

PROTECTING YOUR RIGHTS AS A FEDERAL EMPLOYEE

by **Teresa Robison**

If you are a federal employee, and you have concerns arising from your employment, or you wish to request changes in your conditions of employment, you should be aware of some basic information. What routes are available for addressing conditions of employment? Which method is best for your particular circumstances? The information provided below is highly generalized, but should answer some of your questions, and, at a minimum, point you in the right direction.



Disability: If you have a disability under the terms of the Americans with Disabilities Act (ADA), you may be entitled to receive accommodation to more easily accomplish your duties. The procedure is to request the accommodation from your employer. There are a few things you must understand regarding such requests. First, you may be required to submit medical information to your employer supporting the request. Second, an accommodation must be focused on allowing you to better perform your duties despite your disability; for example, a vocal encryption device allowing you to speak to your computer instead of typing may be appropriate for someone with vision impairment. Lastly, you should understand that the term “disability” has its own unique meaning, and has different standards than a disability rating from the Department of Veterans Affairs or other sources. It is not uncommon to be rated as a disabled veteran, but not meet the standards for disability under the ADA. A good resource if you wish to pursue an accommodation is your local Equal Employment Opportunity Office (EEO).

Discrimination: If you believe that your employer is treating you differently because of your membership in a protected category, you can initiate a complaint with EEO. They will conduct an informal investigation to aid you in determining whether you might be the victim of discrimination, and will assist you, to a point, in processing that complaint should you decide to go forward. Protected categories include race, color, nationality, gender, religion, age, and disability. You can also invoke EEO if you believe that your employer is treating you differently in reprisal for engaging in past EEO activity. Finally, be aware that, to go forward, a complaint must generally be initiated within 45 days of the time you discover that you may be a victim of discrimination.

Adverse Actions, 15 days or more: The Merit Systems Protection Board (MSPB) is the body which adjudicates complaints about more serious adverse job actions, such as suspensions greater than 14 days, on up to terminations. The MSPB has jurisdiction over other job actions as well; however, a full discussion of these actions is beyond the scope of this article. A comprehensive list of actions appealable to the MSPB may be found at 5 USC 1201. Appeals must be filed within 30 calendar days of the effective date of the action. The web-site for the MSPB, www.MSPB.gov, contains information about how and when to file appeals, as well as forms and processes to be used.

Other matters: For actions not falling within the categories noted above, an employee may invoke a formal grievance process. The employee should first address the problem with their supervisor, who must attempt resolution within 15 to 30 days. If this attempt fails, the employee may submit a formal written grievance, but must do so within 15 days. Alternatively, the employee may bypass the initial stage and submit a formal grievance without first addressing the complaint with their supervisor, but must do so within 15 days of the act creating the problem. Once the deciding official has rendered a decision, it is generally not subject to appeal.

This is only a general overview of avenues available to address employee concerns, and other avenues, such as the Inspector General, or Congressional complaints, are also available. However, the forums and methods listed above are focused on resolving the most difficult issues a federal employee may encounter. If an employee is experiencing difficulties, he or she should first assess the nature of the difficulty, then proceed using the method that best addresses that problem.

Editor's Note: *Teresa Robison is the new Labor Law Attorney in the 21st TSC OSJA's Civil Law Division. She arrived in June from Fort Richardson, Alaska, where she served as a Labor and Contract Law Attorney for the last nine years. We're delighted to have her on board!*