

labor counselor as the Army representative. An ADO may not serve as an Army representative. At the request of the labor counselor, the Activity Commander may also appoint a personnel specialist or other activity personnel to assist the labor counselor.

**§ 588.17 Arranging for the investigation.**

(a) Within 3 calendar days after acceptance of a formal complaint, the EEO officer will request the assignment of a USACARA investigator. (See appendix K.) A copy of the request letter without enclosures will be provided to the complainant, his or her representative, and the labor counselor. The request must contain the following information:

- (1) A clear statement of the issues that were accepted.
- (2) A statement of the parts of the complaint that were rejected.
- (3) The complainant's organization, work location, mailing address, and telephone numbers (both AUTOVON and commercial).
- (4) The complainant's designation of a representative, including the representative's work and mailing addresses and telephone numbers (both AUTOVON and commercial).
- (5) A fund citation for travel and per diem.
- (6) A specific point of contact within the activity EEO office.
- (7) Legible copies of the following documents:
  - (i) The formal complaint.
  - (ii) The EEO counselor's report.
  - (iii) Any relevant documents.
- (b) The EEO officer or a designee will arrange for the investigator's visit. This may include—
  - (1) Arranging for quarters and transportation.
  - (2) Providing a private office, clerical help, and access to a telephone.
  - (3) Making sure that all named witnesses and ADO's are readily available.
  - (4) Giving the investigator any other administrative help needed to conduct an efficient investigation.
- (c) The EEO officer should provide the labor counselor with at least 10 days advance notice of the dates, time, and location of the USACARA investigation.

(d) To avoid the appearance of impropriety, no activity personnel, to include EEO, CPO, management, or labor personnel will express an opinion regarding perceived merits of a complaint, or lack thereof, with the USACARA investigator. However, activity personnel may disclose facts that would assist the USACARA investigator at any time prior to the completion of the investigation and receipt of the USACARA Report of Investigation (ROI).

**§ 588.18 Authority assigned to the USACARA investigator.**

By designation of the Secretary of the Army, USACARA investigators are authorized to act as shown below.

- (a) Investigate all aspects of a complaint. This includes reviewing and copying all records judged by the investigator to be pertinent to the investigation. Classified documents may be examined only by an investigator who possesses the appropriate security clearance.
- (b) Require all Army personnel to cooperate with the investigator in conducting the investigation.
- (c) Require Army personnel who have any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence, unless this testimony would result in self-incrimination.
- (d) Administer oaths.
- (e) Issue an ROI containing conclusions and recommendations.

**§ 588.19 Conducting the investigation.**

The investigator—

- (a) Collects facts and develops information on each accepted allegation in the Complaint and reviews the circumstances under which the discrimination is alleged to have taken place. The investigator does not have the authority to expand the scope of the investigation to include any charges of allegations that were not included in the formal complaint or for which precomplaint counseling was not given. The obligation of the investigator to collect facts and develop information does not lessen the responsibility of the complainant and management to prepare, present, and explain their positions as the disputes.

(b) Administers oaths and obtains statements from witnesses under oath or affirmation. The investigator determines the witnesses whose testimony is necessary to the investigation and interviews and obtains affidavits from only these witnesses whose testimony is necessary to the investigation and interviews and obtains affidavits from only these witnesses. Affidavits are included in the investigative file only if the investigator deems the testimony relevant and necessary. The investigator documents for the record the reason any witness identified by the complainant or by management was not interviewed and the reason evidence that was offered was not accepted.

(c) Gives the ADO, if named or identified, full opportunity to review documents and respond to all allegations made against him or her in accord with § 588.62.

(d) Collects and analyzes information on how members of the complainant's group are treated compared to other employees in the organization where the discrimination is alleged to have occurred. This information may include, for instance, statistical data on promotions, disciplinary actions, awards, or other personnel actions.

(e) Investigates work policies and practices relevant to the accepted allegations of the complaint.

(f) Collects information needed to review the merit of mixed case issues that are included under § 588.46.

(g) Is independent of control by any of the parties to the complaint, but is entitled to the full cooperation of all parties and their representatives.

(h) Sends the ROI to the EEO officer, with a copy of the report without attachments to the EEO officer at the next higher level of command within 45 days after assignment of the case. This 45-day time limit is purely administrative in nature. Failure to process a USACARA investigation within this time frame will not prevent the administrative processing of any complaint of discrimination. Included in the file are the investigator's findings and recommendations and other relevant documents as described in § 588.76.

**§ 588.20 Informal adjustment and offer of hearing.**

(a) The EEO officer will thoroughly review the ROI to ensure that the ADO was given an opportunity to respond to each allegation as described in § 588.62(c) and that the investigation is comprehensive and adequately addresses all issues accepted in the complaint. The EEO officer may return an ROI to USACARA for further investigation if the ROI is inadequate. The EEO officer will specify the additional issues to be investigated or evidence to be gathered.

(b) Within 5 calendar days after receipt of the USACARA ROI, the EEO officer will send a complete copy of the USACARA ROI to the complainant and his or her representative, if any, with an offer to meet and discuss an informal adjustment of the complaint. The ROI may be sent by certified mail, return receipt requested, or be personally delivered by an Army official. If the ROI is personally delivered, the complainant and the representative will acknowledge receipt in writing. If the complainant or the representative declines to sign a receipt, the server will sign and indicate to whom and when the ROI was served. The receipt will be filed in the complaint file.

(c) If the complainant agrees, an adjustment meeting should be held within 10 calendar days after receipt of the USACARA ROI by the EEO officer. The Activity Commander, or a designee, should consult with the EEO officer, the labor counselor, and the CPO, on the proposed terms of the adjustment. The adjustment meeting should be accomplished by the least costly method while protecting the rights of the complainant. Adjustment meetings may be conducted by conference call or correspondence if the concerned parties are not readily available. The commander or a designee may also consult the ADO on the subject. Offers of settlement and the details of negotiations about settlement offers will not be included in the complaint file.

(d) If a tentative settlement is reached, its proposed terms are coordinated by the EEO officer with the labor counselor and the CPO as appropriate before it is finalized. It is then signed by the complainant and the Activity