



UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES



SUBJECT: Civilian Equal Employment Opportunity Program

Instruction 1106

April 30, 2020

(EEO)

ABSTRACT

This Instruction implements the USU Equal Employment Opportunity (EEO) Complaint Resolution Program.

A. Reissuance and Purpose. This Instruction reissues USU Instruction 1106 *Reference (a)* and updates the Uniformed Services University (USU) policies, responsibilities, and procedures for processing complaints of discrimination.

B. References. *See Enclosure 1.*

C. Applicability. This applies to all civilian employees, supervisors of civilian employees, and civilian applicants seeking employment with the USU who are covered by DoD Directive 1440.1 *Reference (c)*. It does not apply to Military Personnel for whom equal opportunity is covered by DoD Directive 1350.2 *Reference (d)*.

D. Definitions. *See Enclosure 2.*

E. Policy. It is USU policy that:

1. The USU EEO Program shall:

a. Provide equality of opportunity for all persons on the basis of merit; prohibit any discrimination because of race, color, religion, sex (sexual harassment and/or sexual orientation), age (40 years or older), national origin, physical/mental disability, or reprisal for engaging in a protected activity in all relationships with employees and applicants for employment.

b. Recognize that EEO is vital to the accomplishment of the USU mission.

c. Develop and implement an Affirmative Employee Program (AEP) to make continuous progress in achieving a civilian work force in which the representation of minorities, women, disabled veterans, and individuals with disabilities at each grade level, in every occupation, and in every major organizational element is commensurate with the representation in the Civilian Labor Force (CLF).

d. Eliminate barriers and practices that impede EEO for all USU employees and applicants by ensuring that EEO principles are integrated fully into the Civilian Personnel Management System.

e. Afford employees and applicants a working environment free of sexual harassment and provide a procedure whereby employees and applicants can seek redress if they believe they are victims of sexual harassment.

f. Provide reasonable accommodation for the known physical/mental disability and religion of an employee or applicant unless it causes undue hardship on the mission of USU.

g. Provide religious accommodation for an employee or applicant unless it causes undue hardship on the mission of the USU.

h. Prohibit the conduct of employment tests or other selection criterion that screen out, or tend to screen out, qualified individuals with disabilities.

i. Prohibit the conduct of pre-employment medical examinations or inquiries about an applicant regarding the nature of his/her disabilities, or the severity of the disabilities unless the inquiry is made to determine the applicant's ability to perform the essential functions of the job or the medical qualification requirements of a specific position. An inquiry to determine the applicant's abilities may be necessary for safe and efficient performance of the duties in question.

j. Provide recognition to employees, supervisors, managers, and departments demonstrating significant accomplishments on EEO issues or activities as appropriate.

k. Provide a procedure for filing, processing, investigating, and settling EEO complaints for employees and applicants who believe they have been discriminated against because of race, color, religion, sex, age, national origin, physical/mental disability, or reprisal.

l. Analyze the workforce to determine any manifest imbalance or conspicuous absence of minorities, women, and individuals with disabilities as compared to CLF statistics published by the Equal Employment Opportunity Commission (EEOC).

m. Develop recruitment plans or initiatives to be included in the AEP. These plans or initiatives will also be used for recruitment under the USU Federal Equal Opportunity Recruitment Programs (FEORPs).

F. Responsibilities.

1. The President, USU shall:

a. Exercise leadership in establishing, maintaining, and implementing an EEO program that is consistent with applicable laws and Federal, DoD, and/or USU regulations, policies, and

procedures. This shall be accomplished by the wide dissemination of the President's policy statements to supervisors and employees expressing his/her commitment to the program.

b. Treat EEO and AEP as essential elements vital to the accomplishment of the USU mission.

c. Designate a Director, EEO and allocate sufficient staff and other resources to ensure a viable EEO Program, including assignment of staff to be responsible for EEO and AEP, including Special Emphasis Program (SEP) Managers.

d. Require that EEO be included as a critical job element in the performance plans and appraisals of all supervisors and other staff personnel who supervise civilian employees.

e. Set realistic goals and motivate subordinate managers and supervisors to set and meet their goals to support the accomplishments of USU EEO and AEP Programs by establishing upward mobility and other developmental programs to provide career enhancement for minorities, women, and individuals with disabilities.

f. Function as the final USU decision authority on formal complaints of discrimination.

2. The Director, EEO Program shall:

a. Manage the EEO Program and AEP.

b. Evaluate employment policies, practices, and patterns within the USU, and identify and correct any institutional barriers that restrict opportunities for the recruitment and advancement of minorities, women, and individuals with disabilities.

c. Provide policy and program oversight for the USU EEO program including the complaint system for individual and class complaints from employees and applicants.

d. Make timely recommendations and/or decisions on the processing of complaints of discrimination.

3. The Office of General Counsel (OGC) shall:

a. Provide legal advice and guidance regarding EEO cases.

b. Review for legal sufficiency acceptance and dismissal letters, settlement agreements and final agency decisions.

c. Represent USU during mediation and in litigation before the EEOC and Federal courts.

4. The Director, Civilian Human Resources Directorate (CHR) shall:

- a. Assure that USU personnel programs and activities fully meet all provisions of EEO policies and regulations and that the principal and operating officials responsible for carrying out the programs meet the established qualification requirements to include Department of Defense (DoD) requirements.
- b. Ensure that EEO officials, counselors, and investigators are given appropriate access to personnel records and copies of records or documents (when needed) on the performance of their official duties.
- c. Work with EEO to develop and implement the FEORP for minorities, women, disabled veterans, and individuals with disabilities.
- d. Provide technical support to OGC, USU EEO officials, and EEO counselors.
- e. As appropriate, inform and assist supervisors with restructuring jobs through the Upward Mobility Program to improve the career progression of minorities, women, and individuals with disabilities in a fair, equitable, and consistent manner.

5. The Equal Employment Opportunity Officer shall:

- a. Be responsible for administering the EEO Program of the USU, representing the President, USU, on matters related to the EEO Program and the AEP.
- b. Advise the President, USU, with respect to the preparation of policies, procedures, regulations, reports, and other matters affecting the EEO Program.
- c. Evaluate the effectiveness of the programs and recommend any required improvements and/or corrections needed.
- d. Select, train, and supervise the EEO Counselors and SEP Managers for the Federal Women's Program, Black Employment Program, Asian/Pacific Islander Program, American Indian/ Alaskan Native Program, and Programs for Individuals with Disabilities.
- e. Evaluate employment policies, practices, and patterns within the USU, and identify and recommend the correction of any institutional and architectural barriers that restrict opportunities for all employees and applicants for recruitment, employment, advancement, recognition, or training.
- f. Ensure that realistic AEP goals are set and accomplished until overall USU objectives are met and sustained. Such goals will strive for continuing increases in the percentages of minorities, women, disabled veterans, and other individuals with disabilities in entry and mid-level positions. Target recruitment goals will be established to increase percentages of minorities, women, disabled veterans, and other individuals with disabilities in higher level positions in all occupations, organizations, departments, and activities.

- g. Disseminate information and provide advice on EEO and AEP to managers/supervisors and employees to ensure their understanding, and to enlist their cooperation in meeting goals.
- h. Establish procedures for the informal and formal discrimination complaint process to include receipt, acceptance, investigation, and disposition of individual and class-action complaints.
- i. Ensure fair, impartial, and timely investigation and resolution of complaints of discrimination in employment, including complaints of sexual harassment.
- j. Establish a continuing EEO Educational Program for managers/supervisors and employees, including training in the prevention of work place harassment (sexual and non-sexual under Title VII).
- k. Compile, analyze, and report data for the USU AEP and other reports to the DoD, OPM, and EEOC.
- l. Review all awards and management training programs to ensure that minorities, women, disabled veterans, and individuals with disabilities are considered consistent with their qualifications and program criteria.
- m. Identify the barriers that impede the employment and advancement of minorities, women, disabled veterans, and other individuals with disabilities, and adjust the goals to eliminate those barriers.
- n. Establish and maintain contacts with minority group leaders and organizations having interests in employment and career advancement opportunities for women, minorities, and individuals with disabilities to create an understanding of the USU EEO Program.
- o. Conduct meetings with community action organizations in the interest of improving EEO relationships and serve on temporary and permanent committees established as either decision-making or recommending bodies on matters concerning position management, recruitment, training, promotion, job design and reduction-in-force.
- p. Provide technical support to OGC, USU, and EEO counselors.
- q. Retain any relevant records or documents until notified by EEO officials that no further administrative or legal decision is pending on a complaint.
- r. Develop and implement the FEORP for minorities, women, disabled veterans, and individuals with disabilities.

6. The Equal Employment Opportunity Staff shall:

- a. Be responsible for assisting the EEO Officer in administrating the USU EEO Programs.
- b. Perform the full range of EEO responsibilities to include processing of formal and informal EEO complaints.
- c. Provide technical assistance and instructions to managers and supervisors in major areas of the administrative processing of discrimination complaints.

7. Managers and Supervisors shall:

- a. Ensure that EEO principles are integrated into their personnel management process and are considered in employment decisions, such as hiring, promotion, reassignment, training, awards, and other personnel employment decisions.
- b. Create and maintain a positive work environment that recognizes the needs and expectations of a diverse working population and balance those needs and expectations with the mission and goals of the USU.
- c. Take all the steps necessary to prevent harassment (sexual and non-sexual) from occurring and express strong disapproval of all forms of harassment in the work environment.
- d. Take immediate and appropriate corrective action when harassment (sexual and non-sexual) occurs.
- e. Use and develop the skills of their employees so as to allow everyone the equal opportunity to succeed based on individual work accomplishments.
- f. Review and evaluate the performance of their subordinates in terms of compliance with EEO and personnel policies, recognizing special achievements, and correcting deficiencies.

8. Special Emphasis Program Managers shall:

- a. Assist the EEO Officer and CHR with achieving the employment status and AEP goals for women, minorities, disabled veterans, and other individuals with disabilities.
- b. Assist in developing, implementing, and evaluating the AEP to ensure inclusion of goals directed toward recruitment, employment, and advancement of women, minorities, and individuals with disabilities.
- c. Initiate and maintain contacts with other government agencies and private organizations, such as professional groups, colleges, and universities that are concerned with, or have an interest in, the employment and advancement of women, minorities, and individuals with disabilities.

9. Equal Employment Opportunity Counselors shall:

- a. Work under the supervision of the EEO Officer on a collateral duty basis.
- b. Serve as a bridge between managers and employees during the informal resolution of discrimination complaints.
- c. Conduct timely EEO Counseling with respect to alleged discrimination, offer Alternative Dispute Resolution (ADR), identify the issues of complaint, frame the claims of discrimination, issue rights and responsibilities and attempt resolution at the informal stage. Counselors will conduct final interviews and issue the notice of right to file letter to the aggrieved.

10. Agency Employees shall:

- a. Treat co-workers, supervisors, and subordinates in a professional manner, maintaining an attitude of mutual respect toward all, and follow established EEO policies, procedures, and requirements.
- b. Bring to the attention of their supervisors, instances of discrimination to encourage resolution at the source or contact the EEO Office or an EEO Counselor to utilize the EEO complaint process.

G. Procedure. *See Enclosure 3.*

H. Effective Date. This Instruction is effective immediately.



Richard W. Thomas MD, DDS, FACS
President

30 April 2020

Enclosures:

- 1. References
- 2. Definitions
- 3. Procedures

REFERENCES

- (a) USU Instruction 1106, "Equal Employment Opportunity Civilian Program," dated May 31, 2005 (hereby canceled).
- (b) DoD Human Goals Charter, dated April 28, 2014.
- (c) DoD Directive 1440.1, "DoD Civilian Equal Employment Opportunity (EEO) Program," dated June 8, 2015 w/C 1-C3.
- (d) DoD Directive 1350.2, "Department of Defense Military Equal Opportunity (MEO) Program," dated May 7, 1997.
- (e) Age Discrimination in Employment Act.
- (f) Civil Rights Act of 1991.
- (g) Fair Labor Standards Act of 1938, as amended (Equal Pay Act of 1963).
- (h) Rehabilitation Act of 1973, as amended.
- (i) Americans with Disabilities Act of 1990.
- (j) Title VII of the Civil Rights Act of 1967, as amended.
- (k) 29 Code of Federal Regulations, Part 1614, "Federal Sector Equal Employment Opportunity."
- (l) Rehabilitation Act of 1973 (29 U.S.C. §§ 791, et. seq., as amended).
- (m) DoD Directive 1020.1, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense," dated March 31, 1982.
- (n) Department of the Navy, "Memorandum for Human Resources Directors: Implementation of the EEO Complaints Resolution Process- A Best Practice from the EEO Reengineering Project: *Enclosure 1*: 'EEO Complaints Resolution Process Guidelines,' and *Enclosure 2*: 'Potential EEO Complaints Resolution Process Site and Staff Information Request,'" dated March 7, 2000.

DEFINITIONS

1. Affirmative Employment Program. A program to provide sound occupational opportunities to those groups or classes of individuals who have not been in the mainstream of the workplace in the past. This program targets specific minority groups and females to increase their representation.
2. Age Discrimination in Employment Act of 1967. As Amended *Reference (e)* (ADEA) prohibits discrimination in employment on the basis of age (40 years or older).
3. Agency. For purposes of these procedures, USU and AFRRI, including all of their claimancies and the activities within the claimancies.
4. Alternative Dispute Resolution (ADR). ADR is a process that parties agree, instead of formal adjudication, to resolve issues in controversy. ADR may include, but is not limited to, mediation. ADR does not replace traditional processes for resolving conflict, and individuals do not waive any legal rights by participating in an ADR process. ADR expands the options available to disputants and provides prompt, cost effective, and equitable resolution to an individual's concerns. All methods and attempts at ADR should be done in compliance with the terms found in the activity's negotiated agreements.
5. Appellate Authority. The appellate authority is a higher level management official designated to evaluate an individual's request for reconsideration from a denial of an accommodation request.
6. Civil Rights Act of 1991. *Reference (f)* amends Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, Age Discrimination in Employment Act of 1967, Civil Rights Act of 1866, (Title 42, USC, Section 1981), and Civil Rights Attorney's Fees Awards Act of 1976.
7. Decision Maker. The decision maker is typically an employee's first level supervisor. If the first level supervisor is unavailable, the next level supervisor or the manager in the immediate chain of command is the decision maker. The Human Resources Services Center (HRSC) employee identified in the vacancy announcement is typically the decision maker for an applicant's request for accommodation in the application process. If that individual is unavailable, the first level supervisor or manager in the immediate chain-of-command is the decision maker for a request for accommodation in the application process. HRSC decision makers for applicants have the same responsibilities as a supervisor decision maker for employees.
8. Disability. An individual with a disability is one who:
 - a. Has a physical or mental impairment which substantially limits one or more of such a person's major life activities.
 - b. Has a record of such impairment.

- c. Is regarded as having such an impairment.

9. Equal Employment Opportunity Program. A program to ensure equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, physical/mental disabilities, and reprisal, and to promote full realization of equal employment opportunity through a continuing affirmative employment program.

10. Essential Functions. The essential functions of a job are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. Determination of the essential functions must be based on the job as actually performed, not simply the components of a generic position description. Factors to consider include:

- a. Whether the position exists specifically to perform that function.
- b. The experience of present or past employees in the job.
- c. Whether the incumbent is adequately skilled to perform in required tasks.
- d. Whether there is a limited number of other employees who could perform the function if it were assigned to them.
- e. Whether a written job description or terms of the collective bargaining agreement define the function as essential.
- f. Whether employees in the same or similar positions spend a significant amount of time performing the function.
- g. Consequences of not performing the function.

11. Extenuating Circumstances. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for reasonable accommodation, such as limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation.

12. Fair Labor Standards Act of 1938, as Amended (Equal Pay Act of 1963) *Reference (g)* (EPA) prohibits sex-based wage discrimination. It prohibits Federal agencies from paying employees of one sex less wages than those of the opposite sex for performing substantially equal work.

13. Federal Equal Opportunity Recruitment Program. A program designed to implement a formal plan with specific recruitment actions and objectives to increase the availability of applicants having a manifest imbalance or conspicuous absence of protected groups in occupations as compared to their percentages in the CLF.

14. Informal Dispute Resolution Process. An informal dispute resolution process is any voluntary mechanism through which an individual can request re-consideration of a denial of

reasonable accommodation, regardless of whether the person has initiated the EEO complaint process.

15. Interactive Process.

a. The interactive process is a process used by the individual and the decision maker to identify and clarify an individual's accommodation need(s) and to ensure that all effective accommodations have been considered.

b. The interactive process may be used where the specific limitation, problem, or barrier is unclear. Where an effective accommodation is not obvious. Where the parties are choosing between different possible reasonable accommodations.

c. The interactive process is always necessary and ongoing, especially in situations like the following:

- 1) An individual with a disability has a known disability (blind, deaf, missing limb).
- 2) The need for accommodation is obvious (computer software designed to assist the blind, sign language interpreters, mobility equipment)
- 3) An effective accommodation is in place but changes in the work environment of the individual with a disability may require an additional accommodation (e.g. transitioning from working in the office to teleworking)

16. Major Life Activity. Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, breathing, working, etc.

17. Mediation.

a. A neutral third party with no decision making authority conducts an informal, yet confidential, process to assist disputing parties in reaching a mutually acceptable and appropriate resolution. Participation in mediation is voluntary. Mediation follows specific steps which include:

- 1) The introduction.
- 2) Issue identification.
- 3) Option generation, and
- 4) Resolution/agreement writing.

b. The mediator may use both joint sessions and separate sessions called caucuses.

c. The mediator's flexibility may lead the parties to go beyond traditional settlement discussion and discover creative resolution options. Benefits include:

- 1) Increase awareness of the issues of the complaint and the reason management made certain decisions. Mediation also promotes the necessity of a continuing relationship among the parties, by focusing the discussion toward the future.
- 2) Provides the opportunity for information to be presented through a subject matter expert to respond to questions related to a complaint (When appropriate); allows the disputing parties to reveal their concerns and hear each other's perceptions within a neutral setting, thus clarifying issues.

18. Nexus. To be entitled to accommodation, the qualified individual with a disability must show that there is a connection between the disability and the request for accommodation.

19. Physical or Mental Impairment. A physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems (e.g., neurological, cardiovascular, etc.) or any mental or psychological disorder such as mental retardation, learning disabilities, etc.

20. Qualified individual with a disability. A qualified individual with a disability is a person who, with or without reasonable accommodation, can perform the essential functions of the position. A disabled employee is not "qualified" for a position if she/he would pose a direct threat to his or her own safety or health, or that of others, when working in that position.

21. Reasonable Accommodation. A reasonable accommodation is a change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. There are three categories of reasonable accommodations:

- a. Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille).
- b. Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters, assistive technology or changes to work schedules).
- c. Modifications or adjustments that enable individuals with disabilities to enjoy the benefits and privileges of the workplace afforded to all individuals (such as removing physical barriers in an office cafeteria).

22. Rehabilitation Act of 1973, as Amended *Reference (h)* and the Americans with Disabilities Act of 1990 *Reference (i)* prohibit discrimination on the basis of mental or physical impairment.

23. Request for Reasonable Accommodation. A request for reasonable accommodation is a statement that an individual needs an adjustment or a change at work or in the application process for a reason related to a disabling condition. An individual does not need to mention the Rehabilitation Act or use the phrase "reasonable accommodation" for the request to be identified as a request for reasonable accommodation.

24. Sexual Harassment.

a. Sexual harassment is a form of sex discrimination that involves **unwelcome** sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) Submission to, or rejection of such conduct is made to either explicitly or implicitly affect a person's job, pay, or career.
- 2) Submission to, or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person.
- 3) Such conduct interferes with an individual's performance, or creates an intimidating, hostile, or offensive environment.

b. Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a civilian employee, is engaging in sexual harassment.

c. Similarly, any civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

d. Pre-complaint processing. An employee or applicant who alleges that he/she is being sexually harassed, and wishes to file a complaint must seek counseling in accordance with this Instruction.

25. Special Emphasis Program. A program established as an integral part of the total EEO Program to address the concerns of minorities, women, and individuals with disabilities and to enhance their employment. The programs are:

- a. Federal Women's Program.
- b. Black Employment Program.
- c. Hispanic Employment Program.
- d. Asian/Pacific Islander Program.
- e. American Indian/Alaska Native Program.

f. Individuals with Disabilities.

26. Substantially Limits. "Substantially limits" means total inability or severe restriction. Factors to consider are the nature of the impairment and its severity, but also the long-term impact. An impairment may substantially limit an individual's ability to work if it prevents, or significantly restricts, the individual from performing a class of jobs or a broad range of jobs in various classes.

27. Target Groups. Those EEO groups covered by law and defined by the EEOC and the Office of Personnel Management. Included are women, minorities, disabled individuals, and the aged (40 and over). The basic categories are defined below:

a. American Indian or Alaska Native. A person having origins in any of the original peoples of North America and who maintains cultural identification through community recognition or tribal affiliation.

b. Asian or Pacific Islander. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. Examples include China, India, Japan, Korea, the Philippine Islands, and Samoa.

c. Black. A person having origins in any of the black racial groups of Africa.

d. Hispanic. A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins. This does not include persons of Portuguese culture or origin.

e. White. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. This also includes persons not included in other categories.

f. Individuals with Disabilities. An individual who has a physical or mental impairment, which substantially limits one or more of such a person's major life activities; has a record of such an impairment; Is regarded as having such an impairment.

1) Physical or mental impairment:

a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

(1) Neurological.

(2) Musculoskeletal.

(3) Special sense organs.

(4) Cardiovascular.

(5) Reproductive.

(6) Digestive.

(7) Respiratory.

(8) Genitourinary.

(9) Hemic.

(10) Lymphatic.

(11) Skin.

(12) Endocrine.

b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

2) Major life activities. This includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, and working.

3) A record of such an impairment. This includes having a history of, or has been classified (or misclassified) as, having a mental or physical impairment that substantially limits one or more major life activity.

4) Perception of having such an impairment. This refers to an individual claiming a physical or mental impairment that does not substantially limit major life activities, but is treated by an employer as constituting such a limitation:

a) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such impairment.

b) Has none of the impairments defined above, but is treated by an employer as having such an impairment.

g. Qualified Individuals with Disabilities. This includes an individual with a disability who, with or without reasonable accommodation, can perform the **essential** functions of the position in question without endangering the health and safety of the individual or others and who, depending upon the type of appointing authority being used:

1) Meets the experience, educational, and/or physical requirements, which may include passing a written test or physical exam (if a condition of employment), of the position in question.

2) Meets the criteria for appointment under one of the special appointing authorities for individuals with disabilities.

28. Title VII of the Civil Rights Act of 1967, as Amended *Reference (j)*. Prohibits discrimination based on race, color, religion, sex, or national origin. It also prohibits reprisal or retaliation for participating in the discrimination complaint process or for opposing any unlawful employment practice under Title VII.

29. Undue Hardship. An undue hardship means that a specific accommodation would be of significant difficulty or expense, or would cause a significant disruption to another employee's ability to work or significantly interfere with business operations.

EEO COMPLAINT PROCESSING PROCEDURES

1. Complaints of discrimination are processed IAW 29 C.F.R. Part 1614. Any federal civilian employee (in some circumstances contractors) who believe that he/she has been discriminated against because of race, color, religion, sex, national origin, age, mental/physical impairment, or reprisal should contact the EEO Office or an EEO Counselor within **45** days of the discriminatory event or the effective date of the alleged discriminatory personnel action.
2. Pre Complaint or Informal Complaint Stage:
 - a. All EEO complaints start as a Pre or Informal Complaint.
 - b. Counselors offer traditional EEO Counseling or ADR (mediation) to the aggrieved.
 - c. If traditional EEO counseling is selected, the counselor conducts a counseling inquiry within 30 calendar days.
 - d. Counselors are neutral, so they do not make determinations on whether discrimination has occurred or not.
 - e. Counselors document the allegations of the complaint document management responses to the allegations, and seek resolution whenever possible.
 - f. Resolution of the matter. If during the course of the EEO Counselor's inquiry, the agency and the aggrieved person agree to an informal resolution of the issues of the complaint, the terms of the resolution will be documented in a settlement agreement. The Agency head is the settlement authority for all EEO complaints. .
 - g. Failure to resolve the matter. If a resolution is not reached, the counselor must hold a final interview with the aggrieved person within 30 days of the date he/she brings the matter to the counselor's attention. The aggrieved person has 15 calendar days after receipt of the notice to file a formal complaint.
3. Formal Stage. Formal complaints of discrimination or accepted or dismissed in accordance with legal regulatory guidance (MD 110 & 29C.F.R. Part 1614). Accepted claims of discrimination are investigated:
 - a. Investigation. The investigation should be completed within 180 days of the date of filing the complaint.
 - b. Hearing. The agency shall notify the aggrieved person that within 30 days of receipt of the investigative file, he/she has the right to request a hearing before an EEOC administrative

judge, or may receive an immediate final decision from the agency where the complaint was filed. In the absence of the required notice, the aggrieved person may request a hearing at any time after 180 days have elapsed from the filing of the complaint.

c. Findings and Conclusions. Following the aggrieved persons request for a hearing by the EEOC, an administrative judge shall issue a finding of facts and conclusions of law on the merits of the complaint within 180 days from the date of filing the individual complaint. If the agency does not reject or modify the administrative judge's findings and conclusions within 60 days, the findings and conclusions and the relief ordered by the administrative judge shall become the final decision of the agency.

d. Agency Final Decision. The agency shall have a final decision within 60 days of receiving notice of the aggrieved person's request for an immediate decision or within 60 days of receiving the findings and conclusions of an administrative judge. The final decision will be based on the merits of each issue in the complaint. The final decision shall contain appeal rights to EEOC, notice of rights to file a civil action in Federal district court and the applicable time limits for the appeal and/or lawsuit.

Attachment:

EEO Complaint Process Timeline

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