

GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405

ADM P 2300.3A

GSA ORDER

SUBJECT: Civil Rights

1. Purpose. This order issues and transmits the Civil Rights Handbook, which sets forth the General Services Administration's (GSA) policies and procedures for implementing internal and external civil rights programs.
2. Background. Title VII of the Civil Rights Act of 1964, as amended, and other pertinent laws¹, policies, rules, and regulations prohibit discrimination and harassment on the basis of race, color, sex, religion, national origin, age, disability or retaliation for participation in the Equal Employment Opportunity (EEO) process or opposing a discriminatory employment practice. GSA is responsible for promulgating policies for processing individual and class complaints of discrimination and for establishing a program for dispute resolution in an effort to reduce the number of complaints and encourage early resolution.
3. Applicability. The handbook applies to all GSA associates, former associates, and job applicants.
4. Cancellation. ADM P 2300.1 is cancelled.
5. Reports. The annual reports required by the Congress, Equal Employment Opportunity Commission (EEOC or Commission) and U.S. Attorney General are exempt from the GSA reports control program.

Stephen A. Perry
Administrator

Distribution: Electronic Attachment

¹ Statutes include Title VII of Civil Rights Act of 1964, as amended, Age Discrimination in Employment Act of 1967 (ADEA), Section 501 of the Rehabilitation Act of 1973, Equal Pay Act of 1963 and the Civil Rights Act of 1991.

CIVIL RIGHTS HANDBOOK

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CHAPTER 1. THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

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CHAPTER 1. THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. Office of Civil Rights Programs. The Office of Civil Rights (OCR) administers three different programs for the General Services Administration (GSA) related to the application of various Federal Civil Rights laws and regulations. The programs are as follows:

a. The Equal Employment Opportunity (EEO) Program for GSA's associates, former associates and applicants for employment ensures Agency compliance with the laws, regulations, policies, and guidance that prohibits discrimination in the Federal workplace based on race, color, national origin, religion, sex, age, disability, or reprisal;

b. The Nondiscrimination in Federally Conducted Programs and Activities for Federal tenants (and their associates) and members of the general public which prohibits discrimination on the basis of race, color, national origin, disability, age, sex, religion, and status as a parent or sexual orientation; and,

c. The Nondiscrimination in Federally Assisted Programs and Activities for persons eligible to participate in programs or activities that receive Federal financial assistance from GSA, which prohibits discrimination on the basis of race, color, national origin, disability, age, sex, and, in some instances, religion.

2. Office of Civil Rights Mission. OCR's mission is to, among other things, assist GSA in creating a world-class workplace and to ensure that GSA complies with all laws, regulations, policies and procedures that govern unlawful discrimination, focusing on enforcement as well as prevention. This Civil Rights Handbook is a guide on the various laws and related regulations and policies.

PART 1. GENERAL PROVISIONS

3. Purpose. This Part outlines the GSA EEO policies and prohibitions against discrimination and harassment at GSA.

4. Policy. It is the policy of GSA that:

a. Discrimination, including harassment, on the basis of race, color, religion, sex (gender, sexual harassment, wage based discrimination), national origin, age (40 and over), or disability (mental or physical) will not be tolerated or condoned with respect to any term, condition, or privilege of employment--including, but not limited to, hiring, firing, promotion, layoffs, compensation, benefits, job assignments, and/or training. GSA's policy statements outlining its commitment to nondiscrimination are attached as Appendices 1 and 2 of this Handbook.

b. An individual who files an EEO complaint or participates in an investigation of an EEO complaint, or who opposes an employment practice made illegal under any of the statutes enforced by the Equal Employment Opportunity Commission (EEOC or Commission) is protected from retaliation. Retaliation is defined as any action taken against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices.

c. All GSA managers and supervisors shall manage their programs in a manner to ensure that discrimination and harassment of associates does not occur.

d. Every aspect of GSA's internal programs, services, and activities shall be planned, developed, implemented, and maintained in accordance with the applicable nondiscrimination statutes, policies, rules, and regulations.

e. Sufficient resources shall be allocated and provided by the Administrator of General Services, Deputy Administrator of General Services, Regional Administrators (RA), Heads of Services and Staff Offices (HSSO) and program offices to implement the provisions of this Handbook.

f. It is the policy of GSA that all associates shall be made aware of and trained regarding their rights and remedies under discrimination and whistleblower laws as required by the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002, P. L. 107.174. In addition, GSA shall post on its website relevant data pertaining to discrimination and whistleblowing complaints and report the same information to Congress and other Federal agencies, as required.

g. GSA shall abide by Management Directive (MD) 715 issued by the EEOC. MD 715 requires Federal agencies to 1) establish model EEO programs; 2) ensure that all employment decisions are free from discrimination; 3) examine employment policies, procedures and practices to identify and remove barriers to equal opportunity; 4) develop plans to correct identified barriers; and 5) report plans and progress to the EEOC.

PART 2. PROGRAM RESPONSIBILITIES

5. Purpose. This Part outlines the responsibilities and authority for implementing GSA's Civil Rights program.

6. Program Responsibilities. GSA is required to maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies. The GSA officials responsible for the administration and implementation of the program include, but are not limited to, the:

a. Administrator of General Services. The Administrator is responsible for the establishment and maintenance of a continuing nationwide Civil Rights Program to ensure nondiscrimination in GSA policies and practices in employment, personnel management, procurement, and other GSA programs and services.

b. Deputy Administrator of General Services. The Deputy Administrator acts in the absence of the Administrator in all such programs and also carries out individual EEO responsibilities as directed by the Administrator.

c. Associate Administrator, OCR. The Associate Administrator, OCR, is responsible for planning, developing, coordinating, and administering GSA's nationwide EEO and Civil Rights programs to include developing agency-wide policies and procedures, administering the complaints processing system, providing technical advice and recommendations to the Administrator, regional and program offices, and tracking and analyzing nationwide EEO statistical data.

d. Deputy Associate Administrator, OCR. The Deputy Associate Administrator acts in the absence of the Associate Administrator in all such programs and also carries out individual EEO responsibilities as directed by the Associate Administrator.

e. HSSOs and RAs. HSSOs and RAs are responsible for ensuring nondiscrimination and diversity in all GSA programs that they manage and for evaluating subordinate associates' civil rights performance, including taking appropriate disciplinary measures when necessary.

f. EEO Officers. The EEO Officer is responsible for developing and administering a comprehensive Regional or Central Office EEO program in an impartial manner, under the guidance of the Associate Administrator, OCR. The EEO Officer is also responsible for managing all day-to-day functions in the Regional or Central Office of GSA. The EEO Officer in the Region reports to the RA or his/her designee. In the Central Office, the EEO Officer reports to the Associate Administrator, OCR, or his/her designee.

g. EEO Counselors. Some EEO offices procure vendors to conduct EEO Counseling. Others also conduct counseling through the use of collateral duty EEO Counselors or in-house EEO Specialists who serve as EEO Counselors. Counselors, among other things, meet with aggrieved individuals to advise them of their rights and responsibilities, conduct limited fact-finding, and try to resolve the complaint at the precomplaint level.

h. Investigators. EEO Investigators are designated contract personnel responsible for investigating claims of discrimination, and providing the agency with an impartial and complete report of investigation.

i. Training Officials. In conjunction with the EEO Officer, training officials develop and/or assist in the implementation of national and local training efforts, ensure that training policies, practices, and programs are non-discriminatory and do not have an adverse impact on race, color, religion, sex (gender, sexual harassment, wage based discrimination), national origin, age (40 and over), or disability (mental or physical).

j. Managers and Supervisors. Management is the key to the success of GSA's Civil Rights Program. All managers' and supervisors' responsibilities include ensuring nondiscrimination in all program operations. They must also work with EEO Counselors and Mediators to resolve the complaint at the lowest possible level and cooperate with Investigators during the investigative process.

k. Training for Managers and Supervisors. All managers and supervisors shall attend at least eight (8) hours of EEO training every two (2) years. Newly appointed supervisors shall receive at least four (4) hours of EEO training during their probationary period.

l. GSA Associates. All associates are responsible for complying with all GSA civil rights policies and practices.

PART 3. PROCESSING DISCRIMINATION COMPLAINTS

7. Coverage. This chapter discusses the processing of complaints of discrimination in accordance with the regulations of the EEOC and the Merit Systems Protection Board (MSPB), and, as appropriate, GSA's guidance for implementing those procedures.

a. The provisions of this chapter apply to all GSA associates, former associates, and applicants for employment who believe they have been discriminated against in connection with GSA's employment policies and/or practices.

b. Discrimination may be raised on the basis(es) of race, color, religion, sex (including sexual harassment, sexual misconduct and wage based discrimination), national origin, age (40 and over), disability (mental or physical), and/or reprisal.²

c. The timeframes referenced in this Handbook are expressed in calendar days.

8. Processing Informal Complaints. The first step in addressing allegations of discrimination is the informal stage, generally referred to as the precomplaint or EEO Counseling stage. The following questions and answers provide the procedures and timeframes for the processing of an informal complaint:

a. What are the steps during the EEO counseling process?

(1) An aggrieved individual must seek counseling by contacting the EEO Officer within 45 calendar days of the date he or she knew or should have known of the alleged discriminatory act. The EEO Officer advises the aggrieved individual of his/her rights and responsibilities and coordinates the assignment of an EEO Counselor or Mediator to the matter.

(2) If the aggrieved individual elects EEO Counseling, the EEO Counselor has 30 calendar days to conduct an inquiry into the allegation(s) and to seek resolution of the matter. The 30-day timeframe can be extended for an additional 60 days upon agreement between the aggrieved individual and the agency.

(3) If the aggrieved individual elects to participate in GSA's EEO Alternative Dispute Resolution (ADR) Program in lieu of EEO Counseling, the timeframe for counseling is no more than 90 days.

² Discrimination based on sexual orientation and status as a parent are not included in this Handbook because the Office of Personnel Management (OPM) has published procedures for pursuing these matters through the Merit Systems Protection Board, Office of Special Counsel, negotiated grievance procedure or agency grievance procedures.

b. Does the agency have an EEO ADR Program?

Yes. The agency has an ADR Program. The ADR technique preferred is mediation and is offered throughout the complaint process.

c. Who may request ADR?

An aggrieved individual or complainant shall request ADR by notifying an EEO Counselor or EEO Officer. An aggrieved individual or complainant has a right to representation during the ADR process. An EEO Officer shall refer the matter for ADR only if both parties agree to participate. After a complaint has been filed and prior to a scheduled hearing, the EEOC Administrative Judge assigned to the matter can order ADR.

d. What happens if the allegation(s) is not resolved by the EEO Counselor?

(1) If the allegation(s) is not resolved during the 30-day or 90-day extension period, the EEO Counselor shall issue the aggrieved individual a notice of right to file a formal EEO complaint.

(2) This notice advises the aggrieved individual of the right to file a formal complaint, in writing, within 15 calendar days of receipt of the notice.

(3) The EEO Officer shall provide the aggrieved individual a copy of the EEO Counseling Report as prepared by the EEO Counselor.

e. What happens if the allegation is not resolved by the Mediator?

(1) If the allegation(s) is not resolved during the 30 days or 90-day extension period, the EEO Counselor shall issue the aggrieved individual a notice of right to file a formal EEO complaint.

(2) This notice advises the aggrieved individual of the right to file a formal complaint, in writing, within 15 calendar days of receipt of the notice.

(3) No EEO Counselor Report is issued after the ADR process ends.

For additional information about the precomplaint or ADR processes, visit <http://www.eeoc.gov/federal/md110/chapter2.html>. This is a link to the EEOC's web page where Management Directive 110 (which provides guidance on the Federal EEO Process) is posted.

9. Processing Formal Complaints. Any GSA associate, former associate or applicant for employment who meets the threshold in Paragraph 8 of this Part, may file a formal complaint.

a. Where are formal complaints filed?

Complaints shall be filed with the Administrator of General Services, RA, HSSO, Associate Administrator for Civil Rights, or the EEO Officer. To expedite the processing of the formal complaint, aggrieved individuals are encouraged to file the formal complaint with the EEO Officer.

b. What happens during the formal process after a complaint has been filed?

Upon receipt of a formal complaint, the EEO Officer shall review the complaint and advise the complainant, in writing, of the allegations that will or will not be investigated. The EEO Officer shall also determine whether to refer this matter for mediation through the GSA EEO ADR Program.

c. Can a complaint be dismissed?

(1) Yes. Allegations in a formal complaint can be partially dismissed or a complaint can be dismissed in its entirety. If a complaint is dismissed in its entirety, the complainant will be notified, in writing, of the dismissal, and advised of his/her appeal rights to the EEOC or the MSPB.

(2) If some of the allegations in the formal complaint are accepted and others are dismissed (partial dismissal), the EEO Officer shall coordinate the assignment of an Investigator to investigate the accepted allegations. The allegations that were dismissed are not appealable to the EEOC until the complainant requests an EEOC hearing or upon review of the record for a final decision by OCR.

d. Why would a complaint or allegations therein, be dismissed?

Complaints are dismissed for the following reasons:

- (1) Untimely counseling contact,
- (2) Untimely filing of the formal complaint,
- (3) Failure to state a claim or state a matter previously claimed,

- (4) Mootness,
- (5) Complainant cannot be located,
- (6) Complainant fails to respond to a written request to provide relevant information or to proceed with the complaint,
- (7) Complainant has refused an offer of resolution,
- (8) Complainant has filed a negotiated grievance alleging discrimination,
- (9) Complainant files an appeal to the MSPB,
- (10) Complainant files a civil action, and/or,
- (11) Complainant alleges dissatisfaction with the processing of a previously filed complaint.

e. What happens if a complaint is accepted for processing?

If a non-mixed or mixed complaint is accepted for processing, the EEO Officer shall arrange for the complaint to be investigated. The investigator shall obtain sworn statements and documents from the complainant, managers and other relevant witnesses. Upon completion of the investigation, the investigator shall submit a Report of Investigation (ROI) to the EEO Officer. The EEO Officer shall provide the complainant with a complete copy of the ROI, along with a letter advising him/her of their rights.

(1) Non-mixed complaint. The investigation shall be completed within 180 calendar days of the filing of the complaint, unless the complaint is amended or there is a written agreement to extend the investigation period up to an additional 90 days. The complainant has a right to request a final decision on the record or to request a hearing before an EEOC Administrative Judge (AJ). This request shall be made within 30 days of receipt of the ROI. If no request is received upon the expiration of the 30-day time period, a final decision on the record shall be issued. If a complainant has not received the ROI upon the expiration of the 180 days of filing of the formal complaint, the complainant has the right to request an EEOC hearing or file a civil action.

(2) Mixed complaint. If a mixed complaint is accepted for processing, the investigation must be completed as expeditiously as is possible. If a complainant has not received the decision upon the expiration of the 120 days of filing of the formal complaint, the complainant has the right to appeal the matter to the MSPB or to file a civil action.

(i) A mixed case complaint is a formal complaint filed with the agency based on a prohibited EEO factor(s) stemming from an action that is appealable to the MSPB. A complainant may elect to proceed with a mixed case complaint through GSA's EEO complaint process or through the Merit Systems Protection Board (MSPB) appeals process, but not both. Actions appealable to the MSPB include, for example, the following:

- (a) Removals, performance-based removals,
- (b) Suspensions of more than 14 days,
- (c) Reductions in grade or pay,
- (d) Furloughs of 30 days or less,
- (e) Reductions in grade and denials of within-grade salary increases;
and
- (f) Reduction-in-force actions, and other actions.

For additional information about the formal complaint process, visit <http://www.eeoc.gov/federal/md110/chapter5.html>.

f. What happens if a complainant requests a hearing?

A hearing is conducted by an AJ of the EEOC. Upon completion of the hearing, the AJ issues a decision. Thereafter, GSA shall take final action by issuing a final order within 40 days of receipt of the hearing file and AJ's decision. The final order shall fully implement the AJ's decision unless the agency simultaneously appeals the AJ's decision.

g. What happens if a complainant requests a final decision by the agency without a hearing, or, fails to elect either a hearing or a final decision?

When GSA receives a request from the complainant for a final decision without a hearing or the complainant fails to make an election within the appropriate timeframe, GSA shall take final action by issuing a final decision on the record within 60 days of the end of the 30-day period for the complainant to request a hearing or decision on the record.

h. Who gets a copy of the final decision without a hearing or final order after a hearing is issued on the formal complaint?

A copy of the final decision or the final order shall be provided to the Complainant, Complainant's representative, if applicable, EEO Officer, AJ, Agency representative and the HSSO or RA, as applicable. A copy of the final decision or the final order shall also be provided to the Administrator and the Chief People Officer when there is a finding of discrimination and corrective action is ordered.

i. Who issues final decisions or final orders for complaints filed by associates of the Office of the Inspector General (OIG) or Senior Executive Service (SES) or applicants to positions in OIG or SES?

(1) When a complaint is filed against the OIG, the final order or final decision shall be signed by the Deputy Administrator of GSA.

(2) When a complaint is filed by a member of the SES, the final order or final decision shall be signed by the Associate Administrator, OCR.

j. What happens if remedial action is ordered in a final decision or final order or EEOC appeal decisions?

(1) When remedial action is ordered, the HSSO or RA shall be advised by the Associate Administrator, OCR, in writing, to implement the specific remedial action(s).

(2) The Deputy Associate Administrator, OCR shall monitor the implementation of remedial action until all action is complete.

k. What are the rights of a complainant who is dissatisfied with GSA's final decision or final order?

(1) If a complainant is dissatisfied with the final decision or final order, he/she has the right to appeal the final decision or final order to the EEOC within 30 calendar days of receipt of the final decision or final order. The complainant/appellant should use EEOC Form 573, Notice of Appeal/Petition, to file the appeal that is attached to the final decision or final order. Any statement or brief on behalf of a complainant in support of the appeal shall be furnished to the EEOC and the Associate Administrator, OCR, if the individual is appealing a final order or final decision; or, to the EEO Officer, if the individual is appealing a dismissal action.

For additional information on appeals, visit <http://www.eeoc.gov/federal/1614-final.html>.

l. What happens after an appellant receives the EEOC decision on his/her appeal?

The appellant may make a request for reconsideration of the decision if he/she is dissatisfied with the decision. A request for reconsideration must be made no later than 30 days after receipt of the EEOC's appeal decision. Under certain conditions, the EEOC Commissioners may, in their discretion, reconsider any previous decision within a reasonable period of time.

For additional information on requests for reconsideration, visit <http://www.eeoc.gov/federal/1614-final.html>.

m. Who can file a civil action in the U.S. District Court?

The complainant has the right to file a civil action in an appropriate U.S. District Court within the following timeframes:

(1) Within 90 days of receipt of the final decision or final order on the complaint, if no appeal has been filed;

(2) After 180 days of the date of filing the complaint with the agency, if an EEOC appeal has not been filed and a final decision has not been issued;

(3) Within 90 days of receipt of the Commission's final decision on an appeal; or

(4) After 180 days from the date of the complainant's initial appeal to the EEOC, and the EEOC has not issued a final decision.

n. When can an individual file a civil action in the U.S. District Court without going through the GSA complaint procedure?

Associates, former associates and applicants for employment who believe they have been discriminated against due to age may elect to file a civil action in court in lieu of pursuing a complaint through the GSA EEO procedures. Before the individual files a civil action, he/she must file a notice of intent to sue with the EEOC and the GSA 30 days prior to filing the civil action. For additional information on civil actions, visit <http://www.eeoc.gov/federal/1614-final.html>.

o. If an individual files a civil action, what happens to the formal complaint being processed by GSA?

The filing of a civil action shall result in the GSA and/or EEOC terminating the processing of the complaint or appeal.

p. What remedy and relief is available in employment discrimination cases?

The appropriate remedy in employment discrimination cases is make-whole relief. Make-whole relief in discharge, failure to hire, and denial of promotion cases may include: 1) reinstatement, 2) hiring, 3) promotion, 4) back pay and 5) front pay. Other forms of make-whole relief vary, depending upon the allegation and may include, for example, expunging documents, posting notices, training, reassignment, and compensatory damages. All costs associated with findings of discrimination and judgments shall be paid from the operating expenses of the GSA organization against which the complaint was filed. GSA shall provide an appropriate remedy as explained at <http://www.eeoc.gov/federal/1614-final.html>; 29 CFR Part 1614.501; and in accordance with the No FEAR Act of 2002, Public Law 107-174.

q. Can a complainant have a representative?

Yes. A complainant has the right to a representative at any point in the complaint process. This may be a relative, friend, co-associate, union representative, or attorney. However, EEO Counselors, EEO Assistants, EEO Specialists, EEO Managers, Office of General or Regional Counsels (OG/RC) or any associate whose official position may create a conflict of interest or the appearance of a conflict of interest cannot be a representative. Upon a finding of discrimination, reimbursement of attorney's fees for the prevailing party is possible after supporting documentation of costs is reviewed by the OG/RC and approved by the Associate Administrator, OCR. Representatives who are not attorneys are not eligible to receive attorney's fees.

r. Can a manager or supervisor against whom a complaint is brought have a representative?

Yes. A manager or supervisor may hire a representative of their own choosing in their individual capacity. The OG/RC can participate in the various activities during the counseling and investigative stages, if requested. However, the OG/RC represent the interest of GSA.

s. Must an associate use his/her leave to attend complaint-related meetings?

No. An associate involved in the complaint process, such as an aggrieved individual, complainant, representative, or witness, is entitled to a **reasonable** amount of official time. However, this time must be requested and approved by the supervisor before the meeting or appointment.

t. What is a “reasonable” amount of official time?

(1) An associate is entitled to a reasonable amount of official time to participate in all aspects of the EEO process. A reasonable amount of time is the time needed to conduct and complete each activity during the precomplaint and formal complaint stages as well as a hearing, deposition, or other complaint-related meetings. Managers and supervisors should make determinations of reasonable time on a case-by-case basis and in doing so consider the relevant stage of the EEO process.

(2) Reasonable amount of official time is expressed in terms of hours, not days, weeks or months. However, time spent in meetings and hearings with GSA, EEOC or MSPB officials are automatically deemed reasonable.

u. What is a Conflict of Interest (COI) complaint?

A COI complaint is a complaint filed directly against the Associate Administrator, OCR, or the EEO Officer. A complaint simply naming the Associate Administrator, OCR, RA/HSSO or the EEO Officer is not automatically a COI complaint. There must be a direct link between the official named and the matters being alleged in the complaint.

v. How are COI's processed?

(1) If the OCR or EEO Officer receives a complaint from an individual requesting alternate processing because of a perceived COI, the OCR or EEO Officer shall review the complaint to determine whether, in fact, a COI exists.

(2) If a COI exists, the OCR shall arrange for alternate processing of the complaint.

(3) If no COI exists, the EEO Officer shall process the complaint and shall notify the individual that processing shall occur within the appropriate Region or Central Office.

(4) If the individual desires to have his/her complaint processed outside the Region or Central Office or the EEO Officer wishes to avoid the appearance of a COI, the EEO Officer shall make arrangements with another GSA Region to process the complaint.

w. How can a complaint be resolved?

Complaints may be resolved anytime at both the informal or formal stage of the process. The EEO Officer shall:

(1) Arrange for a meeting between the complainant and the management official to resolve the complaint.

(2) Explain prior to and/or during the settlement conference, that settlements, entered into knowingly and voluntarily, are both authorized by and encouraged by the EEOC.

(3) Explain that settlement agreements are generally entered into without a finding of fault and do not constitute an admission of wrongdoing by GSA or its associates.

(4) Explain to the parties the types of remedies available to the complainant; and advise the parties of the various alternative remedies used to resolve common types of complaints.

(5) Aside from settlement, advise the parties that reasonable attorney's fees may be awarded for legal costs incurred during the administrative processing of the complaint.

(6) Explain that the agency is not obligated to provide a remedy unless there has been a finding of discrimination based on the complaint.

x. What happens if settlement/resolution of the complaint is reached?

If the parties agree to settle/resolve the complaint, the EEO Officer or OGRC develops a written settlement agreement identifying the terms and conditions agreed upon to resolve the complaint. The written settlement agreement shall:

(1) Contain the terms of the resolution, which is signed by the complainant, the complainant's representative, if applicable, the EEO Officer and the appropriate management official(s) with authority to settle the case. Copies shall be given to the aforementioned individuals and to the HSSO and RAs.

(2) Be reviewed by the complainant's representative, if applicable, and acceptance or rejection made within 30 days of receipt of the agreement. Processing of the complaint is not held in abeyance pending a settlement discussion.

(3) Contain a clause that any settlement agreement into which the parties have knowingly and voluntarily entered at any stage of the complaint process shall be binding on both parties.

(4) Include a statement advising that if the agency does not comply with the terms of the agreement, the aggrieved individual or complainant shall notify the Deputy Associate Administrator, OCR, in writing, within 30 days of the date when he/she knew or should have known of the alleged noncompliance.

(5) Be monitored by the EEO Officer to ensure implementation of the settlement agreement and any necessary corrective action.

For additional information on mixed case complaints, visit <http://www.eeoc.gov/federal/1614-final.html>.

y. What is a class complaint?

A class complaint is a complaint filed on behalf of a group of GSA associates, former associates, or applicants for employment with GSA, on whose behalf it is alleged that they have been, are being, or may be adversely affected by GSA personnel management policies and/or practices. The class must designate an agent who files a written discrimination complaint on behalf of the group alleging that:

(1) The class is so numerous that a consolidated complaint of the members of the class is impractical;

- (2) There are questions of fact common to the class;
- (3) The claims of the agent of the class are typical of the claims of the class; and
- (4) The agent of the class, or, if represented, the representative, will fairly and adequately protect the interests of the class.

For additional information on class complaints, visit <http://www.eeoc.gov/federal/1614-final.html>.

z. What is the process if an associate, former associate or applicant for employment files a sexual harassment complaint?

- (1) Sexual harassment complaints may be filed by contacting any of the following:
 - (a) Administrator of General Services
 - (b) Regional Administrator,
 - (c) Head of the Service or Staff Office,
 - (d) Associate Administrator, OCR,
 - (e) EEO Officer,
 - (f) Employee and Labor Relations Officer,
 - (g) Associate's first line or second line supervisors, the offender's supervisor; or,
 - (h) Office of the Inspector General.
- (2) When a manager or supervisor is made aware of a sexual harassment complaint, the manager or supervisor shall conduct an inquiry to determine whether immediate measures are necessary to protect the individual or to respond to the complaint. The EEO Officer shall be consulted by the manager or supervisor on complaints of sexual harassment.

(a) When it is determined that sexual harassment or other inappropriate behavior occurred, corrective action shall be taken in compliance with EEOC and GSA policy.

(b) When it is determined that sexual harassment or other inappropriate behavior did not occur, the individual and alleged offender shall be advised of the following:

(i) Why his/her claim could not be substantiated;

(ii) Assured that agency policy guarantees a workplace free from sexual harassment;

(iii) Reminded of the right to file a complaint of sexual harassment any time he/she feels that guarantee has been violated; and,

(iv) Assured of freedom from reprisal as a result of exercising his/her rights to file a complaint.

aa. Does OCR have any EEO reporting requirements?

Yes, the reporting requirements are as follows:

(1) No Fear Act Requirements

(a) The EEOC's regulations pursuant to the No FEAR Act requires that GSA, among other things, submit an annual report to the Congress, the EEOC and the Attorney General on the number and severity of discrimination cases filed. The report must contain information pertaining to, for example, the number of complaints filed by issue, basis, number of complainants, and disciplinary action(s) taken. The information reported must also include information about the amounts reimbursed to the Judgment Fund to enable Congress to improve its oversight over agencies' compliance with anti-discrimination laws.

(b) The EEOC regulations require GSA to post, and update quarterly, on its public website statistical data relating to individual, class and mixed complaints of employment discrimination filed by associates, former associates, and applicants for employment.

(c) The annual report and posting of EEO complaint must be captured for each of the five immediately preceding fiscal years. If data is not available for all of the five fiscal years, post it for those fiscal years in which data is available. Data posted on the website must include current fiscal year which includes both interim year-to-date and final year-end data.

(2) EEOC Annual Federal Statistical Report on Complaint Activity

The EEOC requires that GSA collect data on discrimination complaints and report it to the EEOC in the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaint (EEOC Form 462).

CHAPTER 2. THE NONDISCRIMINATION IN FEDERAL CONDUCTED
PROGRAMS AND ACTIVITIES (RESERVED)

CHAPTER 3. THE NONDISCRIMINATION IN FEDERALLY ASSISTED
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APPENDIX 1

GSA Order ADM 2300.2 (October 19, 1998)
GSA Policy Statement on Civil Rights

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

ADM 2300.2
October 19, 1998

GSA ORDER

SUBJECT: GSA policy statement on civil rights

1. Purpose. This order prescribes GSA's civil rights policy.
2. Cancellation. ADM 726 is canceled.
3. Policy. It is the policy of GSA that:
 - a. All employees shall be committed to equal opportunity in employment and treatment and share the responsibility to ensure that artificial barriers to employment, training, or promotion are eliminated from the workplace.
 - b. Fair and speedy resolution of differences and disputes will be actively pursued. Discriminatory conduct will not be condoned or tolerated in any of its forms in GSA programs and activities.
 - c. Appropriate action will be taken, up to and including removal action, against any employee determined to have violated any equal opportunity or related statute and/or this policy.

Equal opportunity is an integral part of GSA's mission, values, and principles, and the GSA workplace must be free from discrimination. Every employee in GSA is responsible for adhering to and implementing this policy.

DAVID J. BARAM
ADMINISTRATOR

APPENDIX 2

Memorandum from Stephen A. Perry, Administrator (April 23, 2004)
Policy Statement on Equal Employment Opportunity, Affirmative Employment and
Diversity

April 23, 2004

TO ALL GSA ASSOCIATES

FROM: STEPHEN A. PERRY
ADMINISTRATOR (A)

A handwritten signature in black ink, appearing to read "Stephen A. Perry". The signature is stylized and cursive, with a large loop at the end.

SUBJECT: Policy Statement on Equal Employment Opportunity, Affirmative Employment, and Diversity

As Administrator of General Services, I am firmly committed to embracing and managing equal employment opportunity, affirmative employment, and diversity in our workforce. By recognizing these elements as important to the core of our mission and values, we strengthen our position to achieve our strategic goal for a World-Class Workforce and World-Class Workplace.

The most creative ideas and business solutions come from a diverse workforce. An inclusive work environment that reflects our Nation's diversity is a good business strategy that enhances productivity and our competitive edge, enhances equal employment opportunity and affirmative employment, and supports our Human Capital Strategic Plan. It is our policy to foster a culture that accepts our differences and eliminates any barriers that prevent our systems and processes from working for everyone. By recognizing the importance of different viewpoints, perspectives, and experiences to problem solving, decision-making, and responsiveness, we can fully maximize the creativity and productivity of all GSA associates.

We will continue to work towards ensuring a workforce that is representative of all groups that reflect the civilian labor force. We fully support all Administration initiatives to address under-representation of women, minorities and people with disabilities in the workforce, including Executive Order 13171 (Hispanic Employment in the Federal Government). Our affirmative employment plan will continue to reflect our efforts to remedy under-representation and will be implemented to create and maintain a work environment that mirrors the civilian labor force and that provides upward mobility for all groups.

Discrimination in the workplace not only violates Federal law and our own internal policy, it also undermines our ability to work as a team to achieve common goals, diminishes our performance, and invites failure. Accordingly, we will provide all associates and potential associates with equal employment opportunity in all the privileges and conditions of employment. We will not tolerate discrimination based on race, color, sex, national origin, religion, disability, age, or any other characteristics not bearing on qualification for employment or advancement. Reprisal against anyone who engages in or has engaged in protected activity under the law will not be tolerated.

GSA associates in leadership positions must demonstrate an absolute commitment to actively engage in practices that promote equal employment opportunity, affirmative employment, and workforce diversity. All other associates share responsibility for supporting these principles through their conduct and interactions with others. By working together, we enhance our ability to realize a World-Class Workforce and World-Class Workplace.

If you have any questions, please contact Gail T. Lovelace, Chief People Officer, at (202) 501-0398.