



U.S. Department of Justice


Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

April 28, 2009

MEMORANDUM TO DIVISION EMPLOYEES

FROM: 
Loretta King
Acting Assistant Attorney General

SUBJECT: Guidance on Personnel Matters

I am fully committed to ensuring that all personnel decisions within the Civil Rights Division are consistent with principles of fairness as well as all applicable laws, rules, and regulations. In particular, I wish to remind you that the Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. Consistent with applicable law, Department policies and my own practice, there will be no discrimination based on race, color, national origin, gender, age, political affiliation (including using ideological affiliation as a proxy for determining political affiliation), disability, marital status, sexual orientation, status as a parent, membership or non-membership in an employee organization, or personal favoritism. For additional information about the Divisions' merit system principles and/or equal employment hiring policies, see 5 U.S.C. §§ 2301(b), 2302(b); http://mycrt/human_resources/eo/2006harassmentpolicy.php; and <http://10.173.2.12/jmd/employeeights.php>.

Notably, each of you should be aware of the requirements of 5 U.S.C. § 2302, which sets forth the following "prohibited personnel practices" applicable to personnel actions, including but not limited to appointments, promotions, reassignments, details, pay, awards, and adverse actions:

A federal employee authorized to take, direct others to take, recommend or approve any personnel action *shall not*:

- (1) discriminate against an employee or applicant based on race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation (including using ideological affiliation as a proxy for determining political affiliation);
- (2) solicit or consider oral or written employment recommendations unless such recommendations are based on personal knowledge or records of job-related abilities or characteristics;

- (3) coerce the political activity of any person or take any action against any employee or applicant as a reprisal for his/her refusal to engage in such political activity;
- (4) deceive or willfully obstruct anyone's right to compete for employment;
- (5) influence anyone to withdraw from competition for any position for the purpose of improving or injuring the employment prospects of any other person;
- (6) give an unauthorized preference or advantage to any employee or applicant for employment for the purpose of improving or injuring the employment prospects of any particular employee or applicant;
- (7) engage in nepotism (*i.e.*, hire, promote, or advocate the hiring or promotion of relatives) within the agency in which the federal employee serves as a public official;
- (8) engage in reprisal for whistle blowing by taking, failing to take, or threatening to take or fail to take a personnel action with respect to any employee or applicant because of any disclosure of information by the employee or applicant that he or she reasonably believes evidences a violation of a law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety (if such disclosure is not barred by law and such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs – if so restricted by law or Executive Order, the disclosure is only protected if made to the Office of the Special Counsel, the Inspector General, or comparable agency official);
- (9) take, fail to take, or threaten to take or fail to take a personnel action against an employee or applicant for exercising an appeal, complaint, or grievance right; testifying for or assisting another in exercising such a right; cooperating with or disclosing information to the Office of the Special Counsel or to the Inspector General; or refusing to obey an order that would require the individual to violate a law;
- (10) discriminate for or against any employee or applicant based on off-duty conduct (other than criminal convictions) which does not adversely affect the on-the-job performance of the employee, applicant, or others;
- (11) knowingly take or fail to take, recommend, or approve a personnel action if taking or failing to take such an action would violate a veterans' preference requirement; and

(12) take or fail to take any other personnel action, if taking or failing to take action violates any law, rule or regulation implementing or directly concerning merit system principles contained in 5 U.S.C. § 2301.

5 U.S.C. § 2302; see also <http://www.usdoj.gov/oarm/attvacancies.html>;
<http://www.osc.gov/ppp.htm#q1>.

For more information, please see your Section managers or contact the Division's Human Resources Office (202-514-4153) or the Ombudsman (202-514-2151). For Division managers, please contact Diana Embrey, the Division's in-house employment counsel (202-353-2510) or the Human Resources Office (202-514-4153).