

# Employee Training Is Key to Avoiding Retaliation Claims

by Christina M. Michelson on August 2, 2012

Most New Jersey businesses are aware that they cannot fire, demote, harass or otherwise “retaliate” against an individual for filing a charge of discrimination or otherwise opposing alleged workplace discrimination. However, retaliation is still the most common complaint filed with the Equal Opportunity Employment Commission.

In many cases, New Jersey employers have anti-retaliation policies “on the books,” but fail in the execution. That’s because it is very difficult to overcome human nature. Therefore, the key to avoiding a costly retaliation lawsuit is continuous training of all supervisors and managers.

In addition to making sure employees know what to do to make sure their conduct cannot be construed as retaliatory, training is also essential should you face an EEOC claim. The EEOC has stated that employers who fail to provide management training on anti-retaliation laws are not taking all the steps necessary to prevent it.

With this in mind, here are some important tips for training employees to recognize and avoid potential retaliation claims.

- Make sure all supervisors and managers are familiar with the basic provisions of discrimination and leave laws. For instance, they should be able to readily identify the key elements of retaliation: protected activity (such as filing a discrimination claim or opposing discrimination) and adverse employment action (demotion, termination, etc.)
- Discuss common misconceptions regarding retaliation with managers and supervisors. For example, they should understand that an employee can still maintain a retaliation claim even if it later turns out that the employee’s complaint was unfounded.
- Train all managers and supervisors regarding the company’s policy for addressing employee complaints. They should understand the importance of proper documentation of both employee complaints and adverse employment decisions.
- Stay on top of legal issues surrounding relation and make sure all supervisors and managers receive training on any new developments.