

§ 588.64 for the right of the ADO at the hearing.)

(d) The hearing is recorded and transcribed verbatim. All documents accepted by the examiner at the hearing are made part of the record. If the labor counselor submits a document that is accepted, a copy of the document shall be furnished to the complainant. If the complainant submits a document that is accepted, he or she shall make the document available to the labor counselor for reproduction.

(e) The complaints examiner considers all documents in the complaint file, including the record of the hearing, in making his or her findings, and analysis, and recommendation. The examiner then sends the complaint file to EEOCRA with the required number of copies of the examiner's report and hearing transcript, and notifies the complainant of the date that this is done. The report may include recommended remedial action, if proper, regarding the matter that gave rise to the complaint. Also, the examiner may send EEOCRA a separate letter concerning conditions in the activity that do not have a direct bearing on the complaint.

§ 588.26 Final Army decision.

(a) The Director of EEO or another person designated by the Secretary of the Army makes the final decision, in writing, for the Army. The decision, based on information in the complaint file, is sent to the complainant and his or her representative, if any, by certified mail, return receipt requested. Copies are sent to the MACOM and activity EEO officer. The decision may also be personally delivered to the complainant and the representative by an Army official. If so, the complainant and the representative acknowledge receipt by signing and dating the official copy, and the server signs it and indicates on the copy to whom and when the decision was served. The receipt or the signed copy is filed in the complaint file.

(b) If a hearing was not held, the decision will specify the reasons for the decision and any remedial action to be taken.

(c) If a hearing was conducted, the complainant and the activity will re-

ceive a copy of the findings, analysis, and recommendations of the complaints examiner with a copy of the hearing record. The final Army decision may adopt, reject, or modify the decision recommended by the complaints examiner. If the examiner has recommended a finding of discrimination and if the final Army decision letter will give the specific reasons for the rejection or modification. A complaints examiner's recommended finding of discrimination will become final and binding on the Army if 180 calendar days have elapsed since the complaint was filed and the Army has not issued a final decision concerning the recommendation within 30 calendar days after its receipt.

(d) The Army decision will require any remedial action authorized by law that is judged to be necessary or desirable to resolve issues of discrimination and to promote EEO policy.

(e) If discrimination of reprisal is found and there is an attorney of record, the Army decision will advise the complainant and his or her representative that attorney fees and/or costs maybe awarded and that any request for this award must be documented and filed within 20 calendar days after receiving the notice. Where the Army determines not to award attorney fees and/or costs to a prevailing complainant represented by an attorney, the decision will state the specific reasons for denying the award. Attorney fees and/or costs are not authorized in age discrimination complaints.

(f) The Army decision will inform the complainant of the right to appeal the decision to the EEOC, of the right to file a civil action, and of the applicable time limits. (For appeal and civil action procedures, see § 588.57.)

(g) Section 588.65 of this regulation addresses the rights of the ADO when a final decision is made.

§ 588.27 Avoiding delays.

(a) Complainants and management officials must not only comply with the time limits specified in this section and Army directives, they should also process a complaint without delay so that it may be resolved within 180 days after the formal complaint is filed. This includes the time spent by the