

# Rolled eyes may be rude, but they're not retaliation

When employees raise the same gripes over and over, it's sometimes hard to take them seriously. It can be particularly frustrating if those complaints include discrimination claims, when management is sure no discrimination has taken place.

Aggravated bosses, take heart! It may not be a management best practice to show your frustration with baseless complaints, but it isn't likely to lead to a retaliation lawsuit.

Courts aren't backup HR offices, ready to mediate minor spats and fix rude behavior. Retaliation lawsuits are reserved for employer actions that would dissuade a reasonable person from complaining in the first place—not for mollifying people who are easily offended that everyone doesn't see their points of view.

**Recent case:** Oscar Somoza and Miriam Bornstein-Gomez, both Mexican-American professors at the University of Denver, said the university discriminated against them. In fact, they raised that complaint more than 20 times during a two-year period. The university largely ignored their concerns.

That spurred a retaliation lawsuit in which the two claimed that during faculty meetings they were either ignored or endured rolled eyes from administration personnel when they spoke up. They also alleged that another faculty member hired into their department “displayed an air of superiority,” wrote critical e-mails and failed “to interact collegially at meetings or even greet them in the department.”

The court dismissed their case. It ruled that no reasonable person would be dissuaded from raising discrimination concerns for fear of rolled eyes or rude behavior. The judge concluded, “his court's obligation is not to mandate that certain individuals work on their interpersonal skills and cease engaging in inter-departmental personality conflicts.” (*Somoza, et al., v. University of Denver, et al.*, No. 06-1488, DC CO, 2008)