

§ 268.203

public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(f) In order to implement its program, the Board:

(1) Develops the plans, procedures and regulations necessary to carry out its program;

(2) Appraises its human resources management operations at regular intervals to assure their conformity with the Board's program and this part, consistent with guidance proffered by the Commission;

(3) Assigns equal employment opportunity responsibilities as appropriate to the Administrative Governor and the Staff Director for Management, and designates an EEO Programs Director, EEO Counselors, a Federal Women's Program Manager, a Hispanic Program Coordinator and a Disabled Persons Program Coordinator, and clerical and administrative support, to carry out the functions of this part in all divisions and offices at the Board;

(4) Makes written materials available to all employees and applicants for employment informing them of the variety of equal employment opportunity programs, and administrative and judicial remedial procedures available to them, and prominently posts such written materials in its human resource management and EEO offices, and throughout the workplace;

(5) Ensures that full cooperation is provided by all Board employees to EEO Counselors, Board equal employment opportunity personnel and to investigators in the processing and resolution of pre-complaint matters and complaints filed with the Board, and that cooperation is provided to the Commission in connection with review of Board decisions, including granting the Commission routine access to relevant records of the Board as appropriate and consistent with applicable law, regulations and policies of the Board; and

(6) Publicizes to all employees and posts at all times the names, business telephone numbers and business addresses of the EEO Counselors, a notice of the time limits and necessity of contacting an EEO Counselor before filing a complaint, and the telephone num-

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bers and addresses of the Staff Director for Management, EEO Programs Director, Federal Women's Program Manager, Hispanic Program Coordinator and Disabled Persons Program Coordinator.

§ 268.203 Complaints of discrimination covered under this part.

(a) Individual and class complaints of employment discrimination and retaliation prohibited by § 268.202(a) (discrimination on the basis of race, color, religion, sex and national origin), § 268.202(b) (discrimination on the basis of age when the aggrieved person is at least 40 years of age), § 268.303(a) (discrimination on the basis of a disability), or § 268.202(c) (sex-based wage discrimination) of this part shall be processed in accordance with this part. Complaints alleging retaliation prohibited under this part are considered to be complaints of discrimination for purposes of this part.

(b) Except as set forth in § 268.304 and in subpart G of this part, this part applies to all Board employees and applicants for employment at the Board, and to all Board personnel policies or practices affecting Board employees or applicants for employment at the Board.

§ 268.204 Pre-complaint processing.

(a) Aggrieved persons who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age or disability must consult an EEO Counselor prior to filing a complaint in order to try to informally resolve the matter.

(1) An aggrieved person must initiate contact with an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the date that the action was communicated to the aggrieved person.

(2) The Board shall extend the 45-day time limit in paragraph (a)(1) of this section when the individual shows that he or she was not notified of the time limits and was not otherwise aware of them, that he or she did not know and reasonably should not have known that the discriminatory matter or personnel

action occurred, that despite due diligence he or she was prevented by circumstances beyond his or her control from contacting an EEO Counselor within the time limits, or for other reasons considered sufficient by the Board.

(b) At the initial counseling session, EEO Counselors must advise individuals in writing of their rights and responsibilities, including the right to request a hearing after the investigation by the Board, the right to file a notice of intent to sue pursuant to § 268.301(a) of this part and to file a lawsuit alleging a violation of the ADEA instead of an administrative complaint of age discrimination under this part, the duty to mitigate damages, administrative and court time frames, and that only the matter(s) raised in pre-complaint counseling (or issues like or related to issues raised in pre-complaint counseling) may be alleged in a subsequent complaint filed with the Board. EEO Counselors must advise individuals of their duty to keep the Board informed of their current address, to serve copies of requests for review by the Commission on the Board, and to keep the Commission informed of their current address in connection with any review of a Board action. The notice required by paragraphs (d) and (e) of this section shall include a notice of the right to file a class complaint. If the aggrieved person informs an EEO Counselor that he or she wishes to file a class complaint, the EEO Counselor shall explain the class complaint procedures and the responsibilities of the agent of the class.

(c) EEO Counselors shall conduct counseling activities in accordance with instructions promulgated by the EEO Programs Director, which shall be consistent with the counseling guidelines contained in the Commission's "EEO Management Directives For 29 CFR part 1614". When advised that a complaint has been filed by an aggrieved person, the EEO Counselor shall submit a written report within 15 calendar days to the EEO Programs Director and to the aggrieved person concerning the issues discussed and actions taken during counseling.

(d) Unless the aggrieved person agrees to a longer counseling period

under paragraph (e) of this section, the EEO Counselor shall conduct the final interview with the aggrieved person within 30 days of the date the aggrieved person brought the matter to the EEO Counselor's attention. If the matter has not been resolved, the aggrieved person shall be informed in writing by the EEO Counselor, not later than the 30th day after contacting the EEO Counselor, of the right to file a discrimination complaint with the Board. This notice shall inform the complainant of the right to file a discrimination complaint within 15 calendar days of receipt of the notice, of the appropriate official with whom to file a complaint and of the complainant's duty to assure that the EEO Programs Director is informed immediately if the complainant retains counsel or a representative.

(e) Prior to the end of the 30-day period, the aggrieved person may agree in writing with the Board to postpone the final interview and extend the counseling period for an additional period of no more than 60 days. If the matter has not been resolved before the conclusion of the agreed extension, the notice described in paragraph (d) of this section shall be issued.

(f) In the event the aggrieved person believes that he/she has been discriminated against and agrees to participate in an established Board alternative dispute resolution procedure, the pre-complaint processing period of this section will be 90 days. If the matter has not been resolved before the 90th day, the notice described in paragraph (d) of this section shall then be issued.

(g) The EEO Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint. The EEO Counselor shall not reveal the identity of an aggrieved person who consulted the EEO Counselor, except when authorized to do so by the aggrieved person, or until the Board has received a discrimination complaint under this part from that person involving the same matter.

§ 268.205 Individual complaints.

(a) A complaint alleging that the Board discriminated against the complainant must be filed with the Board.