



## DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

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Policy Memorandum 22-006, Non-retaliation for Protected EEO Activities

Effective Date: March 24, 2022

Point of Contact: Office of Diversity and Equal Opportunity (DEO), [dcsa.eeo@mail.mil](mailto:dcsa.eeo@mail.mil)

Supersedes: Policy Memorandum 20-006, April 6, 2021

Background. All DCSA personnel are entitled to a work environment free from retaliation for participation in protected equal employment opportunity (EEO) activities. DCSA prohibits such retaliation.

Applicability. This guidance applies to DCSA employees and all personnel detailed or assigned to DCSA (e.g., via joint duty assignments and internships).

Policy. EEO laws and regulations prohibit punishing job applicants or employees for asserting their rights to be free from employment discrimination, including harassment. Asserting these EEO rights is called “protected activity,” and it can take many forms. For example, it is unlawful to retaliate against applicants or employees for:

- Filing or being a witness in an EEO charge, complaint, investigation, or lawsuit.
- Communicating with a supervisor or manager about employment discrimination, including harassment.
- Answering questions during an employer investigation of alleged harassment.
- Refusing to follow orders that would result in discrimination.
- Resisting sexual advances, or intervening to protect others from sexual harassment.
- Requesting accommodation of a disability or for a religious practice.
- Asking managers or co-workers about salary information to uncover potentially discriminatory wages.

Participation in the EEO complaint process is protected activity under all circumstances. Other opposition to discrimination is protected as long as the employee was acting on a reasonable belief that something in the workplace may violate EEO laws, even if the employee did not use legal terminology to describe the violation.

Engaging in protected activity does not shield an employee from disciplinary action for misconduct or poor performance, up to and including termination. If such disciplinary actions are based on non-retaliatory and non-discriminatory reasons, then they are as permissible as any other disciplinary action taken against an employee not engaged in the EEO process. However,

DCSA will not do anything in response to EEO activity that would discourage someone from resisting or complaining about future discrimination.

For example, depending on the facts, it could be retaliation if an employer responds to an employee's EEO activity by:

- reprimanding the employee or giving a performance evaluation that is lower than it should be;
- transferring the employee to a less desirable position;
- engaging in verbal or physical abuse;
- threatening to make, or actually making reports to authorities (such as reporting immigration status or contacting the police);
- increasing scrutiny;
- spreading false rumors;
- treating a family member negatively (for example, by canceling a contract with the person's spouse); or
- making the person's work more difficult (for example, punishing an employee for an EEO complaint by purposely changing their work schedule to conflict with family responsibilities).

I expect managers and supervisors to communicate and enforce this policy. You must take swift and appropriate preventive and corrective actions to stop any form of retaliation for engaging in protected EEO activity. You must also appropriately protect the privacy and confidentiality of all individuals who report retaliation, to the extent possible.

Employees who believe they are being retaliated against as a result of their participation in EEO protected activity have the right to file an EEO complaint based on retaliation. Employees must contact the DEO Office within 45 calendar days of the date of the alleged retaliation if they intend to seek redress through the EEO complaint process. DCSA will take action to stop or prevent retaliation for protected activity regardless of when the retaliation is reported.

A copy of this policy will be posted on the DCSA intranet and all bulletin boards. The policy will be provided to new employees and contract personnel during on-boarding and to new supervisors within 30 business days of assumption of supervisory duties, and annually thereafter.

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