

Protected Groups continued...

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

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

Your Rights

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

- Initiate informal meeting procedures by discussing a matter with an EEO official and seeking EEO counseling;
- May 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: Maryland Commission on Civil Rights, Equal Employment Opportunity Commission, 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.

Complaint & Appeal Process

An employee who feels s/he has been a victim of discrimination has a number of options for pursuing a complaint. Whether a complaint is filed internally with DBM or externally (through EEOC or MCCR) 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 EEO Officer;
- 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

Statewide EEO Coordinator's Office

301 W. Preston St. Suite 607
Baltimore, MD 21201
(410) 767-3800/www.dbm.maryland.gov/eoo

Maryland Commission on Civil Rights (MCCR)

6 St. Paul Street, Suite 900
Baltimore, MD 21202
(410) 767-8600/mccr.maryland.gov

Equal Employment Opportunity Commission (EEOC)

10 S. Howard Street, 3rd Floor
Baltimore, MD 21201
(410) 962-3932/www.eeoc.gov

It is the policy of Maryland State government to comply with all applicable federal and State laws prohibiting employment discrimination and to provide equal opportunity to all employees and applicants for employment without regard to a person's age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation or any other protected status.

All personnel actions including, but not limited to, hiring, promotion, transfer, terminations, and all other terms and conditions of employment are administered without regard to any of the above listed protected status categories.

If you believe you have cause for a complaint, please contact:

Your agency
EEO Officer



David R. Brinkley, Secretary, DBM

**Glynis Watford
Statewide EEO Coordinator**



EEO & You

YOUR RIGHTS, RESPONSIBILITIES, & RESOURCES

Department of Budget & Management
Office of the Statewide EEO
Coordinator
301 W. Preston Street, Room 607
Baltimore, MD 21201

Telephone: 410-767-3800

Fax: 410-333-5004

www.dbm.maryland.gov/eoo

EQUAL EMPLOYMENT OPPORTUNITY & YOU

EEO Federal & State Laws

Laws that protect employees and applicants for State employment:

MD Annotated Code

State Personnel and 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 race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, physical or mental disability, gender identity or genetic information and pregnancy. 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 harassment. 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.

Genetic Information Nondiscrimination Act of 2008

Federal law 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) & ADAAA

Federal law that 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)

Federal law that prohibits employers from discrimination against employees age 40 and over.

Equal Pay Act of 1963

Federal law that 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 content of employment, discrimination may occur in many aspects of employment decisions, such as:

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

Basic Theories of Discrimination

Disparate Impact occurs when a system, policy or practice (such as promotional process or recruitment/testing) 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 practices. A violation is when individuals claim that they were treated differently because of their race, color, sex, age, nationality, religion, disability, or any other non-merit factor. This claim usually follows some form of personnel action.

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

The following are some types of disparate treatment:

Sexual Harassment: refers to 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, etc.) can create a hostile work environment.

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

Protected Groups

Age: Federal law prohibits age discrimination against

person over the age of 40; under MD law, the protection against age discrimination is not limited to person over age 40.

Ancestry: relating to one's ancestors (person's from whom one is descended) including birthplace, ethnicity, lineage.

Color: refers to the actual color or shade of 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, including a record of a disability or perceived disability.

Gender Identity/Expression: generally pertains to 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.

Genetic Test: laboratory tests of human genes and chromosomes used to identify the presence or absence of hereditary or inherited alterations in genetic material associated with disease or illness.

Marital Status: includes single, married, divorced, and widowed; may pertain to opposite-sex or same-sex.

National Origin: an individual's country of origin; may include unfair treatment based on name, accent, or expression of cultural heritage.

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

Religion: includes persons who belong to traditional organized religious groups and those with sincerely-held religious, ethical or moral beliefs.