# SUPREME COURT OF THE UNITED STATES

No. 06–1321

MYRNA GOMEZ-PEREZ, PETITIONER *v.* JOHN E. POTTER, POSTMASTER GENERAL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

[May 27, 2008]

JUSTICE ALITO delivered the opinion of the Court.

The question before us is whether a federal employee who is a victim of retaliation due to the filing of a complaint of age discrimination may assert a claim under the federal-sector provision of the Age Discrimination in Employment Act of 1967 (ADEA), as added, 88 Stat. 74, and amended, 29 U. S. C. §633a(a) (2000 ed., Supp. V). We hold that such a claim is authorized.

## I

Petitioner Myrna Gómez-Pérez was a window distribution clerk for the United States Postal Service. In October 2002, petitioner, then 45 years of age, was working full time at the Post Office in Dorado, Puerto Rico. She requested a transfer to the Post Office in Moca, Puerto Rico, in order to be closer to her mother, who was ill. The transfer was approved, and in November 2002, petitioner began working at the Moca Post Office in a part-time position. Later that month, petitioner requested a transfer back to her old job at the Dorado Post Office, but her supervisor converted the Dorado position to part-time, filled it with

another employee, and denied petitioner's application.

After first filing an unsuccessful union grievance seeking a transfer back to her old job, petitioner filed a Postal Service equal employment opportunity age discrimination complaint. According to petitioner, she was then subjected to various forms of retaliation. Specifically, petitioner alleges that her supervisor called her into meetings during which groundless complaints were leveled at her, that her name was written on antisexual harassment posters, that she was falsely accused of sexual harassment, that her co-workers told her to "'go back'" to where she "'belong[ed],'" and that her work hours were drastically reduced. 476 F. 3d 54, 56 (CA1 2007).

Petitioner responded by filing this action in the United States District Court for the District of Puerto Rico, claiming, among other things, that respondent had violated the federal-sector provision of the ADEA, 29 U. S. C. §633a(a) (2000 ed., Supp. V), by retaliating against her for filing her equal employment opportunity age discrimination complaint. Respondent moved for summary judgment, arguing that the United States has not waived sovereign immunity for ADEA retaliation claims and that the ADEA federal-sector provision does not reach retaliation. The District Court granted summary judgment in favor of respondent on the basis of sovereign immunity.

On appeal, the United States Court of Appeals for the First Circuit held that the Postal Reorganization Act, 39 U. S. C. §401(1), unequivocally waived the Postal Service's sovereign immunity, see 476 F. 3d, at 54, 57, but the Court affirmed the decision of the District Court on the alternative ground that the federal-sector provision's prohibition of "discrimination based on age," §633a(a) (2000 ed., Supp. V), does not cover retaliation, *id.*, at 60, creating a split among the Courts of Appeals. Compare *Forman* v. *Small*, 271 F. 3d 285, 296 (CADC 2001) (ADEA federal-sector provision covers retaliation). We granted

certiorari. 552 U. S. ___ (2007).

## II

The federal-sector provision of the ADEA provides that "[a]ll personnel actions affecting employees or applicants for employment who are at least 40 years of age . . . shall be made free from any discrimination based on age." §633a(a) (2000 ed., Supp. V). The key question in this case is whether the statutory phrase "discrimination based on age" includes retaliation based on the filing of an age discrimination complaint. We hold that it does.

In reaching this conclusion, we are guided by our prior decisions interpreting similar language in other antidiscrimination statutes. In *Sullivan* v. *Little Hunting Park, Inc.*, 396 U. S. 229 (1969), we considered whether a claim of retaliation could be brought under Rev. Stat. §1978, 42 U. S. C. §1982, which provides that "[a]ll citizens of the United States shall have the same right . . . as is enjoyed by white citizens . . . to inherit, purchase, lease, sell, hold, and convey real and personal property." While §1982 does not use the phrase "discrimination based on race," that is its plain meaning. See *Tennessee* v. *Lane*, 541 U. S. 509, 561 (2004) (SCALIA, J., dissenting) (describing §1982 as "banning public or private racial discrimination in the sale and rental of property"); *Jones* v. *Alfred H. Mayer Co.*, 392 U. S. 409 (1968).

In *Sullivan*, a white man (Sullivan) held membership shares in a nonstock corporation that operated a park and playground for residents of the area in which he owned a home. Under the bylaws of the corporation, a member who leased a home in the area could assign a membership share in the corporation. But when Sullivan rented his house and attempted to assign a membership share to an African-American (Freeman), the corporation disallowed the assignment because of Freeman's race and subsequently expelled Sullivan from the corporation for protest-

ing that decision. Sullivan sued the corporation, and we held that his claim that he had been expelled "for the advocacy of Freeman's cause" was cognizable under §1982. 396 U. S., at 237. A contrary holding, we reasoned, would have allowed Sullivan to be "punished for trying to vindicate the rights of minorities" and would have given "impetus to the perpetuation of racial restrictions on property." *Ibid.*

More recently, in *Jackson* v. *Birmingham Bd. of Ed.*, 544 U. S. 167 (2005), we relied on *Sullivan* in interpreting Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U. S. C. §1681 *et seq.* (2000 ed. and Supp. V). Jackson, a public school teacher, sued his school board under Title IX, "alleging that the Board retaliated against him because he had complained about sex discrimination in the high school's athletic program." 544 U. S., at 171. Title IX provides in relevant part that "[n]o person in the United States shall, *on the basis of sex*, . . . be subjected to *discrimination* under any education program or activity receiving Federal financial assistance." §1681(a) (2000 ed.) (emphasis added). Holding that this provision prohibits retaliation, we wrote:

> "Retaliation against a person because that person has complained of sex discrimination is another form of intentional sex discrimination . . . . Retaliation is, by definition, an intentional act. It is a form of 'discrimination' because the complainant is being subjected to differential treatment. Moreover, retaliation is discrimination 'on the basis of sex' because it is an intentional response to the nature of the complaint: an allegation of sex discrimination. We conclude that when a funding recipient retaliates against a person *because* he complains of sex discrimination, this constitutes intentional 'discrimination' 'on the basis of sex,' in violation of Title IX." *Id.*, at 173–174 (citations omitted).

This interpretation, we found, flowed naturally from *Sullivan:* "Retaliation for Jackson's advocacy of the rights of the girls' basketball team in this case is 'discrimination' 'on the basis of sex,' just as retaliation for advocacy on behalf of a black lessee in *Sullivan* was discrimination on the basis of race." 544 U. S., at 176–177.

Following the reasoning of *Sullivan* and *Jackson*, we interpret the ADEA federal-sector provision's prohibition of "discrimination based on age" as likewise proscribing retaliation. The statutory language at issue here ("discrimination based on age") is not materially different from the language at issue in *Jackson* ("'discrimination'" "'on the basis of sex'") and is the functional equivalent of the language at issue in *Sullivan*, see *Jackson*, *supra,* at 177 (describing *Sullivan* as involving "discrimination on the basis of race"). And the context in which the statutory language appears is the same in all three cases; that is, all three cases involve remedial provisions aimed at prohibiting discrimination.

The *Jackson* dissent strenuously argued that a claim of retaliation is conceptually different from a claim of discrimination, see 544 U. S., at 184–185 (opinion of THOMAS, J.), but that view did not prevail.[1] And respondent in this case does not ask us to overrule *Sullivan* or *Jackson.* Nor does respondent question the reasoning of those decisions.

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[1] Suggesting that we have retreated from the reasoning of *Sullivan* and *Jackson*, THE CHIEF JUSTICE, citing *Burlington N. & S. F. R. Co.* v. *White*, 548 U. S. 53, 63–65 (2006), states that "we have since explained that antidiscrimination and antiretaliation provisions are indeed conceptually distinct, and serve distinct purposes." *Post*, at 4 (dissenting opinion). But as the Court explains today in *CBOCS West, Inc.* v. *Humphries*, *ante*, at 13, "[i]n *Burlington* . . . we used the status/conduct distinction to help explain why Congress might have wanted its explicit Title VII antiretaliation provision to sweep more broadly (*i.e.*, to include conduct *outside* the workplace) than its substantive Title VII (status-based ) antidiscrimination provision. *Burlington* did not suggest that Congress must separate the two in all events."

Indeed, in *Jackson*, the Government contended that "[t]he text . . . of Title IX demonstrate[s] that it encompasses protection against retaliation" since "retaliation against a person because that person has filed a sex discrimination complaint is a form of intentional sex discrimination." Brief for United States as *Amicus Curiae* 8, in *Jackson* v. *Birmingham Bd. of Ed.*, O. T. 2004, No. 02–1672. Similarly, in another case this Term, the Government has urged us to follow the reasoning of *Sullivan* and to hold that a claim of retaliation may be brought under Rev. Stat. §1977, 42 U. S. C. §1981. In that case, the Government argues that §1981's prohibition of "'discrimination' . . . quite naturally includes discrimination on account of having complained about discrimination." Brief for United States as *Amicus Curiae* 10, in *CBOCS West, Inc.* v. *Humphries*, O. T. 2007, No. 06–1431.

III

The decision of the Court of Appeals, which respondent defends, perceived a "clear difference between a cause of action for discrimination and a cause of action for retaliation" and sought to distinguish *Jackson* on three grounds. 476 F. 3d, at 58–59. We are not persuaded, however, by any of these attempted distinctions.

A

The Court of Appeals first relied on the fact that the ADEA expressly creates a private right of action whereas Title IX, the statute at issue in *Jackson*, does not. See 476 F. 3d, at 58. The Court of Appeals appears to have reasoned that, because the private right of action under Title IX is implied and not express, see *Cannon* v. *University of Chicago*, 441 U. S. 677 (1979), the *Jackson* Court had greater leeway to adopt an expansive interpretation of Title IX's prohibition of discrimination on the basis of sex.

This reasoning improperly conflates the question

whether a statute confers a private right of action with the question whether the statute's substantive prohibition reaches a particular form of conduct. These questions are analytically distinct, and confusing them would lead to exceedingly strange results.

For example, under the Court of Appeals' reasoning, Title IX's prohibition of "discrimination" "on the basis of sex," in 20 U. S. C. §1681(a), might have a narrower scope and might not reach retaliation if Title IX contained a provision expressly authorizing an aggrieved private party to bring suit to remedy a violation of §1681(a). We do not see how such a conclusion could be defended. Section 1681(a)'s prohibition of "discrimination" either does or does not reach retaliation, and the presence or absence of another statutory provision expressly creating a private right of action cannot alter §1681(a)'s scope. In addition, it would be perverse if the enactment of a provision explicitly creating a private right of action—a provision that, if anything, would tend to suggest that Congress perceived a need for a strong remedy—were taken as a justification for narrowing the scope of the underlying prohibition.

The Court of Appeals' reasoning also seems to lead to the strange conclusion that, despite *Jackson*'s holding that a private party may assert a retaliation claim under Title IX, the Federal Government might not be authorized to impose upon an entity that engages in retaliation the administrative remedies, including the termination of funding, that are expressly sanctioned under §1682. It would be extremely odd, however, if §1681(a) had a broader scope when enforced by a means not expressly sanctioned by statute than it does when enforced by the means that the statute explicitly provides. For these reasons, we reject the proposition that *Jackson* may be distinguished from the present case on the ground that Title IX's private right of action is implied.

B

The Court of Appeals next attempted to distinguish *Jackson* on the ground that retaliation claims play a more important role under Title IX than they do under the ADEA. The Court of Appeals pointed to our statement in *Jackson* that "'teachers and coaches . . . are often in the best position to vindicate the rights of their students because they are better able to identify discrimination and bring it to the attention of administrators.'" 476 F. 3d, at 58 (quoting *Jackson*, 544 U. S., at 181). The Court of Appeals suggested that third parties are not needed to "identify instances of age discrimination and bring it to the attention of supervisors" and that, consequently, there is no need to extend §633a(a) (2000 ed., Supp. V) to reach retaliation. 476 F. 3d, at 58.

This argument ignores the basis for the decision in *Jackson*. *Jackson* did not hold that Title IX prohibits retaliation because the Court concluded as a policy matter that such claims are important. Instead, the holding in *Jackson* was based on an interpretation of the "text of Title IX." 544 U. S., at 173, 178.

Moreover, the statements in *Jackson* on which the Court of Appeals relied did not address the question whether the statutory term "discrimination" encompasses retaliation. Instead, those statements addressed the school board's argument that, even if Title IX was held to permit some retaliation claims, only a "victim of the discrimination"—and not third parties—should be allowed to assert such a claim. *Id.*, at 179–182. It was in response to this argument that the Court noted the particular importance of reports of Title IX violations by third parties such as teachers and coaches. *Id.*, at 181.

C

Finally, the Court of Appeals attempted to distinguish *Jackson* on the ground that "Title IX was adopted in re-

sponse to the Court's holding in *Sullivan*," whereas "there is no evidence in the legislative history that the ADEA's federal sector provisions were adopted in a similar context." 476 F. 3d, at 58–59. *Jackson*'s reliance on *Sullivan*, however, did not stem from "evidence in the legislative history" of Title IX. *Jackson* did not identify any such evidence but merely observed that "Congress enacted Title IX just three years after *Sullivan* was decided." 544 U. S., at 176. Due to this chronology, the Court concluded, it was "'not only appropriate but also realistic to presume that Congress was thoroughly familiar with *[Sullivan]* and that it expected its enactment [of Title IX] to be interpreted in conformity with [it]." *Ibid.* (quoting *Cannon*, 441 U. S., at 699). See also 544 U. S., at 176 ("Title IX was enacted in 1972, three years after *[Sullivan]*"); *id.*, at 179–180 ("*Sullivan* . . . formed an important part of the backdrop against which Congress enacted Title IX").

What *Jackson* said about the relationship between *Sullivan* and the enactment of Title IX can be said as well about the relationship between *Sullivan* and the enactment of the ADEA's federal-sector provision, 29 U. S. C. §633a (2000 ed. and Supp. V). *Sullivan* was decided in 1969 and §633a was enacted in 1974—five years after the decision in *Sullivan* and two years after the enactment of Title IX. We see no reason to think that Congress forgot about *Sullivan* during the two years that passed between the enactment of Title IX in 1972 and the enactment of §633a in 1974. And if, as *Jackson* presumed, Congress had *Sullivan* in mind when it enacted Title IX in 1972, it is "appropriate" and "realistic" to presume that Congress expected its prohibition of "discrimination based on age" in §633a(a) "'to be interpreted in conformity with'" its similarly worded prohibition of "discrimination" "on the basis of sex" in 20 U. S. C. §1681(a), which it had enacted just two years earlier. 544 U. S., at 176 (quoting *Cannon*, *supra*, at 699).

## IV

### A

In arguing that §633a(a) (2000 ed., Supp. V) does not encompass retaliation claims, respondent relies principally on the presence of a provision in the ADEA specifically prohibiting retaliation against individuals who complain about age discrimination in the private sector, §623(d), and the absence of a similar provision specifically prohibiting retaliation against individuals who complain about age discrimination in federal employment. According to respondent, "the strong presumption is that [the] omission reflects that Congress acted intentionally and purposely in including such language in Section 623 of the Act and excluding it from Section 633a." Brief for Respondent 17 (internal quotation marks omitted).

"[N]egative implications raised by disparate provisions are strongest" in those instances in which the relevant statutory provisions were "considered simultaneously when the language raising the implication was inserted." *Lindh* v. *Murphy*, 521 U. S. 320, 330 (1997). Here, the two relevant provisions were not considered or enacted together. Section 623(d), which specifically prohibits private sector retaliation, was enacted in 1967, see §4(d), 81 Stat. 603, but the federal-sector provision, §633a, was not added until 1974, see §28(b)(2), 88 Stat. 74.[2]

Respondent's argument is also undermined by the fact that the prohibitory language in the ADEA's federal-sector provision differs sharply from that in the corresponding

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[2]The situation here is quite different from that which we faced in *Lehman* v. *Nakshian*, 453 U. S. 156 (1981), where both the private and federal-sector provisions of the ADEA already existed and a single piece of legislation—the 1978 amendments to the ADEA—added a provision conferring a jury-trial right for private-sector ADEA suits but failed to include any similar provision for federal-sector suits. See Age Discrimination in Employment Act Amendments of 1978, §4(a)(2), 92 Stat. 189.

ADEA provision relating to private-sector employment. In the private-sector provision, Congress set out a specific list of forbidden employer practices. See 29 U. S. C. §623(a).[3] The omission from such a list of a specific prohibition of retaliation might have been interpreted as suggesting that Congress did not want to reach retaliation, and therefore Congress had reason to include a specific prohibition of retaliation, §623(d), in order to dispel any such inference.

The ADEA federal-sector provision, however, was not modeled after §623(d) and is couched in very different terms. The ADEA federal-sector provision was patterned "directly after" Title VII's federal-sector discrimination ban. *Lehman* v. *Nakshian*, 453 U. S. 156, 167, n. 15 (1981). Like the ADEA's federal-sector provision, Title VII's federal-sector provision, contains a broad prohibition of "discrimination," rather than a list of specific prohibited practices. Compare 118 Stat. 814, as amended, 42 U. S. C. §2000(e)–16(a) (2000 ed., Supp. V) (personnel actions affecting federal employees "shall be made free from any discrimination based on race, color, religion, sex, or national origin") with 29 U. S. C. §633a(a) (2000 ed., Supp. V) (personnel actions affecting federal employees who are at least 40 years of age "shall be made free from any discrimination based on age"). And like the ADEA's federal-

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[3] Section 623(a) provides:

"(a) Employer practices

"It shall be unlawful for an employer—

"(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

"(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or

"(3) to reduce the wage rate of any employee in order to comply with this chapter."

sector provision, Title VII's federal-sector provision incorporates certain private-sector provisions but does not incorporate the provision prohibiting retaliation in the private sector. See 42 U. S. C. §2000e–16(d) (incorporating §§2000e–5(f) to (k) but not §2000e–3(a), which forbids private-sector retaliation).[4]

When Congress decided not to pattern 29 U. S. C. §633a(a) after §623(a) but instead to enact a broad, general ban on "discrimination based on age," Congress was presumably familiar with *Sullivan* and had reason to expect that this ban would be interpreted "in conformity" with that precedent. *Jackson*, 544 U. S., at 176. Under the reasoning of *Sullivan*, retaliation for complaining about age discrimination, is "discrimination based on age," "just as retaliation for advocacy on behalf of [the] black lessee in *Sullivan* was discrimination on the basis of race." *Id.*, at 176–177. Thus, because §§623(d) and 633a were enacted separately and are couched in very different terms, the absence of a federal-sector provision similar to §623(d) does not provide a sufficient reason to depart from the reasoning of *Sullivan* and *Jackson*.[5]

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[4] While the federal-sector provision of Title VII does not incorporate §2000e–3(a), the federal-sector provision of Title VII does incorporate a remedial provision, §2000e–5(g)(2)(A), that authorizes relief for a violation of §2000–3(a). Petitioner argues that this remedial provision shows that Congress meant for the Title VII federal-sector provision's broad prohibition of "discrimination based on race, color, religion, sex, or national origin" to reach retaliation because otherwise there would be no provision banning retaliation in the federal sector and thus no way in which relief for retaliation could be awarded. Brief for Petitioner 20. The Federal Government, however, has declined to take a position on the question whether Title VII bans retaliation in federal employment, see Tr. of Oral Arg. 31, and that issue is not before us in this case.

[5] The Government's theory that the absence of a provision specifically banning federal-sector retaliation gives rise to the inference that §633a(a) (2000 ed., Supp. V) does not ban retaliation would lead logically to the strange conclusion that §633a(a) also does not forbid age-

B

We see even less merit in respondent's reliance on 29 U. S. C. §633a(f), which provides that personnel actions by a federal department, agency, or other entity covered by §633a "shall not be subject to, or affected by, any provision of this chapter" other than §§633a and 631(b), the provision that restricts the coverage of the ADEA to persons who are at least 40 years of age. Respondent contends that recognizing federal-sector retaliation claims would be tantamount to making §623(d) applicable to federal-sector employers and would thus contravene §633a(f).

This argument is unsound because our holding that the ADEA prohibits retaliation against federal-sector employees is not in any way based on §623(d). Our conclusion, instead, is based squarely on §633a(a) (2000 ed., Supp. V) itself, "unaffected by other sections" of the Act. *Lehman*, *supra*, at 168.

C

Respondent next advances a complicated argument concerning "[t]he history of congressional and executive branch responses to the problem of discrimination in federal employment." Brief for Respondent 27. After Title VII was made applicable to federal employment in 1972, see Equal Employment Act, §11, 86 Stat. 111, the Civil Service Commission issued new regulations that prohibited discrimination in federal employment based on race, color, religion, sex, and national origin (but not age), see 5 CFR §713.211 (1973), as well as "reprisal[s]" prompted by complaints about such discrimination, §713.262(a). When Congress enacted the ADEA's federal-sector provisions in 1974, respondent argues, Congress anticipated that the enactment of §633a would prompt the Civil Service Com-

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discriminatory job notices and advertisements because §633a(a), unlike §623(e) (2000 ed.), fails to mention such practices expressly.

mission to "extend its existing reprisal regulations" to cover age discrimination complaints and that Congress intended for the civil service process to provide the exclusive avenue for asserting retaliation claims. Brief for Respondent 27, 33, and n. 7. Respondent suggests that Congress took this approach because it believed that the Civil Service regulations "reflect[ed] a distinct set of public policy concerns in the civil service sector." *Id.*, at 27.

Respondent cites no direct evidence that Congress actually took this approach;[6] respondent's argument rests on nothing more than unsupported speculation. And, in any event, respondent's argument contradicts itself. If, as respondent maintains, "[s]ection 633a(a) does not confer an anti-retaliation right," *id.,* at 9, then there is no reason to assume that Congress expected the Civil Service Commission to respond to the enactment of §633a(a) by issuing new regulations prohibiting retaliation. On the contrary, if, as respondent maintains, Congress had declined to provide an antiretaliation right, then Congress presumably would have expected the Civil Service Commission to abide by that policy choice.

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[6] Respondent asks us to infer that §633a(a) (2000 ed., Sup. V) does not proscribe retaliation because, when Congress made the ADEA applicable to the Federal Government, Congress did not simply subject the Federal Government to the ADEA's private-employment provisions by amending the definition of "employer" to include the United States. Respondent contends that a similar inference may be drawn from the fact that in 1974 Congress added to the Fair Labor Standards Act of 1938 (FLSA) a provision specifically making it unlawful to retaliate against an employee for attempting to vindicate FLSA rights. See §215(a)(3). These arguments fail to appreciate the significance of §633a(a)'s broad prohibition of "discrimination based on age." Because Congress had good reason to expect that this broad ban would be interpreted in the same way that *Sullivan* v. *Little Hunting Park, Inc.,* 392 U. S. 657 (1968), had interpreted the broad ban on racial discrimination in 42 U. S. C. §1982, the inference that respondent asks us to draw is unfounded.

D

Respondent's final argument is that principles of sovereign immunity "require that Section 633a(a) be read narrowly as prohibiting substantive age discrimination, but not retaliation." *Id.,* at 44. Respondent contends that the broad waiver of sovereign immunity in the Postal Reorganization Act, 39 U. S. C. §401(1), is beside the point for present purposes because, for many federal agencies, the only provision that waives sovereign immunity for ADEA claims is contained in §633a, and therefore this waiver provision "must be construed strictly in favor of the sovereign." Brief for Respondent 44 (quoting *United States* v. *Nordic Village, Inc.*, 503 U. S. 30, 34 (1992); internal quotation marks omitted).

Respondent is of course correct that "[a] waiver of the Federal Government's sovereign immunity must be unequivocally expressed in statutory text" and "will be strictly construed, in terms of its scope, in favor of the sovereign." *Lane* v. *Peña*, 518 U. S. 187, 192 (1996). But this rule of construction is satisfied here. Subsection (c) of §633a unequivocally waives sovereign immunity for a claim brought by "[a]ny person aggrieved" to remedy a violation of §633a. Unlike §663a(c), §633a(a) (2000 ed., Supp. V) is not a waiver of sovereign immunity; it is a substantive provision outlawing "discrimination." That the waiver in §633a(c) applies to §633a(a) claims does not mean that §633a(a) must surmount the same high hurdle as §633a(c). See *United States* v. *White Mountain Apache Tribe*, 537 U. S. 465, 472–473 (2003) (where one statutory provision unequivocally provides for a waiver of sovereign immunity to enforce a separate statutory provision, that latter provision "'need not . . . be construed in the manner appropriate to waivers of sovereign immunity'" (quoting *United States* v. *Mitchell*, 463 U. S. 206, 218–219 (1983))). But in any event, even if §633a(a) must be construed in the same manner as §633a(c), we hold, for the reasons

previously explained, that §633a(a) prohibits retaliation with the requisite clarity.

* * *

For these reasons, we hold that §633a(a) prohibits retaliation against a federal employee who complains of age discrimination. The judgment of the Court of Appeals is reversed, and this case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*