



*Speak softly I'm Heart of Hearing*

## HOSTILE WORK ENVIRONMENTS

This educational seminar will remind funeral professionals of select federal, state, and city laws protecting employees and others from discrimination in their businesses. It will help them: a) define conflicts that arise between best and actual practices, b) access resources, c) take preventative action, and d) respond appropriately to errors.

**Contact hours:** 1 Law

When attended continuously and in full, this 50-minute course provides the professional one credit hour. See Pub. Health Law §3429.

### Course Outline

#### I. Introduction of Speaker and Presentation Goals

##### A. Nance L. Schick, Esq.

1. Funeral Industry Attorney since 2004 with experience as litigant, plaintiff's attorney, defense attorney, and mediator
2. Continuing education instructor in the industry since 2011
3. Survivor of sexual assault, sexual harassment, and more

##### B. Disclaimer

This course provides a general overview of select employment discrimination laws and how they might affect your work. **It is not legal advice, and I am not your attorney.** If you require information or advice applied to your unique situation, please make an appointment to discuss it with an experienced attorney of your choosing.

##### C. Course Goals

1. Remind you of discrimination laws
2. Give you resources and empower you to respond to discriminatory behavior
3. Build a stronger industry through diversity and inclusion

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## II. Introduction of Topic and Key Presentation Points

- A. Does Title VII of the Civil Rights Act protect employees from discrimination based on sexual identity or stereotypes regarding appearance or dress? (Stephens v. R.G. & G.R. Harris Funeral Homes) \*\*\*DECISION PENDING\*\*\*
1. Transgender funeral director terminated after notifying employer he would return from vacation as she
  2. Conflict between Title VII and First Amendment Freedom of Religion
  3. Similar arguments raised in other matters
    - a) NYCCHR "Crown Law"
    - b) Manager of funeral home specializing in religious traditions argues cannot hire people of certain races, women, etc.
- B. Does the Americans with Disabilities Act protect employees from discrimination based on the use of medical marijuana? (Wild v. Feeney Funeral Home)
1. Also alleged defamation
  2. Similar conflicts arise in workers' compensation claims, which could cause a WC discrimination claim
  3. Conflict between ADA and federal Department of Transportation laws in many industries (but not funeral)
- C. Review of relevant laws
1. Funeral home is a public accommodation
  2. Americans with Disabilities Act applies beyond workplace laws
  3. How you treat others can cause employees to claim hostile work environment
- Federal Protections
- Race, color, religion, sex, or national origin
  - Sex-based wage discrimination
  - Age 40 years or older
  - Qualified individuals with disabilities
  - Genetic information about an applicant, employee, or former employee

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New York State Protections

- Sexual orientation
- Military status
- Marital status
- Domestic violence victim status
- Prior arrest or conviction record
- Familial status

New York City Protections

- Sexual identity
- Credit history
- Hairstyle

III. Review of Key Presentation Points

- A. If you base your employment decisions on characteristics, rather than work abilities and performance, you are probably discriminating unlawfully.
- B. You could be subject to a hostile work environment claim, even if the behavior targeted a decedent's family members, a vendor, or an independent contractor.
- C. Assume that people at work are there to work, not to get dates, audition for comedy shows, etc.

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