

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.

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- (11) Tab E.
    - (i) EEO Officer's request to USACARA for appointment of an investigator.
    - (ii) USACARA response to EEO officer.
    - (iii) EEO officer's notice to labor counselor of date, time, and location of USACARA investigation.
  - (12) Tab D.
    - (i) Appointment letter of labor counselor as Army representative.
    - (ii) Written designation by complainant of his or her representative
  - (13) Tab C.
    - (i) Formal EEO complaint, DA Form 2590-R.
    - (ii) EEO officer's acknowledge receipt of the formal complaint.
    - (iii) EEO officer's acceptance of the formal complaint.
    - (iv) EEO officer's rejection or cancellation of the formal complaint.
  - (14) Tab B.
    - (i) Notice of Final interview.
    - (ii) EEO counselor's final report.
    - (iii) 21-day letter, if applicable.
  - (15) Tab A. All allied papers (all documents relevant to the case but not specifically included in the above section attached in reverse chronological order).
    - (d) All EEOC appellate documents will be tabbed in reverse chronological order with Arabic numerals.
    - (e) All civil litigation documents will be tabbed in reverse chronological order with Roman numerals.
    - (f) When the complainant requests a decision by the Secretary of the Army or his or her designee on the basis of the record as it stands, or after a hearing, the original case file will be clearly indexed and tabbed as described in paragraph c above and all pages will be clearly legible.
- (1) Every complaint file will contain an EEO complaint data sheet. See DA Form 5493-R for individual EEO complaints and DA Form 5494-R for class EEO complaints. The data sheet will be filled out by the EEO counselor and the activity EEO officer. Any entry contrary to the provisions of this regulation should be explained by the responsible EEO official in the "Remarks" section of the data sheet. These DA Forms will be reproduced locally on 8 1/2- by 11-inch paper. Copies for repro-

duction purposes are located at the back of this regulation.

(2) Every complaint file will contain an EEO chronology sheet completed by the activity EEO officer and the EEOCCRA. See DA Form 5495-R for individual EEO complaints and DA Form 5496-R for class EEO complaints. The chronology sheet will account for the processing time from the date of the alleged discriminatory action to the final Army decision and any administrative or judicial appeal. Failure to meet any administrative suspense established by this regulation should be fully explained in the "Remarks" section of this chronology sheet. These DA Forms will be reproduced locally on 8 1/2- by 11-inch paper. Copies for reproduction purposes are located at the back of this regulation.

**§ 588.77 Complaints reporting.**

(a) The EEO counselor will complete DA Form 5492-R at the time of the final interview and submit it to the EEO officer in accord with §588.13(d). The EEO officer will transmit copies of this report to EEOCCRA and the MACOM of the activity against which the complaint is lodged upon termination of counseling.

(b) *Individual formal complaint reporting.* (1) Immediately upon receipt of a formal EEO complaint (DA Form 2590-R), the activity EEO officer will complete and dispatch a copy of the formal complaint to the Director, EEOCCRA, ATTN: SFCR, WASH DC 20310-1813. Receipt of the complaint will be acknowledged, in writing, by EEOCCRA. The acknowledgment will contain a docket number assigned to the case by EEOCCRA which will be used throughout the processing of the EEO complaint. This docket number does not replace the docket number assigned by USACARA, rather it is used as a control to identify the records in EEOCCRA.

(2) After receiving the EEOCCRA docket number, the EEO officer will use the docket number on all documents generated or submitted by the activity EEO officer in the processing of the complaint.