

**§ 588.24**

(For a list of the contents of the complaint file, see § 588.76. The EEO officer ensures that all copies of the file are complete, legible, and identical.

**§ 588.24 Arranging a hearing.**

(a) When the complainant asks for a hearing, the EEO officer requests assignment of a complaints examiner from the EEOC District Office that has geographic jurisdiction over the activity where the hearing is to be held. (See appendix L.) The hearing will usually be held at the activity where the complaint is permanently assigned or has applied for employment. If another location is preferred, the written request to EEOC will specify the alternative location. However, EEOC will decide where a hearing is to be held. For travel funding and other costs, see § 588.79.

(b) The written request to EEOC will include the original complaint file (See § 588.76). In addition, one copy of the tabbed complaint file will be sent to EEOCRA.

(c) The request to the EEOC will ask that the complaints examiner send the complaint file with the final report and four copies of the hearing transcript to the Director, EEOCRA, ATTN: SFCR, WASH, DC 20310-1913. When there is more than one complainant, the EEO officer will ask that an additional copy of the report and transcript be sent to EEOCRA for each additional complainant. If the complaints examiner sends the report to the activity rather than to EEOCRA, the EEO officer will immediately return the file to the EEOC by certified mail, return receipt requested, with instructions to transmit it to the Director, EEOCRA, ATTN: SFCR, WASH, DC 20310-1813.

(d) The request to the EEOC will also provide the name, title, address, and telephone number of the labor counselor as the Army representative at the hearing. A copy of the request will be given to the complainant.

(e) The EEO officer will arrange for the services of a court reporter at the hearing. Activities may not use Army court reporters and should attempt to arrange for a court reporter from Navy or Air Force installations under an interservice support agreement. If no reporter is available, the activity may

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then contract for a court reporter through their contracting office using the General Services Administration (GSA) Federal Supply Schedule.

**§ 588.25 The hearing.**

(a) The hearing is conducted by an EEOC complaints examiner subject to EEOC regulations and procedures. This paragraph is provided for information and general guidance and does not control the EEOC complaints examiner's activities.

(b) Before scheduling the hearing, the complaints examiner reviews the complaint file to determine if further investigation is needed and, if so, asks the activity to conduct the additional investigation. If a complaints examiner asks an activity to conduct further investigation, the EEO officer will promptly forward the request to the responsible USACARA Regional Office with an information copy of the transmittal letter furnished the complainant and the complaints examiner. The examiner may also ask the activity to arrange for the witnesses needed to testify at the hearing. (See § 588.70) If a prehearing adjustment of the complaint is reached, the original copy of the agreement will be forwarded immediately to the activity EEO officer who will send necessary closeout document to EEOCRA.

(c) Attendance at the hearing is limited to persons determined by the complaints examiner to have a direct connection with the complaint. The activity will make available all DA personnel called as witnesses for a hearing, unless the presence of a prospective witness is administratively impractical. The complaint examiner conducts the hearing to bring out pertinent facts and accept pertinent document. Rules of evidence are not applied strictly, but the examiner will exclude irrelevant or unduly repetitious evidence. Information that has a bearing on the complaint, including employment policies or practices relevant to the complaint, will be received in evidence. The complainant, his or her representative, if any, and the labor counselor at the hearing are given the opportunity to cross-examine witnesses who appear and testify. Testimony is given under oath or affirmation. (See