

## REDRESS OPTIONS

### A. Administrative Hearing

The Complainant has the right to request a hearing before an Administrative Judge after **180 calendar days** from filing of a formal complaint of discrimination or after completion of the investigation.

### B. Final Agency Decision (FAD)

The Complainant has the right to request a Final Agency Decision (FAD) within **30 calendar days** from receipt of ROI. USDA has **60 calendar days** from the date of request to issue the complainant a FAD. If the complainant does not make a request by the **31st day** USDA will automatically initiate the FAD process based on the record.

### C. Withdraw the Complaint

The final redress option the Complainant may elect is to withdraw their complaint of discrimination from the EEO Complaint Process.



## TITLE VI – PROGRAM COMPLAINTS

### How to File a

### USDA Program Discrimination Complaint

To file a program discrimination complaint, write a letter to:

**U.S. Department of Agriculture**

**Director, Office of Adjudication and Compliance**

**(formerly the Office of Civil Rights)**

**1400 Independence Avenue, SW**

**Washington, D.C. 20250-9410**

### What do I need to include in my Complaint Letter?

1. Your name, address and phone number.
2. The name, address and phone number of your attorney or authorized representative, if you are represented.
3. The basis of your complaint.
4. The date(s) that the incident you are reporting as discrimination occurred.
5. The name of the individual(s) or entity you believe discriminated against you and the agency or recipient that employs that/those individual(s).
6. The issue(s) of your complaint. The issue is a description of what happened, or the action that was taken by the individual(s) or agency that discriminated against you, resulting in some harm.

You may also contact the Office of Adjudication and Compliance Customer Service Unit for further information at (866) 632-9992 (toll free), (202) 260-1026, or

(202) 401-0216 (TDD) or visit:

[http://www.ascr.usda.gov/complaint\\_filing\\_program.html](http://www.ascr.usda.gov/complaint_filing_program.html)

## NRCS Civil Rights Division

### Mission Statement

Ensure compliance with Agency policies for equal employment and programs.



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Toll Free: 1-866-NRCS395

(1-866-672-7395)

[http://www.nrcs.usda.gov/about/civilrights/Complaints\\_Branch.html](http://www.nrcs.usda.gov/about/civilrights/Complaints_Branch.html)



**CIVIL RIGHTS DIVISION**

**The**

**COMPLAINT PROCESS**

## TITLE VII—EMPLOYMENT

### COMPLAINTS PROCESS

The NRCS Civil Rights Division (CRD) Complaints Branch (CB) is responsible for administering the Agency’s Equal Employment Opportunity (EEO) Complaints and Alternative Dispute Resolution (ADR) processes to ensure compliance with Federal statutes that prohibit discrimination in hiring, employment and program delivery for applicants, customers, and employees. The CB implements the Equal Employment Opportunity Commissions (EEOC) Federal sector applicable laws and policies in processing allegations of employment.

#### Federal Sector EEO Laws prohibit Discrimination based on the following:

- ◆ **Race**
- ◆ **Color**
- ◆ **National Origin**
- ◆ **Religion**
- ◆ **Sex (including sexual harassment)**
- ◆ **Age (40 and above)**
- ◆ **Disability (physical and mental)**

In addition to the seven prohibited bases stated, any person who feels that he/she has been mistreated by restraint, interference, coercion, retaliation, or discrimination because he/she: (1) filed a previous EEO complaint, (2) assisted or participated in any manner with an investigation, proceeding or hearing, or (3) because of any opposition to an unlawful employment practice, may also file a complaint of “**reprisal**”.

As a part of its commitment to provide a work environment free from discrimination, USDA also adheres to internal policies which prohibits employment discrimination based on **sexual orientation, genetic information, political status, parental status and marital status**. Complaints filed on these bases cannot be appealed through EEOC. Redress is determined through a Final Agency Decision (FAD).

### PRE-COMPLAINT PROCESS

An Complainant has **45 calendar days** from the alleged discriminatory event or from when he/she becomes aware that a discriminatory event has occurred to file an EEO Complaint of discrimination in the Pre-Complaint ( **Informal**) process.

The Complainant makes an initial contact with an EEO Counselor assigned to the CRD CB. During that initial contact the Counselor explains their role in the Pre-Complaint Process to facilitate resolution; provide information and guidance about the EEO Complaint Process; explain appropriate timeframes; and also advise Complainants about their rights and responsibilities within the Process. Additionally, the Counselor will advise the Complainant they may elect to seek resolution of their EEO Complaint between **Traditional Counseling** or through the **Alternative Dispute Resolution (ADR)** process. The Complainant makes their election by completing and returning an election form to the Counselor immediately or as soon as possible from the date of initial contact.



#### Traditional Counseling

In the Pre-Complaint stage, if the Complainant elects Traditional Counseling, the EEO Counselor has **30 calendar days** to complete a limited inquiry to attempt resolution of the EEO Complaint. The Counselor works with both management and

the Complainant to work towards a resolution. If a resolution is reached and the parties agree, then the Complainant withdraws their complaint. If no resolution is reached by then, the Complainant is issued a Notice of Right to File (NRF) a Formal complaint of discrimination.

### Alternative Dispute Resolution (ADR)

ADR is a variety of techniques and approaches used to achieve collaborative resolution of disputes. The primary ADR technique used by USDA is mediation. It is offered in both the Pre-Complaint and Formal Complaint stages of the EEO Complaint Process. The ADR process, or mediation must be completed within **90 calendar days** from the date of initial contact with the EEO Counselor. An ADR Specialist assigned to the CB contacts all the parties of the conflict to schedule a face-to-face mediation with a trained, neutral, and third party Mediator. If a resolution is reached the parties complete a Settlement Agreement that they have mutually agreed upon and the Complainant withdraws their complaint. If no resolution results from mediation, the Complainant is issued a NRF with the option of filing a Formal Complaint of discrimination.

#### What is Mediation?

Mediation is a process of assisted negotiation aimed at resolving conflicts. It allows parties to control their own dispute resolution process. The Mediator is a trained, neutral, third-party whose role is to primarily support and facilitate the problems solving process. Mediators have no decision-making authority and are bound by confidentiality within legal statutes. The parties to mediation are usually the **Complainant**, the **Responding Management Official** and the **Resolving Official**. The Responding Management Official is the person whom has been identified as allegedly responsible for the discriminatory event(s). The Resolving Official is the person who has the authority to approve, on behalf of the agency, any resolution that the parties mutually agree to.

**Mediation is beneficial for many reasons, but is highly successful for these reasons:**

- ◆ **Fast, Inexpensive**
- ◆ **Informal, Confidential**
- ◆ **Collaborative, Future-focused**
- ◆ **Win-win, Builds Relationships**

### FORMAL PROCESS

An Complainant has **15 calendar days** from the day they receive the NRF to file their complaint of discrimination with the USDA Office of Adjudication and Compliance (formerly the Office of Civil Rights (OCR)). In accordance with (IAW) EEOC Management Directive 110 (MD-110) and 29 (Code of Federal Regulation) C.F.R 1614.108, USDA is required to develop an impartial and appropriate factual record upon which to make findings on the claims raised in a formal EEO complaint. An appropriate factual record is one that allows a reasonable fact finder to draw conclusions as to whether discrimination has occurred. This Report of Investigations (**ROI**) must be completed within **180 calendar days** of filing a formal complaint. Once the investigation has been completed the CB will review the ROI. When the review of the ROI is completed and is found sufficient the CB distributes a letter to the Complainant (and, if applicable, to the Complainant’s representative) which notifies the Complainant of his/her avenues of redress. A copy of the ROI is also included. The avenues of Redress are:

- (a) Hearing before an Administrative Judge (AJ) at EEOC; or
- (b) Final Agency Decision (FAD) based on the record; or
- (c) Withdraw the complaint

