

GENERAL SERVICES ADMINISTRATION
PACIFIC RIM/NORTHWEST ARTIC REGIONS

EEO COUNSELOR'S CHECKLIST
NOTICE OF PRE-/COMPLAINANT RIGHTS AND RESPONSIBILITIES

This is to notify you that you have the following rights and responsibilities regarding the processing of your potential complaint. It is important that you understand each of these as they might affect the way in which your complaint is processed. Acknowledge that you have been informed of and understand your rights and responsibilities by placing your initials on the line adjacent to each paragraph.

RIGHTS

You have the right to remain anonymous during the informal process. Should you choose to remain anonymous, your anonymity is only protected during the informal stage of the complaint process. If you file a formal complaint, your anonymity is no longer protected.

You may be offered the option to participate in GSA's alternative dispute resolution (ADR) program instead of the traditional EEO counseling process at the time you determine to initiate pre-complaint counseling. Should you elect the ADR process, you cannot later request traditional EEO counseling on the same matter.

While presenting or processing a discrimination complaint, you will be free from restraint, interference, coercion, harassment, discrimination, and reprisal.

You have the right to representation throughout the EEO complaint process, provided that your choice of a representative does not constitute a conflict of interest. If you designate an attorney as your representative, service of documents and decisions will be provided to your lawyer and time of receipt shall be based upon the date (s)he receives such documents.

You have the right to file a formal complaint, a class complaint, and/or a civil action. Only the matters raised during informal counseling (or issues like or related to issues raised during informal counseling) may be alleged in a subsequent complaint with the activity. The issues in the formal complaint, which were discussed with an EEO counselor, and/or the matter that gives rise to the complaint, must be sufficiently precise to describe generally the action(s) or practice(s) that form the basis of the complaint.

If you wish to file a formal complaint at the conclusion of counseling or ADR, you are required to file a formal complaint within 15 calendar days of receipt of the notice of right to file a formal complaint.

You have the right to request a hearing before an EEOC administrative judge. Once the investigation is completed, you have 30 days after you receive the investigative file to request a hearing before the administrative judge. If the investigation is not completed and you have not agreed to extend the period of time to complete the investigation, you may request a hearing at any time after 180 days has elapsed from the filing of the complaint.

If you are a federal employee with career status, and the action you are complaining about can also be appealed to the MSPB, you have the following rights:

a. You may file a complaint with the Agency **or** an appeal with the MSPB, **but not both**. The action that is filed first will be considered as your election to proceed in that forum.

b. If you file a mixed case appeal with the MSPB instead of a mixed case complaint and the MSPB dismisses the appeal for jurisdictional reasons, you have the right to contact an EEO counselor within 45 days of receipt of the notice and to file an EEO complaint. The date on which you file your appeal with the MSPB will be deemed to be the date of the initial contact with the counselor.

c. If you file a timely appeal with MSPB from the Agency's processing of a mixed case complaint and the MSPB dismissed it for jurisdictional reasons, you may have the right to a hearing before an EEOC administrative judge.

You have the right to file a civil action in a U.S. District Court within 180 calendar days after filing a formal complaint or 180 calendar days after filing an appeal with the EEOC.

If you are alleging sex-based wage discrimination under the Equal Pay Act (EPA), you have the right to go directly to a U.S. District Court even though such claims may be filed and process under Title VII of the Civil Rights Act of 1964, as amended. A civil action must be filed within 2 years of the date of the occurrence, or within 3 years of the date of an alleged willful violation.

You have the right to file a civil action in a U.S. District Court under the Age Discrimination in Employment Act (ADEA) against the General Services Administration after giving the EEOC no less than 30 days notice of intent to file such an action. The notice must be filed in writing with the EEOC within 180 days of the occurrence of the alleged unlawful practice. The notice must be submitted to the Equal Employment Opportunity Commission, Office of Federal Operations, ATTN: Hearing Programs Division; P.O. Box 19848; Washington, DC 20036.

You have the right to request compensatory damages at any stage of the discrimination complaint process, including at the informal stage. Compensatory damages constitute pecuniary (out-of-pocket) and nonpecuniary (as mental or emotional harm) losses which are the direct result of a discriminatory act by GSA Region 9/10.

You are entitled to request a reasonable amount of official time to prepare or otherwise work on presentation of your formal complaint. Requests for such leave should be made in advance to your supervisor, in the same manner that requests for annual and sick leave are accomplished. What is a "reasonable amount of time" is determined on a case-by-case basis, and normally is based upon the length of time required to address your complaint.

If you are alleging age discrimination, under the Age Discrimination in Employment Act and the Older Workers' Benefit Protection Act (OWBPA), 29 U.S.C. § 621-634, you:

(a) have the right to consult with your own attorney/legal counsel regarding all aspects of any settlement agreement offered by GSA prior to signing the agreement;

(b) have 21 days from the receipt of a written settlement agreement to review and consider the agreement terms before signing it. Accordingly, Pre-/Complainant understands that (s)he must give written acceptance not later than 21-days of receiving the Agreement by signing it and delivering it to: General Services Administration, Office of Civil Rights, Pacific Rim Region (AKR9), 450 Golden Gate Avenue, Room 5-6577, San Francisco CA 94102-3434. As much of the twenty-one (21) day period may be used as desired; and

(c) are entitled to a 7-day revocation period after signing settlement agreements. Accordingly, within 7 days of signing and delivering a settlement agreement to GSA, you may revoke it by delivering a written notice of revocation to the Office of Civil Rights, Pacific Rim Region, at the address cited in subparagraph "b," above.

RESPONSIBILITIES

When submitting either an informal discrimination complaint, a formal discrimination complaint, or documents related to your complaint activity, ensure that you do not use government postage (i.e., government franked envelopes or mailing envelopes paid for by government funds as with express mail/certified mail) to mail the data sent to an agency EEO official. Submitting such documentation via

government postage does not constitute proper use of government and will result in your documentation being returned to you without action. You will be required to properly file your informal/formal complaint. The interim period in which your informal/formal complaint is returned to you for proper filing will not invoke tolling of the 45-day/15-day filing periods and may result in the dismissal of your formal complaint for untimely filing. Documentation that is 10 or less pages may be sent by facsimile to (415) 522-2710 and will be considered received based on the date the documents are stamped as received by the EEO Office.

[] It is your responsibility to notify the counselor or the EEO Officer in writing if you retain a person to represent you during the complaint process. Your written notice must indicate that you have obtained a representative and must provide your representative's name, address, and telephone number.

[] You have the duty to keep the GSA, Office of Civil Rights, Pacific Rim Region (AKR9) and the Commission informed of your current address and telephone number at all times. Your failure to provide current address information may result in the dismissal of your complaint if you cannot be located per 29 CFR 1614.107(f).

[] You are responsible for serving all official correspondence pertaining to your complaint, including copies of appeal papers, on the designated representative of the agency.

[] You have the duty to mitigate damages (cut your losses/reduce the impact of the alleged discriminatory events upon yourself). For example: if you think that you were not selected for a position because of your religious beliefs, and as settlement you are offered an equivalent position which you decline, any subsequent settlement could be adjusted because of that declination.

[] It is your responsibility to meet deadlines that are provided to you through written notices and other correspondence about your complaint. If you must be late in meeting any deadline, it is your responsibility to provide the EEO Office with a written statement explaining the circumstances for missing the "calendar-day" deadline indicated in your notice. Complaint information that is hand carried to an EEO Counselor or other EEO Official, is dated upon receipt and timeliness is determined based upon the receipt date. Postmark date determines timeliness of complaint information that is mailed to an EEO Counselor or other EEO Official. Your failure to meet any deadline can cause your complaint to be dismissed per 29 CFR 1614.107(a)(2).

[] You are obligated to provide any information and/or documentation you may have that is needed to process/resolve your complaint. You also have an obligation to appear for appointments scheduled with the EEO Counselor, Investigator, and EEOC Administrative Judge. Your failure to meet these obligations can be considered as your failure to cooperate and can result in the dismissal of your complaint per 29 CFR 1614.107(g).

[] You are obligated to provide written documentary evidence/information, i.e. medical records, billing statements/receipts, written statements, to substantiate a claim for compensatory damages. Any claim for damages may be subject to reduction. If you fail to provide supporting written documentation, your damages claim may be waived/excluded from consideration per 29 CFR 1614.107(a)(7).

[] You are obligated at all times to be responsible for proceeding with your complaint whether or not you have designated a representative per 29 CFR 1614.605(e).

Pre-Complainant's Signature

Date

EEO Counselor's Signature

Date