

Filing a Complaint

17. What can I do if I believe my employer discriminated against me because of my disability?

You can file a complaint with OFCCP. You do not need to know with certainty that your employer is a federal contractor or subcontractor in order to file a complaint.

18. How do I file a complaint with OFCCP?

You may file a discrimination complaint by:

- Completing and submitting a form online through OFCCP's Web site; or
- Completing a form in person at an OFCCP office; or
- Mailing, e-mailing, or faxing a completed form to the OFCCP regional office that covers the location where the alleged discrimination occurred.

The form is available online at <https://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm> and in paper format at all OFCCP offices. To find the office nearest to where you live, visit the online listing of OFCCP offices at: www.dol.gov/ofccp/contacts/ofnation2.htm.

You must remember to sign your completed complaint form. If you fail to do so, OFCCP will still take your complaint but an OFCCP investigator will ask you to sign the form during a follow-up interview. Complaints alleging discrimination based disability must be filed within 300 days from the date of the alleged discrimination, unless the time for filing is extended for good cause.

19. Can my employer fire, demote, or treat me less favorably because I filed a complaint?

No. It is illegal for your employer to retaliate against you for filing a complaint or participating in an investigation. OFCCP's regulations protect you from harassment, intimidation, threats, coercion, or retaliation for asserting your rights.

20. Can I file a complaint with OFCCP and the Equal Employment Opportunity Commission (EEOC)?

Yes, if you file with both OFCCP and EEOC, your complaint will be investigated by the appropriate agency. In some instances, OFCCP and EEOC may decide to work together to investigate your complaint.

OFCCP generally keeps complaints filed against federal contractors that allege discrimination based on disability. OFCCP generally keeps complaints filed against federal contractors where there appears to be a pattern of discrimination that affects a group of employees or applicants, and those that allege discrimination based on a person's sexual orientation, gender identity, or protected veteran status. Generally, OFCCP keeps complaints filed against federal contractors that allege discrimination based on someone asking about, discussing, or disclosing pay.

21. What will happen if there is a finding that I was a victim of employment discrimination?

You may be entitled to a remedy that places you in the position you would have been in if the discrimination had never happened. You may be entitled to be hired, promoted, reinstated, or provided a reasonable accommodation, including reassignment. You may also be entitled to receive back pay, front pay, a pay raise, or some combination of these remedies. In addition, if OFCCP finds that the federal contractor or subcontractor violated Section 503, OFCCP could seek to have the company debarred or removed from consideration for future federal contracts or have the company's current contracts or contract modifications cancelled.

For more information:

THE U.S. DEPARTMENT OF LABOR
Office of Federal Contract Compliance Programs
200 Constitution Avenue, NW
Washington, D.C. 20210
1-800-397-6251
TTY: 1-877-889-5627
www.dol.gov/ofccp

Please note that this fact sheet provides general information. It is not intended to substitute for the actual law and regulations regarding the program described herein.

KNOW YOUR RIGHTS Disability Rights

OFCCP Protects Individuals with Disabilities from Discrimination

1. What is employment discrimination based on a person's disability?

Employment discrimination based on a person's disability generally occurs when an employer treats a qualified job applicant or employee unfavorably in any aspect of employment because the individual has or once had a disability, or is regarded as having a disability. Employment discrimination based on a person's disability may also occur when an employer's apparently fair policies or procedures have an unintentional discriminatory effect on individuals with disabilities.

2. What are my rights?

You cannot be denied employment, harassed, demoted, fired, paid less, or treated poorly because you have a disability, or have a history of a disability, or because your employer regards you as having a mental or physical impairment that is permanent.

If you are an employee with a disability you can request, and the employer must provide, "reasonable accommodation" to allow you to perform your job. Reasonable accommodation must be provided to you by your employer unless doing so would cause the employer significant difficulty or expense.

Similarly, if you are a job applicant with a disability, the employer must provide reasonable accommodation during the application process to allow you to apply and be considered for the job. Again, reasonable accommodation must be provided unless it would be too difficult or too expensive to do so.

3. Does OFCCP enforce anti-discrimination laws based on disability?

Yes. OFCCP enforces Section 503 of the Rehabilitation Act. This law makes it illegal for

employers doing business with the Federal Government to discriminate against job applicants and employees based on disability. This means that these employers cannot discriminate against you when making decisions on hiring, firing, pay, benefits, job assignments, promotions, layoffs, training, and other employment related activities.

4. Who does OFCCP protect?

OFCCP protects the rights of job applicants and employees of Federal Government contractors and subcontractors. This includes employees at banks, information technology firms, meat packing plants, retail stores, manufacturing plants, accounting firms, and construction companies, among others.

Definition of Disability

5. What is the definition of "disability"?

You may be considered an individual with a disability if you have:

- a physical or mental impairment that substantially limits one or more of your major life activities; or
- a record of such impairment.

You may also be considered an individual with a disability if you are "regarded" as having a physical or mental impairment that substantially limits one or more of your life activities, or "regarded" as having a record or history of such impairment even if you do not have an impairment.



6. What are some examples of a disability?

The physical impairments listed below are usually considered to be a disability:

Diabetes	Cancer
Epilepsy	HIV infection
Blindness	

Mental impairments that are usually considered disabilities include, but are not limited to, impairments such as:

Major depressive disorder
Bipolar disorder
Schizophrenia
Post-Traumatic Stress Disorder
Obsessive Compulsive Disorder

7. What does “substantially limits” means?

“Substantially limiting” means that to a large degree your impairment limits your ability to perform a major life activity when compared to most people. Your impairment does not have to prevent, or significantly or severely restrict you from performing a major life activity in order to be considered “substantially limiting.”

For example, if you only sleep two hours per night because of bipolar disorder while an average person sleeps eight hours per night you are substantially limited in sleeping. Negative side effects of medications may be considered in determining whether someone is “substantially limited.” Under the law, not every impairment is considered a disability.

8. What is a “major life activity”?

This is a partial list of major life activities:

Seeing	Eating
Walking	Lifting
Speaking	Learning
Concentrating	Communicating
Self Care	Sleeping
Standing	Bending
Breathing	Reading
Thinking	Performing Manual Tasks

In addition, major life activities include the operation of major bodily functions, including functions of the:

Immune System
Special Sense Organs and Skin
Normal Cell Growth
Digestive System
Genitourinary
Bowel

Bladder
Neurological System
Brain
Respiratory System
Circulatory System
Cardiovascular System
Endocrine System
Hemic System
Lymphatic System
Musculoskeletal System
Reproductive System

9. Can I still be considered disabled if my impairment is episodic or in remission?

Yes. An impairment that is episodic or sporadic, or is in remission is considered a disability if it substantially limits a major life activity when active.

Applying for a Job

10. Do I need to disclose my disability when applying for a job in order to be protected?

No. You are protected from discrimination whether or not you share this information. However, to receive a reasonable accommodation, you must inform your prospective employer of your need for an accommodation. The employer may need certain information regarding your disability to provide you an accommodation.

11. Can my employer require me to take a medical examination?

If you are applying for a job, the employer may not ask you to answer medical questions or take a medical exam before a job offer. An employer may ask whether you can perform the job and how you would perform the job, with or without a reasonable accommodation.

After you are offered the job, the job offer may be made with certain conditions, such as:

- passing a medical exam, or
- answering certain medical questions.

All new employees in the same type of job must answer the same questions or take the same exam, not just employees with a disability.

Generally, once you are hired and begin work, an employer can only ask medical questions or require a medical exam if:

- the employer needs medical documentation to support your request for an accommodation, or

- the employer believes that you are not able to perform the job successfully or safely because of your medical condition.

12. How does my employer handle my medical information?

The law requires that all medical records and information remain confidential and in separate medical files from other employment files.

Seeking Reasonable Accommodation

13. What is “reasonable accommodation”?

“Reasonable accommodation” is an adjustment or modification made to a job or the workplace or the usual manner or circumstances of performing the job that allows an applicant or employee with a disability to successfully apply for the job, perform the duties of the job, or enjoy the benefits and privileges of employment. A reasonable accommodation does not change essential job functions.

Your “reasonable accommodation” may be different from those provided to other employees or job applicants. This is because the accommodation depends upon the nature of the disability and the type of job. The accommodation, no matter what it is, may not be unduly costly or disruptive for your employer. Your employer can choose the type of reasonable accommodation that will be made available; however, the accommodation must be effective. For instance, your employer may choose to provide a ramp instead of an elevator to address accessibility issues.

14. What are some examples of “reasonable accommodation” that can be provided during the hiring process and later to assist in performing the job?

Reasonable accommodation can take many forms. Some common accommodations are listed below.

- Providing written materials in accessible formats, such as large print, Braille, or audiotape.
- Adjusting or modifying work schedules.
- Providing readers or sign language interpreters.

- Holding recruitment, interviews, tests, and other parts of the application process in accessible locations.

- Holding staff meetings in accessible locations.

- Providing or modifying equipment and devices.

- Adjusting or modifying policies and procedures.

- Changing the work environment in ways that improve accessibility.

15. How do I request reasonable accommodation?

There is no special process for you, either as an employee or job applicant, to request an accommodation. You do not have to use special words or the words “reasonable accommodation” when making your request, nor do you have to put your request in writing. You should simply tell your employer that you need an adjustment or change at work due to a disability. You should be prepared to provide your employer with enough information to show that you have a disability.

If you need an accommodation in the application process, you must inform the employer that you need a change or adjustment to the application or interview process because of your disability. You can make this request orally or in writing, or someone else might make a request for you. For example, a family member, friend, health professional, or other representative such as a job coach. After the request is made, the employer may ask that you complete certain forms, or follow other procedures. Any procedures you are asked to follow cannot be used to prevent a timely accommodation from being provided or addressed.

It is important to note that you are not required to provide your entire medical or mental health history to obtain an accommodation. You only need to provide the pertinent information needed to make an accommodation.

16. Can my employer lower my salary or pay me less than other employees doing the same job because I need a reasonable accommodation?

No. Your employer cannot make you pay for the cost of providing a reasonable accommodation by lowering your salary or paying you less than other employees in the same position.