

Religious Harassment at Work

- by the Alliance for Magical and Earth Religions (AMER)
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Someday you may be fired from a job because someone doesn't like your religion. You may have co-workers who constantly harass you or try to convert you to their religion. Perhaps a supervisor will express disapproval of your religion or make it clear to you that you would get better treatment if both of you shared the same faith.

If this or any other form of religious discrimination or harassment ever happens to you, then you will be faced with a difficult set of decisions, starting with this: What do you want? Do you just want the harassment to stop? Do you want a transfer? If you were fired, do you want your old job back? Do you want the harassers disciplined? Should you try for compensation for lost wages or other damages?

Before you can make these decisions, you need to understand the law about discrimination and harassment. There is no official definition of harassment, but it can be described as being singled out for mistreatment because of your religion, particularly if it makes it harder to do your job. If you are harassed by your superiors, this is discrimination.

According to a 19th century Supreme Court ruling, commonly called "Employment at Will", your employer may hire, fire, promote, or demote you at any time, for any reason, and without stating a reason, unless you have a written contract that states otherwise. There are generally four exceptions to this: (1) for your age, gender, ethnic or national origin, religion, or any other reason mentioned in the Civil Rights Acts; (2) for filing workplace safety complaints as covered by the Occupational Safety & Health Act; (3) for attempting to organize a union, protected by the National Fair Labor Practices Act; or (4) for any disability protected under the Americans with Disabilities Act.

However, because your employer doesn't have to give a reason for his action, the burden is on you to prove that you were fired, mistreated, or not hired for one of these reasons.

What should you do if you are asked questions about religion, either on a job application or during an interview? You should remember that there is no legal reason for an employer to ask you this. We suggest that you leave that field blank, or, if asked, answer only: "I prefer not to discuss religion at work." Then stick to it. If they don't hire you, you may have a perfect case for a religious discrimination lawsuit, so contact the nearest office of the Equal Employment Opportunities Commission (EEOC) or equivalent agency immediately.

In the event you are fired or harassed on the job, unless you can provide documentation that can be presented in court that your mistreatment was religious discrimination or harassment, you do not have a case. Therefore, if you think there is any risk that your employment situation may lead to a lawsuit or formal complaint, the most important thing you can do is to collect and preserve evidence.

Buy a spiral-bound notebook, and after every incident that you consider to be harassment or discrimination, discreetly write down the name of the person who harassed you, where and when it happened, what the person did or said, and the names of everyone who saw or heard it. It would be sensible to keep the existence of this notebook private.

If you can do so without calling attention to it, you might want to use a tape recorder. In most states it is legal to tape any conversation in which you participate. If you do end up in court, your attorney can determine whether or not your tapes are admissible as evidence.

Whether or not you are being harassed now, try to get a copy of your personnel file at least once a year. You may have no actual right to a copy, but many employers will give you one if you ask. After all, if you have received favorable reviews until your religious trouble started, it might help to be able to prove it.

In many cases the people you work with may not really be trying to hurt your feelings or make you angry. They probably just don't know any better, and are trying to make a joke or convert you to their point of view. Many people are simply more comfortable around others who share their value system.

If you quietly and privately explain what they have said or done that offended you, and how it made you feel, they'll probably stop. Be discreet and speak to them alone.

If the situation becomes tense, consider a little gentle humor to lower the tension.

Try not to embarrass them or put them on the defensive. It is better to act hurt than angry. If you are accused of having no sense of humor, ask them, for example, if they would tell racial or anti-Semitic jokes.

Remember, your complaint is with that person alone. No matter how tempted you are, don't complain to your co-workers about your treatment. If the offender apologizes, don't gloat. It is important to treat any apology as sincere. You must also remember that you are not trying to get into theology discussions, but rather to stop any harassment. The issue here is harassment, not whose religion is "better" or "more right".

Most disputes can be resolved through such informal means. If, however, all of your attempts to work things out in a reasonable, adult manner have failed, then you may want or need to appeal to a higher authority.

If informal discussions do not resolve the matter, then you have a difficult decision to make. As soon as you start a formal complaint, the atmosphere is going to get much more unpleasant. If you think you can find work elsewhere, or if you can endure the present situation, you might be better off doing so. The law may be on your side, but winning a formal complaint or lawsuit won't guarantee you a pleasant place to work. Of course, if you don't challenge religious discrimination or harassment, it will keep on happening.

If you decide to file a harassment complaint about a co-worker, the first formal conversation should be with your supervisor. If you need to file a harassment complaint about your supervisor, your conversation should be with Personnel or Human Resources. Don't jump the supervisory chain and go over the head of the first person "above" the harassment.

If your supervisor wasn't very helpful, see if your company has a policies & procedures manual, then follow its advice on how to file a complaint. If not, ask to see whoever is in charge of personnel. When in doubt, go to them, as it is their job to assist you.

There is an important exception to the previous two paragraphs. If you are a member of a union, your contract may provide you with specific rights, remedies, and procedures to follow. In this case your first conversation should be with your shop steward or other union representative.

If it has been nearly 300 days since you were last harassed or discriminated against, and you have still received no satisfaction through informal or company channels, call the nearest office of the United States Equal Employment Opportunity Commission (EEOC) and explain your situation to an investigator. Ask the investigator for advice. If the investigator recommends that you file a formal complaint, ask whether you need to file separately with your state's equivalent of the EEOC.

You do not have to wait until company procedures have been exhausted. In most cases there is a 300-day deadline for filing a complaint with the EEOC or state agency.

If you have not exhausted informal means, made a reasonable attempt at using company remedies, gone completely through the EEOC's procedures and their complete appeals process, then filing a lawsuit would be futile.

If you have reached this point and gotten no relief, you must retain a lawyer if you want to go any further. You and your lawyer need to determine what your objectives will be in filing a lawsuit.

Remember that you are not entitled to the free services of an attorney even if you have been fired from your job. You are filing the complaint, and your employer is the defendant. And remember: Because the employer is the defendant, the burden of proof is on you.

If you need help finding an attorney, contact your state's Bar Association's Lawyer Referral Service, which is listed in the phone book. You may also wish to consult such organizations as the American Civil Liberties Union, which also should be listed in the phone book.

It is important to note that if at any time during the resolution process, formal or informal, the harassment escalates to the point of assault, physical threats, slashed tires, stalking, or anything else where a reasonable person would fear for his safety, you should call the police. This has now gone beyond the realm of harassment into criminal activity. Don't feel embarrassed about calling the police for something that started out with a joke or whatever. A well-timed complaint could save your life.