

Bureau of Land Management

The EEO Process

The Law

Employment discrimination is unlawful. The following laws and regulations provide the foundation under which federal agencies process claims of employment discrimination.

Title VII of the Civil Rights Act of 1964

- Race, Color, Sex, Religion, and National Origin

Age Discrimination in Employment Act of 1967 (ADEA), as amended

- Age (40 years of age or over)

Rehabilitation Act of 1973, as amended

- Disability (mental or physical)

Equal Pay Act of 1963 (EPA), as amended

- Sex-based wage discrimination

Genetic Information Nondiscrimination Act of 2008 (GINA)

- Genetic information

EEOC Regulation 29 C.F.R. § 1614.103(a)

- Complaints alleging retaliation prohibited by the foregoing statutes are also considered to be complaints of discrimination

EEOC Regulation 29 C.F.R. Part 1614 and EEO-MD-110

- Provides authority and guidance on processing of federal sector claims of discrimination

EEO Bases

EEO laws provide protection from employment discrimination based on the following categories:

EEO Bases

- Race
- Color
- National Origin
- Age (40 or over)
- Religion
- Sex (including gender, gender identity, pregnancy, sexual orientation)
- Genetic Information
- Disability
- Retaliation for protected EEO activity

Claims of Discrimination

Requirements

- In order to state a claim, employees and applicants needs to allege discrimination on one of the above EEO bases in connection with a set of facts that assert a harm or loss related to their employment.

Examples of Harm that have been Reported

- Denial of Reasonable Accommodation (for Religion or Disability)
- Harassment
- Suspension
- Termination
- Non-Selection
- Denied Training Request
- Forced Transfer
- Constructive Discharge

- Are there exceptions that do not involve harm or loss?
 - Yes. When a supervisor takes action to dissuade personnel from utilizing their right to pursue the EEO process, this can create a per se violation (violation in itself) even if zero harm occurs.
 - This type of action is known as having a “chilling effect” on the EEO process and can result in a finding against a federal agency.

Primary Types of Discrimination

- Disparate Treatment
 - Intentional acts of discrimination against individuals based on an EEO basis or combination of EEO bases.
- EEO Harassment
 - Any unwelcome conduct based on one or more protected EEO bases that is so objectively offensive as to alter the terms or conditions of the employee’s employment.
 - This standard is met under EEO law when:
 - The conduct results in a tangible employment action or
 - The conduct is sufficiently severe or pervasive to create a hostile work environment.
- Failure to Accommodate (for religion or disability)
- Disparate Impact
 - When a neutral policy or practice has a disproportionate, adverse impact on any protected bases without a legitimate business reason.

EEO Process Questions

Who can pursue the EEO process?

- Applicants for Employment
- Current Employees
- Former Employees (if the discrimination claim involves their employment with the agency)

What is the first stage in the EEO process?

- EEO Informal Complaint

Who should an employee or applicant contact to initiate the EEO process?

- To initiate the EEO process, you need to contact an EEO Manager, EEO Specialist, or EEO Counselor and indicate your intent to start this process.

List of BLM EEO Managers

State or Unit	EEO Manager	Address	Phone	Email
AK	Christopher Dojka	222 W 7th Ave, Stop 13 Anchorage, AK 99513	907-271-3685	cdojka@blm.gov
AZ	James (Jim) Gipson	One North Central Ave Phoenix, AZ 85004	602-417-9253	jpgipson@blm.gov
CA	Chaene Jones	2800 Cottage Way, W-1834 Sacramento, CA 95825	916-978-4494	c2jones@blm.gov
CO	John Brigman	2850 Youngfield St Lakewood, CO 80215	303-239-3661	jbrigman@blm.gov
Eastern States	Angela James	20 M Street SE Washington, DC 20003	202-912-7509	a1james@blm.gov
Idaho	Melissa Purdy	1387 S Vinnell Way Boise, ID 83709	208-387-5454	mjpurdy@blm.gov
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Is there a timeframe or for starting the EEO process?

- Yes. The EEO process must be initiated within 45 days of the discriminatory action.

What happens during the informal complaint stage of the EEO process?

- An assigned EEO Counselor will complete the following actions:
 - Explain your rights and responsibilities.
 - Provide you with options to participate in EEO counseling or alternative dispute resolution (ADR).
 - Ask you provide information about your claim of discrimination.
 - Complete an informal inquiry (this is not an investigation).
 - Attempt to facilitate a resolution.
- This process will be completed within 30 days unless an extension is agreed to or ADR is elected.
 - Extension agreements cannot extend the counseling more than 60 additional days for a total of 90 days.
 - ADR election automatically extends the allowed processing time by an additional 60 days for a total of 90 days.

What is the EEO Counselor's role in the process?

- EEO Counselors...
 - Are neutral. They are not advocates for management or the individual who initiates the EEO process.
 - Process informal complaints, including attempting to facilitate a resolution between the agency and the employee or applicant pursuing the process.
 - Explain rights and responsibilities.
 - Complete an informal inquiry that identifies the reported basis, issue, and parties involved in the claim of discrimination.
 - Attempt to facilitate a resolution.
 - Will **not** complete an investigation.
 - Will **not** make a determination on the merit of a complaint.

What happens if a case is resolved during the informal stage of the EEO process?

- Processing of the case will end after the case is settled or withdrawn.

What happens if my case is not resolved during the informal stage of the EEO process?

- You...
 - will be provided with written notification regarding your right to file a formal complaint of discrimination.

- will then have the option to file a formal complaint of discrimination within 15 days of receipts of that notice.

What happens after you file a formal complaint with the agency?

- You will receive confirmation the agency received your formal EEO complaint.
- The agency may also ask you for additional information needed to determine whether your complaint is accepted.
- If your complaint is accepted, it will be assigned to a neutral investigator.

Investigation

- The investigation will encompass all the information relevant to the accepted allegations and may, when appropriate, include comparative data on other individuals who were similarly situated.
- The investigation may be conducted by verbatim statements, interrogatories, or by other forms of fact finding.
- During the investigation, you will have an opportunity to present all the facts that you believe show unlawful discrimination.
- The agency has 180 calendar days from the date you filed your complaint to complete the investigation and provide you with the Report of Investigation (ROI). Extensions may be necessary to complete the investigation.
- You have 30 calendar days from your receipt of the ROI to elect for either a Final Agency Decision (FAD) by DOI or a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Judge.

Final Agency Decision (FAD)

- If you request a FAD, the Office of Civil Rights (a neutral division within DOI) will issue a written FAD on your complaint within 60 calendar days after DOI's receipt of your notice of election for a FAD.
- If your complaint involves a matter appealable to the Merit Systems Protection Board (MSPB), you will be issued a written FAD, without a hearing, by the Office of Civil Rights on the claim(s) appealable to the MSPB within 45 calendar days from the date of completion of the ROI.
- The FAD will include an analysis on the merits of each claim accepted in your complaint or a decision to dismiss some or all of your claims. If a finding of discrimination is made, the FAD will also identify the corrective action to which you are entitled.

Hearing

- If you request a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Judge, you will be allowed to present witnesses and evidence on your behalf to an Administrative Judge. The Administrative Judge will issue a decision on your complaint that will be subject to a final order by the Office of Civil Rights Director.
- Your request for a hearing must be sent directly to:
 - the appropriate EEOC District Office with geographic jurisdiction; and
 - the Bureau/Office EEO Office.
- Once you have elected a hearing, the EEOC Administrative Judge will have full and complete authority over your complaint.
- The EEOC Administrative Judge will issue a decision on your complaint which will become the final action of DOI unless DOI appeals the Administrative Judge's decision.

Appeal Stage

- If you are dissatisfied with the FAD or the EEOC Administrative Judge's decision, you may, within 30 calendar days of your receipt of the FAD or final order after a hearing decision, submit an appeal to the Equal Employment Opportunity Commission, Office of Federal Operations via:
 - P.O. Box 77960, Washington, D.C., 20013 or
 - facsimile to (202) 663-7022.
- You must also send a copy of the appeal to:
 - Office of Civil Rights Director
U.S. Department of the Interior
1849 C Street, N.W., MS-4359
Washington, D.C., 20240.

Civil Action

- In lieu of an appeal to the EEOC, you may, within 90 calendar days of your receipt of the FAD or final order after a hearing decision, file a civil action in the appropriate United States District Court. Also, you may file a civil action 180 calendar days after you filed your individual complaint if a FAD has not been issued and you have not appealed to EEOC.
- If you file an appeal with the EEOC and are not satisfied with the EEOC's decision, you may file a civil action in the appropriate United States District Court within 90 calendar days of your receipt of the EEOC's decision or after 180 days from the date you filed the appeal if there has been no decision by the EEOC.

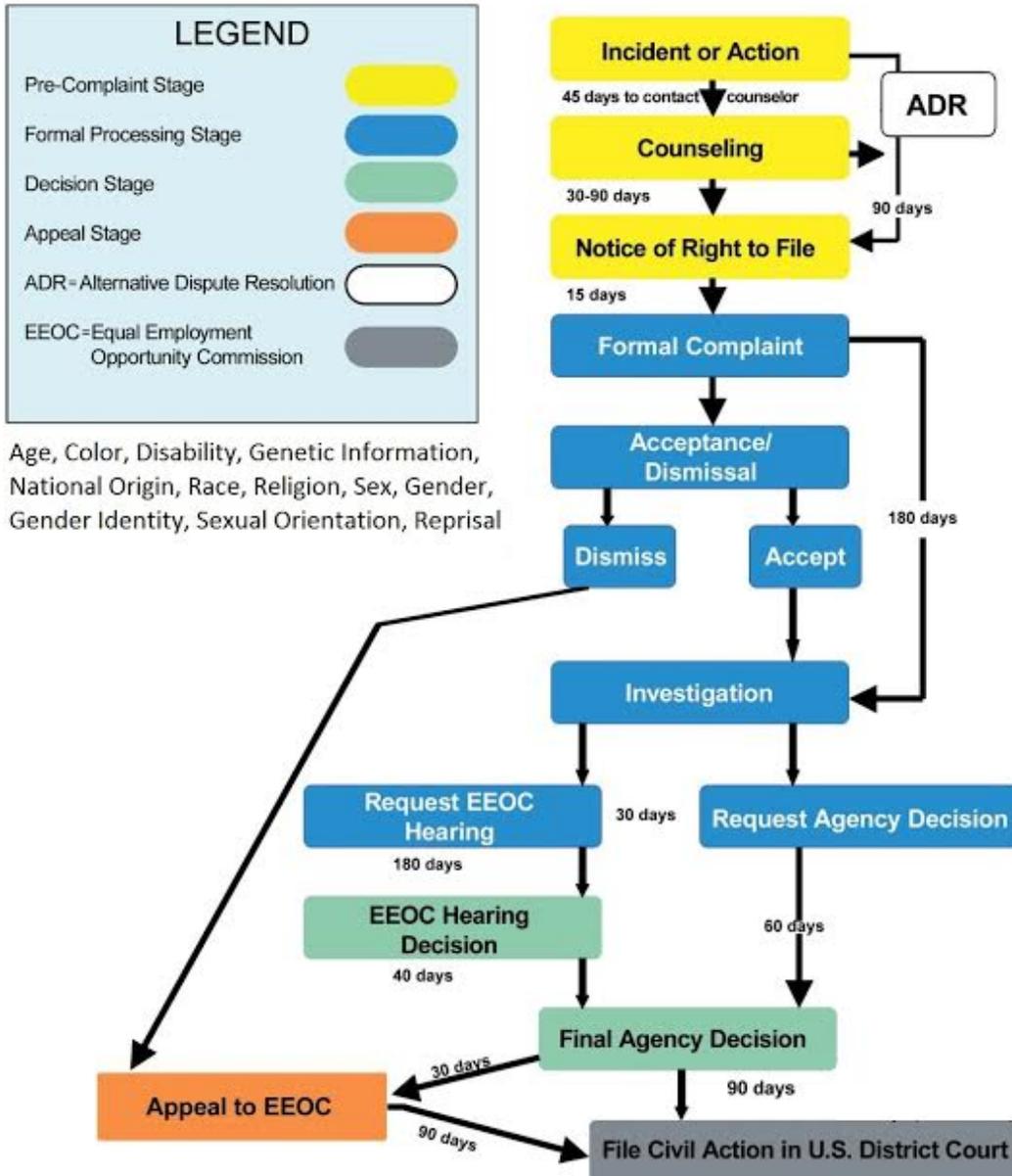
Alternative Dispute Resolution

- Alternative dispute resolution is available throughout the process. Common forms of alternative dispute resolution are mediation, arbitration, and facilitation.
- ADR is voluntary for the individual who initiated the EEO process.
- Benefits of ADR:
 - Allows for resolution to be reached with terms both parties can agree to
 - Confidential
 - Enhances communication
 - Improves trust of parties involved
 - Save time
 - Saves money

Authorities

- The EEO complaint process for federal employees and applicants for employment is governed by regulations issued by the Equal Employment Opportunity Commission at 29 C.F.R. § 1614.

U.S. Department of the Interior OS/OCR
 Federal EEO Discrimination Complaint Process
 29 C.F.R. PART 1614



If you have any questions or need specific information regarding the process, please contact the Employment Complaints and Adjudication Division at 202-208-5693.

Tips for Preventing Discrimination in the Workplace

- Emphasize workplace discrimination violates the agency's core values, can rise to the level of illegality, and will not be tolerated.
- Address all alleged discrimination and harassment reports promptly and in accordance with agency policy.
- Ensure completion of required discrimination and anti-harassment training takes place for yourself.
- If you are in a supervisory position, ensure your staff is in compliance with required discrimination and anti-harassment training.
- When representing your agency, ensure you have legitimate business reasons for all actions taken and that your behavior is in alignment with agency expectations for fostering a discrimination free workplace.
- Practice active bystander intervention to foster a workplace free from discrimination and harassment. If you witness something, say something (either to the person at the time or later to a supervisor).
- Get help and guidance when needed.
 - Resources like EEO personnel, Human Resources, and your management chain are available to help you.
- Ensure the agency EEO policy and EEO/Civil Rights Office contact notice is prominently displayed in the workplace where other notices are posted.

Additional Resources and Potential Alternatives Avenues of Redress

- Agency Anti-Harassment Policy Process (Refer to Personnel Bulletin No: 18-01)
- Department of Interior Office Collaborative Action and Dispute Resolution
 - Organizational Ombuds
 - CORE PLUS/Workplace Conflict Management
- Administrative Grievance Process
- Negotiated Grievance Process
- Merit System Protection Board (MSPB)
- Office of Inspector General (OIG)
- Office of Special Counsel (OSC)
- Office of Personal Management Classification Appeals

Critical Inquiry and Review

1. Is everyone covered under a protected basis?

Answer: Yes. Everyone is covered under a protected basis because everyone has a race, color, etc.

2. What is the timeframe for initiating the EEO process?

Answer: Within 45 days of when the discrimination occurred.

3. Whom do you contact to initiate the EEO process?

Answer: An EEO Manager, EEO Specialist, or EEO Counselor.

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AK	Christopher Dojka	222 W 7th Ave, Stop 13 Anchorage, AK 99513	907-271-3685	cdojka@blm.gov
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4. Who can file an EEO complaint?

Answer: Employees (current or former) and applicants who believe they are the subject of employment discrimination on any of the following bases:

- Race
- Color
- National Origin
- Age (40 or over)
- Religion
- Sex (including Gender, Gender Identity, Pregnancy, Sexual Orientation)
- Genetic Information
- Disability
- Retaliation for protected EEO activity

5. When a supervisor takes action to dissuade an employee or applicant from pursuing their right to participate in the EEO process, can it result in an EEOC finding against an agency?

Answer: Yes