



## U.S. Department of Transportation

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### Privacy Act Statement

The Privacy Act requires that we provide you with the following information regarding our use of your Personally Identifiable Information. The information on this form is solicited under the authority of 29 C.F.R. Part 1614. The purpose of this form is to inform Complainants about the EEO complaint process. Information provided on this form will be used by the Department of Transportation to determine whether the complaint was timely filed, whether the claims in the complaint are within the purview of 29 C.F.R. Part 1614, to provide a factual basis for investigation of the complaint, and to ensure that the proper processes were followed. Formal complaints of employment discrimination must be in writing, signed by the Complainant (or attorney representative), and must identify the parties and action or policy at issue. Failure to comply may result in the Department of Transportation dismissing the complaint. It is not mandatory that this form be used to provide the requested information.

## EEO COUNSELOR CHECKLIST

At the initial counseling session, Counselors must advise individuals in writing of their rights and responsibilities. At a minimum those rights include the following:

- a. The right to anonymity.
- b. The right to representation throughout the complaint process including the counseling stage. The EEO Counselor should make clear to the aggrieved person that the EEO counselor is not an advocate for either the aggrieved person or the agency but acts strictly as a neutral in the EEO process.
- c. The right to choose between the agency's alternative dispute resolution (ADR) process or EEO counseling, where the agency agrees to offer ADR in the particular case, and information about each procedure.
- d. The possible election requirement between a negotiated grievance procedure and the EEO complaint procedure.

- e. The election requirement in the event that the claim at issue is appealable to the Merit Systems Protection Board (MSPB), i.e., the dispute is a mixed case.
- f. The requirement that the aggrieved person file a complaint within 15 calendar days of receipt of the Counselor's notice of right to file a formal complaint in the event s/he wishes to file a formal complaint at the conclusion of counseling or ADR.
- g. The right to file a notice of intent to sue when age is alleged as a basis for discrimination and of the right to file a lawsuit under the ADEA instead of an administrative complaint of age discrimination, pursuant to 1614.201(a).
- h. The right to go directly to a court of competent jurisdiction on claims of sex-based wage discrimination under the Equal Pay Act even though such claims are also cognizable under Title VII. <sup>(u)</sup>
- i. The right to request a hearing before an EEOC Administrative Judge except in a mixed case after 180 calendar days from the filing of a formal complaint or after completion of the investigation, whichever comes first.
- j. The right to an immediate final decision after an investigation by the agency in accordance with 1614.108(f).
- k. The right to go to U.S. District Court 180 calendar days after filing a formal complaint or 180 days after filing an appeal.
- l. The duty to mitigate damages, e.g., that interim earnings or amounts that could be earned by the individual with reasonable diligence generally must be deducted from an award of back pay.
- m. The duty to keep the agency and EEOC informed of his/her current mailing address and to serve copies of appeal papers on the agency.
- n. Where counseling is selected, the right to receive in writing within 30 calendar days of the first counseling contact (unless the aggrieved person agrees in writing to an extension) a notice terminating counseling and informing the aggrieved of:
  - (1) the right to file a formal individual or class complaint within 15 calendar days of receipt of the notice,
  - (2) the appropriate official with whom to file a formal complaint, and
  - (3) the complainant's duty to immediately inform the agency if the complainant retains counsel or a representative. Any extension of the counseling period may not exceed an additional sixty (60) calendar days.
- o. Where the aggrieved person agrees to participate in an established ADR program, the written notice terminating the counseling period will be issued upon completion of the dispute resolution process or within ninety (90) calendar days of the first contact with the EEO Counselor, whichever is earlier.

- p. That only those claims raised at the counseling stage or claims that are like or related to those that were raised may be the subject of a formal complaint, and how to amend a complaint after it has been filed.
  - q. The identity and address of the EEOC field office to which a request for a hearing must be sent in the event that the aggrieved person files a formal complaint and requests a hearing pursuant to 1614.108(g).
  - r. The name and address of the agency official to whom the aggrieved person must send a copy of the request for a hearing. The EEO Counselor should advise the aggrieved person of his/her duty to certify to the Administrative Judge that s/he provided the agency with a copy of a request for a hearing.
  - s. The time frames in the complaint process.
  - t. The class complaint procedures and the responsibilities of a class agent, if the aggrieved person informs the EEO Counselor that s/he wishes to file a class complaint.
  - u. That rejection of an agency's offer of resolution made pursuant to 1614.109(c) may result in the limitation of the agency's payment of attorney's fees or costs.
  - v. That the agency must consolidate two or more complaints filed by the same complainant after appropriate notice to the complainant. 1614.606. The EEO Counselor should advise the complainant that when a complaint has been consolidated with one or more earlier complaints, the agency shall complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days of the filing of the first complaint and that the complainant may request a hearing before an EEOC Administrative Judge at any time after 180 days of the filing of the first complaint.
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1. Sex-based claims of wage discrimination may also be raised under Title VII; individuals so aggrieved may thus claim violations of both statutes simultaneously. Equal Pay Act complaints may be processed administratively under Part 1614. In the alternative, a complainant in the EPA claim may go directly to a court of competent jurisdiction.

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Signature of Aggrieved

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Date

- For additional questions, contact your EEO Counselor and for an additional source of reference, please visit [www.EEOC.gov](http://www.EEOC.gov) and click “federal agencies” for more information about the EEO process.