

**From:** James E. Foster <JEF@nrc.gov>  
**To:** <nrcprep@nrc.gov>  
**Date:** Tue, Sep 26, 2000 2:10 PM  
**Subject:** Discrimination Task Group

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James E. Foster (JEF@NRC.GOV) on Tuesday, September 26, 2000 at 14:09:23

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Affiliation: NRC RIII, DRS, PSB

Comments: DISCRIMINATION

WHEN DISCRIMINATION IS ALLEGED:

1. There should be one investigation of discrimination, conducted by one agency. This will insure one standard for discrimination determination, and avoid potential disagreements.
2. The single discrimination investigation should be performed by the agency most able to competently conduct the investigation and remedy any discrimination identified. Remedy of any discrimination is the primary objective of the individual(s) discriminated against, and sends a clear message to management and others.
3. The investigation should be conducted by investigators specifically trained in the identification of discrimination and the details of statutes related to discrimination. Determining discrimination at an NRC licensed facility should involve the same standards as utilized elsewhere in industry. This will aid in insuring the technical competence of the investigation.
4. Criminal investigators should not be utilized to investigate discrimination. Virtually all discrimination investigations which identify discrimination result in civil, not criminal sanctions. Criminal investigators tend to focus on potential criminality, and may utilize methodologies which may hamper a civil discrimination investigation.
5. The investigation should be performed in a timely manner. This will limit the time the individual discriminated against has not been "made whole," if discrimination is identified. A prompt investigation is in the best interest of all parties.
6. The investigation should be fully documented. It needs to be robust to resist potential court challenges.
7. The investigation summary should be sufficiently detailed and in a format to make it publicly available, if needed. This will make subsequent NRC use of the investigation easier.
8. The investigation should be promptly shared with other agencies with an interest or stake in the outcome of the investigation. Any agency performing an investigation on an NRC licensed site should promptly provide this information to the NRC.
9. Differences of opinion on discrimination investigations often lead to prolonged legal proceedings, and this can be a difficult period for all of the various parties. We need to develop a mechanism or procedure to deal with those circumstances the investigating agency considers the events reviewed as discrimination and the employer, disagreeing, enters into a lengthy appeals process. Perhaps an "Interim Order" could restore the concerned individual pending the outcome of the appeals process.

65 FR 47806  
Aug 3/00  
(2)

Template - ADM-013

FRIDS - ADM-03  
add - B. Westreich (BCW)

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Submit2: Submit comments

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**Creation Date:** Tue, Sep 26, 2000 2:09 PM  
**From:** James E. Foster <JEF@nrc.gov>

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