Responding

to a

Kansas
Human Rights Commission

Complaint:

From Frazzled to Functional

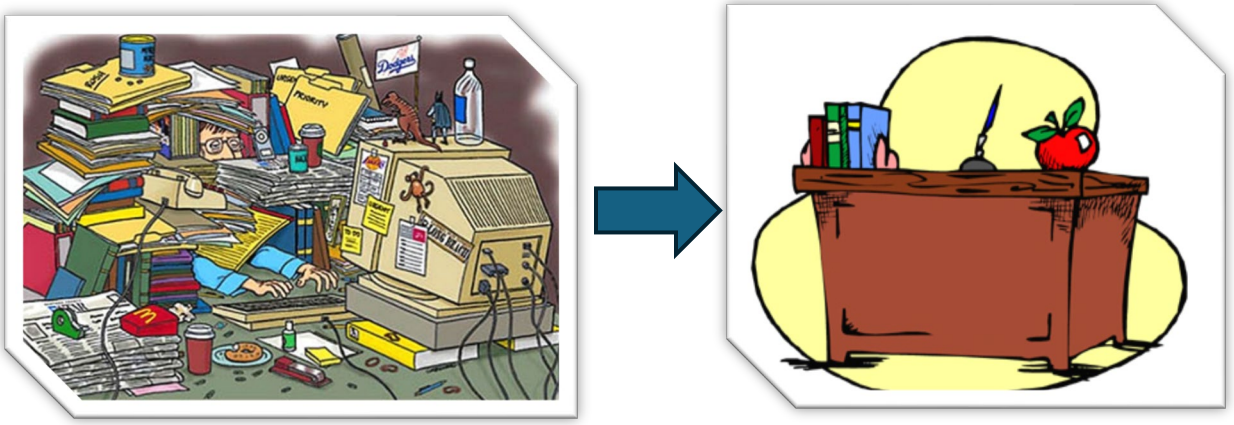


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Respondent Notification of Complaint and Initial Materials Request

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Topeka, Kansas 66612-1258

Kansas
Human Rights Commission

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Laura Kelly, Governor
Ruth Glover, Executive Director
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Barbara Girard, Investigative Admin.
Dan Wentling, Investigative Admin
Mary Karinge, Office Manager.

April 1, 2026

Dime Grocers
456 Quarter Street
Anytown, KS 66600

RE: Case No. 12345-26, Smith v. Dime Grocers and its Representatives

Dear Sir or Madam:

This correspondence notifies you that a complaint alleging a violation of the Kansas Act Against Discrimination and/or the Kansas Age Discrimination in Employment Act has been filed with this office. A copy of the filed complaint is enclosed.

Upon receipt of this correspondence, please report your representative or attorney representative contact information (name, title, entity name, mailing address, phone number, and e-mail) by emailing khrc@ks.gov.

We ask you to submit the information and records requested within fourteen (14) days of the receipt of this complaint. You may also submit a written response to the allegations of the complaint. Please do not submit duplicate copies of your submissions. Your response will be made a part of the case record. After this complaint is assigned for investigation, a Commission investigator will contact you to discuss the Commission's investigative procedures and the information needed to complete the investigation.

Please contact Kansas Legal Services/Midland Mediation at midlandmediation@klsinc.org or (785) 232-5348 to report your representative or attorney representative contact information and to indicate whether you are interested in voluntary mediation to resolve this matter through negotiated settlement prior to investigation. E-mail communication is preferred whenever possible. If you elect to participate in mediation, the above deadline will be suspended as follows:

- If mediation successfully resolves the complaint, it is not necessary to submit the requested information.
- If it is determined that the parties will not engage in mediation or that the mediation is unsuccessful in resolving the complaint, the Respondent shall have fourteen (14) days from the date of said determination in which to file the information and records requested, and a response with the Kansas Human Rights Commission.

If mediation is not successful and you still wish to resolve the complaint through negotiated settlement, please contact the Commission at your earliest convenience.

Important correspondence may be e-mailed to you if your e-mail address is already on file with the Kansas Human Rights Commission or you provide your e-mail address to the Kansas Human Rights Commission in the future.

We must also advise you that under K.S.A. 44-1013 any destruction of records or other acts, which would prevent, impede, or interfere with investigation of this complaint is forbidden by law.

Sincerely,

Ruth Glover

Ruth Glover, Executive Director

Enclosure
cc: File

STATE OF KANSAS
KANSAS HUMAN RIGHTS COMMISSION

DOCKET NO. 12345-26
EEOC Dual-Filed Charge No.* 28D-2026-999785
*Only for first filed KHRC, second filed EEOC complaints

On the complaint of

Penny Smith

Complainant,

vs.

Respondent,

Dime Grocers and its Representatives

I, Penny Smith residing at 123 Nickle Street, Anytown, KS 66600

charge Dime Grocers and its Representatives whose address is 456 Quarter Street, Anytown, KS 66600

With an unlawful practice within the meaning of:

[X] The Kansas Act Against Discrimination (Chapter 44, Art. 10, K.S.A.) and specifically within the meaning of subsection a(1) and a(4) of Section 44-1009 of said Act, because of my :

( ) RACE	**(X) SEX**	**( ) ANCESTRY**	**(X) RETALIATION**
( ) RELIGION	**( ) NATIONAL ORIGIN**	**( ) DISABILITY**	**( ) FAMILIAL STATUS**
( ) COLOR	**( ) GENETIC INFORMATION**		

[] The Kansas Age Discrimination in Employment Act (Chapter 44, Art. 11, K.S.A.) and specifically within the meaning of subsections of Section 44-1113 of said Act, because of my AGE.

Alleged Date of Incident, on or about September 1, 2025 to December 31, 2025.

The aforesaid charges are based on the following facts:

I. I am female. I have openly opposed acts and practices forbidden by the Kansas Act Against discrimination.

II. I was employed by the Respondent from September 1, 2025 to December 31, 2025. I last held the position of Stocker.

A. I was sexually harassed by a co-worker from September 1, 2025 to December 31, 2025. I complained to management, but nothing was done.

STATE OF KANSAS
KANSAS HUMAN RIGHTS COMMISSION

B. **I was terminated on December 31, 2025 for three "no calls, no shows", but male co-workers were not terminated for the same infraction.**

III. **I hereby charge Dime Grocers and its Representatives with a violation of the Kansas Act Against Discrimination, in that I was sexually harassed due to my sex, female, and terminated as an act of retaliation for having openly opposed acts and practices forbidden by the Kansas Act Against Discrimination.**

I have not commenced any action, civil or criminal, based upon the grievance set forth above, except

I declare under penalty of perjury that the foregoing is true and correct; and if this document is executed outside the state of Kansas, I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

I attest that I am the undersigned Complainant, or if I am not the Complainant, I am the Complainant's attorney at law or other individual who is legally authorized to sign for and on behalf of the Complainant.

Executed on ***April 1, 2026*** ***X*** *Penny Smith*
(Date) ***(Signature of Complainant)***



EEOC FORM 131-A **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

Dime Grocers 456 Quarter Street Anytown, KS 66600	PERSON FILING CHARGE Penny Smith
	THIS PERSON Claims to be aggrieved
	EEOC CHARGE NO. 28D-2026-999785
	FEPA CHARGE NO. 12345-26

NOTICE OF CHARGE OF DISCRIMINATION in Jurisdiction where a FEP Agency will initially process
(See the enclosed for additional information)

THIS IS NOTICE THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

Title VII of the Civil Rights Act of 1964 (Title VII)

HAS BEEN RECEIVED BY

Kansas Human Rights Commission and sent to the EEOC for dual filing.

While EEOC has jurisdiction (upon expiration of any deferral requirement if this is a Title VII, ADA GINA or PWFA charge) to investigate this charge, EEOC may suspend its investigation and await the issuance of the Agency's final findings and orders. These findings and orders will be given weight by EEOC in making its own determination as to whether reasonable cause exists to believe that discrimination has occurred.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency will be considered by EEOC when it reviews the Agency's final findings and orders. In many cases EEOC will take no further action, thereby avoiding the necessity of an investigation by both the Agency and EEOC. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final findings and orders of the above-named Agency.

For such a request to be honored, you must notify EEOC in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by EEOC. Regardless of whether the Agency or EEOC processes the charge, the Recordkeeping and Non-Retaliation provisions of the statutes as explained in the enclosed information sheet apply.

For further correspondence on this matter, please use the charge number(s) shown above.

ENCLOSURE(S): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION
Sex and Retaliation
See enclosed copy of Charge of Discrimination

DATE	NAME/TITLE OF AUTHORIZED OFFICIAL	SIGNATURE
4/1/2026	David Davis, Director	

INFORMATION ON CHARGES OF DISCRIMINATION

EEOC RULES AND REGULATIONS

Section 1601.15 of EEOC's regulations provides that persons or organizations charged with employment discrimination may submit a statement of position or evidence regarding the issues covered by this charge.

EEOC's recordkeeping and reporting requirements are found at Title 29, Code of Federal Regulations (29 CFR): 29 CFR Part 1602 (see particularly Sec. 1602.14 below) for Title VII and the ADA; 29 CFR Part 1620 for the EPA; and 29 CFR Part 1627, for the ADEA. These regulations generally require respondents to preserve payroll and personnel records relevant to a charge of discrimination until disposition of the charge or litigation relating to the charge. (For ADEA charges, this notice is the written requirement described in Part 1627, Sec. 1627.3(b)(3), .4(a)(2) or .5(c), for respondents to preserve records relevant to the charge – the records to be retained, and for how long, are as described in Sec. 1602.14, as set out below). Parts 1602, 1620 and 1627 also prescribe record retention periods – generally, three years for basic payroll records and one year for personnel records. Questions about retention periods and the types of records to be retained should be resolved by referring to the regulations.

Section 1602.14 Preservation of records made or kept. Where a charge... has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent ... shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or action. The term *personnel records relevant to the charge*, for example, would include personnel or employment records relating to the aggrieved person and to all other aggrieved employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates or the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring [a lawsuit] or, where an action is brought against an employer either by the aggrieved person, the Commission, or the Attorney General, the date on which such litigation is terminated.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of Title VII, Section 207(f) of GINA, Section 4(d) of the ADEA, Section 503(a) of the ADA, and Section 104(f) of the PWFA provide that it is an unlawful employment practice for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against any individual, or for a union to discriminate against its members or applicants for membership, because they have opposed any practice made an unlawful employment practice by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the statutes. The Equal Pay Act contains similar provisions. Additionally, Section 503(b) of the ADA prohibits coercion, intimidation, threats, or interference with anyone because they have exercised or enjoyed or aided or encouraged others in their exercise or enjoyment, of rights under the Act.

Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made. Please note that the Civil Rights Act of 1991 provides substantial additional monetary provisions to remedy instances of retaliation or other discrimination, including, for example, to remedy the emotional harm caused by on-the-job harassment.

NOTICE REGARDING REPRESENTATION BY ATTORNEYS

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please give us your attorney's name, address and phone number, and ask your attorney to write us confirming such representation.

Investigative Materials Request

Title: Penny Smith v. Dime Grocers

The following information is required for the investigation of the above-captioned complaint to be supplied to the Commission by the Respondent. This information is necessary for a complete and thorough investigation and will be greatly appreciated.

The information and materials being requested are not inclusive and additional information may be requested in the course of the investigation.

If for any reason the information requested cannot or will not be provided, please make a written statement giving the reasons.

Requested Materials are listed below

1. Documentation necessary to ascertain relevant information regarding the employment of the Complainant, to include:

    a. Date of hire.
    b. Current and former job titles.

2. A copy of any policies or procedures which the Respondent believes may be applicable.

3. A written response to the Complainant's allegations, being as specific as possible. Please also provide relevant supporting documentation to substantiate your response.

4. If there is any reason why you are not liable for the stated allegations, or if you believe there is another party, or parties, which you believe are partially or wholly responsible other than yourself, please provide that information.

If the Complaint Alleges Harassment and/or Sexual Harassment

1. A copy of the Respondent’s harassment and/or sexual harassment policy.

2. A copy of the Complainant’s acknowledgement or receipt of the Respondent’s harassment and/or sexual harassment policy.

3. A copy of any policies or procedures which the Respondent believes may be applicable.

4. A written response to the Complainant's allegations, being as specific as possible. Please also provide relevant supporting documentation to substantiate your response.

5. If there is any reason why you are not liable for the stated allegations, or if you believe there is another party, or parties, which you believe are partially or wholly responsible other than yourself, please provide that information.

If the Complaint Alleges Denial of Hiring

1. A copy of any policies or procedures which the Respondent believes may be applicable.

2. A written response to the Complainant’s allegations, being as specific as possible. Please provide any relevant supporting documentation to substantiate your response.

3. If there is any reason why you are not liable for the stated allegations, or if you believe there is another party, or parties, which you believe are partially or wholly responsible other than yourself, please provide that information.

Investigative Materials Request

(continued)

4. Documentation necessary to ascertain whether the Complainant applied for the alleged position, to include application and materials submitted, date materials were submitted, whether the Complainant was interviewed and date of interview.

5. A copy of the position description for which the complainant applied, if applicable.

6. Copies of the application(s) of the person(s) hired for the position in question.

7. An explanation of why the Complainant was not chosen for the position, to include supplemental materials if applicable.

8. Documentation necessary to ascertain who was chosen for the position, to include:

    a. Selected applicant's name.
    b. Date of hire.
    c. Position awarded.
    d. Qualifications of successful applicant.
    e. Selected applicant's Age, Ancestry, Color, Disability, Genetic Information, National Origin, Race, Religion, and Sex (gender, pregnancy, LGBTQ+ and all derivatives of sex). Please read the complaint to see which Protected Basis is/are selected and provide data for those selection(s).

If the Complaint Alleges Denial of Promotion

1. A copy of any policies or procedures which the Respondent believes may be applicable.

2. A written response to the Complainant's allegations, being as specific as possible. Please provide any relevant supporting documentation to substantiate your response.

3. If there is any reason why you are not liable for the stated allegations, or if you believe there is another party, or parties, which you believe are partially or wholly responsible other than yourself, please provide that information.

4. Documentation necessary to ascertain whether other employees have been denied promotional opportunities for similar reason in the same time frame who are of similar job classification, to include:

    a. Employee(s) name(s).
    b. Employee(s) job title(s).
    c. Position awarded.
    d. Employee(s) Age, Ancestry, Color, Disability, Genetic Information, National Origin, Race, Religion, and Sex (gender, pregnancy, LGBTQ+ and all derivatives of sex). Please read the complaint to see which Protected Basis is/are selected and provide data for those selection(s).

If the Complaint Alleges Termination

1. A copy of any policies or procedures which the Respondent believes may be applicable.

2. A written response to the Complainant's allegations, being as specific as possible. Please provide any relevant supporting documentation to substantiate your response.

3. If there is any reason why you are not liable for the stated allegations, or if you believe there is another party, or parties, which you believe are partially or wholly responsible other than yourself, please provide that information.

4. Documentation necessary to ascertain relevant information regarding the employment of the Complainant, to include:

    a. Current and former job titles/position descriptions.
    b. Disciplinary actions up to and including termination.

Investigative Materials Request

(continued)

5. Documentation necessary to ascertain whether during the same time frame, any employees in a job classification similar to that of Complainant were not terminated despite having engaged in similar conduct or performance for which the Complainant was terminated.

6. Documentation necessary to ascertain whether other employees have been terminated for similar reasons in the same time frame who are of similar job classification, to include:

    a. Name(s).
    b. Job Title(s).
    c. Date and reason for termination(s).
    d. Employee(s) Age, Ancestry, Color, Disability, Genetic Information, National Origin, Race, Religion, and Sex (gender, pregnancy, LGBTQ+ and all derivatives of sex). Please read the complaint to see which Protected Basis is/are selected and provide data for those selection(s).
    e. Indicate whether employee(s) complained of discrimination based on Age, Ancestry, Color, Disability, Genetic Information, National Origin, Race, Religion, and Sex (gender, pregnancy, LGBTQ+ and all derivatives of sex).

RESPONDENT QUESTIONS
GENERAL BACKGROUND

1. What is the full legal name of the Respondent?

2. Doing business as? (Give the full name currently used.

3. What is the Respondent's business? Describe the Respondent's service or product.

4. If there are two or more Respondent's named in the complaint, how is each Respondent related to the other(s)?

5. Please indicate how many employees you employ. ____ 4 or more _____ 15 or more ___ 20 or more.

6. Provide documentation to support the number of employees during the time period in question. For example: EEO Reports/payroll records, etc.

7. If there is a collective bargaining contract, please send copies of the applicable items pertinent to the Complainant's situation.

8. Does the respondent have liability insurance? _____Yes _____No If yes, provide Name, Address and Phone number.

9. Respondent's email address.

Midland Mediation & Settlement Services
712 S. Kansas Ave., Suite 400
Topeka, KS 66606
Phone: (785) 232-5348 Fax: (785) 233-5932
Email: midlandmediation@klsinc.org

Kansas Human Rights Commission
900 S.W. Jackson St., Suite 568-S
Topeka, KS 66612
Phone: (785) 296-3206 Fax: (785) 2960589
Email: khrc@ks.gov

Notice of Voluntary Mediation of Complaints

As a party to a complaint filed with the Kansas Human Rights Commission (KHRC), you will be notified within approximately the next 14 days by a representative of Kansas Legal Services, Inc. or Midland Mediation Services, Inc. and asked to consider participating in a voluntary mediation, in an attempt to resolve the matters in the complaint through third-party mediation. They will explain the procedure in detail and you may decide whether or not to participate.

What Mediation Is

Mediation is an informal and confidential way to resolve disputes with the help of a neutral mediator who is trained to help people discuss their differences. The mediator does not decide who is right or wrong or issue a decision. Instead, the mediator helps the parties work out their own solutions to problems.

It gives the parties the opportunity to discuss the issues raised in the complaint, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement, and ultimately, incorporate those areas of agreement into solutions.

Benefits of Mediation

One of the greatest benefits of mediation is that it allows people to resolve the complaint in a cooperative manner and in ways that meet their own unique needs. A complaint can be resolved faster through mediation. Mediation is fair, efficient, and can help the parties avoid a lengthy investigation and litigation.

- *Free*
- *Fair and Neutral*
- *Saves Time and Money*
- *Confidential*
- *Avoids Investigation and Litigation*
- *Fosters Cooperation*
- *Improves Communications*
- *Discover the Real Issues in Your Workplace*
- *Create a Solution Mutually Beneficial to both Parties*
- *Everyone Wins*

This program is an alternative to the investigation and procedures available through KHRC. Parties who attempt mediation through this program often have been able to resolve the complaint quickly. The mediators do not charge any fee to the parties. The program is completely voluntary and if either party does not want to participate, or if mediation is attempted but does not resolve the complaint, KHRC will follow its established procedures to process and investigate the complaint.

The parties are in no way penalized by KHRC for deciding not to participate in the mediation process or if their participation in the mediation process do not achieve a settlement. If the parties decline to mediate the complaint, KHRC will be so notified by the mediators and will begin its further processing and investigation of the complaint.

RETALIATION
IS UNLAWFUL

This is to respectfully remind you that the Kansas law prohibits any form of retaliation against any person because that person has filed a complaint, testified or assisted in any proceeding under the Act. K.S.A. 44-1009(a) (4) reads as follows:

> It shall be an unlawful employment practice for any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this Act or because such person has filed a complaint, testified or assisted in any proceeding under this Act.

Thank you for your attention to this information. If you have any questions or wish any further information, please contact the Commission in Topeka at 785-296-3206 or the Wichita office at 316-337-6270.

Notification
of
Voluntary Mediation Program

(Kansas Legal Services/
Midland Mediation)

Midland Mediation & Settlement Services

Topeka · Wichita · Kansas City

712 S. Kansas Ave., Suite 400
Topeka, Kansas 66603
Phone (785) 232-5348
Fax (785) 233-5932

April 4, 2026

Dime Grocers,
Human Resources Director
456 Quarter Street,
Anytown, KS

Re: Smith vs. Dime Grocers
KHRC # 12345-26

Dear Human Resources Director

You have recently been informed that a complaint was filed against you stating that your company has violated the Kansas Act Against Discrimination. Our office is working with the Kansas Human Rights Commission and is offering mediation as a means to resolve discrimination complaints. The referrals come to us directly from the Kansas Human Rights Commission. Our office is involved in these cases only as a mediator, not as a lawyer for either side.

You have the opportunity to meet with the Complainant, **Penny Smith** and a mediator to try and resolve this dispute. There is no charge to either party for this mediation service. Your participation in the process is strictly voluntary. There are important reasons for trying to mediate this dispute.

First, you have the chance to talk about this in an informal setting. Listening to the Complainant tell you how they were treated and why they believe that this was unlawful discrimination can be very helpful. You also have the chance to tell the Complainant why they were treated the way that they were. You may decide, after talking, that the Complainant was treated illegally and that you need to work with them to try to resolve the problem. On the other hand, they may decide that no discrimination occurred and dismiss the case.

Second, this mediation can happen quickly. Because of the large number of cases in the system, the time it takes to get your case investigated by the Kansas Human Rights Commission can be from 6 to 8 months. It is difficult to have this problem remain unresolved for that long.

Third, the process of mediation can have surprising results. Some types of discrimination can be resolved with education. Simply talking and educating each other can, perhaps, lead to a solution to this problem. Mediation involves a person, specially trained in dispute resolution, who talks to both you and the Complainant. The mediator's only goal is to help facilitate the resolution of your dispute.

We are prepared to provide a mediator and place for the mediation to occur in a timely manner. We must have a determination from both parties within 60 days from the date of the KHRC notice of voluntary mediation in order to provide mediation. If you are represented by an attorney, you may wish to discuss this with your attorney, before deciding how to proceed. If you are interested in trying to mediate this dispute, please call me at **785-232-5348**. If we do not hear from you, we will contact you for your answer.

Sincerely,

Randy Hoerschgen
Mediator

Enclosure

Summary of Select Items from Dime Grocers' Response

In addition to fully responding to the initial materials request, Dime Grocers provided information specific to the allegations of the complaint.

Ms. Smith alleged that she was sexually harassed by a co-worker, she complained to management, but nothing was done. Dime Grocers submitted a copy of the Human Resource Officer's internal investigation of Ms. Smith's sexual harassment complaint, including copies of Ms. Smith's internal complaint, written summaries of the Human Resource Officer's interviews with Ms. Smith, the alleged harasser, and co-workers who might have witnessed the alleged sexual harassment. The information submitted concluded that sexual harassment could not be substantiated, but as a proactive measure, the alleged harasser was asked to re-acknowledge the anti-harassment policy and receive harassment training. A copy of the anti-harassment policy and complaint procedure were also submitted.

Ms. Smith alleged that she was terminated for three "no calls, no shows", whereas male co-workers with the same infractions were not terminated and her termination was in retaliation for complaining about alleged sexual harassment. Dime Grocers submitted a copy of their attendance policy, which was signed by Ms. Smith. They also submitted copies of e-mails sent to Ms. Smith explaining that each incident was being counted against the limit of three "no calls, no shows" and warnings that if three were reached, Ms. Smith would be terminated. Some of the e-mails sent to Ms. Smith were sent to her prior to her internal complaint of sexual harassment. Dime Grocers also submitted a list of employees terminated for the last six months for violation of the three "no calls, no shows" policy. The list was denoted to show that 55% of the terminations were male employees, and 45% were female employees. The list also showed that no other terminated employees complained of harassment prior to their termination.

A review of the alleged sexual harassment by a KHRC Investigator showed that the alleged behavior did not meet the threshold for "harassment".

Dime Grocers demonstrated "reasonable care" to prevent and promptly correct harassment. Dime Grocers also substantiated their legitimate, non-discriminatory reasons for Ms. Smith's termination.

Effective Position Statements

When a charge of discrimination is filed with the EEOC, the agency has the authority to investigate to determine whether there is a reasonable cause to believe discrimination occurred. EEOC will ask both the Charging Party and the Respondent to provide information as part of its investigation. EEOC may request specific documents, information, or interviews from the Respondent concerning the charge. In most cases, EEOC requests that the Respondent submit a statement of its position (known as a "position statement") with supporting documentation. The purpose of this document is to explain how Respondents can draft effective position statements.

What should a position statement include?

Fact-Based Position Statement

In general, a position statement should include **specific, factual** responses to every allegation of the charge, as well as any other facts which you deem relevant for the EEOC's consideration. The position statement should clearly explain the Respondent's version of the facts and identify the specific documents and witnesses supporting its position. A well drafted position statement can help EEOC accelerate the investigation and limit requests for additional information.

The EEOC encourages you to raise in your position statement any factual or legal defenses that you believe are applicable. The EEOC carefully evaluates any asserted defenses, including those based on religion, status as a Tribal entity or bona fide

private membership club, or other defenses at any time during the EEOC's administrative process.

The EEOC also requests that you submit all documentary evidence you believe is responsive to the allegations of the charge or supports any asserted defenses. If you submit only an advocacy statement, unsupported by documentary evidence, the EEOC may conclude that Respondent has no evidence to support its defense to the allegations of the charge.

Keep the following points in mind as you prepare the response to the charge:

- Address each alleged discriminatory act and your position regarding it and provide evidence, including copies of documents, supporting your position and/or version of the events.
- Provide a description of the Respondent organization; include the organization's legal name and address, the name, address, title, telephone number and email address of the person responsible for responding to the charge, the primary nature of the business, and the number of employees. A staffing or organizational chart is also useful in helping to focus the investigation.
- If the Respondent asserts a defense based on religion, status as a Tribal entity or bona fide private membership club, or other defenses, provide information that will allow the EEOC to evaluate the applicability of the defense.
- Provide any applicable practices, policies, or procedures applicable to the allegations in the charge.
- Identify any individuals other than the Charging Party who have been similarly affected by these practices, policies or procedures; describe the circumstances in which the practices, policies, or procedures have been applied.
- Explain why individuals who were in a similar situation to the Charging Party were not similarly affected.
- Identify individual(s) who made decisions or took action relating to the matter(s) raised in the charge.
- Be specific about date(s), action(s) and location(s) applicable to this case.

- Provide internal investigations of the alleged incidents or grievance hearing reports.
- **Inform the EEOC if the matter has been resolved or can be resolved; if it can be resolved, please indicate your proposal for resolution.**

An effective position statement is clear, concise, complete, and responsive. A position statement that simply denies the allegations without providing your position or supporting information is not sufficient.

The EEOC may also release your position statement and non-confidential attachments to Charging Parties and their representatives and allow them to respond to enable the EEOC to assess the credibility of the information provided by both parties. It is in the Respondent's interest to provide an effective position statement that focuses on the facts and any legal defenses. The EEOC will not release the Charging Party's response, if any, to the Respondent.

Examples of Supporting Evidence

Some ***examples*** of the types of evidence which may be submitted in support of a position statement are:

Example 1: Charging Party alleges sexual harassment:
You may submit statements or affidavits from witnesses with direct knowledge of the alleged events and/or from the alleged harasser responding to the Charging Party's allegations.

Example 2: Charging Party alleges racial discrimination in pay:
You may submit payroll records showing the compensation and race of all employees in positions comparable to Charging Party, criteria for setting pay, and how each employee's pay was determined.

Example 3: Charging Party alleges she was fired because of her age (55 years):
You may submit personnel records documenting the reasons for her termination.

Example 4: Charging Party alleges termination because of pregnancy:
You may submit documentation showing your reason for terminating the Charging Party.

Segregate Confidential Information into Separately Marked Attachments

The position statement should only refer to, but not identify, information that the Respondent asserts is sensitive medical information, or confidential commercial or financial information. If Respondent relies on confidential medical or commercial information in its position statement, it should provide such information in separate attachments to the position statement labeled "Sensitive Medical Information," "Confidential Commercial or Financial Information," or "Trade Secret Information" as applicable. Provide an explanation justifying the confidential nature of the information contained in the attachments. Medical information about the Charging Party must not be deemed sensitive or confidential medical information in relation to the investigation.

Respondent should segregate the following information into separate attachments and designate them as follows:

- Sensitive medical information (except for the Charging Party's medical information).
- Social Security Numbers.
- Confidential commercial or financial information.
- Trade secrets information.
- Non-relevant personally identifiable information of witnesses, comparators, or third parties, for example, social security numbers, dates of birth in non-age cases, home addresses, and personal phone numbers, etc.
- Any reference to other charges filed against the Respondent or to other charging parties, unless the other charges are by the Charging Party.

EEOC will review attachments designated as confidential and consider the justification provided, as the agency will not condone blanket or unsupported assertions of confidentiality.

Provide Your Response by the Due Date

Provide your response within the stated deadline. A brief extension of time **may** be allowed in particular cases, but only when it is clear that you are working with due

diligence to supply all of the necessary information. Evidence of due diligence would include a partial submission of information related to the allegations in the charge.

Requests for an Extension:

If Respondent believes it requires additional time to respond, it must, at the *earliest possible time* in advance of the due date, make a written request for extension, explain why an extension is necessary, and specify the amount of additional time needed to reply. Submitting a written request for extension of time which has not been granted does not relieve Respondent of complying with the deadline.

Upload the Position Statement and Attachments into the Respondent Portal

You can upload your position statement and attachments into the Respondent Portal using the **+ Upload Documents** button. Select the "Position Statement" Document Type and click the **Save Upload** button to send the Position Statement and attachments to EEOC. Once the Position Statement has been submitted, you will not be able to retract it via the Portal.

If you do not submit a position statement or respond to EEOC's requests for information, the EEOC may proceed directly to a determination on the merits of the charge based on the information at its disposal or subpoena specific information related to the allegations in the charge.