



Office of Equal Employment Opportunity & Diversity Management



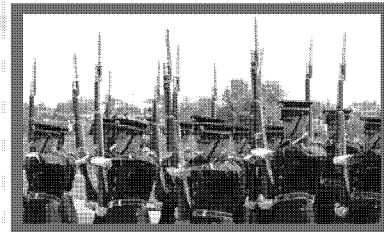
# EEO&DM

PEOPLE CONNECTING WITH PEOPLE

## AT-A-GLANCE

### THE EQUAL OPPORTUNITY PROCESSES

### NOTIFICATION & FEDERAL EMPLOYEE ANTIDISCRIMINATION & RETALIATION ACT



## Table of Contents

|                                                                                                     |           |
|-----------------------------------------------------------------------------------------------------|-----------|
| <b>Equal Opportunity Program .....</b>                                                              | <b>1</b>  |
| <b>Civilian Equal Employment Opportunity (EEO) Complaint Process.....</b>                           | <b>3</b>  |
| The EEO Informal / Pre-Complaint Process .....                                                      | 3         |
| Hearings and Final Agency Decisions.....                                                            | 7         |
| Alternative Dispute Resolution... 4                                                                 | 4         |
| Class Complaints .....                                                                              | 8         |
| The EEO Formal Complaint Process.....                                                               | 6         |
| <b>Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) .....</b> | <b>9</b>  |
| Background .....                                                                                    | 9         |
| Antidiscrimination Laws.....                                                                        | 11        |
| No FEAR Act Policy .....                                                                            | 10        |
| Retaliation Under Antidiscrimination Laws.....                                                      | 13        |
| <b>Contractor EEO Complaint Process .....</b>                                                       | <b>17</b> |
| The EEO Process .....                                                                               | 17        |
| Internal Complaint Channels for Contractor Employees in the NRO.....                                | 19        |
| EEO Formal Complaint Process Available to Contractor Employees .....                                | 18        |
| External Complaint Channels for Contractor Employees .....                                          | 21        |
| <b>Military Equal Opportunity (MEO) Complaint Process.....</b>                                      | <b>23</b> |
| MEO complaint process: .....                                                                        | 23        |
| Sexual Assault.....                                                                                 | 26        |
| MEO Informal Complaint Process.....                                                                 | 24        |
| MEO Program Appeals Process.....                                                                    | 26        |
| MEO Formal Complaint Process.....                                                                   | 25        |
| Formal MEO Complaint Appeals:.....                                                                  | 27        |
| Reprisal .....                                                                                      | 26        |
| <b>Contact Information .....</b>                                                                    | <b>28</b> |
| <b>References .....</b>                                                                             | <b>29</b> |

## Equal Opportunity Program



**T**he National Reconnaissance Office (NRO) is committed to being a model equal opportunity employer for the Federal Government.

Six elements comprise a model program: demonstrated commitment from the organization's leadership; integration of Equal Employment Opportunity (EEO) into the organization's strategic mission; management and program accountability; proactive prevention of unlawful discrimination; efficiency and responsiveness; and legal compliance.

### Operating principles include:

- Equal Employment Opportunity for all present and past employees and applicants for employment, regardless of Race, Religion, Color, Sex, National Origin, Age (40 and over), Disability, Pregnancy, and Genetic Information;
- Equal Opportunity in all personnel employment programs, management practices, and decisions. These include, but are not limited to, recruitment, hiring, merit promotion, transfer, reassignments, training and career development, benefits, and separation;
- Zero tolerance for workplace harassment and discrimination. Allegations of such behavior will be

immediately investigated, and, if substantiated, appropriate actions will be taken; and

- Zero tolerance for reprisal against any civilian employee or military member who engages in activity protected under the civil rights statutes. This includes exercising individual rights under the law, opposing discriminatory practices, or utilizing the equal opportunity complaint process.

The organization's policy is to adhere to the provisions of Federal EEO laws and regulations; to provide equal opportunity in employment for all persons; to prohibit discrimination on the basis of the Federally-protected categories-which include: Race, Religion, Color, Sex, National Origin, Age (40 and over), Disability, Pregnancy, Genetic Information and Reprisal for opposing employment discrimination and/or for participating in the EEO processes. Organization written policy and Executive Orders also protect personnel from discrimination on the basis of other categories, such as, sexual orientation and status as a parent.

These protections apply to all NRO employees, civilian and military, and applicants for employment. Independent contractors and other contractors may be protected under the circumstances outlined in the Equal Employment Opportunity Commission's (EEOC) guidance on contingent workers.

## Civilian Equal Employment Opportunity (EEO) Complaint Process



### The EEO Informal / Pre-Complaint Process

An individual who believes that he or she has been discriminated against or harassed on the basis of Race, Religion, Color, Sex, National Origin, Age (40 and over), Disability, Pregnancy, Genetic Information, or Reprisal, must contact an EEO counselor assigned to the NRO's Office of Equal Employment Opportunity and Diversity Management (OEEO&DM) within 45 calendar days of the date of either the alleged discriminatory incident, the effective date of an alleged discriminatory personnel action, or when an employee learns or should have learned that the discriminatory matter or personnel action occurred. Under certain limited circumstances this period may be extended at the discretion of the Director, OEEO&DM (D/OEEO&DM).

At the initial counseling session, the EEO counselor will work with the aggrieved individual to identify the specific issue(s). The counselor shall advise the aggrieved individual in writing of his or her rights and responsibilities under Federal EEO laws and regulations, including the right to a representative of his or her

choosing and the right to anonymity in the informal / pre-complaint process.

In appropriate cases, the counselor will offer the aggrieved individual the opportunity to request, in writing, mediation through the organization's Alternative Dispute Resolution (ADR) program, as an alternative to the traditional EEO process (See ADR).

If the aggrieved individual chooses the EEO informal / pre-complaint process in lieu of ADR, the counselor will work with the individual and their management to resolve the issue(s). If no resolution is obtained within 30 calendar days, the counselor and aggrieved individual may mutually extend the process for up to an additional 60 days, and continue to seek resolution.

If no mutually acceptable resolution is reached during the informal process or ADR, the EEO counselor will issue the aggrieved individual a Notice of Right to File a Formal Complaint of Discrimination. Upon receipt of this notice, if the aggrieved individual wishes to continue in the EEO formal complaint process, he or she must file a formal complaint in writing with the D/OEEO&DM within 15 calendar days.

### Age Discrimination

With minor exceptions, the procedures for processing complaints of discrimination based on Age (40 and over) are the same as for those complaints based on any other Federally-protected EEO category. To pursue an Age discrimination complaint, the aggrieved individual must be at least 40 years of age at the time of the alleged discriminatory action. The Age Discrimination in Employment Act (ADEA) does not require a strict adherence to the Title VII processes described above. For more information regarding your rights under the ADEA, please contact an EEO counselor/investigator.

## Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) is an informal method of resolving workplace disputes through mediation. The most important ADR program requirement is fairness. Generally, an ADR

program is fair if it is voluntary, confidential, enforceable by the parties (if an agreement is reached), and led by a neutral person, like a certified mediator, who has no personal interest in the dispute. A mediator is trained to help people who have disagreements talk to each other. The mediator does not decide who is right or wrong or issue a decision. Instead, the mediator helps the parties work out their own solutions to their dispute.

### How does mediation work?

During the informal EEO pre-complaint process, the EEO counselor may suggest ADR as a resolution method. In order for mediation to occur, both parties must agree to try mediation. If the parties agree to mediate the dispute, EEO counseling is automatically extended to 90 calendar days. The mediation session begins with the mediator describing the process and answering any questions either party may have. Each party is given an opportunity to present his or her viewpoint on the dispute. A discussion, facilitated by the mediator, follows the opening statements. The mediator may also call for private meetings or caucuses with each of the parties to clarify issues and discuss any topics of a sensitive nature that one party may not have disclosed during the opening statements or only wishes to share with the mediator. Joint discussion continues after these caucuses until agreement is reached on the issues, or until the parties agree that no resolution is possible at that time.

### What are the advantages of mediation?

- Mediation is a confidential, non-judicial process.
- Successful mediation offers fast and informal settlement of the dispute and avoids lengthy and unnecessary litigation.
- Rather than leaving the decision to a third party, such as an EEOC AJ, mediation gives the opportunity to reach an agreement that works for the disputant and the agency.
- Settlement agreements secured during mediation are binding and do not constitute an admission of any violation of laws enforced by the EEOC.

If no mutually acceptable resolution is achieved during mediation, the EEO counselor will issue the aggrieved individual a Notice of Right to File a Formal Complaint of Discrimination. Upon receipt of this notice, if the aggrieved individual wishes to continue in the EEO formal complaint process, he or she must file a formal complaint in writing with the D/OEEO&DM within 15 calendar days.

## The EEO Formal Complaint Process

Upon receipt of a formal complaint of discrimination, the organization will issue to the aggrieved individual a report regarding the informal / pre-complaint process and the D/OEEO&DM will determine whether to accept all or part of the case into the formal process for investigation. Reasons for dismissing a case are specified in Title 29 of the Code of Federal Regulations Part 1614.107. An aggrieved individual whose case is dismissed by the organization can appeal the dismissal to the EEOC.

If the case is accepted into the formal process, the D/OEEO&DM will assign an impartial EEO investigator who will complete an investigation and issue a report of investigation within 180 calendar days (plus 30 days for file sanitization / security redaction), unless the aggrieved individual has agreed in writing to an extension of the investigative period. Amendments to the complaint or the filing of multiple complaints may result in an automatic extension of the investigative period in accordance with Federal regulations. Upon completion of the investigation, a copy of the investigative file will be provided to the aggrieved individual and his or her EEO representative or attorney.

When the investigation is complete, the D/OEEO&DM will conclude the formal process by advising the aggrieved individual of the right to choose between a hearing before an EEOC Administrative Judge (AJ), or a Final Agency Decision (FAD) from the organization stating whether or not discrimination has occurred. The D/OEEO&DM will also notify the aggrieved individual of the right to appeal a FAD to the EEOC.

The results of discrimination investigations will be recorded in investigative files to be maintained by the D/OEEO&DM.

The D/OEEO&DM will release investigative / complaint information concerning an employee only on a strict need-to-know basis and pursuant to a written request. Persons who may be allowed access to this information include:

- Operating officials who are deciding and / or enforcing appropriate disciplinary and remedial actions;
- The General Counsel or designee; and
- Other appropriate organization officials as determined by the D/OEEO&DM.

## Hearings and Final Agency Decisions

If the aggrieved individual requests a hearing, the AJ will review the investigative report and have the opportunity to request further investigation and details. During the hearing process, both the aggrieved individual and the organization will have an opportunity to conduct discovery, that is, to request additional information or documentation to supplement the investigative report. The AJ schedules and conducts a hearing. The proceedings of the hearing will be recorded and transcribed verbatim. Afterward, the AJ will render a decision that will be forwarded to the aggrieved individual and the appropriate organization official(s).

If the aggrieved individual does not request a hearing, a FAD will be issued by the D/OEEO&DM based upon the facts contained in the investigative report.

If the aggrieved individual is dissatisfied with the FAD, the aggrieved individual has the right to file an appeal with the EEOC Office of Federal Operations (OFO) or the aggrieved individual may file a civil action in U.S. District Court. If the aggrieved individual appeals to the EEOC OFO and is dissatisfied with its decision, the aggrieved individual may still file a civil action.

## Class Complaints

The EEOC regulations set forth procedures for the processing of class complaints of discrimination. The class complaints system may be used by individuals who believe that they belong to a class of individuals which has been discriminated against because of Race, Religion, Color, Sex, National Origin, Age (40 and over), or Disability.

For purposes of the class complaints system, a "class" is defined as a group of past or present employees, on whose behalf it is alleged that they have been, or are being, adversely affected by an organization personnel policy or practice that the organization has the authority to rescind or modify and that discriminates against the group on the basis of their common Race, Religion, Color, Sex, National Origin, Age (40 and over), or Disability. The "class agent" is defined as an employee who believes that he or she has been discriminated against in common with other persons similarly situated, and who files a complaint on behalf of the entire group. A "class complaint" is defined as a written complaint of discrimination filed on behalf of a class by the agent.

The class complaint must allege the following:

- The class is so large that individual complaints by the members of the class are impractical;
- There are questions of fact common to the class;
- Claims of the agent of the class are typical of the claims of the class; and
- An agent of the class, or his or her representative, will fairly and adequately protect the interests of the class.

The EEOC regulation governing class complaints of discrimination is quite detailed and has been summarized here only briefly. For more information, please contact an EEO counselor/investigator at the OEEO&DM.

## The Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act)



NO FEAR ACT

## Background

Congress enacted the No FEAR Act (NFA) on 15 Oct 2002, (Public Law 107-174 effective 1 Oct 2003)

The NFA requires agencies to:

- Be accountable for violations of antidiscrimination and whistleblower protection laws;
- Train employees about the rights and remedies available to them under the laws applicable to them;
- Prevent and reduce discrimination; and
- Act more expeditiously to resolve complaints at the administrative level, when appropriate.

## No FEAR Act Policy

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation.

### Highlights of Title I of the NFA

**General Provisions:** Federal agencies can not effectively operate if they practice or tolerate discrimination.

Federal agencies cannot retaliate for court judgments or settlements relating to discrimination and whistleblower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce to pay for such judgments or settlements.

Agencies must ensure managers have adequate training in managing a diverse workforce, dispute resolution, and communication skills.

Agencies are prohibited from taking unfounded disciplinary actions against, or violating procedural rights of, managers accused of discrimination.

### Highlights of Title II of the NFA

**Federal Employee Discrimination and Retaliation:** Federal agencies must repay the Department of Treasury's judgment fund for judgments, awards, and settlements reached at Federal District Court, out of their own operating budgets. Federal agencies must notify employees, former employees, and applicants for Federal employment of the rights and protections available to them under Federal antidiscrimination, whistleblower protection, and retaliation laws.

### Highlights of Title III of the NFA

**EEO Complaint Data Disclosure:** The NFA requires each Federal agency to post, on its public Web site, summary statistical data relating to Federal EEO complaints filed with the agency.

## Antidiscrimination Laws

Antidiscrimination laws protect you from discrimination based on Race, Color, Religion, Sex, National Origin, Disability, Age (40 and over), Pregnancy, and Genetic Information concerning the terms and conditions of employment in relationship to:

- Hiring, promotion, pay, leave, awards, training, assignments, suspensions, and terminations;
- Requests for disability and religious reasonable accommodations, unless doing so would impose an undue hardship on the employer; and
- Workplace harassment or the creation of a hostile work environment.

The Equal Pay Act (EPA) of 1963, as amended, prohibits paying different wages and salaries on the basis of sex for substantially similar work. An aggrieved individual does not have to file an administrative complaint before filing a lawsuit under the EPA. If an aggrieved individual wants to file an administrative complaint, it will be processed like Title VII of the Civil Rights Act complaints based on sex.

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination based on: race, color, national origin, religion, and sex (sexual harassment, gender identity discrimination, and pregnancy discrimination are considered forms of sex discrimination). While not covered under Title VII, sexual orientation is a prohibited basis of discrimination under Executive Order 13087, issued May 1998.

**Religious Accommodation:** In addition to protection against discrimination because of religion, Title VII of the Civil Rights Act also establishes the agency's duty to provide reasonable

accommodation for an employee's religious beliefs, unless doing so would impose an undue hardship on the employer.

The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

The Age Discrimination in Employment Act (ADEA) of 1967, as amended, prohibits discrimination in all aspects of employment against persons 40 years and older. The ADEA also protects employees, age 40 years and older, from employment actions based on stereotypes or stigmas associated with age.

The Rehabilitation Act of 1973, as amended, prohibits discrimination against qualified individuals with disabilities in the Federal government. It also requires employers to make reasonable accommodations to employ qualified individuals with disabilities.

The Americans with Disabilities Act of 1990 (ADA) prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

The ADA Amendments Act of 2008 (ADAAA) made a number of significant changes to the definition of "disability" under the Americans with Disabilities Act (ADA).

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits genetic information discrimination in employment.

## Retaliation Under Antidiscrimination Laws

Antidiscrimination laws prohibit retaliation (reprisal) against individuals who oppose discrimination or participate in an employment discrimination proceeding. Retaliation is discrimination based on a person's prior EEO activity; for filing a complaint of discrimination; for opposing discriminatory practices; or for participating in any stage of administrative or judicial proceeding under antidiscrimination laws. Individuals who believe they have been subjected to retaliation regarding discrimination must follow EEO discrimination complaint procedures.

### Filing a Marital Status or Political Affiliation Complaint

If a complainant alleges discrimination based on marital status or political affiliation, she or he may file a written complaint with the U.S. Office of Special Counsel (OSC). In the alternative (or in some cases, in addition), the complainant may file a grievance through their parent element's administrative or negotiated grievance procedures, if such procedures apply and are available.

### Disciplinary Actions

Under existing laws, each Federal agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. However, if OSC has initiated an investigation under 5 U.S.C. § 1214, Federal agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation.

Nothing in the NFA alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

## Whistleblower Protection Act – Disclosure

The OSC defines a whistleblower, according to the Whistleblower Protection Act (WPA), 5 U.S.C. § 2302 (b)(8), as an employee, former employee, or contractor who provides protected disclosures she or he reasonably believes evidences fraud, waste, or abuse in the form of:

- Violations of law, rule, or regulation;
- Gross mismanagement;
- Gross waste of funds;
- Abuse of authority; or
- Substantial and specific danger to public health or safety.

## Whistleblower Protection Act – Retaliation

Pursuant to 5 U.S.C. § 2302(b)(8), a Federal agency cannot retaliate against an employee or applicant because she or he exercises her or his rights under the WPA.

A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of whistleblower disclosure of the aforementioned forms of fraud, waste, or abuse, EXCEPT:

- Employees may not disclose information specifically prohibited by law and if such information is specifically required under Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.
- Employees specifically excluded from coverage under the WPA include those in various intelligence agencies.
- To determine whether you are specifically covered under the WPA, please consult with the NRO Office of Equal Employment Opportunity and Diversity Management (OEEO&DM) or the NRO Office of General Counsel (OGC).

## Reporting WPA Protected Disclosures

If you want to make a protected disclosure under the WPA to OSC, and it has been determined that the aforementioned exceptions do not apply to you, contact:

Disclosures Unit  
Office of Special Counsel (OSC)  
1730 M Street, N.W., Suite 218  
Washington, DC 20036-4505  
800-572-2249, 202-254-3640, or  
800-877-8339 (Federal Relay Service)  
<http://www.osc.gov/>

## Filing a WPA Retaliation Complaint

If you believe you have been subjected to retaliation for making a protected disclosure under WPA, and it has been determined that the aforementioned exceptions do not apply to you, you may file a complaint with OSC at:

Complaints Examining Unit  
Office of Special Counsel (OSC)  
1730 M Street, NW, Suite 218  
Washington, DC 20036-4505  
800-872-9855, 202-653-7188, or  
800-877-8339 (Federal Relay Service)  
<http://www.osc.gov/>

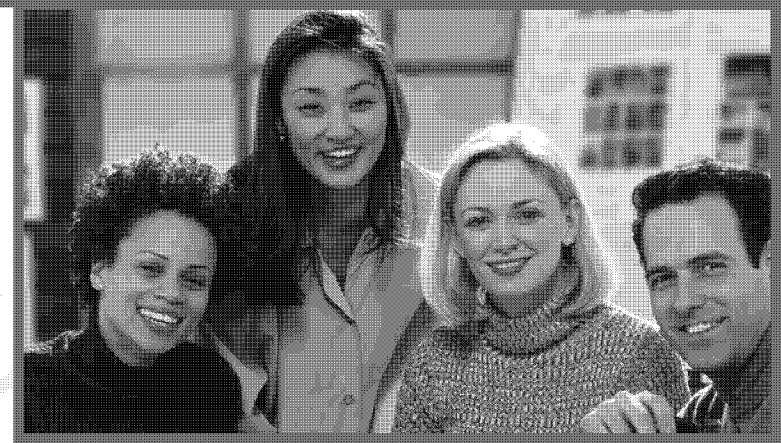
## Whistleblower Protection for Military Personnel

Department of Defense Directive 7050.6, Military Whistleblower Protection, is the authority and governs policy and responsibility for whistleblower protection of military personnel. Among other protections, the policy protects members of the Armed Forces from reprisal for making or preparing to make a protected communication. Under the directive, the DoD and agency Inspector General Offices process whistleblower complaints from military personnel.

## No FEAR Act Mandatory Training

Pursuant to Title II of the No FEAR Act, each Federal agency must complete No FEAR Act training no less than every two years. The No FEAR Act training requirement applies to Federal government civilian personnel; it does not extend to contract employees or military personnel. Sign up for No FEAR Act training through the NRO University Registration Tool.

## Contractor Equal Employment Opportunity Complaint Process



### The EEO Process

Equal Employment Opportunity (EEO) laws cover all employees, recent ex-employees, or job applicants who believe they have been discriminated against based on the protected categories of Race, Color, Religion, National Origin, Sex, Age (40 and over), Disability, Pregnancy, Genetic Information, or Reprisal. The law includes provisions for government and contractor employees to participate in the informal and formal EEO complaint processes. In fact, the OEEO&DM encourages contractors to counsel with NRO EEO counselors regarding allegations of discrimination against government personnel. However, all contractor complaints are not accepted into the formal Federal EEO process; specific criteria apply to determine acceptance. Moreover, contractors must meet employment criteria beyond the regular requirements for acceptance into the formal EEO process. The EEOC and the Federal courts have recognized exceptions to the general rule that independent contractor employees cannot successfully file a formal complaint against a Federal agency. These exceptions are explained as follows:

## The EEO Formal Complaint Process Available to Contractor Employees

Two options in the formal EEO complaint process remain open to contractor (and subcontractor) employees.

First, when complainants believe that their employer — the contractor — has been complicit in the alleged harassment or discrimination, they may file a complaint against the contractor with the Fairfax County Human Rights Commission, or other appropriate local Office of Human Rights.

Second, when the Federal agency in question is determined to be a “joint employer” of the contractor employee, Federal agencies and the EEOC will allow the complaint to proceed beyond the dismissal stage. Federal agencies are considered to be joint employers of the contractor employee whenever the agencies control the means and manner of the worker’s job performance. This determination requires consideration of all aspects of the worker’s relationship with the agency. Factors indicating that a worker is in an employment relationship with an agency, which might render the agency a “joint employer,” include the following:

- The agency has the right to control when, where, and how the worker performs the job;
- The work does not require a high level of skill or expertise;
- The agency supplies the tools, materials, and equipment;
- The work is performed on the agency’s premises;
- There is a continuing relationship between the agency and the worker;
- The agency has the right to assign additional projects to the worker;
- The agency sets the hours of work and the duration of the job;
- The worker is paid by the hour, week, or month, rather than the agreed cost of performing a particular task;
- The worker does not hire and pay assistants;

- The work performed by the worker is part of the regular business of the agency;
- The worker is not engaged in his/her own distinct occupation or business;
- The agency provides the worker with benefits such as insurance, leave or worker’s compensation;
- The worker is considered an employee of the agency for tax purposes (that is, the agency withholds Federal, state, and Social Security taxes);
- The agency can discharge the worker (for example, revoke clearances); and/or
- The worker and the agency believe that they are creating an employer-employee relationship.

This list is not exhaustive; not all or even a majority of the listed criteria need to be met. Rather, the determination must be based on all of the circumstances in the relationship between the parties, regardless of whether the parties refer to it as an employer-employee relationship or as an independent contractor relationship.

## Internal Complaint Channels for Contractor Employees in the National Reconnaissance Office (NRO)

Leadership of the NRO has on several occasions emphasized the standing NRO philosophy that we are one team united behind our mission, and that the entire work force — staff and contractor — must function seamlessly and without fear of harassment, discrimination or intimidation. To this end, the NRO has several channels apart from the formal EEO process whereby contractor employees can air their grievances.

### NRO Workplace Violence Assessment Teams (WVATs).

Every NRO facility has WVATs that actively investigate any and all complaints of violence in the work place. Anyone experiencing or observing a violent or potentially violent act (or the threat of a violent

act) should immediately notify any of the following appropriate authorities: supervisor, NRO Security Officer, Employee Assistance Program (EAP), the Office of Strategic Human Capital (OSHC), OEEO&DM, NRO Grievance Officer / Ombudsman, or emergency response personnel.

#### Office of Inspector General (OIG) Complaints.

The Office of Inspector General (OIG) accepts complaints on any number of subjects focusing around fraud, waste and abuse, and the proper conduct of NRO activities. If you suspect or know of any activity relating to NRO programs, contracts, or funds that appears to violate the law or standards of ethical conduct, please notify the OIG.

#### NRO Ombudsman.

The NRO Ombudsman is available to anyone to provide informal counseling, advice, and guidance for employees and managers on workplace concerns that do not fall under another complaint process; facilitates the Alternate Dispute Resolution program; and processes harassment complaints that do not fall under the EEO process.

#### NRO Security Clearance Process.

When harassment, discrimination, or intimidation rises to the level that security is affected, or the alleged misconduct reflects poorly on an NRO employee's judgment or reliability, the Director of Security and Counter-intelligence may address the issue and act accordingly.

#### Management Inquiry.

NRO senior management may conduct inquiries whenever needed to investigate situations that affect the NRO work force and mission performance.

## External Complaint Channels for Contractor Employees

If an independent contractor is dissatisfied with the internal NRO processes available for redress of an incident involving discrimination, harassment or intimidation, the following external channels may also be available to the contractor employee, depending on the circumstances:

- **Breach of Contract**  
The contractor employee may approach his employer with a claim that the employer has breached its employment contract with him, or that the Government has breached its contract with the contractor. In the latter case, the contractor may intercede on the contractor employee's behalf to petition the Government for redress via the contracting officer and the contract disputes process.
- **ADR**  
The contractor employee may approach the EEOC or the Government agency with a request for mediation. In most cases, the EEOC will be pleased to provide a mediator to assist the parties in discussing the situation and arriving at a resolution acceptable to all.
- **Civil Action**  
The contractor employee may elect to file a claim against the Government under the Federal Tort Claims Act. Available civil remedies might include, depending on the circumstances, claims based in trespass, assault, negligence, nuisance, battery, conversion (theft), defamation, or intentional infliction of emotional suffering.
- **Criminal Action**  
The contractor employee may file charges with the local police, depending on the severity of the alleged harassment or intimidation.

Contractor employees at the NRO have several courses of action available to pursue in the event they believe they have been subjected to harassment, discrimination or intimidation by Government employees. They may approach the Office of Equal Employment and Diversity Management, the Office of Inspector General, the Office of Security and Counter-intelligence, or the Ombudsman. Other channels are available outside of the NRO. For more information on the EEO complaint process, please contact OEEO&DM on extension 2561.

## Military Equal Opportunity (MEO) Complaint Process



All military personnel have the right to pursue complaint resolution through the NRO Military Equal Opportunity (MEO) program when discriminatory behavior persists beyond resolution within the chain of command. Two unlawful discrimination complaint processes exist within the MEO program for military personnel: Informal and Formal. The following information applies to both processes.

### The MEO complaint process:

- Is a means for military members (Active, Reserve, and Guard), family members, and retirees to present allegations of unlawful discrimination on the basis of Race, Religion, Color, Sex, or National Origin (to include sexual harassment);
- Accepts complaints from the complainant only. The military does not include third party complaints;
- Informs the appropriate level in the complainant's and alleged offender's chain of command. The military process does not provide confidentiality to the complainant, but strives to protect his or her identity; and

- Addresses allegations that fall within the scope of the MEO program. The MEO program does not accept complaints outside of the bases cited previously. It also cannot accept complaints relative to non-military employment. The OEEO&DM staff is responsible for making the appropriate referrals for issues that fall outside the purview of the MEO program.

Military members who reasonably believe an unfavorable personnel action (including withholding of a favorable personnel action) was taken or threatened in reprisal for participating in the military complaint process may file a complaint with the organization's Inspector General (IG) or their Service's IG, as applicable.

## Military Equal Opportunity Informal Complaint Process

Complainants may choose any combination of the following options:

- Request assistance from the chain of command. This avenue is always encouraged, but not mandatory.
- Speak or write to the offending person. Advise him or her of the offensive behavior, and the impact, including a clear message that repeated offenses will result in a formal complaint.
- Request co-worker intervention.
- Participate in the ADR process with a certified mediator.

If the complainant cannot achieve resolution through the informal process, she or he may opt to file a formal complaint. No time limit exists to file an informal MEO complaint. However, resolution is more probable and effective when issues are addressed as they occur.

## Military Equal Opportunity Formal Complaint Process

The formal complaint process is as follows:

- Complainants must lodge formal complaints not more than 60 calendar days after the alleged offense occurred. The D/OEEO&DM may waive time limits based on sufficient justification.
- The D/OEEO&DM decides whether or not to accept a formal military complaint based on the areas of responsibility set out by military regulations and directives.
- The counselor assists the complainant in summarizing the allegation(s).
- The counselor briefs the complainant's and the alleged offender's commander or service representative of the nature and allegations of the complaint.
- The complainant's identity and descriptive information is protected to the greatest extent possible.
- The counselor conducts a complaint clarification. This process includes, but is not limited to, interviewing witnesses (of complainant and alleged offender), and gathering information from statements, reports, or records relevant to the complaint.
- The Chief of MEO determines whether discrimination occurred based on the complaint clarification.
- The MEO appointed attorney In the OGC conducts a legal sufficiency review of the case.
- The commander or senior military service representative takes action as needed, debriefs alleged or actual offender on complaint outcome, and informs him or her of the appeal process.
- The counselor / investigator debriefs the complainant on the outcome of the complaint, and advises him or her of the appeal process. Complainant may be briefed

on corrective measures, but will not be briefed on specific disciplinary actions, unless these actions are a matter of public record.

- The counselor / investigator follows-up with the complainant within 30 calendar days to evaluate whether or not reprisal has occurred and to ensure that corrective measures were effective in eliminating the discrimination.

## Reprisal

Every military member has the right to work in an environment free from both unlawful discrimination and any form of reprisal. The OEEO&DM immediately refers any military member who believes they have been reprisal against as a result of filing an informal or formal complaint, or any other protected communication, to the IG's office.

## Sexual Assault

The OEEO&DM does not address or handle allegations of sexual assault. Sexual assault is distinctly different than sexual harassment, or any other category of unlawful discrimination, under MEO policy. Accordingly, in cases of any alleged sexual assault, the counselor immediately refers the complainant to the appropriate Sexual Assault Response Coordinator (SARC), regardless if the complainant discloses allegations of unlawful discrimination or sexual harassment.

## Military Equal Opportunity Program Appeals Process

### Informal MEO Complaint Appeals:

- The OEEO&DM staff does not make a determination of unlawful discrimination pursuant to the informal complaint process. Any disposition of a commander-directed inquiry subsequent to an informal complaint must be appealed at the appropriate level of command channels. Therefore, there

is no appeal process under the MEO informal complaint process for offenders.

- Complainants may appeal the disposition of an informal complaint. The sole appeal mechanism available to complainants under the MEO informal complaint process is the complainant's right to file a formal complaint.

### Formal MEO Complaint Appeals:

- Complainants can appeal findings of no discrimination; offenders can appeal findings of discrimination. Retirees and military family members may not appeal the findings of a formal complaint filed under the MEO program.
- Appellants must submit appeals through OEEO&DM to the lowest appropriate level of command authorized to decide the appeal within 30 calendar days after notification of the case outcome.
- Appeal procedures provide for referral to an appropriate general court martial convening authority.
- The OEEO&DM will ensure the appeal authority receives a complete copy of the case file, and forwards it to the appeal authority's servicing Staff Judge Advocate for a legal review prior to action on the appeal.
- Appeal authorities will issue a written decision on the appeal, and OEEO&DM will deliver the written appeal decision to the appellant.
- Appellants dissatisfied with the appeal decision have 30 calendar days from receipt of the appeal decision to elevate their appeal to the next highest level.

Subsequent and final appeal procedures must be submitted in writing through the OEEO&DM and end at the level of the respondent's or complainant's Military Department Secretary.



## Contact Information

OEE&DM Phone Numbers:

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OEE&DM Fax Numbers:

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OEE&DM Website:

EEO E-Mail Groups:

- eec
- eec
- eec
- eec
- eec



## References

- Federal Sector Equal Employment Opportunity, Title 29 Code of Federal Regulations Part 1614 (b)(3)
- Age Discrimination in Employment Act, 29 U.S. Code (USC) §621 (b)(3)
- Equal Pay Act, 29 USC §206(d)
- Rehabilitation Act of 1973 as amended, 29 USC §791
- Notification and Federal Antidiscrimination and Retaliation act of 2002 (No FEAR Act) (b)(3)
- Executive Order 13087, Further Amendment to Executive Order 11478 (Sexual Orientation), 28 May 1998
- Executive Order 13152, Further Amendment to Executive Order 11478 (Status as a Parent), 2 May 2000 (b)(3)
- Equal Employment Opportunity Commission website: [www.eeoc.gov](http://www.eeoc.gov)
- Department of Defense Directives (b)(3)
- NRO Policies and Procedures

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