

Equal Employment Opportunity Discriminations (EEO); Harassment Awareness Training

Tuesday, June 28 to Thursday, June 30, 2022

Presenter:
EEO/Title IX Office

EQUAL EMPLOYMENT OPPORTUNITY

To provide for procedures that promulgate equal employment opportunity in employment and prohibit discrimination in employment. It is the policy of the Government of Guam to provide Equal Employment Opportunity (EEO) in all matters of employment based on merits without regard to race, color, sex, religion, age, national origin, marital status, political affiliation and mental/physical disability.

Types of Discriminations

Local Factors

Race

Color

Religion

National Origin

Age

Sex

Physical/Mental Disability

Marital Status

Political Affiliation

Sexual Harassment & Orientation
(sexual orientation i.e. “gay”)

Retaliation

(must be based on complaint filed with EEO)

Federal Factors

Race

Color

Religion

National Origin

Age (>40) Greater from
40+ & up

Sex (gender base)

Disability

Pregnancy

Equal Pay


Sexual Harassment

Retaliation

Federal Equal Employment Opportunity (EEO) Laws

The Federal laws prohibiting job discrimination are:

- ▶ **Title VII of the Civil Rights Act of 1964** (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- ▶ **The Equal Pay Act of 1963** (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- ▶ **The Age Discrimination in Employment Act of 1967** (ADEA), which protects individuals who are 40 years of age or older;



Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;

Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government; and

the **Civil Rights Act of 1991**, which, among other things, provides monetary damages in cases of intentional employment discrimination.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces all of these laws. EEOC also provides oversight and coordination of all federal equal employment opportunity regulations, practices, and policies.

Other federal laws, not enforced by EEOC, also prohibit discrimination and reprisal against federal employees and applicants. **The Civil Service Reform Act of 1978 (CSRA)** contains a number of prohibitions, known as prohibited personnel practices, which are designed to promote overall fairness in federal personnel actions. 5 U.S.C. 2302. The CSRA prohibits any employee who has authority to take certain personnel actions from discriminating for or against employees or applicants for employment on the bases of **race, color, national origin, religion, sex, age or disability.**

It also provides that certain personnel actions cannot be based on attributes or conduct that do not adversely affect employee performance, such as **marital status and political affiliation**. The Office of Personnel Management (OPM) has interpreted the **prohibition of discrimination based on conduct to include discrimination based on sexual orientation**. The CSRA also prohibits **reprisal against federal employees or applicants for whistle-blowing, or for exercising an appeal, complaint, or grievance right**. The CSRA is enforced by both the **Office of Special Counsel (OSC)** and the **Merit Systems Protection Board (MSPB)**.

In addition to Title VII of the Civil Rights Act of 1964, the EEOC enforces the Age Discrimination in Employment Act; the Equal Pay Act; Title I of the Americans with Disabilities Act, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments; the Rehabilitation Act of 1973's prohibitions

against disability discrimination in the federal government; and sections of the Civil Rights Act of 1991, which, among other purposes, provides for monetary damages in cases of intentional employment discrimination.

Laws Enforced by EEOC

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

This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

The Pregnancy Discrimination Act

This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The Equal Pay Act of 1963 (EPA)

This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.




The Age Discrimination in Employment Act of 1967 (ADEA)

This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Title I of the Americans with Disabilities Act of 1990 (ADA)

This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.



The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

Sections 102 and 103 of the Civil Rights Act of 1991

Among other things, this law amends Title VII and the ADA to permit jury trials and compensatory and punitive damage awards in intentional discrimination cases.

Sections 501 and 505 of the Rehabilitation Act of 1973

This law makes it illegal to discriminate against a qualified person with a disability in the federal government. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

The Genetic Information Nondiscrimination Act of 2008 **(GINA) *Effective - November 21, 2009***

This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.



Nondiscrimination Statement ADA/504 Notification

No person in the United States shall, on the basis of sex, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal assistance.

Title IX of the Education Amendments of 1972

Any programs operated by an educational entity that receives federal funds must place their statement of Non-discrimination in all official publications advertising its services or programs.

Harassment


It is illegal to harass an employee because of race, color, religion, sex (including pregnancy, national origin, age (40 or older), disability, genetic information (GINA) or a person who is in transition (transgender – new EEO charge)

Harassment can take the form of slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct.

Harassment outside of the workplace may also be illegal if there is a link with the workplace. For example, if a supervisor harasses an employee while driving the employee to a meeting.

Return-to-Work Issues

Now is the time to review your return-to-work policies and practices for employees on leave. They need to be integrated without regard to the reason that prompted leave.



Otherwise, you may find yourself focusing too narrowly on the FMLA, workers' compensation statutes or disability discrimination laws without considering the interplay between all of them.

Treating workers differently depending on the reason for their absence opens the possibility of a disability discrimination claim. It's sure to attract the attention of the EEOC, which has been aggressively pursuing such cases.

Consider an employer that allows job-injured workers to return to light-duty positions but doesn't offer that option to disabled workers or those injured off the job. To successfully defend such a policy in a dispute, the employer would have to establish a legitimate business reason for it. For example, it might be able to show that high workers' comp costs justified light-duty work for those injured on the job, but not for others.

Every type of employee leave is different. Some leave requests involve difficult personal issues, while others can cause workplace morale problems. Plus, every state has different leave laws.

Light duty vs. reasonable accommodations - Don't confuse light duty with reasonable accommodations. Often, "light duty" simply means a less physically demanding job than the one an employee held before a leave began.

Light duty might be one reasonable accommodation for a disabled worker.

But reasonable accommodations can take many forms, including returning an employee to her original job with assistance from a co-worker or adaptive technology that helps the employee perform essential job functions. Reasonable accommodations might also mean modifying a policy, perhaps temporarily, if it would enable an employee to return to work.

Contacts:

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- **US Equal Employment Opportunity Commission (EEOC)**
For information & publications call toll-free number at 1-800-669-4000 (voice) TDD: 1-800-669-6820
Website: www.eeoc.gov
EEO Guam region office: 1-808-541-3120 Honolulu
- **US Department of Labor, Office of Disability Employment Policy**
Website: www.dol.gov

- US EEOC/Department of Labor – Guam Department of Labor office: GCIC building - 4th Floor
Email address: <http://www.labor.gov.gu>
Contact person: Jeffrey Sablan
Tel: 1-671-475-7049/300-4613
Email address: jeffrey.sablan@dol.guam.gov

- Local filing of EEO complaint (Department of Administration – DOA office 2nd floor ITC building in
Email address: www.doa.guam.gov
Contact person: Robert Taitano
Telephone: 475-1294/1138
Email address: robert.taitano@doa.guam.gov

Job Accommodation Network

(a free service of the US Department of Labor)

Toll-free number: 1-800-526-7234 in the United States (or call 1-800-ADA-WORK)

TTY: 1-877-781-9403 in the United States 1-304-293-7186

Worldwide. Calls are answered from 9 a.m. to 6 p.m. Eastern Time, Mon. through Fri. Machines answer after-hours calls.

Web site: www.jan.wvu.edu

Office on the Americans with Disabilities Act

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Civil Rights Division Disability Rights Section - NYAV

Washington, D.C. 20530

Toll-free number: 1-800-514-0301 (voice)

TTY: 1-800-514-0383

Fax: 1-202-307-1198

Website: www.ada.gov