

# South Carolina Human Affairs Commission

## Technical Services and Training Division



# Prevention Corner



*An ounce of Prevention is Worth a Pound of Cure.*

~Benjamin Franklin

September 2023

South Carolina  
Human Affairs  
Commission  
1026 Sumter St.,  
Suite 101  
Columbia, SC 29201

(803) 737-7800  
1-800-521-0725  
<https://schac.sc.gov/>  
The South Carolina  
Human  
Affairs Commission  
strives to alleviate  
problems of  
discrimination through  
the enforcement of the  
SC Human Affairs Law  
(including the SC  
Pregnancy  
Accommodations Act  
and the SC Lactation  
Support Act.), the SC  
Fair Housing Law, the  
SC Equal Enjoyment and  
Privileges to Public  
Accommodations Law

## Retaliation Discrimination

Retaliation occurs when an employer takes any type of adverse action against an applicant or employee for asserting rights to be free from employment discrimination, including harassment. Asserting EEO rights is called “protected activity.”

The laws enforced by the SC Human Affairs Commission make it illegal to fire, demote, harass, or otherwise “**retaliate**” against people (applicants or employees):

- because they filed a charge of discrimination
- because they complained to their employer or other covered entity about discrimination on the job
- because they seek an accommodation,
- because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).



### Are employees protected against retaliation when they complain about conduct that affects others but does not affect themselves?

**Yes.** It is unlawful to take an action against employees because they have complained about discrimination that affects other people. It does not matter whether the person is a witness regarding an EEO complaint brought by others, or whether the person is complaining of conduct that directly affects himself.

Source: [Retaliation Discrimination | Human Affairs Commission](#); [Questions and Answers: Enforcement Guidance on Retaliation and Related Issues | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

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### How can I schedule training?

(803) 737-7800 or (800) 521-0725, Relay 711  
email: [training@schac.sc.gov](mailto:training@schac.sc.gov)

## 2 THINGS

WE'RE  
TALKING  
ABOUT



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### 1. Myths & Facts

**Myth:** It's only retaliation if the complaining employee gets fired.

**Fact:** **Not true.** Unlawful retaliation can take many forms including being excluded from opportunities given to other employees in similar work assignments, demotion, or being denied a raise.

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Press Release 07-26-2023

### Bojangles Restaurants, Inc. Will Pay \$20,000.00 to Settle EEOC Sexual Harassment and Retaliation Suit

**GREENSBORO, N.C.** – Bojangles' Restaurants, Inc., a Delaware corporation operating in Greensboro, North Carolina, has agreed to pay \$20,000.00 and provide other relief to settle a sexual harassment and retaliation lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

According to the EEOC's lawsuit:

- A female team member at a Bojangles fast food restaurant in Greensboro was sexually harassed from March 2020 to June 2020, as the restaurant's general manager made numerous sexual remarks to the employee and inappropriately touched and grabbed her.
- After complaining about the general manager's conduct, the employee was denied the opportunity to participate in a management training program and was transferred to a different location as retaliation.

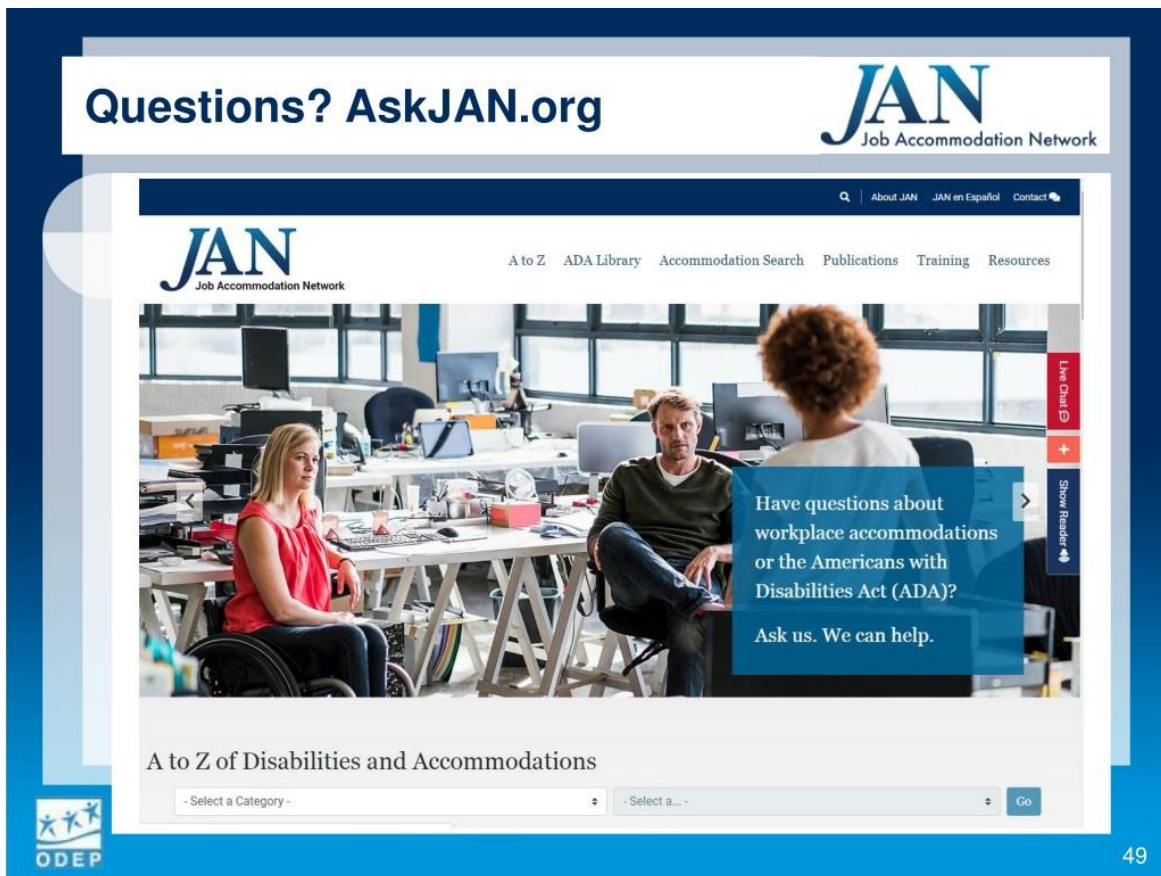
Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits sexual harassment in the workplace and prohibits retaliation against employees who oppose sexual harassment. The EEOC filed suit in U.S. District Court for the Middle District of North Carolina (Equal Employment Opportunity Commission v. Bojangles' Restaurants, Inc., Civil Action No.: 1:22-cv-00739) after first attempting to reach a pre-litigation settlement through its voluntary conciliation process.

**Read the entire article at:**

[Bojangles Restaurants, Inc. Will Pay \\$20,000.00 to Settle EEOC Sexual Harassment and Retaliation Suit | U.S. Equal Employment Opportunity Commission](#)

Source: [Bojangles Restaurants, Inc. Will Pay \\$20,000.00 to Settle EEOC Sexual Harassment and Retaliation Suit | U.S. Equal Employment Opportunity Commission](#)

## 2. THE JOB ACCOMMODATION NETWORK (JAN)



The Job Accommodation Network (JAN) is the leading source of free, expert, and confidential guidance on job accommodations and disability employment issues.

Serving customers across the United States and around the world for more than 35 years, JAN provides free one-on-one practical guidance and technical assistance on job accommodation solutions, Title I of the Americans with Disabilities Act (ADA) and related legislation, and self-employment and entrepreneurship options for people with disabilities.

JAN provides individualized consultation to assist:

- Employers and their representatives seeking guidance on practical ways to engage in the interactive process, provide job accommodation solutions, and comply with Title I of the ADA;
- Individuals with medical conditions and disabilities seeking information about job accommodation solutions, employment rights under the ADA, and self-employment and entrepreneurship opportunities; and
- Family members and rehabilitation, medical, educational, and other professionals in their effort to support successful employment outcomes for individuals with medical conditions and disabilities.

Source: [About JAN \(askjan.org\)](https://askjan.org)



# SCHAC CAUSE DETERMINATION

In March 2023, a dental practice was found to have constructively discharged its employee, in violation of the South Carolina Human Affairs Law, where the employer's management created a hostile work environment by harassing the employee because of her race and retaliated against the employee when she attempted to report the harassment.



**Answers to your questions about Pregnancy Discrimination and Lactation Support Laws.**

## Is Pregnancy Retaliation and Discrimination Against the Law?



Pregnancy discrimination and retaliation is against the law.

South Carolina Human Affairs Commission enforces state laws, and the U.S. EEOC enforces three federal laws that protect job applicants and employees who are pregnant.

Agency	
<b>S.C. Human Affairs Commission</b>	SC Human Affairs Law <ul style="list-style-type: none"> <li>• SC Pregnancy Accommodations Act</li> </ul>
<b>U.S. Equal employment Opportunity Commission</b>	<ul style="list-style-type: none"> <li>▪ Title VII of the Civil Rights Act of 1964</li> <li>▪ Pregnant Workers Fairness Act (PWFA)</li> <li>▪ Americans With Disabilities Act (ADA)</li> </ul>

## Retaliation and Interference

SC Human Affairs Law, the SC Pregnancy Accommodations Act, the Title VII, the PWFA, and the ADA protect workers against retaliation. It is illegal for an employer to retaliate against workers for participating in the equal employment process or opposing any practice made unlawful under anti-discrimination laws.

The PWFA and the ADA also makes it illegal to interfere with rights under the PWFA and the ADA. Source: <https://schac.sc.gov>; <https://www.eeoc.gov/pregnancy-discrimination>

**\*\*Please Note: This newsletter is not intended to be used as legal advice**

## PREVENTION CORNER

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### **Best Practices Employers Can Take to Prevent Retaliation in the Workplace**

- **Complaint Process:** Establish a reliable process for employees to submit internal complaints or concerns of retaliation.
- **Training:** Developing effective anti-retaliation training for all employees, managers, and supervisors.
- **Addressing complaining:** Develop a system for receiving and responding to reports of retaliation.
- **Evaluating Policy & Culture:** Evaluating existing organizational policies and culture to consider whether any factors are contributing to a retaliatory environment.

Source: [Best Practices for Employers to Prevent and Address Retaliation | U.S. Department of Labor Blog \(dol.gov\)](#);  
[Best Practices to Prevent & Address Retaliation \(dol.gov\)](#)

**EEO laws are designed to protect the rights of ALL individuals.**

**If you feel like you have experienced discrimination,  
contact us for help.**

**South Carolina Human Affairs Commission  
(800) 521-0725, Relay 711 or 803-737-7800**

<https://schac.sc.gov/>

**How can I schedule training?**

**email: [training@schac.sc.gov](mailto:training@schac.sc.gov)**

**The mission of the South Carolina Human Affairs Commission is to  
Prevent and Eliminate Unlawful Discrimination in Employment, Housing,  
and Public Accommodations.**