



# United States Department of the Interior

## OFFICE OF THE SECRETARY Office of Civil Rights Washington, D.C. 20240

APR 21 2010

### EQUAL EMPLOYMENT OPPORTUNITY DIRECTIVE 2010-03

To: Bureau Equal Employment Opportunity Officers

From: Sharon D. Eller, Director, Office of Civil Rights *Sharon D. Eller*

Subject: Procedures for Final Agency Decisions-Partial Dismissals of Complaints

This Directive provides guidance on the U.S. Department of the Interior's (DOI) policy regarding partial dismissals of discrimination complaints. This Equal Opportunity Directive (EOD) is issued to reduce potential remands and decisions ordering supplemental investigations, by the Equal Employment Opportunity Commission (EEOC), of claims improperly dismissed in the formal stage of the complaint process. In many instances, claims are dismissed without sufficient analyses, rationale, and support.

In an effort to enhance the abilities of Agency EEO Practitioners in preparing Proposed Final Agency Decisions-Dismissals of Complaints, the Office of Civil Rights provided tuition-free training on January 26-27, 2010, in Washington, D.C. The training, titled "Acceptance/Dismissal of Discrimination Complaints and Preparing Agency Dismissals," included a review of the required elements of a Final Agency Decision-Dismissal of Complaint.

As of the date of this Equal Opportunity Directive, partial dismissals of discrimination complaints throughout the DOI can only be lawfully accomplished through Final Agency Decisions. At DOI, all Final Agency Decisions must be issued and signed by the Director, Office of Civil Rights (OCR).

The Equal Employment Opportunity Commission's (EEOC) Management Directive 110 (MD-110), 29 C.F.R. §1614.107(b), states:

Where the agency believes that some but not all of the claims in a complaint should be dismissed for the reasons contained in paragraphs (a) (1) through (9) of this section, the agency shall notify the complainant in writing of its determination, the rationale for that determination and that those claims will not be investigated, and shall place a copy of the notice in the investigative file. A determination under this paragraph is reviewable by an administrative judge if

a hearing is requested on the remainder of the complaint, but is not appealable until final action is taken on the remainder of the complaint.

The following procedures will be used in the process of dismissing some but not all of the claims in discrimination complaints:

1. All EEO Practitioners desiring to partially dismiss a discrimination complaint must first review 29 C.F.R. §1614.107;
2. All EEO Practitioners desiring to partially dismiss an EEO Complaint must contact the Office of Civil Rights, Employment Complaints and Adjudication Division, and discuss each proposed claim for dismissal with a Senior EEO Specialist;
3. All EEO Practitioners desiring to partially dismiss an EEO Complaint must attach all relevant information concerning the applicable EEOC Regulations, reasons for the partial dismissal, and documentation supporting the Final Agency Decision-Partial Dismissal of Complaint.
4. A "Proposed" Final Agency Decision-Partial Dismissal of Complaint must be prepared by the respective personnel of the Bureau EEO Office or Office of the Secretary EEO Office, and submitted to the Director, Office of Civil Rights, as follows:
  - a. A Proposed Final Agency Decision-Partial Dismissal of Complaint must be submitted to the Director, OCR within thirty (30) days of the filing of a formal discrimination complaint;
  - b. The submitted original must be in hard-copy format;
  - c. An electronic copy (via Compact Disc) must be submitted simultaneously with the hard copy;
  - d. The Bureau EEO Officer or Complaints Manager Office of the Secretary EEO Office must surname the original, hard copy "Proposed" Final Agency Decision-Partial Dismissal of Complaint prior to its submission to the Director, OCR;
  - e. The Proposed Final Agency Decision-Partial Dismissal of Complaint must contain a signature block for the Director, Office of Civil Rights.
5. Following a review of each Proposed Final Agency Decision-Partial Dismissal of Complaint, OCR will either:
  - a. Approve the submitted document, with the subsequent signature of the Director, OCR; or
  - b. Reject the submitted document for insufficiency, and return it to the Responsible Bureau EEO Officer or Complaints Manager, Office of the Secretary EEO Office for modification.

6. Any Proposed Final Agency Decision-Partial Dismissal of Complaint returned to a Bureau EEO Officer or Complaints Manager, Office of the Secretary EEO Office for modification must be re-submitted to OCR for review, within seven (7) calendar days of the date the document was received by the Bureau EEO Officer or Complaints Manager, Office of the Secretary EEO Office.

Distribution: Bureau EEO Officers, Complaints Manager, Office of the Secretary EEO Office, Bureau EEO Complaints Managers, Regional EEO Managers

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Expiration: When superseded