



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of the Chair
Andrea R. Lucas, Acting Chair

To: Heads and Acting Heads of Departments and Agencies

From: Andrea R. Lucas, Acting Chair

Date: May 15, 2025

Re: Restoring and Protecting the Presumption of Innocence in the EEO Complaint Process

Recently, the United States Department of Defense initiated a review of its practice to hold in abeyance promotions of employees, including uniformed personnel, when there is a pending equal employment opportunity (EEO) complaint against them. The EEOC fully supports the Department of Defense's effort to abandon this practice and provide relief to those adversely affected by it.

Neutrality is a core pillar of the federal sector EEO process. This means an employer may not punish an employee who in good faith files a complaint or otherwise participates in the EEO process. This also means there is never a presumption of guilt against someone accused of unlawful discrimination. The burden of proving unlawful discrimination always falls on the party making the allegation. Any effort to reflexively punish an employee—formally or informally—simply for being accused of unlawful discrimination undermines the integrity of the entire EEO process.

It is also the EEOC's view that a presumption of innocence for the accused furthers the truth-finding goal at the heart of the EEO process. In service of this truth-finding goal, the anti-retaliation laws prohibit agencies from taking adverse actions against those who in good faith cooperate with investigations and related EEO proceedings. These protections extend to the accused employee as well, and the accused employee who is presumed innocent will be far more likely to actively and productively participate in the truth-finding process than one presumed guilty from the start.

All federal agencies should review their EEO programs to ensure true neutrality for both accuser and accused. No federal agency should punish an employee—including by withholding or delaying promotions—for being the subject of an EEO complaint without a substantive finding of misconduct based on objective and credible evidence.

For our part, the EEOC renews our commitment to the shared vision of a federal workplace that is both guided by merit-based principles and free from unlawful discrimination. My office is actively working to reform the federal sector EEO process to more fully meet these complementary goals. I recognize that for many complainants and agencies, the EEO process has ossified and become unduly slow, erratic, and painful. We can, and very swiftly will, do better.