

# Guide to the *Formal*



## Employment Discrimination Complaint Process



APHIS  
Civil Rights Enforcement &  
Compliance Office

# *Table of Contents*

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## **OVERVIEW OF THE EEO COMPLAINT PROCESS** 4

### **Part A – FORMAL EMPLOYMENT DISCRIMINATION COMPLAINT PROCESS**

Filing Your Formal EEO Complaint with the USDA Office of Adjudication and Compliance	5
Alternative Dispute Resolution (ADR)	7
Investigation of Your Accepted Formal EEO Complaint	11
CREC’s Sufficiency Review and Distribution of Your Report of Investigation	13
Your Review of the Report of Investigation	13
Your Right to Elect a Hearing or a Final Agency Decision Without a Hearing or Withdraw Your Formal EEO Complaint	14
The Closing of Your EEO Complaint	14
Your Right to Appeal Your Decision or File a Civil Action Lawsuit against the Secretary of Agriculture	15

### **Part B - APPENDICES**

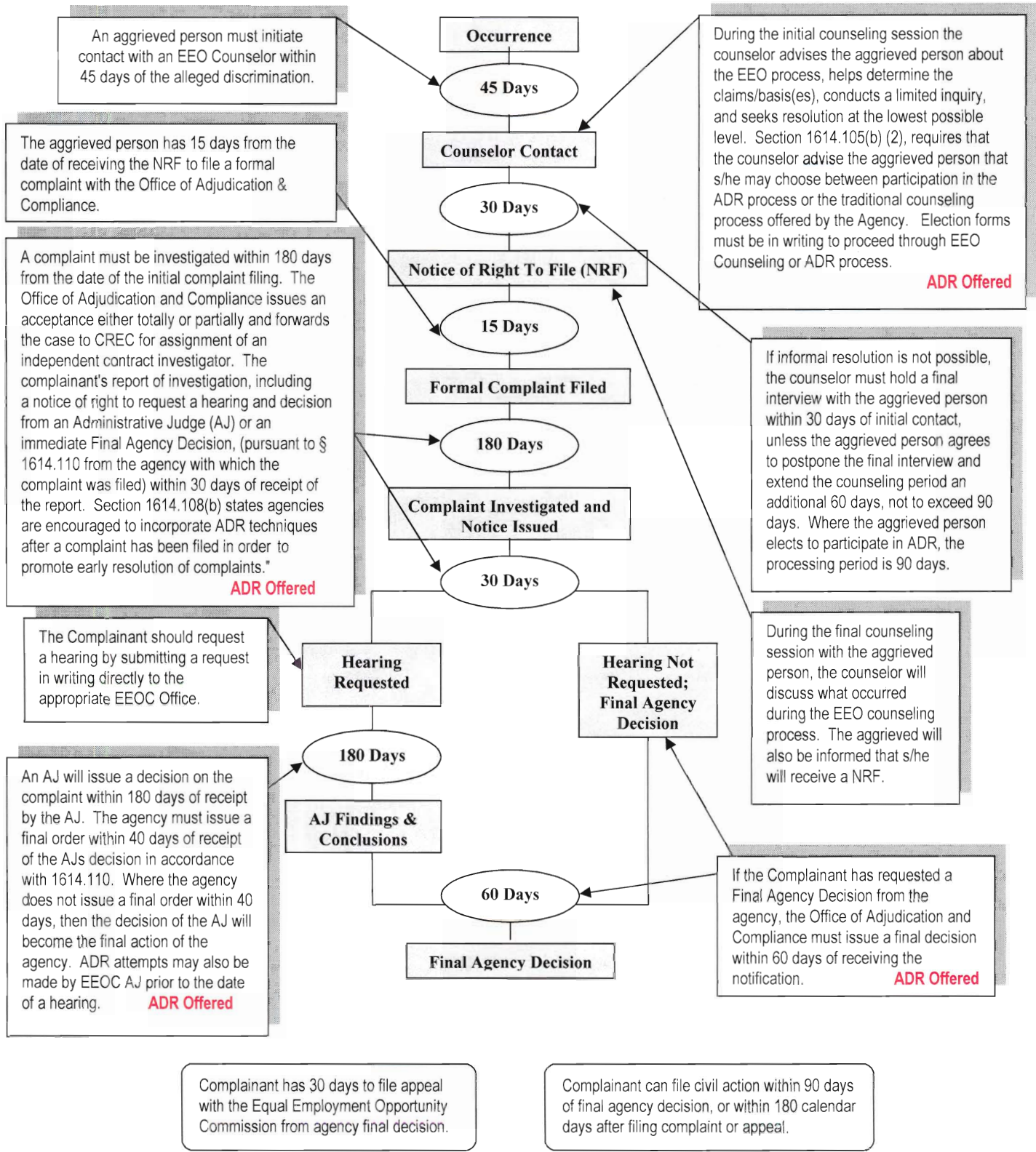
Appendix 1- Sample Notice of Right to File	16
Appendix 2 - Sample Complaint Form	18
Appendix 3 - Sample Acknowledgment Letter	19
Appendix 4 - Sample Acceptance Letter	21
Appendix 5 - Sample Dismissal Letter	24
Appendix 6 - Sample Mediation Offer Letter	28
Appendix 7 - Sample Mediation Confirmation Letter	30
Appendix 8 - The Role of the Resolving Official	32

Appendix 9 - Tips for Resolving Officials in EEO Mediations	36
Appendix 10 - Sample Settlement Agreement	39
Appendix 11 - Sample Letter of Authorization (Assigning Complaint to Investigative Firm)	44
Appendix 12 - Sample Letter of Authorization (Contract EEO Investigator)	48
Appendix 13 - APHIS Official Time Guidelines	50
Appendix 14 - Sample Letter Transmitting Report of Investigation to Complainant	53
Appendix 15 - Sample Letter Electing a Hearing	55
Appendix 16 - Sample Letter Electing a Final Agency Decision	57
Appendix 17 - Sample Letter Withdrawing the EEO Complaint	58
Appendix 18 -Your Right to Appeal to EEOC or File a Civil Action in District Court (Following a Final Agency Decision)	59

**Overview of Federal Sector Complaint Processing - Under 29.C.F.R. 1614**

**Created by APHIS Civil Rights Enforcement and Compliance Office**

*ADR is offered at all stages of the Federal Complaint Process -- pre-complaint, complaint and prior to a hearing; unless it is determined that ADR is inappropriate for that particular case. However, ADR is mandatory at the pre-complaint stage for managers.*



## **GUIDE TO THE FORMAL EMPLOYMENT DISCRIMINATION COMPLAINT PROCESS**

The purpose of this guide is to assist you with navigating through the Formal Employment Discrimination Complaint Process. A copy of this guide is located on the CREC web page at: [http://www.aphis.usda.gov/about\\_aphis/programs\\_offices/civil\\_rights](http://www.aphis.usda.gov/about_aphis/programs_offices/civil_rights). Copies of the guide will also be mailed to employees filing an employment discrimination complaint (EEO complaint) and to managers identified as Responding Management Officials (RMOs) or Resolving Officials (ROs).

The steps in this guide begin with the filing of a written complaint of employment discrimination with the USDA Assistant Secretary for Civil Rights, Office of Adjudication and Compliance.

### **Part A – THE FORMAL EEO COMPLAINT PROCESS**

#### **1. Your Options at the end of Counseling/ADR**

You will have two options after receiving a “Notice of Right to File” (NRF) a formal complaint (Appendix 1). (Note: This notice will be sent to you by “Certified” U.S. Mail requiring your signature). The first option is to file an EEO Complaint within 15 days; the second option is to take no action. Once either of these options is taken, the pre-complaint process (after 15 days), is considered closed.

#### **2. Designating a Representative**

At any stage in the process, you are entitled to representation. Your representative may be an attorney, a colleague, or a friend. When a legal representative is named, and mediation is elected, an attorney from the USDA Office of General Counsel, Civil Rights Division, will also participate.

#### **3. Filing a Formal EEO Complaint**

Formal Complaint – The information sent to you by the EEO Counselor/Mediator will also include an EEO Complaint Form (Appendix 2). You may complete the form or you may provide the following information without the form.

- Your Name
- Mailing Address
- Telephone number
- If you have a representative, you will also need to provide your representative's name, address, and telephone number;
- The name of the USDA agency you believe discriminated against you;
- The basis on which discrimination is alleged. You may give more than one basis if applicable.

- Specific description of the issues of the discrimination complaint, including the dates of the alleged discriminatory event;
- The name and telephone number of your EEO counselor; and,
- Corrective action requested.

Your formal EEO complaint must be mailed (within 15 days of receipt of the NRF) to the USDA Office of Adjudication and Compliance (OAC) at the following address:

USDA, Office of Adjudication and Compliance  
 Chief, Employment Complaints Division  
 1400 Independence Avenue, SW  
 Washington, DC 20250-9440

- a. Acknowledgement of your complaint: Once you have filed a formal complaint, the USDA/OAC will provide a written acknowledgment (Appendix 3). Regulation 29 CFR 1614.106(e) requires that USDA acknowledge receipt of the complaint in writing and inform you of the file date. OAC is also required to inform you of the following:
- The office name and address where a request is made for an Administrative Hearing with the EEOC can be filed;
  - Your right to appeal any final agency action or dismissal of your complaint to the EEOC;
  - The requirement that APHIS conduct an impartial and appropriate investigation of your complaint if it is accepted;
  - There is a 180 day time limit on completion of the investigation requirements;
  - Your right to request a hearing at any time after the 180 days even if the investigation is not completed.
- b. Acceptance/Dismissal of your complaint: Following the acknowledgment letter, you will receive (from OAC) a written decision of full or partial acceptance of the claims in your complaint for investigation or the full or partial dismissal of the claims in your complaint. (You may receive a combination Acknowledgment/Acceptance letter instead of two separate letters).
- c. OAC will assign your complaint to an EEO Specialist to determine the following:
- Whether the complaint contains sufficient information to adequately define the claim(s) and to determine whether the claim(s) raised in the formal complaint is/are like or related to those raised with the EEO Counselor. If sufficient information is not available, you may be issued a Letter of Clarification requesting that you provide specific information within 15 days of receipt. Failure to comply with the request may, result in the dismissal of your formal EEO Complaint.

- Whether all or a portion of the claim(s) raised will be accepted and referred for investigation.

EEOC complaint regulations do not address the requirements for accepting a complaint. Instead the regulations set forth several bases on which OAC can dismiss a complaint. They are as follows:

- You failed to state a claim
- You missed the deadline
- You took your complaint to Federal District Court
- You filed a grievance or Merit System Protection Board (MSPB) appeal
- You changed your mind
- OAC changed their decision to accept your complaint
- You cannot be contacted
- You have not cooperated
- You cannot complain about the processing of your EEO complaint
- You are abusing the EEO process

If your complaint is dismissed in its entirety, the case is closed; however, you have an immediate right of appeal of the dismissal with the EEOC Office of Federal Operations (OFO). Instructions for filing an appeal are included in the Dismissal Letter (Appendix 5). If OAC dismisses some of the claims in your complaint but accepts others for investigation, the rationale for dismissing the claims will be included in the Dismissal Letter.

## **2. Alternative Dispute Resolution (ADR)**

During the EEO Counseling process, you were required to elect EEO counseling or ADR. In the formal process you may request ADR, or it may be offered in writing by CREC Formal Complaints Case Manager assigned to your formal complaint. If ADR is offered by the agency your participation is entirely voluntary.

In 1998, APHIS established an Alternative Dispute Resolution program as required by 29 Code of Federal Regulation (CFR) 1614.102(b) and EEOC Management Directive (MD) 110, Chapter 3. The term Alternative Dispute Resolution (ADR) is used to describe a variety of approaches to resolving workplace disputes. EEOC regulations mandate that ADR be offered and made available during the EEO Complaint Process. In APHIS, ADR is also offered in the formal stage. Resolution may be negotiated at any stage in the EEO complaint process.

The most commonly used form of ADR is mediation. The objective of mediation is to assist the parties involved in the dispute (EEO complaint) in reaching an acceptable resolution to the complaint. The mediation process does not seek to declare winners or losers, but to facilitate reconciliation between the parties. If a settlement is reached, it becomes a binding contract between APHIS and you. The complaint process ends at this point. If the dispute is not resolved during mediation, the complaint process continues. As is the case with EEO Counseling, a complainant may designate an attorney or representative to advise them during the ADR process. If the complainant engages legal representation during mediation or other

type of settlement conference, the agency is also entitled to equal representation by the USDA Office of General Counsel. The assigned CREC Formal Complaints Case Manager will arrange for this representation.

### **ADR in the Formal Complaints Process within APHIS**

Most individuals are familiar with the ADR process during the pre-complaint counseling stage; however, this is also an approach to resolution used during the formal complaint process as well. As previously stated, resolution may be entertained at any stage in the EEO complaint process. The assigned Formal Complaints Case Manager will work closely with the complainant and their representative if applicable, and the resolving official to facilitate resolution of the complaint.

In the formal complaint process, the assigned CREC Formal Complaints Case Manager will review the case to determine if the allegations are conducive to resolution. While the most common form of ADR is mediation, APHIS also uses other processes such as telephonic facilitation and settlement negotiation. If feasible, after review of the case, either mediation or telephonic facilitation may be offered via written letter to the Complainant (Appendix 6).

A brief description of the ADR processes used in APHIS is as follows:

- Mediation – The parties involved are brought together and the concerns which gave rise to the allegation are addressed in a non-threatening environment, through mediation. This technique is conducted face-to face, not telephonically.
- Telephone Facilitation – The parties involved are brought together via teleconference and with guidance of the facilitator, the group efficiently moves through the problem-solving process to arrive at a jointly agreed upon resolution.
- Settlement Negotiation – The CREC Formal Complaints Case Manager establishes contact with the parties in an exchange of information and interests to negotiate an amicable resolution.

The assigned CREC Formal Complaints Case Manager will schedule and confirm all mediation and telephone facilitation conferences via letter. This will include an explanatory letter to the parties confirming their voluntary participation and guidelines for the settlement process used. The assigned CREC Formal Complaints Case Manager can provide a detailed description of each technique.

#### a. The Objectives of ADR

The objective of ADR is to assist all parties in voluntarily reaching an acceptable resolution to the issues in dispute. Mediation, a form of ADR, is a voluntary process and does not obviate the complainant's rights under any applicable Negotiated Grievance Process, Equal Employment Opportunity (EEO) Complaint Process or Administrative Grievance Process. The mediation process works because it creates a "safe" environment for the parties to hear each other out, peacefully express conflict and vent their feelings, share information, and address underlying needs and problems.



The Mediation process does not seek to declare winners or losers, but to find agreement and solutions between the parties. This process is conducted through the skills of a trained mediator. The mediator often works with the parties individually, in caucuses, to explore acceptable resolution options or to develop proposals that might move the parties closer to resolution. However, there are some matters that may be inappropriate or not feasible for ADR. Agencies have discretion to determine whether a given dispute is appropriate.

When there is no resolution, the complainant may withdraw the complaint or continue to the next phase of the complaint process.

#### b. What You Can Expect In Mediation

- Participants are limited to the complainant, the representative(s), the responding management official, the resolving official, and the Mediator.
- The background information obtained by the Mediator will only include the accepted issues and bases of the formal complaint(s) and the assigned complaint numbers. The limited amount of information ensures neutrality and gives the parties the opportunity to obtain relevant information from each other.
- All parties should come to the mediation session as prepared as possible to participate fully in the process, including presenting documentation necessary to support a particular position.
- Documentation should be relevant to the proceeding and may include references to time; place; exactly what occurred; the name(s) of the responsible officials, the identity of others who may know about the particular event(s), why you believe it was done, etc.
- A work sheet is available from the Mediator prior to the session to assist each participant in identifying critical information.
- The Mediation session is not a legal proceeding, therefore, no report is written, no notes are taken and no testimony is written or electronically recorded.
- The actual settlement/resolution agreement will be in writing and shared only with those in the Mediation Session, those responsible for processing and the staff of the USDA Office of Adjudication and Compliance. When personnel issues are involved, Human Resources may also be involved.
- All information conveyed during the mediation is confidential, except those matters required by Departmental policy or by regulation, i.e., fraud, waste and abuse or criminal activity.

c. The Mediation Process will include:

1. The Mediator's Opening/Introductory Statement
2. Initial Statements/Opening Statement by Parties
3. Information Gathering/Joint Meeting
4. Caucuses (individual)
5. Negotiation/Generating Options (Appendix 8 and Appendix 9)
6. Written Agreement (if a resolution is reached) (Appendix 10)
7. Closure

- The mediation session will begin with an opening statement from the mediator regarding their role as a neutral and not as an advocate for or against either party. The mediator utilizes this stage of the mediation process to explain the basic ground rules and what will be expected of the parties in the session.

- After the opening statement, the mediator will ask for opening statements from each of the parties.

- The mediator will advise that these statements will be “uninterrupted”. The parties’ opening statements are important. The mediator can use the parties’ opening statements to help identify each of the parties’ issues.

- The mediator will explain the caucus process, i.e., a meeting with each party separately. The caucus information may be confidential if the party desires. After the caucus with each respective party, the mediator will reconvene the parties to assess where they are in resolving the issues.

- The mediator will reopen the joint session after having caucused with both parties, may provide the parties with a neutral assessment and guide the parties toward resolution discussions. The assessment will be developed using the recommended “Model of Analysis” of Discrimination Complaints outlined in EEOC Management Directive (MD) 110. This is an informal process and there are no rules of evidence or adjudication.

- In considering a resolution, a reasonable analysis is necessary to determine what offer of relief is appropriate.

- If the parties are able to reach a resolution of some or all of the issues in dispute, the resulting agreement will be written by the mediator. Appropriate authorization for all agreements will come from the Director, CREC or designee. The agreement must conform to APHS policy on settlement/resolution agreements.

- If resolution is achieved, the written agreement is binding on both parties. Parties are prohibited from discussing the terms of the resolution agreement with anyone unless there is a need to share the information to implement the agreement.

- If an offer of resolution is rejected by either party, specific reasons must be provided as to why the offer is not acceptable, and a reasonable alternative is presented for discussion and consideration.

*Note: Title VII of the Civil Rights Act of 1964, expressly encourages the settlement of employment discrimination complaints without litigation. The Equal Employment Opportunity Commission (EEOC) strongly supports settlement attempts at all stages of the EEO complaint process as identified in 29 CFR 1614.603. The particular remedy negotiated in any case is dependent upon the underlying personnel action, term or condition of employment which formed the basis of the complaint.*

- Issues that set precedent or are regulated by law or regulation that would prohibit implementation or disciplinary action of any management official are not suitable for negotiations or discussion between the parties during mediation.
- For a settlement/resolution agreement to constitute a valid and enforceable contract there must be an offer, an acceptance and consideration flowing between the parties. An offer is essentially a promise to do or refrain from doing some specified act in the future in exchange for another promise or act. Therefore, the language of an agreement is very critical in identifying the terms of resolution/settlement.

### **3. The Investigation of your Accepted Formal EEO Complaint**

The investigation of your accepted formal EEO complaint is an official review by an authorized contract EEO investigator from the General Services Administration (GSA) Schedule. The EEO investigative process is non-adversarial. Instead, the EEO investigator collects all factual information or documentation related to your accepted claims, obtains all needed affidavits from agency personnel who have relevant information about your claims and prepares an unbiased summary of the investigation. The EEO investigator provides no decision, opinion or recommendation on your formal EEO complaint. CREC does not influence the work of the EEO Investigator other than to ensure that the investigator's work is thorough and conforms to the USDA Statement of Work (explained further below).

The investigation of your formal EEO complaint will generally not be conducted face to face, unless the circumstances require this as in certain allegations of harassment. The contract EEO investigator conducts interviews with you and other relevant agency witnesses via telephone or through written interrogatories or questions requiring your detailed response.

The assigned CREC Formal Complaints Case Manager provides the investigative firm with the basic documentation that you previously submitted to the USDA Office of Adjudication and Compliance. The written complaint form (signed and dated) containing your name, address, phone number, the name of the agency and program that you are filing your complaint against, your description of your employment issue (s) and the complaint base(s) that you allege were factors in your allegation of employment discrimination.

The assigned CREC Formal Complaints Case Manager also provides the investigative firm with a copy of your complaint Acknowledgment/Acceptance Letter, your Notice of Right to File, and the EEO Counselor/Mediator's Report. These documents accompany a Letter of Authorization (Appendix 11 and Appendix 12) assigning your EEO complaint for investigation and serves as the EEO investigator's authorization to conduct the EEO complaint investigation. The investigator should present this authorization to agency employees at the start of all contacts with employees. Both EEOC and USDA regulations require that all employees cooperate in the investigative process. Failure to cooperate can result in disciplinary action.

Using the documents outlined above, the EEO investigator will provide the assigned CREC Formal Complaints Case Manager with the "investigative plan" for your formal EEO complaint investigation. The "investigative plan" requires the assigned CREC Formal Complaints Case Manager's approval. The investigative plan identifies the accepted issues in your complaint, the witnesses identified in the EEO Counselor/Mediator's Report, and at a minimum, documents that are relevant to your accepted complaint issues. Both the list of agency witnesses and the list of requested relevant agency documentation may increase, as the EEO investigator continues to work on your EEO complaint investigation.

EEOC regulations allow that your participation or the participation of other agency personnel in the EEO investigation be on official time and in certain instances governed by your tour of duty if those hours are typically outside the government work hours of 6:00 a.m. to 6:00 p.m. APHIS has guidelines on the use of Official Time in the EEO Complaint Process (Appendix 13). Two APHIS programs (Plant Protection and Quarantine and Marketing and Regulatory Programs Business Services) have their own internal policy on the subject of official time. Your manager or supervisor has the discretion of determining the actual scheduling of your request based on your workload at the time. You may request and negotiate any official time extensions with your approving supervisor or manager. Keep a record of your written requests and approvals or disapprovals of official time.

Official time usage may constitute tasks such as talking with your representative, preparing your affidavit under the EEO investigator's direction, copying documents for the EEO investigator or reviewing your Report of Investigation. The EEOC regulations state that the use of agency resources such as copying, mailing services, long-distance calls to your representative on a government phone, etc. requires permission from your APHIS manager or supervisor.

The EEO investigator interviews witnesses who can support or refute your allegations. This includes APHIS supervisors/managers, co-workers, and other APHIS personnel whom the EEO investigator believes have relevant knowledge for the investigation. You should not discuss the testimony provided by witnesses at any time during or after the investigation or even after your EEO complaint is closed. Only discuss your allegations of discrimination, the testimony of witnesses or your prior EEO complaint activity with an EEO investigator, CREC EEO Counselor/Mediator, your representative, CREC Formal Complaints Case Manager, the APHIS Assessment and Litigation staff (if your formal EEO complaint is at hearing) or the USDA Office of Adjudication and Compliance personnel.

The EEO investigator will give you an opportunity to provide a rebuttal to any affidavit from an APHIS supervisor or manager or witness who responded to your discrimination allegation. The Report of Investigation (ROI) will include your rebuttal. If you choose not to provide a rebuttal, the EEO investigator will document this in the ROI. If you have questions about the ROI or the procedures used by the investigator, please contact the assigned CREC Formal Complaints Case Manager immediately at (202) 720-6312.

Regulations from the Equal Employment Opportunity Commission (EEOC) require that the investigation of your formal EEO complaint be completed within 180 calendar days from the date you filed your EEO complaint.

Costs for the investigation of APHIS EEO complaints are billed to the APHIS program area responding to your allegation(s) of discrimination.

#### **4. CREC's Sufficiency Review and Distribution of Your Report of Investigation (ROI)**

After the EEO investigator completes the investigation, the contractor sends the draft ROI to CREC. The assigned CREC Formal Complaints Case Manager reviews the ROI draft for sufficiency to ensure that the ROI is thorough and complete and conforms to the USDA Statement of Work. This review of your draft ROI checks for correct labeling of the ROI (your name and assigned complaint number), proper numbering or indexing of the ROI pages, proper sanitization (no Social Security Numbers, no home addresses belonging to other agency employees, no identification on personnel documentation relevant to your EEO complaint investigation and belonging to other agency personnel, suspension letters, Time and Attendance sheets, etc.)

Once the Formal Complaints Case Manager approves the draft ROI, a copy will be mailed by Federal Express only to you, and your representative or attorney if applicable. In the event that you have a representative or an attorney, the package will be addressed to him/her with a copy to you.

#### **5. Your Review of the ROI**

Upon your receipt of the ROI (Appendix 14), review the submitted ROI to ensure sufficiency. If you feel that the completed ROI contains any errors, inconsistencies, or missing information, you should submit a detailed written explanation to the APHIS CREC staff within 30-days of your receipt of the ROI. The assigned CREC Formal Complaints Case Manager will provide guidance on how and when your concerns will be addressed.

#### **6. Your Right to Elect a Hearing or a Final Agency Decision (FAD) Without a Hearing**

After you review your ROI, keep in mind that you have 30 days from when you receive the ROI to decide whether you intend to:

(1) Request an EEOC Hearing before an Administrative Judge (Appendix 15); or

(2) Request that the USDA Office of Adjudication and Compliance issue a Final Agency Decision (FAD), based on the facts in the ROI (Appendix 16).

(3) Withdraw your complaint in writing (Appendix 17).

If you do not respond to this notice within the 30 days, your complaint will automatically be forwarded to the USDA OAC for a (FAD), which will be based solely on the ROI.

- a. **The Hearing Process:** Once you submit a request for a hearing, a copy of your request and ROI is forwarded to the APHIS Marketing and Regulatory Programs Business Services, Human Resources Division, Assessment and Litigation Branch and assigned to an Agency Representative. The Agency Representative will contact you and your representative to discuss the hearing process. The telephone number for the APHIS Assessment and Litigation Branch is (301) 734-5583.
- b. **Final Agency Decision:** If you elected a FAD, the OAC will issue a written final decision on your complainant. The OAC has 60 days from being notified that you have requested a decision on the record, or 60 days from the expiration of the period for requesting a hearing (making an election), to issue a FAD. The OAC's decision must include a finding of fact and a conclusion of law on all claims that were accepted for investigation. If the OAC enters a "finding of discrimination", the decision will include the appropriate remedies and relief for the discrimination. Since OAC writes the FAD, APHIS has no right of appeal. However, the FAD will advise you of your appeal rights, as well as the right to file a civil action.

## **7. The Closing of Your EEO Complaint**

There are several ways in which your Formal EEO complaint can be closed:

- **Decision from EEOC Administrative Judge:** When a decision is rendered by an Administrative Judge, the case is administratively closed by OAC. CREC provides OAC with any documentation required, including uploading the closure document into OAC's database, which tracks all EEO complaint activity.
- **Final Agency Decision:** FAD rendered by OAC and is administratively closed in their (OAC) database. OAC ensures that copies of the decision are distributed to you, your representative (if applicable), the APHIS Administrator, as well as the CREC Director.
- **Settlement Agreement:** If your EEO complaint is resolved via settlement agreement, the assigned CREC Formal Complaints Case Manager will ensure that OAC receives a copy of the agreement.

- **Withdrawal:** Your voluntary letter of withdrawal (Appendix 16) of your EEO complaint (signed and dated) is entered into APHIS and OAC's database by the assigned CREC Formal Complaints Case Manager handling your EEO complaint.

Once your complaint has been closed due to any of the aforementioned closure methods, your EEO complaint is officially closed administratively unless you appeal the decision and EEOC Office of Federal Operations reverses the original decision.

### **8. Your Right to Appeal Your Decision or File a Civil Action Lawsuit against the Secretary Of Agriculture**

The conclusion of every Final Agency Decision provides the complainant the rights to appeal (Appendix 18) and challenge the decision, which includes appeals to the EEOC or filing a Civil Action.

A Civil Action is a legal action to protect private civil rights or to compel a civil remedy within the EEO arena. A civil action is pursued when all administrative processes have been exhausted, (EEO complaint process or Merit Systems Protection Board (MSPB), EEOC has no jurisdiction over this process. The civil action process is managed by USDA attorneys in the Office of General Counsel in conjunction with the Assistant United States Attorney, Department of Justice.

# Appendix 1

## SAMPLE NOTICE OF RIGHT TO FILE

Date

Certified Mail Number XXXXXX

Your Name/Address

Dear (your name):

On \_\_\_\_\_ you contacted the APHIS Alternative Dispute Resolution Center regarding an issue of concern to you. Specifically, you requested Traditional Counseling (or Mediation, if applicable) with regard to your issue of \_\_\_\_\_. You alleged that this action was due, all or in part, based on \_\_\_\_\_ (your applicable complaint base(s) – color, age, race, disability, etc.).

Unfortunately, your issue was not resolved during counseling. Therefore, you now have the right to file a formal discrimination complaint with the Department of Agriculture within 15 calendar days after receipt of this notice. Please refer to the information you were previously provided on your rights and responsibilities, and the steps and time line for the complaint process.

If you file a complaint, it must be in writing, signed by you, be specific and contain only the issue discussed with me. It must also state whether you have filed a grievance under the negotiated or administrative grievance procedures or an appeal to the Merit Systems Protection Board on the same issues. You may use the enclosed forms to file your complaint. You may file the complaint with the following official:

Regular mail to:  
USDA-OAC-ECD  
1400 Independence Ave., SW.  
Mail Stop 9440  
Washington, DC 20250

Certified mail to:  
USDA-OAC-ECD  
300 7th Street, SW  
Room 618, Reporters Building  
Washington, DC 20024

You must immediately notify the Employment Complaints Division, in writing, if you are being represented by counsel.



Once the complaint is filed, you should direct all future calls or correspondence to the address listed above, attn: Status Coordinator, or by phone 202-720-7467.

Sincerely,

EEO Counselor/Mediator  
Alternative Dispute Resolution Center

Enclosures

# Appendix 2

## SAMPLE COMPLAINT FORM

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### COMPLAINT OF EMPLOYMENT DISCRIMINATION

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United States Department of Agriculture  
Civil Rights  
Employment Complaints Division

1400 Independence Ave, NW  
Mail Stop 9440  
Washington, DC 20250

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1. Name \_\_\_\_\_ [ ] USDA Employee [ ] USDA Applicant  
[ ] Mr. [ ] Ms. \_\_\_\_\_ [ ] Former USDA Employee  
(First) (MI) (Last)

---

2. Address \_\_\_\_\_

(Street)

(City)

(State)

(Zip Code)

3. Telephone Number

Work (\_\_\_\_) \_\_\_\_\_

Home (\_\_\_\_) \_\_\_\_\_

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4. Name of Agency Which You Believe Discriminated Against You \_\_\_\_\_

(Office)

(City)

(State)

(Zip Code)

---

5. Basis of Discrimination \_\_\_\_\_

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6. Issue(s) of Alleged Discrimination You Were Counseled and Wish to File Formal \_\_\_\_\_

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7. Have you filed a negotiated grievance regarding the issues of this complaint? [ ] yes [ ] no

Have you filed an MSPB appeal regarding the issues of this complaint? [ ] yes [ ] no

---

8. Representative, if any \_\_\_\_\_

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9. Name of EEO Counselor \_\_\_\_\_

---

10. Requested Remedy \_\_\_\_\_

---

11. Signature \_\_\_\_\_

Date \_\_\_\_\_

---

If you have questions or need guidance in the completion of this form, contact your EEO Counselor.

# Appendix 3

## SAMPLE ACKNOWLEDGMENT LETTER

Date:

Your Name & Address

(If you have a representative the letter will be issued to your Representative and a copy is given to you)

Re: USDA Complaint No. \_\_\_\_\_

Dear (Your name or your representative's):

This letter acknowledges receipt of your formal Equal Employment Opportunity (EEO) complaint of discrimination against the Animal and Plant Health Inspection Service (APHIS) dated \_\_\_\_\_ and received on \_\_\_\_\_. The complaint has been assigned the reference number above. Please refer to this number in any future communication on the subject formal EEO complaint.

Your formal EEO complaint has been assigned to an EEO Specialist to determine the following:

1. Whether it contains sufficient information to adequately define the claim(s) and to determine whether the claim(s) raised in the formal EEO complaint is/are like or related to those raised with the EEO Counselor.

If sufficient information is not available, you may be issued a Letter of Clarification (LOC) requesting that you provide specific information within 15 days<sup>1</sup> of receipt. Failure to comply with the request may, result in dismissal of your formal EEO complaint.

2. Whether all or a portion of the claim(s) raised will be accepted and referred for investigation.

If all or a portion of your formal EEO complaint is accepted and the investigation report has not been issued within 180 days<sup>2</sup> from the filing date, you have a right to request a

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<sup>1</sup> All references to days refer to calendar days unless specified otherwise.

<sup>2</sup> The Department is required to complete the investigation within 180 days from the date your formal complaint was filed unless both parties agree, in writing to extend the time period.

hearing from the EEOC field office having jurisdiction over the geographical area where the formal EEO complaint arose. You also have a right to request a hearing within 30 days of receipt of the investigative report.

1. Whether a portion of the formal EEO complaint will be dismissed.

If any portion, but not all of your formal EEO complaint is dismissed, you will be notified of the rationale for the determination. In accordance with 29 C.F.R. 1614.107(b), our determination that the cited claim(s) is dismissed will be reviewed by an Administrative Judge at the Equal Employment Opportunity Commission (EEOC) if you request a hearing on the remainder of the subject formal EEO complaint. You may not appeal this dismissal until a final action is taken by the Department on the remainder of your formal EEO complaint.

Enclosed is a document that identifies the EEOC field office and address where the hearing request should be sent. You are required to certify to the EEOC field office that a copy of the hearing request was sent to the following address:

Civil Rights Director  
Animal and Plant Health Inspection Service  
United States Department of Agriculture  
Mail Stop: 3436  
1400 Independence Avenue, S.W.  
Washington, DC 20250

2. Whether the entire formal EEO complaint will be dismissed.

If your formal EEO complaint will be dismissed in its entirety, you will be advised of your appeal rights.

You must keep the agency informed of your current address. If the Department is unable to locate you, it may dismiss your formal EEO complaint under 29 C.F.R. 1614.107(a) (6).

Please contact the Customer Service Unit at 1-800-795-3272 if you have any questions or concerns regarding the status of your formal EEO complaint.

Sincerely,

Division Chief  
Employment Complaints Division

cc: APHIS Civil Rights Director

# Appendix 4

## SAMPLE ACCEPTANCE LETTER

Date:

Your Name & Address

(If you have a representative the letter will be issued to your Representative and a carbon copy is given to you)

Re: USDA Complaint No. (Assigned by OAC)

Dear (Your Name or your representative):

This letter acknowledges receipt of and accepts your (the letter is modified if the letter is addressed to your representative) Equal Employment Opportunity (EEO) complaint of discrimination against the Animal and Plant Health Inspection Service (APHIS) dated \_\_\_\_\_ and based on the postmark is considered filed on \_\_\_\_\_. It has been assigned the complaint number shown above. Please refer to this complaint number in any future communication on the subject EEO complaint.

We are accepting and referring for investigation the following allegations:

Whether the agency subjected the complainant to discrimination based on (your complaint base(s) are listed) when:

1. Date of occurrence of your alleged discrimination incident and a description of the incident as stated on your complaint form and as previously reported by you to the EEO Counselor;
2. Your additional allegations (if any)

The Department of Agriculture (Department) is required under 29 C.F.R. 1614.108 to complete an impartial, factual and appropriate investigation of the accepted allegations within 180 days of the date the subject EEO complaint was filed. An appropriate factual record is one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred. You and the Department may voluntarily extend the 180 day time period not to exceed an additional 90 days. In addition, the Department may unilaterally extend the 180 day time period or any period of extension for not more than 30 days where it must sanitize a complaint file that contains classified information.

When the investigation begins, an EEO Investigator will contact you. You are required to cooperate fully with the EEO Investigator. Failure to do so may result in dismissal of your EEO complaint. You are required to present the EEO Investigator all information you consider relevant to the accepted allegations. In addition, you are required to provide the EEO Investigator with the names of any witnesses you believe should be contacted.

You must keep the agency informed of your current address. If the Department is unable to locate you, it may dismiss this EEO complaint under 29 C.F.R. 1614.107(a) (6).

When you receive the EEO investigative report, you will be notified of your right to elect either an agency decision based on the record or a hearing with a decision from an Equal Employment Opportunity Commission (EEOC) Administrative Judge (AJ). The notification will provide you with specifics on how to exercise your election rights.

If you have not received the EEO investigative report after 180 days from the filing of your EEO complaint, you have the right to request a hearing before an EEOC AJ. Should you request a hearing, you must send your request to the EEOC District Office and address identified in the enclosed document. Additionally, you must certify to the EEOC that a copy of the hearing request was sent to the following address:

Civil Rights Director  
Animal and Plant Health Inspection Service  
United States Department of Agriculture  
Mail Stop: 3436  
1400 Independence Avenue, S.W.  
Washington, DC 20250

If you do not agree with the defined allegations, you must provide us with sufficient reasons, in writing, within 7 calendar days from receipt of this letter. The settlement should be sent to the following address:

Chief  
Employment Complaints Division  
Office of Adjudication and Compliance  
United States Department of Agriculture  
1400 Independence Avenue, S.W.  
Stop Code 9440  
Washington, DC 20250-9440

Please be advised that, consistent with EEOC regulations and the Secretary of Agriculture's strong commitment to the early resolution of EEO complaints, parties are encouraged to seek resolution at any stage of the EEO complaint process. Settlement discussions may take place throughout the administrative complaint process. If resolution is achieved, a copy of the settlement agreement must be provided promptly to avoid unnecessary processing and additional cost. Likewise, if at any stage of the EEO complaint process you wish to voluntarily withdraw your complaint, you must provide prompt written notification of this desire to withdraw your EEO complaint. The withdrawal notice must be signed, dated, and contain the EEO complaint number. To ensure prompt receipt, please fax a copy of your voluntary withdrawal directly to the Complaints

Adjudication Division, at Fax Number (202) 401-8035.

Please contact the Customer Service Unit at 1-800-795-3272 if you have questions or concerns regarding the status of this complaint.

Sincerely,

Chief  
Employment Complaints Division  
Office of Adjudication and Compliance

# Appendix 5

## SAMPLE DISMISSAL OF YOUR EEO COMPLAINT

USDA Complaint No.: APHIS-XXXX-XXXXX

Your Name  
Complainant,

v.

Name of current Secretary of Agriculture  
Department of Agriculture,  
Agency

### Final Agency Decision

#### Introduction

In accordance with the Equal Employment Opportunity Commission (EEOC) regulations at 29 C.F.R. 1614.107(a) (2), 1614.110(b), this is the final decision of the United States Department of Agriculture (USDA) on this complaint.

#### Issue Presented

Your EEO complaint issue and base is briefly described.

#### Procedural Background

A summary of the complete history of your EEO complaint issue (your date of contact with the EEO Counselor, attempt to resolve your employment issue, issuance of your Notice of Right to File along with the formal EEO complaint form and ending with your filing of your formal complaint) is described.

#### Analysis and Findings

The reason for the dismissal of your employment issue is provided through an analysis and applicable EEOC regulation or case law is cited.



### Conclusion

For the reason set forth above, the complaint is dismissed in its entirety. Accordingly, no order of relief or corrective action is warranted in this matter.

### Appeal Rights

This is the final decision of the USDA on the cited complaint. The following are the only rights available to challenge this decision:

#### APPEAL TO THE EEOC

A Notice of Appeal may be filed with the EEOC within thirty (30) calendar days after receipt of the final decision. EEOC Form 573 Notice of Appeal/Petition should be used in filing the appeal, as well as what is being appealed should be indicated in the form. A copy of EEOC Form 573 is provided with this decision. Such notice should be addressed to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
P.O. Box 19848  
Washington, DC 20036

As an alternative to mailing, your appeal may be hand-delivered to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
1801 L Street, N.W  
Washington, DC 20507

As an alternative, you may also send your appeal by fax to the Office of Federal Operations at (202) 663-7022.

If there is an attorney of record, thirty (30) calendar day time limit within which to appeal shall be calculated from the date of receipt of this decision by the attorney. In all other cases, the thirty (30) calendar day time limit within which to appeal shall be calculated from the date of receipt of this decision.

The appeal shall be deemed filed on the day it is postmarked, or in the absence of a postmark, on the date it is received by the EEOC.

At the same time information is provided to the EEOC (to include a copy of the Notice of Appeal, and any admissions in support of the appeal), there must be a service certification that a copy of the

submission has been submitted to the USDA Employment Complaints Division and the date and method of service. A copy of the appeal and any submission in support thereof shall be forwarded to the agency at the following address:

Department of Agriculture  
Office of Adjudication and Compliance  
Employment Complaints Division  
1400 Independence Avenue, S.W.  
Washington, DC 20250-9440

Please note that, if your appeal is not filed within the thirty (30) calendar day time limit, the appeal may be dismissed by the EEOC. However, the EEOC may, at its discretion, extend the time limits and accept the appeal based upon a written statement that there was no actual notification of the time limit, or that a timely Notice of Appeal could not be filed, due to extenuating circumstances.

Any statement or brief in support of your appeal must be submitted to the EEOC within thirty (30) calendar days of filing of the Notice of Appeal. The EEOC, Office of Federal Operations accepts statements or briefs in support of appeals by facsimile transmittal, provided they are no more than ten (10) pages in length.

Any statement or brief in opposition to your appeal must be submitted to the EEOC and served on you (or your attorney of record, if represented by an attorney) within thirty (30) calendar days of receipt of the statement or brief supporting the appeal, or if no statement or brief supporting the appeal has been filed, within thirty (30) days of receipt of the appeal.

It is the responsibility of the USDA to submit the entire complaint file to the EEOC, Office of Federal Operations, within thirty (30) calendar days of initial notification that an appeal has been filed.

#### CIVIL ACTION IN FEDERAL DISTRICT COURT

You also have the right to file a civil action in an appropriate United States District Court. If you choose to file a civil action, you may do so:

- 1) within ninety (90) days of receipt of this final decision if no appeal has been filed, or
- 2) within ninety (90) days after receipt of the EEOC's final decision on appeal; or
- 3) after one hundred eighty (180) days from the date of filing an appeal with the EEOC, if there has been no final decision by the EEOC.

You must name the person who is the official agency head or department head as the defendant. Agency or department means the national organization, and not just the local office, facility, or department in which you might work. Do not just name the agency or department. In your case, you

must name \_\_\_\_\_, (name of current Secretary of Agriculture). Failure to provide the name or official title of the agency head or department head may result in dismissal of your case.

If you decide to file a civil action, under Title VII or the Rehabilitation Act, and if you do not have or cannot afford the services of an attorney, you may request that the Court appoint an attorney to represent you and that the Court permit you to file the action without payment of fees, costs, or other security. The grant or denial of the request is within the sole discretion of the Court. Filing a request for an attorney does not extend your time in which to file a civil action. Both the request and civil action MUST BE FILED WITHIN NINETY (90) CALENDAR DAYS of the date you receive the final decision by the USDA or an EEOC's decision on appeal.

Unless an appeal is filed in the EEOC, failure to file a civil action within ninety (90) calendar days may result in the dismissal of your civil action. Filing a civil action under 29 C.F.R. § 1614.407 or § 1614.408 shall terminate processing an appeal before the EEOC. If a civil action is filed subsequent to filing an appeal with the EEOC, the parties are requested to notify the EEOC in writing.

\_\_\_\_\_  
Signature of the Director  
Office of Adjudication and Compliance

\_\_\_\_\_  
Date Signed

# Appendix 6

## SAMPLE MEDIATION OFFER LETTER

United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

*Date*

*Your Name*

*Address*

RE: *EEO Complaint Number(s) listed*

*Dear (Your Name):*

This letter serves to notify you of the opportunity to participate in a mediation session that will hopefully lead to the resolution or settlement of your open complaint(s) of discrimination. Your participation in a mediation session is entirely voluntary and will only occur with your permission. The session will provide you with the opportunity to participate in a face-to-face meeting with an experienced mediator. Sessions are confidential and no written record will be maintained unless agreement is reached to resolve the complaint. All sessions will be conducted by the staff of Civil Rights Enforcement and Compliance.

Please mark the appropriate item below to indicate whether or not you wish to participate in a mediation session, and return this letter to us within 10 days of your receipt of it. The return address is listed below.

\_\_\_\_\_ YES, please schedule my formal case(s) for mediation.

\_\_\_\_\_ NO, I do not wish to participate in mediation.

Director, Civil Rights Enforcement and Compliance  
14<sup>th</sup> and Independence Avenue. SW, Room 1133-South  
Building  
Washington, DC 20250

You may also fax your response to use at 202-720-2365, ATTN: CREC Director.

If you have any questions regarding the mediation process, please contact the CREC Formal Complaints Case Manager at 202-720-6312.

Sincerely,

Director  
Civil Rights Enforcement and Compliance  
Animal and Plant Health Inspection Service

# Appendix 7

## SAMPLE MEDIATION CONFIRMATION LETTER

United States  
Department of  
Agriculture

*Date*

Animal and Plant  
Health Inspection  
Service

*Your Name*

*Address*

Washington, DC  
20250

*Dear (Your Name):*

The purpose of this letter is to confirm your election to participate in a mediation session scheduled for Day and Date, at the USDA Headquarters, 4700 River Road, Riverdale, Maryland 20737 (*or other agreed upon Federal facility*). The Mediation will begin promptly at 9:00 a.m. and may last until 4:00 p.m. We ask the parties to stay until the conclusion of the session, including preparation of an agreement, if any. This mediation session is an attempt to resolve/settle the issues in your formal complaint of employment discrimination. The case number(s) in this mediation is: *Formal # APHIS-2008-\_\_\_\_\_*. The issue is as follows:

*(List of accepted issue(s) as identified in the Letter of Acceptance)*

Mr. or Ms. *(Mediator's Name and title)*, *Civil Rights Enforcement and Compliance*, will serve as mediator in the mediation session. If you have any questions, please feel free to call *(CREC Formal Complaint Manager) on (phone number provided)*.

If for any reason, you are unable to participate in the Mediation Session on the agreed upon date, please notify *CREC Formal Complaint Manager* immediately.

Sincerely,

/s/

*CREC Formal Complaint Manager*  
Civil Rights Enforcement and Compliance

Animal and Plant Health Inspection Service

Cc:

*(Name of Participant)*, Resolving Official

*(Name of Participant)*, Responding Official

*(Name)*, Mediator

# Appendix 8

## **Role of the Resolving Official In the EEO Complaint Process**

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*(Based on a letter Developed by the Office of General Counsel (OGC), Civil Rights Division  
May 2008)*

It is the policy of USDA and APHIS to prevent conflicts whenever possible and, when conflicts do occur, to make every effort to reach the earliest possible consensual resolution of conflicts and issues. An important component in the resolution of EEO-related conflicts process is designation of a Resolving Official.

### Definition of a Resolving Official/Responsible Management Official

Central to the process of Alternative Dispute Resolution (ADR) are the roles and responsibilities of resolving officials and responsible management officials.

A Resolving Official in an EEO complaint, is the official who the APHIS program has designated and assigned the authority to make changes, accept and approve proposals for resolution during an ADR session in both the pre-complaint and formal complaint processing stage. The Resolving Official binds a responding agency by signing an EEO settlement agreement.

A Responsible Management Official (RMO), sometimes referred to as the Responding Management Official, in the EEO cases, is the official(s) who, according to the complainant's allegations, are responsible for the action or made the decision that allegedly harmed the complainant. (There may be more than one RMO identified in a case). The RMO(s) cannot serve as the designated Resolving Official. The APHIS Manager's EEO Helpline (1-800-372-7428) is available to provide managers with an opportunity to obtain assistance in resolving EEO and program discrimination complaints and answers to general EEO issues and concerns.

### Expectations for a Resolving Official

In the resolution of EEO issues and concerns, the Resolving Official will work closely with CREC Formal Complaints Case Manager and/or, in an EEOC



Hearing, the assigned Agency Representative. The Resolving Official will be apprised of the issues and bases alleged as well as any case assessments conducted by the CREC Formal Complaints Case Manager. In the EEO complaint process, the Resolving Official is expected to:

- Be part of this process from the beginning until the end.
- Participate in ADR sessions, either in person, or be reachable by telephone.
- Consult with the CREC Formal Complaints Case Manager and/or the assigned Agency Representative prior to an ADR session.
- Only sign a settlement agreement when the terms and/or conditions have been reviewed and cleared by the CREC Director or Designee or the Agency Representative when the case is at hearing.
- Ensure the settlement terms are implemented and documented within the identified timeframes.

#### Settlement Guidelines

All settlement agreements are approved by the CREC EEO Director or Designee, or in a case at hearing, the Agency Representative. The review must be conducted prior to signature by the Resolving Official. In order to ensure a settlement agreement is valid and enforceable, it is advisable to adhere to the following basic guidelines:

The settlement agreement should:

1. Include ALL terms upon which the parties have agreed.
2. Include the complete release of all pending claims (identified by EEO case number) and any claims which could have been brought up until the date of signature.
3. Include withdrawal of all pending complaints and/or legal actions including Merit System Protection Board (MSPB), Civil Actions, or Grievances.

4. Ensure there are confidentiality provisions.
5. Ensure there is a procedure for addressing allegations of non-compliance.
6. Ensure terms are written in a clear and concise manner which specifically details the action to take and definitive timeframes for implementation – no open-ended terms.
7. Include only employment/personnel issues that were cleared by the appropriate Human Resources official prior to writing the settlement agreement. Do not agree to anything that is contrary to personnel regulations.

#### The Resolving Official's Role:

- The Resolving Official's role is important to APHIS in reaching a fair, enforceable, resolution of EEO complaints.
- All settlement proposals will be discussed with and provided to the Resolving Official for consideration.
- The role of the Resolving Official is not limited to EEO settlements; he or she may also be called upon to provide assistance in a number of EEO-related matters and concerns. Example:

#### There are several items which are useful when serving as a Resolving Official:

- The CREC Formal Complaints Case Manager will provide a detailed briefing on the allegations raised in the EEO complaint.
- All settlement proposals which involve an action governed by Human Resources, such as back pay, retroactive promotions, leave restoration, etc. must be cleared by the appropriate Human Resources specialist.
- All proposed settlement terms must be enforceable, with a definitive and realistic implementation timeframe.

- The CREC Formal Complaints Case Manager will draft the settlement agreement, for all cases which are not being adjudicated by either the agency representative or OGC.

## Appendix 9

### **Tips for Resolving Officials in EEO Complaint Mediation Sessions**

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Preparing for the Mediation Session:

- ➔ Keep in Mind that Mediation is not an adversarial proceeding. Neither party has a burden of proof to establish in mediation, as you would in a formal EEO or MSPB case, and there is no determination of fault or blame.
- ➔ The goal of mediation is to identify the issues, explore settlement solutions, and preserve or mend the working relationship.
- ➔ Remember that the Complainant may feel strongly that he/she has been wronged by the Agency, and is seeking some type of relief by contacting the Civil Rights Staff.
- ➔ The Complainant has agreed to mediate in an attempt to resolve the complaint at the early stage. You were asked to serve as the program Resolving Official because you have the authority to explore options to resolve an issue in dispute
- ➔ Learn all that you can about why there is a dispute. You may need to make confidential inquiries to your managers to obtain a better understanding of the complaint. In order to make an informed decision you will need to know the facts and underlying issues of the complaint before the mediation session.
- ➔ Allow time to analyze the case, focus only on the issues and interests important to management, not the personalities of the parties involved.
- ➔ Think about the strengths and weaknesses of the government's actions or position.
- ➔ Is this a case that management can settle by making some minor concessions?

- ➔ What are the risks and benefits?
- ➔ Are there other employees in that work area with similar complaints?
- ➔ What do you believe are the strengths and weaknesses of the Complainant's case?
- ➔ What are possible relief options that may result in a settlement/resolution?
- ➔ Clarify management's interests (want, needs, fears, and concerns).
- ➔ Identify possible standards (Union agreements, precedents, prior practice, and accepted principles).
- ➔ Plan a strategy.
- ➔ Be creative. The time spent planning will aid the mediation process. Planning will help you make concessions, compromises, and justify your interests as negotiations proceed. Planning prevents accepting what could be called a “bad deal” because you were unaware of the alternatives or the ramifications involved.
- ➔ Make sure that all proposed solutions can be implemented within the regulations, i.e. pay, benefits, promotions, etc.
- ➔ If the mediation deals with performance-based action consider reviewing:
  - Employee's performance standards, performance appraisals, or any written information that can support the unacceptable performance.
  - Documentation concerning any efforts made to assist the employee (counseling/training).
  - Documentation establishing that the employee was afforded the opportunity to demonstrate acceptable performance but did not do so.
- ➔ During the mediation session:
  - Listen attentively to what the Complainant is presenting.
  - Make no assumptions about what you think the issues are and what you think they want.
  - Avoid focusing on a silent rebuttal during any part of the

complainant's presentation.

- Be prepared, the session may take several hours.
- Be logical, reasonable, persistent, and patient.
- Allow the mediator to work using open communication and negotiation skills. Consider that some mediation sessions are about “being heard” by management.

# Appendix 10

## Sample Settlement Agreement

### FULL AND FINAL SETTLEMENT AGREEMENT

This Settlement Agreement is hereby made by and between the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (“APHIS”), responding program area, (herein referred to as “Agency”) and your name (herein referred to as “Complainant”).

The signing of this agreement will result in a full and final settlement between the Complainant and the Agency and the full and complete satisfaction of all (his) claims which are or could have been raised or alleged by the Complainant against the Agency in the above captioned matter, included, and but not limited to EEO Complaint Number APHIS-XXXX-XXXXX

This Agreement constitutes a knowing and voluntary, full and complete settlement and release of all claims raised or alleged or that could have been raised or alleged by the Complainant under the Age Discrimination in Employment Act (ADEA), the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1974, as amended, or any other law, regulation or basis, known or unknown, including all of the monetary and non-monetary relief to which Complainant claims to be, or could be, entitled to, including attorney’s fees.

Upon its effective date, this Agreement shall be made a part of the case, and any other cases filed in any other forum, formally or informally. This Agreement is self-executing and no other withdrawals of any kind are needed from Complainant.

The Complainant acknowledges and agrees that this Agreement neither determines, nor implies a finding of discrimination, a violation of any statute or regulation, nor any other wrongdoing by the Agency of any kind or in any manner whatsoever, or in any way expressly or impliedly admits or concedes that any discrimination, statutory or regulatory violation or other wrongdoing ever occurred.

In full and final Settlement and in exchange for the release of all claims, the Agency and the Complainant agree to the following terms and conditions:

- I. In consideration for the Agreement, the Agency agrees to:
  - a. Specific agency personnel and payment actions with time frames initiating processing
  
- II. In consideration for this Agreement, the Complainant agrees:
  - a. To accept this Settlement Agreement and Release of ALL Claims and all of its terms, conditions, promises and provisions in full and final Settlement of all issues, claims, complaints, grievances or appeals the Complainant has or may claim to have against the Agency, whether known or unknown, existing up to and including the time of the signing of this Settlement Agreement by both parties. Complainant agrees it is not the product of coercion, undue pressure or deceit.
  
  - b. To withdraw and dismiss with prejudice any and all formal and/or informal cases, complaints, claims, actions and/or proceedings against the Agency, of whatever nature and whatever kind, including, but without limitation, Agency Case File Number APHIS XXXX-XXXXX
  
  - c. Complainant understands and agrees that this Agreement is self-executing as this document alone shall and does provide full, complete and sufficient authority to the EEOC or any other administrative or judicial body, to dismiss his formal complaint(s) with prejudice, and any other complaints and/or appeals pending before the Merit Systems Protection Board (“MSPB”), Department of Labor, Office of Special Counsel, or in any other forum, and any other formal or informal complaints, if any exist, against the Agency occurring prior to the effective date of the Agreement, which is the last date of a party’s signature. The Complainant also agrees not to raise any new complaints against the Agency which were or could have been raised in the above cited complaint(s), or which occurred before the last date of a party’s signature on this Agreement.
  
  - d. The Complainant agrees to and shall provide prompt written notice to Agency of any perceived non-compliance with this Settlement Agreement. This notice must include specific information describing what the



Complainant believes the Agency must do in order to come into compliance. Notice is to be provided to the Director, Civil Rights Office, Office of Adjudication and Compliance, 1400 Independence Avenue, S.W. Stop 9440, Washington, D.C. 20250-9817. A copy is also to be provided to the Agency by mail to the Director, APHIS, Civil Rights Enforcement and Compliance, Room 1133-South Building, Washington, D.C. 20250.

III. Both Parties Agree to the Following General Terms and Conditions:

a. SOLE AGREEMENT: All claims, grievances, and complaints are resolved through this Agreement and there are no other agreements between the parties, either expressed, or implied, oral or written. This Agreement is effective as of the date of the last parties' signature and after the required seven (7) day revocations period has expired and at that time it shall be the final expression of the parties' full, final and complete Settlement Agreement.

b. FULL RELEASE: By accepting this full and final Settlement Agreement, both parties acknowledge that this fully and finally discharges the Agency and its employees, agents and officials, both in their individual and official capacities, from any and all liability, claims, or actions resulting from or relating to, in any way or manner, the events occurring up to and including the time Complainant signs this Agreement. Complainant agrees not to pursue any complaints, grievances, civil actions, appeals, charges or claims for damages, attorney fees, or other relief against the Agency or its agents, employees or officials in their individual or official capacities based on events occurring up to the time both parties sign this Agreement.

c. SEVERABILITY: In the event that any term or condition of this Agreement is determined by a court of competent jurisdiction (including the EEOC, and/or the MSPB) to be unenforceable as a matter of law, then such term and condition shall be severed from this Agreement and all remaining terms and conditions shall remain in full force and effect.

d. VOLUNTARINESS: Both parties acknowledge that this Agreement and all of its terms, conditions, promises, and provisions is entered into knowingly, voluntarily and without coercion or duress, and are fully

understood. Both have had the opportunity to consult with legal counsel and have been provided with a reasonable amount of time to consider the terms set forth herein, and their legal effect, before signing it.

e. NOTICE OF ADEA RIGHTS: The Complainant knowingly and voluntarily waives his rights under the Age Discrimination in Employment Act (ADEA) that has or could have been asserted up to and including the effective date of this Settlement Agreement. Under the ADEA and the Older Worker's Benefit Protection ACT (OWBPA), Public Law 101-433, Complainant has the right to consult and confer with legal counsel and has been advised by the Agency that Complainant should consult with an attorney. Complainant has 21 days to consider the terms of this agreement prior to signing. Complainant has seven (7) days from the date Complainant signs this Agreement to rescind it. If the Complainant desires to rescind the Agreement, Complainant must notify the Agency in writing of his decision to rescind the Agreement no later than seven (7) days following his execution of this Agreement. The said Notice rescinding the Agreement must be postmarked no later than the seventh (7<sup>th</sup>) day following the date of complainant's signature to and mailed to: CREC Director, USDA, APHIS, CREC, 1400 Independence Avenue, S.W., Room 1133-SB, Washington, D.C. 20250. If Complainant revokes the Agreement within the seven (7) day period following its execution, all terms are void and null.

f. COOPERATION: Both parties shall cooperate and act in good faith to effectuate the full implementation of this Agreement including preparing and/or executing any clerical or other documents reasonably necessary to carry out or effectuate the terms and conditions set forth herein.

#### IV. EXECUTION OF AGREEMENT

By signing this Agreement, which is four (4) pages in length, the Complainant represents and agrees that he has fully read this Agreement in its entirety, understands its terms and conditions, and agrees to be bound by it. Complainant

shall date and personally sign this Agreement on the lines appearing above his respective name. The parties agree copies of signatures will be valid to execute this Agreement.

Complainant's Signature

Date:

Representative's Signature

Date:

Applicable APHIS Program Management Official's signature

Date:

# Appendix 11

## SAMPLE LETTER OF AUTHORIZATION (CONTRACTOR)

Date

Name of contractor

Address

Dear \_\_\_\_\_:

Enclosed is the following case for investigation:

**Complainant**

**Program Area**

**Case Number**

Your name

Program area responding  
to your EEO complaint

Pursuant to the "Statement of Work for Investigation of Discrimination Complaints and Preparation of Reports of Investigation", (name of contractor), is assigned the formal complaint listed above for investigation. The investigation should cover the issues outlined in the respective Letter of Acceptance, issued by the USDA Office of Adjudication and Compliance. You are required to perform this investigation within 45 workdays from the date of approval of the respective Investigative Plan. We anticipate receiving the Report of Investigation on or about that date. If there is a need for an extension, please contact (assigned CREC Formal Complaints Manager), on (202) 720-6317.

Once the investigation is completed, seven days prior to the anticipated receipt date, please forward one copy of the Report of Investigation for review. A sufficiency review will be conducted prior to receipt of all copies of the Report of Investigation.

Upon completion of the sufficiency review, the Report of Investigation (original, three unsanitized copies and two sanitized copies) along with your invoice should be sent by Federal Express to the Civil Rights Enforcement Staff at the address listed below. For your convenience, Federal Express labels are enclosed.

Director  
Civil Rights Enforcement and Compliance  
Animal and Plant Health Inspection Service  
U.S. Department of Agriculture  
14<sup>th</sup> and Independence Avenue, S.W., Room 1133-South Building  
Washington, DC 20250

Please contact (assigned CREC Formal Complaints Manager), at (202) 720-6317/fax (202) 720-2365 with document requests and to provide a copy of the case Investigative Plan. It is our preference that any on-site interviews be arranged in advance and that affiants be advised in advance of being sent an interrogatory by regular and/or electronic mail.

We look forward to working with you. If you have questions regarding this case assignment, please contact (assigned CREC Formal Complaints Manager).

Sincerely,

Director  
Civil Rights Enforcement and Compliance

Enclosures

## CHECKLIST FOR REPORTS OF INVESTIGATION

- √ Does the ROI contain the Notice of Right to File?
- √ Does the ROI contain the Formal Complaint?
- √ Does the ROI contain the EEO Counselor's Report or Mediation Summary?
- √ Does the ROI contain the Acknowledgement-Acceptance Letter?
- √ Does the ROI contain any written withdrawals, amendments, or changes (if applicable) signed by the complainant or representative?
- √ Does the ROI contain the Investigator's authorization letter?
- √ Does the ROI contain the letter identifying the complainant's representative?
- √ Does the ROI contain an acceptable preliminary affidavit from complainant that addresses all accepted issues?
- √ Does the ROI contain affidavit obtained from complainant during personal interview?
- √ Does the complainant's affidavit contain specific information regarding accepted issues and bases?
- √ Does the complainant's affidavit address each *prima facie* element?
- √ Does the ROI contain an Acceptable preliminary affidavit received from each RMO?
- √ Does the ROI contain affidavit's with detailed explanations of event(s) in dispute?
- √ RMO affidavit(s) contains information about comparative treatment.
- √ Witness affidavits were obtained from each witness with knowledge of event(s) in dispute.
- √ Witness affidavits contained observations about comparative treatment.
- √ Survey of the general environment (SGE) contains an appropriate workforce profile.
- √ Selection of group of similarly situated individuals for the SGE is appropriate.
- √ Report contains all relevant documents related to the accepted issues(s).
- √ Report was received within 45 work day time frame.

- √ Report accurately summarizes all of the complainant's allegations and supporting evidence.
- √ Report accurately summarizes management's response and supporting evidence.
- √ Report is organized and tabbed in accordance with requirements.
- √ Table of Contents meets requirements.
- √ Summary is logically organized.
- √ Summary is written in clear, concise and understandable language.
- √ ROI is sanitized in accordance with Section 10.4 of the Statement of Work (SOW).

# Appendix 12

## SAMPLE LETTER OF AUTHORIZATION (INVESTIGATOR)

Date

Dear Federal Employees:

The Complainant, \_\_\_\_\_, **Complaint #** \_\_\_\_\_, has filed an Equal Employment Opportunity (EEO) complaint of discrimination with the Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS). The private firm of \_\_\_\_\_, has been contracted by APHIS to investigate this complaint, pursuant to Equal Employment Opportunity Commission regulations at 29 CFR Part 1614, any applicable Department Regulations, and the provisions of the contract. I hereby authorize the following individual to conduct the investigation, and to take sworn statements.

Name: \_\_\_\_\_  
Title: Contract EEO Investigator

Upon identification to you, the contract investigator will expect your complete cooperation in this investigation, since they have been given the authority to investigate all aspects of the complaint. You are required to furnish sworn or affirmed testimony by affidavit, without pledge of confidence, about matters pertaining to the complaint, and to provide access to files and record systems of the USDA and other federal agencies, as required, to answer the complaint.

The information obtained by the investigation is protected by the Privacy Act 1974 (PL.93-579), and the information collected for use in resolving the complaint of discrimination filed by the aforementioned Complainant. The information will be incorporated into a report of investigation to be distributed to APHIS' Civil Rights Enforcement and Compliance Office, the USDA Office of Civil Rights, the complainant's representative, if any, and possibly to Federal appeal and court systems.

A complainant who does not provide the information required, is advised that such refusal may result in termination of the investigation process, and possibly cancellation of



his complaint. A Federal employee who does not provide the information required is advised that such refusal may result in disciplinary action.

Sincerely,

Director  
Civil Rights Enforcement and Compliance

# Appendix 13

## **Subject: Guidelines for Use of Official Time and Agency Resources Equal Employment Opportunity (EEO) Complaints**

### **To: APHIS Managers and Supervisors**

On occasion, APHIS employees involved in the EEO complaint process may request official time to process their EEO complaint. Currently, employees are authorized time to participate in EEO Counseling, Alternative Dispute Resolution (ADR), EEO Investigations, Administrative Hearings, etc. The decision to grant official time to an employee rests with the employee's manager/supervisor, these guidelines are offered to assist with the approval process.

Equal Employment Opportunity Commission (EEOC) regulations require managers and supervisors to allow complainants who are employees "a reasonable amount of official time, when in official duty status, to prepare their EEO complaint and to respond to agency and EEOC requests for information". EEOC Management Directive (MD)-110, defines "reasonable" as "whatever is appropriate under the circumstances of the complaint". For example, an employee may need additional time to meet with his/her representative, participate in settlement negotiations, meet with an EEO Investigator, etc. Although the actual number of hours approved will vary according to the circumstances of the case, managers and supervisors should always consider the need for employees to be available to perform work on a regular basis. In this regard, it is important that the employee and the supervisor arrive at a mutual understanding as to the amount of official time to be used prior to the employee's use of such time. The following guidance is provided to APHIS managers and supervisors.

#### 1. Informal and Formal EEO Complaint Preparation and Presentation

A reasonable amount of official time (e.g. 2 hours, 3 hours, etc.) will be allowed for an employee to make contact, discuss, and meet to attempt resolution of pre-complaint issues with EEO Counselors and/or Alternative Dispute Resolution (ADR) mediators. A reasonable amount of time may be granted for an employee to prepare for an initial pre-complaint contact, including time to discuss issues with the employee's representative. Official time for such purposes will typically include time to assemble documents to be submitted in conjunction with the

complaint; time at the employee's official duty station to meet in person or by phone the employee's representative; and, time to write the complaint.

At the formal complaint stage, official time will be granted to employees to prepare responses to questions or information requests from government officials responsible for processing and/or attempting to resolve EEO complaints (e.g. EEO Counselor, Agency Representative, Agency/ contract Mediator, contract EEO investigator, designated program resolving official, Office of General Counsel Attorneys, EEOC, USDA Office of Civil Rights, etc.).

## 2. Meetings and Hearings

Official time is permitted for employees to travel and attend meetings initiated by EEO Counselors, EEO complaint investigators, ADR mediators and other agency officials authorized to discuss and/or attempt EEO complaint resolution. A reasonable amount of official time may be permitted for employees to prepare for such meetings with or without a designated representative. Although individual circumstances will vary, the need for large amounts of time to prepare for meetings and hearings is expected to be rare, being defined in terms of hours (versus days or weeks). Official time is also permitted for employees to attend agency or EEOC initiated meetings or hearings which may last an entire day.

## 3. Official Time Authorization

Since all duty hours reported on time and attendance records must be certified by the employee's supervisor, employees requesting official time in conjunction with preparing an EEO complaint must obtain prior approval. Employees are expected to provide their supervisor with sufficient information to determine if the amount of time being requested is reasonable. Requests must be made and approved in writing but need not reveal confidential case information.

If necessary, additional time can be negotiated verbally by the supervisor and the employee. The supervisor must document the approval of additional time in writing and provide a copy to the employee. Other than union representatives whose use of official time is established under contract provisions, supervisors may set limits on the aggregate amount of time their employees may spend

representing other to insure continued normal work operations. Supervisors are encouraged to consult with the Civil Rights Enforcement and Compliance (CREC) staff with any questions pertaining to official time requests, especially if such requests exceed 8 hours.

If any official time is denied, a written statement will be required from the supervisor containing the reason for the denial. A copy will be provided to the complainant and to CREC for inclusion in the CREC EEO complaint case file.

#### 4. Agency Provided Resources and Travel

EEOC Management Directive (MD)-110 outlines the following general rule regarding a complainant's use of government property in pursuing discrimination complaint: "The complainant's or complainant's non-attorney representative's use of government property (copiers, telephones, word processors) must be authorized by the agency and must not cause any undue disruption or agency operations." (Chapter 6, Section VIII (E)).

Managers and supervisors requiring additional information on implementation of these guidelines should contact me or Myra Young, Assistant Director, ADR and EEO Counseling via the APHIS Manager's Helpline 1 (800) 372-7428.

*Anna P. Grayson*

Anna P. Grayson, Director  
Civil Rights Enforcement and Compliance

# Appendix 14

## **SAMPLE LETTER FROM CREC TRANSMITTING ROI**

Date

Your Name  
Address

RE: EEO Complaint of (Your Name)  
APHIS-XXXX-XXXX

Dear (Your Name):

Enclosed for your review, is a copy of the Report of Investigation (ROI) on the above-referenced complaint of employment discrimination. If, during your review of the ROI, you find errors, inconsistencies or missing information, you should provide a detailed written explanation to this office within the 30 day time frame. You will be contacted immediately about your concerns and provided guidance by an EEO Specialist on how and when your concerns will be addressed.

The contents of the enclosed ROI are protected by the Privacy Act, which prohibits the unwarranted release of the sensitive and confidential information. Access to the ROI is limited to employees within the U.S. Department of Agriculture (USDA) and the Equal Employment Opportunity Commission (EEOC) who have an official need for the information cited therein. No other use of this report is authorized or permitted.

Subsequent to review of the enclosed ROI, you must elect, in writing, one of the following options:

- (1) Withdrawal of the formal complaint (Enclosure 1);
- (2) Request a Final Agency Decision by the USDA, Office of Adjudication and Compliance (Enclosure 2). This decision

- will be based on the affidavits/evidence in the Report of Investigation; or
- (3) Request a hearing by an Administrative Judge of the U.S. Equal Employment Opportunity Commission (Enclosure 3).

You must complete and sign one of the three Election Letters and mail a copy to the address below within 30 calendar days of receipt of this letter and the Report of Investigation:

Name of Assigned CREC Formal Complaints Manager  
Civil Rights Enforcement and Compliance  
Animal and Plant Health Inspection Service  
U.S. Department of Agriculture  
14<sup>th</sup> and Independence Avenue, S.W., Room 1133 - South Building  
Washington, DC 20250

If no reply is received from you, the USDA Office of Adjudication and Compliance shall take final action by issuing a Final Agency Decision.

If you elect an administrative hearing by an EEOC Administrative Judge, the original signed copy of the hearing election letter must also be sent to the EEOC office whose address is printed on the letter.

If you have any questions, please contact \_\_\_\_\_ (name of the assigned CREC Formal Complaints Manager) on (202) 720-XXXX.

Sincerely,

Director  
APHIS Civil Rights Enforcement and Compliance

Enclosures



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Civil Rights  
Enforcement and  
Compliance

14<sup>th</sup>/Independence  
Avenue SB 1133

Washington, DC  
20250

Federal Relay Service  
Voice/TTY/Spanish  
1-800-877-8339

# Appendix 15

## SAMPLE HEARING ELECTION FORM

Mail Original to EEOC

Date:

Equal Employment Opportunity Commission  
District Office having jurisdiction  
Address

Dear Sir/Madam:

I am requesting the appointment of an Equal Employment Opportunity Commission Administrative Judge, pursuant to 29 CFR 1614.108(g). I hereby certify that I have received notice from the agency that I have thirty (30) calendar days to elect a hearing or a final agency decision.

My Name/Address:

USDA Agency:

USDA Complaint No(s):

In accordance with section 1614.108(g), I hereby certify that I have sent a copy of this request for a hearing to the following person:

Name of assigned Formal Complaints Case Manager  
United States Department of Agriculture  
Animal and Plant Health Inspection Service  
Civil Rights Enforcement and Compliance Office  
14<sup>th</sup> and Independence Avenue, S.W., Room 1133SB  
Washington, DC 20250

I understand that if I have not provided the agency with a copy of my request for a hearing, this request will have no effect and an Administrative Judge will not be appointed, or if appointed, the



Administrative Judge will place my request into an inactive docket until such time as I inform the agency of my request for hearing.

Sincerely,

(Complainant/Representative)





United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Civil Rights  
Enforcement and  
Compliance

14<sup>th</sup>/Independence  
Avenue SB 1133

Washington, DC  
20250

Federal Relay Service  
Voice/TTY/Spanish  
1-800-877-8339

# Appendix 16

## SAMPLE ELECTION OF A FINAL AGENCY DECISION

Date:

Assigned Formal Complaints Case Manager  
Animal and Plant Health Inspection Service  
Civil Rights Enforcement and Compliance Office  
14<sup>th</sup> and Independence Avenue, S.W., Room 1133-SB  
Washington, DC 20250

RE: Your Name                      EEO Complaint #APHIS-XXXX-XXXXX

Dear Assigned Formal Complaints Case Manager

The purpose of this memorandum is to notify you that I have reviewed the Report of Investigation issued by your office and I have elected to receive a “Final Agency Decision” on the complaint. It is my understanding that this request will be forwarded by your office to the USDA Office of Adjudication and Compliance.

Sincerely,

Your signature





United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Civil Rights  
Enforcement and  
Compliance

14<sup>th</sup>/Independence  
Avenue SB 1133

Washington, DC  
20250

Federal Relay Service  
Voice/TTY/Spanish  
1-800-877-8339

## Appendix 17

### SAMPLE COMPLAINT WITHDRAWAL

Date:

Assigned Formal Complaints Case Manager  
Animal and Plant Health Inspection Service  
Civil Rights Enforcement and Compliance Office  
14<sup>th</sup> and Independence Avenue, S.W., Room 1133-SB  
Washington, DC 20250

RE: Your Name                      EEO Complaint #APHIS-XXXX-XXXXX

Dear Assigned Formal Complaints Case Manager

The purpose of this memorandum is to notify you that I wish to withdraw my EEO Complaint. It is my understanding that this request will be forwarded by your office to the USDA Office of Adjudication and Compliance.

Sincerely,

Your signature



# Appendix 18

## **SAMPLE APPEAL RIGHTS (as stated in every USDA Decision)**

### Appeal Rights

This is the final decision of the USDA on the cited complaint. The following are the only rights available to challenge this decision:

#### APPEAL TO THE EEOC

A Notice of Appeal may be filed with the EEOC within thirty (30) calendar days after receipt of the final decision. EEOC Form 573 Notice of Appeal/Petition should be used in filing the appeal, as well as what is being appealed should be indicated in the form. A copy of EEOC Form 573 is provided with this decision. Such notice should be addressed to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
P.O. Box 19848  
Washington, DC 20036

As an alternative to mailing, your appeal may be hand-delivered to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
1801 L Street, N.W  
Washington, DC 20507

As an alternative, you may also send your appeal by fax to the Office of Federal Operations at (202) 663-7022.

If there is an attorney of record, thirty (30) calendar day time limit within which to appeal shall be calculated from the date of receipt of this decision by the attorney. In all other cases, the thirty (30) calendar day time limit within which to appeal shall be calculated from the date of receipt of this decision.

The appeal shall be deemed filed on the day it is postmarked, or in the absence of a postmark, on the date it is received by the EEOC.

At the same time information is provided to the EEOC (to include a copy of the Notice of Appeal, and any admissions in support of the appeal), there must be a

service certification that a copy of the submission has been submitted to the USDA Employment Complaints Division and the date and method of service. A copy of the appeal and any submission in support thereof shall be forwarded to the agency at the following address:

Department of Agriculture  
Office of Adjudication and Compliance  
Employment Complaints Division  
1400 Independence Avenue, S.W.  
Washington, DC 20250-9440

Please note that, if your appeal is not filed within the thirty (30) calendar day time limit, the appeal may be dismissed by the EEOC. However, the EEOC may, at its discretion, extend the time limits and accept the appeal based upon a written statement that there was no actual notification of the time limit, or that a timely Notice of Appeal could not be filed, due to extenuating circumstances.

Any statement or brief in support of your appeal must be submitted to the EEOC within thirty (30) calendar days of filing of the Notice of Appeal. The EEOC, Office of Federal Operations accepts statements or briefs in support of appeals by facsimile transmittal, provided they are no more than ten (10) pages in length.

Any statement or brief in opposition to your appeal must be submitted to the EEOC and served on you (or your attorney of record, if represented by an attorney) within thirty (30) calendar days of receipt of the statement or brief supporting the appeal, or if no statement or brief supporting the appeal has been filed, within thirty (30) days of receipt of the appeal.

It is the responsibility of the USDA to submit the entire complaint file to the EEOC, Office of Federal Operations, within thirty (30) calendar days of initial notification that an appeal has been filed.

#### CIVIL ACTION IN FEDERAL DISTRICT COURT

You also have the right to file a civil action in an appropriate United States District Court. If you choose to file a civil action, you may do so:

- 1) within ninety (90) days of receipt of this final decision if no appeal has been filed, or

- 2) within ninety (90) days after receipt of the EEOC's final decision on appeal; or
- 3) after one hundred eighty (180) days from the date of filing an appeal with the EOC, if there has been no final decision by the EEOC.

You must name the person who is the official agency head or department head as the defendant. Agency or department means the national organization, and not just the local office, facility, or department in which you might work. Do not just name the agency or department. In your case, you **must** name Edward T. Shafer, Secretary of Agriculture (or name of the current Secretary of Agriculture at that time), as the defendant. You must also state the official title of the agency head or department head. Failure to provide the name or official title of the agency head or department head may result in dismissal of your case.

If you decide to file a civil action, under Title VII or the Rehabilitation Act, and if you do not have or cannot afford the services of an attorney, you may request that the Court appoint an attorney to represent you and that the Court permit you to file the action without payment of fees, costs, or other security. The grant or denial of the request is within the sole discretion of the Court. Filing a request for an attorney does not extend your time in which to file a civil action. Both the request and civil action MUST BE FILED WITHIN NINETY (90) CALENDAR DAYS of the date you receive the final decision by the USDA or an EEOC's decision on appeal.

Unless an appeal is filed in the EEOC, failure to file a civil action within ninety (90) calendar days may result in the dismissal of your civil action. Filing a civil action under 29 C.F.R. § 1614.407 or § 1614.408 shall terminate processing an appeal before the EEOC. If a civil action is filed subsequent to filing an appeal with the EEOC, the parties are requested to notify the EEOC in writing.

\_\_\_\_\_  
Signature of the Director  
Office of Adjudication and Compliance

\_\_\_\_\_  
Date Signed