

# EQUAL EMPLOYMENT OPPORTUNITY

## FREQUENTLY ASKED QUESTIONS

**Question: What is the purpose of the Equal Employment Opportunity Program in Maryland State Government?**

**Answer:** The purpose of the Program is to ensure a system based on merit that provides equal employment opportunity on the basis of merit and fitness. (SPP § 5-202 (b))

**Question: Who is included in the Program?**

**Answer:** (1) an employee in any unit of the Executive Branch of State Government, including a unit with an independent personnel system. (2) An applicant for a position in the skilled service, of the State Personal Management System or a comparable position in an independent personnel system in the Executive Branch of State government. (SPP § 5-202 (c) (1))

**Question: Can an employer discriminate against an employee or applicant for employment?**

**Answer:** No. All personnel actions concerning a State employee or applicant for employment in State government shall be made without regard to: age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief, or opinion, sex, sexual orientation. (SPP § 2-302 (b) (2))

**Question: Who may file an EEO complaint?**

**Answer:** An applicant or employee may file with the head of the principal unit [or designee] a written complaint that alleges discrimination based on race, sex (including sexual harassment), sexual orientation, marital status, color, gender identity and expression, national origin, creed, religion, age, ancestry, genetic information, physical or mental disability. (SPP § 5-211)

**Question: What are the time limits for filing?**

**Answer:** A complaint must be filed within 30 days after the complainant first knew of or reasonably should have known of the alleged violation that is the basis for the complaint. (SPP § 5-211 (b))

**Question: Can a complainant have a representative?**

**Answer:** A complainant may be represented during the complaint process by any person the complainant chooses. (SPP § 5-210)

**Question: Can an employee file an EEO complaint and a grievance on the same matter?**

**Answer:** No. An employee in the skilled service, professional service, or management service of the State Personnel Management System may elect to pursue an allegation of employment discrimination under:

1. the complaint procedures; or
2. the grievance procedure in accordance with State Personnel and Pensions Title 12

(SPP § 5-209)

**Question: How long will it be until an employee or applicant receives a decision?**

**Answer:** Within 30 days after a complaint under § 5-211 of this subtitle is received:

(1) an equal employment officer, under the direction of the fair practices officer, shall investigate the complaint and recommend a proposed decision to the head of the principal unit; and

(2) the head of the principal unit shall issue a written decision to the complainant and may grant any appropriate relief.

(SPP § 5-212)

**Question: If I do not agree with the agency's written decision regarding my EEO complaint, may I file an appeal?**

**Answer:** Yes. Within 10 days after receiving a decision, a Complainant may appeal the decision in writing to the Secretary or the Statewide Equal Employment Opportunity Coordinator.

(SPP § 5-213 (a))

**Question: Is there any other avenues where a State employee can file a complaint of discrimination?**

**Answer:** Yes. A State employee can file a complaint with the Maryland Commission on Human Relations, 6 Saint Paul Street, 9<sup>th</sup> Floor, Baltimore, Maryland 21201, 410-767-8600or; the United States Equal employment Opportunity Commission at, 10 South Howard Street, 3<sup>rd</sup> Floor, Baltimore, Maryland 21201, 410-962-3932. (SPP § 5-203)

**Question: What action can management take against an employee who files an EEO complaint?**

**Answer:** No employee shall be harassed or otherwise retaliated against for filing a complaint of discrimination or other unfair employment practice. (Executive Order on Fair Employment Practices 01.01.2007.16)

**Question: Will my complaint be held confidential?**

**Answer:** Information obtained as part of an investigation conducted under this subtitle is confidential within the meaning of Title 10, Subtitle 6 of the State Government Article. (SPP § 5-214 (b))

**Question: What is a "reasonable accommodation?"**

**Answer:** A reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. (State of Maryland Reasonable Accommodations Policy and Procedure 3.6)

**Question: Who is a "qualified individual with a disability?"**

**Answer:** A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other requirements of an employment position that s/he holds or seeks, and who can perform the essential functions of the position with or without reasonable accommodation. (State of Maryland Reasonable Accommodations Policy and Procedure 3.4)

**Question: Can an agency be required to modify, adjust, or make other reasonable accommodations in the way an employment test is given to a qualified applicant or employee with a disability?**

**Answer:** Yes. Accommodations may be needed to assure that tests or examinations measure the actual ability of an individual to perform job functions rather than reflect limitations caused by the disability.  
(State of Maryland Reasonable Accommodations Policy and Procedure 3.8)

**Question: If I request a Reasonable Accommodation, are the documents that I submit concerning my request kept confidential?**

**Answer:** All documents concerning an employee's reasonable accommodation request should be maintained in the employee's confidential file, separate from the employee's official personnel file, in accordance with applicable confidentiality laws and regulations.  
(State of Maryland Reasonable Accommodations Policy and Procedure 4.1)

**Question: Must an employer provide the accommodation that the employee request?**

**Answer:** The employer is not required to provide the reasonable accommodation that the employee wants. The employer may choose among reasonable accommodations as long as the chosen accommodation is effective.  
(State of Maryland Reasonable Accommodations Policy and Procedure 5.6)

**Question: What is an undue hardship?**

**Answer:** Significant difficulty or expense incurred by the employer to provide a reasonable accommodation. The employer has the burden of proving that providing a reasonable accommodation would impose undue hardship on the employer.  
(State of Maryland Reasonable Accommodations Policy and Procedure 3.7)

**Question: How must an individual request a reasonable accommodation?**

**Answer:** The individual must let the employer know that s/he needs an adjustment or change at work for a reason related to a medical condition. An individual must use "plain English" and need not mention the ADA or use the phrase "reasonable accommodation."

Requests for reasonable accommodation do not need to be in writing, though an employer may choose to write a memorandum or letter confirming the request.

(Americans with Disabilities Act Compliance Manual)

**Question: Are there certain things that are not considered reasonable accommodations and are therefore not required?**

**Answer:** An employer does not have to eliminate a primary job responsibility.

An employer is not required to lower production standards that are applied to all employees, though it may have to provide reasonable accommodation to enable an employee with a disability to meet them.

An employer does not have to provide personal use items, such as a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices.

An employer never has to excuse a violation of a uniformly applied conduct rule that is job-related and consistent with business necessity. This means, for example, that an employer never has to tolerate or excuse violence, threats of violence, stealing, or destruction of property. An employer may discipline an employee with a disability for engaging in such misconduct if it would impose the same discipline on an employee without a disability.

(Americans with Disabilities Act Compliance Manual)

**Question: What rules and regulations protect the rights of pregnant employees?**

**Answer:** The Pregnancy Discrimination Act (PDA) is an amendment to Title VII of the Civil Rights Act. It provides that employers must treat a pregnant employee who is temporarily unable to perform her job duties because of pregnancy the same as any other temporarily disabled employee.