

Department of the Army, DoD

§ 588.4

(c) DA Form 5493-R, Individual Complaint Data Sheet.

(d) DA Form 5494-R, Class Complaint Data Sheet.

(e) DA Form 5495-R, Chronology of Individual EEO Complaint.

(f) DA Form 5496-R, Chronology of Class EEO Complaint.

(g) DA Form 5497-R, Disposition of Complaint of Discrimination.

§ 588.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in appendix O.

§ 588.4 Responsibilities.

(a) The Army Director of Equal Employment Opportunity, referred to in 29 CFR 1613.204, will be designated by the Secretary of the Army to set EEO policy. This individual will ensure that—

(1) Army programs conform to this policy.

(2) Adequate resources are available to implement the Army's EEO program.

(3) A system to process EEO complaints exists.

(b) The Director of Equal Employment Opportunity Compliance and Complaints Review Agency (EEOCCRA) will—

(1) Develop Army policy and programs to process discrimination complaints.

(2) Manage and operate the Army discrimination complaint system for individual and class complaints from Army civilian employees and applicants.

(3) Process and prepare final Army decisions on individual and class complaints of discrimination for approval by the Secretary of the Army or his or her designee.

(4) Process requests from the EEOC for case files on complaints that are appealed to EEOC.

(5) Receive and implement appellate decisions rendered by EEOC and process requests for reopening and reconsidering EEOC decisions.

(6) Provide guidance to subordinate Army activities on the discrimination complaint system.

(c) The Administrator of the U.S. Army Civilian Appellate Review Agency (USACARA) will—

(1) Conduct investigations of civilian employee complaints of discrimination.

(2) Prepare reports of findings including recommendations on corrective actions to be taken by the activity.

(d) The Civilian personnel Officer (CPO) will—

(1) Ensure that EEO officers, EEO counselors, and investigators are given appropriate access to personnel records and copies of records relevant to the complaint without an inordinate invasion of privacy.

(2) Perform personnel regulatory reviews and technical support to labor counselors, EEO counselors, and EEO officers.

(e) The Activity Commander responsible for the discrimination complaint program for all serviced and tenant organizations.

(1) Ensure that sufficient resources are available to EEO program official to manage and operate the discrimination program effectively.

(2) Ensure that supervisors and managers understand and meet their responsibilities in the discrimination complaint program.

(3) Stress the need for prompt processing and informal resolution of discrimination complaints.

(4) Ensure that management is adequately represented at all steps in the complaint procedure where representation is authorized.

(5) Make timely recommendations and decisions on complaints of discrimination and awards of attorney fees.

(6) Ensure that Army and EEOC decisions are implemented promptly.

(7) Ensure that the following information is regularly publicized and permanently posted on official bulletin boards, with easy access to all employees and to applicants for employment with the Army:

(i) The name and address of the Army Director of Equal Employment Opportunity.

(ii) The names, addresses, and telephone numbers of the activity EEO officials, including the EEO officer and EEO counselors.

(iii) Where applicable, a list of the organization each counselor services.

(iv) A statement that a counselor must be consulted before a formal discrimination complaint is filed under this regulation. (Where applicable, employees should also be advised that discrimination may be grieved under the negotiated grievance procedure or through Merit Systems Protection Board (MSPB) appellate procedures.)

(v) The time limits to start action and to file and process a complaint under this regulation. When applicable, employees should also be advised of time limits for filing allegations of discrimination under the negotiated grievance procedure or MSPB appellate procedures.

(f) The major Army command (MACOM) EEO officer will—

(1) Advise the MACOM commander on the resources required in the command to manage the discrimination complaint program effectively.

(2) Ensure that the EEO complaint processing program is operated effectively and efficiently throughout the MACOM.

(3) Ensure that reports and files are submitted accurately and promptly.

(4) Make on-site evaluations of activity level effectiveness and give staff assistance as needed.

(5) Ensure that all time limits set forth in this regulation are met.

(g) The activity EEO officer will—

(1) Manage the Activity complaint processing program and advise the Activity Commander on EEO matters that require his or her attention.

(2) Advise the Activity Commander to ensure that adequate resources are available in the activity to manage the complaint program effectively.

(3) Recommend the Availability or adequate EEO counselors to provide effective counseling services. As a guide, there should be one counselor for about every 500 serviced employees. This ratio may vary depending on local need.

(4) Supervise EEO counselors to ensure that they perform effectively and are trained in all phases of complaint processing. Refer to assign EEO counselors for precomplaint counseling.

(5) Ensure that counselors and investigators are given administrative and logistical support, including appropriate access to personnel records and

copies of records relevant to the complaint, without an unwarranted invasion of privacy.

(6) Make the final decision on behalf of the Secretary of the Army to reject, in whole or in part, individual complaints at the activity; also accepts complaints provisionally subject to final decision by the Secretary of the Army or his or her designee.

(7) Ensure that complaints are processed promptly and that all requirements for precomplaint counseling and for processing complaints of discrimination are met.

(8) Ensure that every reasonable effort is made to reach an informal resolution of the complaint. He or she will advise the Activity Commander on proposed dispositions.

(9) Arrange for USACARA investigations, EEOC hearings and provide for court reporters, making sure that the EEOC complaints examiner is correctly advised to direct his or her report to EEOCRA and that the correct number of transcripts are ordered.

(10) Ensure that all copies of case files misdirected to the installation by complaints examiners are returned to the complaints examiner with instructions to send the files to EEOCRA.

(11) Send legible copies of complaint files to EEOCRA as fast as possible.

(12) Prepare and submit the required reports.

(13) Maintain and safeguard complaint files.

(h) The EEO counselor will—

(1) Advise complainant and management officials of their rights, inquire into allegations of discrimination raised under this regulation, and try to resolve discrimination complaints at the precomplaint stage.

(2) Keep records indicating when the aggrieved person first contacted the counselor. These records will document the inquiry methods used to reach a solution and the result of the inquiry. Such records will provide specific facts to be included in the counselor's written report to the EEO officer upon completion of counseling.

(i) The servicing legal officer/Staff Judge Advocate (SJA) will—

(1) Provide legal advice on EEO matters to the Activity Commander, the CPO, and EEO officials.

(2) Act as the Army's activity-level legal representative in hearings on individual complaints and in class action proceedings.

(3) Review for legal sufficiency, as requested, proposed informal adjustments or settlement agreements, proposed disposition letters, and final decision letters.

(4) Advise the Activity Commander regarding settling claims of attorney fees and costs. The counselor will forward with analysis and recommendations to the Department of the Army (DA), through the Labor and Civilian Personnel Law Office (DAJA-LC), Office of the Judge Advocate General, for final decision, all claims for attorney fees and/or costs that are not settled at the activity level. (See § 588.54)

(j) Managers and supervisors will act promptly to prevent or correct situations that may give rise to complaints of discrimination. All members of the work force will refrain from actions or comments that might be viewed as discriminatory. Supervisors will allow employees with collateral EEO duties enough duty time to perform their EEO functions. They will also ensure that, at the precomplaint and the formal stages of the complaint, complainants and their representatives are allowed to use a reasonable amount of duty time to work on their complaints. Managers, supervisors, and employees must cooperate fully with counselors, EEO officers, investigators, and examiners.

§ 588.5 Authority.

This regulation implements the directives of the Equal Employment Opportunity Commission which is charged by statute with the enforcement of equal employment opportunity in the Federal Government. Discrimination complaints filed under this regulation are processed under the guidance of EEOC regulations contained in part 1613 of title 29, Code of Federal Regulations (29 CFR part 1613). This regulation will be revised to reflect changes in EEOC directives and regulations.

§ 588.6 Policy statements.

(a) Persons who take part in presenting or processing discrimination com-

plaints will be free from restraint, interference, coercion, harassment, discrimination, and reprisal.

(b) A discrimination complaint will be processed with due regard for the rights of persons against whom allegations have been made.

(c) Complaints will be processed promptly and impartially.

(d) Complaints should be resolved at the earliest possible stage; informal resolution can occur at any stage of processing. Early resolution of complaints achieves better employee relations, cuts administrative costs, and is consistent with the Army's commitment to equal employment opportunity.

(e) This regulation does not affect the rights granted unions that have exclusive recognition in the Army. Further, this regulation is not intended to affect the rights of an employee represented by such a union from exercising the option to file—

(1) A discrimination complaint under this regulation.

(2) A grievance under a negotiated procedure.

(3) An appeal under the appellate provisions of the MSPB regulations.

(4) Sufficient resources, in terms of personnel and funds, will be made available at all levels of command to assure the success of the Army's Equal Opportunity Program.

(5) Suspenses imposed by this regulation are purely administrative and were established by the EEOC and the Army. They are designed to encourage prompt resolution of complaints. Failure to meet such a suspense will not nullify any administrative proceeding. All "days" referred to in this regulation are calendar days.

§ 588.7 EEO counselor training.

All EEO counselors will be given the required training as soon as possible after their appointment, within time limits set by the major command. Training will at least include completion of the basic EEO counseling course given by regional offices of the Office of Personnel Management or any comparable course, and courses in EEO and civilian personnel management, as appropriate. Additional and refresher