

Programs

AFFIRMATIVE EMPLOYMENT AND EQUAL OPPORTUNITY PROGRAM

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1. REFERENCES

a. Department of Defense (DoD) Directive 1440.1, " Civilian Equal Employment Opportunity (EEO) Program."

b. Title 29, U.S. Code of Federal Regulations (CFR) Chapter XIV, Sub-part 1613, 1 July 1989.

c. Federal Personnel Manual (FPM) 713-37, "Documenting EEO Collateral Duties in Official Position Descriptions."

2. PURPOSE. This regulation implements references 1a and 1b and establishes the Affirmative Employment and Equal Opportunity (AEEO) Program for employees within the Defense Investigative Service (DIS).

3. POLICY. It is the policy of the United States Government and the DIS to provide equal opportunity in employment for all persons, to prohibit

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discrimination in employment based on race, color, religion, sex, national origin, age, or physical or mental handicap, and to promote the full realization of equal employment opportunity through a continuing affirmative action program. This policy is endorsed by the Director, DIS, and applies to all aspects of personnel management throughout the agency.

4. APPLICABILITY. This regulation applies to all DIS employees, former employees, and applicants for employment.

5. DEFINITIONS

a. Activity. A DIS element that has responsibility for the administration of employees and the responsibility for appointing Equal Employment Opportunity (EEO) Officials, i.e., DIS Headquarters; Regional Headquarters Offices including field elements; the Personnel Investigations Center (PIC); and the Defense Industrial Security Clearance Office (DISCO). For purposes of this regulation, the Office of Industrial Security International shall be considered an element of DIS Headquarters.

b. African American Program Manager (AAPM). An employee appointed to enhance the employment, training, and advancement of African Americans.

c. Agent of the Class. An employee who acts for a class of complainants during the processing of a class complaint.

d. Barrier Breaker Program Manager (BBPM). An employee appointed to enhance the employment, training, and advancement of persons with disabilities.

e. Class. A group of DIS employees, former employees, and/or applicants for employment, on whose behalf it is alleged that they have been, are being, or may be adversely affected, by an Agency personnel management policy or practice which the Agency has authority to rescind or modify, and which discriminates on the basis of their common race, color, religion, sex, national origin, age, or physical or mental handicap.

f. Class Complaint. A written complaint of discrimination filed on behalf of a class by the agent of the class.

g. Complainant. An employee, former employee, or applicant for employment who presents a written complaint of discrimination.

h. Director of Equal Employment Opportunity (DEEO). An official appointed by the Director, DIS, who is under his direct supervision, and who is responsible for administration of the DIS AEEO Program.

i. Directors of DIS Activities: Regional Directors; the Director, PIC; and the Director, DISCO.

j. Discrimination. Disparate treatment based on race, color, religion, sex, national origin, age, or physical or mental handicap.

k. Equal Employment Opportunity (EEO) Counselor. An employee who has been appointed and trained to assist and advise employees, former employees, or applicants for employment, who believe they have been discriminated against because of race, color, religion, sex, national origin, age, or physical or mental handicap.

l. Equal Employment Opportunity (EEO) Official. EEO Officers; EEO Counselors; Federal Women's Program Managers (FWPMs); Hispanic Program Managers (HPMs); African American Program Managers (AAPMs); Barrier Breaker Program Managers (BBPMs); and Other Protected Group Program Managers (OPGPMs).

m. Federal Women's Program Manager (FWPM). An employee appointed to enhance the employment, training, and advancement of women.

n. Hispanic Program Manager (HPM). An employee appointed to enhance the employment, training, and advancement of Hispanics.

o. Other Protected Groups Program Manager (OPGPM). An employee appointed to enhance the employment, training, and advancement of Asian Americans, Pacific Islanders, American Indians, and Alaskan Natives.

p. Senior Manager. An employee who manages a program within DIS and is responsible for hiring, promoting, assigning, rewarding, training, or disciplining other employees. Within the Regions, senior managers are the Directors of Investigations and Directors of Industrial Security.

q. Special Case Investigations Coordinator (SCIC). An employee who assigns senior investigators to conduct EEO investigations after authorization to conduct such an investigation is granted by the Director, DIS.

r. Special Emphasis Program Council (SEPC). A body of employees comprised of the protected group program managers within an activity.

s. Supervisor. An employee who supervises other employees within DIS.

6. RESPONSIBILITIES

a. The Director, DIS, shall be responsible for:

(1) The execution of Federal Government EEO policies within DIS to include establishing and maintaining a continuing AEEO Program designed to promote equal opportunity in every aspect of the agency's personnel policies and practices in employment, development, advancement, and treatment of employees.

(2) The provision of sufficient resources to administer the AEEO Program in a positive and effective manner and assure that the persons responsible for carrying out the Program effectively execute their responsibilities.

(3) The conduct of a continuing campaign to eradicate every form of prejudice or discrimination based upon race, color, religion, sex, national origin, age, or physical or mental handicap, from the agency's personnel

policies, practices, and working conditions, to include taking appropriate action against employees who engage in discriminatory practices.

(4) The establishment of an SEPC and the collateral assignment of EEO Officials at DIS Headquarters. The Director, DIS, shall ensure that the names, locations, and telephone numbers of EEO Officials at DIS Headquarters are published.

(5) The issuance of his or her personal affirmation of support for the AEEO Program.

(6) The availability to all personnel of applicable EEO reports, this regulation, and other EEO issuances.

b. The DEEO reports directly to the Director, DIS, and shall serve as the program manager and principal advisor to the Director on DIS-wide AEEO program matters. The DEEO shall recommend and develop the DIS-wide AEEO policy, procedures, plans, instructions, guidelines, and programs. The DEEO shall provide guidance to EEO Officials consistent with implementation procedures promulgated by the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (OPM), and the DoD. In furtherance of the above duties, the DEEO shall:

(1) Develop, administer, monitor, and evaluate the agency's EEO complaint processing system. Process individual and class action complaints forwarded to DIS Headquarters and provide technical recommendations to the Director, DIS, for adjudication of complaints.

(2) Develop the agency's Affirmative Employment Plan (AEP).

(3) Develop and administer a comprehensive AEEO program evaluation system for the agency that includes analyses of required narrative and statistical reports, comparisons of objectives and actual accomplishments, and identification of program status, deficiencies, and areas requiring improvement.

(4) Participate in planning and conducting personnel management evaluations covering the AEEO program DIS-wide.

(5) Identify, define, analyze, and recommend solutions for systemic EEO problems within the agency.

(6) Serve as the DIS representative on EEO related matters including consultation with other agencies' EEO officials, DoD, EEOC, OPM, civic organizations, and the private sector.

(7) Provide EEO and sexual harassment training. EEO training is mandatory for all DIS managers and supervisors. Training regarding sexual harassment is mandatory for all DIS employees. The scope of training will be determined jointly by the Director, DIS, and the DEEO based on the results of the annual assessment of the agency's AEEO program.

(8) Provide assistance in the development of EEO performance elements to members of the Senior Executive Service (SES), senior managers, and supervisors.

(9) Make recommendations for the establishment of Upward Mobility Positions throughout DIS.

(10) Provide an annual estimate of a budget for the DIS-wide AEEO Program.

(11) Provide EEO reports to the EEOC, OPM, Office of the Secretary of Defense and other organizations as required.

(12) In conjunction with the SEPC members, plan programs for special observances that particularly affect minorities, women, and persons with disabilities. Examples of special observances include Dr. Martin Luther King Jr.'s Birthday, African American History Month, National Women's History Month, Women's Equality Day, Hispanic Heritage Week, and National Disability Employment Awareness Month.

c. Directors of DIS Activities shall:

(1) Issue and publicize personal affirmations of their support for the AEEO Program.

(2) Appoint the EEO Officials within their activity and submit their names to the DEEO.

(3) Establish an SEPC within their activity.

(4) Publicize to employees the names, telephone numbers, and locations of the activity's EEO Officials.

(5) Make available to all personnel a copy of applicable EEO reports, this regulation, and other EEO issuances regarding the EEO Program.

d. Senior managers and supervisors shall:

(1) Review the work force profile of their activities as to the composition of race, sex, and grade levels.

(2) Ensure that the criteria upon which they rely when they recommend or decide upon hiring, promoting, assigning, rewarding, training, or disciplining employees does not have an adverse impact upon members of the protected groups.

(3) Ensure or recommend that members of the protected groups are appointed to serve on panels and boards.

(4) Be sensitive to the concept of affirmative employment action in order to correct the imbalance in representation by members of the protected groups when staffing positions.

(5) Have EEO described as a responsibility in their position description and reflected in their performance elements and standards.

(6) Attend EEO training, as directed.

e. DIS Headquarters personnel office shall serve as the coordinator in collecting and maintaining Race and National Origin statistics in accordance with OPM guidelines. Consolidated reports shall be provided to OPM on an annual basis.

f. DIS Headquarters, Region, and Center personnel offices shall:

(1) In conjunction with the DEEO, evaluate personnel actions to ensure that they conform to the policies outlined in this regulation. Promptly initiate action to correct any discriminating or potentially discriminating practices.

(2) Amend position descriptions of EEO Officials to reflect the assignment of collateral duties.

(3) Preserve records, as requested by the DEEO, which pertain to a discrimination complaint.

g. The Federal Women's Program Managers (FWPM)

(1) The FWPM is the principal advisor to the Director, DIS, or the Director of a DIS Activity, as appropriate, and the DEEO on matters affecting the employment and advancement of women.

(2) The FWPM's responsibilities are a collateral duty assignment and the FWPM functions under the technical guidance of the DEEO. It is the responsibility of the FWPM to:

(a) Participate and provide input in the development of the AEP and recommend changes, as appropriate, based on consultation with and input from managers and other EEO Officials.

(b) Provide leadership in the development and accomplishment of an effective Federal Women's Program.

(c) Assist in the development of training programs and ensure that such programs respond to the identified problems and/or concerns of women.

(d) Serve as the focal point on equal employment opportunity for women, including special recruitment sources for women.

h. The Hispanic Program Managers (HPM)

(1) The HPM is the principal advisor to the Director, DIS, or the Director of a DIS Activity, as appropriate, and the DEEO on all matters affecting the employment and advancement of Hispanics.

(2) The HPM's responsibilities are a collateral duty assignment and the HPM functions under the technical guidance of the DEEO. It is the responsibility of the HPM to:

(a) Participate and provide input in the development of the AEP and recommend changes, as appropriate, based on consultation with and the input from managers and other EEO Officials.

(b) Provide leadership in the development and accomplishment of an effective Hispanic Employment Program.

(c) Assist in the development of training programs and ensure that such programs respond to the identified problems and/or concerns of Hispanics.

(d) Serve as the focal point on equal employment opportunity for Hispanics, including special recruitment sources for Hispanics.

h. The African American Program Managers (AAPM)

(1) The AAPM is the principal advisor to the Director, DIS, or the Director of a DIS Activity, as appropriate, and the DEEO on all matters affecting the employment and advancement of African Americans.

(2) The AAPM's responsibilities are a collateral duty assignment and the AAPM functions under the technical guidance of the DEEO. It is the responsibility of the AAPM to:

(a) Participate and provide input in the development of the AEP and recommend changes, as appropriate, based on consultation with and input from managers and other EEO Officials.

(b) Provide leadership in the development and accomplishment of an effective African American Program.

(c) Assist in the development of training programs and ensure that such programs respond to the identified problems and/or concerns of African Americans.

(d) Serve as the focal point on equal employment opportunity for African Americans, including special recruitment sources for African Americans.

i. The Barrier Breaker Program Managers (BBPM)

(1) The BBPM is the principal advisor to the Director, DIS, or the Director of a DIS Activity, as appropriate, and the DEEO on all matters affecting the employment and advancement of persons with disabilities.

(2) The BBPM's responsibilities are a collateral duty assignment and the BBPM functions under the technical guidance of the DEEO. It is the responsibility of the BBPM to:

(a) Participate and provide input in the development of the AEP and recommend changes, as appropriate, based on consultation with and input from managers and other EEO Officials.

(b) Provide leadership in the development and accomplishment of an effective Handicapped Individual Program.

(c) Assist in the development of training programs and ensure that such programs respond to the identified problems and/or concerns of persons with disabilities.

(d) Serve as the focal point on equal employment opportunity for persons with disabilities, including special recruitment sources for the disabled.

j. The Other Protected Groups Program Managers (OPGPM).

(1) The OPGPM is the principal advisor to the Director, DIS, or the Director of a DIS Activity, as appropriate, and the DEEO on all matters affecting the employment and advancement of Asian Americans, Pacific Islanders, American Indians, and Alaskan Natives.

(2) The OPGPM's responsibilities are a collateral duty assignment and the OPGPM functions under the technical guidance of the DEEO. It is the responsibility of the OPGPM to:

(a) Participate and provide input in the development of the AEP and recommend changes, as appropriate, based on consultation with and input from managers and other EEO Officials.

(b) Provide leadership in the development and accomplishment of effective programs for Asian Americans, Pacific Islanders, American Indians, and Alaskan Natives.

(c) Assist in the development of training programs and ensure that such programs respond to the identified problems and/or concerns of Asian Americans, Pacific Islanders, American Indians and Alaskan Natives.

(d) Serve as the focal point on equal employment opportunity for Asian Americans, Pacific Islanders, American Indians, and Alaskan Natives, including special recruitment sources.

k. The Special Emphasis Program Councils (SEPC). The SEPC is a council comprised of the various Special Emphasis Program Managers. The Program Managers are a representative sample of employees and managers within the activity. In addition, a representative from the activity's personnel office and an EEO Official of the activity shall serve in an advisory capacity. The members of the committee shall select a chairperson. The SEPC shall:

(1) Make recommendations for the development and implementation of new program efforts.

(2) Assist with EEO program evaluation.

(3) Serve as a contact for employees to express issues and concerns.

l. Equal Employment Opportunity (EEO) Officers. The EEO Officer is appointed by the Director, DIS, or the Director of a DIS Activity, as

appropriate. The EEO Officer's responsibilities are a collateral duty assignment and the EEO Officer functions under the technical guidance of the DEEO. It is the responsibility of the EEO Officer to:

- (1) Promote the AEEO Program.
- (2) Provide advice to the senior management official at their respective activities concerning the development of AEPs.
- (3) Oversee the activities of the EEO Counselors within their respective activity.
- (4) Serve as the point of contact between management and the DEEO on the processing status of specific complaints.
- (5) Complete DIS Form 71, "Accounting Schedule for Equal Opportunity Activities," as appropriate, and forward to the DEEO, along with those completed by the activity's EEO Counselors, no later than the seventh working day after the end of each month.

m. Equal Employment Opportunity (EEO) Counselors. The EEO Counselor is appointed by the Director, DIS, or the Director of a DIS Activity, as appropriate. The EEO Counselor's responsibilities are a collateral duty assignment and the EEO Counselor functions under the technical guidance and direction of the EEO Officer. EEO Counselors shall:

- (1) Receive training as appropriate.
- (2) Be available to DIS employees, former employees, or applicants for employment within their respective activity to listen to allegations concerning treatment or policies and practices of the agency which are perceived to be discriminatory.
- (3) Advise employees, former employees, or applicants for employment, as needed, concerning their rights under the EEO complaint system and the various time limitations involved.
- (4) After conferring with the EEO officer within their activity, seek an informal resolution to matters that give rise to allegations of discrimination. In most cases, consultation with the office of the DEEO shall not be necessary. However, when an informal resolution is tentatively reached between the aggrieved party and the most senior management official at a DIS activity, the proposed resolution shall be forwarded to the DEEO for technical review and to the DIS Office of General Counsel for legal review.
- (5) Perform the duties of EEO Counselor in complaint processing as outlined in this regulation and procedural guidance letters issued by the Director, DIS.
- (6) Neither attempt to restrain the complainant from filing nor encourage the complainant to file a complaint of discrimination (counselors will be objective).
- (7) Complete DIS Form 71, as appropriate, and forward to the EEO Officer on the last working day of each month.

7. PROCEDURES FOR SELECTING/TERMINATING COLLATERAL DUTY EEO OFFICIALS

a. Employees who wish to serve as collateral duty EEO Officials, must apply when the position is announced by the Director, DIS, or the Director of a DIS Activity, as appropriate.

b. Employees who are appointed to EEO collateral duty assignments should meet the guidelines outlined in FPM Letter 713-37 (reference 1c), for collateral assignments involving EEO duties.

c. The appointing officials will be the Director, DIS, or the Director of a DIS Activity, as appropriate.

d. Members of the SEPC may be appointed by the Director, DIS, or the Director of a DIS Activity, as appropriate, without using the procedure outlined in 7a above.

e. The appointment of collateral duty EEO officials may be terminated by the appointing official at any time for cause.

8. INDIVIDUAL COMPLAINTS

a. Pre-Complaint Processing:

(1) Any person who believes he or she has been discriminated against on the basis of race, color, religion, sex, national origin, age, or physical or mental handicap shall consult with an EEO Counselor within 30 calendar days of the date the alleged discriminatory event occurred; or within 30 calendar days of the effective date of the alleged discriminatory personnel action, or within 30 calendar days of the date the aggrieved person knew or reasonably should have known of the alleged discriminatory event or personnel action.

(2) The EEO Counselor will make whatever inquiry he or she believes necessary into the matter; will seek a solution on an informal basis; will counsel the aggrieved person concerning the issues involved; will keep a record of the counseling activities through completion of DIS Form 196, "EEO Counselor Report on Pre-complaint Processing," so that he or she may periodically brief EEO officials on those activities; and, when advised that a complaint of discrimination has been accepted from an aggrieved person, will submit a written report of the informal proceedings to the DEEO, with copy to the aggrieved person, summarizing the Counselor's actions and advice to the aggrieved person and the agency concerning the issues in the matter.

(3) The EEO Counselor shall, to the extent practicable, conduct the final interview with the aggrieved person within 21 calendar days after the date on which the matter was brought to the Counselor's attention by the aggrieved person.

(4) If the matter has not been resolved to the satisfaction of the aggrieved person within 21 calendar days, that person shall be informed in writing via certified mail or hand receipt, as appropriate, of his or her

right to file a formal complaint of discrimination. The written notice shall inform the complainant that:

(a) He or she may file a formal complaint of discrimination at any time up to 15 calendar days after receipt of the notice.

(b) He or she must inform the agency immediately if counsel is retained or any other representative is employed.

(5) The EEO Counselor shall not reveal the identity of an aggrieved person who has consulted the Counselor unless the aggrieved person has authorized the Counselor to do so or until the agency has accepted a formal complaint of discrimination from that person.

(6) The EEO Counselors shall be given full cooperation by all personnel in the performance of their counseling duties. Moreover, the EEO Counselor shall be free from restraint, interference, coercion, discrimination, or reprisal in connection with the performance of his or her duties.

b. Filing and Presentation of Individual Complaints:

(1) A formal complaint of discrimination shall be submitted in writing and shall be signed by the complainant. The complaint may be delivered in person or by mail by either the complainant or his or her representative.

(2) Complaints will not be accepted for processing unless:

(a) The complainant brought the matter causing him or her to believe he or she was discriminated against to the attention of an EEO Counselor within 30 calendar days of the events identified in 8a(1) above.

(b) The written complaint of discrimination is submitted to an appropriate agency official, as identified below, within 15 calendar days of his or her final interview with the EEO Counselor.

(3) The appropriate agency officials to receive complaints of discrimination are the:

(a) Director, DIS.

(b) DEEO, DIS.

(c) Federal Women's Program Manager, DIS Headquarters.

(d) DIS Headquarters, Regional, and Center EEO Officers.

(4) The agency official who receives the complaint shall transmit it to the DEEO, as appropriate, who shall acknowledge its receipt within 10 working days via certified mail. The letter acknowledging receipt will advise the complainant and his or her representative of his or her administrative rights, and his or her right to file a civil action, as set forth below, together with the time limits imposed on the exercise of these rights.

(5) A complaint shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the appropriate agency official as identified above.

c. Action on Individual Complaints. The DEEO shall:

(1) Reject a complaint which was not filed in a timely manner.

(2) Reject those allegations in a complaint which set forth identical matters to those contained in a previous complaint filed by the same individual or which are not based on discrimination on account of race, color, religion, sex, national origin, age, or physical or mental handicap.

(3) Cancel a complaint because of the complainant's failure to prosecute the complaint.

(4) Transmit his or her decision to reject or cancel the complaint by letter to the complainant and his or her representative within 10 working days via certified mail. The letter shall inform the complainant of his or her right to appeal to the EEOC and of the time limit within which the appeal may be submitted and of his or her right to file a civil action.

(5) If the complaint is not rejected or cancelled, provide for prompt investigation of the complaint.

d. Investigation of Individual Complaints:

(1) The SCIC, after receiving authorization from the Director, DIS, shall arrange for the assignment of a person to investigate the complaint. The person so assigned shall:

(a) Occupy a position in the agency, if possible, which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency within which the complaint arose. Personnel Management Specialists who have investigative skills, experience, and training may investigate EEO complaints when members of the personnel office are not directly involved in the complaint.

(b) Be authorized to administer oaths and shall require that all witness statements are provided under oath or affirmation and are obtained without a pledge of confidentiality.

(c) Thoroughly review the circumstances under which the alleged discrimination occurred and the treatment of other employees in the organizational segment in which the alleged discrimination occurred.

(d) Collect information needed for analysis of the utilization of members of the complainant's protected group as compared to the utilization of persons outside the complainant's protected group, record this data in statistical form, and enter it into the investigative file.

(e) Be provided with written authorization to investigate all aspects of discrimination, to require cooperation from all employees in the conduct of the investigation, and to require agency employees having any knowledge of the matter complained of to testify under oath or affirmation without a pledge of confidentiality.

(2) The investigator shall submit his or her report (the original and one copy) to the SCIC no later than 30 calendar days after the date of authorization of the investigation. The SCIC will immediately forward the investigative file to the DEEO. The investigative file shall be organized to show the relevance to the complaint or the general environment of the documents contained in it and shall include: the letter of authorization; the Counselor's report(s) (DIS Form 196); a copy of the complaint; statements of the complainant, the responding management official, and of the witnesses; and copies of or extracts from the pertinent records, policy issuances, or regulations of the agency.

e. Adjustment of Complaint and Offer of Hearing:

(1) The DEEO shall furnish a copy of the investigative file to the complainant and the complainant's representative as soon as possible after receiving it from the investigator, but no later than five working days after receipt.

(2) The DEEO, shall make himself or herself available at that time to facilitate communications, as appropriate, between DIS management at the activity and the complainant. If an adjustment of the complaint can be agreed upon, the DEEO, shall reduce the agreement to writing, coordinate the agreement with the Office of the General Counsel, make it a part of the complaint file, and furnish a copy of the adjustment to the complainant and his or her representative via certified letter no later than ten working days after an oral agreement is reached. If an adjustment of the complaint is not arrived at, the DEEO, shall notify the complainant and his or her representative of the proposed disposition of the complaint; of his or her right to a hearing if requested within 15 calendar days of receipt of the notice of proposed disposition; and of his or her right to a decision by the Director, DIS, without a hearing. This will be accomplished via certified mail ten working days after the final attempt at adjustment of the complaint. The proposed disposition will be coordinated, as appropriate, prior to dispatch to the complainant. If the complainant does not request a hearing within 15 calendar days of the receipt of the notice of proposed disposition, the DEEO shall adopt the proposed disposition as the final agency disposition, subject nevertheless to the complainant's right to appeal to the EEOC and to file a civil action. The final disposition shall be dispatched to the complainant and to his or her representative via certified mail no later than 5 working days after expiration of the time frame to request a hearing.

f. Hearing:

(1) If the complainant exercises his or her right to a hearing in connection with the disposition of the complaint, it shall be accomplished as provided for in 29 CFR 1613.218 (reference 1b).

(2) If a hearing is conducted as provided above, the decision of the Director, DIS, shall be made in accordance with 29 CFR 1613.221 (reference 1b).

9. CLASS COMPLAINTS

a. Pre-complaint Processing. Class complaints shall be processed in the same manner as individual complaints.

b. Filing and Presentation of a Class Complaint:

(1) A formal class complaint must be submitted in writing by the agent of the class, or his or her representative, and be signed by the agent.

(2) The class complaint must allege that:

(a) The class is so numerous that a consolidated complaint of the members of the class is impractical.

(b) There are common questions of fact and law.

(c) The claims of the agent of the class are typical of the class.

(d) The agent of the class, or his or her representative, will fairly and adequately protect the interest of the class.

(3) The complaint shall set forth specifically and in detail:

(a) A description of the agency personnel management policy or practice giving rise to the complaints.

(b) A description of the resultant personnel action or matter adversely affecting the agent of the class.

(4) The complaint must be filed no later than 15 calendar days after the agent's receipt of the notice of final interview with the counselor.

(5) Class complaints of discrimination may only be filed with the:

(a) Director, DIS.

(b) DEEO, DIS.

(6) A complaint shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Director, DIS, or the DEEO, DIS, and shall be forwarded to the EEOC within 10 calendar days.

(7) Formal class complaints of discrimination are acted upon in accordance with regulations published by the EEOC.

10. PHYSICAL OR MENTAL HANDICAP AND AGE

a. The terms "handicapped person," "qualified handicapped person," "persons with disabilities," and "physical or mental impairment" shall have the meaning as stated in the 29 CFR 1613.702 (reference 1b).

b. Individual complaints of discrimination based on handicap or age shall be processed in the manner prescribed in paragraph 7 of this regulation.

c. Class complaints of discrimination based on handicap or age shall be processed in the manner prescribed in paragraph 8 of this regulation.

11. RIGHT TO FILE A CIVIL ACTION; RIGHT TO BE REPRESENTED; AND ATTORNEY'S FEES

a. Title 29, CFR, Chapter XIV, Sub-part 1613 (reference 1b) provides for the right to file a civil action. The specific rights vary with the stage of the proceedings. These rights shall be communicated to complainants and their representatives at such time as the rights become effective for individual proceedings.

b. At any stage in the presentation of a complaint (as described in paragraphs 7 and 8 of this regulation), including the counseling stage, the complainant shall have the right to be accompanied, represented and advised by a representative of his or her own choosing. If the complainant is an employee of the agency, he or she shall have a reasonable amount of official time to present his or her complaint if he or she is otherwise in an active duty status. If the complainant is an employee of the agency and designates another employee of the agency as his or her representative, the representative shall have a reasonable amount of official time, if he or she is otherwise in an active duty status, to present the complaint.


c. Complainants shall have the right to attorney's fees, costs, and other remedial actions to the same extent and subject to the same conditions as provided in 29 CFR 1613.271 (reference 1b).

12. FREEDOM FROM REPRISAL OR INTERFERENCE. Complainants, their representatives, and witnesses shall be free from restraint, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage, or at any time thereafter.

13. INFORMATION REQUIREMENTS. The following forms are used in connection with this regulation:

a. DIS Form 196, "EEO Counselor Report on Precomplaint Counseling" (Enclosure 1).

b. DIS Form 71, "Accounting Schedules for EEO Activities" (Enclosure 2).


WILLARD J. ISAACS, JR.
Special Assistant to
the Director

2 Enclosures