

(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

training will be determined by command policy. All Army training should stress the Army policy to seek informal resolution at the earliest possible stage of complaint.

**§ 588.8 Venue.**

EEO complaints will generally be processed at the activity where the alleged discrimination occurred. The complaint may be processed at a different location designated by the MACOM EEO officer if processing is impractical at the activity where the alleged discrimination occurred. (See §§ 588.9 and 588.69)

**§ 588.9 Complaints involving the Secretary of the Army or officials of the Office of the Secretary of the Army.**

(a) Precomplaint counseling that involves official at the Secretary of the Army level will be coordinated with the EEO officer, Office of the Secretary of the Army, regardless of where in the Army the counseling may arise. The EEO officer at the activity where the aggrieved person is employed or has applied for employment will be responsible for ensuring that local counseling is conducted in accord with §§ 588.13 and 588.32. The coordination will be accomplished before the activity EEO counselor conducts the final interview. Coordination may be on an informal basis using the most expeditious means of communication.

(b) Formal complaints that involve actions taken by the Secretary of the Army or an official of the Office of the Secretary of the Army will be forwarded for acceptance and processing to the EEO officer, Office of the Secretary of the Army, regardless of where in the Army they arise. The activity EEO officer will issue a letter to the complainant acknowledging receipt of the complaint and informing the complainant of the referral to the Office of the Secretary of the Army. The letter must state that such acknowledgment does not constitute acceptance of the complaint. The activity EEO officer must forward to the EEO officer, Office of the Secretary of the Army, the following documents:

- (1) The complaint.

- (2) A copy of the acknowledgment or receipt.

- (3) A recommendation as to the acceptance or rejection of the complaint, along with an analysis in support of the recommendation.

- (4) A copy of the EEO counselor's report.

**§ 588.10 Complaints involving the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; and its Staff support or field operating agencies.**

(a) Precomplaint counseling that involves the Chief of Staff, Army; MACOM commanders; official of the Army Staff; or its Staff support and field operating agencies (unless these activities have been designated to be serviced by an EEO officer other than the EEO officer for the Military District of Washington (MDW), will be coordinated with the EEO officer for MDW regardless of where in the Army the counseling may arise. The EEO officer at the activity where the aggrieved person is employed, or has applied for employment, will be responsible for ensuring that local counseling is conducted in accord with §§ 588.13 and 588.32, and that the required coordination is accomplished before the activity EEO counselor conducts the final interview. Coordination may be on an informal basis using the most expeditious means of communication.

(b) Formal complaints that involve actions actually taken by the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; or its Staff support and field operating agencies (unless these activities have been designated to be serviced by an EEO officer other than the MDW EEO officer), will be forwarded for acceptance and processing to the MDW EEO officer, regardless of where in the Army the counseling may arise. The letter must state that such acknowledgment does not constitute acceptance of the complaint. The Activity EEO officer must forward to the EEO officer, MDW, the following documents:

- (1) The complaint.
- (2) A copy of the acknowledgment of receipt.
- (3) A recommendation as to the acceptance or rejection of the complaint.