

EQUAL EMPLOYMENT OPPORTUNITY & ADA: FREQUENTLY ASKED QUESTIONS

Q. How Do I File a Charge or Claim of Discrimination with the School District of Palm Beach County?

A. [How to file a claim of discrimination.](#)

Q. Is it necessary for me as an employee of the District of Palm Beach County to File a Charge or Claim of Discrimination with the District?

A. No, employees of the District may elect to file a claim of discrimination directly with the Equal Employment Opportunity Commission ([EEOC](#)) or a private attorney of the employee's choosing and at the expense of the employee.

Q. How long does it take for the District's Office of Equal Employment Opportunity (EEO) to conclude or finalize my complaint?

A. The District's Office of Equal Employment Opportunity (EEO) will conclude its investigation of your complaint within a ***reasonable*** time frame. Ideally, 90 working days; however, because the District's main concern is that due diligence be given to all complaints, it may take longer than 90 working days. Nonetheless, throughout the investigative process all parties shall be apprised as to the status of the investigation and its conclusion.

Q. How Do I File a Charge or Claim of Discrimination with the Equal Employment Opportunity Commission (EEOC)?

A. [To File a Claim of Discrimination.](#)

Q. What is Title VII?

A. Title VII prohibits not only intentional discrimination, but also practices that have the effect of discriminating against individuals because of their **Race, Color, National Origin, Age, Religion, or Sex**. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Q. What is the definition of Race?

A. A typical dictionary definition of race is "a local, geographic or global human population distinguished as a more or less distinct group by genetically transmitted physical characteristics [or]...any group of people united or classified together on the basis of common history, nationality, or geographical distribution."

The U.S. Government currently recognizes five minimum racial categories for legislative, programmatic and administrative requirements of the federal government: 1) American Indian/Alaska Native; 2) Asian; 3) Black/African American; 4) Native Hawaiian/Pacific Islander; 5) White.

Hispanic/Latino origin is characterized by the government as an *ethnicity*, because people of Hispanic/Latino origin can be of any race.

Q. What is the definition of Color?

A. There is no accepted definition of the term *color*. As used in Title VII, color has frequently been viewed as synonymous with race or as a basis for defining a subclass within a race subjected to disparate treatment.

Color discrimination can occur because of a White person's preference for, or aversion to, persons whose skin color differs from his own. Color discrimination can also occur within the same racial group as members of the group may have biases against those whose skin is lighter or darker than their own.

If race or color enters into an employment decision, Title VII is implicated, even if the discrimination involves a distinction among or by members of a particular racial group.

Q. What is meant by the term "disparate treatment?"

A. Disparate treatment stems from *intentional* discrimination – the employer acted in such a way as to deliberately disfavor an individual due to her/his race or color.

A person claiming discrimination based on disparate treatment must show that s/he was a member of a protected class (such as American Indian, Black/African American, etc.), and was treated differently than similarly-situated persons of different backgrounds.

Q. What is meant by the term "disparate impact?"

A. Another method of demonstrating discrimination is called *adverse impact* or *disparate impact*. This proof of discrimination applies to situations where there was *no intentional* discrimination. Rather, the employer used facially neutral practices or criteria that disproportionately affected members of a particular protected group, and the practices or criteria could not be justified by business necessity. Disparate impact has also been used to challenge hiring tests which disproportionately affect racial minorities; height requirements, which can adversely affect certain groups; or use of arrest records (rather than actual convictions) to deny employment, where members of certain minority groups are arrested at rates disproportionate to their representation in the population.

Q. What is Retaliation?

A. Retaliation is another version of the disparate treatment theory. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between women and men performing substantially equal work, also prohibit *retaliation* against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

Simply stated, an employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination.

Q. What is National Origin Discrimination?

A. It is illegal to discriminate against an individual because of her/his birthplace, ancestry, physical, cultural, or linguistic characteristics common to a specific ethnic group.

The EEOC examines with particular concern charges alleging discrimination due to association with persons of a national origin group; discrimination due to attendance at schools or places of worship used by persons of a national origin group; and discrimination because of an individual's or spouse's name is associated with a national origin group.

Q. Do the basic principles of disparate treatment, disparate or adverse impact, and harassment apply to national origin discrimination?

A. Yes.

Q. What is the Age Discrimination in Employment Act (ADEA) of 1967?

A. The ADEA protects individuals who are *40 years of age or older* from discrimination based on age. The ADEA has *no upper age limit*.

ADEA Sections 4(a), (b), and (c) prohibit an employer, employment agency, or labor organization from discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment because of her/his age. These sections also prohibit covered entities from depriving an individual of employment opportunities or taking any other adverse action against an individual because of her/his age.

Q. What is the Equal Pay Act?

A. The Equal Pay Act (EPA) prohibits discrimination on the basis of sex in the payment of wages or benefits, where women and men perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

Q. What is the Equal Pay & Compensation Discrimination Act?

A. The right of employees to be free from discrimination in their compensation is protected under several federal laws, including the following enforced by the US Equal Employment Opportunity Commission (EEOC): the [Equal Pay Act of 1963](#), [Title VII of the Civil Rights Act of 1964](#), the [Age Discrimination in Employment Act of 1967](#), and [Title I of the Americans with Disabilities Act of 1990](#).

Q. What is the Pregnancy Discrimination Act?

A. The Pregnancy Discrimination Act is an amendment to [Title VII of the Civil Rights Act of 1964](#). Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII.

Q. What is Religious Discrimination?

A. [Title VII of the Civil Rights Act of 1964](#) prohibits employers, labor unions, and other covered entities from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Title VII also requires that employers, labor unions, and other covered entities take steps to *reasonably accommodate* the religious practices of applicants and employees.

Q. What is Religious Accommodation?

A. An employer is required to reasonably accommodate the religious belief of an employee or prospective employee, unless doing so would impose an undue hardship on the employer.

Q. What is "undue hardship?"

A. Undue hardship is defined as an "action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. Undue hardship is determined on a case-by-case basis.

Q. What is Sex Discrimination?

A. Title VII's broad prohibitions against sex discrimination specifically cover:

Sexual Harassment – This includes practices ranging from direct requests for sexual favors to workplace conditions that create a hostile environment for persons of either gender, including same sex harassment. (The "hostile environment" standard also applies to harassment on the bases of race, color, national origin, religion, age, and disability.)

Pregnancy Based Discrimination – Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions.

Q. What is Sexual Harassment?

A. Sexual harassment is a form of sex discrimination that violates [Title VII of the Civil Rights Act of 1964](#). Unwelcome verbal or physical conduct of a sexual nature (e.g., sexual advances, requests for sexual favors, etc.) constitutes unlawful sexual harassment, when submission to such conduct is made a term or condition of employment.

Also, when submission to or rejection of such conduct is used as the basis for employment decisions, it is sexual harassment.

In addition, when such conduct unreasonably interferes with job performance or creates an intimidating, hostile, or offensive work environment, it is sexual harassment.

Q. Are sexual harassers always men?

A. No. The harasser, as well as the target, can be a woman or a man. Overwhelmingly, the majority of sexual harassment cases involve men as the harassers and women the victims.

Nevertheless, cases do arise in which women harass men. Also, the US Supreme Court recognizes that a man can sexually harass a man and a woman, a woman.

Q. Can harassment be other than verbal and physical?

A. Yes. Harassment can include: sexual comments, jokes, innuendo; pressure for dates; sexual touching; sexual gestures, and sexual graffiti. Non-sexual, gender-based harassment could include hostile and derogatory comments about women or men as a group.

Q. Are there different types or categories of sexual harassment?

A. Yes. There are two categories of sexual harassment – harassment that results in a “tangible employment action,” and “hostile work environment” harassment.

Q. What is “tangible employment action” harassment?

A. The US Supreme Court has defined a *tangible employment action* as “a significant change in employment status.” Tangible job benefits (e.g., promotion, job retention, or compensation) are granted or denied based on the submission to or rejection of unwelcome sexual conduct. A *tangible employment action* can only be carried out by a person with supervisory authority.

Also, the demand for sexual favors in return for job benefits can be explicit or implicit.

Q. Does a pattern of harassment resulting in a *tangible employment action* have to exist?

A. No. One instance of harassment resulting in a tangible employment action is sufficient to constitute a violation of Title VII.

Q. What is “hostile work environment” harassment?

A. *Hostile work environment* harassment is defined as – sexual comments (or sexual conduct) that have the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Q. Can only a supervisor engage in “hostile work environment” harassment?

A. No. Unlike *tangible employment action* harassment, “hostile work environment” harassment can be committed by a supervisor, co-worker or non-employee (e.g., contractor, etc.).

In contrast to a claim of harassment that results in a *tangible employment action*, a “hostile work environment” harassment claim does not require a showing that the victim was fired, denied a promotion, or otherwise penalized in a tangible way as a result of the harassment.

Q. Does a pattern of harassment resulting in “hostile work environment” harassment have to exist?

A. Yes and no. “Hostile work environment” harassment issues look at both **frequency** and **severity**.

The more frequent the conduct, the less severe it need be to create a hostile work environment. On the other hand, the less frequent the conduct, the more severe it must be. Thus, one isolated instance of harassment is generally not enough, unless it is extremely severe such as a physical sexual assault.