



OFFICE OF CIVIL RIGHTS

U.S. DEPARTMENT OF COMMERCE

COMPLAINT OF EMPLOYMENT DISCRIMINATION

YOU SHOULD USE THIS FORM ONLY IF:

- ▶ You work(ed) for or applied for employment with the Department of Commerce (DOC); **AND**
- ▶ You believe that DOC or a DOC bureau (for example, the Bureau of the Census, the National Institute of Standards and Technology, the Office of the Secretary, etc.) discriminated against you **because of** your race, color, sex, religion, national origin, age (40 years or older), or disability, or in retaliation for participating in the EEO complaint process or opposing unlawful discrimination; **AND**
- ▶ You received EEO Counseling on the issue(s) you raise in this complaint.

FILL IN THE SECTIONS CALLED "INFORMATION ABOUT YOU," "INFORMATION ABOUT YOUR REPRESENTATIVE," AND "INFORMATION ABOUT THE COMPLAINT." IF YOU NEED MORE SPACE, ATTACH AN EXTRA PAGE(S). Describe the alleged discriminatory action as clearly as possible and include dates. For example, if you are alleging that you were discriminated against when you were not selected for a position, state the title of the position, when you were notified (or otherwise learned) that you were not selected, the vacancy announcement number, and the reason(s) you believe you were not selected (race, color, sex, etc.).

YOU MUST SIGN AND DATE THE FORM. Your attorney, if you have one, may sign the form for you. A representative who is not an attorney cannot sign for you.

TO BE TIMELY, YOU MUST:

- ▶ **Begin EEO Counseling within 45 calendar days** of the effective date of the actions you challenge or the date you became aware of them; **AND**
- ▶ **File your complaint within 15 calendar days** of the date you received the Notice of Right to File a Complaint of Discrimination.

TO FILE YOUR EEO COMPLAINT, SEND OR HAND-DELIVER THIS FORM TO:

- ▶ **The Director, Office of Civil Rights, U.S. Department of Commerce**



Mail or Hand-delivery:

HCHB Room 6012
Washington, D.C. 20230



Fax:

202/501-2937 or
202/482-0048

OR

- ▶ The **EEO Officer** for the DOC bureau in which the alleged discrimination took place.

YOU MAY HAVE A REPRESENTATIVE OF YOUR CHOICE at all stages of the EEO complaint process. If you are represented by an attorney, your date of receipt for documents and decisions on your complaint will be the date that your attorney receives them. If you have a representative or change your representative, you must notify the Department's Office of Civil Rights at the address above.

FOR HELP IN COMPLETING THIS FORM, TO OBTAIN THIS FORM IN AN ALTERNATE FORMATS (SUCH AS LARGE PRINT), OR FOR ANOTHER ACCOMMODATION TO ASSIST YOU IN USING THE EEO COMPLAINT PROCESS, contact your EEO Officer, EEO Counselor or the Department's Office of Civil Rights (202/482-4993 - Voice/TTY).

PRIVACY ACT STATEMENT

1. FORM NUMBER/TITLE/DATE: DOC Form CD-498, Complaint of Employment Discrimination Against the U.S. Department of Commerce, September 1998.
2. AUTHORITY: 42 U.S.C. Section 2000e-16(b) and (c); 29 C.F.R. Part 1614; 29 U.S.C. Sections 204(f) and 206(d); 29 U.S.C. Section 633(a); 29 U.S.C. Section 791; Reorganization Plan No. 1 of 1978; 43 FR 19807 (May 9, 1978); Executive Order No. 12106; 44 FR 1053 (January 3, 1979).
3. PRINCIPAL PURPOSES: The purpose of this complaint form, whether recorded initially on the form or taken from a writing of the complainant, is to record the filing of a formal written complaint of employment discrimination against the Department of Commerce on the grounds of race, color, religion, sex, national origin, age, disability, or retaliation for protected EEO activity and to determine whether the complaint was timely filed, whether there is a factual basis for investigation of the complaint, and whether the allegations in the complaint are within the scope of 29 C.F.R. Part 1614.
4. ROUTINE USES: The information provided on Form CD-498 may be used:
 - a. To disclose pertinent information to the appropriate federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
 - b. To disclose information to another federal agency, to a court, or to a party in litigation before a court or in an administrative proceeding being conducted by a federal agency when the government is a party to the judicial or administrative hearing.
 - c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.
 - d. To disclose to an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee.
 - e. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.
5. EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION: Formal complaints of employment discrimination must be in writing, signed by the complainant or the complainant's attorney, and must identify the parties and action or policy challenged. Failure to comply may result in the Department of Commerce not accepting the complaint. It is not mandatory for this form to be used to provide the requested information.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to:

Chief, Compliance Division
Office of Civil Rights
U.S. Department of Commerce
HCHB Room 6012
Washington, DC 20230

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

DETACH AND KEEP THIS SHEET

THE U.S. DEPARTMENT OF COMMERCE

EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLAINT PROCESS

The federal sector Equal Employment Opportunity (EEO) complaint process is a legal process in which federal employees and applicants can raise complaints of employment discrimination because of race, color, sex, national origin, religion, age (40 or over), disability, or retaliation for opposing such discrimination or participating in the EEO complaint process. The EEO Complaint process has three parts: **EEO counseling (the informal process)**; the **formal complaint process**; and the **appeal process**. Regulations at 29 C.F.R. Part 1614 govern the Federal EEO complaint process. At the Department of Commerce, allegations of sexual orientation discrimination may be raised in EEO counseling, even though they **cannot** be accepted in the formal complaint process. The EEO Counselor can provide you with information about appropriate forums for raising formal claims involving sexual orientation discrimination.

EEO COUNSELING: THE INFORMAL PROCESS

Bureau EEO Offices administer the informal EEO counseling process. If you believe that you have been discriminated against in your work or in the hiring process, you may contact an EEO Counselor. The Counselor will look into the facts of the situation and try to resolve your concerns with bureau management through mutual agreement. **You must complete EEO Counseling before filing a formal complaint. To preserve your right to file a formal EEO complaint, you must contact an EEO counselor within 45 calendar days of the alleged discrimination or the date you became aware of it.** You may ask your EEO Counselor not to reveal your name during counseling.

THE FORMAL COMPLAINT PROCESS

The Department's Office of Civil Rights (OCR) administers the formal complaint process. **You must file your formal complaint within 15 calendar days of receiving the Notice of Right to File from an EEO Counselor.** OCR will send you written notice if your complaint is accepted for investigation. If OCR dismisses your complaint or part of your complaint, the Department will issue a Final Agency Decision explaining the reasons. Some reasons that complaints are dismissed are: untimely counseling or filing, failure to see an EEO Counselor, and failure to state a claim under a law enforced through the EEO process.

The Department must conduct a thorough investigation of accepted issues within 180 calendar days of the date the complaint was filed unless you agree to an extension. OCR will send you a copy of the Report of Investigation (ROI), along with a notice of your rights. After receiving your ROI, you may request (a) a hearing before an Administrative Judge (AJ) who works for the Equal Employment Opportunity Commission (EEOC), an independent Federal agency; or (b) a Final Agency Decision (FAD) by the Director of OCR without a hearing. You may also request a hearing anytime after 180 days from the date you filed your complaint if you have not received a notice of your right to request a hearing. If you do not make a choice, OCR will issue the FAD without a hearing. If you choose a hearing, the AJ will issue a decision, which the Department may accept, modify, or reject.

THE APPEAL PROCESS

The EEOC administers the appeal process. You may appeal the FAD, including a decision dismissing issues in your complaint, to the EEOC within 30 calendar days of receiving the decision. If you have an attorney, the 30 calendar days will be calculated from the date your attorney receives the decision. You may ask the EEOC to reconsider its decision on your appeal within 30 days of receiving the decision or within 20 calendar days of receiving the Department's timely request for reconsideration.

RIGHT TO FILE A CIVIL ACTION

In most cases, you must file an EEO complaint before you go to court. Exceptions are Equal Pay Act and age discrimination claims. If you use the EEO Complaint process, you do not have to complete the process before you file a civil action (law suit) in U.S. District Court. If OCR does not issue the FAD within 180 calendar days from the date you filed your complaint, you can file a law suit. You also have other opportunities to file a law suit:

- within 90 calendar days of receiving the FAD or an EEOC decision on appeal; or
- after 180 days from the date you file an appeal with the EEOC if the EEOC has not issued a decision.

The law suit is not an appeal of DOC's decision or an EEOC decision. It is a new review of the evidence in your case.

MIXED CASES If the issue(s) you raise can be appealed to the Merit Systems Protection Board (MSPB), you have a mixed case. You may choose to file an appeal with the MSPB or an EEO complaint. **YOU CANNOT DO BOTH.** Processing of mixed case complaints is different from other complaints. Your EEO Counselor will provide information about the mixed case process. If you file a mixed case complaint, OCR will also give you a detailed written notice of your rights.

FOR MORE INFORMATION ABOUT THE EEO COMPLAINT PROCESS, PLEASE VISIT THE OFFICE OF CIVIL RIGHTS WEBSITE AT
www.osec.doc.gov/ocr/

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