



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Legal Counsel

December 23, 2015

TRANSMITTED VIA E-MAIL

Danette L. Mincey
Director, Complaints Management Division, Office of Diversity and Equal Opportunity
Aisha K. Moore
Acting Director, Equal Opportunity & Diversity Management
Frances C. Teel
PRA Clearance Officer
Mail Code JF000
National Aeronautics and Space Administration
Washington, DC 20546-0001

Re: NASA Complaint of Discrimination Form, Form 1355P

Dear Ms. Mincey, Ms. Moore, and Ms. Teel:

Thank you for the opportunity to review the revised NASA Complaint of Discrimination form, Form 1355P. We appreciate your incorporation of our suggestions regarding earlier drafts of this form. As indicated below, we have a few additional comments regarding the form.

Processing of Sexual Orientation Discrimination Complaints/EEOC Appeal Rights

First, it was our understanding based on our October 26, 2015 conversation that NASA was amenable to revising the Instructions page to clarify that sexual orientation complaints would be processed through the 1614 process as sex discrimination complaints under Title VII unless the Complainant specifically requests otherwise.¹ Assuming our recollection of that conversation is correct, we would appreciate if NASA would consider revising the Instructions page accordingly. For example, NASA might consider adding the following, or similar language, to the first or second paragraph of the Instructions page: "Claims of sexual orientation discrimination will be processed through the federal sector EEO complaint process at 29 C.F.R. Part 1614 as claims of sex discrimination unless you specifically request to use a different complaint process."

In the event that NASA incorporates such a revision into the second paragraph, we suggest that NASA clarify that only complaints processed solely under NPR 3713.4 could not be appealed to EEOC. Complaints that are dual filed under both the 1614 and NPR 3713.4 processes and complaints filed solely through the 1614 process could be appealed to EEOC.

¹ See, e.g., EEOC, PROCESSING COMPLAINTS OF DISCRIMINATION BY LESBIAN, GAY, BISEXUAL, AND TRANSGENDER (LGBT) FEDERAL EMPLOYEES, http://www.eeoc.gov/federal/directives/lgbt_complaint_processing.cfm (last visited Dec. 21, 2015).

Privacy Act Statement

Second, we suggest that NASA add “Title II of the Genetic Information Nondiscrimination Act of 2008” to the list of authorities in the Privacy Act Statement on the Instructions page.

Grammatical Edits

Finally, in the event NASA has not already revised the following, we suggest that NASA make the following stylistic edits:

- Revising “your” to “you” in Question 10;
- Revising “Equal Opportunity (EEO) Counselor” in the first paragraph of the Instructions page to “Equal Employment Opportunity (EEO) Counselor” or “Equal Opportunity (EO) Counselor”;
- Revising the ninth bullet on the Instructions page from “evidence in your behalf” to “evidence on your behalf”; and
- Deleting the “s” on “calendars” in the final bullet on the Instructions page.

Thank you for your continued dialogue with us regarding NASA’s Complaint of Discrimination Form. Should you wish to discuss these comments, please feel free to contact Assistant Legal Counsel Corbett Anderson at (202) 663-4579 or Senior Attorney Advisor Lisa Schnall at (202) 663-4845.

Sincerely,

/s/

Peggy R. Mastroianni
Legal Counsel