

**U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons**



**PROGRAM STATEMENT
Discrimination and Retaliation Complaint Processing**

Approved by	<i>William K. Marshall III</i> William K. Marshall III Director, Federal Bureau of Prisons
DPI	DCO
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Summary of Changes

<i>Program Statement Rescinded:</i> 3713.33 Discrimination and Retaliation Complaints Processing (02/24/2025)
<i>Changes:</i> - Removes all references to the Master Agreement and Union Officials. - Removes chapters, footnotes, and table of contents. - Provides more detailed information about duties and responsibilities of staff, management, and the EEO Office regarding the implementation of this policy. - Removes examples for dismissal of complaints. - Condenses and clarifies complainants' opportunity to review the investigative file. - Removes excess language regarding appeals.

1. PURPOSE AND SCOPE

This program statement is intended to establish procedures in the Bureau of Prisons (Bureau) for processing complaints of discrimination based on any established protected class.

The Bureau is committed to ensuring questions or complaints of discrimination, and all forms of unlawful harassment are promptly and thoroughly investigated and resolved without reprisal or threat of reprisal.

For the purposes of this program statement, the term "aggrieved person" refers to one who raises allegations of discrimination during the informal, pre-complaint stage. The term "complainant" refers to one who has filed a complaint during the formal complaint process.

This program statement solely addresses the processing of discrimination and retaliation complaints. Refer to the Program Statement **Anti-Discrimination Policy** for the bases of discrimination.

a. **Program Objectives.**

- Staff alleging discrimination based on any established protected class will have access to the government's complaint resolution process. For more information regarding the standards of proof for allegations of discrimination, see Equal Employment Opportunity Commission (EEOC) Equal Employment Opportunity Management Directive EEO-MD-110 (EEOC Management Directive 110).
- Contract staff may not file complaints using the procedures outlined in this Program Statement. However, Bureau staff may file complaints under this Program Statement alleging discriminatory actions by contract staff.
- Time frames established for each step in the complaint resolution process will be met.
- Each Chief Executive Officer (CEO) (i.e., Regional Director, Assistant Director, Warden, Staff Training Center Director) will promote work environments free of discrimination, based on any established protected class, and all forms of unlawful harassment.
- Notification of this program statement will be given to each staff member through bulletin board postings and on the Bureau's intranet site.

b. **Institution Supplement.** None.

2. **EQUAL EMPLOYMENT OPPORTUNITY COUNSELING PROGRAM**

a. **EEO Counselors.** Staff will have access, either in person or virtually, to an EEO Counselor assigned to their facility. EEO Counselors will make efforts to resolve allegations of discrimination during the informal, pre-complaint stage.

b. **Responsibilities.**

(1) **The Bureau's Central Office EEO Office** is responsible for:

- Informing EEO Counselors of policy changes.
- Providing technical assistance to EEO Counselors.
- Ensuring all EEO Counselors receive the mandatory training set forth in EEOC Management Directive 110.
- Providing guidance to staff regarding the EEO process.

(2) **The CEO** is responsible for:

- Ensuring a work environment free of discrimination, based on any established protected class, and all forms of unlawful harassment.
- Ensuring each current staff member and new staff members in their organizational units have access to this program statement.
- Providing an office and/or space for the EEO counselor, in a private location to ensure confidentiality and anonymity for staff.
- Maintaining official bulletin boards and intranet sites in locations easily accessible to all staff, including staff who work in offices, contract facilities, etc., notifying them of the following information: names, titles, telephone numbers, and locations of EEO counselors and procedures for filing an individual or class complaint of employment discrimination.
- Making available to the EEO Counselor all documents and information necessary for informal resolution of the complaint. These documents include official personnel files, promotion board packages, all performance records, lieutenants' logs, and any other material relevant to the complaint. In accordance with the Privacy Act, 5 USC 552a(b)(1) EEO Counselors will have routine access to these records.

(3) **EEO Counselors** are responsible for:

- Serving as a liaison between management and staff to attempt to resolve disputes informally.
- Submitting their pre-complaint counseling reports to the EEO Officer, via upload to the EEO Office's complaint tracking system, and to the aggrieved person and his or her representative via email within five days of the conclusion of counseling.
- Issuing the Notice of Right to File a Discrimination Complaint (Notice of Right to File) to the complainant at the conclusion of counseling unless the matter has been informally resolved. When counseling is performed telephonically, the EEO Counselor will send the Notice of Right to File, and all other appropriate notices and forms, to the complainant via email. A formal complaint must be filed with the EEO Office within 15 calendar days after receipt of the notice of the right. The filing deadline can occasionally be extended when equitable considerations demand. However, unreasonable delays attributed to complainants do not warrant a waiver.
- Interviewing aggrieved persons who come to the EEO Counselor with workplace disputes, as well as others involved in the inquiry.
- Explaining to all involved in the inquiry the EEO Counselor's role and the purpose of the inquiry.
- Making all reasonable efforts to resolve complaints informally by conducting a thorough inquiry into the matters.
- Maintaining confidentiality of privileged information from personnel or other staff's records. If the individual wants to remain anonymous during the counseling stage, the EEO Counselor will not release the name of the person seeking assistance nor any information that would disclose that person's identity. The EEO Counselor is under obligation, however, to report

staff activities that are considered a serious and imminent threat to life or may result in bodily harm or are in violation of the law. Allegations such as these will be reported to the CEO of the facility. All allegations of harassment, including sexual harassment, will be reported in accordance with Program Statement **Standards of Employee Conduct**.

- Explaining to the aggrieved person each of the rights and responsibilities in the EEO process, as outlined in the BP-A1060, Notice of Rights and Responsibilities – EEO Process, which includes the option to Alternative Dispute Resolution (ADR).
- Explaining to the aggrieved person the Bureau's ADR program and the differences between ADR and traditional counseling.
- Determining the claim(s) and basis(es) raised by the potential complaint and assisting the aggrieved person in articulating the claim.
- Conducting an inquiry, during the initial interview with the aggrieved person to determine for the purpose of determining if the matter is covered by the EEO laws and regulations. If the matter is not covered by EEO laws and regulations, the Counselor will notify the aggrieved, conduct a final interview and issue a Notice of Right to File; however, the case may be subject to dismissal.
- Advising the aggrieved person of the applicable official duty status provisions in 29 CFR § 1614.605.

3. ALTERNATE DISPUTE RESOLUTION (ADR)

a. **General Information About ADR.** The EEOC's regulations at 29 CFR § 1614.102(b)(2) require agencies to establish or make available an ADR program. The ADR program is available during both the pre-complaint and formal complaint processes. The Bureau has elected to use mediation as a method of ADR in the EEO process. Mediation will not affect the aggrieved person's EEO rights, and they will have the ability to continue with the EEO process if the mediation is unsuccessful in reaching a settlement.

b. **The Bureau's ADR Program.** Mediation is the intervention in a dispute or negotiation of an acceptable, impartial, and neutral third party, who has no decision-making authority. The objective of this intervention is to assist the parties to voluntarily reach an acceptable resolution of issues in dispute.

The mediator is a facilitator who is skilled at working with parties to resolve disputes. A mediator is not an arbitrator or judge, as they have no authority to render decisions. A mediator primarily makes procedural suggestions regarding how parties can reach an agreement. A mediator often works with the parties individually to explore acceptable resolution options or to develop proposals that might move the parties closer to resolution.

If settlement is reached, the mediator will draft the settlement agreement. The settlement agreement will be signed by the person with settlement authority and by the aggrieved party. All

EEO settlement agreements will be implemented in accordance with applicable laws. See section 3i. of this program statement for more information about written agreements.

c. **Training and Evaluation.** The Bureau must provide appropriate training and education on ADR to its staff, managers and supervisors, neutrals, and other persons protected under the applicable laws.

d. **EEO Office's Role.** The EEO Office will select a DOJ-certified mediator for the parties to use after accepting the request for ADR.

The EEO Office will contact all parties and select a mutually acceptable date for the mediation. The mediation date should be as soon as possible, but ordinarily no later than 45 calendar days following notification of the mediator.

The EEO Office will provide the mediator with the names of all parties who will participate in the mediation session so the mediator can contact the parties.

The EEO Office will notify the CEO of the date and will ensure adequate, confidential space is reserved for in-person mediations and entrance into the facility where the mediation is being conducted.

The EEO Office will ensure the management representatives have settlement authority for the issue or have immediate access to such individual during the mediation session, whether by phone or in person. The EEO Office will ensure the person who has settlement authority is not a Bureau official who is directly involved in the case.

The EEO Office is responsible for maintaining a list of qualified individuals who will serve as mediators. They will ensure the individuals meet the qualifications as set forth in EEOC Management Directive 110.

The EEO Officer will continuously evaluate the ADR program to ensure the core principles of fairness, flexibility, training, and evaluation, as outlined in EEOC Management Directive 110, are being utilized.

e. **Representation of the Parties.** Aggrieved individuals have the right to representation during this process. If the aggrieved individual plans to have a legal representative at the mediation session, they must notify the EEO Office of such intention within five days of notification that their request for mediation has been approved. The aggrieved individual's representative will be permitted to participate in the process, subject to the guidelines established in the mediation session.

f. **Mediators.** The Bureau may use mediators, subject to the qualifications as outlined in EEOC Management Directive 110, from the following sources: other federal agencies (through a federal neutral sharing program or other arrangement), Bureau staff, private organizations, private contractors, bar associations, or individual volunteers. If the EEO Officer determines an assigned mediator is not appropriate, another mediator will be selected.

In a mediation conducted under this program statement, the mediator's duty to the parties is to be "neutral, honest, and to act in good faith." In accordance with guidelines established for DOJ-certified mediators, the mediator must ensure:

- ADR proceedings are conducted consistently with relevant laws and EEO regulations, including time frames;
- proceedings are conducted fairly and the parties are given the opportunity to be represented by any person of their choosing throughout the proceeding;
- an agency representative participating in the ADR proceeding has the authority and responsibility to negotiate in good faith and that a person with authority to approve or enter into a settlement agreement is accessible to the agency's representative;
- enforceability of any agreement between the parties, including preparation of the written settlement agreement if the parties reach resolution and ensuring the agreement includes the signatures of the appropriate agency representative and aggrieved person;
- confidentiality, including destroying all written notes taken during mediation or in preparation for the mediation; and
- neutrality, including having no conflict of interest with respect to the proceeding (e.g., material or financial interest in the outcome, friend or co-worker of a party, supervisory official over a party) unless such interest is fully disclosed in writing to all parties and all parties agree that the mediator may serve.

g. **Mediation in Lieu of Counseling.** The aggrieved party may request mediation in lieu of EEO counseling. The EEO Counselor must explain the process and if the individual is interested, they must submit a BP-A1061, Alternative Dispute Resolution (ADR) Election form, to the EEO Counselor.

After the aggrieved party has elected to participate in mediation and within one working day of the election, the EEO Counselor must notify the EEO Officer or designee by emailing a copy of the signed document indicating the election. The EEO Counselor will also submit a memorandum to the EEO Officer or designee containing the aggrieved person's name, address, and phone number; aggrieved person's title and grade; basis for alleging discrimination; a summary of the alleged discriminatory event(s); and request for relief, if known.

The EEO Office will determine whether the issue(s) is appropriate for mediation. Although mediation is available in most instances, it is not available if there is an open Office of Internal Affairs (OIA) or criminal investigation; the dispute involves an issue the Bureau has no authority

to decide (e.g., retirement questions, which are up to the Office of Personnel Management [OPM]); the issue is part of a class action matter; the aggrieved is a former Bureau staff member or applicant; the aggrieved has abused the mediation process; the aggrieved transfers to another Bureau facility; or for such other reasons as the EEO Officer or designee may determine in accordance with EEOC Management Directive 110.

If the EEO Office accepts the request for mediation, they will notify the aggrieved person with a copy to the EEO Counselor within five days of their decision. The EEO Officer or designee, must also notify the CEO of the need to appoint management representatives to participate in the mediation. The EEO Officer or designee, will then provide all parties with background information as to what to expect in the mediation process.

If the issue(s) is not appropriate for mediation, the EEO Office will notify the aggrieved party, with a copy to the EEO Counselor, to resume traditional EEO counseling. Upon request, the aggrieved party and their representative will be provided with a written response with the reason(s) for the denial.

If mediation is conducted in the informal stage of the EEO process, traditional counseling will be terminated, and the counseling process will be extended automatically from 30 to 90 days.

The EEO Office will assign a mediator and contact all parties to arrange a mutually acceptable date. Once a date and time is agreed upon by all parties, the mediation will take place in person or virtually. In-person mediation sessions must take place at the facility where the parties are assigned.

If mediation is successful in resolving the issue, the agreement will be documented. The EEO process will then be concluded. If mediation is unsuccessful, the EEO Office will notify the EEO Counselor to issue the Notice of Right to File a formal complaint. At that point, the EEO Counselor will conduct a final interview, issue the Notice of Right to File, and prepare a counseling report that describes the initial counseling session, frame the issues, and report only that mediation was unsuccessful.

h. Mediation in the Formal Stage. If mediation is desired in the formal stage, the complainant will submit the BP-A1061, Alternative Dispute Resolution (ADR) Election form to the EEO Office for review. If mediation is determined to be appropriate the EEO investigation will be suspended until conclusion of the mediation process.

Mediation will not affect the complainant's EEO rights, and they will have the ability to continue with the EEO process if the mediation is unsuccessful in reaching a settlement.

i. Resolutions. If the Bureau and the aggrieved agrees to a resolution of the matter, the terms of the resolution must be documented and signed by both parties. The written agreement must

clearly state the terms of the resolution and contain the procedures for addressing noncompliance under 29 CFR § 1614.504.

Written agreements must comply with EEOC's Enforcement Guidance on Non-Waivable Employee Rights Under EEOC-Enforced Statutes. Additionally, any written agreement settling a claim under the Age Discrimination in Employment Act of 1967, as amended (ADEA), must also, where applicable, comply with the requirements of the Older Workers Benefit Protection Act of 1990; 29 U.S.C. § 626(f) of the ADEA; and EEOC's regulations regarding Waiver of Rights and Claims under 29 CFR § 1625.22 of the ADEA.

Once all parties sign the agreement, a signed and dated copy must be transmitted to the EEO Office. The EEO Office will retain the copy to ensure an agreement has been fully implemented and the EEO Officer or designee will coordinate with the CEO of the facility to ensure implementation.

4. INDIVIDUAL COMPLAINTS PROCESSING

a. **Notification.** An applicant, current or former staff member (not including contract workers) who wishes to file a complaint of discrimination must contact an EEO Counselor within 45 calendar days of the alleged discriminatory event or personnel action, or the time when they knew or should have known of the alleged discriminatory event or personnel action. The first day counted will be the day after the precipitating event and the last day of the period will be included, unless the day falls on a non-business day, in which case the period will be extended to the next business day. The aggrieved party may utilize email to establish the initial contact.

If an EEO Counselor is not available, the aggrieved individual should contact the local Human Resource Manager, local CEO, or the Bureau's EEO Office, Division of Compliance and Oversight, Central Office. The EEO Office will assign an EEO Counselor.

Staff may request an alternate EEO Counselor where a conflict of interest exists. Such requests must be made to the Bureau's EEO Office which retains the right to approve or deny any such requests. Denials must be in writing. Denial of an alternate counselor does not prohibit the staff member from pursuing the claim through the existing counselor.

Section 29 CFR § 1614.605(a) provides that complainants are entitled to a representative of their choice during all stages of the complaint process.

Public Health Service (PHS) Command Officers assigned or detailed to the Bureau may use the Bureau's EEO process for all matters not under control of the Department of Health and Human Services. PHS Command Officers, however, are neither entitled to a hearing before an

Administrative Judge of the EEOC, nor are they entitled to seek administrative relief beyond the final decision issued by the DOJ.

b. **Counseling/Informal Resolution.** The EEO Counselor has 30 calendar days from the date of initial contact to counsel the applicant or staff member and attempt informal resolution of a complaint of discrimination or retaliation. The EEO Counselor may grant an extension of up to 60 additional days (total of 90 days), with the agreement, in writing, of the aggrieved individual.

c. **Filing of Formal Complaint.** It is the complainant's responsibility to file a formal complaint with the appropriate official(s). The complainant or their representative must submit the signed formal complaint in writing. A complaint must be filed with the agency that allegedly discriminated against the complainant. To expedite the processing, the complainant should file with:

EEO Officer
Federal Bureau of Prisons
320 First Street NW Room 1038
Washington DC 20534
Fax 202-616-2080
Email BOP-PRD-EEOOffice-S@bop.gov

A document will be deemed timely if it is received by email or is postmarked before the expiration of the applicable filing period, or, in the absence of a legible postmark, if it is received by mail within five days of the expiration of the applicable filing period.

d. **Amendment of Complaint.** A complainant may amend a complaint at any time prior to the conclusion of the investigation to include issues or claims like or related to those raised in the complaint. However, once a hearing is requested, a complainant must file a motion with the Administrative Judge to amend a complaint.

e. **Acknowledgment of Complaint.** Upon receipt of a complaint of discrimination, or an amendment to a complaint, the EEO Office will acknowledge receipt of the complaint in writing. The letter of acknowledgement will inform the complainant of the date on which the complaint was filed and will advise the complainant of their rights in the administrative processing of the complaint. For complainants alleging discrimination because of race, color, religion, sex, national origin, age, genetic information, or disability, the acknowledgment letter will advise the complainant of the right to file a civil action, including the time limits imposed on the exercise of these rights.

After receiving the EEO counselor's report, the EEO Office will send the complainant a second letter, commonly referred to as an acceptance letter, stating the claim(s) asserted and to be investigated. If the claims are not accepted, the complainant will receive a letter of dismissal.

f. **Time Extensions.** The EEO Office may extend the time limits for filing a formal complaint for good cause shown. Examples of good cause shown include the complainant showing they were not notified or otherwise aware of the time limits or were prevented by circumstances beyond their control from submitting the matter within the time limits.

g. **Fragmentation of Complaints.** Under EEOC Management Directive 110, fragmentation of EEO claims must be prevented at all levels of the EEO complaint process. Fragmentation results from a failure to distinguish between the legal claim the complainant is raising and the evidence the complainant is offering in support of that claim. When a complainant raises a new incident of alleged discrimination during the processing of an EEO complaint, it must be determined whether this new incident provides additional evidence offered to support the existing claim, but does not raise a new claim in and of itself; raises a new claim that is like or related to the claim(s) raised in the pending complaint; or raises a new claim that is not like or related to the claim(s) raised in the pending complaint.

In order to facilitate such a determination, the complainant shall be instructed by the investigator (or any other EEO staff person with whom complainant raises the new incident) to submit a letter to the agency's EEO Director or designee describing the new incident(s) and stating they wish to amend their complaint to include the new incident(s). The EEO Director or designee shall review this request, determine whether a fair and impartial investigation of the new claims can be accomplished within 360 days of the original filed complaint, and determine the correct handling of the amendment in an expeditious manner.

h. **Consolidation of Complaints.** A new claim that is not like or related to a previously filed complaint provides the basis for a new and separate complaint. The complainant must present the new unrelated claim to an EEO Counselor and the new claim is subject to all the regulatory case processing requirements and those set forth in this program statement.

When a complaint has been consolidated the Bureau must complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days after the filing of the original complaint. A complainant has the right to request a hearing, including cases of consolidated complaints, after 180 days have passed since the filing of the original complaint, even if the Bureau's investigation has not been completed. If not already consolidated, an Administrative Judge or the EEOC may consolidate two or more complaints of discrimination filed by the same complainant.

29 CFR §1614.107(a)(8), provides for the dismissal of spin-off complaints, which are complaints about the processing of existing complaints. In accordance with the Equal Employment Opportunity Commission (EEOC) Management Directive for 29 CFR §1614 (EEO-MD-110), as revised, August 5, 2015, Chapter 5, §III(F), §IV(D) and 29 CFR §1614.107(a)(8), If a complainant is dissatisfied with the processing of their pending complaint, whether or not it

alleges prohibited discrimination as a basis for dissatisfaction, the complainant should be referred to the agency official responsible for the quality of complaints processing. Agency officials should earnestly attempt to resolve dissatisfaction with the complaints process as early and expeditiously as possible.

i. **Representation.** A complainant has the right to bring a representative of their choice at all stages of the processing of a complaint of discrimination, including the counseling stage. In cases where representation would conflict with the official or collateral duties of the representative, that individual may be disqualified. For instance, a management official cannot represent a staff member in an EEO case and EEO officials cannot represent managers or staff in an EEO case. A presiding EEOC Administrative Judge or the DOJ Complaint Adjudication Officer may disqualify an individual for a conflict of interest once the case is in the adjudicative phase.

5. SETTLEMENT OF COMPLAINTS

Settlement of complaints of discrimination can occur at any stage of the process. The complainant's proposal for settling their complaint will be presented to the appropriate management official. After the completion of the investigation, the complainant may be provided with an opportunity to discuss the investigative file and possible settlement of the complaint with an appropriate staff member in the EEO Office, if settlement is attempted.

In the event payment is demanded as part of the settlement and prior to settlement of a complaint, the appropriate management official must notify the Chief, Finance Branch, Administration Division, Central Office, to coordinate fund availability. Proposed settlement language, to include possible dollar amounts involved, should be forwarded to the Chief, Finance Branch, for review, prior to the settlement offer being provided to the complainant and/or their representative. The Chief, Finance Branch, will not approve the decision to settle but will review the procedural aspects of the payments.

If settlement is reached, the terms of the settlement will be in writing. The complainant, their representative, and the appropriate management official(s) will sign the settlement agreement, and it will be made part of the complaint file.

The settlement agreement will be binding for both the complainant and the Bureau. If the complainant believes the Bureau has failed to comply with the terms of the settlement agreement, the complainant must notify, in writing, the:

Director, EEO Staff
U.S. Department of Justice, Justice Management Division
145 N. Street, N.E. Suite 1W.801
Washington, DC 20530

Allegations of noncompliance with the settlement agreement must be made within 30 days of when the complainant knew or should have known of the alleged noncompliance. The complainant may request the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased.

The agency will resolve the matter and respond to the complainant in writing. If the agency has not responded to the complainant in writing, or if the complainant is not satisfied with the EEO Officer's attempts to resolve the matter, the complainant may appeal to the:

U.S. Equal Employment Opportunity Commission
Office of Federal Operations
P.O. Box 77960
Washington, DC 20013

The complainant may file an appeal 35 days after they have served the agency with the allegations of noncompliance but must file an appeal within 30 days of receipt of the Bureau's determination. The complainant must serve a copy of the appeal on the agency to the Director, EEO Staff, DOJ, at the address above. See 29 CFR § 1614.504, 29 CFR § 1614.402–404, and EEOC Management Directive 110 for further information on this process. In accordance with 29 CFR § 1614.503(f), where appropriate the EEOC may refer such non-compliance to the Office of Special Counsel for enforcement action.

6. INJURIES ATTRIBUTED TO ALLEGATIONS OF DISCRIMINATION

Any staff member who suffers injuries (e.g., stress, physical problems) that may be attributed to allegations of discrimination may be eligible for benefits as detailed in the Program Statement **Workers' Compensation Program**. Staff may also be eligible for services described by the Program Statement **Employee Assistance Program**.

7. DISMISSAL OF COMPLAINTS

The EEO Officer will recommend to the Director, EEO Staff, DOJ, the dismissal of a complaint of discrimination where appropriate under the provisions of 29 CFR 1614.107. The DOJ's authority to dismiss a complaint ends when a complainant requests a hearing. The Bureau will process dismissals expeditiously. Dismissals will be based on the requirements outlined in 29 CFR 1614.107. Reasons for dismissal include:

- Failure to state a claim.
- Failure to comply with applicable time-limits.
- Complaint alleges dissatisfaction with the processing of a previously filed complaint.
- Complaint is the basis of a pending or decided civil action in the United States District Court.

- Complaint has raised the matter in a negotiated grievance procedure or in an appeal to the Merit Systems Protections Board.
- Complaint is moot or alleges that a proposal or other preliminary step to taking a personnel action is discriminatory, unless the complainant alleges reprisal.
- Complainant cannot be located despite reasonable efforts to locate and no response to a proposal for dismissal has been made after 15 days.
- Complainant failed to respond within 15 days to an agency request to provide relevant information or otherwise proceed with the complaint, or the response does not address the agency request.
- The agency finds a clear pattern of misuse of the EEO process for a purpose other than the prevention and elimination of employment discrimination.

8. ALLEGATIONS OF DISSATISFACTION REGARDING PROCESSING OF PENDING COMPLAINTS

If a complainant is dissatisfied at any time with the processing of their pending complaint they should contact the EEO Officer.

The EEO Officer will add a record of the complainant's concerns, and any actions the Bureau took to resolve the concerns, to the complaint file maintained on the underlying complaint. If no action was taken, the complaint file must contain an explanation of the Bureau's reason(s) for not taking any action.

A complainant must always raise their concerns first with the Bureau, by contacting the EEO Officer. However, in cases where the complainant's concerns have not been resolved informally with the Bureau, the complainant may present those concerns to the EEOC at either of the following stages of processing:

- Where the complainant has requested a hearing, the concerns may be presented to the EEOC Administrative Judge when the complaint is under their jurisdiction.
- Where the complainant has not requested a hearing, the concerns may be presented to the EEOC, or Office of Federal Operations on appeal.

9. INVESTIGATION OF COMPLAINTS

An investigation of a formal complaint of discrimination is an official review or inquiry, by an EEO investigator officially designated and authorized to conduct such review or inquiry, into claims raised in an EEO complaint. The investigative process is non-adversarial. The investigator is obligated to collect evidence regardless of the parties' positions with respect to the items of evidence. A copy of the complaint will be provided to the investigator prior to the commencement of the investigation.

Investigations are ordinarily conducted by contracted companies. The authorization includes the authority to administer oaths and to require staff to furnish testimony under oath or affirmation without a promise of confidentiality. The investigator does not make or recommend a finding of discrimination.

a. **EEO Officer's Role.** The EEO Officer will:

- Ensure individual complaints are properly and thoroughly investigated in a timely manner in accordance with 29 CFR § 1614.108.
- Confirm with investigative firms that new investigators have received at least 32 hours of introductory investigator training before conducting investigations and all investigators receive at least eight hours of continuing investigator training every year, as outlined in Chapter 6 of the EEOC Management Directive 110.
- Refer staff who do not cooperate with the EEO Investigations to OIA in accordance with the Program Statement **Standards of Employee Conduct**.
- Ensure there is no conflict or appearance of conflict of interest in the investigation of complaints. The EEO Office will request that current contracted EEO investigative firms notify the complainant if the assigned investigator is a former Bureau staff member, prior to interviews and/or interrogatories.

b. **Complainant.** The complainant must cooperate in the investigation and keep the agency informed of their current address. If an agency is unable to locate the complainant, the agency may dismiss the complaint, provided that reasonable efforts have been made to locate the complainant, and the complainant has not responded within 15 days of the notice of proposed dismissal.

Where the agency has provided the complainant with a written request to provide relevant information or otherwise proceed with the complaint, coupled with a 15-day notice of proposed dismissal, a failure to respond could result in dismissal of the complaint.

c. **Investigation.** In accordance with instructions contained in EEOC Management Directive 110, Chapter 6, pages 6-8, the Bureau will develop an impartial and appropriate factual record for the EEOC or DOJ to make findings on the claims raised by the written complaint. An appropriate factual record is one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred.

A complainant and their representative will be informed in writing of the issue(s) that have been accepted for processing and the assignment of an EEO investigator. The CEO will also be informed in writing of the complaint and the name of the EEO investigator assigned, with a request that all relevant documents and electronic transmissions be retained for the EEO investigator. The CEO will also be advised to retain the necessary records regarding the

circumstances surrounding the complaint. These records will be retained locally unless the EEO Officer directs otherwise.

In cases of an appearance of a conflict of interest, such as complaints against a local or national Executive Staff member, the complaint may be referred by the EEO Officer to the Director, EEO Staff, DOJ, for assignment to the EEO Officer of another agency component for processing.

EEO investigators typically conduct interviews telephonically; however, witnesses have the option to use written interrogatories instead.

The investigator will contact the complainant or representative to obtain a list of the recommended witnesses. This list will be made part of the investigative file.

All staff participating in the EEO process will be in official duty status when their presence is required or authorized by agency or the EEOC in connection with a complaint.

Interviews will be conducted during duty hours. If a telephone interview is conducted, all parties on the line will be identified. Staff can verify an investigator's assignment to a case upon receipt of the investigator's assignment letter by contacting the EEO Officer. Staff may choose to verify the investigator's identity.

If a telephonic interview is conducted, the investigator will schedule the date and time for the interview with the relevant parties directly. The investigator will contact the Human Resource Manager to ensure the interviewee is on official duty status and secure private space, if necessary.

The investigator will advise the CEO of the required documents to be provided. Other than receiving guidance from the EEO Office, investigators will exercise independent judgment in gathering information and determining whom to interview. Investigations of complaints of discrimination are official investigations; therefore, the elements detailed in the Program Statement **Standards of Employee Conduct** apply.

If during the investigation, the parties express a willingness to settle the complaint, the investigator is authorized to draft a settlement agreement to present to the parties for concurrence. Once approved by the EEO Officer, the settlement agreement will be signed by the complainant and the CEO or designee. This settlement is binding on the parties.

Investigative inquiries may be made using a variety of fact-finding models, such as the interview or the fact-finding conference and a variety of devices, such as requests for information, position statements, exchange of letters or memoranda, interrogatories, and affidavits. If the EEO investigator uses a recording device to conduct an interview, the staff member's statement will be documented in an affidavit. The complainant will have the option to utilize a recording device to

record their interview; however, the investigator's recording will be the official recording of record. The staff member will have the opportunity to review the affidavit and make corrections as necessary and is not required to sign an affidavit that is incorrect.

The inquiry/review process may also incorporate some of the features of a dispute resolution plan. The purpose of the investigation is to gather facts upon which a reasonable fact finder may draw conclusions as to whether an agency subject to coverage under the statutes the EEOC enforces in the federal sector has violated a provision of any of those statutes and have a sufficient factual basis from which to fashion an appropriate remedy, if a violation is found.

The investigation will include a thorough review of the circumstances under which the alleged discrimination occurred; the treatment of members of the complainant's group as compared with the treatment of other similarly situated staff, if any; and any policies and/or practices that may constitute or appear to constitute discrimination, even though they have not been expressly cited by the complainant.

The investigator prepares an investigative summary, which is a narrative document briefly stating the issues and delineates the evidence addressing both sides of each issue in the case. The summary should state facts (supported in the complaint file) sufficient to sustain a conclusion(s). The summary should cite to evidence and the exhibits collected.

An agency that has not completed its investigation in a timely manner must inform the complainant, in writing the investigation is not complete, provide an estimated date of completion, and remind the complainant they have a current right to request a hearing or file a lawsuit.

d. Complainant's Opportunity to Review the Investigative File. After completing the investigation with review process, the investigator will forward the entire completed Report of Investigation (ROI) to the EEO Office. The EEO Office will review the ROI to ensure information is documented and relevant witnesses are interviewed. A copy of the ROI will be sent by the EEO Officer to the complainant within 180 days of the date the complaint is filed. This time may be extended an additional 90 days with the complainant's approval. Copies of the entire ROI will be forwarded to the complainant and their representative or attorney.

Non-relevant information should not be placed in complaint files. Names, social security numbers, home addresses, and any other personal identifying information not relevant, should be redacted before the document containing them is included in the complaint file. Relevant information that should not be redacted includes management and/or comparative staff/applicant names. Once a document is included in the complaint file, the complainant has a right to it as part of the official complaint file. All parties including the agency representative, the complainant, and their counsel or representative, and the Administrative Judge should all have the same complaint file, either without redactions or containing the same redactions.

Where the complainant has received the notice discussed above or at any time after 180 days has elapsed from the filing of the complaint, the complainant may request a hearing by electronic submission through the EEOC Public Portal or a signed written request for a hearing directly to the EEOC office as indicated in the agency's acknowledgment letter. The complainant must send a signed copy of the request for a hearing to the Bureau's EEO Office and certify completion to the Administrative Judge. Within 15 days of receipt of the request for a hearing, the agency will provide a copy of the complaint file to EEOC and, if not previously provided, to the complainant.

e. Right to Hearing or Final Agency Decision.

(1) **Hearing.** If settlement is not reached, within 30 days of completion of the investigation the EEO Office will provide the complainant with a notice of their right to a hearing conducted by an EEOC Administrative Judge; their right to request a final agency decision (FAD) by the Complaint Adjudication Officer, DOJ; or their right to file a civil action in the appropriate U.S. District Court. An investigation is deemed completed when the report of the investigation is served on the complainant in conjunction with the notice of the right to elect either a hearing before an EEOC Administrative Judge or a final decision from the agency.

This notice will include the EEOC field office and address where a hearing request is to be sent as well as the agency office to which the copy of the hearing request should be sent. A copy of the Request for a Hearing form and the complaint file, prepared in accordance with EEOC Management Directive 110, which includes the investigative file and investigative summary must be included with the notice. If the complainant has a representative, the representative will be entitled to a copy of the complaint file as well.

A hearing before the EEOC provides the parties with a fair and reasonable opportunity to explain and supplement the record and, in appropriate instances, to examine and cross-examine witnesses. Hearings are governed by 29 CFR § 1614.109. An Administrative Judge from the EEOC adjudicates claims of discrimination and issues decisions. Administrative Judge decisions, in non-class action cases, become the final action of the agency if the agency does not issue a final order within 40 days of receipt of the Administrative Judge's decision in accordance with 29 CFR § 1614.110(a).

29 CFR § 1614.108(f) generally provides, among other things, that within 180 days from the complainant's filing of their complaint, an agency will provide the complainant with a copy of the complaint file and will notify the complainant that within 30 days of the complainant's receipt of the complaint file that the complainant has the right to request a hearing and decision from an Administrative Judge or a final agency decision from the agency. The agency's duty to send this notice and the complainant's right to receive it are not dependent on the agency's completion of the investigation.

To request a hearing, the complainant must submit the hearing request directly and in writing to the EEOC district or field office having jurisdiction, as indicated in the notice referenced above, within 30 days of receipt of the notice and the complaint file. An agency's authority to dismiss a complaint ends when a complainant requests a hearing. An agency should process dismissals expeditiously. The Request for Hearing form, EEOC Management Directive 110, Appendix, M, is recommended for a complainant's hearing request. A signed copy of the request for hearing must be mailed or emailed to the agency at the office indicated in the notice letter.

The Employment Law Branch (ELB), Office of General Counsel, will designate the attorney who will represent the Bureau at the hearing. The EEO Office will provide the ELB with files in the complaint of discrimination.

Should travel be deemed a necessity by the EEOC, the Bureau will bear the expenses for travel of the Bureau's witnesses; all witnesses who are federal government staff; and the complainant, if they are employed by the federal government, as well as the expense of a court reporter.

The Administrative Judge has the authority to call the appropriate witnesses after reviewing the complaint file and consulting with the complainant and the agency representative. The EEOC Administrative Judge sends a written decision, along with the hearing transcript and the complaint file to the Complaint Adjudication Office (CAO) for a final agency decision. In the event the EEOC Administrative Judge does not send the recommended decision and aforementioned documents to the CAO, the Employment Law Branch, Office of General Counsel, will ensure such documents are transmitted to the CAO for a final agency decision.

Further information about the hearing and the role of the Administrative Judge can be found at 29 CFR § 1614.109 and in EEOC Management Directive 110.

Complainants alleging discrimination due to parental status can use the Bureau's EEO process; however, they are not entitled to an EEOC hearing or a civil action. In complaints alleging discrimination because of parental status, the complaint file will be sent to the Complaint Adjudication Officer, DOJ, for final agency decision on behalf of the Attorney General.

(2) Final Agency Decision. If the complainant does not request a hearing within 30 days after receiving the complaint file and the issuance of the notice of rights, or if the complainant requests a final agency decision, the complaint file will be forwarded to the Complaint Adjudication Officer, DOJ, for final agency decision on behalf of the Attorney General.

f. **Final Action by Agency.** If the EEO Office does not receive a hearing request within 30 days of the complainant's receipt of the investigative file, the entire file will be forwarded to the Complaint Adjudication Authority for a Final Agency Decision.

g. **Appeals to the Equal Employment Opportunity Commission.** 29 CFR § 1614.401(a)–(e) identify those entitled to file appeals to the EEOC. All such appeals must be filed at the following address:

Equal Employment Opportunity Commission
Office of Federal Sector
PO Box 77960
Washington, DC 20013

As an alternative to mailing, appeals may be hand-delivered to:

Equal Employment Opportunity Commission
Office of Federal Sector
131 M Street, N.E.
Washington DC 20507

As a further alternative, appeals may be faxed to (202) 663-7022.

The appellant will furnish a copy of the appeal to the opposing party at the same time it is filed with the EEOC. In or attached to the appeal to the EEOC, the appellant must certify the date and method by which service was made on the opposing party. The individual appellant should use EEOC Form 573. The agency will attach a copy of EEOC Form 573 to all decisions, actions, and dismissals of equal employment complaints.

10. OFFICIAL DUTY STATUS DURING THE EEO PROCESS AND REPRESENTATION

Complainants are entitled to a representative of their choice during pre-complaint counseling and at all stages of the complaint process. Both the complainant and the representative, if they are staff of the agency where the complaint arose and was filed, are entitled to a reasonable amount of time to present the complaint and to respond to agency requests for information, if otherwise on duty. This applies to all phases of the EEO process.

Former staff of an agency who initiate the EEO process concerning an adverse action relating to their prior employment with the agency are staff within the meaning of 29 CFR § 1614.605, and their representatives, if they are current staff of the agency, are entitled to time.

Witnesses who are federal staff, regardless of whether they are employed by the respondent agency or some other federal agency, will be in a duty status when their presence is authorized or required by EEOC or agency officials in connection with the complaint.

If appropriate under the circumstances, and approved by management, this time may be authorized to be used off the site of the facility.

a. **Travel Expenses.**

(1) **Witness and Representative Employed by the Federal Government.** Title 29 CFR § 1614.605(f) requires a witness, who is a federal employee, to be on official duty status when their presence is required or authorized by agency or EEOC officials in connection with a complaint. A witness is entitled to travel expenses. If a witness is employed at an agency other than the one against which the complaint is brought and must travel to provide the attestation or testimony, the witness is entitled to reimbursement for travel expenses.

(2) **Outside Complainant or Applicant Not Employed by Federal Government.** The agency is not responsible for paying the travel expenses of non-staff. Although the complainant who, for purposes of their complaint, is a witness may once have been employed by the agency against whom they complain, the termination of employment status with the federal government also terminates any federal obligation to pay travel expenses associated with prosecution of the complaint.

b. **Reasonable Amount of Time.** Reasonable is defined by management, as whatever is appropriate, under the circumstances. The actual number of hours to which the complainant and their representative are entitled will vary, depending on the nature and complexity of the complaint and considering the mission of the agency and the agency's need to have its staff available to perform their normal duties on a regular basis.

The complainant and/or representative and the requestor's supervisor should arrive at a mutual understanding as to the amount of time to be used prior to the complainant's use of such time.

c. **Meeting and Hearing Time.** Both the complainant and the representative are to be granted time for the duration of meetings or hearings and are in a duty status regardless of their tour of duty. If a complainant or representative has already worked a full week and must attend a hearing or meeting on an off day, that complainant or representative is still entitled to time, which may require the agency to pay overtime.

d. **Preparation Time.** Since presentation of a complaint involves preparation for meetings and hearings, as well as attendance at such meetings, conferences, and hearings, complainants and their representatives are also afforded a reasonable amount of time, as defined above, to prepare for meetings and hearings. They are also to be afforded a reasonable amount of time to prepare the formal complaint and any appeals that may be filed with the EEOC, even though no meetings or hearings are involved.

However, because investigations are conducted by agency or EEOC personnel, the regulation does not envision large amounts of time will be necessary for preparation purposes. Consequently, "reasonable," with respect to preparation time (as opposed to time spent in

meetings and hearings) is generally defined in terms of hours, not in terms of days, weeks, or months.

e. **Aggregate Time Spent on EEO Matters.** The EEOC considers it reasonable for agencies to expect their staff to spend most of their time doing the work for which they are employed.

Therefore, an agency may restrict the overall hours of time afforded to a representative, for both preparation purposes and for attendance at meetings and hearings, to a certain percentage of that representative's duty hours in any given month, quarter, or year. Such overall restrictions would depend on the nature of the position occupied by the representative, the relationship of that position to the mission of the agency, and the degree of hardship imposed on the mission of the agency by the representative's absence from their normal duties.

f. **Requesting Time.** Requests for time should be made using BP-A1062, Request for Time - EEO Process form. This request will be directed to the requestor's supervisor and will be responded to in writing as soon as practicable if the form is not used. The response will be provided by the supervisor promptly (utilizing the form if the form was submitted), recognizing the time requirements of the EEO process. If the supervisor is the individual whom the allegations are against, the requestor may choose to make the request to the next-level supervisor. The supervisor may consult the EEO Office to determine the nature and complexity of the complaint and the stage of the EEO process involved.

g. **Denial of Time.** A written explanation of all denials of requests, in whole or in part, must be provided to the requestor as soon as practicable. The written statement noting the reasons for the partial or complete denial must be included in the complaint file. If the BP-A1062, Request for Time - EEO Process form was submitted by the requestor, then the written explanation must be included on the form.

h. **Use of Government Property.** The complainant's or complainant's non-attorney representative's use of government property (copiers, telephones, or facsimiles) must be authorized by the agency and must not cause undue disruption of agency operations. This will include providing a private place to meet and work on the complaint, using the equipment referenced above, if neither the complainant nor the representative, if they are employed at the facility, has a private office.

11. PROCEDURES FOR RELATED PROCESSES

a. **Mixed Case Complaint.** This is a complaint of employment discrimination filed, through the EEO process, with a federal agency based on race, color, religion, sex, national origin, age, disability, or reprisal related to or stemming from an action that may be appealed to the Merit Systems Protection Board (MSPB). These actions include but are not limited to: removal (termination), suspension for more than 14 days and reduction in grade or pay. The complaint may contain only a claim of employment discrimination, or it may contain additional non-

discrimination claims that the MSPB has jurisdiction to address. The Civil Rights Act of 1991 did not extend the time limit for filing a civil action in mixed case complaints. See 29 CFR § 1614.310, which sets forth the statutory rights to file a civil action in mixed case complaints. There is no right to a hearing before an EEOC Administrative Judge on a mixed-case complaint.

b. **Mixed Case Appeal.** This is an appeal filed directly with the MSPB that alleges an appealable agency action was affected in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, disability, age, or reprisal. Further information about mixed case complaints and mixed case appeals can be found at 29 CFR § 1614.302 and in the EEOC Management Directive 110.

c. **Filing a Civil Action.** A complainant who has filed a non-mixed individual complaint, a class agent who has filed a class complaint, or a claimant who has filed a claim for individual relief in a class action complaint may file a civil action in an appropriate United States District Court:

- Within 90 days of receipt of an agency's final action on an individual complaint, or final decision on a class complaint if no appeal has been filed.
- After 180 days from the date of filing an individual or class complaint if no appeal has been filed and no final action on an individual complaint or no final decision on a class complaint has been issued.
- Within 90 days after receipt of the Commission's final decision on appeal.
- After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.

d. **The Equal Pay Act – 29 CFR § 1614.408.** Regardless of whether the individual complainant pursued any administrative complaint processing, a complainant may file a civil action in a court of competent jurisdiction within two years or, if the violation is willful, within three years of the date of the alleged violation of the Equal Pay Act. Recovery of back wages is limited to two years prior to the date of filing suit or limited to three years if the violation is willful; liquidated damages in an amount equal to lost back wages may also be awarded. The filing of an administrative complaint does not toll the time for filing a civil action.

e. **Termination of EEOC Processing.** Filing a timely civil action under any of these statutes terminates EEOC processing of an appeal. If a civil action is filed after an appeal has also been filed, the parties are requested to notify the EEOC of this event in writing.

f. **Notice of Complainant's Right to Request Court Appointment of Counsel and Statement of Right to Appeal.** In every final action or final decision on complaints which allege discrimination on the bases of race, color, religion, sex, national origin, and/or disability, complainants unsuccessful in the administrative process, in the event they file a civil action, are informed the court has discretionary authority to appoint counsel for them. If the complainant

decides to file a civil action under Title VII of the Civil Rights Act, as amended, or under the Rehabilitation Act of 1973, as amended, and they do not have or cannot afford the services of an attorney, the complainant may request the court appoint an attorney to represent them and the court permit them to file the action without payment of fees, costs, or other security. The grant or denial of the request is within the sole discretion of the court. Filing a request for an attorney does not extend the time in which to file a civil action.

12. AGE DISCRIMINATION COMPLAINTS

a. **Election of Administrative Process.** An aggrieved person may file an administrative age discrimination complaint with the agency pursuant to 29 CFR § 1614. If the aggrieved person elects to file an administrative complaint, they must exhaust administrative remedies before they may file a civil action in U.S. District Court. Exhaustion of administrative remedies occurs when the agency takes final action, or 180 days after filing the complaint if no final action is taken.

Attorney fees are not available during the administrative process of complaints brought under the ADEA.

b. **Aggrieved May Bypass Administrative Process.** An aggrieved person may bypass the administrative complaint process and file a civil action directly in U.S. District Court, provided they first provide the EEOC with a written notice of intent to sue under the ADEA. The notice to the EEOC must be filed within 180 days of the date of the alleged discriminatory action. Once a timely notice of intent to sue is filed with the EEOC, the aggrieved person must wait at least 30 days before filing a civil action.

Further information about age discrimination can be found at 29 CFR § 1614.201 and in the EEOC Management Directive 110.

13. EQUAL PAY ACT COMPLAINTS

An aggrieved individual does not have to file an administrative complaint before filing a lawsuit under the Equal Pay Act (EPA). If an aggrieved individual nonetheless wants to file an administrative EEO complaint, it will be processed under 29 CFR § 1614. Complainants in Equal Pay Act cases should be notified of the statute of limitations (two years, or three years in the case of a willful violation), which applies even if the aggrieved individual files an administrative complaint, and of the right to file directly in a court of competent jurisdiction without first providing notice to the EEOC or exhausting administrative remedies.

Attorney fees are not available during the administrative EEO process of complaints brought under the Equal Pay Act.

Further information about Equal Pay Act complaints can be found at 29 CFR § 1614.202 and in the EEOC Management Directive 110.

14. COMPLAINTS OF CLASS DISCRIMINATION

29 CFR § 1614.204 provides for processing class complaints of discrimination. A class is defined as a group of staff, former staff, or applicants who are alleged to have been adversely affected by an agency personnel policy or practice which discriminates against the group on the basis of their common race, color, religion, sex, national origin, age, or disability.

A class complaint is a written complaint of discrimination filed on behalf of the class by the agent of the class, alleging the class is so numerous that a consolidated complaint by the members of the class is impractical, there are questions of fact common to the class, the claims of the agent of the class are typical of the claims of the class, and the agent of the class and, if represented, the representative will fairly and adequately protect the interests of the class.

The regulatory requirements for class complaints at 29 CFR § 1614.204 provide a structure different from that for individual complaints. For class complaints, there is a four-stage process.

The first stage is the establishment of a class complaint. At this stage, the class agent is required to seek counseling from an agency EEO Counselor.

The second stage is a determination from an EEOC Administrative Judge, subject to agency final action, as to whether to certify the complaint as a class action.

The third stage, assuming the complaint has been certified as a class action, involves a recommended decision from an EEO Administrative Judge on the merits of the class complaint, subject to final agency action in the form of a final decision.

The fourth stage, where there has been a finding of class-based discrimination, is the determination of the claims for relief of the individual class members.

Further information about class complaints can be found at 29 CFR § 1614.204 and in the EEOC Management Directive 110.

15. PROCESSING DISABILITY COMPLAINTS INVOLVING PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF JUSTICE: INMATE DISCRIMINATION COMPLAINTS COVERED BY THE REHABILITATION ACT

Any person who believes they have been subjected to discrimination covered by Rehabilitation Act of 1973, § 504, as amended, may, by him or herself or by his or her representative, file a complaint with the Director, Resolution Management Staff, DOJ or designee pursuant to 28 CFR

§ 39. However, inmates who allege disability discrimination by the Bureau must first exhaust the Bureau's Administrative Remedy Procedure as set forth in 28 CFR § 542.10 and the Program Statement **Administrative Remedy Program**.

All complaints filed under the procedures in this chapter must be filed within 180 days of the alleged act of discrimination, except for complaints which are filed by inmates, and those must be filed within 180 days of the Bureau's final administrative decision under the Administrative Remedy Procedure.

Complaints should be submitted to the:

Director, EEO Staff
U.S. Department of Justice
Justice Management Division
Two Constitution Square
145 N. Street, N.E. Suite 1W.801
Washington, DC 20530
Telephone: 202-616-4800
Fax: 202-616-4823

The Director, EEO Staff, DOJ or designee will accept a complete complaint which is filed in accordance with these procedures and inform the complainant and management of receipt of the complaint. If the Director, EEO Staff or designee receives a complaint which is not complete, they will notify the complainant, within 30 days of the receipt of the incomplete complaint, that additional information is needed. If the complainant fails to complete the complaint within 30 days of receipt of this notice, the complaint will be dismissed without prejudice.

Within 180 days of receipt of the complaint, the Director, EEO Staff or designee shall complete the investigation of the complaint and attempt informal resolution. If no informal resolution is achieved, the Director, EEO Staff or designee shall issue a letter of findings in accordance with 28 CFR § 39.170(h).

Requests for hearings and appeals must follow procedures found at 28 CFR § 39.170(i)–(k).

The Complaint Adjudication Office. U.S. Department of Justice shall make the decision for the agency in accordance with 28 CFR § 39.170(l).

REFERENCES

Program Statements

Administrative Remedy Program
Workers' Compensation Program
Standards of Employee Conduct
Anti-Discrimination Policy
Employee Assistance Program

Federal Statutes

5 U.S.C. § 552a(b)(1)
Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e et seq.) Civil Rights Act of 1991, as amended (42 U.S.C. § 1981 et seq.)
Genetic Information Nondiscrimination Act of 2008, as amended (42 U.S.C. § 2000ff et seq.)
Americans with Disabilities Act Amendments
Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 et seq.) Equal Pay Act of 1963, as amended
Rehabilitation Act of 1973, as amended (29 U.S.C. § 791 et seq.) Fair Labor Standards Amendments of 1974 and 1978
Civil Service Reform Act of 1978 Executive Order 11478, as amended Executive Order 12731, as amended Executive Order 13087, as amended Executive Order 12067, as amended Executive Order 12106, as amended Executive Order 13152, as amended
EEOC Management Directive 110 and EEOC Management Directive 715
Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No Fear Act)
Office of Personnel Management Handbook: Addressing Sexual Orientation Discrimination in the Federal Government

Federal Regulations

28 CFR § 39
28 CFR § 542
29 CFR § 33
29 CFR § 1604
29 CFR § 1605
29 CFR § 1606
29 CFR § 1614
29 CFR § 1625
29 CFR § 1626

Other References

Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020
Department of Justice Policy Statement Reasonable Accommodation

Bureau Forms Prescribed by 3713.34

BP-A1059	Notice of Equal Employment Opportunity (EEO) Timelines
BP-A1060	Notice of Rights and Responsibilities – Equal Employment Opportunity (EEO) Process
BP-A1061	Alternative Dispute Resolution (ADR) Election
BP-A1062	Request for Time - EEO Process

Other Forms

EEOC Form 573

ACA Standards

Performance-Based Standards and Expected Practices for Adult Correctional Institutions (5th Edition): 5-ACI-1C-06, 5-ACI-1C-07, 5-ACI-1C-08, 5-ACI-1C-09, 5-ACI-1C-10

Performance-Based Standards and Expected Practices for Adult Detention Facilities (5th Edition): 5-ALDF-7E-04, 5-ALDF-7E-05

Standards for the Administration of Correctional Agencies (2nd Edition): 2-CO-1C-09, 2-CO-1C-12.

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) system on the Bureau's intranet site.