

JAN

Job Accommodation Network

Practical Solutions • Workplace Success

Accommodation and Compliance Series

Accommodation and Compliance Series: Harassment

Job Accommodation Network
PO Box 6080
Morgantown, WV 26506-6080
(800)526-7234 (V)
(877)781-9403 (TTY)
jan@askjan.org
AskJAN.org



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JAN'S Accommodation and Compliance Series

Introduction

Harassment is a form of employment discrimination under various federal laws, including the Americans with Disabilities Act (ADA). Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

Harassment becomes unlawful where:

- 1) Enduring the offensive conduct becomes a condition of continued employment, or
- 2) The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. See the following two JAN Effective Accommodation Practice Series documents for more information.

- [Employees Experiencing Workplace Harassment](#)
- [Addressing Workplace Harassment: Employer's Responsibilities](#)

Situations and Solutions:

The following situations and solutions are real-life examples of accommodations that were made by JAN customers. Because accommodations are made on a case-by-case basis, these examples may not be effective for every workplace but give you an idea about the types of accommodations that are possible.

After a supervisor ridiculed an employee with a speech impairment in a meeting, the employee notified the company's human resource department.

The director of human resources immediately disciplines the supervisor and assigns a different supervisor to the employee. The employee is happy with the outcome.

Co-workers decide it would be funny to move furniture around so an employee who is blind will run into it.

The employee does run into the furniture and is injured. The co-workers are suspended while the employer investigates what happened and they are ultimately terminated.

A supervisor overhears employees using inappropriate and insulting language directed at an employee with an intellectual disability.

After the supervisor disciplines the employees, one of them uses the language again. That employee is terminated for violating the company's harassment policy.

An office worker with fragrance sensitivity asks co-workers to stop wearing heavy perfume because it makes her sick.

Two of the co-workers are offended by the request and spray the office worker's desk and chair before she arrives at work. She reports the incident to human resources, but the representative does not take any action. The office worker files a complaint for harassment and wins the case.

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