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Federal Employee Issues: Amending EEO Complaints

This guide provides an overview of amending Equal Employment Opportunity (EEO) complaints and is applicable to federal government applicants and employees.

Overview

After an applicant or employee, referred to as the complainant, files an EEO complaint with the applicable federal government agency, he or she can amend the complaint to include additional allegations of discrimination that are like or related to the already accepted claim(s). This guide discussed when additional claims may be like or related to the allegations at issue in an existing EEO complaint.

Agency's Obligations When Complainant Raises Additional Allegations

A complainant may amend his or her complaint at any time during the pendency of the agency's investigation "to include issues or claims like or related to those raised in the complaint." 29 C.F.R. § 1614.106(d). Where a complainant raises an additional allegation of discrimination during the investigation of the complaint that is like or related to the previously accepted claims, the agency is required to amend the complaint, acknowledge the amendment in writing, and notify the EEO Investigator to include the new claim in the investigation." *Complainant v. Dep't of Veterans Affs.*, EEOC App. No. 0120111535 (Aug. 14, 2014); *see also Curtsinger v. Dep't of Veterans Affs.*, EEOC App. No. 01A05360 (Jan. 12, 2001) and *Davis v. U.S. Postal Serv.*, EEOC App. No. 01985386 (Nov. 22, 1999). "[T]he Commission has held that an agency's failure to address an issue properly raised by a complainant is tantamount to an improper dismissal." *Curtsinger*, EEOC App. No. 01A05360 (citing *Kapp v. Dep't of the Navy*, EEOC Req. No. 05940662 (Jan. 23, 1995)).

When Claims Are Like Or Related

An additional allegation of discrimination is like or related to the already accepted claim if "the later incident adds to or clarifies the original claim, and/or could have reasonably been expected to grow out of the investigation of the original claim. Equal Employment Opportunity Commission (EEOC) Administrative Judge's Handbook, Chapter 5, § III(b) (citing *Complainant v. Dep't. of the Army*, EEOC Appeal No. 0120142480 (Nov. 25, 2014); *Scher v. U.S. Postal Service*, EEOC Request No. 05940702 (May 30, 1995); *Webber v. Dep't. of Health and Human Services*, EEOC Appeal No. 01900902 (Feb. 28, 1990)). For example, if a complainant's complaint includes an allegation that he was not selected for a vacant position because of his

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race, and he subsequently is not selected for a position and he believes the non-selection also is due to his race, the amendment request should be accepted. *Id.* Additionally, if a complainant alleges that she was subjected to retaliation because of filing her original complaint, those allegations of retaliation should be accepted as amendments to the original complaint. *Id.*

Conclusion

Each situation is different. As such, this is not a question that can be answered without evaluating each case individually. Employment attorneys experienced in representing federal employees, such as those as The Wick Law Office, can provide advice to assist you with this determination.

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