

1

Legal Definition of Harassment



SEVERE OR PERVASIVE

- Unwelcome or unwanted sexual advances, requests or demands for sexual favors, or other conduct based on a protected status when:
- Submission to such conduct is made explicitly or implicitly a term or condition of employment; or
- Submission or rejection of such conduct is used as the basis for employment decisions; or
- Such conduct has the purpose OR effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

2

Protected Classes

Title VII of the Civil Rights Act of 1964- Equal Employment Opportunity Commission (EEOC)

Age (40+)

Color

Disability

Genetic Information

National Origin

Race

Religion

Veteran's Preference

Sex (including pregnancy)



3

Idaho Human Rights Commission

FY 2018 Total Claims

car cianns	THE RESIDENCE OF STREET	
Disability	252	50%
Retaliation	180	36%
Sex	165	33%
Age (40+)	71	14%
National Origin	36	7%
Race	34	7%
Religion	21	4%

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4

Fear of:

Humiliation

Ostracism

Damage to Reputation or Career

Retaliation

Blame

Getting Someone Else in Trouble

Disbelief

Minimalization

Why Harassment is not Reported

5

5

- · Keep an Open Mind
- Treat the Complainant with Respect and Compassion
- Actively Listen
- Maintain Emotions
- Remain Neutral
- Take Complaint Seriously
- Document the Facts
- Be Timely
- Report each claim by following Agency Procedures
- Maintain Professional Relationship
- Keep the Least Amount of People Involved



If you Receive a Complaint

Know what to do

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6

A Person's Intent is Irrelevant

Quid Pro Quo

- Did the employee suffer an adverse action?
- Did the employer take that action solely or in part because of the employee's protected status?

Hostile Work Environment

- Did the employee find the work environment hostile?
- Would a reasonable person in the employee's position consider the work environment hostile?

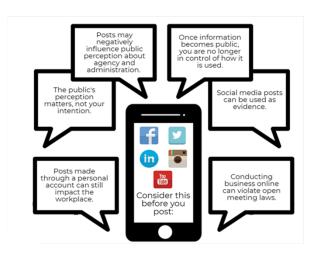
7



Social Media

Consider:

- First Amendment Rights
- Public Records Laws



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Retaliation Defined

- Taking materially adverse employment action against an employee because s/he engaged in activity protected by law
 - What is adverse action?
 - Any action that may dissuade a reasonable person from participating in the protected activity





Create a Respectful Workplace



- · Committed and Engaged Leadership
- Consistent and Demonstrated Accountability
- Strong and Comprehensive Harassment Policies
- Trusted and Accessible Complaint Procedures
- · Regular, Interactive Training

13

13

How to Avoid Harassment and Retaliation Claims

- 1. Leadership and accountability.
- 2. Civility and bystander intervention training.
- 3. No tolerance policy practical top down through the organization and repeated on a frequent/regular basis.
- 4. Simple and clean descriptions of prohibited conduct.
- 5. Fair and prompt reporting system to provide several options for employees to report harassment, discrimination and whistleblowing. (i.e. supervisor, department head, HR director, Board, DHR, DAG)
- 6. Thorough and impartial investigation.
- 7. Assurance of immediate and proportionate corrective action.
- 8. No tolerance policy for retaliation.
- 9. Immediate and proportionate corrective action.
- 10. Whether claim was reported directly to you, or if you witness it.