

Supporting Statement for Form SSA-437
Discrimination Complaint Form
OMB No. 0960-0585

A. Justification

1. Introduction/Authoring Laws and Regulations

The SSA-437 obtains information from individuals who believe the operation of an agency-conducted program or activity violated their civil rights. *5 U.S.C. 301*, *29 U.S.C. 794(a)*, and *42 U.S.C. 902(a)(5)* of the *United States Code*, along with *Executive Order 13166* and *Executive Order 13160* authorize SSA to collect this information. Section *504(a)* of the Rehabilitation Act, *29 U.S.C. 794(a)*, provides that an Executive agency shall not discriminate based on disability in programs and activities conducted by the agency. The Federal Housekeeping statute, *5 U.S.C. 301*, authorizes an agency head to prescribe regulations for the government of the agency and the performance of agency business. In addition, section *702(a)(5)* of the *Social Security Act (42 U.S.C. 902(a)(5))* authorizes the Commissioner to prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the agency. *Executive Order 13166* states that Federal agencies must provide individuals with limited English proficiency meaningful access to federally conducted programs and activities without unduly burdening the fundamental mission of the agency. *Executive Order 13160* prohibits discrimination based on race, sex, color, national origin, disability, religion, age, sexual orientation and status as a parent in federally conducted education and training programs and activities.

2. Description of Collection

SSA established an administrative procedure for individuals to notify us if they believe we discriminated against them based on disability, race, color, national origin (including limited English proficiency), sex, sexual orientation, age, religion, or retaliation for having participated in a proceeding under this administrative complaint process in connection with an SSA program or activity. Following this procedure, SSA reviews and investigates these complaints, then decides how we need to proceed. When necessary, we take action to correct the problem. SSA will also review, investigate and decide complaints alleging discrimination based on status as a parent in education, training programs, or activities conducted by SSA.

Based on the individual's information, SSA analyzes and evaluates the complaint, and identifies person(s) to contact concerning the complaint, records that may be relevant to the issues raised in the complaint, and possible means of resolving the complaint. After SSA reviews the form, SSA personnel contact the complaining individuals to request they clarify their allegations. SSA does not require individuals to provide the information listed on this form, but advises that if they do not provide the information, SSA may not be able to investigate the matter(s) that gave rise to their complaints. If an individual requires assistance to complete the form, they may have a representative or another person may file a complaint on their behalf. In addition, SSA provides a toll-free number an individual may call to discuss a complaint with an SSA complaints specialist. Upon request, the complaints specialist will fill out the form using the information the individual provides. The complaints specialist sends the completed but unsigned

form to the individual for review, ratification and signature. SSA may need to disclose information collected in connection with a complaint to individuals inside and outside SSA in order to uncover or verify facts to develop a basis for making a decision on whether a civil rights violation occurred. SSA may also need to reveal certain information collected in connection with a complaint to any individual who requests it under the provisions of the Freedom of Information Act. SSA only uses personal information provided for authorized civil rights investigation and compliance activities. Except when required by law and for certain routine uses authorized under the Privacy Act, SSA will not release information collected in connection with a complaint of discrimination to any person or entity outside SSA unless the individual who supplied the information submits a written consent to its release. Respondents are individuals who believe SSA or SSA employees, contractors or agents in programs or activities conducted by SSA discriminated against them.

3. Use of Information Technology to Collect the Information

The SSA-437-BK is available on SSA's internet website in an accessible, fillable PDF format. Individuals can fill out the form online and then print the completed form, or they can save the information already entered on the form and return to it later. SSA does not currently have plans to make this form available electronically due to the low number of respondents and the agency's priority of converting higher volume forms to electronic media prior to working on lower volume forms.

4. Why We Cannot Use Duplicate Information

The nature of the information we are collecting and the manner in which we are collecting it preclude duplication. SSA does not use another collection instrument to obtain similar data.

5. Minimizing Burden on Small Respondents

This collection does not significantly affect small businesses or other small entities.

6. Consequence of Not Collecting Information or Collecting it Less Frequently

Federal law prohibits SSA from discriminating on the basis of disability in the programs and activities it conducts, and SSA policy prohibits discrimination in its programs or activities on the basis of race, color, national origin (including limited English proficiency), sex, sexual orientation, age, religion and/or retaliation for having participated in a proceeding under the agency's administrative complaint process. *Executive Order 13160* prohibits discrimination based on race, sex, color, national origin, disability, religion, age, sexual orientation and status as a parent in federally conducted education, training programs, and activities. If we did not collect the information requested on the form, it would impede SSA's investigations into incidents of alleged discrimination. Investigations would take more time because SSA would need to contact individuals multiple times before obtaining all the information needed to investigate the complaint, and SSA's corrective action (if needed) would be delayed or not implemented at all. Because we only collect this information on an as-needed basis, we cannot collect it less frequently. There are no technical or legal obstacles that prevent burden reduction.

7. Special Circumstances

There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with *5 CFR 1320.5*.

8. Solicitation of Public Comment and Other Consultations with the Public

The 60-day advance Federal Register Notice published on March 4, 2010, at 75 FR 9992, and SSA received no public comments. The second Notice published on May 27, 2010, at 75 FR 29797. If we receive any comments in response to the 30-day Notice, we will forward them to OMB. SSA did not consult members of the public in the development of this form.

9. Payment or Gifts to Respondents

SSA does not provide payments or gifts to the respondents.

10. SSA protects and holds confidential the information requested in accordance with *42 U.S.C. 1306*, *20 CFR* Parts 401 and 402, *5 U.S.C. 552* (Freedom of Information Act), *5 U.S.C. 552a* (Privacy Act of 1974) and OMB Circular No. A-130.

11. Justification for Sensitive Questions

The nature of the discrimination alleged by the individual may require SSA to ask questions of a sensitive nature. For example, an individual who alleged discrimination on the basis of religion would be asked to identify his/her religion; an individual who alleged discrimination on the basis of disability would be asked to identify his/her disability; etc. However, SSA only requests information directly relating to the allegations the individual raises, and that SSA deems necessary to fully investigate the complaint. SSA does not require individuals to file complaints of discrimination, but if they choose to do so, and if they want a decision on or resolution of a complaint they have filed, they may on occasion have to provide information they may otherwise consider sensitive.

12. Estimates of Public Reporting Burden

SSA receives approximately 140 complaints of discrimination per year. This is consistent with the number of complaints we received in the last six years. We estimate it takes one hour to complete the SSA-437, for 140 total burden hours. The total burden for this ICR is 140 hours. This figure represents burden hours, and SSA did not calculate a separate cost burden.

13. Annual Cost to the Respondents (Other)

This collection does not impose a known cost burden to the respondents.

14. Annual Cost To Federal Government

The annual cost to the Federal Government is approximately \$7,500. This estimate is a projection of the costs for printing and distributing the collection instrument and for collecting the information.

15. Program Changes or Adjustments to the Information Collection Request

There are no changes to the public reporting burden.

16. Plans for Publication Information Collection Results

SSA will not publish the results of the information collection.

17. Displaying the OMB Approval Expiration Date

OMB granted SSA an exemption from the requirement to print the OMB expiration date on its program forms. SSA produces millions of public-use forms with life cycles exceeding those of an OMB approval. Since SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis), OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, avoiding Government waste.

18. Exceptions to Certification Statement

SSA is not requesting an exception to the certification requirements at 5 *CFR* 1320.9 and related provisions at 5 *CFR* 1320.8(b)(3).

B. Collections of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.