

Title: Equal Employment Opportunity Complaint Resolution ProceduresApproved By: Mark Kinsey [signed] Date: 7/16/99

1. **PURPOSE:** This guideline, Equal Employment Opportunity (EEO) Complaint Resolution Procedures, implements the regulations of the Equal Employment Opportunity Commission (EEOC), 29 C.F.R. part 1614 (Federal Sector Equal Employment Opportunity).
2. **SCOPE:** This guideline applies to OFHEO employees, former OFHEO employees, and applicants for employment by OFHEO.
3. **AUTHORITY AND REFERENCES:** Title VII of the Civil Rights Act of 1964; Rehabilitation Act of 1973; Age Discrimination in Employment Act (ADEA); Equal Pay Act of 1963 (EPA); Americans with Disabilities Act; Civil Rights Act of 1991; Alternative Dispute Resolution Act of 1996; 29 C.F.R part 1614; 5 C.F.R. part 1200; 12 U.S.C. §§ 4513(b)(9) and 4515(e); Executive Order 11478; Executive Order 13087; EEOC Management Directive No. 110; OFHEO Guideline, Equal Employment Opportunity Policy.

4. POLICY:

The OFHEO Guideline, Equal Employment Opportunity Policy, sets forth OFHEO's overall EEO policy.

OFHEO prohibits reprisal against employee or applicants who have contacted an EEO counselor or filed a complaint of discrimination; testified, assisted, or participated in any manner with an investigation, proceeding, or hearing; or opposed prohibited discrimination;

OFHEO shall provide alternative dispute resolution methods whenever appropriate to resolve complaints in conformity with EEOC regulations and guidance.

5. RESPONSIBILITIES:

OFHEO Director. The OFHEO Director promotes equal employment opportunities and provides leadership in carrying out a program designed to promote EEO in every aspect of OFHEO's policies and practices.

EEO Director. The EEO Director:

provides oversight and guidance to the EEO Officer in the development and implementation of all plans and procedures necessary to carry out the OFHEO EEO policy, which shall address counseling, alternative dispute resolution, and complaint processing;

makes the final agency decision on discrimination complaints after consultation with the General Counsel, and recommends to the OFHEO Director corrective measures as may be necessary, including disciplinary action when an employee has been found to have engaged in a discriminatory

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practice (If the EEO Director has a conflict of interest in a discrimination complaint, the final agency decision will be made by the EEO Officer or Deputy EEO Officer, as appropriate.);
executes settlement agreements, as appropriate, to resolve discrimination complaints after consultation with the OFHEO General Counsel; and
evaluates from time to time the sufficiency of the Complaint Resolution Procedures and provides the OFHEO Director with recommendations as to any improvement or correction needed.

EEO Officer. The EEO Officer reports directly to the EEO Director on all matters related to the OFHEO EEO program. The EEO Officer:

publicizes to all employees the name, address, and telephone number of the EEO Director, the EEO Officer, the Deputy EEO Officer, and the EEO Counselors;
informs all employees of the responsibilities and objectives of the EEO Counselors, the EEO complaint resolution process, and the importance of cooperating with EEO Counselors and EEO Investigators;
arranges for EEO counseling services and ensures that they conform with EEOC regulations and guidelines;
arranges for alternative dispute resolution services, as appropriate;
receives formal EEO complaints and determines, after consultation with the General Counsel and with the approval of the EEO Director, whether to accept or dismiss all or portions of an EEO complaint;
arranges for the investigation of the complaint, as appropriate;
recommends a final agency decision on formal discrimination complaints to the EEO Director;
drafts the final agency decision for review and approval by the EEO Director;
establishes and implements special emphasis programs, as appropriate; and
coordinates with the Manager, Human Resources to arrange for EEO and diversity training of OFHEO staff.

Deputy EEO Officer. The Deputy EEO Officer performs the duties of the EEO Officer, in his or her absence, or with respect to a complaint that is received from an employee in the EEO Officer's immediate organization, or where the EEO Officer's involvement may represent a conflict of interest.

EEO Counselors. The names and telephone numbers of EEO Counselors are posted by the EEO Officer on all OFHEO bulletin boards. EEO Counselors may be Federal employees of other agencies or contractors, as recommended by the EEO Officer and approved by the EEO Director. EEO Counselors shall provide EEO counseling

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services in accordance with EEOC regulations and guidelines. As part of the counseling services, EEO Counselors:

- advise individuals of their rights and responsibilities;
- determine the issues and bases of the complaint;
- attempt to resolve the matter informally;
- conduct a final interview with the aggrieved; and
- prepare an EEO Counselor's Report and Letter of Final Interview for submission to the EEO Officer.

EEO Investigator. The EEO Investigator is authorized by the EEO Officer to conduct an inquiry into matters raised in EEO complaints in accordance with EEOC regulations and guidance. The EEO Investigator may be a Federal employee of another agency or a contractor, as recommended by the EEO Officer and approved by the EEO Director.

General Counsel. The General Counsel or designee provides legal guidance to the EEO Director, EEO Officer, and Deputy EEO Officer. He or she reviews for legal sufficiency all determinations whether to dismiss or accept all or part of a formal complaint, final agency decisions, and formal and informal settlement agreements.

Supervisors. Supervisors must:

- cooperate fully in resolving complaints of discrimination early in the EEO process; and
- not retaliate against employees or any participant in the EEO process for exercising their rights and obligations under the EEO Complaint Resolution Procedures.

OFHEO Employees. OFHEO employees must:

- cooperate fully with EEO counselors, investigators, agency representatives, and administrative judges by providing any information requested by them in connection with their EEO duties; and
- keep informed of EEO policies and procedures, including the EEO Complaint Resolution Procedures.

6. Resolution of EEO Complaints

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Informal Counseling Stage. OFHEO shall conduct the informal counseling stage in accordance with 29 C.F.R. part 1614.

All persons who believe they have been discriminated against because of race, color, religion, gender, age, national origin, disability, or reprisal (aggrieved person) must first contact an EEO counselor to receive counseling before filing a complaint of discrimination. The EEO counselor will advise the aggrieved person about the EEO complaint process, inquire into the matter, and seek resolution of the matter on an informal basis.

The aggrieved person must initiate contact with an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the effective date of the action.

Formal Complaint Stage. OFHEO shall process formal complaints in accordance with 29 C.F.R. part 1614.

An aggrieved person (hereafter referred to as the Complainant) who has completed the Informal Counseling Stage may file a complaint if the matter of discrimination was not resolved to the Complainant's satisfaction. The complaint must be filed with the Director of EEO within fifteen days of receipt of the Notice of Right to File a Complaint issued by the EEO Counselor.

The formal complaint should include the following information:

The specific action or personnel matter which is alleged to be discriminatory;

The date the act or matter occurred;

The protected basis or bases on which the alleged discrimination occurred;

Facts and other pertinent information to support the allegation of discrimination; and

The relief desired.

The EEO Officer shall inform the Complainant in writing of the acceptance or dismissal of the allegations of the formal complaint and, if any of the allegations were dismissed, of the Complainant's right to appeal the dismissal.

The matters raised in the complaint and accepted for processing shall be investigated and a complete and impartial factual record developed upon which to make findings on the matters. The Complainant shall be provided with a copy of the record of investigation.

The Director of EEO shall make the final agency decision on the matters raised in the complaint based on the record of investigation developed through the processing of the complaint and provide a copy to the Complainant.

The Complainant shall be notified in writing of all his or her hearing and appeal rights, and the timeframes for exercising such rights, if he or she is not satisfied with the final agency decision.

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C. Representation. At any stage of the complaint resolution process, including the informal counseling stage, the Aggrieved Person or Complainant has the right to be accompanied, represented, and advised by a representative of his or her own choosing. However, if the representative is an OFHEO employee and representation would cause a conflict with the official or collateral duties of the representative, the EEO Director may disqualify the representative. Unless the Aggrieved Person or Complainant states otherwise in writing, after OFHEO has received written notice of name, address and telephone number of the representative, all official correspondence shall be with the representative with copies to the Aggrieved Person or Complainant.

D. Official Time. If the Aggrieved Person, Complainant, or representative is an employee of OFHEO and in pay status, he or she shall have a reasonable amount of official time to present the matter at the informal counseling stage or formal complaint stage.

7. **RECORDS:** The EEO Officer shall maintain complaint and appeal records in accordance with the government-wide systems of records, EEOC/GOVT-1, Equal Employment Opportunity in the Federal Government Complaint and Appeal Records, established by the EEOC pursuant to the Privacy Act of 1974.