

Dealing with Discrimination: Tips for Employees

Discrimination and harassment can take a number of different forms. There are broad-sweeping federal laws that prohibit discrimination and harassment against individuals on the basis of race, color, national origin, sex, religion, disability, pregnancy, and age, among other classifications, in a variety of situations. State and local laws may contain similar protections, and may also provide for protection in other situations. Many detailed laws address and prohibit, in particular, discrimination and harassment in the workplace. If you are an employee, and you feel you are being discriminated against or harassed by your employer or coworkers, what can you do?

- Make your employer aware that you feel you are being discriminated against or harassed. It is likely that many illegal acts of discrimination and harassment go unrecognized or unpunished because the victim does not make it clear that the conduct is unacceptable and unwelcome. Rare is the case where employers will readily admit to discrimination or harassment and help you to draft legal papers against them. Your employer is responsible for complying with the law, but you alone are responsible for making sure your personal rights are protected.

Note: If your immediate supervisor is the person you feel is being discriminatory or harassing, and you feel uncomfortable confronting him or her directly, report the matter to his or her superior or a human resources representative. Many employers have designated a specific managerial or human resources individual who is responsible for accepting complaints of discrimination and harassment. If that is the case in your situation, report your complaint directly to that individual.

- Let your employer know that you are taking the matter seriously. Ask that a written report be made every time you report an incident of discrimination or harassment. Ask that an investigation be made into your allegations and that disciplinary or corrective action against the offenders be taken. Employers are required by law to give prompt consideration to all reports of discrimination and harassment.

Note: If you falsely report to your employer that you have been discriminated against or harassed by another employee or supervisor you could face ramifications, not the least of which may be an uncomfortable relationship with the individual you have accused.

- If you receive no response from your employer, consider contacting the federal Equal Employment Opportunity Commission (EEOC), which has responsibility for overseeing compliance for many federal anti-discrimination and anti-harassment laws, or your state equal employment agency. Getting the government involved in your case, and potentially having the state contact your employer, will most likely get someone's attention fairly quickly.

- Keep a diary of any incidents of discrimination or harassment. Record the date, approximate time, location, parties involved, witnesses, and details of the improper conduct or speech.

Example: A diary entry could contain information such as, "On May 10, 1999, I was standing by the copy machine on the 4th floor when Kelly Douglass (supervisor) said 'I hope you realize that I won't have to put up with an old goat like you for much longer, because as soon as you turn sixty I'm going to fire you.' Jack Straup and Kurt McCann (coworkers) were there at the time and heard her say it."

- Keep any objects or pictures which were posted, left for you, or given to you in the workplace that you believe were discriminatory or harassing.

Example: You are an African-American, and you arrive at your desk one morning to find a picture of a burning cross taped to your chair. Keep the picture. Although you will certainly find it reprehensible and upsetting, try to control your urge to tear it up or throw it away. Having the actual offensive item to help prove your case is much easier than having to try to describe what it looked like, and having to hope that your version will be believed.

Note: If an item is posted on a bulletin board, wall, refrigerator, or other common and visible area in your workplace, and you find it harassing, you may confiscate it or make a copy of it. By posting the item in a "public place" the perpetrator has allowed others to see it and, consequently, you have the right to remove it or copy it.

Example: You notice one day at work that someone has taped a pornographic picture onto a bathroom stall door. You do not know who did it, but you find it very offensive. You may take the picture down and keep it, or you may take the picture, photocopy it, and replace the original (however much that may turn your stomach).

- Review your company's anti-discrimination policy. The fact that your employer may have put it in writing, and acknowledged that it will not act in discriminatory ways may serve to benefit your position. If you have a copy of the policy in a handbook or other handout, retain a copy of it.
- Review federal and state laws to see what your rights are. These laws are available at law libraries, some general libraries, and on the Internet. Some major federal anti-discrimination and harassment laws include:
- Title VII of the Civil Rights Act of 1964: 42 U.S.C. § 2000e, et seq. This federal law prohibits discrimination in terms and conditions of employment on the bases of race, color, national origin, sex, and religion.
 - Age Discrimination in Employment Act (ADEA): 29 U.S.C. § 621, et seq. This federal law prohibits discrimination on the basis of age for workers over the age of 40.

- Americans with Disabilities Act (ADA): 42 U.S.C. § 12101, et seq. This federal law prohibits discrimination against certain disabled individuals and requires employers to make "reasonable accommodations" to allow access to buildings and functionality in the workplace.
- Family and Medical Leave Act (FMLA): 29 U.S.C. § 2601, et seq. This federal law requires employers to allow employees time off, and to not discriminate against them, for taking care of personal or family medical needs.

Note: Not all employers are required to comply with these federal laws. Title VII and the ADA only apply to employers with fifteen or more employees. The ADEA applies to employers with twenty or more employees, and the FMLA only applies to employers with fifty or more employees.

- State laws against discrimination vary widely from jurisdiction to jurisdiction and may be called something different in each jurisdiction. If you have access to the statutes or legal code for your state, review the table of contents or indexes and look for headings or descriptors that concern fair employment laws, discrimination, equal opportunities, and other similar topics.
- Retain an attorney. An attorney can help you sort through the complex laws which may apply, can guide you through the complexities of the legal process, and can also (and perhaps most importantly) remain a calm and collected, effective advocate for your rights. Discrimination or harassment is an awful thing which tears at the emotions of the person who is being discriminated against or harassed and, in some cases, it becomes difficult to separate from those emotions and face the realities and boundaries of the legal system. An attorney, while striving to help you and concerned for your fate, can also look at the big picture more clearly and can help you stay focused on protecting your rights and repairing your emotions.