



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.

NOTICE OF RIGHTS AND RESPONSIBILITIES

Federal Sector Equal Employment Opportunity Regulations (29 CFR Part 1614)

Use of the EEO complaint process is voluntary. However, informal pre-complaint counseling is a mandatory requirement for filing a formal EEO complaint under the Equal Employment Opportunity Commission (EEOC) Regulations at 29 CFR Part 1614. Additionally, §1614.105(b) requires that you be advised, in writing, of your rights and responsibilities under the regulations. This "Notice of Rights and Responsibilities" is provided in compliance with the regulations.

Please read this notice carefully. It contains important information on your rights and responsibilities, including regulatory timeframes that may affect your complaint.

If you do not seek EEO counseling beyond the initial interview, no further action will be taken with respect to the matter(s) discussed. If you seek and receive further counseling, you will be given a written notice of the right to file a formal complaint as further discussed below.

Please contact your local civil rights office for further information.

Your Rights and Responsibilities

You have the right at every stage in the presentation of your complaint, including mandatory pre-complaint EEO counseling, to be accompanied, represented and advised by a representative of your own choosing [§1614.605(a)];

You, your representative, and any witnesses shall be free from reprisal in the presentation and processing of a complaint, including EEO counseling, or any time thereafter [§1614.101(b)];

You have the right to remain anonymous during informal EEO counseling. Anonymity may unduly restrict the EEO Counselor in achieving informal resolution of the counseling matter(s) you have raised. [§1614.105(g)];

Your right to anonymity expires if you file a formal EEO complaint, and your having filed a formal complaint will not be regarded as confidential [§1614.105(g)];

You have the right to request traditional EEO counseling or an Alternative Dispute Resolution (ADR) Process. Information regarding the ADR process is provided as an attachment to this notice [§1614.105(a)(2)];

The Counselor shall not attempt in any way to restrain you from filing a complaint [§1614.105(g)];

If you wish to be represented, it is your responsibility to complete the "Designation of Representative" form which may be obtained from the Counselor. You must sign this form and return it to the EEO Counselor during counseling or to the DOCR Regional Office if a formal complaint is filed. You should read this form carefully, discuss it with your representative, and come to a clear understanding of the terms and conditions specified on the form. If you later wish to proceed without the representative you have first chosen, or if you wish to change your representative, you must file a written notice with the appropriate DOCR Regional Office. [§1614.605(a)];

You are required to mitigate damages. For example, interim earnings or amounts, which could have been earned by a reasonably diligent person generally, must be deducted from an award of back pay [§1614.105(b)];

You are required to keep the DOCR Regional Office informed of your current mailing address [§1614.105(b)];

Only matters raised at the counseling stage may be raised as a formal complaint [§1614.105(b)];

If you wish to file a class complaint, the Counselor shall explain the class procedures and the responsibilities of a class agent [§1614.105(b)];

Unless you agree to a longer counseling period, the Counselor shall conduct the final interview, and provide you with a "Notice of Right to File a Discrimination Complaint" form, within 30 days of the date you brought the matter to the Counselor's attention, or within the extension period as mentioned below [§1614.105(d)];

Prior to the end of the 30-day period discussed above, you may agree in writing to extend the counseling period for an additional period of no more than 60 days. If the matter has not been resolved by the conclusion of the agreed upon extension, the "Notice of Right to File a Discrimination Complaint" form must be issued [§1614.105(e)];

If EEO counseling did not resolve the matter to your satisfaction, you may file a formal EEO complaint within fifteen (15) calendar days of your receipt of the "Notice of Right to File a Discrimination Complaint" form. Your complaint must be in writing and signed by you or your representative. Your complaint must be precise and generally describe the actions or practices that form the basis of the complaint. The EEO Counselor will provide you with a formal Complaint Form and information as to where and with whom you may file the complaint [§1614.106];

The effective date of filing a formal complaint is the postmark date of the complaint sent to the DOT DOCR Regional Office identified on your "Notice of Right to File a Formal Complaint." If the formal complaint is not properly postmarked, the effective date of filing will be the date the office actually receives the complaint. Receipt of your complaint will be acknowledged by that office, which will inform you of the effective date of filing, and later will identify the claims accepted for investigation. If your complaint is dismissed, you will be informed of your appeal rights [§1614.106(d)];

If your complaint is accepted, both you and your representative will be provided a copy of the Report of Investigation within 180 days from the effective date of filing the formal complaint, unless you agree to an extension of not more than 90 days, and you are notified of your right to request a hearing (in a non-mixed complaint – see MSPB information below) before an administrative judge. [§1614.108(f)].

Other Avenues of Redress

You may be able to pursue this matter under a negotiated grievance procedure instead of under the EEO complaint procedure [§1614.301].

When a person is covered under a collective bargaining agreement that permits allegations of discrimination to be raised, the aggrieved individual must elect to raise the matter either under part 1614, or the negotiated procedure, **but not both**. Only the filing of a written complaint indicates an election.

You may be able to pursue this matter before the Merit Systems Protection Board i.e., if the matter is a mixed case [§1614.302].

The Counselor will inform you whether your allegations may be covered under this section. If they are covered, you have 30 days from the date of the alleged discriminatory act to file a mixed case appeal with the Merit Systems Protection

Board (MSPB) and 15 days from the date of a Counselor's notice of final interview or 30 days after the initial EEO Counselor contact to file a formal mixed case EEO complaint. You **may** not file both an MSPB appeal and an EEO complaint on the same matter. The process selected first is deemed the elected process.

Right to File a Civil Action in Non-mixed Cases

You may file a civil action in an appropriate United States District Court:

- (a) Within 90 days of receipt of the final decision on your complaint if no appeal has been filed;
- (b) After 180 days from the effective date of filing the formal complaint if a final decision has not been issued, and an appeal has not been filed;
- (c) Within 90 days of receipt of the EEOC's final decision on an appeal; or
- (d) After 180 days from the date of filing an appeal with the EEOC, if there has been no final decision by the EEOC **[§1614.408]**.

Right to File a Civil Action in Mixed Cases

If your formal complaint concerns a matter appealable to the Merit Systems Protection Board (MSPB) (i.e., a "mixed case"), you may file a civil action in United States District Court:

- (a) Within 30 days of receipt of a final decision by the agency unless an appeal is filed with the MSPB; or
- (b) Within 30 days of receipt of notice of the final decision or action taken by the MSPB if you do not file a petition for consideration with the EEOC; or
- (c) Within 30 days of receipt of notice that the EEOC concurs with or has determined not to consider the decision of the MSPB; or
- (d) If the EEOC issues a decision different from the decision of the MSPB, within 30 days of receipt of the notice that the MSPB concurs in and adopts the decision of the EEOC; or
- (e) If the MSPB does not concur in the decision of the EEOC, within 30 days of receipt of notice of the decision of the Special Panel; or
- (f) After 120 days from the date of the filing of the formal complaint if there is no final agency action or appeal to the MSPB; or
- (g) After 120 days from the date of filing an appeal with the MSPB, if the MSPB has not yet made a decision; or

(h) After 180 days from the date of filing a petition for consideration with the EEOC, if there is no decision by the EEOC, reconsideration decision by the MSPB, or decision by the Special Panel **[§1614.310]**.

Right to file a complaint based on sexual orientation

Complaints based on sexual orientation are not cognizable under EEOC regulations but are processed under DOT regulations. Processing and appeal rights are slightly different but afford similar protections. Your counselor can give you more information.

Right to File a Civil Action under Age Discrimination in Employment Act (ADEA)

If you believe you have been subjected to prohibited age discrimination, instead of filing a complaint under this part, you may file a civil action in an appropriate U.S. District Court at any time within 180 calendar days of the unlawful discriminatory incident, act, event, decision or personnel action, provided that you give the Equal Employment Opportunity Commission (EEOC) notice of intent to sue at least 30 calendar days in advance of filing suit [§1614.201(a)].

Right to File a Civil Action under the Equal Pay Act

If you believe you have been subjected to prohibited sex based wage discrimination, you may file a civil action in an appropriate Federal District Court under the Equal Pay Act even though such claims can also be raised under Title VII¹ [§1614.409].

Right to a Court-Appointed Attorney

If you elect to file a civil action under ADEA, Title VII, or the Rehabilitation Act, you may appeal to the U.S. District Court for appointment of an attorney to represent you in the court proceeding. The court may appoint an attorney to represent you and may permit commencement of the civil action without payment of fees, costs or security.

Use of Complaint Form

You may use the individual form to file your employment discrimination complaint. Use of the complaint form is not required. However, you must supply sufficient information to demonstrate that your complaint is acceptable under applicable laws and regulations governing complaint processing in federal agencies. Additionally, you must supply sufficient personally identifiable

¹Sex-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 under 1614. In the alternative, a complainant may go directly to Federal District Court to pursue an Equal Pay Act Claim.

information to comply with the No FEAR Act. [§1614.106(c)].

Notification and Federal Employee Anti-Discrimination And Retaliation Act of 2002

This Act, also known as the No FEAR Act, requires that Federal agencies be accountable for violations of anti-discrimination and whistleblower protection laws; to require that each Federal agency posts quarterly on its public website, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes. This Act was signed into law by President Bush on May 15, 2002. In order to comply with this Act, we must obtain certain information from you to be able to identify the overall number of individual complaints.