


**TAKING QUICK ACTION TO
RESOLVE COMPLAINTS OF DISCRIMINATION**
Eric Magee
Allison, Bass & Magee, LLP



- ▶ 2018 Far West Texas County Judges & Commissioners Association Annual Conference
- ▶ September 12, 2018
- ▶ Terlingua, Texas

Charge of Discrimination

CHARGE OF DISCRIMINATION
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):
 FEPA
 EEOC

_____ and EEOC

Name (Include Mr., Ms., Mx) _____
 Street Address _____ City, State and ZIP Code _____
 Name, Phone (incl. Area Code) _____ Date of Birth _____

Named to the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than one, see enclosed PARTICIPANT LISTING)

Name _____ No. Employees, Members _____
 Street Address _____ City, State and ZIP Code _____
 Name _____ No. Employees, Members _____
 Street Address _____ City, State and ZIP Code _____

9/20/201 2

Charge of Discrimination

DISCRIMINATION BASIS (Check appropriate boxes)
 RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify) _____

DATE OF DISCRIMINATION (MM/YY)

CONTRACTOR

PARTICULARS (Explain charges in detail, attach any facts)

9/20/201 3

How did we get here?



9/20/2018

4

Protections for Justified Terminations

- ▶ Be Consistent
- ▶ Set Expectations Early
- ▶ Proper Training and Established Policy
- ▶ Maintain all Personnel, Employment & Payroll Records
- ▶ Write IT ALL Down
- ▶ Do Employee Evaluations

**Terminated?
Find out if the law
was broken and seek
help. Don't let your
employer get away
with breaking the
law...**



The Law

- ▶ Title VII of the Civil Rights Act of 1964
 - ▶ It is illegal to discriminate against someone on the basis of race, color, religion, nation origin, or sex
 - ▶ The law also makes it illegal to retaliate against a person because the person complained about discrimination.
- Other Important Statutes:
 - The Pregnancy Discrimination Act
 - The Equal Pay Act of 1963
 - The Age Discrimination in Employment Act of 1967
 - Title 1 of the Americans with Disabilities Act of 1967
 - The Rehabilitation Act of 1973
 - The Genetic Information Nondiscrimination Act of 2008

Types of Discrimination

- Age
- Disability
- Equal Pay / Compensation
- Harassment
- Pregnancy
- Race/Color
- Religion
- Retaliation
- Sex
- Sexual Harassment
- Also - National Origin and Genetic Information

Early Warning Signs

▶ What did you see?

Now you Know

- ▶ What are your responsibilities as the employer?
- ▶ Listen to the accuser with respect and compassion
- ▶ Notify Human Resources
- ▶ Encourage Employee to Contact Human Resources
- ▶ Follow all established procedures within the County
- ▶ KEEP IT CONFIDENTIAL
- ▶ Consider getting help:
 - ▶ Attorney
 - ▶ Third Party Investigator

STEPS TO RESOLVE COMPLAINT

- ▶ Listener to the accuser
 - ▶ Keep an open mind
 - ▶ Do not make assumption about the truthfulness of the complaint;
 - ▶ Do not reach unfounded conclusions;
 - ▶ Do not decide not to investigate
 - ▶ Impact on quality of their work
 - ▶ Treat seriously - less likely to escalate the issue to TWC/EEOC and/or Court

STEPS TO RESOLVE COMPLAINT

- ▶ Conduct a thorough Investigation
 - ▶ Don't delay
 - ▶ Taking it Serious: less likely for further harassment: loss of evidence
 - ▶ Write IT ALL Down
 - ▶ Distinguish fact from opinion
 - ▶ Get the Details
 - ▶ Recognize whether complaint involves Discrimination
 - ▶ Gather Supporting Evidence (emails, time cards, schedules, notes...)
 - ▶ Look for Corroboration and/or Contradiction
 - ▶ Interview the people involved

STEPS TO RESOLVE COMPLAINT

- ▶ Don't Shoot the Messenger - DON'T RETALIATE
 - ▶ Obvious Forms of Retaliation
 - ▶ Subtle Forms
 - ▶ Changing Work Hours
 - ▶ Changing Job Responsibilities
 - ▶ Changing Work Area
 - ▶ Isolation - left out of meetings or other office functions

9/20/201 13

STEPS TO RESOLVE COMPLAINT

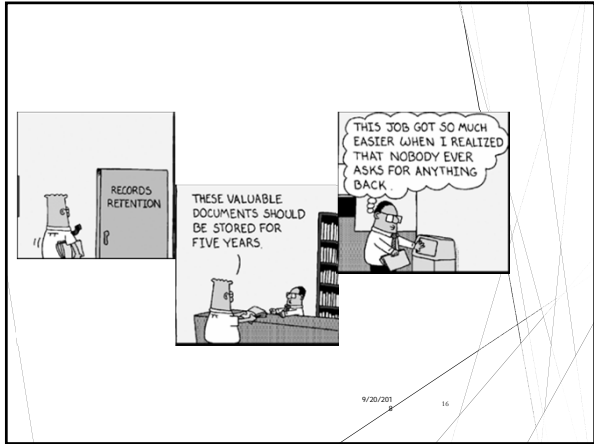
- Take appropriate action
 - Counseling/further trainings
 - Warning/Reprimand
 - Suspension
 - Termination
- Take it Quickly
- Document it
- Notify the Complainant

9/20/2018 14

What's the Harm?

- ▶ Depending on type and severity of the case:
 - ▶ Job Placement
 - ▶ Back Pay and Benefits
 - ▶ Attorneys Fees, Experts Witness Fees & Court Costs
 - ▶ Out-of-Pocket Expenses
 - Costs Associated with a job search
 - Medical Expenses
 - Emotional Harm (mental anguish, loss of enjoyment of life)
 - ▶ Punitive Damages

9/20/201 15



For More Information:

- ▶ Allison, Bass & Magee, LLP
 - ▶ 402 West 12th Street
 - ▶ Austin, Texas 78701
 - ▶ 512/482-0701

