



EEO & You

Your Rights, Responsibilities, and Resources



Office of Equity Assurance and Compliance

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EEO Federal & State Laws

Laws that protect employees and applicants for State employment:

MD Annotated Code

State Personnel & Pensions (SPP) Article

- **§2-302** – prohibits discriminatory employment decisions on the basis of age, ancestry, color, creed, gender identity, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, or sexual orientation.
- **Title 5, Subtitle 2** – establishes State EEO program and procedures for filing complaints of unfair employment decisions.
- **Title 5, Subtitle 3** – prohibits reprisal against whistleblowers.

Governor's Executive Order 01.01.2007.16 – Code of Fair Employment Practices recognizes the State's commitment to fair employment practices and establishes zero-tolerance for discrimination, retaliation, and harassment, which includes sexual orientation, genetic information, and gender identity and expression.

State Government Article, Title 20 – Maryland Commission on Civil Rights (MCCR) guarantees equal employment opportunities regardless of age, ancestry, color, disability, gender identity, genetic information, marital status, national origin, pregnancy, race, religion, sex, and sexual orientation. MCCR's Office of General Counsel has the authority to bring action in court and at the Office of Administrative Hearings to enforce non-discrimination laws.

Civil Rights Act of 1964 (Title VII) – Federal law that prohibits employment discrimination on the basis of race, color, religion, sex, and national origin, including retaliation, and sexual orientation. Title VII also protects individuals from discrimination in compensation, prohibits discrimination based on pregnancy, and may require an employer to accommodate an individual's religious observances and practices.

Civil Rights Act of 1991 – Authorizes monetary damages in cases of intentional employment discrimination and harassment. Complainants also have the right to a jury trial.

Genetic Information Non-discrimination Act of 2008 – Prohibits discrimination in employment based on genetic information. Genetic information includes information about an individual's genetic tests, genetic tests of a family member, and family medical history.

Americans with Disabilities Act (ADA) and ADAAA – Prohibits discrimination in employment on the basis of disability. Employers must provide workplace accommodations to employees and applicants who meet the requirements for coverage under the Act, unless doing so would impose an undue hardship on operations.

Age Discrimination in Employment Act (ADEA) – Prohibits employers from discrimination against employees age 40 and over.

Equal Pay Act of 1963 – Prohibits discrimination in pay on the basis of gender, and prohibits retaliation against a person who complains of discrimination, files a charge or participates in an investigation of a complaint.

What is Discrimination?

Discrimination is when one distinguishes or differentiates between people on the basis of a person's membership in a protected group or association with a person who is a member of a protected group. In the context of employment, discrimination may occur in many aspects of employment decisions such as:

- Hiring & Firing
- Compensation
- Assignment
- Classification
- Transfer
- Promotion
- Layoff/Recall
- Job Announcements
- Recruitments
- Use of agency facilities
- Training
- Fringe benefits
- Evaluations
- Discipline
- Disability leave
- Testing

Basic Theories of Discrimination

Disparate Impact – occurs when a system, policy or practice (such as promotional process or recruitment) appears and is intended to treat all persons equally, but has the effect of harming or disadvantaging persons who are in a protected group. A discriminatory intent is not necessary. The focus is on the adverse consequences of the employment practice(s). A violation is when individuals claim that they were treated differently because of their race, color, sex, age, national origin, religion, disability, or any other non-merit factor. This claim usually follows some form of personnel action.

Disparate Treatment – occurs when an individual is treated less favorably than others because of his/her membership in a protected group or association with a person in a protected group. Discrimination is intentional.

Examples of disparate treatment:

Sexual Harassment: unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature (1) when submission to such conduct is made a term or condition of a person's employment; (2) when submission or rejection of the conduct is used as a basis for an employment decision; or (3) when such conduct has

the purpose or effect of interfering with an individual's work performance or creating a hostile work environment.

Hostile Work Environment: a workplace where discriminatory intimidation, ridicule and/or insult are so severe or pervasive that the conditions of an individual's employment are altered to the point of creating an abusive working environment. Harassment on the basis of membership in any protected group (race, religion, disability, etc.) can create a hostile work environment.

Reprisal/Retaliation: an employer's adverse action against an employee or applicant because he/she has opposed an unlawful employment practice, has made a charge of discrimination, or has testified, assisted or participated in an investigation, proceeding or hearing involving prohibited employment practices.

Protected Classifications/Groups

Age – federal law prohibits discrimination against a person 40 and over; Maryland law prohibition is not limited to 40 and over.

Ancestry – relates to one's ancestors (from whom one is descended) including birthplace, ethnicity, and lineage.

Color – refers to the actual color or shade of the skin.

Creed – sincere and meaningful beliefs one has in place of traditional religion that include moral and ethical beliefs of right and wrong or about life, purpose, and death.

Disability – physical or mental impairment that substantially limits the ability of an individual to perform a major life activity.

Gender Identity/Expression – an individual's gender-related identity, appearance, expression or behavior regardless of the individual's assigned sex at birth.

Genetic Information – information about an individual's genetic tests and those of the family members, including family medical history, where information may be used to determine whether an individual has an increased risk of developing a disease or disorder.

Marital Status – single, married, divorced, widowed, etc. and may pertain to opposite or same sex individuals.

National Origin – an individual's country of origin. Unfair treatment can be based on name, accent, or expression of cultural heritage.

Race – group of people united by a common history, nationality, or tradition; may include personal characteristics associated with race, such as hair texture, skin color, or facial features.

Religion – persons belonging to traditional organized religious groups and those with sincerely held religious, ethical, or moral beliefs.

Sex – biological identity as male or female. Discrimination on the basis of sex may involve sexual harassment, gender stereotyping regarding employment decisions, and failure to conform to sexual stereotypes.

Sexual Orientation – pertains to the sexual preference of a person, e.g. heterosexual, homosexual, bisexual, etc.

Your Rights

A person, who believes he/she has been discriminated against because of the aforementioned discrimination bases or believes he/she has been subjected to retaliation for participation in a protected EEO activity or opposing unlawful practices, has the right to:

- Initiate a meeting to discuss a matter with your EEO official and seek EEO counseling;
- Remain anonymous during the counseling period;
- Request to participate in the Shared Neutrals Mediation Program during any stage of the complaint process;
- Obtain representation by an attorney or other advisor of your choice at any stage of the EEO complaint process;
- Pursue an allegation of employment discrimination under either the EEO complaint procedures or the grievance procedure in SPP Title 12.
- Be informed of other venues to complain: Maryland Commission on Civil Rights (MCCR), Equal Employment Opportunity Commission (EEOC), and/or State and local court systems;
- File a written complaint.

Information obtained from individuals during the counseling period may or may not remain confidential; however, information and anonymity will be revealed to the employer when a complaint is filed.

Your Responsibilities

To assist in the complaint process, you have the responsibility to:

- Identify specifically the incident(s) or action(s) that led to the complaint;
- Follow the timetable prescribed in the complaint process;
- Cooperate fully with investigating officials;
- Maintain confidentiality about witnesses who have provided statements, testimony, or documentation about the complaint;
- Follow all workplace rules and do your job.

Complaint and Appeal Process

An employee who feels he/she has been a victim of discrimination has a number of options for pursuing a complaint. Whether a complaint is filed internally with the Equity Assurance and Compliance Office, or externally (through MCCR or EEOC) the employee should be aware of the deadlines:

A complaint filed internally, under the SPP Article:

- Must be filed in writing;
- Must be filed with the head of the principal unit or the Equity Assurance and Compliance Office;
- Must be filed within 30 days after the employee knew or reasonably should have known of the alleged violation.

After the complaint has been received:

- Within 30 days, the EEO Officer shall investigate the complaint and make a recommendation to the head of the principal unit;
- The head of the principal unit or designee shall issue a written decision to the complainant, and may grant any appropriate relief;
- The decision may be a dismissal of the complaint;
- A decision may be appealed to the Office of the Statewide EEO Coordinator in writing and filed within 10 days after receiving a decision;
- The Statewide EEO Coordinator shall review both the complaint and decision, conduct any necessary investigation, and shall issue a final decision within 30 days. The decision may grant an appropriate relief to the complainant or dismiss the complaint.

Your Resources

If you believe you have cause for a complaint, please contact the Office of Equity Assurance and Compliance.

*The office is located on the 6th floor of the Nancy S. Grasmick Education Building
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Statewide EEO Coordinator's Office

301 W. Preston Street, Suite 607
Baltimore, MD 21201
410-767-3800
www.dbm.maryland.gov/eeo

Maryland Commission on Civil Rights (MCCR)

6 St. Paul Street, Suite 900
Baltimore, MD 21202
410-767-8600

Equal Employment Opportunity Commission (EEOC)

10 S. Howard Street, 3rd Floor
Baltimore, MD 21201
410-962-3932

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