

## **EEO Complaint Process**

It is the policy of the Financial Management Service (FMS) to enforce a “zero tolerance” for discrimination, harassment, and civil rights related violations by providing equal opportunity for all of its employees and applicants for employment in every aspect of its employment practices and working conditions. Therefore, discrimination on the basis of race, color, religion, national origin, sex, age, disability, reprisal (for prior participation in the EEO process), sexual orientation, parental status, and protected genetic information, is prohibited.

### **Informal or Pre-Complaint Process**

Any employee or an applicant seeking employment with FMS (complainant) who feels that he or she may have been discriminated against on the basis of their race, color, religion, national origin, sex, age, disability, reprisal (for prior participation in the EEO process), sexual orientation, parental status, and protected genetic information, may file an informal complaint of discrimination by contacting an EEO counselor.

The complainant must make initial contact with an EEO counselor within 45 days of the date of the alleged discriminatory event, or personnel action. EEO counselors conduct initial interviews to determine the basis for discrimination and the issues involved. EEO counselors explain the steps in the process to the aggrieved person, especially what a limited inquiry will involve, so that any findings may be presented to the principal management official along with proposals for informal resolution.

The EEO counselor will provide written documentation explaining the complainant’s rights and responsibilities regarding Equal Employment Opportunity and Alternative Dispute Resolution (ADR). The EEO counselor will advise the complainant of his or her right to elect the ADR process or the traditional EEO counseling process. EEO counseling will begin within thirty (30) calendar days from the date of the initial contact with the complainant in an attempt to resolve the matter informally. However, EEO counseling may be extended upon an agreement between the Equal Opportunity and Organizational Enhancement Division (EO/OE) and the complainant, up to an additional sixty (60) calendar days, if more time is needed to achieve a resolution. If ADR does not result in a resolution, then traditional processing will resume.

### **Formal Process**

If all attempts at an informal resolution have failed, the complainant may exercise his or her rights by filing a formal EEO complaint with the Treasury Complaint Mega Center (TCMC). A formal EEO complaint must be filed in writing and signed by the complainant within fifteen (15) calendar days of receiving the "Notice of Right to File a Discrimination Complaint." The formal EEO complaint should be mailed to the Treasury Complaint Mega Center, 4050 Alpha Road, Mail Stop 1010, Dallas, TX 75224-4203. Upon receipt of the formal EEO complaint, TCMC will acknowledge receipt of the complaint in writing. The acknowledgement letter will inform the complainant of the date on which the complaint was filed.

If the complaint is mailed, the date of filing is the postmarked date, not the date the TCMC received the complaint. Once the TCMC has acknowledged receipt of the formal EEO complaint, they will notify EO/OE that the complainant has filed a formal EEO complaint and request that EO/OE provide the EEO Counselor's Report within 15 calendar days. This report is used to help the TCMC determine whether the EEO complaint of discrimination was timely and whether or not to accept it on its merits for formal EEO investigation.

If the TCMC accepts the EEO complaint, an acceptance letter will be sent to the complainant stating the claim(s) asserted to be investigated along with the case number. If the statement of the claim(s) asserted and the claim(s) to be investigated differs, the letter will explain the reasons for the difference, including whether the TCMC is dismissing a portion of the complaint.

An investigator is then assigned to conduct a thorough and impartial investigation within 180 days of the date the complaint was filed with the TCMC. The TCMC Operations Director or designee and the complainant may agree in writing to an extension of not more than 90 days. Though an EEO complaint may be resolved at any time during the EEO complaint process, the investigator's focus, unlike the EEO counselor's, is on uncovering the facts of the case that will clearly demonstrate whether or not discrimination has taken place. **Note:** ADR may also be requested at any time during the formal EEO complaint process.

## **The Right to Hearing**

Except in mixed cases, the complainant has the right to request a hearing before an EEOC Administrative Judge after 180 calendar days from the filing of a formal EEO complaint or after completion of the investigation, whichever comes first. Complainants must request a hearing directly from the EEOC field office that has jurisdiction over the geographic area where the complaint arose. In the written acknowledgement of receipt of the formal EEO complaint or amendment to a complaint, TCMC will advise the complainant of the EEOC office and address where a hearing request is to be sent as well as a copy of the request being sent to the TCMC. **Note:** Sexual orientation, parental status, and protected genetic information are bases protected by Executive Orders and not by Federal statute. Complainants may request a final agency decision concerning the claims of discrimination on these bases but may not request a hearing from the Equal Employment Opportunity Commission (EEOC) or seek to appeal a final agency action.

## **The Right to Appeal**

The complainant has the right to an administrative appeal of a dismissal, final action, or final decision. Such an appeal must be filed with EEOC within thirty (30) days. However, formal EEO complaints alleging discrimination on the basis of sexual orientation, parental status, or protected genetic information are not appealable to the EEOC.

## **The Right to File a Civil Action**

The complainant has the right to file a civil action in federal district court on claims raised in the administrative process:

- A. Within 90 days of receipt of a final action on an individual or class complaint, if no appeal has been filed;
- B. After 180 days from the date of filing an individual or class complaint, if an appeal has not been filed and a final action has not been taken;
- C. Within 90 days of receipt of the EEOC final decision on appeal; and
- D. After 180 days from the date of the filing of an appeal with the EEOC, if there has been no final decision by the EEOC.

## **Class Complaints**

An individual who wishes to file a class complaint as an agent alleging discrimination based on race, color, religion, national origin, sex, age, disability, reprisal (for prior participation in the EEO process), sexual orientation, parental status, and protected genetic information must seek counseling and be counseled. The complainant may move for class certification at any reasonable point in the process when it becomes apparent that there are class implications to the claim(s) raised in an individual complaint. If the complainant moves for class certification after completing the counseling process, no additional counseling is required. An EEOC Administrative Judge will make the determination on whether or not the class complaint meets the prerequisites of a class complaint.

For additional information pertaining to the EEO Complaint Process, please contact the Equal Opportunity and Organizational Enhancement Division (EO/OE) at (202) 874-8330, or (202) 874-4167 (TTY). FMS is an equal opportunity employer!