



EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR HANDBOOK

U.S. Department of Energy

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At <http://www.doeal.gov/eeo/> you will find the home page of the EEO and Diversity Program Office:



- [Contact Us](#)
- [Complaints](#)
- [Mediation](#)
- [EEO Counselors](#)
- [EEO Policies & Guidance](#)
- [EEO & Diversity Business Processes](#)
- [EEO Plans & Reports](#)
- [EEO Statistics](#)
- [EEO Annual Training](#)
- [EEO & Diversity Video Library](#)
- [Reasonable Accommodations](#)
- [Special Emphasis Programs](#)
- [Links](#)

Equal Employment Opportunity & Diversity Office

The mission of the EEO & Diversity Office (EEO) is to promote and advocate Equal Employment Opportunity/Affirmative Action (EEO/AA) and Diversity for all NNSA SC employees and to create an environment that embraces and values diversity and is devoid of discrimination. EEO is responsible for planning, coordinating, and implementing the EEO/AA and Diversity Program objectives and policies in accordance with DOE Headquarters; Equal Employment Opportunity Commission (EEOC); and the Office of Personnel Management (OPM) guidelines; and providing NNSA SC management and employees with advice on all matters relating to the NNSA SC EEO Program.

From the EEO and Diversity home page, click on [EEO Counselors](#) to the right of that menu bar and you will find the most current information, forms, and processes for NNSA Counselors <http://www.doeal.gov/eo/counselors.html> :



- [Contact Us](#)
- [Complaints](#)
- [Mediation](#)
- [EEO Counselors](#)
- [EEO Policies & Guidance](#)
- [EEO Plans & Reports](#)
- [EEO Statistics](#)
- [EEO Annual Training](#)
- [EEO & Diversity Video Library](#)
- [Reasonable Accommodations](#)
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EEO Counselors

The Role of the EEO Counselor

The EEO Counselor serves as liaison between the employee and management in the informal complaint processing stage. The counselor is neither an advocate of management nor of the employee.

- Meets with complainant and handles informal complaints of discrimination (must contact counselor within 45 calendar days of the alleged incident or personnel action.)
- Advises employees of EEO rights under the law.
- Seeks out facts relevant to complaints to resolve issues.
- Reviews agency records to secure facts.
- Interviews parties to the complaint.

Attempts a common ground resolution of the issue after talking with employees, their representatives and management officials.

Pre-Complaint Counseling Process

Counselors for NNSA will receive complaints from applicants for employment to NNSA, NNSA federal employees, and contract* employees. *Call Debbie Allison for guidance, (505) 845-6021 or Dallison@doeal.gov

Most counseling is done over the phone because of the ratio of counselors to employees. In this situation you will want to use the Telephone Counseling Checklist, to ensure you have everything you and the complainant will need prior to the first comprehensive interview.

During your initial comprehensive meeting with the complainant, you will want to ensure the complainant's rights are reviewed, using the "Counselor Checklist." Each of you will sign two copies of this document, with the complainant keeping one, and you retaining one (forward to Service Center EEO with your Counselor's Report if you are notified the complainant has filed formally).

You will be sharing copies of the following documents with the complainant during your interview:

- [EEO Complaint Process Brochure](#)
- [EEO Mediation Program Brochure](#)

Complainants may ask during your interview about official time for themselves while pursuing their complaint. Please share a copy of the following with the Complainant, also available on the web:

- [US Department of Energy Order DOE O 203.1, Limited Personal Use of Government Office Equipment Including Information Technology](#)
- [Tips on Use of Official Time and Tips on Requesting Official Time](#)

After interviewing the complainant, you will then complete document review (i.e., for a non-selection, review the applications of complainant and the selected individual, rating matrix of the selecting official, and the vacancy announcement).

You will then conduct interviews with witnesses and alleged responsible management officials (ARMOs).

If you need more than thirty (30) calendar days to conduct the inquiry, you must, per MD-110, Chapter II, get the complainant's agreement in writing. REMEMBER: The counseling process cannot extend beyond 90 days total, and this includes if mediation is attempted.

When the counseling is over, conduct your Final Interview and issue the appropriate Final Interview and Notice of Rights to File (for age or non-age complaints).

Once you are ready to write your report, a format is available on the Counselor's web.

Additional web resources you and the complainant can easily access from the counselor's web site:

- [DOE Policy on EEO and Diversity](#)
- [DOE Policy on Harassment Prevention](#)
- [DOE F 1600.1 Complaint of Discrimination](#)



CRITICAL COUNSELING REFERENCE MATERIAL

29 Code of Federal Regulations§1614

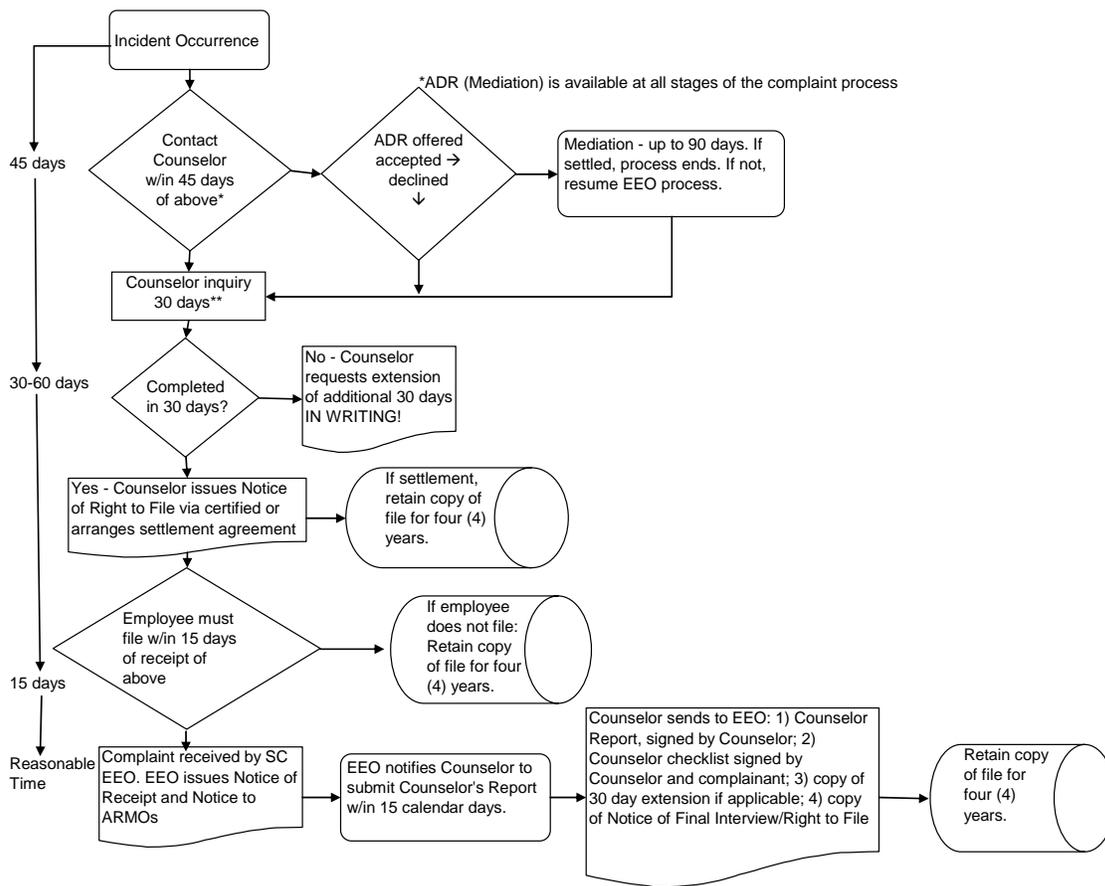
EEOC MD-110

Additional web resources specifically for Counselor knowledge to conduct your inquiry: You may want to print out copies; however you are strongly encouraged to always check the websites for the most current copy/information:

- [29 Code of Federal Regulations, CFR Part 1614](#)
- [EEOC Management Directive MD-110](#) governs Federal Sector EEO Complaints Processing. Those sections that apply to Pre-Complaint Processing for Counselors will be of particular interest and help in your duties:
 - EEOC MD-110, [Chapter II EEO Pre-Complaint Processing](#)
 - EEOC MD-110, [Chapter V, Section III, Fragmentation](#)
 - EEOC MD-110, [Appendix A, EEO Counseling Techniques](#)
 - EEOC MD-110, [Appendix C, Information on Other Procedures](#) (ADR, Mixed Cases, Constructive Discharge, Age Discrimination and Equal Pay)
 - EEOC MD-110, [Appendix E, Sample Resolution Letter](#)



The Pre-Complaint Counseling Process Flow Chart



*Enter contact into iComplaints

**Conduct limited inquiry: initial interview, review Counselor Checklist and get complainant to sign a copy, interview Alleged Responsible Management Officials (ARMOS); review any applicable documents; attempt resolution

Enter all events: interviews, settlement if applicable, final interview date, letter of final interview into iComplaints.

INITIAL COUNSELING INTAKE FORM

INSTRUCTIONS: This is an optional form.

When you get that first call or email requesting counseling, you will normally need to schedule a later time to do a complete interview. This form can be used to get enough contact information to schedule the interview, and give you a basic understanding of what the complaint may be regarding.



EEO Pre-Complaint Counseling Intake Form

Instructions: This form is optional. If you cannot conduct the initial interview when first contacted, use as reference to document and schedule the first interview.

1. Today's Date:
2. Complainant's/Agent's Full Name/or desire to remain anonymous:
3. Complainant's Phone Number (include area code):
4. Office complainant believes discriminated against him/her, if other than #4:
5. Complainant: Job Title:
Series:
Grade:

Basis(es): Check and specify)			
Race (State Race):		Religion (State Religion):	
Color (State Color)		National Origin (state national origin):	
Sex <input type="checkbox"/> Female <input type="checkbox"/> Male		Disability <input type="checkbox"/> Mental <input type="checkbox"/> Physical	
Age (Give date of Birth):		Reprisal - State previous EEO-related activity and date(s):	
Sexual Orientation (prohibited by DOE Policy)			

Issue(s) Alleged: Check appropriate box(es)			
<input type="checkbox"/> Nonselection		<input type="checkbox"/> Awards	
<input type="checkbox"/> Detail		<input type="checkbox"/> Time and Attendance	<input type="checkbox"/> Retirement
<input type="checkbox"/> Reassignment		<input type="checkbox"/> Separation/Termination	<input type="checkbox"/> Suspension
<input type="checkbox"/> Reprimand		<input type="checkbox"/> Evaluation/Appraisal	<input type="checkbox"/> Duty Hours
<input type="checkbox"/> Assignment of Duties		<input type="checkbox"/> Work Conditions	<input type="checkbox"/> Sexual Harassment
<input type="checkbox"/> Training		<input type="checkbox"/> Harassment	<input type="checkbox"/> Appointment
<input type="checkbox"/> Promotion		<input type="checkbox"/> Examination/Test	<input type="checkbox"/> Other (Specify)
<input type="checkbox"/> Pay - including overtime		<input type="checkbox"/> Conversion to Full Time/Career Conditional	<input type="checkbox"/> Reprisal
			<input type="checkbox"/> Reinstatement

Date set for initial full interview:

Initial full interview will be by phone: face-to-face:

TELEPHONE COUNSELING CHECKLIST

INSTRUCTIONS: This is an optional form. If you are to conduct your interviews via telephone, you may find the checklist helpful.

You do not need to submit a copy of this checklist if the complaint goes formal.



NNSA EEO Counselor Pre-Complaint Process Telephone Counseling

Address the following if the counseling will be conducted by telephone:

- Advise complainant of date and time of the call. Reminder: allow enough time to mail, fax, ask the complainant to download from the Counselor web site, or email the complainant the counseling documents. Instruct complainant to call or email you when they have received the documents. Mail, fax, or email the following documents to the complainant (complainant can download from the EEO Counselor web site * these items):
 - Two copies of the EEO Counselor Checklist (signed by you)
 - *Copy of the EEO Complaint Processing Brochure with the timeline
 - *Copy of the NNSA Mediation Brochure
 - *Copy of the DOE Limited Use of Government Property Order
 - *Use of and Requesting Official Time
- If you have not heard from the complainant prior to the scheduled counseling call, two days before, reconfirm that they have received the documents.
- After reviewing the Counseling Checklist with the complainant, ask the complainant to sign one of the documents and return it to you.

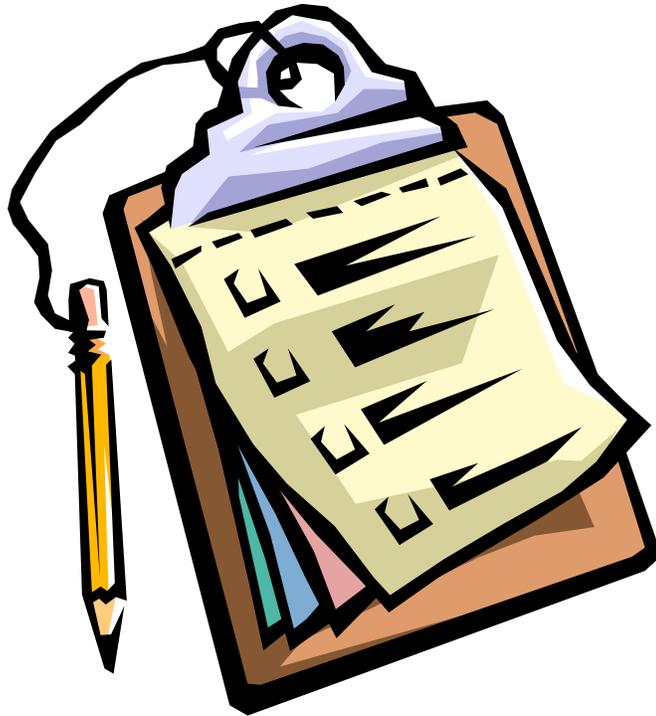
References

The following documents are provided for quick reference. We hope this checklist and the referenced information will serve as useful tools in processing EEO pre-complaints. Contact the EEO/Diversity Office at (505) 845-5517 if you have additional recommendations or questions.

- [Management Directive-110](http://www.eeoc.gov/federal/md100.html) (Chapter 2, EEO Pre-Complaint Processing)
- [Management Directive-110](http://www.eeoc.gov/federal/md110/chapter6.html) (Chapter 6, C., Official Time)
- [NNSA EEO Complaints Brochure](http://www.doeal.gov/eo/complaints.html)
- [NNSA Mediation Brochure](http://www.doeal.gov/eo/mediation.html)
- [Limited Personal Use of Government Office Equipment Including Information Technology](http://www.directives.doe.gov/pdfs/doe/doetext/neword/203/o2031.pdf)
- [DOE Reasonable Accommodations Procedures](http://worklifecenter.doe.gov/docs/DisabilityDocs/DOE%20Reasonable%20Accommodation%20Procedures.doc)
- [NNSA Service Center Reasonable Accommodations Guide](http://www.doeal.gov/eo/docs/requestreasonableaccom.pdf)

EEO COUNSELOR CHECKLIST

INSTRUCTIONS: This is an optional form for your use. Remember to check the Counselor website for the most current version. The checklist is intended to guide you through the completion of the pre-complaint counseling.



NNSA EEO Counselor Checklist

This checklist is provided to ensure consistency in the counselor's reports for the National Nuclear Security Administration.

- ❑ Complete the EEO Precomplaint Counseling Intake Form (optional use if you are not beginning the counseling on the same date you are initially contacted).
- ❑ Enter the informal complaint in iComplaints System **iComplaints is mandatory**. If you require assistance with iComplaints, please contact the EEO/Diversity Office, NNSA Service Center, at (505) 845-5517.
 1. Go to the iComplaints web site: [iComplaints https://icomplaints.doe.gov](https://icomplaints.doe.gov)
 2. Log in (if you do not have a log in, please contact the EEO/Diversity Office, (505) 845-5517, and we will request one for you). If you have difficulty logging in, please call Daniel Broehl, DOE Office of Civil Rights, (202) 586-0696 or daniel.broehl@hq.doe.gov
 3. Click on "Cases" from the left menu
 4. Click on "Create Informal Case" from the center menu. You will enter complainant's name, address, telephone, representative (if one), basis for complaint, and identified issues. For the SSN, enter the first nine (9) numbers of the complainant's work telephone number.
 5. Working Left to right across the menu choices at the top of the screen make sure you click on and make entries for:

Complaint - Complainant - Contacts - Claims - Events

- Complaint is the initial screen with the date you are first contacted by phone or in-person. Remember to enter a subject, e.g., non-selection to promotion
- Complainant is information about the Complainant. Age entry is only required if they are citing Age as a basis.
- Contacts: enter the Alleged Responsible Management official's names by click on "Management Official"; also if the complainant has a representative or attorney, you will enter them.
- Claims - What are they claiming, there is a drop down menu selection and you must indicate the date associated with the claim.
- Events - There is a drop down menu to select from that covers the events that will occur during the pre-complaint counseling

process. Just be sure you change the date to the actual date of the event.

6. Throughout the informal case, make entries (date and the activity) into the iComplaints system for: contact information for complainant and representative (if any); initial interview; date ADR (mediation offered); any additional interviews; and notice of final interview.
 - If the complainant requests mediation, please enter this into iComplaints (<https://icomplaints.doe.gov>) selecting, "Events" and then "ADR", and "ADR elected directly" -- iComplaints will immediately track the abeyance time period.
7. After the notice of final interview letter is sent, be sure to close the informal case in the iComplaints system. By clicking on the last menu choice across the top, "Closure".
 - ❑ If a resolution is reached, contact the NNSA Service Center's EEO/Diversity Office at (505) 845-5517 if you would like assistance in completing the written resolution.
 - ❑ Complete the final interview, refer to the EEO Precomplaint Counseling Counselor Report for content of the specific items you will cover in the Final Interview, whether by telephone or in person.
 - ❑ Issue the Notice of Final Interview (see EEO Counselor Website).

After notification from the EEO/Diversity Office at the NNSA Service Center, that the complainant has filed a formal complaint, EEO Counselor Report (see EEO Counselor Website). Send the completed report, as well as a copy of the NNSA EEO Counselor Checklist and mediation election and 30-day extension letter/agreement, if applicable, in the blue folder provided to you, **within 15 calendar days**. Send this information to the NNSA Service Center, EEO/Diversity Office, P.O. Box 5400, Bldg. 384, 2nd floor, Albuquerque, NM 87185. The EEO/Diversity Office will then forward a new Counseling Packet, for future use, upon receipt of the final reports identified above.

EEO INITIAL COUNSELING CHECKLIST

INSTRUCTIONS: This form is mandatory.

Per the EEOC MD-110, Chapter 2, Section IV A, the counselor shall provide written notice to the complainant of their rights and responsibilities.

Please download the most current version off the EEO Counselor Web Page.

You will print out two copies of this form. Sign and date both and mail or fax to the complainant prior to your initial interview; or, hand to them during your first interview if you are able to meet face-to-face. After reviewing the form with the complainant, have them sign one and give it back to you. This will be a part of your Counselor's Report if the complaint goes formal.



NNSA EEO Counselor Checklist

At the initial counseling session, Counselors must advise individuals in writing of their rights and responsibilities. At a minimum those rights include the following:

Anonymity

- ❑ You have the right to remain anonymous during the EEO counseling stage. However, you must be aware that a request to remain anonymous may limit the counselor's ability to resolve the complaint informally.

Right to Representation

- ❑ The right to representation throughout the complaint process including the counseling stage. The EEO Counselor should make clear to the aggrieved person that the EEO counselor is not an advocate for either the aggrieved person or the agency, but acts strictly as a neutral in the EEO process.
- ❑ Attorney fees can only be paid for services performed after the filing of a written complaint and after the complainant has notified the agency that he or she is represented by an attorney, except that fees are allowable for an attorney's time in reviewing the case and determining whether or not to represent the complainant.

Process Selection

- ❑ The right to choose between the agency's Alternative Dispute Resolution (ADR) process or EEO counseling, where the agency agrees to offer ADR in the particular case, and information about each procedure.
 - ❑ Provide complainant a copy of the NNSA Mediation Brochure, which includes the formal Mediation Election Form.
- ❑ Where the aggrieved person agrees to participate in an established ADR program, the written notice terminating the counseling period will be issued upon completion of the dispute resolution process or **within ninety (90) calendar days** of the first contact with the EEO Counselor, whichever is earlier.
- ❑ The possible election requirement between a negotiated grievance procedure and the EEO complaint procedure. See Chapter 4, Section III of [EEOC Management Directive 110](http://www.eeoc.gov/federal/md110/chapter4.html) <http://www.eeoc.gov/federal/md110/chapter4.html> This is for those units covered by a **negotiated** grievance procedure.

- ❑ **Administrative Grievance process:** It is the Service Center EEO and Diversity Programs office policy where an employee has elected to pursue a grievance, to hold the EEO counseling in abeyance pending the outcome of the grievance. The abeyance period cannot exceed the 30-60 days (with a written extension in place) required to complete EEO pre-complaint counseling. Where an employee elects EEO first and then tries to file a grievance, the Human Capital Management group will not accept the grievance.
- ❑ The election requirement in the event that the claim at issue is appealable to the Merit Systems Protection Board (MSPB), *i.e.*, the dispute is a mixed case (discrimination based on Title VII basis and eligible to use MSPB, or non-discrimination claims within MSPB jurisdiction). Those eligible to use the MSPB include (1) competitive service employees not serving a probationary or trial period under an initial appointment; (2) career appointees to the Senior Executive Service; (3) non-competitive service veterans preference eligible employees with one or more years of current continuous service; and (4) non-preference eligible excepted service employees who have completed their probationary period or with two or more years of current continuous service. MSPB jurisdiction includes (1) reduction in grade or removal for unacceptable performance; (2) removal, reduction in grade or pay, suspension for more than fourteen (14) days, or furlough for thirty (30) days or less for cause that will promote the efficiency of the service; (3) separation, reduction in grade, or furlough for more than 30 days, when the action was effected because of a reduction-in-force; (4) reduction-in-force action affecting a career appointee in the Senior Executive Service; (5) reconsideration decision sustaining a negative determination of competence for a general schedule employee; and (6) disqualification of an employee or applicant because of a suitability determination. See Appendix I for a more complete listing of appealable actions. See Chapter 4, Section II of [EEOC Management Directive 110](http://www.eeoc.gov/federal/md110/chapter4.html) <http://www.eeoc.gov/federal/md110/chapter4.html> for a complete reference.

Right to File a Complaint of Discrimination

- ❑ Where counseling is selected, the right to receive in writing within 30 calendar days of the first counseling contact (unless the aggrieved person agrees in writing to an extension, which may not exceed an additional sixty(60) calendar days) a notice terminating counseling and informing the aggrieved of:
 - (1) the right to file a formal individual or class complaint within 15 calendar days of receipt of the notice,

- (2) the appropriate official with whom to file a formal complaint (EEO/Diversity Program Manager), and
 - (3) the complainant's duty to immediately inform the agency if the complainant retains counsel or a representative.
- The requirement that the aggrieved person file a complaint within 15 calendar days of receipt of the Counselor's notice of right to file a formal complaint in the event s/he wishes to file a formal complaint at the conclusion of counseling or ADR.

Class Complaints

- The class complaint procedures and the responsibilities of a class agent, if the aggrieved person informs the EEO Counselor that s/he wishes to file a class complaint. See Chapter 8, Section II of [EEOC Management Directive 110](http://www.eeoc.gov/federal/md110/chapter8.html) <http://www.eeoc.gov/federal/md110/chapter8.html>

Age Complaints

- For age complainants only. As an alternative to filing a complaint under 29 C.F.R. Part 1614, an aggrieved individual may file a civil action in a United States district court under the Age Discrimination in Employment Act of 1967, as amended, against the head of an alleged discriminating agency. You must give the EEOC not less than 30 days notice of the intent to file such an action. The head of the Department of Energy is the Secretary of Energy. Such notice must be filed in writing or by personal delivery or facsimile with the EEOC, P.O. Box 19848, Washington, DC 20036, within 180 days of the occurrence of the alleged unlawful practice.

Compensatory damages are not available under the Age Discrimination in Employment Act (ADEA), 29 USC §626(b). The 1991 Civil Rights Act amendments did not apply to the ADEA. The text of the ADEA explicitly provides for back pay, unpaid overtime compensation, and liquidated damages but not compensatory and punitive damages.

Complainants prevailing on claims under the Age Discrimination in Employment Act of 1967, as amended, and the Equal Pay Act of 1963, as amended, are not entitled to attorney's fees at the administrative level.

Reasonable Accommodation

- If complainant believes reasonable accommodation is the issue, a summary of complainants' rights and responsibilities may be viewed by accessing the DOE Human Resources web page at [http://worklifecenter.doe.gov/docs/DisabilityDocs/DOE%20Reasonable%](http://worklifecenter.doe.gov/docs/DisabilityDocs/DOE%20Reasonable%20Accommodation.pdf)

[20Accommodation%20Procedures.doc](#). For employees located at the NNSA Service Center, procedures specific to the Service Center are located on the [EEO and Diversity web page](#) at www.doeal.gov/eo/docs/requestreasonableaccom.pdf

Equal Pay Act of 1963

The right to go directly to a court of competent jurisdiction on claims of sex-based wage discrimination under the Equal Pay Act even though such claims are also cognizable under Title VII. A complainant may allege a violation of both Title VII and the Equal Pay Act and may have the complaint processed through the administrative process or alternatively file a suit in a United States district court. Complainants prevailing on claims under the Age Discrimination in Employment Act of 1967, as amended, and the Equal Pay Act of 1963, as amended, are not entitled to attorney's fees at the administrative level.¹

Like or Related Issues

- That only those claims raised at the counseling stage or claims that are like or related to those that were raised may be the subject of a formal complaint, and how to amend a complaint after it has been filed: Send written notice to the EEO/Diversity Program Manager, EEO and Diversity Office, P.O. Box 5400, Albuquerque, NM 87185.

Consolidation of Complaints

- That the agency must consolidate two or more complaints filed by the same complainant after appropriate notice to the complainant. The EEO Counselor should advise the complainant that when a complaint has been consolidated with one or more earlier complaints, the agency shall complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days of the filing of the first complaint and that the complainant may request a hearing before an EEOC Administrative Judge at any time after 180 days of the filing of the first complaint.

Right to Request a Hearing or Final Agency Decision

- The right to request a hearing before an EEOC Administrative Judge, except in a mixed case, after 180 calendar days from the filing of a

¹ Sex-based claims of wage discrimination may also be raised under Title VII; individuals so aggrieved may thus claim violations of both statutes simultaneously. Equal Pay Act complaints may be processed administratively under Part 1614. In the alternative, a complainant in the EPA claim may go directly to a court of competent jurisdiction.

formal complaint or after completion of the investigation, whichever comes first.

- ❑ The NNSA Service Center EEO/Diversity Office will provide, in writing, the identity and address of the EEOC field office to which the complainant must request a hearing. Send a copy of the request for a hearing to the EEO/Diversity Program Manager, EEO and Diversity Office, P.O. Box 5400, Albuquerque, NM 87185.
- ❑ The EEO Counselor should advise the aggrieved person of his/her duty to certify to the Administrative Judge that s/he provided the agency with a copy of a request for a hearing. See also Chapter 7, Section I, of [EEOC Management Directive 110](http://www.eeoc.gov/federal/md110/chapter7.html)
<http://www.eeoc.gov/federal/md110/chapter7.html>
- ❑ The right to an immediate final decision after an investigation by the agency.
- ❑ The right to go to U.S. District Court 180 calendar days after filing a formal complaint or 180 days after filing an appeal.
- ❑ The duty to mitigate damages, e.g., that interim earnings or amounts that could be earned by the individual with reasonable diligence generally must be deducted from an award of back pay.

Agency Offer of Final Resolution

- ❑ That rejection of an agency's offer of resolution made may result in the limitation of the agency's payment of attorney's fees or costs. See Chapter 6, Section XIII, of [EEOC Management Directive 110](http://www.eeoc.gov/federal/md110/chapter6.html)
<http://www.eeoc.gov/federal/md110/chapter6.html>

Current Address

- ❑ The duty to keep the agency and EEOC informed of his/her current mailing address and to serve copies of appeal papers on the agency.

Time Frames

- ❑ The time frames in the complaint process: Complainant has been provided with a copy of the EEO/Diversity Brochure. Additional copies are available on the [EEO/Diversity web page](http://www.doeal.gov/eo/docs/ComplaintProcess.pdf)
(<http://www.doeal.gov/eo/docs/ComplaintProcess.pdf>)

Limited Use of Government Property

- ❑ Complainant is advised about the limited use of government property in the processing of their complaint. Detailed information regarding the

use of government equipment may be found by accessing the [DOE Directive web site](#) at <http://www.directives.doe.gov/pdfs/doe/doetext/neword/203/o2031.pdf> and also at the Equal Employment Opportunity Commission [web site](#) on MD-110, Chapter 6 (see Official Time) <http://www.eeoc.gov/federal/md110/chapter6.html>

Use of Official Time

- In [29 CFR Section 1614.605](#), the CFR, while allowing a reasonable amount of official time to prepare your complaint, specifically excludes change of schedule, overtime pay, and the payment of travel expenses to confer with a specific representative. Further, the [MD-110 Chapter 6, Section VIII C](#) supports a reasonable amount of official time stating, *the complainant and the agency should arrive at a mutual understanding as to the amount of official time to be used prior to the complainant's use of such time*. To request official time to process your EEO Complaint, contact your immediate supervisor.

-
-
- Complainant has been provided a copy of this checklist.

EEO Counselor's Printed Name, Signature, and Date

Complainant's Printed Name, Signature, and Date

REQUEST for 30-DAY EXTENSION

INSTRUCTIONS: This letter is mandatory if you cannot complete your counseling within the 30 day pre-complaint counseling period, per MD-110 Chapter 2, VI C-2.

Download the most current copy from the EEO Counselor Web.

Send the letter via certified mail.

Enclose 1) a form 1600 (also available from the Counselor Web) and 2) the agreement to extend counseling.

Keep a signed copy and the certified card once it is returned. If the complaint goes formal you will provide a copy of the signed extension along with your Counselor Report, to the EEO Office.



NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT
or
AGREEMENT TO EXTENSION OF 30-DAY COUNSELING PERIOD

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Name
Address

Date Issues First Raised:

This is to inform you that, although my inquiry into the matter you brought to my attention has not been completed, 30 calendar days have passed since you first contacted me and you are now entitled to file a discrimination complaint based on race, sex, color, religion, national origin, physical or mental handicap, age and/or reprisal.

If you file a complaint, it must be in writing on the enclosed DOE Form 1600 and may be filed in person or by mail with any of the following officials authorized to receive discrimination complaints.

Samuel W. Bodman
Secretary of Energy
U.S. Department of Energy
Forrestal Building
1000 Independence Avenue SW
Washington, DC 20585

Poli Marmolejos
Director
Office of Civil Rights and Diversity, ED-4
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

Karen Boardman
Director
NNSA Service Center
P.O. Box 5400
Albuquerque, NM 87185-5400

Yolanda Girón
EEO and Diversity Program Manager
NNSA Service Center
P.O. Box 5400
Albuquerque, NM 87185-5400

Sincerely,

Name
EEO Counselor

Enclosures:
DOE Form 1600.1 – Complaint of Discrimination
Agreement to Extension of 30-Day Counseling Period

Request for Extension of EEO Pre-Complaint Counseling

I, _____, agree to an extension beyond the 30 calendar days in an effort to try to resolve the complaint and complete the EEO pre-complaint counseling. My agreement for the extension is for no more than an additional 60 calendar days per the Code of Federal Regulations 1614.106.

I understand that if the counseling is not completed within this time period, I may file my formal complaint.

Return your completed form to: EEO Counselor Name, Office, Address, City, State, Zip Code, and Fax No.

Complainant Signature

Date

Counselor's Typed (or Printed) Name

Counselor Signature

Date

NOTICE OF FINAL INTERVIEW AND RIGHT TO FILE

INSTRUCTIONS: If informal resolution is not reached through your attempts or through mediation (Alternative Dispute Resolution). **This letter is mandatory.**

At the end of your 30 days, or 60 days if a written agreement to extend counseling was approved by the complainant, you must issue the Notice of Final Interview and Right to File, Per EEOC MD-110, Chapter 2, VI-D.

There are two versions of the Notice of Final Interview and Right to File. One for complaints where age and possibly other bases are cited; and one for non-age based complaints. Both versions are available on the Counselor's Web Page.

Please download the most current version from the Counselor's Web Page.



The Counselor Report

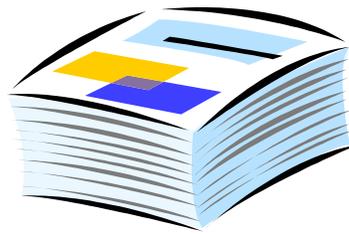
INSTRUCTIONS: If you are notified by the EEO Office that a formal complaint has been filed, you have 15 calendar days from the date the EEO Office contacts you to complete and return this report to the EEO Office.

The report is available on-line at the Counselor's Website. **This form is mandatory.** Once you are in the Counselor's Website:

1. Click on "Counselor's Report."
2. At the prompt, "save or open", select "Save". Save the document to your own folder, naming the document by the complainant's last name.
3. You can start working on the document immediately, or return to it at a later time.

Send the following to the DOE, EEO Office, PO Box 5400, Albuquerque, NM 87185-5400:

1. Counselor's Report, signed by Counselor
2. Counselor's checklist from initial interview, signed by Counselor and Complainant
3. 30-Day Extension, if applicable
4. Election of Mediation, if applicable
5. Copy of Notice of Final Interview/Right to File letter
6. Copy or original of the certified card returned to you by the USPS to indicate the date the complainant received the Notice of Final Interview.



EEO Counselor Report

1. Today's Date: _____ Date of Initial Contact if Different _____
2. Complainant's/Agent's Full Name/or desire to remain anonymous (if anonymous, anonymity declaration attached): _____
3. Complainant's Home: Street Address/ Rd or P.O. Box: _____ City/State/ Zip Code: _____
 Phone Number (include area code): _____
 Fax Number (include area code): _____
 Home email: _____
4. Complainant's/Agent's/Agency Office Name: _____
 Office Address: _____
 Organization Name: _____
 Street Address/ Rd or P.O. Box: _____
 City/State/ Zip Code: _____
 Phone Number (include area code): _____
 Fax Number (include area code): _____
 Office email: _____
5. Office complainant believes discriminated against him/her: _____
6. Complainant: Job Title: _____
 Series: _____
 Grade: _____

Basis(es) - Check and specify:			
Race (State Race):		Religion (State Religion):	
Color (State Color)		National Origin (state national origin):	
Sex () Female () Male		Disability () Mental () Physical	
Age (Give date of Birth):		Reprisal - State previous EEO-related activity and date(s):	
Issue(s) Alleged -- Check appropriate box(es):			
<input type="checkbox"/>	Nonselection	<input type="checkbox"/>	Awards
<input type="checkbox"/>	Detail	<input type="checkbox"/>	Time and Attendance
<input type="checkbox"/>	Reassignment	<input type="checkbox"/>	Separation/Termination
<input type="checkbox"/>	Reprimand	<input type="checkbox"/>	Evaluation/Appraisal
<input type="checkbox"/>	Assignment of Duties	<input type="checkbox"/>	Work Conditions
<input type="checkbox"/>	Training	<input type="checkbox"/>	Harassment
<input type="checkbox"/>	Promotion	<input type="checkbox"/>	Examination/Test
<input type="checkbox"/>	Pay - including overtime	<input type="checkbox"/>	Conversion to Full Time/Career Conditional
		<input type="checkbox"/>	Retirement
		<input type="checkbox"/>	Suspension
		<input type="checkbox"/>	Duty Hours
		<input type="checkbox"/>	Sexual Harassment
		<input type="checkbox"/>	Appointment
		<input type="checkbox"/>	Other (Specify)
		<input type="checkbox"/>	Reprisal
		<input type="checkbox"/>	Reinstatement

7. Complainant is: Select One
8. Type of Complaint: Select One
9. If Contact is made outside of the 45-day time limit, give detailed reasons for delay:
10. Attach e-mail or letter from Complainant agreeing to extension of 30-day counseling period. Select One (If yes, extension request attached)
11. Adjustment desired: State specifically what adjustment the complainant is seeking:
12. Does the desired adjustment include complainant seeking compensatory damages?
Select One
13. If yes, describe the compensatory damages:
14. Alleged Responsible Management's Official (ARMO)/Name: Title:
Office/Phone Number: E-mail:
15. Alleged Responsible Management's Official (ARMO)/Name: Title:
Office/Phone Number: E-mail:
16. Alleged Responsible Management's Official (ARMO)/Name: Title:
Office/Phone Number: E-mail:
17. **Counselor's Comprehensive Narrative:** Explain in full detail what occurred during the informal counseling stage. Define each specific issue addressed during the counseling process clearly and precisely and describe all actions and/or conditions giving rise to the complaint. Give specific date(s), and place(s) of incident (s), and name all witnesses or persons involved. Include any advice given to both the complainant and the appropriate management official(s) concerning the issues of the complaint and any informal resolution.

In addition to the above, in class action complaints, include the name of the person who wishes to be the agency of the class; name of the representative, if any; nature of the class; agency policy or practice giving rise to the allegation of discrimination; nature of the act(s) giving rise to the aggrieved person's belief that he or she was discriminated against; reason why the aggrieved person believes that a number of other persons are similarly affected by said policy or practice; efforts made to resolve the matter affecting the individual as well as the class, including the name of persons contacted and documents reviewed. (Attach sheets if additional space is required).
 - a. Listing of date(s) of alleged discriminatory event(s) and/or date(s) Complainant became aware of the discriminatory action(s):
 - b. Summary of Counselor's Inquiry. Include names and dates of contacts interviewed and what was discussed:
 - c. Listing of Documents Reviewed:
 - d. Summary of Informal Resolution Attempt:
 - e. Informally resolved: Select One Date:

**REQUIRED: Review the following with the Complainant at the Final Interview
- By Phone or Face-to-Face**

- ❑ The EEO Counselor will describe to the complainant what occurred during the EEO counseling process in terms of attempts at resolution. Do not indicate whether you believe the discrimination complaint has merit. Because EEO counseling inquiries are conducted informally and do not involve sworn testimony or extensive documentation, the Counselor 1) cannot make findings on the claim of discrimination, and 2) should not imply to the aggrieved person that his/her interpretation of the claims of the case constitutes an official finding of the agency on the claim of discrimination.
- ❑ If the dispute has not been resolved to the satisfaction of the aggrieved person, the Counselor must tell the aggrieved person that s/he has the right to pursue the claim further through the formal complaint procedure. It is the aggrieved person, and not the EEO Counselor, who must decide whether to file a formal complaint of discrimination.
- ❑ Right to pursue the claim through the formal process - they will shortly receive a letter with these rights.
- ❑ Inform complainant that upon receipt of Final Interview Letter, if she/he should decide to file formally, their complainant:
 - ❑ Must be in writing;
 - ❑ Must be specific with regard to the claim(s) that the aggrieved person raised in EEO counseling and that the complainant wishes to pursue;
 - ❑ Must be signed by complainant or complainant's attorney; and
 - ❑ Must be filed within **fifteen (15) calendar days** from the date s/he receives the notice of final interview. A postmark dated within the requisite 15 days will be evidence of timely filing.
- ❑ Name(s) of person(s) authorized to receive complaints will be in their notice of Final Interview Letter.
- ❑ File may be seen by persons needing access and any confidentiality may be lost during the formal process. This includes the EEO Officer, agency EEO officials, and possibly persons whom the aggrieved person has identified as being responsible for the actions that gave rise to the complaint. The identity of the aggrieved person does not remain confidential in the formal complaint process.
- ❑ The EEO Counselor must advise the complainant of his/her duty to inform the EEO/Diversity Program Manager, P.O. Box 5400, Albuquerque, NM 87185, of a change of address if s/he should move during the EEO process and the possible consequences for not doing so.
- ❑ Refer the complainant to the documents provided at the initial interview for more information: Initial Interview Checklist; and EEO Complaints brochure.

18. Date above information given to the complainant (date of final interview):
Final Interview by: Select One

19. Date Final Interview letter sent via certified mail: _____ Date employee received
certified letter: _____

20. Date report sent to EEO Officer:

21. Counselor's Office Address:

22. Organization Name:

23. Street Address/ Rd or P.O. Box:

24. City/State/ Zip Code:

25. Phone Number (include area code):

26. Fax Number (include area code):

27. EEO Counselor's Name (**print or type**):

28. Signature_____

Date_____

Training Resources

EEOC Management Directive 110, Chapter II, Section II, Mandatory Training requirements describes initial training of all EEO Counselors:

- A. To ensure quality counseling throughout the federal sector, EEOC requires that new EEO Counselors receive a minimum of thirty-two (32) hours of EEO Counselor training prior to assuming counseling duties.

Additionally, continuing training is required:

- A. All Counselors are required to receive at least eight hours of continuing Counselor training every year to keep EEO Counselors informed of developments in EEO practice, law, and guidance, as well as to enhance and develop counseling skills. Accordingly, agencies should conduct a needs assessment to determine specific areas for training. The Commission anticipates that this training will include segments on legal and policy updates, regulatory and statutory changes, and counseling skills development.

32 hours: This course is mandatory BEFORE you do any counseling:

- Basic EEO Counseling, www.grad.usda.gov , \$995 tuition, four-days
- EEO Counseling (on-line), www.grad.usda.gov , \$165 tuition, On-Line
- EEO Training for New Counselors, www.eeoc.gov , \$925 tuition, four-days
- Interactive Counselor Certification, www.rushfordtraining.com , \$955, four-days

8 hour update: This 8 hour update is mandatory per the Code of Federal Regulations.

- The Service Center EEO Office will try to coordinate an annual update.
- EEO Update for EEO Counselors, www.grad.usda.gov , \$425 tuition, one-day
- Advanced EEO Counseling, www.grad.usda.gov , \$795 tuition, three-days
- EEO Refresher Training for Counselors, www.eeoc.gov , \$275 tuition, one-day
- EEOC Excel Conference, www.eeoc.gov , \$975, four days
- Annual Update for EEO Professionals, www.rushfordtraining.com , \$375, one-day
- New Mexico EEO and Diversity Council Annual Training, <http://www.eeocouncil.org/> , \$150, two-days
- Quad Conference, San Francisco Bay Area Quad Council Annual EEO/Diversity Conference, <http://www.quadcouncil.com> , \$495, three-days
- Your local Federal Executive Board for EEO and/or Diversity training or scheduled conferences.

Additional Website Resources

You'll want to bookmark these on your favorites. Information on counseling techniques, interviewing, researching, reviewing documents, handling the difficult interview, case law and more related to your work as an EEO Counselor:

RESOURCES FOR CASE LAW:

The Equal Employment Opportunity Commission www.eeoc.gov

FedSmith, articles on EEO decisions www.fedsmith.com

Employment law case headlines, www.eeoneews.com

Employment Discrimination U.S. Supreme Court Cases,
<http://www.public.findlaw.com/civil-rights/employee-discrimination/employment-discrimination-history/>

RESOURCES ON INTERVIEWING, DOCUMENT REVIEW, REPORT WRITING:

Remember to review your 32 hour Counselor Training course workbook or manual. You should have received resources during the course.

The following resources are not intended as Agency policy, but only as resources for your education, knowledge, and skill-building --

Department of Justice, Investigative Procedures
<http://www.usdoj.gov/crt/cor/Pubs/manuals/tab18.html>

Interviewing and Document Review, EEOC MD-110, Appendix A.
<http://www.eeoc.gov/federal/md110/appendixa.html>

Advice about Writing a Report <http://www.mdx.ac.uk/www/study/Reports.htm>

EEO Counselor Role and Responsibilities - On-Site Review

The EEO Office will come out to offices to conduct an on-site review. The following checklist will advise you of what to expect from the EEO Office representative's visit.



EEO Counselor Role and Responsibilities - On-Site Review - Checklist

- Discuss recent EEOC, U.S. Supreme Court and federal court rulings
- Recognize the impact of the above-mentioned rulings on the Equal Employment Opportunity (EEO) complaint process
- Review U. S. Supreme Court decisions that affect harassment cases
- Explain U.S. Supreme Court decisions on disability
- Explain alternative dispute resolution in the pre-complaint process
- Identify facts that need to be included in the counselor's report
- Review counseling reports for objectivity
- Discuss the No FEAR legislation
- Changes made to Title 29 CFR Section 1614.105 and 1614.105
 - Alternative Dispute Resolution Program
 - Pre-Complaint Process - The Counselor's Role

- Attorney Fees
- Class Complaints
- Sexual Harassment Allegations
 - Making an Inquiry into A Sexual Harassment Allegation
 - Questions to Ask
 - Questions Not to Ask
 - Talking with Accused
 - Talking with Witnesses

- Disability Issues
- Reasonable Accommodation Provisions
- Writing the EEO Counselors Report
 - Purpose and use of the Report
 - Components and format of the Report
 - Properly reporting qualifying details of the Initial Interview
 - Report Format
 - Writing Pertinent and Available Facts
- Basics of Writing
 - Brevity
 - Precision
 - Passive Voice
 - Eliminating Useless Words
- Disciplinary Cases
 - Informal Actions
 - Formal Actions
 - Elements of Proof
 - Management's Actions

- Current Fiscal Year Counselor Update Training Completed

Site: _____ Counselor _____ OEO Staff _____ Date _____



EEO and Diversity Program
PO Box 5400
Albuquerque, NM 87185
(505) 845-5517
EEODiversityOffice@doeal.gov

EEO and Diversity: Collaborating for Mission Success