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Commentary

Harassment and discrimination in the workplace: Understanding the difference

The hard truth is that in workplaces large and small, regardless of position, employees can be the target of harassment, discrimination, or both.

By **Pamela Johnson** | November 01, 2024 at 10:10 AM



Credit: Woraphon/Adobe Stock

No one likes to be mistreated under any circumstances, but it's especially difficult when it occurs in the workplace. Whether you work as an executive in an office, out in the field, or managing a team, you expect to be part of a safe, professional environment where you feel valued and fairly treated. Unfortunately, for many, this isn't the case.

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The hard truth is that in workplaces large and small, regardless of position, employees can be the target of harassment, discrimination, or both. Having a clear understanding of what [workplace harassment and discrimination](#) are, and when the two are linked, can go a long way in helping you understand your rights, and by extension, what legal options may be available to you.

What constitutes harassment or discrimination in the workplace?

Discrimination occurs when an employee is treated unfairly or differently from their peers because they are a member of a class of persons protected by the applicable law. Protected classes can include the characteristics listed below:

- Gender
- Age
- Disability
- Race or color
- Nationality
- Religion
- Sexual Orientation
- Familial status

And more, depending on the statute.

Workplace discrimination occurs when an employee experiences adverse treatment in other terms or conditions of employment when compared to persons not in the same protected class.

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For example, discrimination can include paying a female manager less than her male peers, giving less favorable assignments to BIPOC employees, denying promotions to older employees who are similarly qualified to the promoted younger employees, and terminating a Muslim employee for misconduct for which non-Muslim employees are only disciplined.

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Workplace harassment occurs when an employee experiences an unpleasant or hostile situation that is uninvited and unwelcome and includes offensive verbal or physical conduct or abuse, and the abuse visited upon the employee is because of their protected status. For example, harassment can include unwanted comments on a woman's appearance, offensive jokes about a person's disability, use of names that are derogatory to a person's race or religion, physical contact of a sexual nature, or unnecessarily endangering an employee because of their national origin. Accordingly, workplace harassment may include:

- Assaults and physical threats
- Intimidation
- Inappropriate and vulgar jokes
- Unwanted sexual advances And more

While harassment and discrimination take different forms, some employees experience both. For example, women may be treated in a sexualized manner at work and be deprived of promotional opportunities that others receive, or older employees may experience harassing conduct because they reported age discrimination.

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Overcoming harassment and discrimination obstacles in the workplace

As an employee, it's tough to figure out illegal behavior and keep your composure. It can also be difficult to navigate and manage the nuances and details of what you're up against. If you have been the target of harassment or discrimination in the workplace, follow these best practices to help plot a path forward while potentially preparing for a legal battle:

- Stick to the high ground. Remain professional in all your workplace interactions. In some instances, it is appropriate to tell harassers that you are offended by their behavior and ask them to stop. Otherwise, avoid discussing your situation with co-workers, especially on company time, on company property, and through company-controlled communications. Your work email and communications through apps such as Slack may not be private.
- Document any harassment and discrimination. Jot down as many details as possible before you might forget information that could be critical. What happened? Where did it happen? When did it occur? Who was involved or saw what happened? What did each person say? What did you say, if anything? If you live in a state where it is considered recording conversations that have a "no-recording" policy, you might consider recording conversations that you think might reveal discriminatory or harassing behavior. These are all important.
- Report harassment and discrimination. Most companies have an employee handbook that tells the employee how to report discrimination and harassment. There are situations, however, where reporting discrimination and harassment might not be a viable option. For example, if the person responsible for harassing and discriminating against you is the company's owner, it may be wise to skip this step and consult an attorney. Keep in mind, if you go to a human resources representative, their job is to protect your employer — not you. HR may help you, but it's critical to understand that what's in your best interests may not align with their goals.

Fear of retaliation from an employer for reporting inappropriate conduct is expected, but we are all entitled to feel safe at work. This is where having the right legal counsel can make a big difference.

If you're ready to speak up, don't do it alone

Ready to explore your legal options? Most jobs are considered at-will employment, meaning your employer can end your employment for almost any reason that is not discriminatory. But, it would be illegal for your employer to retaliate against you for making a good-faith report of harassment or discrimination. However, the possibility your employer won't honor the law makes it important to carefully consider the steps you might take.

[Pamela Johnson](#) is an attorney and member of [Halunen Law's Employment Practice Group](#), an Employment Law Firm in Minneapolis that specializes in advocating for whistleblower, employee and consumer rights.

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BenefitsPRO Broker Expo 2025 (BPRO)
May 06, 2025 - Boston
The premier educational and networking event for employee benefits brokers and agents.
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November 14, 2024 - New York
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