INFORMAL PROCESS—COUNSELING

Incident Occurrence

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Contact Counselor within 45 days of incident, 30 - 60 days for Counselor Limited Inquiry or elect Alternative Dispute Resolution (ADR)/Mediation*

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Counselor will offer option of mediation. ADR/Mediation elected – See below Or continue counseling (interviews and attempts at informal resolution)

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Notice of Right to File Issued 15 days to file formal

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See Formal Process Flow Chart**

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MEDIATION PROCESS

*Elect ADR/Mediation Up to 90 days - Can be used for assistance at any stage of the EEO Process prior to a hearing

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Mediation - parties meet

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Resolution?
Yes: Written Settlement Agreement – End of Complaint.
No: Resume Counseling

FORMAL COMPLAINT PROCESS

EEOC regulations require that you must seek counseling first

**Complaint filed, after mediation and/or counseling fails. Agency determines if issues are to be investigated - 21 days for a decision to investigate or not

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Full or Partial Acceptance: Complaint Investigated (180 - 270 days to investigate from date of formal filing). If dismissed entirely, appeal to EEOC within 30 days or file civil action within 90 days

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Employee receives Report of Investigation (30 days to elect Final Agency Decision (FAD) or EEOC Hearing)

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Request FAD/No Hearing 60 days for Agency to Prepare FAD

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Employee Appeal to EEOC within 30 days of receipt of FAD or 90 days file in District Court

Request EEOC Hearing - 180 days

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Hearing and Decision by EEOC

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Within 40 Days Agency Order to Complainant to implement fully or not, EEOC decision

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Employee Appeal to EEOC within 30 days of receipt of Agency Order

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Within 90 days receipt of EEOC Appeal decision, or receipt of FAD, file in U.S. District Court

NNSA Office of Civil Rights
P.O. Box 5400, Albuquerque, N.M. 87185
Phone: (505) 845-5517, Toll Free: (800) 825-5256
(enter 845-5517 at voice prompt)
TTY: (866) 872-1011, Fax: (505) 845-4963
OCR Intranet - http://scweb.na.gov
OCR Internet - http://nnsa.energy.gov/aboutus/ouroperations/managementandbudget/civrights

November 2011

National Nuclear Security Administration

Office of Civil Rights

EEO Complaint Process

EEO POLICY

The Department of Energy (DOE) does not discriminate on the basis of age, color, race, disability (physical or mental), national origin, reprisal, religion, sex (including sexual harassment), sexual orientation, genetic information or any other non-merit factor. DOE is committed to equal employment opportunity principles and practices in all management decisions and personnel practices.

The Department is committed to providing equal employment opportunity; eliminating discrimination in employment; and maintaining an environment that is free from any form of prohibited discrimination. The Department will provide a prompt, fair and impartial review, and adjudication of any

Equal Employment Opportunity: Collaborating For Mission Success

EEO Process

An NNSA employee or applicant for Federal employment may institute an EEO complaint if that employee or applicant believes that he/she has been discriminated against based on one or more of these factors:

- RACE
- COLOR
- SEX (INCLUDING SEXUAL HARASSMENT)
- RELIGION
- NATIONAL ORIGIN
- AGE (Over 40)
- QUALIFIED DISABILITY (PHYSICAL OR MENTAL)
- REPRISAL (FOR PREVIOUS EEO ACTIVITY)
- GENETIC INFORMATION

The U.S. Equal Employment Opportunity Commission (EEOC) does not enforce the protections that prohibit discrimination and harassment based on sexual orientation[1], status as a parent[2], marital status[2] and political affiliation[3].

[1]Prohibited by DOE policy and Federal Executive Order; [2]Prohibited by Federal Executive Order; [3] The Civil Service Reform Act also prohibits employment discrimination in the federal government based on marital status, political affiliation and conduct which does not adversely affect the performance of the employee, none of which are within EEOC's jurisdiction, employees filing under marital status or political affiliation should consult the Merit Systems Protection Board (MSPB).

Step One — Informal Complaint

If you believe that you have been the victim of discrimination in your work or through the employment process, you must contact an EEO counselor within 45 calendar days of the occurrence of the alleged discrimination. A list of counselors is available at the OCR Program web page: OCR Intranet - http://scweb.na.gov; OCR Internet http://nnsa.energy.gov/aboutus/ouroperations/managementandbudget/civrights.

At the initial counseling session, the complainant must elect either traditional EEO Counseling or Mediation. If the employee elects Mediation, the election must be in writing. If the employee elects Mediation, the EEO Counselor will complete the intake functions of counseling which is obtaining the information needed to determine the basis(es), claim(s) and timeliness.

If the dispute is resolved during the Mediation, it will be in writing (Settlement Agreement). The EEO office will retain a copy of the Settlement Agreement and notify the EEO Counselor that an agreement has been reached.

If the EEO Complaint is not resolved within the 90 calendar day period authorized for Mediation, EEO will notify the EEO Counselor and the Counselor will issue the Notice of Right to File a Discrimination Complaint (Final Interview Letter) to the employee, and the EEO process will continue.

Step Two — Formal Complaint

After completing the informal process, you may decide to file a formal complaint. You must file your complaint within **15 calendar days** of your receipt of the Notice of Final Interview. You may send your complaint to one of the individuals named in the Notice of Final Interview.

Your complaint must be specific, and limited only to those matters that you previously discussed with the EEO Counselor. You will receive written acknowledgment of receipt of your complaint. It will inform you of the date that your complaint was filed. This date will be used for calculating the processing times relevant to the formal process.

If your complaint is accepted for processing, an impartial investigation will be ordered. NNSA will insure that it is a thorough and fair investigation and is completed within **180 days** from the date you filed your formal complaint.

During this period the Department will also attempt to settle your complaint through mediation and will provide you with a copy of the investigative file.

Within **30 days** of your receipt of the investigative file, you may request either an EEOC Hearing or an immediate Final Agency Decision (FAD) from the Department. If you request a hearing, the EEOC's Administrative Judge will issue the final decision. If you request a Hearing from the EEOC, an Administrative Judge will conduct a hearing and issue a decision on your complaint. The Judge must complete this process within **180 days** from receipt of the agency's file.

The Department, within **40 days** of its receipt of the Administrative Judge's decision, must issue its final order. The order must state whether or not the Department will fully implement the decision. If the order states that the Department will not, the Department must file an appeal with EEOC at the same time it issues its final order. If the Department does not take any action, the Judge's findings and any ordered relief become the Final Decision.

If you fail to respond or request an immediate Final Decision, the Department will issue a decision based on its review of the investigative report and complaint file. The Department will issue its decision within **60 days** of your request.

If you requested the Department to issue a Final Decision without a Hearing, you may appeal the Department's decision to the EEOC within **30 days** of receipt. You may file a civil action in U. S. District Court within **90 days** of your receipt of the Final Decision.