

# Turning a deaf ear to insults: A \$500,000 mistake



Your managers probably know it's unlawful to discriminate in hiring and firing based on a person's age or disability. But they may not realize that same law makes it unlawful to verbally harass workers based on those protected characteristics.

Maybe bosses think they're being funny by calling a worker "old man" or mocking an employee's stutter. But as a recent court ruling shows, juries won't find such comments humorous.

**Recent case:** Augustine, a prison guard, sued for disability harassment, saying a supervisor often mocked his stutter in front of other guards. On one occasion, the supervisor mimicked Augustine's stutter on the prison's broadcast system right after Augustine made an announcement. A fellow supervisor said there was a "culture of joking" about his stutter in the workplace.

Augustine sued for disability harassment. A jury awarded him \$500,000, saying the harassment was severe and pervasive.

**Advice:** Make clear that such insults are subject to discipline, including termination. Immediately investigate any such complaints and take steps to end the harassment.

**Online resource** Learn the EEOC's definition of harassment at [www.eeoc.gov/laws/types/harassment.cfm](http://www.eeoc.gov/laws/types/harassment.cfm).

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## Fashion tip for the fall season: Don't tolerate teasing about clothing

A lack of fashion sense is not a protected characteristic, like age or religion. But employers that tolerate employees who tease co-workers about their clothing could be setting themselves up for legal trouble.

How? Stereotypes about what colors or garments are appropriate for which gender can trigger a lawsuit.

**Recent case:** Robert complained to his boss that co-workers made fun of his clothing choices—especially when he wore “girlish” pink, lavender or light blue colors. Plus, Robert said he was often harassed by co-workers who speculated whether he had body piercings on his nipples.

His complaints were apparently ignored by bosses ... until he sued.

A court said teasing that shows gender-based stereotyping about behavior, clothing choices or other activities that are “appropriate” for a particular gender can be the basis for sex discrimination and sexual harassment claims. (*Felix v. State of California*, No. 1:13-cv-0561, ED CA)

Include sex stereotyping in your sexual harassment training. Include warnings against imposing either feminine or masculine traits on either sex.