

Protections Against Retaliation in the Federal Workplace



PinesFederal

EMPLOYMENT ATTORNEYS

Most people know on some level that retaliation is wrong within the modern federal workplace. However, few know the laws surrounding retaliation and how they shield workers from harm. They're not familiar with the most common types of retaliation. And very few know exactly what steps to take when they're on the receiving end of retaliatory behavior.

This guide aims to answer those questions and many others. Here at Pines Federal, our goal is to guarantee that every federal employee knows the full scope of their rights. These legal protections result from decades of intense political struggle by countless individuals. Because they came at a great cost, it's befitting that our [federal employment retaliation lawyers](#) work to maintain these protections.

The team at Pines Federal also strives to defend the rights of federal employees when agencies go off the rails. Read on to learn more about retaliation, the legal structures protecting employees, and the key steps to follow if you are facing retaliation.

WHAT IS RETALIATION?

At its core, retaliation occurs when a federal agency takes [adverse action](#) against an employee as a response to the employee engaging in legally protected activities.

These activities might include:

- Filing a discrimination complaint,
- Participating in an investigation,
- Requesting a reasonable accommodation,
- Filing an appeal,
- Condemning discrimination or harassment, and
- [Whistleblowing](#) on illegal or unethical practices within the government.

Imagine an employee named Jane who witnesses a violation of federal law in her agency. Upholding her sense of duty and ethical responsibility, Jane reports this violation. However, in the weeks following her report, Jane finds herself the target of different treatment. She's sidelined from key projects. She's put under unjust scrutiny. Even worse, her supervisor threatened to demote her. This shift in her professional landscape after her whistleblowing is the quintessence of retaliation. Unfortunately, it's a scenario that plays out in various forms across federal workplaces.

COMMON FORMS OF RETALIATION

Retaliation is much like a chameleon because it can manifest itself in countless ways. Sometimes it's obvious and blatant. At other times, it's practically invisible because seemingly legitimate motivations camouflage it. That said, here are the [most common forms of retaliation](#) federal employees encounter.

1. A Reduction in Responsibilities

This form of retaliation is often the most visible. Consider an employee who suddenly loses key responsibilities just days after filing a workplace discrimination complaint. Here, the retaliation is not just an act of retribution. It's a signal, loud and clear, of the consequences of standing up for one's rights. In the worst scenarios, employers can even move to demote or remove a person for their actions. Fortunately, you can almost always appeal these adverse actions to the MSPB.

2. Exclusion from Meetings or Projects

While subtler than demotion, this kind of retaliation is equally damaging. It involves excluding the target employee from crucial meetings or projects. Agency management may or may not attempt to explain this exclusion away with seemingly nondiscriminatory reasons. In either case, it's a silent yet effective way of sidelining someone who has dared to challenge the status quo. And because it's relatively mundane, it can feel difficult to fight back against.

3. Hostile Work Environment

The [U.S. Equal Employment Opportunity Commission](#) (EEOC) states that a hostile work environment exists where unwelcome conduct either:

- Becomes something that an employee must endure to continue working, or
- Becomes so pervasive and severe that it renders the working environment intimidating or abusive according to a reasonable person.

This could manifest as an increase in scrutiny, unfounded criticisms, slurs, name-calling, and even the threat of physical violence.

4. Unwarranted Disciplinary Actions

Imagine being reprimanded for actions that previously went unnoticed or were considered trivial. This form of retaliation uses the guise of discipline to penalize and intimidate. It is also somewhat more difficult to fight because employers resort to the excuse that your actions were *technically* wrong.

WHAT LAWS PROTECT FEDERAL EMPLOYEES FROM RETALIATION?

A constellation of laws exists to shield employees from the shadow of retaliation. While intricate, these laws are robust. Consequently, you can rest easy knowing that you have strong legal protections against retaliation.

- 1. Whistleblower Protection Act (WPA).** One of the most potent laws in this legal landscape is the Whistleblower Protection Act. The WPA specifically safeguards federal employees who disclose information they reasonably believe shows a violation of law, gross mismanagement, or threats to public safety.
- 2. Title VII of the Civil Rights Act of 1964.** Title VII of the Civil Rights Act is another foundational pillar in the architecture of anti-retaliation laws. It prohibits retaliation against federal employees for participating in proceedings under the Act, which includes filing a complaint of discrimination stemming from someone's race, color, religion, sex, or national origin.
- 3. Rehabilitation Act of 1973/Americans with Disabilities Act (ADA).** While the ADA is primarily known for its crystallization of the reasonable accommodation process, it also includes anti-retaliatory protections. Specifically, it prohibits retaliation against employees who request a reasonable accommodation or take a related action.
- 4. Age Discrimination in Employment Act (ADEA).** The ADEA adds age to the inherent characteristics employers cannot use to discriminate against their employees. And just as Title VII prohibited retaliation against anyone reporting race or color discrimination, the ADEA makes it illegal to retaliate against anyone who reports age discrimination.
- 5. Sarbanes-Oxley Act and Dodd-Frank Act.** Employees in agencies like the Securities and Exchange Commission can benefit from these acts. Specifically, these Acts protect against retaliation for reporting fraud and securities violation allegation.

The Family and Medical Leave Act (FMLA) and the Equal Pay Act (EPA) also contain provisions protecting employees from retaliation.

WHAT SHOULD I DO IF I AM FACING RETALIATION?

Confronting retaliation in the federal workplace can feel akin to navigating a labyrinth: complex, intimidating, and uncertain. Yet, your journey can lead not to vindication and justice if you are armed with the proper knowledge and strategy.

Here's a guide to maneuvering through the challenge of facing retaliation:

- 1. Document everything.** Start by meticulously documenting every instance of what you believe to be retaliatory action. This could range from emails and memos to notes about in-person encounters or changes in your work conditions.
- 2. Report the retaliation.** Use the proper channels within your agency to report the retaliation. This could be through your agency's Equal Employment Opportunity (EEO) office, Inspector General, or another authority.
- 3. Stay professional.** Continue to perform your job duties to the best of your ability despite facing retaliation. Doing so helps undermine any defense that your employer asserts while bolstering your case down the road.

Finally, consider consulting with a federal employment attorney. An experienced attorney can provide invaluable insights, help you understand your situation and legal options, and determine the best course of action. Depending on the nature and severity of the retaliation, resolution might be possible through internal mediation or alternative dispute resolution methods. Alternatively, your attorney may advise you to [take formal legal action](#). This might involve filing a complaint with the EEOC, MSPB, or even proceeding with litigation.

HOW CAN A LAWYER HELP MY CASE?

An experienced federal employment lawyer is often instrumental in a successful outcome. Let's unpack these in detail:

- 1. Expert legal guidance.** Federal employment law is a specialized field with its own set of rules and regulations. A lawyer with expertise in this area can help you understand the strengths and weaknesses of your case, offering a realistic assessment of your chances for success.
- 2. Strategic planning.** Every legal battle requires a strategy that fits the specific circumstances. A lawyer helps formulate this strategy, whether it's negotiating a settlement, navigating an administrative hearing, or preparing for a court trial.

- 3. Document preparation and review.** Another one of an attorney's essential tasks is to ensure that every submission is accurate, complete, and persuasive. This meticulous preparation is often critical in determining the outcome of your case.
- 4. Negotiation skills.** Most of the time, resolutions in employment disputes take place outside of court. A lawyer's negotiation skills can be pivotal in these situations, helping you secure a favorable outcome without resorting to a protracted and messy legal battle.
- 5. Representation in hearings and litigation.** If your case proceeds to a hearing or court, a federal employment lawyer will serve as your greatest advocate. They will present arguments, cross-examine witnesses, and work to persuade the relevant judicial decision-makers.
- 6. Managing timelines and deadlines.** Like most other laws, anti-retaliatory legal processes come with strict timelines and deadlines. A lawyer safeguards you from procedural missteps that could jeopardize your case by ensuring you meet these deadlines.
- 7. Emotional Support and Objectivity.** In addition to providing legal support, a lawyer provides emotional objectivity. They can help you manage the emotional highs and lows of your case while keeping you grounded in legal reality.

In essence, a lawyer is your ally, advocate, and guide. As you can see, their skill set can make an enormous difference in the outcome of your case.

Our Team at Pines Federal Is Ready to Protect You from Retaliation

Now that you know all of the critical details about retaliation, take action to protect your career today. Contacting one of our experienced federal employment attorneys at Pines Federal. Unlike many other law firms, we have decades of experience practicing federal employment law exclusively. Consequently, we're familiar with every type of retaliation and know how to counter it. [Reach out to us](#) today for assistance.