


Creating and Maintaining a Respectful Workplace

Idaho Division of Human Resources
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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.

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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)



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Idaho Human Rights Commission

FY 2018 Total Claims

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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Fear of:

Humiliation
 Ostracism
 Damage to Reputation or Career
 Retaliation
 Blame
 Getting Someone Else in Trouble
 Disbelief
 Minimalization

Why Harassment is not Reported

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- 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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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?

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Potential Problems

Examples of Potentially Harassing Conduct

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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

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Retaliation Can Include

Protection to Oppose or Report

- Fail to hire;
- Discharge;
- Fail to promote; or
- Treat differently with regard to compensation, terms/conditions, or privileges of employment due to the employee's **protected conduct**



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Confidentiality

Know Your Responsibilities

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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

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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.

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