

HARASSMENT IN THE WORKPLACE¹

What is unlawful harassment?

Harassment can be a form of unlawful discrimination when based on a protected characteristic (race, color, national origin, sex, age, religion, marital status or disability). Harassment may include verbal abuse, epithets, vulgar or degrading language, displays of offensive materials, lewd or offensive gestures and telling offensive jokes.

Is all bothersome conduct harassment?

No. Unlawful harassment must be more than a few incidents or casual remarks. It must be a pattern of degrading or abusive treatment by an employer, supervisor or co-worker that is so severe that it interferes with the work performance of a protected class member or causes the protected class member to feel that the workplace is intimidating, hostile, or offensive. In measuring severity, courts use a “reasonable person” standard rather than the standards of the worker who was affected.

What should I do if I think I am being unlawfully harassed at work?

First try to resolve the problem through your employer. Check your employer’s company handbook or with the Human Resources Department for the procedure on how to report harassment, and follow it. Failure to do so can limit your legal rights. If there is no reporting procedure, report the problem to your immediate supervisor. If your supervisor is the problem, report to his or her supervisor. Keep notes of the dates of all reports, the full names of the persons you reported to, full names and contact information for witnesses to the harassment, and copies of any documents about the situation. It is unlawful for your employer to retaliate against you for making a report. If it does, you should file an additional complaint of retaliation.

What if my employer does not resolve the problem?

In most cases you must file a charge of harassment with the federal, state and/or local government enforcement agency before you have a right to file a lawsuit. You do not need a lawyer to file an agency charge, but legal advice can be helpful to assure that all possible claims are included, as you are limited to those claims if you later must sue.

Is there a deadline for filing a charge with government agencies?

Yes. Claims brought under Duval County’s anti-discrimination ordinance must be filed within 180 days of the discrimination with the Jacksonville Human Rights Commission (“JHRC”) at 117 West Duval Street, Suite 350, Jacksonville, FL (telephone: 630-1212). In Florida, claims brought under federal anti-discrimination laws must be filed within 300 days of the harassment. Claims under the Florida Civil Rights Act must be brought within 365 days of the harassment. If the harassment occurred in Duval County, you may be able to file claims under federal, state and local laws through the JHRC if you file within the 180-day deadline. Or you can file federal charges with the Equal Employment Opportunity Commission or Florida charges with the Florida Commission on Human Relations. If you fail to file within the time limits, you cannot make a claim.

¹ The information provided here is general in nature and not intended as legal advice. The laws discussed are subject to change without notice. Seek legal advice for more information.

What happens next?

If the agency accepts your charge, it may investigate or attempt settlement. If investigating, it must send you notice of its findings and your legal rights. That notice contains important information about deadlines for then filing a lawsuit (usually 90 days) or in some cases, requesting an administrative hearing (usually 35 days). If you fail to meet the applicable deadline, you lose your right to continue your claim.

Where can I get help?

Call Jacksonville Area Legal Aid at 356-8371 for information on applying for help.

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