

# Overview of the Federal Sector EEO Complaint Process

If you are a federal employee or job applicant, the law protects you from discrimination because of your race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. The law also protects you from retaliation if you oppose employment discrimination, file a complaint of discrimination, or participate in the EEO complaint process (even if the complaint is not yours.)

There are also federal laws and regulations and Executive Orders (which are not enforced by EEOC) that prohibit discrimination on bases such as sexual orientation, marital status, parental status, or political affiliation.

If you are a federal employee or job applicant and you believe that a federal agency has discriminated against you, you have a right to file a complaint. Each agency is required to post information about how to contact the agency's EEO Office. You can contact an EEO Counselor by calling the office responsible for the agency's EEO complaints program.

## EEO Counselor

The first step is to contact an EEO Counselor at the agency where you work or where you applied for a job. Generally, you must contact the EEO Counselor within 45 days from the day the discrimination occurred.

In most cases the EEO Counselor will give you the choice of participating either in EEO counseling or in an alternative dispute resolution (ADR) program, such as a mediation program.

If you do not settle the dispute during counseling or through ADR, you can file a formal discrimination complaint against the agency with the agency's EEO Office. You must file within 15 days from the day you receive notice from your EEO Counselor about how to file.

## Filing a Formal Complaint

Once you have filed a formal complaint, the agency will review the complaint and decide whether or not the case should be dismissed for a procedural reason (for example, your claim was filed too late).

If the agency doesn't dismiss the complaint, it will conduct an investigation. The agency has 180 days from the day you filed your complaint to finish the investigation.

When the investigation is finished, the agency will issue a notice giving you two choices: either request a hearing before an EEOC Administrative Judge or ask the agency to issue a decision as to whether the discrimination occurred.

## Agency Issues a Decision (Final Action)

If you ask the agency to issue a decision and no discrimination is found, or if you disagree with some part of the decision, you can appeal the decision to EEOC or challenge it in federal district court.

## Requesting a Hearing

If you want to ask for a hearing, you must make your request in writing within 30 days from the day you receive the notice from the agency about your hearing rights. If you request a hearing, an EEOC Administrative Judge will conduct the hearing, make a decision, and order relief if discrimination is found.

Once the agency receives the Administrative Judge's decision, the agency will issue what is called a final order which will tell you whether the agency agrees with the Administrative Judge and if it will grant any relief the judge ordered. The agency will have 40 days to issue the final order. It will also contain information about your right to appeal to EEOC, your right to file a civil action in federal district court, and the deadline for filing both an appeal and a civil action.

## Filing an Appeal of the Agency's Final Order

You have the right to appeal an agency's final order (including a final order dismissing your complaint) to EEOC Office of Federal Operations. You must file your appeal no later than 30 days after you receive the final order.

EEOC appellate attorneys will review the entire file, including the agency's investigation, the decision of the Administrative Judge, the transcript of what was said at the hearing (if there was a hearing), and any appeal statements.

If the agency disagrees with any part of the Administrative Judge's decision, it must appeal to EEOC.

## Request for Reconsideration of the Appeal Decision

If you do not agree with the EEOC's decision on your appeal, you can ask for a reconsideration of that decision. A request for reconsideration is only granted if you can show that the decision is based on a mistake about the facts of the case or the law applied to the facts. You must ask for reconsideration no later than 30 days after you receive our decision on your appeal.

Once EEOC has issued a decision on the appeal, the agency also has the right to ask EEOC to reconsider that decision.

Once we have made a decision on your request for reconsideration, the decision is final.

## Filing a Lawsuit

You must go through the administrative complaint process before you can file a lawsuit. There are several different points during the process; however, when you will have the opportunity to quit the process and file a lawsuit in court, including:

- After 180 days have passed from the day you filed your complaint, if the agency has not issued a decision and no appeal has been filed
- Within 90 days from the day you receive the agency's decision on your complaint, so long as no appeal has been filed
- After the 180 days from the day you filed your appeal if the EEOC has not issued a decision, or
- Within 90 days from the day you receive the EEOC's decision on your appeal.