

**CHAPTER 20**

**EQUAL**

**EMPLOYMENT**

**OPPORTUNITY**

NOTE: This chapter should be read in conjunction with local activity instructions and with any negotiated agreements between your activity and an exclusively recognized labor organization. Contract language will generally take precedence over conflicting provisions in this manual. Areas of uncertainty should be discussed with the Human Resources Office.

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## **EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

### **1. Department of the Navy (DON) POLICY**

- a. Ensure equal opportunity in employment, training, advancement and treatment of employees, former employees, and applicants for employment regardless of race, color, religion, gender, sexual orientation, national origin, age, physical or mental disability, or prior equal employment opportunity (EEO) complaint involvement and eliminate illegal discrimination in all aspects of federal employment.
- b. Persons involved in presenting or processing a discrimination complaint will be free from restraint, interference, coercion, harassment, discrimination, and reprisal.
- c. Create and maintain a discrimination-free work environment
  - Clearly communicating the principles of EEO
  - Build a diverse workforce
  - Provide development opportunities for all
  - Prevent or stop discriminatory practices

### **2. EEO MAJOR PROGRAM AREAS**

- Affirmative Employment Program
- Discrimination Complaint Program

### **3. DEPARTMENT OF THE NAVY AUTHORIZED SPECIAL PROGRAMS**

- Federal Women's Program
- Hispanic Employment Program
- Black Employment Program
- Asian/Pacific Islander Employment Program
- Native American/Alaska Native Program
- Persons with Disabilities Employment Program
- Affirmative Employment Program
- Disabled Veterans Programs
- Federal Equal Opportunity Recruitment Program (FEORP)

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## 4. EEO PROGRAM INITIATIVES

- **Increase targeted disabled**
- Increase representation of Hispanics.
- Increase the number of women and minorities in high grades and Senior Executive Service.
- Increase the number of women in skilled blue-collar positions.
- Total eradication of sexual harassment in the workplace.
- Resolve at least 90% of discrimination complaints during the informal counseling stage.
- Recruit, develop, manage and retain a diverse workforce through representation of a variety of programs.

## 5. RESPONSIBILITIES



### a. **Equal Employment Opportunity Officer (EEOO)**

- Typically the head of the activity
- Has the primary responsibility for assuring the implementation of and compliance with EEO program objectives and goals.
- Allocates resources and program administration to achieve DON objectives.

### b. **Deputy Equal Employment Opportunity Officer (DEEOO)**

- Human Resources Director who functions as the principle program manger and technical advisor to the EEOO.
- Participates in the development and review of present and proposed broad guidelines for policies affecting the civilian workforce.
- Manages the EEO complaint process for the activity.
- The deputy functions may be delegated to the HR Site Managers.

### c. **EEO Counselor**

- Impartial
- Provide information on rights, responsibilities and procedures
- Fact-finding
- Facilitate early resolution at the lowest level

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### **d. Senior Management Officials**

- Determine staffing requirements and plan staffing actions consistent with the Affirmative Employment Plans (AEP) and Federal Equal Opportunity Recruitment Program (FEORP)
- Ensure that their actions are free from discrimination; ensure that all managers and supervisors are knowledgeable in their EEO responsibilities and are evaluated on how well they handle those responsibilities.

### **e. Managers and Supervisors**

- Supervisor's role active, not passive.
- Ensure a workplace free from a hostile, discriminatory, or offensive environment, including sexual harassment taking immediate steps to correct such situations should they occur.
- Monitor employee conduct and take corrective action as required.
- Cooperate with EEO program officials, counselors and investigators and designated management representatives in resolving claims of discrimination.

### **f. Employees**

- Ensure that work and work-related activities are consistent with the principles of EEO and the policies of the particular naval activity;
- Bring to the attention of supervisors and managers practices which may be discriminatory.
- Tasked with cooperating with EEO program officials, counselors, agency representatives, and investigators.

## AFFIRMATIVE EMPLOYMENT PROGRAM (AEP)

### 1. DEFINITIONS

#### **CIVILIAN LABOR FORCE (CLF)**

Persons, 16 years of age or over, excluding those in the Armed Forces, who are employed or seeking employment. For comparison purposes, the CLF is usually the local metropolitan commuting area for most occupations, but may be required to be the entire U.S. for other occupations (e.g., engineers).

#### **CONSPICUOUS ABSENCE**

Exists when a specific EEO group is nonexistent in a particular occupation or grade level in the work force (zero representation).

#### **MANIFEST IMBALANCE**

Exists when representation of a specific EEO group is at 50% or less of the CLF.

#### **PARITY**

Achieved when the representation equals or exceeds the CLF for a specified EEO group.

#### **PATCOBs**

Government-wide occupational groups. All Federal government jobs fit into one of these groups:

- P – Professional
- A – Administrative
- T – Technical
- C – Clerical
- O – Other (e.g., firefighters, police)
- B – Blue Collar

### 2. BACKGROUND

- a. The Affirmative Employment Program (AEP) is a part of agency equal employment opportunity plans required by the Civil Rights Act of 1964, the Civil Service Reform Act (CSRA) of 1978, and associated Executive Orders.
- b. The CSRA states that “it is the policy of the United States ... to provide ... a Federal workforce reflective of the Nation’s diversity ... ” and established in law, as the first merit principle, that recruitment should be designed to achieve a Federal workforce from “all segments of society”.
- c. Also in 1978, the *Uniform Guidelines on Employee Selection Procedures* were adopted jointly by the Dept. of Justice, the Office of Personnel Management (OPM), and the Equal Employment Opportunity Commission (EEOC). These Guidelines defined criteria for determining under representation of specified racial, ethnic, or sex groups in an organization’s workforce. If an organization’s workforce is not representative of “all segments of society”, the workforce is under represented, and goals must be established and updated annually to achieve full representation or ‘parity’.

### d. Records

#### 1) Maintained by sex, and by EEO group

#### 2) EEO Groups

- **Blacks** (African Americans)
- **American Indians** (including Alaskan Natives)
- **Asians** (including Pacific Islanders)
- **Hispanic** (including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin or culture regardless of race)
- **Whites** (Caucasians) other than Hispanics
- These categories, except for white males, are called **targeted EEO groups**.

e. AEP principles are codified in 5 CFR 720 and 29 CFR 1614. The programs are administered by EEOC and OPM, with detailed guidance provided by EEOC Management Directive 714. DOD and DON instructions supplement EEOC's guidance.

### f. Plans required by governing law and regulation

- Affirmative Employment Plan for Minorities and Women (**AEPMW**)
- Federal Equal Opportunity Recruitment Program (**FEORP**)
- Disabled Veterans Affirmative Action Program (**DVAAP**)
- Affirmative Employment Program for Persons With Disabilities (**AEPPWD**)

### g. Reports

1) All four plans must be reported on and updated yearly following the change in fiscal years.

#### 2) Report Sections

- An accomplishment report for the fiscal year just completed.
- Plans for the new fiscal year.
- The accomplishments and plans must be based on analyses of the agency's (or activity's) government-wide occupational group (PATCOB) statistics.

### 3. RESPONSIBILITIES



#### a. Navy's Human Resources Service Centers (HRSC)

- Maintain PATCOB and other statistics (e.g. accessions, promotions, separations, training occurrences during the past FY) needed to prepare and update the DON's annual plans
- Update activities and Human Resource Offices (HROs) at least once a year.

#### b. HRSC, HROs, and respective activities

- Review the past year accomplishments and plan new fiscal year personnel activities to address 'manifest imbalances' and 'conspicuous absences' in the representation of targeted groups in their activity workforce.
  - Send narrative input on accomplishments and goals to major claimants which, in turn, consolidate input from all subordinate activities and report to higher echelons and eventually to EEOC (AEPMW and AEPPWD) and OPM (FEORP AND DVAAP).
- c. Annual AEP accomplishment reports and plans are required, or, not required, depending on major claimant guidance and the size of the activity. For example, CINCPACFLT requires AEPs from its field activities/commands that have 100 or more civilian employees, while NAVSEA requires reports from its field activities that have 500 or more civilian employees.

## DISCRIMINATION COMPLAINT SYSTEM

### 1. WHO MAY FILE DISCRIMINATION COMPLAINTS

- Non-appropriated funds employees
- Appropriated funds employees
- Former employees
- Applicants for employment

### 2. WHO MAY NOT FILE DISCRIMINATION COMPLAINTS

- DON contractors
- DON contractor employees
- Applicants for employment with contractors
- Active duty military members

### 3. BASIS FOR FILING A DISCRIMINATION COMPLAINT

- **Race**  
American Indian or Alaskan Native, Asian or Pacific Islander, Black, Hispanic, or White.
- **Color**  
Different skin colors, even if they are of the same race, national origin or ethnic origin.
- **Sex**  
Male or female (includes sexual harassment and pregnancy).
- **National Origin**  
Country of birth, nationality, ancestry, or cultural or ethnic origin.
- **Religion**  
Religious background, religious beliefs, or lack of them, or membership in a religious group.
- **Disabling Condition**  
Physical or mental impairment that substantially limits at least one major life activity, such as walking, seeing, hearing, speaking, learning or breathing.
- **Age**  
An employee or applicant who is 40 years of age or older.
- **Reprisal for Prior EEO Activity**  
Filing or Participation in an EEO case.

## 4. THEORIES OF DISCRIMINATION



### a. Intentional (disparate treatment)

- Most common type of complaint.
- Employee or applicant alleges that he or she is treated less favorably than other employees because of their race, sex, religion, color, national origin, or disability.
- Requires a comparative analysis between the complainant (the one making the complaint) and other similarly situated employees.

### b. Disparate/Adverse Impact

- Alleges systemic discrimination
- Some policy or practice that is neutral on its face has a disproportionate effect on a group, or class, of employees or applicants.
- In these complaints, management must prove a business necessity for the complained of requirement.

### c. Harassment

- Inappropriate or offensive words, actions or materials directed at a person because of that person's race, sex, color, religion, national origin, disability, or sexual orientation.
- When harassment is allowed to continue, it may cause the work environment to become intolerable.
- A hostile work environment is caused when harassment is repeated, severe, and pervasive.
- Employee's use of the EEO complaint process, negotiated grievance procedure, or other dispute resolution process does not fulfill management's obligation to investigate complaints of harassment and take appropriate corrective action.

### **d. Failure to provide reasonable accommodation**

- Complaints concern employees with mental and/or physical disabilities and those employees seeking accommodation for their religious practices
- Not about comparing the treatment of different employees.
- The complainant must prove the need for an accommodation and that there was an accommodation available that would cause the complainant to be able to perform the essential functions of their position or allow the complainant to practice their religious beliefs.
- Accommodation must not result in an undue hardship on the operation of the agency.

## **5. BURDEN OF PROOF**

### **a. Rests with the complainant**

- b. Unlike grievances and MSPB appeals that review both the substance of the claim as well as whether or not management correctly followed procedures, management's errors in carrying out their duties will not cause EEOC to find that an employee has been discriminated against.
- c. Most complaints are reviewed following a three-step process.
  - Complainant must establish a prima facie case. That means membership in a protected class, treatment, different than that of similarly situated people, or in the absence of comparative data, evidence to indicate management's actions were motivated by illegal discrimination.
  - Management is then provided the opportunity to respond to the allegation by providing their reasons for the treatment of the complainant and the similarly situated employees and to respond to any other evidence put forth.
  - The Complainant is then allowed to respond to management's statement and provide any argument or evidence, either direct or circumstantial, that may show management's stated reasons are a pretext for discrimination.

## **6. TYPES OF EEO COMPLAINTS**

### **a. Individual**

An employee, former employee, or applicant who believes they have been discriminated against because of race, color, religion, sex, national origin, age, disabling condition.

### **b. Mixed Case – MSPB and EEO**

- An allegation of discrimination raised by an individual eligible to appeal to the Merit System Protection Board in connection with a personnel action otherwise appealable to the Board.
- The employee must choose between the discrimination complaint process and appealing directly to the Board.
- Regardless of the choice made, the employee's right to a hearing is with the Board only.

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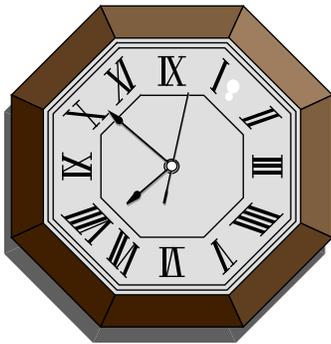
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### c. **Class Action**

Group of employees, former employees, or applicants who, it is alleged, have been or are being adversely affected by an agency personnel management policy or practice that discriminates against the group on the basis of their common race, color, religion, sex, national origin, age, or disability.

## 7. INDIVIDUAL COMPLAINTS

### a. **Discrimination Complaint Process (Informal/Formal Timelines)**



- **Event / Action**
- **45 Days-Contact with EEO Counselor**
- **30 Days-Attempt resolution**
- **15 Days-Employees files written complaint**
- **Acceptance/dismissal of complaint**
- **180 Days-Investigation**
- **30 Days-Request EEOC hearing**
- **180 Days-conduct hearing**
- **Decision**
- **180 Days-File civil action - after formal or 30 days after the final agency decision.**

### b. **Disputant's right to representation**

At every stage of the complaint process (including the counseling stage) the disputant has the right to be accompanied, represented, and advised by a representative of their choice who is uninhibited by conflict of interest or position.

c. Employees in bargaining units may choose to pursue EEO complaints under the negotiated grievance procedure instead of the procedure described here, if provided for in the union contract.

d. See Appendix 20A or [http://cnnw.navy.mil/eo/CNNW\\_EEO\\_COMPLAINT\\_PROCESS\\_CHART.pdf](http://cnnw.navy.mil/eo/CNNW_EEO_COMPLAINT_PROCESS_CHART.pdf) for the full Complaint Process.

## 8. MIXED CASE COMPLAINTS/APPEALS

### a. **Most appealable matters fall into the following categories:**

- Reduction in grade or removal for unacceptable performance.
- removal, reduction in grade or pay, suspension for more than 14 days, or furlough for 30 days or less for cause that will promote the efficiency of the service.
- separation, reduction in grade, or furlough for more than 30 days, when the action was effected because of a reduction in force.

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- reconsideration decision sustaining a negative determination of competence for a general schedule employee.
- disqualification of an employee or applicant because of a suitability determination.

### b. **Election**

- Employees have a right to elect either the EEO Complaint procedure or an MSPB Appeal procedure, **but not both**.
- Contacting an EEO counselor does not constitute an election nor does it change the timeframes required to file at MSPB.
- If the election is the EEO complaint procedure, the complaint is processed the same as a non-mixed case until the appeal.
- See Appendix 20B for Mixed Case Complaint Process.

## 9. CLASS COMPLAINTS

- a. Class complaints for Navy activities serviced by Navy Region Northwest HRO are processed by HRSC-NW.

### b. **Class Complaint**

- A written complaint of discrimination filed on behalf of a class by the agent of the class.
- Alleges that the class is so numerous that a consolidated complaint of the members of the class is impractical.
- Alleges that there are questions of fact common to the class.
- Alleges that the claims of the agent of the class are typical of the claims of the class.
- Alleges that the agent of the class, and, if represented, their representative, will fairly and adequately protect the interests of the class. An agent of the class is a class member who acts for the class during the processing of the class complaint.

### c. **Representation**

At all stages of the class action process, the agent has the right to be accompanied by a representative of choice.

- d. See Appendix 20C Processing Class Complaints

## 10. RIGHTS OF COMPLAINANTS

- Remain anonymous during the pre-complaint stage
- Representation
- Use of official time to process complaint.
- Free from restraint, coercion & reprisal

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- Counseling (may include ADR)
- Right to file a formal discrimination complaint.

### 11. IF YOU ARE INVOLVED IN A COMPLAINT

- Respect the process and employee's right to use it
- Cooperate with all EEO officials in complaint processing and attempted resolution.
- Authorize reasonable official time for employee.
- Explain reasons behind actions.
- Do not retaliate
- Do not discuss complaint with others without legitimate reason.
- Seek advise and guidance from HR advisor.
- Keep supervising—and keep employees accountable.
- Keep good records.

### 12. NEGOTIATED GRIEVANCE PROCEDURES

- a. When an aggrieved employee is covered by a collective bargaining agreement that permits claims of discrimination to be raised in a negotiated grievance procedure, an employee can elect to file an EEO complaint or a grievance.
- b. If the employee files a grievance first, and then files an EEO complaint on the same claim, the EEO complaint **must** be dismissed without prejudice to the employee's right to proceed through the negotiated grievance procedure, including the right to appeal to the EEOC from the final decision. The dismissal of the complaint must advise the employee of the obligation to raise discrimination claims in the grievance process.

### 13. AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) COMPLAINTS

An employee, former employee, or applicant for employment who was 40 years of age or older at the time of the action complained of, and who believes to have been discriminated on the basis of age in violation of the ADEA of 1967, as amended, may file an EEO Complaint with the activity or file a civil action in U.S. District Court. See Appendix 20D.

### 14. EQUAL PAY ACT COMPLAINT OPTIONS

- File an individual complaint of discrimination based on sex concerning payment of wages following the procedures of complaints filed under Title VII. See Appendix 20A.
- File a civil action in U.S. District Court within two years, or three years for a willful violation, regardless of whether he or she pursued any administrative complaint. The filing of an administrative complaint does not extend the time for filing a civil action. The filing of a civil action terminates the administrative processing of the complaints. Disputants may file directly in federal district court without first providing notice to EEOC or exhausting administrative remedies.

## PREVENTION OF HARASSMENT/SEXUAL HARASSMENT

### 1. POLICY

- **The Department of the Navy's policy on sexual harassment is clear—zero tolerance.**
- Management must investigate every allegation of sexual harassment.
- Investigation is distinct from any subsequent investigation that may occur should the employee file a discrimination complaint or grievance.

### 2. DEFINITIONS

#### **HARASSMENT**

- Inappropriate or offensive words, actions, or materials directed at a person because of that person's race, sex, color, religion, national origin, disability, or sexual orientation
- When allowed to continue, may cause work environment to become intolerable, thus creating a **Hostile Work Environment**.

#### **SEXUAL HARASSMENT**

- Harassment involving unwelcome sexual actions, materials, and comments.
- Submission to or rejection of made either implicitly or explicitly a term or condition of employment
- Submission to or rejection of is used as the basis for employment decisions.
- The conduct has the purpose or effect of unreasonably interfering with work performance or creates an intimidating, hostile, or offensive work environment.
- See [http://inst.cnrnw.navy.mil/COMNAVREGNWINST\\_12720\\_1.pdf](http://inst.cnrnw.navy.mil/COMNAVREGNWINST_12720_1.pdf) for additional information.

### 3. SEXUAL HARASSMENT TYPES

#### **a. Tangible Employment Action (Quid Pro Quo)**

- Hiring, firing, promotion, failure to promote, reassignment, work assignments, and discipline.
- Occurs when a person in a position of authority over another takes, fails to take, threatens or offers to take an employee action in return for sexual favors.

#### **b. Hostile Work Environment**

Generally found where a pattern of workplace behavior exists that is sexually oriented.

### 4. INVESTIGATION REQUIREMENTS

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- a. If sexual harassment is one of the issues raised by an aggrieved person during an EEO counseling session and the person is directly supervised by a military commanding officer, they may file a complaint under section 1561 of USC Title 10 and/or 29 CFR 1614.
  - 1) Filing under section 1561 will not serve to exhaust administrative remedies with respect to 29 CFR 1614 (EEOC's regulations implementing Title VII as to federal employees).
  - 2) Command decisions under section 1561 are final, with no right of appeal to the courts.
  - 3) Compensatory damages are not available under section 1561.

**b. Section 1561 Interim Processing Procedures**

Specific time frames and actions are required for processing. See Appendix 20E for details.

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## APPENDIX 20A

### EEO COMPLAINT PROCESS

**Employees must contact the EEO Counselor Coordinator within 45 days.**

**If you feel you have been discriminated against, you must consult with an EEO counselor about the alleged discriminatory act before a formal complaint may be filed. You must contact the above counselor coordinator within 45 calendar days of the event you believe to be discriminatory.**

#### Informal Process

Employee must contact the EEO Counselor within 45 days of the allegation of discrimination based on race, color, sex, age\*, national origin, religion, disability, or reprisal.

The EEO counselor has **30 days** to conduct an inquiry, attempt informal resolution, and issue a notice of right to file a discrimination complaint.

The employee has **15 days** to file a formal complaint.

#### Formal Process

Receipt of complaint is acknowledged.

Accept/dismissal letter is issued.

Assignment of an investigator is requested for accepted issues.

Receipt of request for an investigator is acknowledged and the investigation is conducted.

Disputant is provided a copy of the investigative file and informed of right to request a SECNAV decision with or without a hearing.

**If a Hearing is held:**

SECNAV has 40 days from receipt of the Administrative Judge's finding to appeal the finding to EEOC.

**If a Hearing is not held**

SECNAV has 60 days from the request to issue a final DON decision

**Appeal to EEOC of SECNAV decision:**

30 days from receipt of the SECNAV decision

#### Civil Court

90 days from EEOC final decision on appeal of SECNAV decision.

**NOTE: Disputant can file in civil court 180 days after filing formal complaint.**

***\*Age Discrimination Complaints***

**Those filing this type of complaint may either follow the procedures as described above or directly file a civil action in court after giving notice of such intent to EEOC.**

**APPENDIX 20B**

**MIXED CASE COMPLAINT PROCESS**

**Employees must contact the EEO Counselor Coordinator within 45 calendar days or file an appeal with MSPB within 30 calendar days of either the effective date of the action or the receipt of the agency's decision to take the action.**

**Employees have a right to elect either the EEO Complaint procedure or an MSPB Appeal procedure, but not both.**

**Informal Process**

Employee must contact the EEO Counselor **within 45 days** of the allegation of discrimination based on race, color, sex, age\*, national origin, religion, disability, or reprisal.

The EEO counselor has **30 days** to conduct an inquiry, attempt informal resolution, and issue a notice of right to file a discrimination complaint.

The employee has **15 days** to file a formal complaint.

**Formal Process**

Receipt of complaint is acknowledged.

Accept/dismissal letter is issued. If accepted, the Disputant is notified that, if a final decision is not issued **within 120 days** of the date of filing the mixed case complaint, the Disputant may appeal the claim to the MSPB.

Assignment of an investigator is requested for accepted issues.

Receipt of request for an investigator is acknowledged and the investigation is conducted.

Disputant is provided a copy of the investigative file and notified that a final agency decision without a hearing will be issued **within 45 days**.

Disputant has **30 days** after receipt of the final agency decision to file an appeal with **MSPB**.

**Civil Court**

Disputant can file in civil court **after 120 days** from the date of filing an appeal with the MSPB if the MSPB has not yet made a decision

**APPENDIX 20C**

**CLASS COMPLAINT PROCESS**

**The agent for the class must contact the EEO Counselor Coordinator within 45 calendar days of the matter giving rise to the allegation of discrimination or of the effective date of a personnel action.**

**Informal Process**

The agent for the class must contact the EEO Counselor **within 45 days** of the matter giving rise to allegation of discrimination based on race, color, sex, age\*, national origin, religion, disability, or reprisal.

The EEO counselor has **30 days** to conduct an inquiry, attempt informal resolution, and issue a notice of right to file a discrimination complaint.

**Formal Process**

The agent of the class has **15 calendar days** after receipt of the final interview to file a formal class complaint.

Receipt of complaint is acknowledged.

Within **30 calendar days** of receipt of a class complaint, the agency must designate an agency representative and forward the complaint, the counselor's report and other pertinent documentation to EEOC.

Once it is received by EEOC, an Administrative Judge will be assigned who will make a recommendation to either accept or dismiss the class complaint. The recommended decision will become the agency decision **within 30 calendar days** unless the activity rejects or modifies the recommended decision.

If accepted as a class complaint, the activity has **15 calendar days** to notify all class members of the acceptance. If rejected as a class complaint, the agent may appeal the dismissal to EEOC

The Administrative Judge will set a hearing date, hold a hearing and transmit a report of findings and conclusions to the activity.

The agency has **60 calendar days** from receipt of the Administrative Judge's report to issue a final decision.

Receipt of request for an investigator is acknowledged and the investigation is conducted.

Disputant is provided a copy of the investigative file and notified that a final agency decision without a hearing will be issued **within 45 days**.

Disputant has **30 days** after receipt of the final agency decision to file an appeal with **MSPB**.

The agent of the class can file in civil court:

Within 90 days of receipt of the **final action** on a class complaint if no appeal has been filed;

After 180 days from the date of filing a class complaint if an appeal has not been filed and **final action has not been taken**;

Within 90 days of receipt of the Commission's final decision on an appeal; or

After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission

## APPENDIX 7D AGE DISCRIMINATION COMPLAINTS

### 1. AGE DISCRIMINATION ALLEGATIONS

An employee, former employee, or applicant for employment who was 40 years of age or older at the time of the action complained of, and who believes to have been discriminated on the basis of age in violation of the ADEA of 1967, as amended, may file an EEO Complaint with the **activity** or file a civil action in U.S. District Court.

### 2. COMPLAINT PROCESS OPTIONS

#### a. Election of the Administrative Process

- An aggrieved person may file an administrative complaint of discrimination on account of age as described in this instruction.
- Administrative remedies must be exhausted before filing a civil action in U. S. District Court. Exhausting of administrative remedies occurs when the Department of the Navy issues a final decision or order, or 180 days have passed since the filing of the complaint and no final decision or order has been issued.

#### b. Bypass the Administrative Process and file a civil action directly in U.S. District Court

- The complainant must first provide the EEOC with a written notice of intent to sue under the ADEA **within 180 days** of the date of the alleged discriminatory action.
- Once a timely notice of intent to sue is filed with the EEOC, the complainant must **wait at least 30 days** before filing a civil action. Responsibilities regarding notices of intent to sue are outlined below.

### 3. THE AGGRIEVED PERSON RESPONSIBILITIES IF TAKING CIVIL ACTION

- a. Provide EEOC with a written notice of intent to sue **within 180 days** of the date of the alleged discriminatory action.

- 1) The notice is to be mailed to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
Federal Sector Programs  
Post Office Box 19848  
Washington, D.C. 20036



- 2) Notices that are no more than ten pages may be faxed to (202) 663-7022.
- 3) The notice should be dated.

4) Notice must contain the following information:

- Statement of intent to file a civil action under Section 15(d) of the Age Discrimination in Employment Act of 1967, as amended.
- The aggrieved person's name, address, and telephone number.
- Name, address, and telephone number of the designated representative, if any.
- Name and location of the federal agency or installation where the alleged discriminatory action occurred.
- Date on which the alleged discriminatory action occurred.
- Statement of the nature of the alleged discriminatory action(s).
- Signature of the aggrieved person or that person's representative.

#### 4. The Activity Responsibilities



- Upon receipt of a notice of intent to sue, an activity must review the claim(s) of age discrimination and conduct an inquiry sufficient to determine whether there is evidence that unlawful age discrimination has occurred.
- The activity will determine the methods of review/inquiry, which may vary depending on the scope complexity of the claims.

**APPENDIX 20E**  
**ALLEGED SEXUAL HARASSMENT COMPLAINT**  
**INTERIM PROCESSING PROCEDURES**  
**SECTION 1561**

