

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

ADM 2310.7A
August 15, 2023

GSA ORDER

SUBJECT: General Services Administration (GSA or Agency) Policy on Equal Employment Opportunity (EEO)

1. Purpose. This directive defines and prescribes GSA's policy on equal employment opportunity (EEO). This Policy supports GSA's commitment to provide a workplace free of discrimination, harassment and retaliation in accordance with all federal civil rights laws, executive orders, regulations, policies, and guidance.
2. Background. GSA's goal is to prevent and address workplace discrimination, harassment, and retaliation in order to create and maintain a fair and equitable workplace where all GSA employees, former employees, and applicants for employment have equal employment opportunities.
3. Responsibilities.
 - a. The Associate Administrator for GSA's Office of Civil Rights (OCR) is responsible for developing and disseminating this policy. The processing and resolution of EEO complaints are the responsibility of OCR. OCR is responsible for managing GSA's nationwide civil rights programs.
 - b. The processing and prospective resolution of harassment allegations (outside of the EEO context) are the responsibility of the Office of Human Resources Management (OHRM). OHRM is responsible for managing GSA's nationwide human capital programs.
 - c. GSA executives, managers, supervisors, and employees share the responsibility for creating and maintaining a workplace that is free from discrimination, harassment, and retaliation, and in which all employees, former employees, and applicants for employment have a fair and equitable work environment which promotes equal opportunity.

4. Scope and Applicability. EEO covers the broad spectrum of GSA's personnel and employment programs as well as management practices and decisions including, but not limited to:
 - a. Recruitment;
 - b. Hiring;
 - c. Merit promotion;
 - d. Transfer;
 - e. Reassignments;
 - f. Training and career development;
 - g. Benefits; and
 - h. Separation.

This order applies to all GSA employees, former employees, and applicants for employment with GSA, with the following exceptions:

- a. The Office of the Inspector General. The Office of Inspector General (OIG) has independent personnel authority. See GSA Order ADM P 5450.39D GSA Delegations of Authority Manual (Delegations Manual), Chapter 2, Part 1 ("the Inspector General has independent authority to formulate policies and make determinations concerning human capital issues within the [OIG]" and GSA determinations/delegations do not limit that authority). Similarly, GSA specifically recognizes that the Inspector General has independent authority to formulate policies and make determinations concerning training, employee development, and career management; and
 - b. This policy applies to personnel of the Civilian Board of Contract Appeals (CBCA) only to the extent that the CBCA determines it is consistent with the CBCA's independent authority under the Contract Disputes Act and it does not conflict with other CBCA policies or the CBCA mission.
5. Cancellation. This Order cancels and supersedes ADM 2310.7, issued on December 18, 2015.
 6. Summary of Changes. This order is updated to include:
 - a. a summary of the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act) and its reporting requirements;
 - b. a summary of The Elijah E. Cummings Federal Employee Anti-Harassment Act of 2020 (Cummings Act) and new posting and disciplinary reporting requirements;

- c. an explanation of the distinction between GSA's two harassment processes and how to pursue a harassment complaint through both processes;
 - d. language on the possible consequences of not cooperating with the EEO process;
 - e. updated information on optional processes for filing sexual orientation and gender identity complaints;
 - f. added language on related processes for various types of complaints; and
 - g. hyperlinks to relevant EEO laws, executive orders, relevant GSA policies, and OCR's resources, such as the Civil Rights Handbook; and
 - h. two new EEO laws: the Pregnant Worker Fairness Act and the Providing Urgent Maternal Protections in the Workplace Act (PUMP Act).
7. Policy. It is the policy of GSA that all employees, former employees, and applicants for employment with GSA be treated equitably and without regard to race, color, religion, sex (including pregnancy, sexual orientation, gender identity and transgender status), national origin, reprisal, age (40 or older), disability (physical or mental), genetic information, parental status, marital status, and political affiliation in accordance with the applicable federal civil rights laws, regulations, executive orders, policies, and guidance. Additionally, reprisal against anyone who engages in protected EEO activity (e.g., reporting discrimination or harassment, participating in the EEO process, or exercising any rights provided by the civil rights statutes) will not be tolerated at GSA. Moreover, GSA supports employees in exercising their rights under the civil rights statutes. Workplace harassment will not be tolerated. At GSA, we are committed to correcting harassing conduct before it becomes severe or pervasive. Employees found to have unlawfully discriminated against or harassed another as defined by law may be subject to corrective action up to and including removal.
- a. Discriminatory conduct, harassment, or reprisal will not be condoned or tolerated in any form in GSA's programs and activities.
 - b. Employees who are found to have violated this policy may be subject to disciplinary action, up to and including, removal.
 - c. The EEO complaint process is a neutral process in which OCR does not advocate for management, employees, former employees, or applicants for employment. The EEO process is separate from operations and activities under the control of OHRM and GSA's Office of the General Counsel.

8. Sexual orientation or gender identity claims. Individuals who believe they have been discriminated against based on sexual orientation or gender identity may file a complaint through GSA's EEO complaint process. Claims alleging sexual orientation or gender identity will be investigated as claims of sex discrimination. When individuals believe that they have been subjected to a [prohibited personnel practice](#) based on sexual orientation or gender identity, they may also file a claim with the [U.S. Office of Special Counsel](#) (OSC).

Federal applicants for employment, employees, and former employees may file sexual orientation and gender identity discrimination complaints with OCR and with [OSC](#). Complaints filed with OCR will determine if the conduct violated federal workplace discrimination laws. Complaints filed with OSC will determine if the conduct constituted a prohibited personnel practice.

9. Parental status, marital status, or political affiliation claims.
- a. For a claim of discriminatory treatment based on parental status, marital status, or political affiliation, an applicant, employee, or former employee may attempt resolution through the EEO informal process using the traditional EEO counseling process or alternative dispute resolution (ADR). Claims related to parental status, marital status, and political affiliation may not be investigated through the formal EEO complaint process because the laws covering parental status, marital status and political affiliation are not enforced by the U.S. Equal Employment Opportunity Commission (EEOC).
 - b. Additionally, individuals may pursue an investigation of claims related to marital status, and political affiliation with [OSC](#). An appeal of certain employment decisions based on marital status or political affiliation may be submitted to the [U.S. Merit Systems Protection Board](#) (MSPB). If a complaint has been filed with OSC, OSC's decision on the complaint may also be appealed to the MSPB. More information on how to file a prohibited personnel practice complaint based on marital status or political affiliation can be found at [OSC](#).

10. Related Processes.

- a. Mixed Cases. In cases where a personnel action, such as a disciplinary action, is appealable to the MSPB **and** discrimination is alleged, the aggrieved person may elect to file either a mixed-case appeal to the MSPB, which must be filed within 30 days after the effective date of the action being appealed, **or** a mixed-case EEO complaint with OCR, **but not both**.
- b. Whistleblower Cases. In cases where an individual seeks protection from retaliation for disclosing allegations of wrongdoing, or engaging in protected

activity, the individual should contact GSA's Office of Inspector General (OIG) [Hotline](#) or [OSC](#). An individual who appeals an appealable action (such as certain disciplinary actions) to the MSPB may assert a Whistleblower reprisal claim in that appeal.

- c. Age Discrimination Cases. Under the Age Discrimination in Employment Act of 1967, as amended (ADEA), employees, applicants, and former employees may file a civil lawsuit in a United States district court without having to exhaust their administrative remedies through the EEO process. Individuals may also file an age discrimination complaint with OCR in accordance with the procedures in paragraph 12 below.
- d. Negotiated Grievance Procedures. When an employee is covered by a collective bargaining agreement that allows certain allegations of discrimination to be raised in a negotiated grievance procedure, such as GSA's collective bargaining agreements, the employee may choose to file **either** an EEO complaint with OCR, **or** a grievance through the grievance procedure, **but not both**. EEO claims may not be filed under [GSA's Administrative Grievance Procedures](#).

11. Harassment Claims.

- a. GSA's Policy Statement on Harassment, [GSA Policy Statement on Harassment, Including Sexual Harassment](#) ADM 2325.8A, and [Anti-Harassment Procedures in the Workplace](#), 9700.6 HRM CHGE 2, define the policy and procedures GSA follows to address allegations of workplace harassment. The Anti-Harassment Program is administered by GSA's OHRM. Employees who believe that they have been subjected to unwelcome harassing conduct must promptly report the conduct to a supervisor, another management official, or OHRM. Supervisors must immediately report harassment allegations to an Anti-harassment Coordinator. Employees who also wish to pursue a harassment claim through the EEO process must contact OCR within 45 days of the last act of the alleged harassment. Reporting unwelcome harassment to a supervisor, management official, or OHRM does not relieve an individual of the responsibility to file an EEO complaint with OCR within 45 days of the last act of alleged harassment.
- b. If an employee or former employee contacts OCR regarding claims of unlawful harassment, OCR will advise the employee: (1) how to pursue the complaint through the EEO complaint process; (2) of OCR's reporting obligation to GSA's Anti-Harassment Program; and (3) that the confidentiality of the harassment complaint will be protected to the extent possible during the informal stage of the EEO complaint process. Applicants for employment may contact OCR for information on how to pursue a harassment complaint through the EEO process.

Subsequent to the contact, OCR will notify the Anti-Harassment Program of the harassment allegation for appropriate processing.

12. EEO Complaint Procedures and Requirements.

- a. How to file an EEO complaint. An employee (current or former) or applicant for employment with GSA who wishes to initiate an EEO complaint must contact OCR within 45 calendar days of: (1) the date of the incident alleged to be discriminatory or (2) in the case of a personnel action, within 45 calendar days of the effective date of the action. Employees should not wait until an internal GSA inquiry (such as on a harassment claim) is completed to contact OCR if waiting will result in the 45-day time limit expiring. This timeframe may be extended in certain circumstances.
- b. All Federal employees must fully cooperate during the processing of an EEO complaint, which includes providing testimony, information, documentation, and signed statements under oath or affirmation in connection with an EEO investigation or hearing. Failure to provide requested information during the investigative process within the time set by the investigator may result in disciplinary action for a federal employee and may result in sanctions being imposed against the Agency by the EEOC.
- c. An employee may wish to participate in alternative dispute resolution (ADR). If an employee elects to participate in ADR, management is required to participate. However, management may consult with OGC for guidance on requesting an exception to mediation.
- d. Information on filing an EEO complaint. The most efficient way to initiate an EEO complaint is by using eFile (available at insite.gsa.gov/efile). An EEO complaint may also be initiated by contacting OCR by email (eeo@gsa.gov); by phone (202-501-4571) or Speech-to-Speech Relay: 800-898-0740. To file an EEO complaint by mail, contact OCR.
- e. Further information on how to file an EEO complaint, along with information regarding EEO laws, regulations, and policies, and "Frequently Asked Questions" regarding the EEO complaint process are available on OCR's [webpage](#) and [library](#) and on [InSite](#). For comprehensive information about GSA's EEO program and complaint procedures, please refer to the [Civil Rights Handbook](#). Information on the EEOC's enforcement guidance related to employment discrimination may be found at eeoc.gov.

f. Agency Reporting on EEO Complaint Activity and Compliance.

1) The No FEAR Act was enacted to hold Federal agencies accountable for violations of anti-discrimination and whistleblower protection laws. This Act requires each Federal agency to post quarterly on its public website statistical data relating to EEO complaints. GSA posts No FEAR Act data at [the No FEAR Act Library](#). Additionally, GSA reports aggregate complaint activity and compliance annually to the EEOC in the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints and the EEOC's Management Directive 715 Report.

2) In January 2021, the Cummings Act was enacted to amend the No FEAR Act. The Cummings Act requires GSA to post on its public website findings of discrimination and laws that were violated after all appeals have been exhausted. Additionally, when there is a final determination of a finding of discrimination, the agency must submit a report to the EEOC stating whether disciplinary action was proposed against a Federal employee resulting from the finding of discrimination. GSA is required to annotate an employee's official personnel (OPF) folder when disciplinary action has been taken subject to the requirements of [GSA's Order on Maintaining Discipline 9751.1A HRM](#).

13. References.

- [The Equal Pay Act of 1963](#);
- [Title VII](#);
- [The Age Discrimination in Employment Act of 1967, as amended](#);
- [The Rehabilitation Act, as amended](#);
- [The Pregnancy Discrimination Act of 1978](#);
- [Title 29 Code of Federal Regulations Part 1614](#);
- [The Genetic Information Nondiscrimination Act of 2008](#);
- [Civil Service Reform Act of 1978](#) (marital status and political affiliation);
- [Executive Order 13152 Further Amendment to Executive Order 11478, Equal Employment Opportunity in Federal Government](#) (parental status);
- [Executive Order 11478](#) (EEO in the Federal Government);
- [Executive Order 13672 Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government and Executive Order 11246, Equal Employment Opportunity](#) (sexual orientation and gender identity);
- [No FEAR Act of 2002](#);
- [The Cummings Act](#);
- [Pregnant Workers Fairness Act](#);
- [PUMP Act](#);

- [Information on the Pregnant Workers Fairness Act](#); and
- [Maintaining Discipline 9751.1A HRM](#).

14. Signature.

/S/ _____
ROBIN CARNAHAN
Administrator