



CLIENT ALERT

Guidance from the EEOC on Retaliation will be coming soon!

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On January 21, 2016 the EEOC (the “Commission”) announced that it is seeking public input on its 76 page Proposed Enforcement Guidance on Retaliation and Related Issues (“Proposed Guidance”) under federal employment discrimination laws. Public input must be submitted on or before February 24, 2016 and may be done online. Employers may not retaliate against an employee for engaging in a protected activity such as complaining about sexual harassment of a co-worker; discrimination; participating in an employment discrimination proceeding; or engaged in any other protected activity under employment discrimination laws the EEOC enforces such as Title VII; age discrimination; and equal pay laws. Retaliatory conduct beyond termination could include changing workplace hours; changing job responsibilities; exclusion from projects employee used to be included in to name a few.

The last time the Commission issued guidance on retaliation was in 1998. A lot has changed in the Employment Practice world since then including some significant rulings by the United States Supreme Court and lower courts on the subject of retaliation. Retaliation claims have nearly doubled since the 1998 guidance was issued and it is the most frequently alleged type of violation submitted to the EEOC and can be extremely difficult to defend.

The Proposed Guidance will be used as reference for the Commission staff to use when investigating charges alleging retaliation and related issues under all the statutes that the EEOC enforces. Highlights from the Proposed Enforcement Guidance on Retaliation and Related issues include a broad definition of retaliation to ensure individuals may raise complaints of potential EEO violations without fear of retribution or punishment. The Proposed Guidance protects employees against retaliation for inquiring about or otherwise discussing compensation information. The Proposed Guidance also consolidates and clarifies the expansion of who is

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protected against retaliation from court decisions nationwide in conjunction with Supreme Court rulings.

For questions about the Proposed Guidance or if interested in submitting input, please contact Dianna D. McCarthy at McCarthy.D@WSSLLP.com

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