

Army at the activity level as described in §§ 588.2 and 588.3.

§ 588.74 Using official time.

Under 29 CFR 1613.214, complainants, agents, and representatives who are Army employees have the right to a reasonable amount of duty time to prepare and present a complaint filed under this regulation. Employees must arrange in advance with their supervisors to use this duty time. Disagreements as to what is "reasonable" time are resolved by the Activity Commander or a designee. "Reasonable duty time" includes all time actually spent in meetings and hearings required by an Army or EEOC official plus a reasonable amount of preparation time. Reasonable time for preparation purposes is generally defined in terms of hours rather than days, weeks, or months.

§ 588.75 Hearing arrangements.

(a) Expenses incurred in the administrative processing of an EEO complaint will be borne by the activity against which the complaint is lodged.

(b) The servicing activity EEO officer will ensure that a court reporter is provided for the hearing and that the transcripts are sent directly to the EEOC complaints examiner. Use of Army employees to transcribe hearings is prohibited by the EEOC. However, interservice support agreements with the Navy and Air Force may be used instead of contracting for such services.

(c) All requests to the EEOC for a hearing will contain instructions that the completed case file, with all copies of the transcript and the complaints examiner's recommended decision is to be sent to the Director, EEOCRA, ATTN: SFCR, WASH DC 20310-1813. If the examiner erroneously transmits the case file to the activity EEO officer, the case must be returned immediately to EEOC by registered mail with instructions for transmission to the Director, EEOCRA.

§ 588.76 Complaint file.

(a) The EEO officer will compile a complaint file that will include all documents pertinent to the complaint except for the Army decision regarding action against the ADO.

(b) The file will not contain any document that has not been made available to the complainant or his or her representative.

(c) The file will be indexed. The file will also be tabbed in reverse chronological order and will contain legible copies of the following documents, when applicable, and in the order listed below:

- (1) Tab O.
 - (i) EEO Complaint Data Sheet: DA Form 5493-R (Individual Complaint Data Sheet) or DA Form 5494-R (Class Complaint Data Sheet).
 - (ii) Complaint Chronology Sheet: DA Form 5495-R (Chronology of Individual EEO Complaint) or DA Form 5496-R (Chronology of Class EEO Complaints).
 - (iii) DA Form 5497-R (Disposition of Complaint of Discrimination).
- (2) Tab N.
 - (i) Final Army decision.
 - (ii) Return receipt or other evidence of complainant's receipt of final Army decision.
- (3) Tab M. EEOC complaints examiner's report of findings, analysis, and recommendations.
- (4) Tab L. Verbatim transcript of EEOC hearing and all exhibits.
- (5) Tab K. EEO officer's letter to EEOC requesting assignment of a complaints examiner.
- (6) Tab J.

Request for Army decision without a hearing.

Request for hearing before EEOC.
- (7) Tab I.
 - (i) Proposed disposition.
 - (ii) Notice to complainant of adoption of proposed disposition as Army final decision if complainant has failed to respond within 15 days.
- (8) Tab H.
 - (i) Record of adjustment conference.
 - (ii) Settlement agreement is signed by all parties and documents showing implementation.
 - (iii) Written withdrawal of complaint by complainant, if applicable.
- (9) Tab G.
 - (i) Record of transmittal of USACARA ROI to activity.
 - (ii) Record of transmittal of USACARA ROI to complainant.
- (10) Tab F. Entire investigator's report including exhibits tabbed as received from the investigator.