

Get In The Know - Protected EEO Activity

LAWS THAT PROHIBIT DISCRIMINATION

The following federal laws protect individuals from discrimination:

RACE, SEX, RELIGION, COLOR, NATIONAL ORIGIN and REPRISAL (Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.); **AGE** (Age Discrimination in Employment Act of 1967); **DISABILITY** (29 U.S.C. § 621 Americans with Disabilities Act of 1990, ADA of 2008, 42 U.S.C. § 12101 and the Rehabilitation Act of 1973 29 U.S.C. § 791); **GENETIC INFORMATION** (Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff et seq.).

WHO CAN ENGAGE IN PROTECTED EEO ACTIVITY?

Any employee, applicant and/or any former employee may engage in EEO activity.

WHAT IS PROTECTED EEO ACTIVITY?

There are 2 categories of protected EEO activity: **PARTICIPATION** in EEO activity and **OPPOSITION** to discrimination.

Examples of Participation in EEO Activity include:

- **Contacting the EEO office;**
- **Filing an informal and/or formal EEO complaint based on 1 of the 9 groups covered by the relevant EEO laws;**
- **Filing a grievance or MSPB complaint where discrimination is alleged;**
- **Representing a complainant, grievant or appellant where discrimination is alleged;**
- **Testifying or giving a written or verbal statement as a witness for any side including bargaining unit or non-bargaining unit employees and management official;**
- **Requesting a reasonable accommodation because of your religious belief (including atheism);**
- **Requesting a reasonable accommodation because of a disability.**

Examples of Opposition to Discrimination include:

- **Opposing discrimination on behalf of yourself (even if you never file an EEO complaint);**
- **Opposing discrimination on behalf of others (even if the individual never files an EEO complaint);**
- **Opposing sexual advances, telling your employer that you intend to file a complaint (even if you never actually file);**
- **Providing written and verbal information regarding your request for a reasonable accommodation or leave because of your disability;**
- **Opposing disparities in pay because of membership in 1 of the 9 protected statuses.**



WHAT IS RETALIATION?

Retaliation is when the Agency takes a materially adverse action against a covered individual.

WHO ARE COVERED INDIVIDUALS PROTECTED FROM RETALIATION?

Employees, former employees and applicants for employment are protected from retaliation for EEO activity.

Representatives, complainants and witnesses in EEOC complaints, or in matters before the MSPB or in arbitration that include an allegation of EEO discrimination are protected from retaliation because of their EEO activity.

Family members or friends of an employee are protected from retaliation when the employer takes an action against the family member or friend in order to retaliate against the employee.

WHAT IS A MATERIALLY ADVERSE ACTION?

A materially adverse action can be a concrete adverse employment action which is an action that changes a term or condition of employment, an action that is work related or an action that does not have a tangible effect on a term or condition of employment that is likely to have a chilling effect in that it would discourage a reasonable person from engaging in EEO activity or opposing discrimination.

WHAT ARE EXAMPLES OF MATERIALLY ADVERSE ACTIONS?

Examples of material adverse actions include: non-selection, demotion, termination, denial of leave, denial of a religious or disability reasonable accommodation, suspension, an admonishment, lowering a performance rating, including negative comments in an evaluation, assigning less desirable work, scrutinizing work product or attendance more closely, taking away responsibilities, threatening or conducting a fitness for duty exam and harassment in retaliation for engaging in protected EEO activity.

HOW CAN AN INDIVIDUAL PROVE RETALIATION?

Relation can be established when a covered individual:

1. Engages in EEO activity or opposes discrimination;
2. The Agency subjects the individual to a materially adverse action/s;
3. The Agency took the materially adverse action/s because of the covered individual's EEO activity.



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