



U.S. Equal Employment Opportunity Commission FACT SHEET

Discrimination Based on Sexual Orientation, Status as a Parent, Marital Status and Political Affiliation

The U.S. Equal Employment Opportunity Commission (EEOC) does not enforce laws that prohibit discrimination and harassment based on sexual orientation, status as a parent, marital status and political affiliation. However, other federal agencies and many states and municipalities do. The relevant federal agencies are listed below. For assistance in locating your state or local agency, contact the EEOC office nearest you.

In the federal government the Civil Service Reform Act of 1978 (CSRA), as amended, prohibits federal employees who have authority to take, direct others to take, recommend or approve any personnel action from discriminating against applicants and employees on the bases of race, color, sex, religion, national origin, age, disability, marital status or political affiliation and from discriminating against an applicant or employee on the basis of conduct which does not adversely affect the performance of the applicant or employee. The Office of Personnel Management (OPM) has interpreted the prohibition of discrimination based on "conduct" to include discrimination based on sexual orientation. See *Addressing Sexual Orientation Discrimination in Federal Civilian Employment* at <http://www.opm.gov/er/address2/guide01.html>.

EEOC has jurisdiction over the prohibitions against employment discrimination codified in Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Sections 501 and 505 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, and the Genetic Information Nondiscrimination Act of 2008. These laws prohibit discrimination based on race, color, sex, religion, national origin, age, disability, and genetic information.

The Office of Special Counsel (OSC) and the Merit Systems Protection Board (MSPB) enforce the prohibitions against federal employment discrimination codified in the CSRA. The OSC will defer those bases of discrimination under EEOC's jurisdiction to the respective federal agency and its EEO process. This law also prohibits employment discrimination in the federal government based on marital status, political affiliation and conduct which does not adversely affect the performance of the employee, none of which are within the EEOC's jurisdiction. Moreover, the law defines ten other prohibited personnel practices in the federal government, all of which fall under the jurisdiction of the OSC and the MSPB. See *Prohibited Personnel Practices* at <http://www.osc.gov/ppp.html>.

Executive Order 13087, amending Executive Order 11478, was signed on May 28, 1998, to provide a uniform policy for the federal government to prohibit discrimination based on sexual orientation. Executive Order 11478 section 1 reads:

It is the policy of the government of the United States to provide equal opportunity in federal employment for all persons, to prohibit discrimination in employment because of race, color, Religion, sex, national origin, handicap, age, or sexual orientation and to promote the full realization

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Facts About Discrimination Based on Sexual Orientation, Status as a Parent, Marital Status and Political Affiliation FSE/16
<http://www.eeoc.gov/eeoc/publications/index.cfm>

SEE ALSO:

Filing a Charge of Discrimination
<http://www.eeoc.gov/employees/charge.cfm>

of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the federal government, to the extent permitted by law.

Executive Order 13087 did not create any new rights; however it did set the stage for positive and constructive action by all units of the federal government to make certain that the workplace is one free from harassment and discrimination. Many of the Cabinet level agencies have also issued policy statements prohibiting discrimination based on sexual orientation. Some of the agencies have also developed parallel EEO complaint procedures allowing federal employees to file EEO complaints based on sexual orientation within their agencies.

Executive Order 13152, also amending Executive Order 11478, was signed on May 2, 2000, to provide for a uniform policy for the federal government to prohibit discrimination based on an individual's status as a parent.

Executive Order 11478 section 1 now reads:

It is the policy of the government of the United States to provide equal opportunity in federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, age, sexual orientation or status as a parent, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the federal government, to the extent permitted by law.

Executive Order 13152 states that "status as a parent" refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- a biological parent;
- an adoptive parent;
- a foster parent;
- a stepparent
- a custodian of a legal ward;
- in loco parentis over such an individual; or
- actively seeking legal custody or adoption of such an individual.

The Executive Order authorized the OPM to develop guidance on the provisions of this Order.

For complaints of discrimination based on sexual orientation or status as a parent, Executive Order 13087, Executive Order 13152 and the Civil Service Reform Act provide protection. The Cabinet level agencies also have issued policy settlements prohibiting discrimination based on sexual orientation. In addition, some agencies have developed parallel EEO complaint procedures allowing employees to file EEO complaints based on sexual orientation within their agencies. Employees should check with their agency to see if such a process exists. In addition, employees should check their respective collective bargaining agreements and their agency's negotiated grievance procedures to determine whether grievance procedures can be invoked to address the issue. Whether or not an agency has internal procedures to address allegations of discrimination based on sexual orientation, employees should consult the OPM's publication, Addressing Sexual Orientation Discrimination in Federal Civilian Employment, OWR-2S (June 1999). Employees should also contact the OSC at (202) 653-7188 or at <http://www.osc.gov> and or the MSPB at (202) 653-6772 or <http://www.mspb.gov> to determine whether they have a prohibited personnel practice complaint under 5 U.S.C. §2302(b)(10).