

## Preventing Retaliation Claims by Employees

When a worker complains about discrimination or harassment -- to you, to a government agency, or to someone within your business -- you must treat that worker with care. If you take any action that the worker might view as punishment or retaliation for the complaint, you might find yourself on the wrong end of a lawsuit. It is illegal to retaliate against a worker for complaining about discrimination and harassment -- and retaliation is often in the eye of the beholder.

All employers, managers, supervisors, and human resources representatives should become familiar with the law of retaliation, because retaliation claims are becoming more and more common. And they are also becoming more costly. Even if the original complaint of discrimination or harassment turns out to be unfounded, a worker who can prove that something negative happened because of the complaint can still win a retaliation claim.

### Strategies to Prevent Retaliation

As soon as someone complains about discrimination or harassment in the workplace, the groundwork is laid for a retaliation claim -- unless you take some precautionary steps:

- **Establish a policy against retaliation.** Even before a worker complains, you should have a clear policy against retaliation. Your policy should spell out exactly what retaliation is, and it should make perfectly clear that you will not tolerate retaliation from any of your managers or other workers. It should also tell workers what steps to take if they feel they are being retaliated against.
- **Communicate with the complaining worker.** Explain that you are taking the complaint seriously. Tell the worker that you want to hear about anything that happens that the worker considers hostile or negative. Refer the worker to your anti-retaliation policy. Explain what retaliation is. Tell the worker that you won't tolerate retaliation from anyone in the company.
- **Keep confidential any complaints that you receive.** The fewer people who know about a complaint, the smaller the chances are that someone will retaliate against the complainer. Of course, when you investigate the worker's complaint, you will have to tell some people about it. Make sure that you tell only the people who absolutely need to know. And, when you tell them, explain what retaliation is and tell them that you won't tolerate it.
- **Document, document, document.** Take notes on everything you do to prevent retaliation. Send the complaining worker a letter confirming what you have told him or her about retaliation.

First Sun EAP has a dedicated team of Consultants available to assist you with these issues. You can call any time for a free confidential consultation to discuss these or any workplace issues that affect the performance of your associates or to refer a worker if the need arises. Call toll free at **800-968-8143** or at **803-376-2668** in Greater Columbia area.