... Soon after filing his complaint, Cooke found that his starting time had changed, and that interfered with his ability to care for his sick father. Months later, Cooke was one of two employees laid off in his 38-employee department. Both laid-off employees were black.

Cooke filed a Title VII claim with the EEOC, saying the company didn't respond to the racially hostile work environment for six months, and then it retaliated against him after he complained.

How did this case end ... and what lessons can be learned?

The company denied any harassment, but the EEOC sang a different tune. After failing to reach a settlement with the company, the EEOC filed suit on the Cooke's behalf. The lawsuit seeks back pay, plus punitive damages for "malicious and reckless" conduct in violation of Title VII.

An EEOC attorney said, "The EEOC is not in the business of judging anyone's musical tastes, but we are concerned when we find that an employer failed to respond promptly after being put on notice of racially offensive language or conduct in the workplace."

3 Lessons Learned ... Without Having to Go to Court

1. **Set limits on employee music—before you get complaints.** It's important to create a friendly environment to increase productivity and loyalty. Letting employees listen to music can sometimes create such an ambiance. But now it's important to set controls over what is played. Make sure your harassment prevention policy prohibits offensive words—even if they're sung or played on a radio. (For more tips, read "[Do You Need a Music Policy For the iPod Generation](#)" at the HR Specialist website.)
2. **Train managers and supervisors to take prompt effective action and report ALL complaints**

immediately, according to your reporting process. In this case, the EEOC shined a spotlight on the manager who was “tone deaf” to the employee’s complaint.

3. **Closely monitor all employment decisions that involved employees who’ve filed complaints.** If you fire, demote, transfer, deny leave or fail to promote an employee after he or she complains, it’ll sound a lot like retaliation.

The bottom line: While some employees may be busy burning music to play at work, make sure it doesn’t burn you!