



## HR News Alerts

### EEOC Issues Final Enforcement Guidance on Retaliation and Related Issues

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The U.S. Equal Employment Opportunity Commission (EEOC) has issued final Enforcement Guidance on [retaliation and related issues](#).

#### Background

Federal equal employment opportunity (EEO) laws prohibit employers, employment agencies, or unions from punishing job applicants or employees for asserting their rights to be free from employment discrimination, including harassment.

- Asserting EEO rights is called "protected activity."
- Sometimes there is retaliation before any "protected activity" occurs. For example, an employment policy that discourages the exercise of EEO rights could itself be unlawful.

Protected actions can take many forms, ranging from participating in an EEO complaint process to reasonably opposing discrimination. For example, it is unlawful to retaliate against applicants or employees for (among other things) taking part in an internal or external investigation of employment discrimination, including harassment; filing or being a witness in a charge, complaint, or lawsuit alleging discrimination; or for communicating with a supervisor or manager about employment discrimination, including harassment.

#### New Guidance

The final Enforcement Guidance addresses retaliation under each of the statutes enforced by the EEOC, including Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), Title V of the Americans with Disabilities Act (ADA), the Equal Pay Act (EPA) and Title II of the Genetic Information Nondiscrimination Act (GINA). Topics explained in the new guidance include:

- The scope of employee activity protected by the law.
- Legal analysis to be used to determine if evidence supports a claim of retaliation.
- Remedies available for retaliation.
- Rules against interference with the exercise of rights under the ADA.
- Detailed examples of employer actions that may constitute retaliation.

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