



DEFENSE
HEALTH AGENCY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
HEALTH AFFAIRS

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DEC 10 2015

MEMORANDUM FOR ALL DEFENSE HEALTH AGENCY EMPLOYEES

SUBJECT: Right to File a Complaint of Discrimination Policy

The Defense Health Agency (DHA) Equal Opportunity and Diversity Management (EODM) Complaints Program provides employees, former employees, and applicants for employment with a process for counseling, filing, processing, and resolving complaints of discrimination. This includes contractor employees. As such, they are entitled to initiate a complaint when they believe they have been discriminated against based on race, color, religion, sex (including pregnancy, gender lesbian, gay, bisexual, transgender (LGBT)), national origin, age, disability (physical/mental), genetic information, and/or reprisal for opposing discrimination or participation in the equal employment opportunity (EEO) process. Also, they may have a right to participate in alternative dispute resolution (ADR) through mediation. Additionally, if designated in writing, an attorney, or representative may file on behalf of the complainant.

Before a complaint can be filed, the complainant must present the matter(s) to an EODM official or counselor to seek information on the process, or to actually begin the pre-complaint process, as part of an informational inquiry. Once the inquiry is complete, using DHA Form 28-Information Inquiry Summary, and the individual decides to proceed to the pre-complaint process, a determination will be made as to the proper venue to use to address concerns and an assignment of an EEO counselor will be made.

The first phase of the EEO complaint process is referred to as the "pre-complaint" process (Counseling), which is set into motion when an individual contacts an EODM official or counselor and clearly exhibits intent to proceed with the process. Matters must be presented within **45 calendar days** from the date the event occurred. At this point, an EEO counselor (staff or contractor) will be assigned to conduct an informal inquiry for the complainant. The pre-complaint process is set up to take **30 calendar days**, with an additional **60 calendar days**, if ADR is used.

If, during the pre-complaint intake, the complainant indicates an interest in participating in ADR, the EODM official must coordinate with management to determine if ADR will be offered. If ADR is acceptable, the process will begin to resolve the dispute. Election of ADR will extend the pre-complaint processing period up to **90 calendar days** from the date of initial contact. During the ADR process, a mediator (outside DHA) will be provided for both parties to address the dispute and work towards a resolution. If the dispute is resolved through the use of ADR, the resolution will be documented in the form of a Negotiated Settlement Agreement (NSA), and implemented. If the dispute is not resolved, the EEO counselor will conduct a final interview and issue a Notice of Right to File (NRF) a Complaint of Discrimination.

The pre-complaint inquiry is designed to reach a resolution of the matters identified by the complainant under traditional counseling. During the inquiry, all personnel will cooperate with and support the EEO counselor in the performance of counseling duties. The EEO counselor will be free from restraint, interference, harassment, coercion, discrimination, or reprisal in connection with counselor duties. If resolution is not reached, the EEO counselor will conduct a final interview and issue the NRF which provides the complainant with notice of **15 calendar days** to respond and file a formal complaint on DHA Form 30-Formal Complaint of Discrimination, to initiate the “formal” second phase of the EEO complaint process.

If you require more information regarding the EEO complaint process, or would like to discuss an EEO issue, please contact Mr. Gregory S. Byard, DHA EODM Director. Mr. Byard may be reached at (703) 681-4029, or via email at Gregory.s.byard.civ@mail.mil.



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Director