

Department of the Interior Departmental Manual

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Series: Personnel Management

Part 373: Equal Opportunity

Chapter 8: Procedures for Processing Complaints under Executive Order 13160

Originating Office: Office of Civil Rights

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8.1 Purpose. This Chapter provides the Department of the Interior's (DOI) procedures for processing complaints of alleged discrimination filed under Executive Order 13160 (EO).

8.2 Policy. DOI is committed to the principles of equality of opportunity and nondiscrimination in its federally conducted education and training programs consistent with the provisions of the EO. In instances where a violation of the EO is found the Heads of bureaus and offices are authorized to provide all appropriate forms of relief. However, the EO is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

8.3 Scope. This policy covers all bureaus and offices. It includes any person or any class of persons who believe that they have been discriminated against on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in a DOI education or training program. (The term "status as a parent" refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: a biological parent; an adoptive parent; a foster parent; a stepparent; a custodian of a legal ward; or actively seeking legal custody or adoption of such an individual.)

8.4 Authority. The authority for this Chapter is EO 13160: "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs."

8.5 Responsibilities.

A. Heads of bureaus and offices are responsible for ensuring compliance with the EO and implementing corrective actions as determined by the final decision of a case filed under the EO.

B. Director, Office of Civil Rights is responsible for overseeing implementation of the requirements of the EO, including reviewing and processing cases and making final determinations regarding complaints filed under the EO.

C. Heads of bureaus and offices are responsible for conducting investigations of complaints of alleged discrimination under the EO.

D. Employees are responsible for cooperating and participating in investigations and the resolution of complaints when requested.

8.6 Filing Complaints. To promote effective and consistent enforcement of equal employment opportunity mandates for all Federal employees, complaints filed under both the EO and existing equal employment opportunity laws will be consolidated and adjudicated under the relevant equal employment opportunity statutes (i.e., Title VII, sections 501/504, and/or the Age Discrimination in Employment Act (ADEA)). Any Federal employee seeking to file a complaint under the EO must indicate whether the complaint is related to his or her employment and, if so, whether he or she has filed any other EEO complaints arising out of the same circumstances. If so, the complaint filed under the EO will be transferred to the appropriate office handling the employment-related discrimination complaint and the complaint procedures set forth in this Chapter will be deemed inapplicable. If a Federal employee chooses to proceed solely under the EO, the enforcement procedures set forth in this Chapter will govern the disposition of his or her complaint.

A. Who May File a Complaint. Any person or any class of persons who believes that he/she has been discriminated against on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in an education or training program conducted by the Department may file a complaint under the EO.

B. Where to File Complaints. All complaints filed pursuant to this Chapter must be delivered or mailed to the Director, Office of Civil Rights, U.S. Department of the Interior, Washington, D.C. 20240. If any bureau or office receives a complaint, the complaint must be forwarded within five (5) days upon receipt, to the Director, Office of Civil Rights.

C. Time Limit for Filing Complaints. Complaints filed under the EO must be filed with the Director, Office of Civil Rights not later than 180 calendar days of the date of the alleged discriminatory event, unless the time for filing the complaint is extended by the Director, Office of Civil Rights.

8.7 Processing Complaints.

A. Complaints alleging discrimination must be complete and include:

- (1) The name, address, and, if possible, a day-time telephone number for the complainant;
- (2) A description of the alleged discrimination and the circumstances surrounding the complaint;
- (3) A statement of whether or not the complaint is related to employment;

(4) A statement of whether or not the complainant filed any other Equal Employment Opportunity claims arising out of the same alleged discriminatory event;

(5) The date the alleged discrimination occurred.

B. Upon receipt of a complaint, the Office of Civil Rights will send the complainant a written notice acknowledging receipt of the complaint.

C. If a written complaint is filed within the required time period, and is determined to be a “complete complaint,” the complaint is deemed filed in a timely manner. Within thirty (30) days, the complainant will be notified regarding any additional information that is needed. If the complainant fails to complete and submit the requested information within thirty (30) days of receipt of the notice, the complaint may be dismissed.

D. If the Department lacks jurisdiction over the complaint, the complainant will be promptly notified and the complaint will be referred by the Department to the appropriate government agency or other entity having jurisdiction over the complaint.

E. Within 180 days of the receipt of a complete complaint for which the Department has jurisdiction, the Director, Office of Civil Rights or his/her designee shall notify the complainant of the results of the investigation in a letter containing:

- (1) Findings of fact and conclusions of law, and
- (2) A description of a remedy for each violation found.

8.8 Costs. The bureau or office in which a complaint arises shall be responsible for all costs associated with processing and investigating the complaint.

8.9 Agency Decisions. The Director, Office of Civil Rights has authority to issue final agency decisions on complaints of discrimination under the EO.

A. Corrective Action. After the review of a complaint and if there is a finding of discrimination, the Director, Office of Civil Rights may, as the appropriate agency official, determine appropriate corrective action. For example, specific relief might include, but is not limited to, placement in the next available education or training program of a comparable nature or the development of an individualized training opportunity. The appropriate bureau or office head, or his/her designee, shall take all necessary steps to ensure that any corrective or remedial action ordered by the Director, Office of Civil Rights is fully and effectively implemented in a timely manner. The EO does not authorize monetary relief to the complainant as a form of remedial or corrective action.

B. Disciplinary Action. Upon review of an investigative report that indicates noncompliance with the requirements of the EO, the Director, Office of Civil Rights may determine that disciplinary actions are warranted. The bureau or office head is responsible for the imposition of such actions. In all cases in which the Director, Office of Civil Rights makes a

finding of discrimination or noncompliance with the requirements of the EO, the complaint file shall be forwarded to the relevant bureau or office head for determination of appropriate disciplinary action. All employees, including supervisors and managers have procedural and due process rights when faced with the prospect of disciplinary and adverse actions. Any action taken to discipline an employee, including removal, must be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act of 1978, Public Law No. 95-454, 92 Stat. 1111.

8.10 Withdrawal. Prior to issuing a final agency decision, the bureau or office and/or the complainant may resolve the complaint at anytime. A complainant also may withdraw his/her complaint, in writing, at any time.

8.11 Alternative Dispute Resolution (ADR). The complainant may choose to participate in an ADR process prior to and after filing a complaint. Participation in ADR is voluntary. Once a complainant accepts the option of entering into the ADR process, management is required to enter into good faith discussions to resolve the dispute. The Department's Office of Collaborative Action and Dispute Resolution is available to provide ADR assistance. If the ADR process does not result in an informal resolution of the complaint, the complainant still has the right to continue the complaint under the EO.

8.12 Settlement Agreements. All parties to a settlement must document the terms of the agreement in writing. The Departmental official authorized to take corrective action in the federally conducted education or training program where the discrimination occurred must sign the settlement agreement along with the complainant. The Director, Office of Civil Rights and the bureau or office head responsible for the office where the discrimination occurred will be responsible for monitoring the civil rights compliance posture of the respondent of the settled complaint.

8.13 Reprisal. No person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the EO or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under the EO. Such practices are strictly prohibited by the Department. Any person may bring a retaliation claim under the EO if the person believes that he/she has been retaliated against for participating in any activity protected under the EO.

8.14 Appeal Rights. Appeal rights to the complainant will accompany all final agency decisions, regardless of the disposition.

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