

Position Statement for Administrative Hearing

Submitted by: Max J. Mainell

Case Number: HS-FEMA-02436-2024

Hearing Date: [Insert Date]

Administrative Judge: [Insert Judge's Name]

I. Introduction

This Position Statement outlines my claims against the Federal Emergency Management Agency (FEMA) for disability discrimination, age discrimination, and retaliation under the Rehabilitation Act of 1973, the Age Discrimination in Employment Act (ADEA), and Title VII of the Civil Rights Act. As a dedicated FEMA employee, I faced systemic failures in the handling of my Reasonable Accommodation (RA) requests, unwarranted termination, and discriminatory practices based on my disability and age. The Equal Employment Opportunity (EEO) investigation report (Investigation Report, artifact_id = "Hof fobe-Gel2-414b-8167312970r8678") substantiates these violations, documenting excessive delay

II. Background

I, Max J. Mainell, submitted multiple RA requests to accommodate my disabilities, including RARSO1234, RAR001769, RARSO46767, and RARSO42462. These requests were either denied, excessively delayed, or left unresolved, despite my proven ability to perform essential job functions with accommodations. Following my EEO complaint, FEMA terminated my employment 17 days later, a clear act of retaliation. The investigation report highlights FEMA's non-compliance with federal regulations, including FEMA Manual 1439A1, Manual 103-6-1, and Instruction 256-022-01, as well as violations of the Rehabilitation Act and ADEA.

III. Evidence Supporting Claims

A. Investigation Report Findings

The EEO investigation report (p. 76) is a cornerstone of my case, detailing FEMA's systemic failures:

- **RA Delays and Denials:** RA requests were delayed excessively—196 days (RARSO1234), 1,340 days (RAR001769), 190 days (RARSO46767), and 995 days (RARSO42462)—violating the Rehabilitation Act's requirement for a robust interactive process (29 C.F.R. § 1630.2(o)(3)).
- **Retaliatory Termination:** My termination occurred 17 days after filing an EEO complaint, with the report noting procedural lapses and a lack of justification (Investigation Report, p. 76).
- **Age Discrimination:** The report documents a pattern of RA delays disproportionately affecting older employees, with FEMA failing to track age-related RA data (Investigation Report, p. 76).

B. Reasonable Accommodation Violations

FEMA’s handling of my RA requests was marked by significant delays and denials:

- RARSO46767 (2024): Denied based on misrepresentation of my deployment ability, despite evidence of my capability with accommodations (Investigation Report, p. 38).
- RARSO42462 (2022): Left unresolved for 995 days, despite endorsements from supervisors (Investigation Report, p. 38).
- RAR001769: Delayed 1,340 days, undermining my ability to perform essential functions (Investigation Report, p. 38).

These delays and denials violated FEMA’s obligation to engage in a timely interactive process, as required by 29 C.F.R. § 1630.2(o)(3).

C. Witness Statements

Affidavits from FEMA officials, including Traci Bransar, Sheila Clamons, and Anna Myers (April 2025), corroborate my claims:

- Witnesses confirmed FEMA’s lack of a robust interactive process for RA requests (Investigation Report, p. 38).
- Statements highlighted a pattern of delays and denials for older employees, supporting ADEA violations (Investigation Report, p. 38).

D. FEMA’s Non-Compliance

FEMA’s response to my FOIA request (May 2, 2025) claimed “no responsive records” for RA data by age group, violating FEMA Manual 1439A1, Manual 103-6-1, and Instruction 256-022-01 (Investigation Report, p. 38). This lack of transparency further supports claims of systemic discrimination.

E. Retaliation

The timing of my termination—17 days after my EEO filing—combined with procedural lapses documented in the investigation report, establishes retaliation under Title VII (Investigation Report, p. 76). My rebuttal, submitted in April 2025, refuted false affidavits and highlighted FEMA’s systemic failures (Investigation Report, p. 38).

F. Additional Evidence

- MEDNER-FEMA Informat Intake Form (09-03-24): Provides medical documentation supporting my RA requests, contradicting FEMA’s denials (Investigation Report, p. 1).
- Coordinated Deployment Agreement (Houston, May 26, 2024): Demonstrates my ability to perform essential functions with accommodations, undermining FEMA’s justification for termination (Investigation Report, p. 40).

IV. Legal Arguments

A. Disability Discrimination (Rehabilitation Act)

FEMA violated the Rehabilitation Act by:

- Failing to provide timely accommodations, with delays ranging from 190 to 1,340 days (29 C.F.R. § 1630.2(o)(3)).
- Denying RA requests without a robust interactive process, as evidenced by the investigation report (p. 76).
- Terminating me despite my ability to perform essential functions with accommodations, as supported by the Houston deployment agreement (Investigation Report, p. 40).

B. Age Discrimination (ADEA)

FEMA's actions constitute age discrimination under the ADEA:

- The investigation report documents a pattern of RA delays for older employees (p. 76).
- FEMA's failure to track age-related RA data (FOIA response, May 2, 2025) suggests systemic bias (Investigation Report, p. 40).

C. Retaliation (Title VII)

FEMA's termination 17 days after my EEO complaint, coupled with procedural lapses, constitutes retaliation under Title VII (Investigation Report, p. 76). The investigation report's findings of unjustified termination further support this claim.

V. Relief Sought

I respectfully request the following remedies:

- Reinstatement to my position with full back pay and benefits.
- Approval of all pending RA requests with immediate implementation.
- Compensatory damages for emotional distress and financial losses.
- Policy reforms to ensure FEMA's compliance with the Rehabilitation Act, ADEA, and Title VII.

VI. Conclusion

The EEO investigation report (artifact_id = "Hoffobe-Gel2-414b-8167312970r8678") provides compelling discrimination laws. FEMA's excessive RA delays, retaliatory termination, and age-based discrimination being. I urge the Administrative Judge to rule in my favor, granting the requested relief to address these injustices.

Respectfully submitted,
Max J. Mainell
sert Contact Information
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