

## **Frequently Asked Questions About the EEO Complaint Process**

### **What is Equal Employment Opportunity (EEO)?**

Equal Employment Opportunity is fair treatment in employment, promotion, training, and other personnel actions without regard to race, color, religion, sex (including pregnancy, sexual orientation, gender identity or transgender status), age (40 and older), national origin, disability (physical or mental), genetic information, and retaliation for engaging in prior EEO activity. To make sure that all Federal employees and applicants for employment with the Federal Government are provided this opportunity, certain laws and regulations were issued containing the legal basis for EEO programs in Federal agencies. One of the main misconceptions of EEO is that EEO is only for selected groups. EEO is for EVERYONE: It's the LAW!

### **What is an EEO complaint?**

It is an allegation of discrimination because of race, color, religion, sex (including pregnancy, sexual orientation, gender identity or transgender status), age (40 and older), national origin, disability (physical or mental), genetic information, and retaliation for engaging in prior EEO. The complaint may arise from a specific personnel action, such as employment, promotion, work assignment, selection for training, disciplinary action, or separation, or it may relate to prevailing conditions in an organization.

### **Who may file an EEO complaint?**

A complaint of discrimination may be filed by an applicant for employment or any employee (current or former) or group of employees.

### **What do I do if I want to file a complaint?**

If you feel that you have been discriminated against based on one or more of the protective categories described above, first get all the facts on the matter to make sure there has been no misunderstanding. Feel free to speak with your supervisor, administrative officer or personnel representative.

If you are still dissatisfied and wish to utilize the EEO complaint system, you must bring the matter to the attention of an EEO counselor within 45 calendar days of the occurrence of the alleged discriminatory act/incident or effective date of the personnel action alleged to be discriminatory.

### **How can the EEO Counselor help me?**

The counselor will listen to your problem, and advise you of your rights under the EEO complaint system. You will also be advised of the option to utilize RESOLVE, NARA's alternative dispute resolution process. The counselor will conduct a fact-finding inquiry into the matter and discuss the problem with your supervisor, associates, personnel representative, etc. and will attempt to resolve the problem informally.

### **What information should I present to the EEO Counselor?**

You should describe the who, what, where, when, why, and how you were discriminated against and the remedy that could resolve the matter. Provide documentation that supports the discriminatory act/incident or personnel action.

### **Can I have someone to represent me?**

Yes. You have the right to be represented by someone of your choice at any stage of the EEO process. Note: The EEO Counselor and certain other agency employees cannot serve as a personal representative in the EEO process.

### **Do I have to disclose my identity?**

You may remain anonymous during the counseling process. However, if you file a formal complaint, your complaint is not confidential and you lose the right to anonymity.

### **How long does the informal process take?**

Informal counseling is required to be completed within 30 days, unless you participate in the ADR process or there is an agreed upon extension for not more than 60 days.

### **Can I use duty hours to prepare my complaint?**

Yes. However, you must request and get prior approval from your supervisor or manager. The amount of time requested must be reasonable and is allotted in hours not days.

### **What happens if the problem is not resolved?**

If your problem is not resolved, you may file a formal EEO complaint within 15 calendar days of your receipt of the final interview notice from your EEO Counselor.

### **How and where do I file a formal complaint?**

The EEO Counselor will provide you a Formal Complaint of Discrimination Form which has instructions on how to file your complaint.

### **What happens after I file a formal complaint?**

Your complaint will be acknowledged. Thereafter, it will be examined to see if it meets the criteria to be accepted for investigation or dismissed. If your complaint is accepted, an independent investigation will occur within 180 calendar days of the filing of your formal complaint.

### **What happens if my complaint is dismissed?**

You will issue a FAD to notify you in writing of the reason(s) your claim is being dismissed. The dismissal is appealable to the EEOC.

### **What happens after completion of the investigation?**

You will receive a copy of the Report of Investigation (ROI) and a Notice of Further Rights. You may choose between receiving a Final Agency Decision (FAD) or requesting a hearing before an Administrative Judge at the Equal Employment Opportunity Commission (EEOC).

### **Do managers and supervisors receive a copy of the ROI?**

No. The Office of Equal Employment Opportunity Programs (NEEO) does not provide the ROI to managers and supervisors.

### **What happens after I elect a hearing before an EEOC Administrative Judge?**

If you request a hearing before an AJ, the ROI will be uploaded in the EEOC FedSep portal. At this point NEEO no longer retains jurisdiction over your complaint. Procedures regarding the EEOC hearing process can be found at EEOC's website, <https://www.eeoc.gov/federal-sector/hearing-process>.

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### **What happens if I request a Final Agency Decision (FAD)?**

If you elect a FAD, NARA is required by regulation to issue a decision based on the findings in the ROI within 60 calendar days of the election. You will be notified in writing of NARA's decision. Also, you will be provided with appeal rights if you wish to appeal the FAD.