

and the Activity Commander, after coordination with the EEO officer, the labor counselor, and the CPO. A written resolution may include a finding on the issue of discrimination and an award of attorney fees and/or costs. It must also include any corrective action agreed on. The corrective action must be consistent with the law, executive orders, negotiated agreements, and Federal regulations, rules, and instructions. A copy of the signed resolution will be given to the class agent.

(d) Notice of the resolution will be given to all class members in the same way as the notification of the acceptance of the class complaint. This notice will state the terms of the corrective action, if any, to be granted by the Army. A resolution binds all members of the class, except those who have properly removed themselves.

(e) If the Army does not carry out, or rescind, any action specified by the resolution, for reasons not due to acts or conduct of the class agent, the representative, or class members, it will reinstate the complaint for processing at the class agent's written request. The complaint should be reinstated at the point where processing stopped. The agent may appeal to the EEOC Office of Review and Appeals the Army's failure to reinstate the complaint.

#### **§ 588.41 Procedures for the hearing.**

(a) At the end of the period allowed to prepare the case, the complaints examiner will set a date for a hearing. Witnesses and representatives at the hearing are authorized as provided for a subpart H. Only persons directly connected to the complaint (as determined by the examiner) may attend the hearing.

(b) The complaints examiner will conduct the hearing and give an opportunity to the parties to introduce evidence and to cross-examine witnesses. Testimony will be under oath or affirmation. Rules of evidence are not applied strictly, but the complaints examiner may exclude irrelevant or unduly repetitious evidence. The examiner may also exclude any person from the hearing for conduct that obstructs the hearing.

(c) The hearing is recorded verbatim and the transcript is made a part of the

record. The complaints examiner sends to EEOCCRA the record of the hearing, the report of findings, and a recommended decision on the complaint. This decision includes corrective action where appropriate. The examiner notifies the class agent of the date the report of findings and recommendations was sent to the EEOCCRA.

#### **§ 588.42 Final Army decision.**

(a) Within 30 calendar days after the Army receives the examiner's report, the Secretary of the Army or his or her designee must issue a written decision to accept, reject, or modify the findings and recommendations of the examiner.

(b) The decision is sent to the class agent and to his or her representative, with a copy of the transcript of the hearing and of the findings and recommendations of the examiner.

(c) If the Army decision is to reject or modify the findings and recommendations of the complaints examiner, the decision must state, in detail, the specific reasons for the Army action.

(d) If the Army has not issued a decision within 30 calendar days after receiving the examiner's report, the findings and recommendations of the examiner will become the final Army decision. This decision and the record of the hearing must then be sent by EEOCCRA to the class agent or his or her representative. A copy of the final Army decision will be sent to the MACOM, the Activity Commander, and to the activity EEO officer.

(e) Within 10 calendar days of the transmittal of the final Army decision to the class agent, the EEO officer will notify all members of the class of the final Army decision by the same means used to notify the class of the existence of the class complaint. (See § 508.31(a))

(f) The final Army decision will direct any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal employment opportunity. When discrimination is found, the notice of decision will—

(1) Advise the class agent and his or her representative, if any, the attorney fees and/or costs may be awarded. The