

**Utah Antidiscrimination Division
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FACT SHEET ON EMPLOYER RETALIATION

The Utah Antidiscrimination Act prohibits retaliation against an employee for filing a complaint, testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing associated with a complaint, or asserting any right, protected under the Utah Antidiscrimination Act and applicable federal laws. This protection applies regardless of the validity of the complaining employee's charge.

34A-5-102(17): "Retaliate" means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member

- (a) has opposed any employment practice prohibited under this chapter; or
- (b) filed charges, testified, assisted, or participated in any way in any proceeding, investigation, or hearing under this chapter.

Examples of retaliation may include firing, suspending, or demoting an individual for having filed a discrimination complaint or for otherwise testifying or participating in an investigation.

Examples: Jake files a discrimination complaint with UALD. He is called into the office by his employer shortly after they receive the complaint. Jake is told that he must withdraw his complaint or he will be fired.



This protection applies not only to the complaining employees, but also to all other employees who might participate in the investigatory process.

Susana is identified as a witness by an employee who has filed a charge with UALD. Susana is interviewed by an investigator. Her supervisor starts making comments such as "I hear you're being disloyal to the company." The supervisor starts over-monitoring Susana's work, and Susana is eventually terminated although she had always received exceptional performance reviews prior to her participation in the investigation.



The law also protects an employee from having to engage in a discriminatory practice at the direction of an employer.

Example: Mary, the Human Resources Director, is informed that the company only wants to hire women for a particular position. She insists that the position must be open to all applicants, and that the directive is unlawfully discriminatory based upon gender. She is fired.



Note: The filing of a charge of discrimination does not prohibit an employer from taking legitimate, nondiscriminatory, non-retaliatory action to address violations of policies or procedures.

The prohibitions against retaliation only protect you if you have opposed or asserted rights under the applicable laws prohibiting employment discrimination based upon your race, color, sex, (which includes pregnancy and sexual harassment), national origin, disability, age (over 40), religion, gender identity or sexual orientation. If you reported or complained about unfair, but nondiscriminatory, practices, the laws enforced by this agency, protecting you from retaliation, do not apply.

For example, if you report a workers compensation injury, the retaliation provisions of the Antidiscrimination Act do not protect you from retaliation. Another example is reporting to your Human Resources representative that your manager is incompetent and you now believe that your manager is now trying to get you fired. There may be other laws enforced by other agencies that may apply, or a private attorney may be able to advise you about other legal rights you may have.

If you do believe that any action was taken against you in retaliation for having filed a charge or otherwise voiced your opposition to discriminatory practices, contact the Division immediately.

PLEASE NOTE: Applicable Federal Laws have similar prohibitions against employee retaliation. See Title VII of the Civil Rights Act of 1967; Age Discrimination in Employment Act of 1967; Americans with Disabilities Act of 1990.

