

## FAQs

### Who is protected by American's with Disability Act?

- Not everyone with a medical condition is protected by the law. In order to be protected, a person must be qualified for the job and have a disability as defined by the law.
- A person can show that he or she has a disability in one of three ways.
  - He / She has a physical or mental condition that substantially limits a major life activity (i.e. walking, talking, seeing, hearing, earing or learning).
  - He / She has a history of a disability (such as cancer in remission).
  - He/she is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor, even if he/she does not have such an impairment.

### What is Pregnancy Discrimination Act (PDA)?

Under the PDA, an employer is prohibited from firing, refusing to hire, demoting, or taking any other adverse action against women if pregnancy, childbirth, or related medical conditions are motivating factors in adverse employment actions. The PDA prohibits discrimination with respect to all aspects of employment, including pay, job assignments, promotions, layoffs, trainings, and fringe benefits (such as leave and health insurance).

### What is retaliation?\*

An adverse action because of the following reason(s):

- a) You opposed an act violating one of the statutes enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and the Fair Employment Practice Division (FEPD).
- b) You filed a complaint; or you testified, assisted, participated in an investigation, proceeding, or hearing, concerning discrimination, conducted by the EEOC and/or the FEPD.
- c) You requested a reasonable accommodation (religion, pregnancy, disability).
- d) You associated with someone protected by one of the laws enforced by the U.S. EEOC and the FEPD.

### Will Charges remain confidential?

Yes. All information obtained from individuals who contact FEPD/EEOC is confidential and will not be revealed to the employer until the individual files a charge of discrimination. When an individual contacts the FEPD/EEOC, he/she will be asked to provide information. This information will be used for record-keeping purposes and to determine whether the situation is covered by FEPD/EEOC. FEPD/EEOC employees are subject to strict confidentiality requirements by law.

## KNOW YOUR RIGHTS...

- **You have the right** to a workplace free of discrimination based on sex, race, skin color, national origin, religion, age (40 years and over), disability, genetic information and retaliation.
- **You have the right** to a workplace free of harassment/ bullying both verbal and physical.
- **You have the right** to report discrimination within your workplace without punishment.

### **REMEMBER TO...**

- **Report** discrimination, harassment and bullying, or other illegal activities.
- **Respect** yourself and others in the workplace.
- **Request** reasonable accommodations for your religion, disability, pregnancy or special needs.
- **Record** how you are treated and how you treated others.



\*This information brochure is mandated by rules and regulations and is subject to change or interpretation. Please consult with our FEPD staff with specifics regarding this brochure or visit our website.

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# FEPD

A Division of Guam Department of Labor

**Promoting outreach, education & assistance to employers, employees, or individuals in preventing discrimination, harassment and sexual harassment in the workplace while pursuing fair and vigorous enforcement when discrimination is found.**



**GCIC Building 4<sup>TH</sup> Floor Suite 400  
414 W. Soledad Ave Hagatna, GU 96910  
Telephone: (671) 300-4544 OR 475-7037**

**Fax: (671) 475-6811**

**Email: [dol-fepo@dol.guam.gov](mailto:dol-fepo@dol.guam.gov)**

**Http: [dol.guam.gov/compliance/feпа/](http://dol.guam.gov/compliance/feпа/)**

## ABOUT FEPD

### Objective

Assist private sector employees on allegations or employment discrimination through discussions of infractions. Assist employers to know their legal responsibilities at the workplace to reduce or avoid any form of discrimination.

### Authority

Executive Order Number 83-010 established the Fair Employment Practice Division (FEPD) within the Guam Department of Labor on April 1, 1983. Such Authority vested in the Division is reiterated in Title 22, Guam Code Annotated, Division 1, Chapter 3 and 5. FEPD administers and enforces the provisions of Public Law 9-254, relative to unlawful employment practices, in addition to Title LX, Chapter II and Title XLII, Chapter IV of the Fair Labor Standards.

### Policy

The public policy of the territorial Government of Guam is to protect and safeguard the civil rights of all individuals to seek, have access to, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, and/or age. Employment practices should treat all individuals equally, evaluating each individual only on the basis of bona fide occupational qualification, unless pursuant to permissible defense as enumerated in the law.

### Employer Appropriate Preventative Actions:

- Written Anti-Harassment Policy
- Protects against retaliation
- Defines workplace harassment
- Establishes a complaints procedures
- Creates multiple paths in the complaints process.
- Establishes disciplinary actions
- Ensures confidentiality to extent possible
- Take all reports of harassment seriously
- Provide workplace harassment training to all employees' not just managers and supervisors.
- Monitor enforcement policy

## LAWS ENFORCED BY EEOC AND FEPD

A Work-Sharing Agreement was executed on October 8, 2008 between the U.S. Equal Employment Opportunity Commission and the Government of Guam with the following features:

- Designates Government of Guam's Department of Labor as Fair Employment Practice Agency (FEPA) aka Fair Employment Practice Division (FEPD).
- FEPD jurisdiction over allegations of discrimination filed against employers by employees within the Territory of Guam.
- Discrimination Charges filed at FEPD are dual filed with EEOC, Los Angeles District Office.
- EEOC and FEPD's roles in an investigation are to fairly and accurately evaluate the charge allegations in light of all the evidence obtained.
- **Protected Categories (Bases):**
  1. Race
  2. Color
  3. National Origin
  4. Religion
  5. Sex (Including Pregnancy)
  6. Disability
  7. Age
  8. Genetic Information
  9. Retaliation\*
- Statutes Enforced by EEOC and FEPD:
  1. TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (TITLE VII)
  2. EQUAL PAY ACT OF 1963 (EPA)
  3. AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (ADEA)
  4. AMERICANS WITH DISABILITIES ACT OF 1990 (ADA) AS AMENDED IN 2008 (ADAA)
  5. GENETIC INFORMATION NON-DISCRIMINATION ACT OF 2008 (GINA)
  6. PREGNANT WORKERS FAIRNESS ACT OF 2022 (PWFA)

## Local Laws Enforced by FEPD

### Fair Chances Hiring Process Act (FCHPA) GUAM PUBLIC LAW 34-22 FEB 2018

An Employer shall not request that a police clearance or a court Clearance be provided as part of the application for employment. However, upon a conditional offer, an employer may request an employee provide evidence as to any pending criminal cases or criminal history.

### Pregnant Workers Fairness Act (PWFA) GUAM PUBLIC LAW 36-118 NOV 2023

An employer is required by law to eliminate discrimination and promote women's health and economic security by ensuring workplace accommodations for workers whose ability to perform the functions of the job is limited by pregnancy or child birth.

### Ancestry

### Sexual Orientation

### Gender Identity/ Gender Expression

## FAQs

### What is Discrimination?

The practice of unfairly treating a person or group of people differently from other people or groups of people; treating, or proposing to treat, someone unfavorably because of a personal characteristic protected by law.

**Example:** A supervisor or person in authority making employment decisions related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment, impacting an employee's protected class status.

### What is National Origin?

Whether an employee or job applicant's ancestry is Chamoru, Chuukese, Filipino, Palauan or any other nationality, he/she is entitled to the same employment opportunities as anyone else.

*Please see more FAQ s in the corresponding section.*