

MEMORANDUM FOR:

FROM: EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR, MCIPAC

Subj: NOTICE OF RIGHTS AND RESPONSIBILITIES

This is to notify you that you have the following rights and responsibilities regarding the processing of your complaint. It is important that you understand each of these as they may affect the way in which your complaint is processed.

1. YOU HAVE THE RIGHT TO REMAIN ANONYMOUS DURING THE INFORMAL PROCESS.

a. If you choose to remain anonymous, your anonymity is **only** protected during the informal stage of the complaint process and only if you are not alleging discriminatory workplace harassment, including sexual harassment.

b. If you file a formal complaint, your anonymity is no longer protected.

_____ I waive my right to anonymity during the informal process.

_____ I do not waive my right to anonymity during the informal process.

(initials)

2. YOU HAVE THE RIGHT TO REPRESENTATION. YOU ARE RESPONSIBLE FOR NOTIFYING THE EQUAL EMPLOYMENT OPPORTUNITY OFFICE, IN WRITING, OF ANY REPRESENTATIVE (ATTORNEY OR NON-ATTORNEY) OBTAINED.

a. If you obtain a representative, you must provide written notice of your representative's name, address, and telephone number. All official correspondence shall be addressed to the representative, with copies provided to you.

b. If you designate an attorney as your representative, service of documents and decisions shall be made on the attorney and timeframes for receipt of materials shall be computed from the time of receipt by the attorney.

c. You must serve all official correspondence on the designated representative of the agency.

d. The EEO Counselor is not an advocate or representative for you or for the agency, but acts as a neutral in the EEO process.

(initials)

3. YOU HAVE THE RIGHT TO CHOOSE BETWEEN ALTERNATIVE DISPUTE RESOLUTION (ADR) OR TRADITIONAL EEO COUNSELING AT THIS TIME. YOU WILL BE PROVIDED ADDITIONAL INFORMATION ABOUT EACH PROCEDURE. PLEASE BE ADVISED THE AGENCY MAY DECLINE TO PARTICIPATE OR OFFER ADR ON A CASE BY CASE BASIS. (ELECTION FORM AT ATTACHMENT 1 MUST BE COMPLETED).

a. Are you interested in participating in ADR?

Yes* No

*If yes, please submit the ADR election Form as Attachment 1.

(initials)

4. IF YOU ARE AN EMPLOYEE(S) COVERED BY A COLLECTIVE BARGAINING AGREEMENT THAT PERMITS ALLEGATIONS OF DISCRIMINATION TO BE RAISED IN A NEGOTIATED GRIEVANCE PROCEDURE:

a. You have the right to file an EEO complaint or grievance and raise the matter of alleged employment discrimination under either 29 C.F.R. § 1614 or the negotiated grievance procedure, but not both.

b. If you file under 29 C.F.R. § 1614, you may not thereafter file a grievance on the same matter. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely written grievance.

c. If your collective bargaining agreement allows allegations of discrimination and you raise these allegations in the grievance, you will not be allowed to later file an EEO discrimination complaint on the same issue.

(initials)

5. MIXED CASES.

a. If the subject of your complaint is appealable to the Merit Systems Protection Board (MSPB), it is known as a mixed case. You may file a complaint with the EEO Office (“mixed case complaint”) or an appeal with MSPB (“mixed case appeal”), but not both.

b. Whichever is filed first will be considered the election to proceed in that forum. If you file a mixed case appeal with MSPB instead of a mixed case complaint and MSPB dismisses

the appeal for jurisdictional reasons, you have the right to contact an EEO Counselor within 45 days of receipt of the notice and to file an EEO complaint. The date on which you file your appeal with MSPB will be deemed to be the date of the initial contact with the Counselor. If you file a timely appeal with MSPB from the processing of a mixed case complaint and MSPB dismisses it for jurisdictional reasons, you may have the right to a hearing before an EEOC AJ.

(initials)

6. YOU HAVE THE RIGHT TO FILE A FORMAL COMPLAINT, A CLASS COMPLAINT, AND/OR A CIVIL ACTION.

a. You have 15 calendar days from your receipt of a Notice of Right to File a Formal Complaint to file a formal complaint of discrimination.

b. Only the matter(s) raised during informal counseling (or issues like or related to issues raised during informal counseling) may be alleged in a subsequent formal complaint filed with the EEO Office.

c. The issues in the formal complaint, which were discussed with the Equal Employment Opportunity (EEO) Office, and the matter giving rise to the complaint, must be sufficiently precise to describe the action(s) or practice(s) that form the basis of the complaint.

d. You may amend a complaint at any time prior to the conclusion of the investigation to include issues or claims like or related to those raised in the complaint. After requesting a hearing, you may file a motion with the administrative judge to amend a complaint to include issues or claims like or related to those raised in the complaint.

(initials)

7. HOW YOU MAY ALLEGE A VIOLATION OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA):

As an alternative to filing an administrative complaint, you have the right to file a civil action in a U.S. District Court under the Age Discrimination in Employment Act (ADEA) against the Department of the Navy after giving the EEOC not less than 30 days notice in writing of the intent to file such an action. The notice must be submitted by mail, personal delivery, or facsimile within 180 days of the occurrence of the alleged unlawful practice. The notice must be mailed to:

Equal Employment Opportunity Commission
Office of Federal Operations
ATTN: Federal Sector Programs
P.O. Box 77960
Washington, DC 20013

Or hand delivered to:

Equal Employment Opportunity Commission
Office of Federal Operations
Appellate Review Programs
1801 L Street NW
Washington, DC 20507

Or send by Fax to:

(202) 663-7022

(initials)

8. EQUAL PAY ACT OPTION:

If you are alleging sex-based wage discrimination under the Equal Pay Act (EPA), you have the right to go directly to the U.S. District Court even though such claims are also cognizable under Title VII of the Civil Rights Act of 1964 as amended in 1991. A civil action must be filed within **2 years** of the date of the occurrence, or within **3 years** of this date if the administrative complaint does not toll (waive) the time for filing a civil action.

(initials)

9. YOU HAVE THE RIGHT TO REQUEST A HEARING AND DECISION BEFORE AN EEOC ADMINISTRATIVE JUDGE (AJ):

a. You have the right to request a hearing before an Equal Employment Opportunity Commission (EEOC) administrative judge (AJ), except in a mixed case, 180 calendar days from the filing of a formal complaint or after completion of the investigation, whichever comes first.

b. You have 30 days after receipt of the official record/ investigative report to request a hearing before an EEOC AJ. Such hearing request will be mailed to the EEOC District Office with a copy to the servicing EEO Office.

c. If the official record/investigation is not completed and you have not agreed to extend the period of time to complete the investigation, you may request a hearing at any time after 180 days has elapsed from the filing of the complaint.

(initials)

10. YOU HAVE THE RIGHT TO A FINAL AGENCY DECISION AFTER AN INVESTIGATION.

You have the right to a final agency decision on your discrimination complaint after an investigation by the agency in accordance with 29 C.F.R. § 1614.108(f).

(initials)

11. YOU HAVE THE RIGHT TO GO TO U.S. DISTRICT COURT 180 CALENDAR DAYS AFTER FILING A FORMAL COMPLAINT OR 180 CALENDAR DAYS AFTER FILING AN APPEAL WITH EEOC.

(initials)

12. YOU HAVE THE DUTY TO MITIGATE DAMAGES

If you are a prevailing party and you are seeking damages, you may have to show how you determined them and understand that they may be subject to reduction. Interim earnings or amounts that could be earned with reasonable diligence may be deducted from any award of back pay.

(initials)

13. YOU HAVE A DUTY TO KEEP THE EEO OFFICE AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) INFORMED OF YOUR CURRENT ADDRESS AND TO SERVE COPIES OF APPEAL PAPERS TO THE EEO OFFICE.

a. It is your responsibility to keep your activity and/or EEO Office responsible for processing your complaint informed of any changes in your address or telephone number or other matters pertaining to your complaint.

b. Your complaint may be dismissed for failure to pursue if you cannot be located.

(initials)

14. YOU HAVE THE RIGHT TO RECEIVE IN WRITING A NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT AFTER A TIME PERIOD OF NO MORE THAN 90 DAYS (WHERE YOU AGREE IN WRITING TO AN EXTENSION):

a. Initial counseling will be for a period of 30 days. Any extension of the counseling period may not exceed an **additional 60-calendar days**. Where notice is not provided and no extension is secured you have the right to file a formal complaint after the 30th day.

b. Where you agree to participate in an established alternative dispute resolution program, the written notice terminating the counseling period will be issued upon unsuccessful completion of the dispute resolution process or within **90-calendar days** of the first contact, whichever is earlier.

(initials)

15. IF YOU SELECT TRADITIONAL COUNSELING, YOU HAVE THE RIGHT TO RECEIVE A WRITTEN NOTICE WITHIN 30 DAYS OF THE INITIAL COUNSELING CONTACT (UNLESS YOU AGREE TO AN EXTENSION) TERMINATING COUNSELING AND INFORMING YOU OF THE FOLLOWING:

a. The right to file a formal individual or class complaint within 15-calendar days of receipt of the notice.

b. The appropriate official with whom to file a formal complaint.

c. You have a duty to immediately inform the agency if you retain counsel or a representative.

d. Any extension of the counseling period may not exceed an additional sixty (60) calendar days, for a total of ninety (90) days.

(initials)

16. IF YOU AGREE TO PARTICIPATE IN AN ESTABLISHED EEO ADR PROGRAM, THE WRITTEN NOTICE TERMINATING THE COUNSELING PERIOD WILL BE ISSUED UPON COMPLETION OF THE ADR PROCESS OR WITHIN NINETY (90) CALENDAR DAYS OF THE INITIAL COUNSELING CONTACT, WHICHEVER IS EARLIER.

(initials)

17. IF YOU FILE A FORMAL COMPLAINT AND REQUEST A HEARING PURSUANT TO 29 C.F.R. § 1614.108(g), YOU MUST:

- a. Send your request for hearing to the following address:
EEOC Hearing Units
Equal Employment Opportunity Commission
Los Angeles Field Office
Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012

b. A copy of all correspondence with the EEOC must be sent to the agency at the following address:

COMMANDING OFFICER
ATTN: EEO OFFICE
MCIPAC MCB
UNIT 35001
FPO AP 96373-5001

You will be required to certify to the Administrative Judge that you provided the agency with a copy of your request for a hearing.

(initials)

18. TIME FRAMES FOR THE COMPLAINT PROCESS:

See attached flow chart.

(initials)

19. IF YOU ARE FILING A CLASS COMPLAINT, YOU HAVE BEEN ADVISED OF PROCEDURES OF CLASS COMPLAINTS AND THE RESPONSIBILITIES OF A CLASS AGENT IN ACCORDANCE WITH CHAPTER 8, SECTION II OF EEOC MANAGEMENT DIRECTIVE 110.

(initials)

20. YOU HAVE THE RIGHT, IF YOU ARE A PREVAILING PARTY, TO RELIEF, INCLUDING A REQUEST FOR COMPENSATORY DAMAGES.

a. If the final agency decision results in a finding of discrimination and/or reprisal, you are entitled to relief.

b. Relief may include backpay, retroactive personnel actions, expunging or correcting records, attorney's fees, compensatory damages, and any other applicable relief.

c. If you claim compensatory damages, you are required to provide objective evidence of compensatory damages and how they were caused by the alleged discrimination and/or reprisal.

(initials)

21. ATTORNEY'S FEES.

Rejection of any offer of resolution by the agency may result in the limitations of the agency's payment of attorneys fees and costs.

(initials)

22. JOINT PROCESSING AND CONSOLIDATION OF COMPLAINTS:

a. Two or more complaints filed by the same complainant shall be consolidated for joint processing.

b. The Agency shall complete its investigation of a consolidated complaint within the earlier of 180 days after the filing of the last complaint or 360 days after the filing of the original complaint.

c. You may request a hearing on the consolidated complaints any time after 180 days from the date of the first filed complaint.

(initials)

23. REASONABLE ACCOMMODATION:

If you need any reasonable accommodation in order to navigate the EEO process, please contact the MCIPAC Reasonable Accommodation Coordinator/Disability Program Manager via e-mail at MCBButlerEEO@usmc.mil.

(initials)

I have received a copy of my rights and responsibilities as stated and the EEO Counselor has explained to my satisfaction all items initialed above.

Printed Name

Signature

Date