



Processing Complaints of Discrimination

at the
**U.S. Nuclear Regulatory
Commission**

*Office of Small Business
and Civil Rights
U.S. Nuclear Regulatory Commission*

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This brochure provides information about the Federal Sector Employment Discrimination Complaints Process at the U.S. Nuclear Regulatory Commission (NRC). To ensure that employees and applicants for employment are given fair and timely consideration, this brochure addresses the steps in filing complaints of unlawful discrimination practices in employment.

The Office of Small Business and Civil Rights (SBCR) develops and recommends for approval by the Executive Director for Operations overall NRC policy for equal employment opportunity in all Federal personnel practices.

Effective October 1, 1992, the U.S. Equal Employment Opportunity Commission (EEOC) published a revised set of regulations governing the processing of Federal Sector Equal Employment Opportunity (EEO) complaints. If, as an employee or an applicant for employment with the NRC, you believe that you may have been discriminated against on one or more of the following "bases"—race, color, religion, sex, national origin, age, physical or mental disability, or retaliation for participating in the EEO process—you must discuss the problem with an EEO counselor. Agencies are required to designate EEO counselors and to make them available to employees and applicants. The goal of the EEO counselor is to facilitate an informal resolution of the matter between the parties when possible.

How Can the EEO Counselor Help You?

The counselor will:

- Explain the process to you and advise you of your rights and responsibilities.
- Listen and help you specifically identify your concerns in the area of employment discrimination.
- Study your case objectively and advise you of your rights.
- Answer your questions.
- Discuss your concerns with supervisors and with you.
- Attempt to resolve your concerns informally.

EEO counselors report regularly to the SBCR staff about their activities, but they will use your name only with your permission. When appropriate, they will make

recommendations for actions to the SBCR staff or other agency management officials if their involvement is necessary to resolve the problem.

Procedures During Informal Processing

You must contact the EEO counselor within 45 calendar days of the date of the incident that gave rise to your complaint or, if it is a personnel action, within 45 calendar days of its effective date.

The counselor has 30 calendar days from the time you reported your problem to attempt an informal resolution. The 30-day period for EEO counseling may be extended up to an additional 60 days if you agree in writing to such an extension.

If, at the end of this time (including any extension), the problem is not resolved, you will be advised, in writing, of your right to file a formal complaint as specified in the section on "The Formal Complaint," which follows.

You have the right to be represented at any stage of the process in presenting your complaint, including the counseling stage. As a general rule, you may select any person to represent you (although there are certain limitations in terms of conflict of interest).

The Formal Complaint

If the attempts to informally resolve your complaint have been unsuccessful, you will be notified by your counselor, in writing, of your right to file a formal complaint. If you decide to file a formal complaint, you or your representative has 15 calendar days from the date of receipt of this notice to submit your formal complaint in writing. It is important to know that if you do not file your formal complaint within the 15-day limit, the agency may dismiss your complaint.

Although it is not the duty of the EEO counselor to file your complaint for you, he or she can answer your questions concerning the filing of your complaint. If you wish, your representative may file your complaint for you. Your written complaint must be specific and must be limited to matters discussed with the EEO counselor.

The Director, SBCR, will then determine whether to accept your complaint for processing. If your complaint is accepted for processing, it will be investigated. However, if the Director, SBCR, determines not to accept your complaint in whole or in part, you will be advised of your right to appeal this decision to the Office of Federal Operations of the U.S.

Equal Employment Opportunity Commission.

Once a formal complaint is accepted, it will be investigated by an impartial investigator as defined by EEOC Management Directive (MD) 110, Chapter 5, Section V.C.

The Investigation

A thorough investigation will be conducted. The investigation will encompass all the information relevant to the accepted complaint and may, when appropriate, include comparative data on other individuals who had similar complaints. The investigation may include verbatim statements, interrogatories, position papers, or other forms of fact finding. During the investigation, you will have an opportunity to present all the facts you believe show unlawful discrimination.

The NRC has 180 calendar days from the date you filed your complaint to notify you that the investigation has been completed. After the investigation is completed, a report of investigation (ROI) will be sent to you. By written agreement within those time periods, you and the NRC may voluntarily extend the time period for no more than an additional 90 days. You will be sent a notice that you

have 30 days from the date you receive the ROI to (1) ask for a hearing before an EEOC Administrative Judge, with a subsequent decision by the Head of the NRC or his or her designee (the deciding official), or (2) ask for such a decision by the deciding official without a hearing. This notice is called the notice of your right to an "election."

The Hearing

If you request a hearing, you will be allowed to present witnesses and evidence on your behalf. The Administrative Judge will have 180 days from the date the EEOC received your request for a hearing to conduct the hearing and issue findings and conclusions and a recommended decision on your complaint. The Administrative Judge will forward the recommended decision to the Director, SBCR.

The hearing will be recorded and transcribed verbatim.

If You Do Not Ask For a Hearing

If you do not ask for either a hearing or a decision without a hearing within 30 calendar days after you receive the notice of election described above, the NRC may issue a final decision based on the evidence in the ROI.

The Final Decision

The NRC deciding official will issue you a final decision on your complaint within 60 calendar days from (1) the date of your request for an immediate decision, (2) the end of the 30-day period after you receive the notice of election, or (3) the date of the receipt of the Administrative Judge's recommended decision.

If a hearing has been conducted, the deciding official must give you a copy of the Administrative Judge's recommended decision along with the final decision on your complaint. If the deciding official decides to reject or modify the Administrative Judge's recommended decision, he or she will give specific reasons for doing so in the final decision on your complaint.

If you are dissatisfied with the agency's final decision, you may, within 30 calendar days of the date you received the decision or notice of dismissal, appeal the decision to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, DC 20036.

Civil Action

In lieu of filing an appeal with the EEOC, you may, within 90 calendar days of the date you received

the final decision or dismissal, file a civil action in an appropriate United States District Court. You also may file a civil action after 180 calendar days have elapsed from the date you filed your complaint if a final decision has not been issued and you have not appealed the decision to the Commission.

If you do not file an appeal with the EEOC or are not satisfied with the EEOC's decision, you may file a civil action in an appropriate United States District Court within 90 calendar days of receipt of the Commission's final decision. You also may file a civil action after 180 days from the date you filed the appeal if the Commission has not made a final decision. (Caveat: See the section on "Special Cases," which follows.)

Special Cases

The EEOC regulations contain special processing provisions with respect to certain matters. Among these are filing (1) civil actions in age discrimination cases, (2) "mixed" case matters appealable to the U.S. Merit Systems Protection Board, (3) complaints on matters under certain negotiated grievance procedures, and (4) class complaints. These matters are beyond the scope of this brochure. For further information on these matters, consult 29 CFR Part 1614 or the SBCR staff.

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