

United States Department of the Interior

OFFICE OF THE SECRETARY

December 29, 1998

Equal Opportunity Directive 1999-04

To: Bureau and Office Equal Opportunity Officers
From: E. Melodee Stith
Director, Office for Equal Opportunity
Subject : Procedures for Processing Complaints of
Discrimination based on Sexual Orientation

At our Equal Opportunity Managers meeting on December 3, 1993, you were given the new Departmental Manual Chapter for processing complaints of discrimination based on sexual orientation. Please read the manual chapter very carefully and note the specific similarities and differences between this process and the Federal EEO Complaints Process. This also updates some forms in EOD 1998-08 "EEO Counseling Sector Form and Other Sample Forms" to include sexual orientation.

In the implementation of the new process for sexual orientation, we will carry out the same actions, as close as possible and within the legal and regulatory limits, as we do with the Federal Sector EEO Complaints Process. For example, you will need to distribute the new process to all employees, post the process on employee bulletin boards, and communicate the policy prohibiting discrimination on the basis of sexual orientation to employees and applicants for employment. Copies of the brochure "Procedures for Complaints of Discrimination Based on Sexual Orientation" are available for purchase upon request.

In addition, standard documents will need to be amended or created to address the sexual orientation processing requirements; for example, the standard letter explaining the employee's rights and responsibilities, the Notice of Final

Interview and Right to File, the election notice issued with the report of investigation, and other Bureau documents that may apply.

Attached for your convenience is a sample EEO counseling report form and other standard forms which have been amended (Attachment 1). Additionally, per your request, we have E-mailed this EOD with all the attachments to your Office for your use and distribution. Following is a list of the forms included and their file name:

[Attachment 1 EEO Counseling Reporting Form](#). Also in [PDF format](#) (see [PDF File Information](#))

[Attachment 2 Notice of Final Interview and Right to File a Discrimination Complaint](#)

[Attachment 3 Resolution Transmittal Letter](#)

[Attachment 4 Complaint Form DI-1892](#) and [Addendum](#)

[Attachment 5 Rights and Responsibilities Attachment C](#) and [Addendum](#)

We anticipate that other sample forms will be developed or modified. Therefore, comments, suggested revisions, or recommended sample forms can be directed to the:

Assistant Director, Complaints Processing and
Adjudication
Office for Equal Opportunity
U.S. Department of the Interior
1849 C. Street, N.W., MS-5221
Washington, D.C. 20240

As you begin to receive complaints of discrimination based on sexual orientation, we request that you develop a case docketing system to identify individual complaints. Complaints involving both the Federal Sector EEO complaints and sexual

orientation complaints may carry two different docket numbers. Like the Federal Sector complaints, the docket number for sexual orientation cases should be numerical by fiscal year: for example, OS-99-DM-01. All complaints should be reported on the Bureau's Monthly Status Report.

Our Office will be offering training to EO Specialists in the near future. In the meantime, should you have any questions or need assistance, please contact Carmen J. Santana.

Distribution: Bureau and Office EO Officers

Inquiries: Carmen J. Santana, (202) 208-4016

Expiration: When superseded.

**DEPARTMENT OF THE INTERIOR
EQUAL OPPORTUNITY OFFICE
REPORT OF COUNSELING**

INSTRUCTIONS

Notice to EEO Counselor: This report must be completed for each counseling instance. When a formal complaint is filed, the report must be completed within 15 days after notification that a formal complaint has been received. The information in this report should be specific and clear in describing the allegations, dates, inquiries, and informal resolution efforts made.

EEO Counseling Report Form: December 1998

**DEPARTMENT OF THE INTERIOR
EQUAL OPPORTUNITY OFFICE
REPORT OF COUNSELING ⁽¹⁾**

REPORTING

Note: Attach all relevant documents and supplemental sheets, including but not limited to a:

- a. Copy of the Rights and Responsibilities for Processing Complaints of Discrimination and/ or complaints filed pursuant to 373 DM Chapter 7, signed by the aggrieved person , including the certificate of receipt, if mailed.
- b. Copy of the Notice of Final Interview signed by the aggrieved person , including a copy of the certificate of receipt, if mailed.
- c. Copy of any informal resolution agreement(s) presented to the aggrieved person for acceptance/rejection.
- d. Copy of the Agreement to Extend the Counseling Period, if an extension was approved.

BUREAU: _____

EEO COUNSELOR'S NAME: _____

LOCATION: _____ **TELEPHONE:** _____

EEO COUNSELOR'S SIGNATURE AND DATE:

**EQUAL OPPORTUNITY MANAGER'S/
SPECIALIST'S SIGNATURE AND DATE, IF APPLICABLE:**

**PART A
KEY FACTS**

1. Aggrieved person 's Full Name:

Address:

Home Phone:

2. Place of Employment:

Address:

Work Phone:

Position, if working for Federal Government:

Position Title, Series, Grade

3. Office Where Complaint Arose, if different from above:

Address:

4. Anonymity Requested: (mark one) Yes No

5. Aggrieved Person 's Representative:

Address:

Phone:

Attorney Non-Attorney

6. Aggrieved Persons Initial Contact with EEO Official (Date):

EEO Counselors Initial Interview with Aggrieved Person (Date):

8. Regional Equal Opportunity Manager Advised of Complaint (Date):

When providing alternate counseling, Bureau EEO Officer/EEO Manager advised of Complaint (Date): _____

9. Notice of Rights and Responsibilities for Processing Complaints of Discrimination Issued

(Date):

9a. Notice of Rights and Responsibilities for Processing Complaints of Discrimination pursuant to 373 DM Chapter 7 Issued

(Date):

10. Notice of Final Interview (NOFI): Date hand delivered:

Date Sent and Certified Mail number:

(Note: The NOFI also must be sent to the representative if the aggrieved person has designated one)

11. Notice of Final Interview Received by Aggrieved Person (Date): .

(If the Notice of Final Interview was mailed, attach the certified mail return receipt card [green card]).

12. Agreement to Extend Counseling Period

a. Date on which Agreement to Extend Counseling Period was Signed:

b. Date to which Counseling Period was Extended:

PART B

REASON(S) FOR SEEKING COUNSELING**1. Alleged Discriminatory Basis (Be specific. For example, if "Age," give the date of birth):**

Race: _____ Color: _____
 Sex: _____ Religion: _____
 Age: _____ National Origin: _____
 Mental Disability: _____ Physical Disability: _____
 Sexual Orientation: _____

Reprisal: _____

If in connection with the employee's prior complaint activity, indicate whether an informal or formal complaint was pursued. If the individual filed a formal complaint(s), provide the Docket Number(s): . If the prior EEO activity was unrelated to the individual's complaint, describe the EEO activity the individual participated in (i.e., served as a witness in the investigation of X complaint; objected to a discriminatory comment made by X in Y month, Z year, etc.).

Other: (Matter not covered by Federal EEO complaint regulations under 29 C.F.R. 1614 - Also See Part E.3. and DM 373 Chapter 7

2. Alleged Discriminatory Matter(s)/Action(s): NOT CLEAR.

For each allegation, separately state the bases, the specific incident, and the date of the incident. (For example, the aggrieved person alleges discrimination based on age (over 40) when he/she became aware on March 15, 1997, that she/he was not promoted to the position of Park Ranger, GS-5, advertised in Vacancy Announcement Number xxxx. After identifying the allegation, explain why or how the aggrieved person believes he/she has been harmed.)

Date of 45th Day After Last Incident: (calendar days)

3. If any incidents occurred more than 45 days before initial contact, record the individual's reason(s) why (s)he did not raise the matter earlier?

In what manner was the aggrieved person made aware of the discrimination complaint procedures, including the time limit in which to contact an EEO Counselor? (Record your observations as to where EEO posters are displayed or the manner in which employees/applicants are made aware of the discrimination complaint procedures. For example, state if the office displays a poster on its official bulletin board identifying the name, location, and phone numbers of the EEO Counselors. Describe if the poster includes a notice of the requirement to contact an EEO Counselor and the time limits for doing so. Include a copy of the certificate of posting [copy attached])

4. Corrective Action Sought by and Discussed with Aggrieved person: (Describe the relief/remedies requested by the aggrieved person. Indicate if the aggrieved person is seeking compensatory damages).

PART C**FACT FINDING**

Summary of Informal Inquiry: (Describe the facts gathered. Do not express an opinion as to the merit of the complaint.)

a. Witness Interviews. (Identify each witness interviewed giving their full name, position title, protected group status as it relates to the alleged discriminatory bases and the date of the interview. Summarize each witness interview.)

b. Document Review. (Identify the documents reviewed, including the date of the documents. Copies of the documents may be included).

c. Survey of Environment. (In order to identify similarly situated employees, describe the make- up of the organizational unit by name, position title, and the protected status of the employees relative to the bases of the complaint. For example, if sex discrimination is alleged, identify the employees in a similar position as the aggrieved person who report to the same Division Chief and identify their gender.

PART D
CONCLUSION OF EEO COUNSELING ACTIVITIES

1. Was the Aggrieved Person advised of the availability of Alternative Dispute Resolution (ADR)? Yes ___ No ___

Was resolution sought through an ADR process or through the informal EEO counseling process?

Informal EEO Counseling: ___ ADR: ___

Was the matter resolved? Yes ___ No ___

Explain, if no.

PART E
MISCELLANEOUS

1. Has the aggrieved person filed a grievance related to the issue(s) identified under B.2?

Yes _____ Date grievance filed: _____ No _____

If yes, attach a copy of the grievance.

2. Has the aggrieved person filed an appeal with the Merit Systems Protection Board about the issue(s) raised under B.2?

Yes _____ Date appeal filed: _____ No _____

If yes, attach a copy of the appeal.

3. **Non-EEO Matter** - If the aggrieved person alleged discrimination related to a matter not covered by Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, or the Rehabilitation Act, i.e., on sexual orientation, a negotiated grievance matter, etc., identify the office to which aggrieved person was referred and the date of the referral.):

4. **Management Notification/Contacts:**

Was management advised of the informal and formal EEO complaint process?

Yes ___ No ___

Was management notified of the allegations? Yes ___ No ___

Was management notified of the conclusion of EEO counseling? Yes ___ No ___

5. **ATTACHMENTS** (List and describe each attachment to the Report of Counseling, including any information given to the aggrieved person.)

a. **Rights and Responsibilities for Processing Complaints of Discrimination, signed by aggrieved person or certificate of receipt; and/or:**

b. **Rights and Responsibilities for Processing Complaints of Discrimination pursuant to 373 DM 7, signed by aggrieved person or certificate of receipt.**

c. **Notice of Final Interview and Right to File a Discrimination Complaint, signed by aggrieved person and certificate of receipt.**

d. **Agreement to Extend EEO Counseling.**

CERTIFICATION OF POSTING

This statement certifies that the __ (BUREAU) __, __ RESERVATION/FIELD STATION __, __ LOCATION __, has notified all employees of the names, business telephone numbers and business addresses of its EEO Counselors. This notice has been posted prominently and conspicuously at __ [IDENTIFY AND DESCRIBE LOCATION(s) OF POSTER(s)] __.

[Also describe other mechanisms used for notifying employees of the names, locations, and telephone numbers of the counselors, and the time frames for contacting a counselor , e.g. Bulletin Boards, LAN, orientation packages for new employees etc.]

The notice also specifies that applicants and employees alleging prohibited discrimination on the basis of race, color, age, sex, national origin, religion and physical and mental handicap or sexual orientation must contact an EEO Counselor within 45 days of the alleged discriminatory action or event before filing a complaint. The telephone numbers and addressees of the EEO Director, EEO Officers and Special Emphasis Program Managers are also listed.

The undersigned certify that the __ (BUREAU) __, __ (REGION) __, has met the posting requirements of 29 C.F.R. 1614.102 (b)

Management Official EEO Officer

Date Date

1. The information contained in this report is subject to the non-disclosure provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a. A copy of this report should be given to the aggrieved person after he/she files a formal complaint.

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