

Enhanced Discrimination Protections Potentially on the Horizon for Federal Employees



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The ***U.S. House of Representatives*** has approved a bill (H.R. 1557) that would afford additional anti-discrimination and anti-retaliation provisions to federal employees. H.R. 1557, introduced in March of this year and titled the Federal Employee Antidiscrimination Act of 2015, amends the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, placing stringent requirements upon federal agencies to be transparent and accountable when investigating and rectifying complaints of discrimination or retaliation. The bill passed by a landslide in the House of Representatives this week, with bi-partisan support. Among the protections set forth in the bill are the following:

- The head of any agency having been subject to a finding of discrimination or retaliation prohibited by particular provisions of the law must provide notice on the agency's website, in a clear and prominent location linked directly from the Internet home page, that states a finding of discrimination or retaliation has been made. Such notice must be posted within 30 days of the final action (or the EEOC's appellate decision) finding discrimination or retaliation. The notice must include the date of the finding, the date(s) of any discriminator or retaliatory act(s), and the law(s) violated by such acts. Additionally it must advise federal employees of their rights and protections under the relevant portions of the law.
- Within 60 days of any final action/appellate decision finding discrimination or

retaliation to have occurred, the agency at issue must submit a report to the EEOC stating whether disciplinary action was initiated against a federal employee as a result of the violation.

- Each federal agency must establish a model Equal Employment Opportunity Program that is not controlled (structurally or practically) by a human capital or general counsel's office, does not present internal conflicts of interest and ensures fairness, and ensures the fair and efficient resolution of discrimination and retaliation complaints. The head of the Equal Employment Opportunity Program shall report to the head of the entire agency.
- Non-disclosure policies, forms, or agreements cannot be implemented or enforced if they prohibit or restrict an employee from disclosing to Congress, the Office of Special Counsel or an Office of the Inspector General any information relating to a violation of law, rule, or regulation, or mismanagement, gross waste of funds, abuses of authority, or substantial and specific danger to public health and safety, or any other whistleblower protection(s).

The bill will next go to the Senate for consideration and is one for federal employers and those doing business with federal agencies to watch.

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