



***EQUAL EMPLOYMENT  
OPPORTUNITY  
COUNSELOR  
HANDBOOK  
FY 2009***

***U.S. Department of Energy***

# Web Pages

At <http://scweb.na.gov/eo/index.shtm> will find the home page of the EEO and Diversity Program Office:

The screenshot shows a Microsoft Internet Explorer browser window displaying the National Nuclear Security Administration (NNSA) Service Center Intranet. The address bar shows the URL <http://scweb.na.gov/eo/index.shtm>. The page header includes the NNSA logo and the text "National Nuclear Security Administration Service Center Intranet". A "Quick Links" search box is visible in the top right corner.

The main content area is titled "EEO & DIVERSITY" and "Equal Employment Opportunity & Diversity Office". It contains the following text:

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.

**Contact Us**

Call toll free 1-800-825-5256. At the voice prompt enter 845-5517; you will be connected to the main EEO office number.

For contact information, see the [EEO Organizational Chart](#) (35K.pdf)  
For contact information on EEO Counselors & Special Emphasis Programs, see the [EEO Poster](#) (440K.pdf)

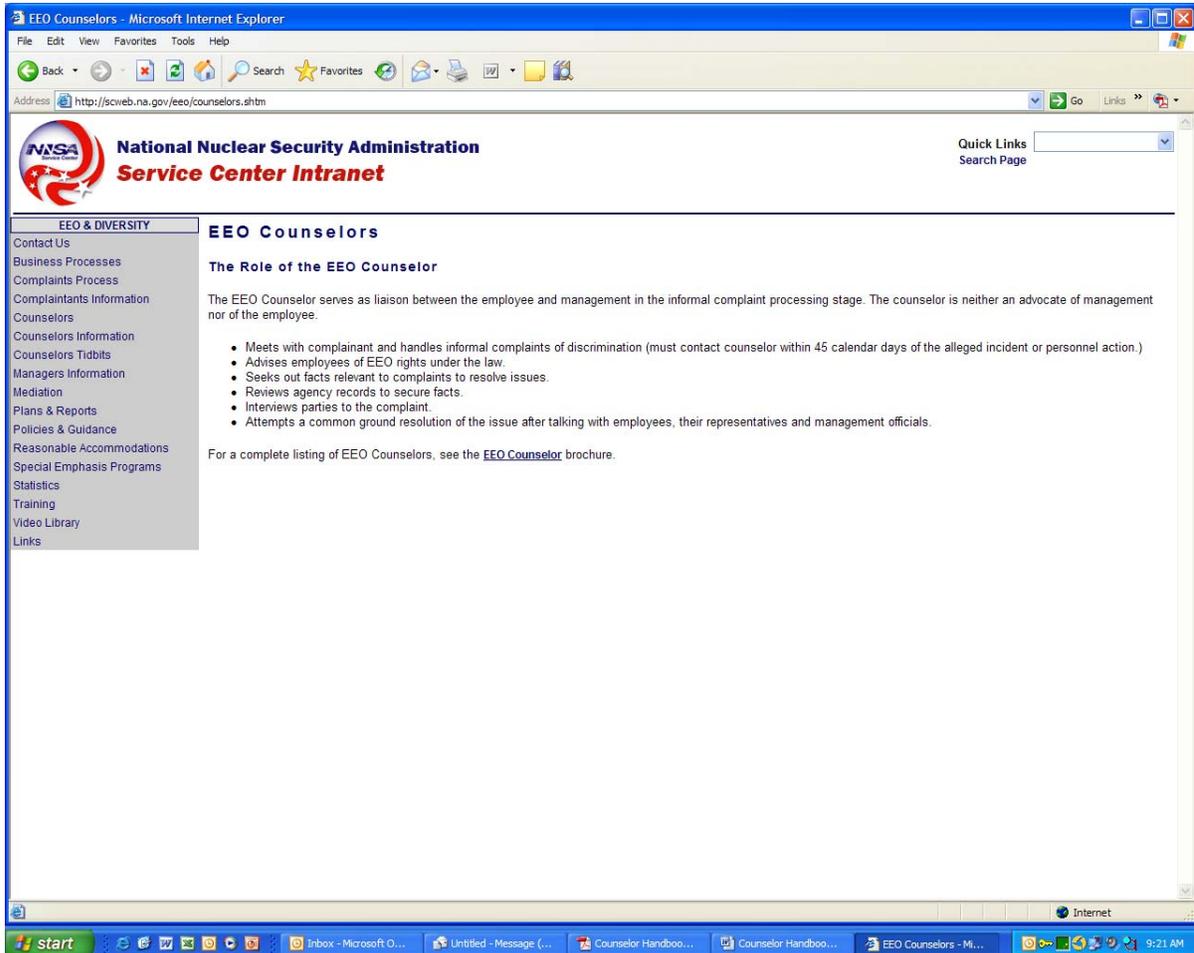
For assistance or more information about the EEO Program, send an email to [EEODiversityOffice@doeal.gov](mailto:EEODiversityOffice@doeal.gov).

**EEO and Diversity: Collaborating for Mission Success**

At the bottom of the page, there are links for [Home](#), [Site Map](#), and [Contact the Webmaster](#).

The Windows taskbar at the bottom shows the Start button, several open applications including "Inbox - Microsoft Out...", "Counselor Handbook...", and "Intranet Home Page...", and the system tray with the time 9:12 AM.

From the EEO and Diversity home page, click on "[Counselors](#)" to the right off that menu bar and you will find the most current information, forms, and processes for NNSA Counselors.



# Pre-Complaint Counseling Process

## General Information

## Pre-Complaint Counseling Process

Counselors for NNSA will receive complaints from applicants for employment to NNSA, NNSA federal employees, and contract employees. See the Flow Chart for contract employee contacts, later in this handbook. Counselors call Debbie Parrish, (505) 845-6021 [Dparrish@doeal.gov](mailto:Dparrish@doeal.gov) or Karen R. Harger, (505) 845-6668 [Kharger@doeal.gov](mailto:Kharger@doeal.gov) for assistance with your counseling questions.

Most counseling is done over the telephone 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. The checklist is not mandatory, merely a guide to assist you.

While all counselors are familiar with the guidance on Race, Color, Religion, Sex, National Origin, Age, Physical or Mental Disability, be aware that your counseling may also cover newer issues. The DOE Secretary of Energy Policy includes prohibiting employment decisions that discriminate based upon sexual orientation. Federal Executive Orders Prohibit Discrimination based upon [genetic information](#) or [parental status](#).

During your initial comprehensive meeting with the complainant, you will want to ensure the complainant's rights are reviewed, using the "Initial Counseling Checklist." **THIS IS A MANDATORY FORM**, the contents of which are required by EEOC and NNSA EEO counseling procedures. You and the complainant 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:

- Initial Counseling Checklist
- EEO Complaints Process Brochure
- Mediation Booklet
- US Department of Energy Order DOE O 203.1, Limited Personal Use of Government Office Equipment Including Information Technology
- Tips on the Use of Official Time and Tips on Requesting Official Time.

All of the above are contained in this handbook, and on your counselor's web site in a single PDF file which you may email to complainants, or direct them to go to the world wide web and download for themselves.

Complainants may ask during your interview about official time for themselves while pursuing their complaint. Please refer them to the DOE Order 203.1 and Tip on the Use of Official Time documents referenced above.

After interviewing the complainant to determine the basis or bases (race, color, religion, sex, national origin, age, physical or mental disability, or sexual orientation), 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).

Your next step is to conduct interviews with witnesses and alleged responsible management officials (ARMOs). Remember, don't take a laundry list of witnesses, ask the complainant what each witness can directly (not hearsay, not second-hand knowledge) tell you about each allegation/issue.

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, and if it is not successfully resolved in mediation or other informal settlement, conduct your Final Interview in person or via telephone, and issue the appropriate written Final Interview and Notice of Rights to File (for age or non-age complaints).

You will be notified by the Service Center EEO Office if the complainant files formally. At this point we will need your Counselor's Report and other documents. Some Counselor's prefer to prepare a report as soon as they complete counseling, so that the information is fresh. Others wait until they are notified the complaint has become formal. The choice is yours. 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:

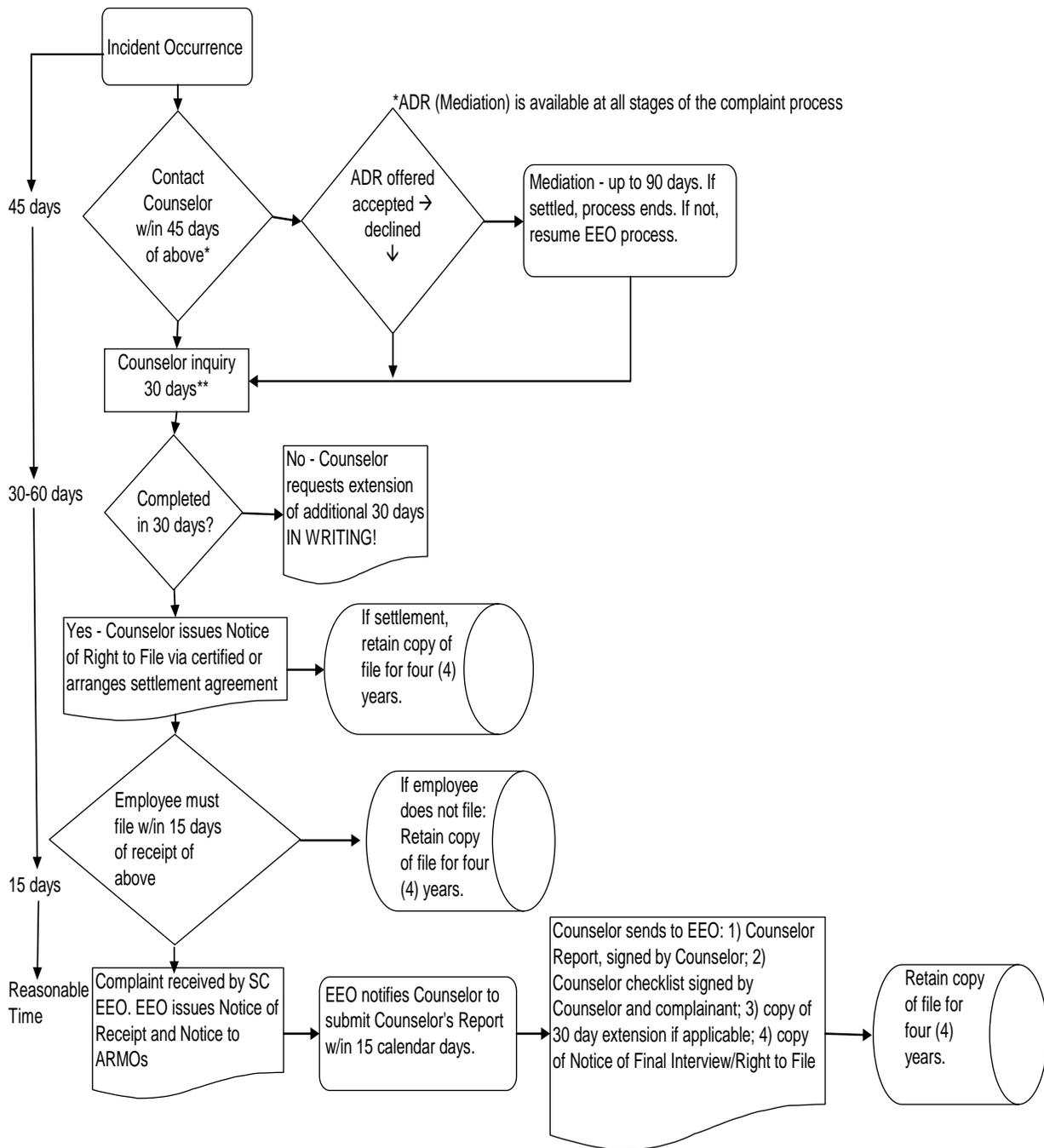
- [29 Code of Federal Regulations, CFR Part 1614](#)
- [EEOC Management Directive MD-110](#) governs Federal Sector EEO Complaints Processing. Those sections that apply to Pre-Complaint Processing for Counselors will be of particular interest and help in your duties:
  - EEOC MD-110, [Chapter II EEO 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](#)



## Counselor Flow-Charts

- Counseling Process for employees and applicants to NNSA
  - - Counseling Process for Contract employees

## The Pre-Complaint Counseling Process Flow Chart (Does not apply to Contract Employees)



\*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.



# EEO Counselors & Contractor Complaints – August 2008

Counselor, you can use:  
- an EEO in-take form  
- your calendar system  
- a note

EEO Counselor  
Contractor Contact

Document the following information:

1. Date
2. Time
3. Name
4. Contract Employer Name, e.g., XYZ Company
5. Issue(s) and Basis(es)

Counselor:  
For "1" - employee should see their employer's HR Dept or EEO Dept if there is one. They may want to check their Employer's bulletin board as well for the contact info.  
For "3" - see the State List, or contact Service Center EEO for a current list.

Provide the contract employee ALL of the following four options:

1. File with contract employer
2. File with local EEOC Office – <http://eeoc.gov/contact.html> or 1-800-669-4000
3. Contact your local State Government
4. Contact NNSA Service Center, EEO & Diversity Office, 1-505-845-6668 or 1-800-825-5256 (enter 845-5517 at the prompt)
5. Environment, Safety, Health, Security, Fraud, Waste, Abuse - Contact Employee Concerns Program – <http://scweb.na.gov/employeeconcerns/index.shtm> or 1-800-688-5713

**Option 1 or 2:** Contact must be made within 180 calendar days of the alleged occurrence of discrimination.

**Option 3:** Contact the local state agency for time-frames.

**Option 4:** Contact must be made within 45 calendar days of the alleged occurrence of discrimination.

**Option 5:** Contact Employee Concerns Program for time-frames.

Counselor:  
This documentation can be a simple "memo" to the file; or in your calendar system; or note placed in a secure location.

1. Document options 1-4 were provided to complainant. This will serve as documentation that the contract employee has been provided their filing rights
2. Do NOT provide immediate counseling
3. If the contractor elects option "4", EEO and Diversity Staff will evaluate the request which may result in a counselor assignment if contractor complaint goes formal

EEO Counselor Retains Documentation for one (1) year. At the close of one year, if you have not heard the complaint is formal, shred the document.

## 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"/> Non-selection	<input type="checkbox"/> Awards	<input type="checkbox"/> Retirement	
<input type="checkbox"/> Detail	<input type="checkbox"/> Time and Attendance	<input type="checkbox"/> Suspension	
<input type="checkbox"/> Reassignment	<input type="checkbox"/> Separation/Termination	<input type="checkbox"/> Duty Hours	
<input type="checkbox"/> Reprimand	<input type="checkbox"/> Evaluation/Appraisal	<input type="checkbox"/> Sexual Harassment	
<input type="checkbox"/> Assignment of Duties	<input type="checkbox"/> Work Conditions	<input type="checkbox"/> Appointment	
<input type="checkbox"/> Training	<input type="checkbox"/> Harassment	<input type="checkbox"/> Other (Specify)	
<input type="checkbox"/> Promotion	<input type="checkbox"/> Examination/Test	<input type="checkbox"/> Reprisal	
<input type="checkbox"/> Pay - including overtime	<input type="checkbox"/> Conversion to Full Time/Career Conditional	<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.
  - Two copies of the Initial Counselor Checklist (signed by you)
  - Copy of the EEO Complaint Processing Brochure
  - 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.

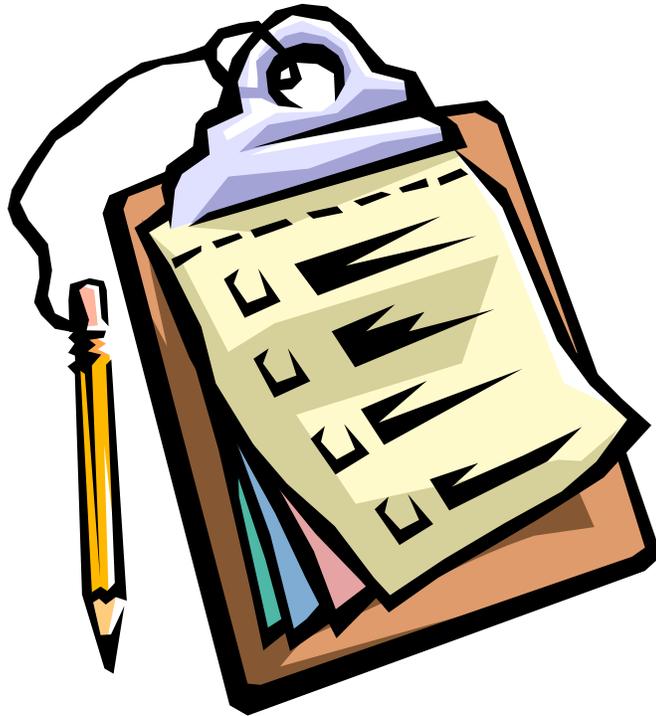
### References

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](#)
- [NNSA Mediation Program Information](#)
- [Limited Personal Use of Government Office Equipment Including Information Technology](#)
- [DOE Reasonable Accommodation Procedures](#)
- COUNSELORS NOTE employees at the NNSA Service Center, Albuquerque have a special process: [NNSA Service Center Reasonable Accommodations Guide](#)

## 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

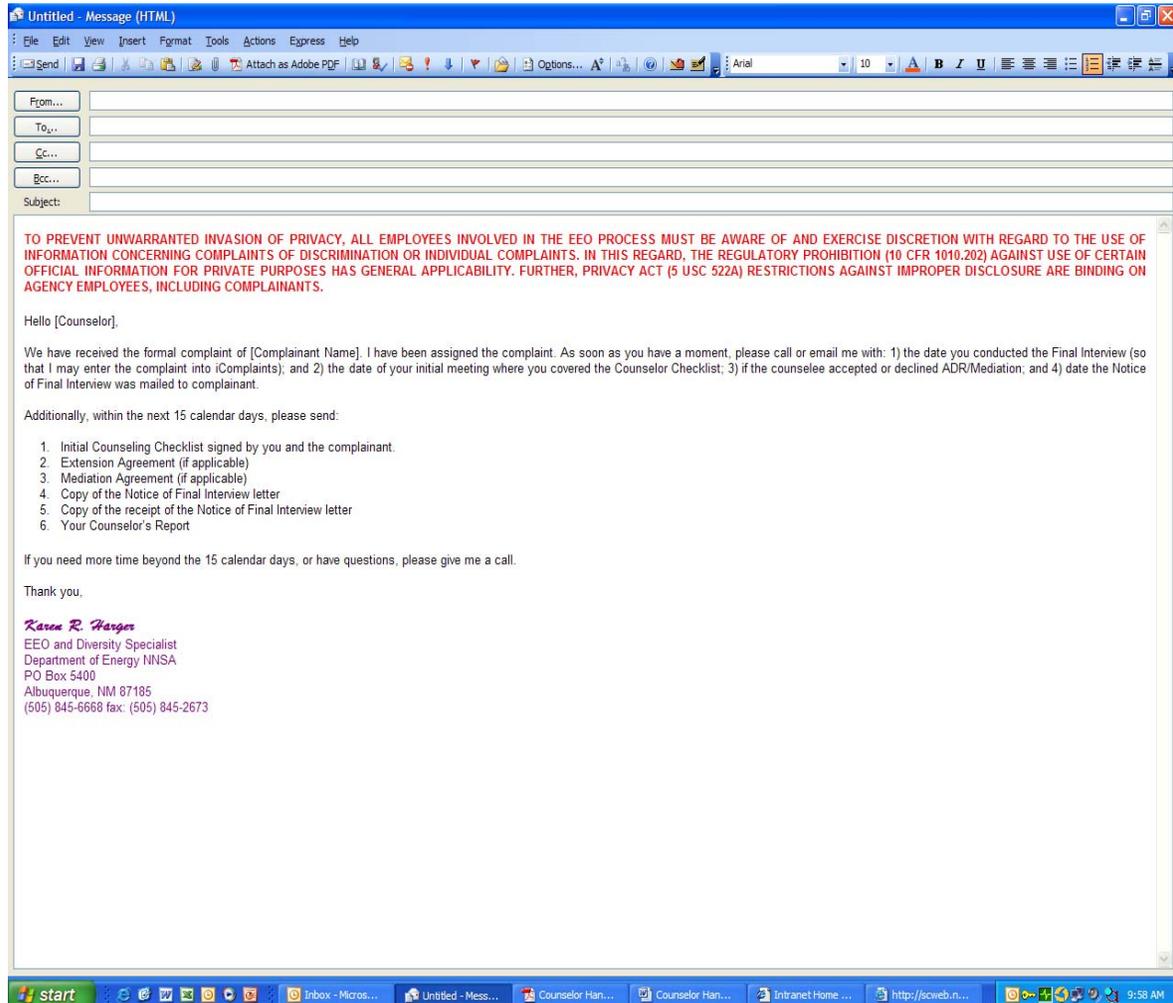
This checklist is provided to ensure consistency in the counselor's reports for the National Nuclear Security Administration.

- ❑ Complete the EEO Pre-complaint Counseling Intake Form (optional use if you are not beginning the counseling on the same date you are initially contacted).
- ❑ At your first complete interview with the complainant, review the Initial Counseling Checklist, each item, with the complainant. They should sign a copy and send to you, and you should sign a copy and send to them. If the complaint becomes formal, you are required to submit the Checklist signed by you and the complainant.
- ❑
- ❑ 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 Pre-complaint Counseling Counselor Report for content of the specific items you will cover in the Final Interview, whether by telephone or in person.
- ❑ Issue the written Notice of Final Interview.

## Formal Complaint Filed - Counselor Notified

After notification from the EEO and Diversity Office at the NNSA Service Center, that the complainant has filed a formal complaint, you will receive an email from the assigned case manager at the EEO and Diversity Office. Per EEOC MD-110, Counselor's are required to submit their Counselor's Report, and supporting documents, within 15 calendar days of notification that a formal complaint has been filed. You will be asked to submit the following to the Service Center:

1. Initial Counseling Checklist signed by you and the complainant.
2. Extension Agreement (if applicable)
3. Mediation Agreement (if applicable)
4. Copy of the Notice of Final Interview letter
5. Copy of the receipt of the Notice of Final Interview letter
6. Your Counselor's Report

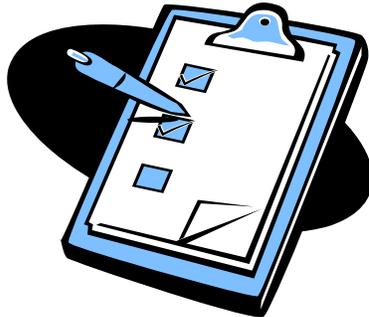


## EEO INITIAL COUNSELING CHECKLIST

**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. Remember, you have the obligation to inform the complainant of their rights and responsibilities, and you have a duty to the agency to fulfill this obligation. Not providing this information thoroughly to the complainant, can potentially result in sanctions against NNSA.

You will print out two copies of this form and mail, fax, or email one to the complainant. Or, you will have them download the form from the web site. Sign and date the form, and ask the complainant to return a signed copy to you at the end of your initial interview; or, hand to them during your first interview if you are able to meet face-to-face. This form is a required 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. Please complete page 7 of this document to make your election.
- ❑ If you file a formal complaint, you will no longer be anonymous. 29 CFR §1614.106 (c).

### 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> 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).
  - a. **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.
  - b. **MSPB jurisdiction includes**
    - Denial of restoration after recovery from compensable injury of an excepted service employee
    - Termination during probation (under limited circumstances)
    - Certain involuntary reassignments or demotions connected with conversions to Senior Executive Service
    - Improper application of re-employment priority rights
    - Reduction-in-force
    - Denial of re-employment rights under various circumstances
    - Denial of restoration following military duty; recovery of competitive service employees from certain injuries
    - Reduction-in-grade and removal based on unacceptable performance
    - Denial of within-grade increases

- Adverse suitability determinations
- Adverse actions including
  - Removal
  - Suspensions for more than 14 days
  - Reduction-in-grade (demotion)
  - Furloughs for 30 days or less
- All adverse retirement decisions of OPM except termination of annuity payments
- Adverse actions involving administrative law judges

To file your MSPB, you do so on-line at MSPB.gov:

<http://www.mspb.gov/sites/mspb/pages/The%20Appeal%20Process.aspx>

The regulations provide that a covered individual may raise claims of discrimination in a mixed case either as a direct appeal to the MSPB or as a mixed-case EEO complaint with the agency, but not both. 29 C.F.R. §1614.302(b).

Whatever action the individual files first is considered an election to proceed in that forum. § 1614.302(b). Filing a formal EEO complaint constitutes an election to proceed in the EEO forum. Contacting an EEO Counselor or receiving EEO counseling does **not** constitute an election.

Where an aggrieved person files an MSPB appeal and timely seeks counseling, counseling may continue pursuant to § 1614.105, at the option of the parties. In any case, counseling must be terminated with notice of rights pursuant to § 1614.105(d), (e), or (f).

### **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, 90 days if mediation is elected) 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](#)

### **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%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](#)

## **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.<sup>1</sup>

## **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 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.

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<sup>1</sup> 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.

- 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](#)

### **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](#)

### **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](#) and also at the Equal Employment Opportunity Commission [web site](#) on MD-110, Chapter 6, Section C (see Official Time).

### **Use of Official Time**

- In [29 CFR §1614.605](#), the Code of Federal Regulations(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.

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EEO Counselor's Printed Name, Signature, and Date

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Complainant's Printed Name, Signature, and Date

DEPARTMENT OF ENERGY  
NNSA INFORMAL EEO COUNSELING

Declaration of Anonymity

During the Informal Counseling (check appropriate boxes below):

- I give permission for my name to be used in the inquiry (waiver of anonymity).*
- I request anonymity during counseling.*
- I do not have a representative at this time.*
- I have a representative who is a/an:*

*Attorney*     *Union Official*     *Other:* \_\_\_\_\_  
(specify)

*Their contact information is:*

*Name:* \_\_\_\_\_

*Address:* \_\_\_\_\_

*City, State, Zip Code:* \_\_\_\_\_

*Telephone No.:* \_\_\_\_\_

*Fax No.:* \_\_\_\_\_

*E-Mail Address:* \_\_\_\_\_

Employees Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date \_\_\_\_\_

EEO Counselor: Attach to Your Counselor's Report

## 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.

Send the letter via certified mail.

Enclose 1) a form 1600 Formal Complaint of Discrimination 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

William A. Lewis, Jr.  
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

# Conducting the Final Interview

## NOTICE OF FINAL INTERVIEW AND RIGHT TO FILE

**INSTRUCTIONS:** If informal resolution is not reached through your attempts or through mediation (Alternative Dispute Resolution). The face-to-face or telephone final interview is **mandatory**, and must be followed up by a written letter, per the EEOC MD-110.

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.

If the complainant has entered mediation and the mediation is not completed within 90 days, you must complete the Final Interview and issue the written Final Interview letter.

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. The difference in the two is that, per the Initial Counseling, you will recall that age complaints can not claim compensatory damages, and the Agency wants to ensure that the complainant has been advised of this at the beginning and at the end of your counseling.



## Telephone or Face-to-Face Final Interview

Cover the following items with the complainant; they are required by EEOC MD-110.

- Review the issues that were presented, e.g., Issue #1 "on or about (date), (ARMO name) said or did, and you believed it was because of your (cite the bases), and the harm you experienced was (cite the harm the complainant brought up); Issue #2, repeat the on or about, etc. for each and every issue.
- 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:
  - o Must be in writing using the DOE Form 1600, complainant may attach additional pages if they wish;
  - o Must be specific with regard to the claim(s) that the aggrieved person raised in EEO counseling and that the complainant wishes to pursue;
  - o If additional claims have arisen since the counseling, but were not brought up to the counselor, and the claims are not like or related to those the counselor made inquiry and informal resolution attempt upon, advise the complainant that these new issues may be remanded for counseling per the Code of Federal Regulations. Remind the complainant to seek counseling within 45 calendar days of the date of the new claims.
  - o Must be signed by complainant or complainant's attorney; and
  - o 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.
  - o Name(s) of person(s) authorized to receive complaints will be in their notice of Final Interview Letter.
  - o 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.

[Use this format for complainants citing "Age" as a basis]

**NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR**  
**AND**  
**RIGHT TO FILE A FORMAL COMPLAINT OF DISCRIMINATION**

**CERTIFIED MAIL**

Complainant Name  
Address  
City, State Zip Code

Date of Initial Contact:  
Final Interview Date:

Dear Mr./Ms. :

This is to inform you that, on the above-referenced date, the final counseling interview was held in our effort to informally settle the allegations of discrimination which you presented to me as an EEO Counselor.

The issue(s) presented: List issues in order and number them.

If you believe that you have been discriminated against on the basis of race, color, religion, sex, national origin, age, physical or mental handicap, or reprisal, and you wish to pursue this matter further, you now have a right to file a formal complaint of discrimination, pursuant to EEOC Regulation 29 C.F.R. Section 1614.106. If you desire to exercise your right to file a formal complaint, you must do so **within 15 calendar days after receipt of this notice.**

Your complaint must be in writing, and should be filed in person or by mail with any

Of the following officials authorized to receive discrimination complaints:

Samuel Bodman  
Secretary of Energy  
Forrestal Building  
1000 Independence Avenue, SW  
Washington, DC 20585

William A. Lewis, Jr.  
Deputy Director, Office of Civil Rights and Diversity, ED-4  
U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585

Complainant Name -2-

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

Please submit your complaint on the attached form, DOE-F1600.1, "Complaint of Discrimination."

A complaint shall be deemed timely if it is received or postmarked before the expiration of the 15 day filing period, or, in the absence of a legible postmark, if it is received by mail within five days of the expiration of the filing period.

If you file your complaint with one of the officials listed above (other than the EEO and Diversity Program Manager), it will be sent to Yolanda Giron, NNSA Service Center, EEO and Diversity Program Manager for processing. Therefore, if you choose to file your complaint with any of the other officials listed above, be sure to provide a copy of your complaint to Ms. Giron to ensure prompt processing of your complaint.

In order for a formal complaint of discrimination to be accepted and properly investigated, the allegations presented must be expressed as clearly as possible. Moreover, only allegations which were discussed in a timely manner with an EEO Counselor, or which are like or related to a matter that has been brought to the attention of a Counselor, will be accepted for investigation.

If you decide to file a formal complaint of discrimination, and you retain the services of an attorney or any other representative, you must immediately notify Yolanda Giron, EEO and Diversity Program Manager, in writing, of the name and address of your representative.

In the alternative, you may wish to consider mediation of your complaint. Mediation is a risk-free process which may allow you to resolve your complaint quickly, and with minimal stress. I have attached a brochure fully explaining the benefits of mediation. I hope you will read it

Complainant Name

-3-

carefully, and give serious consideration to joining the many NNSA employees who have successfully used this process. (Please note that this alternative may not be available if you have previously mediated this complaint.)

#### SPECIFIC INFORMATION FOR AGE DISCRIMINATION COMPLAINTS

- 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.

If I can be of any further assistance in this matter, please do not hesitate to contact me at Phone Number.

Sincerely,

EEO Counselor's Name  
EEO Counselor

Enclosure:  
Mediation Brochure  
w/DOE -F 1600.1

**U.S. DEPARTMENT OF ENERGY  
COMPLAINT OF DISCRIMINATION**

(Because of Race, Color, Religion, Sex, Age, National Origin, Retaliation, or Physical and/or Mental Disability)  
(See Reverse for Instructions)

<p>1. COMPLAINANT'S FULL NAME</p>		<p>2. COMPLETE HOME ADDRESS: Street Address, RD, or P.O. Box:</p>  <p>City, State, Zip Code:</p>											
<p>3. BUSINESS TELEPHONE: (Include Area Code)</p>	<p>4. HOME TELEPHONE: (Include Area Code)</p>												
<p>5A. OFFICE YOU BELIEVE DISCRIMINATED AGAINST YOU:</p>  <p>B. ADDRESS: (Include Street, City, State, Zip Code)</p>  <p>C. NAME AND TITLE OF PERSON(S) YOU BELIEVE DISCRIMINATED AGAINST YOU:</p>  <p>D. DATE OF MOST RECENT ALLEGED DISCRIMINATION:                    MONTH      DAY      YEAR</p>		<p>6A. ARE YOU PRESENTLY WORKING FOR THE FEDERAL GOVERNMENT?</p> <p><input type="checkbox"/> YES (Answer B, C, and D Below)</p> <p><input type="checkbox"/> NO (Continue with Question 7)</p> <p>B. AGENCY WHERE YOU WORK:</p>  <p>C. ADDRESS OF AGENCY: (Include Street, City, State, Zip Code)</p>  <p>D. TITLE AND GRADE OF YOUR JOB:</p>											
<p>7. CHECK BELOW THE REASON(S) YOU BELIEVE YOU WERE DISCRIMINATED AGAINST.</p> <table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"><input type="checkbox"/> Race, If so, State your Race _____</td> <td style="width:50%; border: none;"><input type="checkbox"/> Sex <input type="checkbox"/> M <input type="checkbox"/> F</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Color, If so, State your Color _____</td> <td style="border: none;"><input type="checkbox"/> *Age, if so, State your Age _____</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Religion, If so, State your Religion _____</td> <td style="border: none;"><input type="checkbox"/> Physical Disability, if so, State your Physical Disability _____</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> National Origin, If so, State your National Origin _____</td> <td style="border: none;"><input type="checkbox"/> Mental Disability _____</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Sexual Harassment _____</td> <td style="border: none;"><input type="checkbox"/> Retaliation _____</td> </tr> </table> <p>* (Complaints of discrimination because of age apply only to employees or applicants who are at least 40 years of age at the time the discriminatory action is alleged to have occurred.)</p>				<input type="checkbox"/> Race, If so, State your Race _____	<input type="checkbox"/> Sex <input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> Color, If so, State your Color _____	<input type="checkbox"/> *Age, if so, State your Age _____	<input type="checkbox"/> Religion, If so, State your Religion _____	<input type="checkbox"/> Physical Disability, if so, State your Physical Disability _____	<input type="checkbox"/> National Origin, If so, State your National Origin _____	<input type="checkbox"/> Mental Disability _____	<input type="checkbox"/> Sexual Harassment _____	<input type="checkbox"/> Retaliation _____
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<input type="checkbox"/> Sexual Harassment _____	<input type="checkbox"/> Retaliation _____												
<p>8. EXPLAIN HOW YOU BELIEVE YOU WERE DISCRIMINATED AGAINST (TREATED DIFFERENTLY FROM OTHER EMPLOYEES OR APPLICANTS) BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, RETALIATION, OR PHYSICAL AND/OR MENTAL DISABILITY. (For each allegation, please state to the best of your knowledge, information and belief <u>what</u> incident occurred and <u>when</u> the incident occurred. You may continue your answer on another sheet of paper if you need more space.)</p>          													
<p>9. (A) I HAVE DISCUSSED MY COMPLAINT WITH AN EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR: (See Instructions)</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>		<p>9. (B) NAME OF COUNSELOR:</p>											
<p>10. (A) WHAT CORRECTIVE ACTION ARE YOU SEEKING?:</p>		<p>10. (B) ARE YOU CLAIMING COMPENSATORY DAMAGES? (COMPENSATORY DAMAGES AND ATTORNEY'S FEES ARE EXCLUDED FROM AGE CASES). <input type="checkbox"/> YES, MEDICAL DOCUMENTATION MUST BE SUBMITTED. <input type="checkbox"/> NO.</p>											
<p>11. DATE OF THIS COMPLAINT:                    MONTH      DAY      YEAR</p>		<p>12. SIGN YOUR (COMPLAINANT'S) NAME HERE:</p>											

## INFORMATION AND INSTRUCTIONS

### (PLEASE READ CAREFULLY)

- This form should be used only if you, as a U.S. Department of Energy (DOE) employee or an applicant for employment believe you have been discriminated against because of race, color, religion, sex, age, national origin, retaliation or physical and/or mental disability by DOE and have presented the matter for informal resolution to an Equal Employment Opportunity Counselor within 45 calendar days of the date the incident occurred or, if a personnel action, within 45 calendar days of its effective date.
- Your complaint must be filed within 15 calendar days of the date you receive a notice of right to file a complaint of discrimination from an Equal Employment Opportunity Counselor. If the matter has not been resolved to your satisfaction within either 30 calendar days of your first interview with the Equal Employment Opportunity Counselor or 90 calendar days of using an established dispute resolution program, you have a right to file a complaint within 15 days after receiving the above-referenced notice.
- These time limits may be extended if you show that you were not notified of the time limits and were not otherwise aware of them, or that you were prevented by circumstances beyond your control from submitting the matter within the time limits, or for other reasons considered sufficient by the agency.
- If you need help in the preparation of your complaint, you may contact the Director of Civil Rights, an Equal Employment Opportunity Counselor or the Equal Employment Opportunity/Diversity Program Manager at your facility, or you may secure help from a representative of your choice.
- Your written complaint should be filed by you or by your designated representative with the Equal Employment Opportunity Office where the alleged discrimination occurred, the head of the field installation, the agency's Director of Civil Rights, Secretary of Energy or other such officials as the agency may designate for that purpose.
- You may have a representative of your own choosing at all stages of the processing of your complaint.
- You will have an opportunity to talk with an investigator and give him/her all the facts which you believe show discrimination. The investigator will not be under the jurisdiction of the head of that part of the agency in which the alleged discrimination took place.
- After the investigation of your complaint has been completed, you will be given a copy of the investigative file.
- An opportunity to request a hearing will be conducted by an independent Administrative Judge certified by the Equal Employment Opportunity Commission. The hearing will be held at a convenient time and place. At the hearing, you may present witnesses and other evidence in your behalf.
- The final decision (in writing) will be made by the head of the agency or his/her designee. If a hearing was held on your complaint, the head of the agency or his/her designee will review the decision recommended by the Administrative Judge before making a final decision, and he/she will furnish you with a transcript of the hearing, a copy of the findings, analysis and recommended decision of the Administrative Judge, and the agency's final decision letter.
- If you are not satisfied with the final agency decision, you have the right to appeal that decision within 30 calendar days after receipt to the Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, DC, 20036, or you may file a civil action in an appropriate U.S. District Court within 90 days of receipt of the agency's decision. If you elect to file an appeal with the Commission, you may still file a civil action in a U.S. District Court within 90 days of the Commission's decision if you are dissatisfied with the decision.
- You also may file a civil action in an appropriate U.S. District Court if you have not received a final agency decision within 180 days of filing your complaint with the agency or if you have not received a final Commission decision within 180 days of filing your appeal with the Commission's Office of Federal Operations.

### **Privacy Act Information Statement**

**General:** This information is requested pursuant to Public Law 93-579 (Privacy Act of 1974, December 31, 1974) for individuals completing formal discrimination complaint forms.

**Authority:** Section 1302 of Title 5 U.S.C., Executive Order 11478, (3 CFR Section 446 (1970)), and Title 29 CFR Section 1614.102, gives the Department of Energy authority to issue regulations for the processing of complaints of discrimination.

**Purpose and Uses:** The principle purpose of form DOE F 1600.1, "Complaint of Discrimination", is to receive and process complaints of discrimination based on race, religion, color, sex, age, national origin, retaliation or physical and/or mental disability.

**Effects of Nondisclosure:** Failure to provide this information may result in an allegation of discrimination not being processed.

[Use this format for complaints that do not cite "Age" as a basis]

**NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR**  
**AND**  
**RIGHT TO FILE A FORMAL COMPLAINT OF DISCRIMINATION**

**CERTIFIED MAIL**

Complainant's Name

Address

City/State/Zip Code

Initial Contact Date:

Date of Final Interview:

Dear Mr. or Ms. Complainant's Name:

This is to inform you that, on the above-referenced date, the final counseling interview was held in our effort to informally settle the allegations of discrimination which you presented to me as an EEO Counselor.

The issue(s) presented: List the issues 1 by 1.

If you believe that you have been discriminated against on the basis of race, color, religion, sex, national origin, age, physical or mental handicap, or reprisal, and you wish to pursue this matter further, you now have a right to file a formal complaint of discrimination, pursuant to EEOC Regulation 29 C.F.R. Section 1614.106. If you desire to exercise your right to file a formal complaint, you must do so **within 15 calendar days after receipt of this notice.**

Your complaint must be in writing, and should be filed in person or by mail with any

Of the following officials authorized to receive discrimination complaints:

Samuel Bodman  
Secretary of Energy  
Forrestal Building  
1000 Independence Avenue, SW  
Washington, DC 20585

William A. Lewis, Jr.  
Deputy Director, Office of Civil Rights and Diversity, ED-4  
U.S. Department of Energy  
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Washington, DC 20585

Complainant's Name -2-

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

Please submit your complaint on the attached form, DOE-F1600.1, "Complaint of Discrimination."

A complaint shall be deemed timely if it is received or postmarked before the expiration of the 15 day filing period, or, in the absence of a legible postmark, if it is received by mail within five days of the expiration of the filing period.

If you file your complaint with one of the officials listed above (other than the EEO and Diversity Program Manager), it will be sent to Yolanda Giron, NNSA Service Center, EEO and Diversity Program Manager for processing. Therefore, if you choose to file your complaint with any of the other officials listed above, be sure to provide a copy of your complaint to Ms. Giron to ensure prompt processing of your complaint.

In order for a formal complaint of discrimination to be accepted and properly investigated, the allegations presented must be expressed as clearly as possible. Moreover, only allegations which were discussed in a timely manner with an EEO Counselor, or which are like or related to a matter that has been brought to the attention of a Counselor, will be accepted for investigation.

If you decide to file a formal complaint of discrimination, and you retain the services of an attorney or any other representative, you must immediately notify Yolanda Giron, EEO and Diversity Program Manager, in writing, of the name and address of your representative.

In the alternative, you may wish to consider mediation of your complaint. Mediation is a risk-free process which may allow you to resolve your complaint quickly, and with minimal stress. I have attached a brochure fully explaining the benefits of mediation. I hope you will read it

Complainant's Name

-3-

carefully, and give serious consideration to joining the many NNSA employees who have successfully used this process. (Please note that this alternative may not be available if you have previously mediated this complaint.)

If I can be of any further assistance in this matter, please do not hesitate to contact me at EEO Counselor's Phone Number.

Sincerely,

EEO Counselor's Name  
EEO Counselor

Enclosure:  
Mediation Brochure  
w/DOE -F 1600.1

**U.S. DEPARTMENT OF ENERGY  
COMPLAINT OF DISCRIMINATION**

(Because of Race, Color, Religion, Sex, Age, National Origin, Retaliation, or Physical and/or Mental Disability)  
(See Reverse for Instructions)

<p>1. COMPLAINANT'S FULL NAME</p>		<p>2. COMPLETE HOME ADDRESS: Street Address, RD, or P.O. Box:</p>  <p>City, State, Zip Code:</p>											
<p>3. BUSINESS TELEPHONE: (Include Area Code)</p>	<p>4. HOME TELEPHONE: (Include Area Code)</p>												
<p>5A. OFFICE YOU BELIEVE DISCRIMINATED AGAINST YOU:</p>  <p>B. ADDRESS: (Include Street, City, State, Zip Code)</p>  <p>C. NAME AND TITLE OF PERSON(S) YOU BELIEVE DISCRIMINATED AGAINST YOU:</p>  <p>D. DATE OF MOST RECENT ALLEGED DISCRIMINATION:                    MONTH      DAY      YEAR</p>		<p>6A. ARE YOU PRESENTLY WORKING FOR THE FEDERAL GOVERNMENT?</p> <p><input type="checkbox"/> YES (Answer B, C, and D Below) <input type="checkbox"/> NO (Continue with Question 7)</p> <p>B. AGENCY WHERE YOU WORK:</p>  <p>C. ADDRESS OF AGENCY: (Include Street, City, State, Zip Code)</p>  <p>D. TITLE AND GRADE OF YOUR JOB:</p>											
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<p>8. EXPLAIN HOW YOU BELIEVE YOU WERE DISCRIMINATED AGAINST (TREATED DIFFERENTLY FROM OTHER EMPLOYEES OR APPLICANTS) BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, RETALIATION, OR PHYSICAL AND/OR MENTAL DISABILITY. (For each allegation, please state to the best of your knowledge, information and belief <u>what</u> incident occurred and <u>when</u> the incident occurred. You may continue your answer on another sheet of paper if you need more space.)</p>													
<p>9. (A) I HAVE DISCUSSED MY COMPLAINT WITH AN EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR: (See Instructions) <input type="checkbox"/> YES <input type="checkbox"/> NO</p>		<p>9. (B) NAME OF COUNSELOR:</p>											
<p>10. (A) WHAT CORRECTIVE ACTION ARE YOU SEEKING?:</p>		<p>10. (B) ARE YOU CLAIMING COMPENSATORY DAMAGES? (COMPENSATORY DAMAGES AND ATTORNEY'S FEES ARE EXCLUDED FROM AGE CASES). <input type="checkbox"/> YES, MEDICAL DOCUMENTATION MUST BE SUBMITTED. <input type="checkbox"/> NO.</p>											
<p>11. DATE OF THIS COMPLAINT:                    MONTH      DAY      YEAR</p>		<p>12. SIGN YOUR (COMPLAINANT'S) NAME HERE:</p>											

## INFORMATION AND INSTRUCTIONS

### (PLEASE READ CAREFULLY)

- This form should be used only if you, as a U.S. Department of Energy (DOE) employee or an applicant for employment believe you have been discriminated against because of race, color, religion, sex, age, national origin, retaliation or physical and/or mental disability by DOE and have presented the matter for informal resolution to an Equal Employment Opportunity Counselor within 45 calendar days of the date the incident occurred or, if a personnel action, within 45 calendar days of its effective date.
- Your complaint must be filed within 15 calendar days of the date you receive a notice of right to file a complaint of discrimination from an Equal Employment Opportunity Counselor. If the matter has not been resolved to your satisfaction within either 30 calendar days of your first interview with the Equal Employment Opportunity Counselor or 90 calendar days of using an established dispute resolution program, you have a right to file a complaint within 15 days after receiving the above-referenced notice.
- These time limits may be extended if you show that you were not notified of the time limits and were not otherwise aware of them, or that you were prevented by circumstances beyond your control from submitting the matter within the time limits, or for other reasons considered sufficient by the agency.
- If you need help in the preparation of your complaint, you may contact the Director of Civil Rights, an Equal Employment Opportunity Counselor or the Equal Employment Opportunity/Diversity Program Manager at your facility, or you may secure help from a representative of your choice.
- Your written complaint should be filed by you or by your designated representative with the Equal Employment Opportunity Office where the alleged discrimination occurred, the head of the field installation, the agency's Director of Civil Rights, Secretary of Energy or other such officials as the agency may designate for that purpose.
- You may have a representative of your own choosing at all stages of the processing of your complaint.
- You will have an opportunity to talk with an investigator and give him/her all the facts which you believe show discrimination. The investigator will not be under the jurisdiction of the head of that part of the agency in which the alleged discrimination took place.
- After the investigation of your complaint has been completed, you will be given a copy of the investigative file.
- An opportunity to request a hearing will be conducted by an independent Administrative Judge certified by the Equal Employment Opportunity Commission. The hearing will be held at a convenient time and place. At the hearing, you may present witnesses and other evidence in your behalf.
- The final decision (in writing) will be made by the head of the agency or his/her designee. If a hearing was held on your complaint, the head of the agency or his/her designee will review the decision recommended by the Administrative Judge before making a final decision, and he/she will furnish you with a transcript of the hearing, a copy of the findings, analysis and recommended decision of the Administrative Judge, and the agency's final decision letter.
- If you are not satisfied with the final agency decision, you have the right to appeal that decision within 30 calendar days after receipt to the Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, DC, 20036, or you may file a civil action in an appropriate U.S. District Court within 90 days of receipt of the agency's decision. If you elect to file an appeal with the Commission, you may still file a civil action in a U.S. District Court within 90 days of the Commission's decision if you are dissatisfied with the decision.
- You also may file a civil action in an appropriate U.S. District Court if you have not received a final agency decision within 180 days of filing your complaint with the agency or if you have not received a final Commission decision within 180 days of filing your appeal with the Commission's Office of Federal Operations.

### **Privacy Act Information Statement**

**General:** This information is requested pursuant to Public Law 93-579 (Privacy Act of 1974, December 31, 1974) for individuals completing formal discrimination complaint forms.

**Authority:** Section 1302 of Title 5 U.S.C., Executive Order 11478, (3 CFR Section 446 (1970)), and Title 29 CFR Section 1614.102, gives the Department of Energy authority to issue regulations for the processing of complaints of discrimination.

**Purpose and Uses:** The principle purpose of form DOE F 1600.1, "Complaint of Discrimination", is to receive and process complaints of discrimination based on race, religion, color, sex, age, national origin, retaliation or physical and/or mental disability.

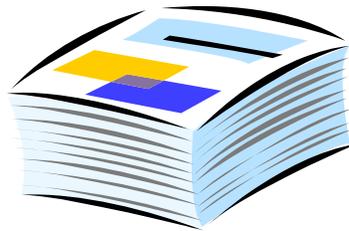
**Effects of Nondisclosure:** Failure to provide this information may result in an allegation of discrimination not being processed.

## 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.

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.



# NNSA EEO COUNSELOR'S REPORT

Today's Date

## PART I. BACKGROUND - AGGRIEVED PERSON:

NAME:

JOB TITLE/SERIES/GRADE:

PLACE OF EMPLOYMENT:

WORK PHONE #:

HOME PHONE #:

RESIDENCE/MAILING ADDRESS:

COMPLAINANT'S REPRESENTATIVE:

COMPLAINANT **IS/IS NOT** A FEDERAL EMPLOYEE OF NNSA

## PART II. CHRONOLOGY OF EEO COUNSELING

Date of Initial Contact with EEO Office (if applicable):

Insert Date

Date of Initial Contact with Counselor:

Insert Date

Date of Initial Interview with Complainant:

Insert Date

Date of **Most Recent** Alleged Discrimination Event:

Insert Date

If initial counselor contact is beyond 45 days of the most recent incident, state the complainant's reasons.

Date of Agreement to Extended Counseling:  
(Attach copy of email or letter of agreement)

Insert Date

Date of Final Interview:

Insert Date

Date Final Interview letter sent via Certified Mail  
(Or, if by e-mail or fax, indicate same)

Insert Date

Date Complainant received Certified Letter  
(Or, if by e-mail or fax, indicate same)

Insert Date

Date report and other required documents sent  
to EEO Officer

Insert Date

**PART III. BASIS(ES) FOR ALLEGED DISCRIMINATION:** Bases could include  
Race, National Origin, Sex, Color, Religion, Reprisal, Disability, or Age.

DOE Policy: Sexual Orientation

Executive Orders: Genetic Information; Parental Status

**CLAIM(S) FOR ALLEGED DISCRIMINATION:** Claims could include not being  
selected for promotion, harassment, retaliation, reassignment, etc. see your  
Initial Counseling In-Take form for a comprehensive list.

**PART IV. ALLEGATION(S) OF DISCRIMINATION:** List each allegation in the  
format of #1 On or about (date), (Alleged Responsible Management Official), said  
or did X to you; #2 (repeat for each allegation the complainant raises).

**Alleged Responsible Management Official(s) [ARMOs]:**

Name/Title:

Organization Address:

Telephone #:

E-mail:

Name/Title:

Organization Address:

Telephone #:

E-mail:

(Copy the above format for additional ARMO's if necessary)

**Requested Relief:** State what the complainant asks for resolution, including  
compensatory damages, if any (list the dollar amount).

**PART V. INQUIRY:**

**INSERT NARRATIVE REGARDING YOUR INTERVIEWS: COMPLAINANT, ARMO(S), AND  
WITNESSES (IF ANY), INCLUDE THE DATES THEY WERE INTERVIEWED**

## SUMMARY INTERVIEW/DOCUMENTS:

Documents reviewed:

LIST DOCUMENTS THAT WERE REVIEWED.

COUNSELOR SUMMARIZES INFORMATION IN DOCUMENTS THAT WERE REVIEWED.

## PART VI. SUMMARY OF INFORMAL RESOLUTION ATTEMPT:

The EEO Counselor attempted to resolve the EEO complaint by informing the Alleged Responsible Manager of the complaint's requested relief below:

INSERT WHAT COMPLAINANT IS REQUESTING TO

RESOLVE:

There was/was not a resolution: INSERT RESOLUTION, IF APPLICABLE

## PART VII. SUMMARY OF INFORMATION GIVEN TO

### AGGRIEVED PERSON:

Indicate telephone or face-to-face interview with complainant on Date with complainant provided the following information:

- ❑ 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.

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Name

Date

EEO Counselor

Work Address

Phone

E-mail

## 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](http://www.grad.usda.gov) , \$995 tuition, four-days
- EEO Counseling (on-line), [www.grad.usda.gov](http://www.grad.usda.gov) , \$165 tuition, On-Line
- EEO Training for New Counselors, [www.eeoc.gov](http://www.eeoc.gov) , \$925 tuition, four-days
- Interactive Counselor Certification, [www.rushfordtraining.com](http://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](http://www.grad.usda.gov)
- Advanced EEO Counseling, [www.grad.usda.gov](http://www.grad.usda.gov)
- EEO Refresher Training for Counselors, from the [EEOC](http://www.eeoc.gov).
- [EEOC Excel Conference](#)
- Annual Update for EEO Professionals, [Rushford and Associates](#)
- [New Mexico EEO and Diversity Council Annual Training](#)
- Quad Conference, San Francisco Bay Area Quad Council Annual EEO/Diversity Conference, <http://www.quadcouncil.com>
- 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](http://www.eeoc.gov)

FedSmith, articles on EEO decisions [www.fedsmith.com](http://www.fedsmith.com)

Employment law case headlines, [www.eeonews.com](http://www.eeonews.com)

Employment Discrimination [U.S. Supreme Court Cases](#)

### 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](#)

[Interviewing and Document Review, EEOC MD-110, Appendix A](#)

[Advice about Writing a Report](#)

## Word Documents-Templates

- In-Take Form 
- Mediation Election 
- Declaration of Anonymity 
- 30-Day Extension Request 
- Final Interview Letter: Age as a basis 
- Final Interview Letter (all other Title VII, DOE Policy bases cited) 
- Counselor Report 

## 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](mailto:EEODiversityOffice@doeal.gov)

*EEO and Diversity: Collaborating for Mission Success*