

**The EEO Complaint Process  
at the  
National Science Foundation**

**Office of Equal Opportunity Programs  
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## *National Science Foundation's EEO Policy*

It is the policy of the National Science Foundation that employees and applicants for employment receive fair and equal treatment in all employment practices, policies, and decisions.

### *Applicable Statutes and Regulations*

- Title VII of the Civil Rights Act of 1964
- Civil Rights Act of 1991
- Age Discrimination in Employment Act of 1967 (ADEA)
- Rehabilitation Act of 1973
- Equal Pay Act of 1963
- Federal Sector Equal Employment Opportunity: 29 CFR Part 1614
- Federal Sector Complaints Processing Manual: EEO Management Directive 110

### *Who may file a discrimination complaint?*

Any NSF employee or applicant for employment who believes he or she has been discriminated against, in an employment action, practice or decision, on one or more of the following bases: **race, color, religion, national origin, sex (including sexual harassment), age (40 and above), disability (physical or mental), and reprisal, e.g., having participated in the EEO complaint process, or opposed an unlawful employment practice. Harassment (non-sexual) is also prohibited on the above bases.**

### *Aggrieved's Rights*

You have the right to anonymity, but only during the informal/pre-complaint stage.

You have the right to be represented by someone of your choice at any stage in the process.

You have the right to be free from restraint, interference, coercion, discrimination, or reprisal.

You have the right to appeal the decision on your complaint.

You have the right to file a civil action.

**(Prior to contacting an EEO Counselor or requesting mediation, the Director, OEOP, at his discretion may conduct conciliation.)**

### *What is Conciliation?*

Conciliation allows the Director, OEOP or designee a 3-day window to attempt resolution of the issue(s) prior to referring the complaint to mediation or traditional counseling. The Director or designee meets with the appropriate management official to discuss the issue(s) and discuss alternatives that may resolve the dispute. If

conciliation does not result in a mutually satisfactory resolution, the complainant may elect to continue with mediation or traditional counseling.

### ***The Precomplaint Process - STAGE I***

- 1.** You must contact an EEO official within **45 calendar days** of the alleged discriminatory action. OEOP will provide you with an EEO counselor.
- 2.** The EEO counselor will attempt to resolve the matter informally within 30 calendar days from the date of the initial contact. If additional time is needed for a resolution, counseling may be extended **up to 60 additional days**, upon the agreement of the OEOP and the complainant.
- 3.** You may elect to choose mediation through Alternative Dispute Resolution (ADR) in lieu of informal counseling. You must contact an OEOP official and complete proper documentation to proceed in this process. Once ADR is elected, the pre-complaint processing period is **90 days**.

### ***The Formal Complaint Process - STAGE II***

- 4.** Formal complaints must be filed with NSF's Office of Equal Opportunity Programs, after receipt of the appropriate notice from the EEO counselor or OEOP. The signed and dated complaint may be mailed or personally delivered to:

Director, OEOP  
4201 Wilson Blvd., Suite 255  
Arlington, VA 22230

The complaint may also be filed with the Director, NSF, who will forward it to OEOP. Whichever option is chosen, the formal complaint must be filed within **15 calendar days** after receipt of the "Notice of Right to File."

IF/When ADR is offered in the Formal Process then attendance it is NOT optional for Management and Employees.

### ***The Investigative Process – STAGE III***

- 6.** If the complaint is accepted, an investigator will be assigned. If the allegations in the complaint, or portions thereof, are rejected, you will be given the reason(s) for rejection and informed of your appeal rights, in writing.
- 7.** The investigation is required to be completed within 180 days from the filing of the complaint. By mutual agreement, the investigation may be extended for 90 additional days.

### ***The Appeals Process - STAGE IV***

- 8.** After the investigation, you may request NSF's final decision *or* a hearing by the Equal Employment Opportunity Commission (EEOC).

(NOTE: You may also request a hearing or file a civil action if the investigation has not been completed after 180 days from the date the formal complaint was filed.)

- 9. Final Agency Decision:** Within 60 days of requesting a Final Agency Decision, the Director or his/her designee will issue the decision based on the information in the investigative file.

**10. EEOC Hearing:** an EEOC Administrative Judge (AJ) conducts a hearing and issues a decision within 180 days after receiving the complaint file from NSF. If NSF does not issue a final order *within 40 days* after receiving the AJ's decision, the findings and conclusions become NSF's final decision.

### ***When can a civil action or lawsuit be filed?***

You may file a lawsuit in an appropriate U.S. District Court:

- After 180 calendar days from the date of filing a complaint with NSF if a Final Decision has not been issued and no appeal has been filed,
- Within 90 calendar days of receiving notice of NSF's Final Decision on your complaint if no appeal has been filed,
- Within 90 calendar days of receiving notice of EEOC's decision on your appeal, or
- After 180 calendar days from the date of filing an appeal with EEOC when there has been no EEOC decision.

### ***Special provision for age discrimination complaints***

If you are filing a claim under the Age Discrimination in Employment Act, you may bypass the administrative process by filing a notice of intent to sue at least 30 days before you file a civil action in court.

(If you elect to file your age discrimination complaint with NSF, you may still file a civil action after completing all of the steps of the administrative process outlined above, just as you might with any other discrimination complaint.)

### ***Mixed-Case Complaint***

A "mixed-case complaint" is a complaint of employment discrimination filed with a Federal agency based on race, color, religion, sex, national origin, age, disability, or reprisal related to or stemming from an action ***that may be appealed*** to the Merit System Protection Board (MSPB) (e.g., disciplinary personnel actions including, but not limited to, removals, demotions, suspensions for more than 14 days, reductions-in-force, and furloughs for less than 30 days, etc.).

### ***Negotiated Grievance Procedure***

The negotiated grievance procedure is contained in the collective bargaining agreement negotiated between an agency and a recognized labor organization (e.g., Local 3403, AFGE, AFL-CIO). An allegation of discrimination may be processed under a negotiated grievance procedure or, unless specifically excluded by the bargaining agreement, under the administrative complaint process; however, an aggrieved person is not entitled to have the complaint heard in both forums.

Contact your bargaining unit representative or an EEO official for more information about these choices.