

EMPLOYMENT RETALIATION INVESTIGATOR

This is professional investigative and consultative work in the enforcement of the North Carolina North Carolina Retaliatory Employment Discrimination Act (REDA). The mission of this office is to eliminate workplace discrimination in the State because of employees' protected activities related to occupational safety and health, workers' compensation, wage and hour laws, mine safety and health, genetic information or testing, National Guard Service, carrying the sickle cell anemia trait and participation in the juvenile justice system. Employees investigate, research, and analyze complaints of non-compliance, and, where merit is found in a complaint, facilitate resolution by conciliation, settlement, and litigation or issuance of right-to-sue letters, and by informing employers of their responsibilities and employees of their rights. Employees are located in a geographic district in North Carolina or the Raleigh office. Work is performed independently under the general supervision of the Employment Retaliation Administrator.

I. DIFFICULTY OF WORK:

Variety and Scope - Work assignments are received from complaints and allegations. The investigator uses a variety of enforcement techniques to investigate, research, and analyze all cases assigned, to complete investigations within timelines, and to make recommendations as to disposition and remedies in cases where further action is necessary by a supervisor or through litigation. Analysis is necessary in responding to inquiries from workers, attorneys, employers, unions, the public, trade associations, and other state and federal agencies. Investigators make violation determinations, including back pay, economic loss and remedy determinations and calculations, and initiate conciliation and settlement efforts. Thorough written analysis of cases are prepared including documentary and testimonial evidence, and legal and factual issues. Investigators are required to assist the Attorney General's office in trial preparation by gathering documentary and testimonial evidence, finding additional witnesses and testifying.

Intricacy - Complaint resolution requires balancing a varied workload of cases from the simplest to the most complex, several of which have strict time limits and often cover vast areas of North Carolina geography. Investigators must develop investigative strategy and tactics covering witnesses, questions, documents, sequencing of interviews, location of interviews and obtaining subpoenas. Investigators are responsible for preliminary research to determine if other Department of Labor or federal agency offices are involved in the investigation or if other legal issues exist in the case. Remedies evidence must be gathered on back wages, lost benefits and other economic losses such as equity in home, loss of material goods, job search expenses, and other identifiable losses. Investigators have the authority to close cases or make recommendations as to disposition of cases to the Administrator, including recommendations as to whether to litigate or issue right-to-sue letters in REDA/OSHA and merit cases based upon assessment of factors of which the investigator has direct knowledge, such as potential witness demeanor and credibility on the witness stand. Judgment is required in resolving cases that do not present obvious or clear-cut evidence, while serving as broker or facilitator of settlement between parties, and initiating discussion of creative, non-monetary settlement possibilities.

Subject Matter Complexity - Work requires considerable knowledge and understanding of the North Carolina Retaliatory Employment Discrimination Act and state and federal employment protection laws and regulations, investigative techniques, a general understanding of fiscal record-keeping and court proceedings. Investigators must be able to discern contradictions from conflicting information obtained through observations, interviews and review of employer records.

Guidelines - Investigators utilize the North Carolina Retaliatory Employment Discrimination Act, and all acts protecting employees in the workplace: the Wage and Hour Act; the Fair Labor Standards Act; Occupational Safety and Health Act; Workers' Compensation Act; Mine and Safety and Health Act; and

portions of law protecting against discrimination based on persons possessing sickle cell trait or hemoglobin C trait, genetic testing information, those who participate in the juvenile justice system, those who serve in the North Carolina National Guard. Interpretation is required in administering and/or interpreting the legal aspects of these laws and related Attorney General's rulings and State and Supreme Court rules on employment issues, as applied to the authority of the investigator to subpoena records and conduct audits. Internal memoranda provide clarification on issues affecting the total organization.

II. RESPONSIBILITY:

Nature of Instructions - Investigators work independently with general instruction provided by the Administrator on policies and procedures through annual performance evaluation, staff meetings, and formal and informal discussions. Additional information is received from Department of Labor management staff through similar means of contact. Independence is exercised in conducting investigations from the selection of investigative techniques and procedures and settlement methods utilized in the review and final disposition of the case.

Nature of Review - The work of the Retaliation Investigator is performed independently under the supervision of the Administrator. The majority of the investigative work is performed on site, in varied locations throughout North Carolina, without the presence of the Administrator. Reports on completed investigations are reviewed by the administrator to ensure accuracy, adherence to policy and procedure, and for concurrence with recommendations.

Scope of Decisions - Decisions impact complainants, employers, and the productivity of the office in handling future REDA complaints. Investigators provide direction or instruction to employers, complainants, legal representatives and the general public.

Consequence of Decisions - Legitimate cases dismissed result in a fired employee not being able to obtain other employment because of a bad prior work record. Cases in which the investigator erred and the employee continues to work with the employer, results in the continuation of the retaliation against the employee. Error by the investigator could have significant financial and other impacts on employers and other respondents including damaged reputation in cases in which the press becomes involved, and financial loss. The rights of other employees could be affected if a valid complaint is dismissed because other employees would not file complaints. Significant error in the investigation of an occupational safety and health complaint could result in the loss by the state of state-plan status under the Occupational Safety and Health Act.

III. INTERPERSONAL COMMUNICATIONS:

Scope of Contacts - Contacts are primarily with the general public in a myriad of occupations ranging from corporate executives to blue collar workers as well as teen-aged workers, employers, attorneys, accountants, legislative or media contacts, and representatives from other state and federal agencies.

Nature and Purpose - Investigators explain and advise on the application of REDA to the general public; resolve work issues by interviewing claimants either by telephone or in person, conduct on-site interviews with employers; mediate, justify and/or explain the claim settlement and render the Office's interpretation of law on claims questions to attorneys and the Attorney General's office; and provide technical assistance and training to employers, attorneys, accountants, and employees.

IV. OTHER WORK DEMANDS:

Work Conditions - Travel throughout North Carolina is necessary. Work is performed in an office environment or at a variety of business locations.

Hazards - No hazards generally exist in the office setting. Work accomplished at off-site locations may involve stress when dealing with hostile or emotional employees, employers or witnesses. Investigators are exposed to the normal hazards associated with automobile travel.

V. RECRUITMENT STANDARDS:

Knowledges, Skills and Abilities - In-depth knowledge of the legal aspects of administering the North Carolina Retaliatory Employment Discrimination Act, and all acts protecting employees in the workplace: the Wage and Hour Act; the Fair Labor Standards Act; Occupational Safety and Health Act; Workers' Compensation Act; Mine and Safety and Health Act; and portions of law protecting against discrimination based on persons possessing sickle cell trait or hemoglobin C trait, genetic testing information, those who participate in the juvenile justice system, or those who serve in the North Carolina National Guard. Thorough knowledge of related Attorney General's rulings, State and Supreme Court rulings on worker protection issues. Ability to independently apply the provisions of federal and state laws, rules, and regulations to specific inquiries and complaints. Ability to organize and evaluate evidence from a variety of sources, in a variety of forms, and with varying degrees of reliability, assess weight and relevance and determine the need for further evidence gathering and analysis; ability to manage and resolve conflicts; and ability to prepare comprehensive reports. Ability to independently mediate and settle claims to the satisfaction of both parties. Ability to recognize potential for improvement in procedures and policies and make recommendations for change.

Minimum Training and Experience Requirements - Graduation from a four-year college or university preferably with an occupational safety or health, industrial engineering, industrial relations or labor relations, law or related degree; and three years of experience in discrimination investigations, legal or regulatory investigations, including occupational safety and health investigations, regulatory investigations, workers' compensation programs or other relevant investigatory experience; or an equivalent combination of education and experience.

Special Note – This is a generalized representation of positions in this class and is not intended to identify essential functions per ADA. Examples of work are primarily essential functions of the majority of positions in this class, but may be applicable to all positions.