

# How Your Business Can Survive an EEOC Investigation

In recent years, there has been an increase in [employee-initiated misconduct claims](#) filed with the U.S. Equal Employment Opportunity Commission (EEOC). Varied reasons for this include an increasingly diverse workplace in regard to age, gender identity, religion, and other factors.

To avoid EEOC investigation, employers must take the necessary measures to understand and embrace emerging trends in the workplace, and also to remain perceptive and empathetic to their employees' unique needs and requirements.

The following resources will help you better understand the details of an EEOC investigation and how best to manage employee-initiated EEOC claims.

## Perception is Reality

While the financial impact cannot be overlooked, EEOC claims go far beyond court fees. Even when an employer is cleared of any wrongdoing, the public record nature of the claim alone is often detrimental to a company's reputation.

As more workers perform in-depth research through sites such as Glassdoor, LinkedIn, and other outlets, any 'black mark' against an employer could deter a potentially stand-out candidate from signing on. This could also cause existing employees to reconsider their tenure with a given company.

## An Ounce of Prevention

While it may be impossible to prevent an EEOC claim from being filed, there are several methods by which employers can safeguard against employee angst and distrust.

One of the simplest methods is to create and promote a working environment based on a mutual respect, open communication, and a 'zero tolerance' policy in regard to disparate behavior (harassment, bullying, intimidation). Companies should also create mandatory anti-harassment programs and documentation.

There are [many other strategies](#) companies can deploy to avoid government investigation, including:

- familiarizing yourself with [EEOC regulations and guidance](#)
- documenting and archiving all employer to employee communication
- reviewing and investigating employee grievances in a thorough and timely manner

## What to Do When a Claim is Filed

Beyond prevention, there are times when it is impossible to avoid contact with the EEOC. When an employee-initiated EEOC claim is filed, it is in the best interest for companies to heed the following advice and guidelines:

- 1) immediately respond in writing to EEOC, acknowledging the claim
- 2) thoroughly research and understand EEOC guidelines
- 3) conduct an independent investigation, determine facts, and cite specifics
- 4) identify potential company bias (friends or relatives employed by company)
- 5) collect and prepare documentation pertinent to the claim
- 6) avoid retaliatory action against any employees (demotion, office relocation, termination)

## Don't Underestimate the EEOC

There are some other important points to consider when faced with an EEOC investigation. Though caseloads are at an all-time high and resources at an all-time low, the EEOC remains a government institution whose success is measured by statistics and quality assurance. Avoid potentially-damaging conduct including:

- adopting a non-communicative or dismissive approach
- retaliation against any employee
- refusal to mediate
- prevarication
- failure to prove non-bias or objectivity
- failure to submit documentation in a timely manner
- ignoring or barring EEOC requests for employee interviews (on or off-site)

## Plan and Prepare

EEOC agents appreciate and admire companies that take the investigation process seriously. Employers who have emerged successful from mediation have demonstrated understanding of the severity of the claim, and taken the time to:

- research and compile relevant and informative documentation related to the claim
- submit pertinent employee performance reviews and disciplinary history
- perform interviews and gather information from other employees

## What Would You Do?

Companies that have experienced EEOC claim processes can and should use those experiences and lessons as learning opportunities.

Since retaliation is the [most commonly-filed charge](#), it is beneficial for employers to consider various true and hypothetical scenarios, and then — to the best of their ability — ‘pre-plan’ their response to such situations.

Consider the following scenarios and your company's potential response, keeping in mind that in some instances retaliation as defined by the EEOC did not occur.

➤ **Scenario 1**

Employee confronts employer with claim they are being harassed by a co-worker. Employer meets with both involved parties, at which time co-worker admits to harassment. Company delivers letter of reprimand to co-worker — threatening termination if scenario repeats. Employee demands physical separation from co-worker (office relocation), but request is denied. Employee files EEOC claim for retaliation.

➤ **Scenario 2**

Company broadcasts anonymous 'workplace environment satisfaction' survey. Employee submits scathing, negative company review. Supervisor later terminates employee, citing poor job performance. Employee files EEOC retaliation claim, charging termination is directly linked to survey response.

➤ **Scenario 3**

Employee observes friendly interaction between supervisor and co-worker, who were former college roommates. Employee later requests paid time off (PTO). Request is denied due to co-worker having previously submitted PTO request for the time in question. Employee files EEOC retaliation claim.

## **Conclusion**

It is possible to resolve EEOC claims in a way that satisfies at least the minimum requirements of both workers and the employer. [Follow us](#) for more tips and guidelines on how to maintain your company's reputation and positive public view. ■

## **References**

*Equal Opportunity Employment Commission.* <https://www.eeoc.gov> . Accessed 15 May 2017.