



The Department of Labor's Harassing Conduct Policy (HCP) & Equal Employment Opportunity (EEO) Complaint Processes

OFFICE OF THE ASSISTANT SECRETARY
FOR ADMINISTRATION AND MANAGEMENT
CIVIL RIGHTS CENTER (CRC)

The HCP Process with WECO & the EEO Process with CRC

It is the Department of Labor's (DOL) policy to prohibit and prevent discriminatory and harassing conduct by anyone in the workplace. It is also DOL's policy to provide EEO for all DOL employees and applicants for DOL employment. The goal of the HCP is to take prompt and appropriate corrective action, including proportionate disciplinary action, to address harassing conduct before it becomes "severe or pervasive" and violates the law. The goal of the EEO complaint process is to prevent and remedy all forms of discrimination that violate EEO law. Having a strong anti-harassment policy and an effective EEO complaint process promotes accountability for, and the early resolution of, harassment and other types of prohibited discrimination.

This poster provides information on the HCP and EEO complaint processes for DOL employees and applicants for DOL employment.

PROHIBITED DISCRIMINATION & HARASSMENT:

Allegations of harassing conduct under the HCP or discrimination under the EEO complaint process can be filed on the following bases:

- Race (including race-related characteristics, which may include an individual's grooming and hair),
- Color,
- National Origin (including ethnicity, accent, use of a language other than English, and immigration experience),
- Ancestry (including ancestry-related characteristics, which may include an individual's dress),
- Religion or Religious Creed (including reasonable accommodation of religious beliefs, observances, or practices),
- Sex (including pregnancy, childbirth, abortion, and related medical conditions and reasonable accommodation),
- Sexual Orientation, Transgender Status, Gender Identity, Gender Expression, Intersex Traits, Sex Stereotyping (including status as a survivor of gender-based violence and harassment), and Sex Characteristics,
- Age (40 and up),
- Physical or Mental Disability (including reasonable accommodation of physical or mental disability and some medical conditions that may not be disabilities),
- Genetic Information,
- Parental Status, and/or
- Retaliation/Reprisal for protected EEO activity (e.g., opposing discrimination, filing or assisting others in an HCP or EEO complaint, or requesting an accommodation).

WORKPLACE EQUALITY COMPLIANCE OFFICES (WECOs) HARASSING CONDUCT COMPLAINTS

HARASSING CONDUCT DEFINED

Harassing conduct is any unwelcome verbal, written (including graphics or pictures), or physical conduct, based on one or more of the protected categories listed above, that can reasonably be considered to adversely affect the work environment (that is, the conduct potentially gives rise to a "hostile work environment" or a violation of civil rights laws).

REPORTING HARASSING CONDUCT

Any person who believes they have been the subject of or witnessed an incident of harassing conduct, or who otherwise has knowledge of an incident of harassing conduct, should report the matter to any person in a managerial or supervisory position. It is recommended that reporting be made to the respective agency WECO. Prompt reporting is strongly encouraged.

Management must act promptly and appropriately by reporting to WECO within 2 business days of being informed of alleged harassing conduct. Within 10 calendar days of receiving a report, WECO should determine if the allegations should be investigated, and if interim relief is appropriate.

INTERIM RELIEF

Interim relief is not required or guaranteed in most situations. Potential situations where interim relief is recommended include fear of physical threat and certain circumstances that may present hardship to the alleged victim. The decision to grant interim relief is at the discretion of the appropriate management official, in consultation with the WECO and the Office of Human Resources (OHR) and/or servicing Human Resources Officer (HRO).

INVESTIGATING COMPLAINTS OF HARASSING CONDUCT

WECO must conduct any necessary fact-finding and complete the inquiry within 90 calendar days from the date the allegations were first raised. Fact-finding shall include, at a minimum, interviews with: (1) the aggrieved person, (2) the accused harasser(s), and (3) any witnesses to the alleged conduct or persons who may have knowledge of it or similar conduct. Fact-finding should also attempt to locate documentation including any written communication that may prove or disprove the allegations. Each inquiry will be different and depend upon the specific circumstances of the allegations. A written summary of the fact-finding shall be prepared by the individual conducting the inquiry promptly after completion of the inquiry and shall be submitted to the WECO (if the WECO did not conduct the inquiry).

If the WECO determines, in consultation with OHR, that the harassing conduct violates the HCP or is reasonably likely to violate the law if it persists, the summary and all relevant information will be provided to the next-level supervisor in the alleged harasser's management chain. The next-level supervisor is responsible for consulting with OHR and/or the servicing HRO to take any appropriate proportionate corrective action, disciplinary action, or other action regarding the accused harasser.

NO RIGHT OF APPEAL

There is no right to an appeal under the HCP. Aggrieved individuals have the right to file EEO complaints within 45 calendar days of the date of the matter alleged to be discriminatory, even if this means that inquiries under the HCP and investigations under the EEO complaint process are underway at the same time. The HCP serves as a means for the agency to assess potential liability, and prevent harassing conduct from violating the law. The EEO complaint process serves to remedy unlawful discrimination or harassment that has already occurred.

ADDITIONAL INFORMATION

Additional information may be obtained from DOL's LaborNet or by contacting WECO or CRC:

Workplace Equality Compliance Office (WECO)

To contact your Agency's WECO, please use the following link for an up-to-date list of current WECO Managers listed by Agency: <https://www.dol.gov/agencies/oasam/centers-offices/weco/contact>

Civil Rights Center (CRC)
CRC main number: (202) 693-6500 | 7-1-1 (relay) Fax Number (202) 693-6505
Email: CivilRightsCenter@dol.gov;
Room N-4123 Frances Perkins Building
200 Constitution Ave., Washington D.C.
Additional Information:
[CRC's Website Internal Enforcement \(DOL Employees and DOL Job Applicants Only\): https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/internal](https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/internal)

Information pertaining to disability and DOL's Reasonable Accommodation Policy and Procedures for Employees and Applicants with Disabilities may be obtained by contacting the Reasonable Accommodation Resource Center (RARC) by Email: RARC.INFO@dol.gov or by visiting its webpage at: <https://www.dol.gov/agencies/oasam/centers-offices/weco/reasonable-accommodations>.

If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

CIVIL RIGHTS CENTER (CRC) EEO COMPLAINTS

PRE-COMPLAINT - FILING | COUNSELING

An aggrieved individual (a DOL employee, former employee, or applicant for employment with DOL) must contact an EEO Counselor or CRC within 45 calendar days of an alleged discriminatory action or, in the case of a personnel action, within 45 calendar days of the effective date of action. For a list of current EEO Counselors and contact information, please use the following link: <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/contact/eoo-counselors>

The EEO Counselor explains the EEO complaint process and informs the aggrieved individual about their rights and responsibilities. An EEO Counselor will conduct limited fact-finding within 30 calendar days from the date of initial contact with the aggrieved individual and they will also assist in attempting to resolve the complaint. Counseling may be extended upon agreement of both CRC and the aggrieved individual up to 60 additional days if more time is needed to attempt resolution. At the time of initial contact, the aggrieved individual may elect to pursue early resolution through mediation or alternative dispute resolution (ADR).

FORMAL COMPLAINT PROCESS - FILING

If resolution is not achieved during EEO counseling, the aggrieved individual may submit a formal EEO complaint to the Director, CRC or to the Secretary of Labor within 15 calendar days of receiving the "Notice of the Right to file a Formal Complaint."

ACCEPTANCE OR DISMISSAL

If the formal complaint is accepted, an investigator will be assigned by CRC to conduct an impartial and appropriate investigation. An investigator (a DOL employee or a contract investigator) will be authorized to conduct the investigation and may administer oaths to obtain sworn or affirmed testimony without a pledge of confidentiality from any relevant witness. There are limited grounds on which CRC may dismiss a complaint prior to an investigation. If CRC dismisses your complaint in whole or in part, you will receive a letter explaining the decision and information on your appeal rights.

INVESTIGATIONS

The Investigator compiles a Report of Investigation (ROI) containing relevant testimony and other documentary evidence sufficient to allow a fact-finder to draw conclusions about whether discrimination occurred. The Investigator makes no findings or recommendations on the merits of the allegations but determines relevant witnesses and documentation to include in the ROI. CRC is required to complete an investigation within 180 calendar days of receipt of the formal complaint unless the parties mutually agree to extend up to 90 calendar days. Amended complaints extend the deadline an additional 180 days, but CRC must complete an investigation no later than 360 calendar days from the date of the original formal filing.

ELECTION RIGHTS - FINAL DECISION OR EEOC HEARING

After the investigation, within 30 calendar days of receipt of the ROI, most complainants may elect a final agency decision (FAD) by CRC or a hearing by an Equal Employment Opportunity Commission (EEOC) Administrative Judge (AJ). At any time after 180 calendar days from the filing of the formal complaint, most complainants may proceed without delay to request a hearing with the EEOC or file a civil action in U.S. District Court.

If a complainant requests a FAD, the CRC Director or their designee will issue a decision based on information in the ROI within 60 calendar days. CRC will also issue a FAD where a complainant did not request a FAD or a hearing within 30 days of receipt of the ROI.

If a complainant requests a hearing with an EEOC AJ, the AJ may conduct a hearing and submit a final decision within 180 calendar days of the hearing request. CRC has 40 calendar days from receipt of the AJ's final decision to determine whether to accept and implement the final decision in whole or in part. If CRC does not accept the AJ's decision in whole, an appeal will be filed with EEOC's Office of Federal Operations (OFO).

APPEALS | RIGHT TO FILE CIVIL ACTION

If a complainant is dissatisfied with a final decision, most may appeal to EEOC's OFO within 30 calendar days of receipt of the decision. Requests for hearings and appeals may be filed electronically through EEOC's Federal Sector EEO Public Portal (FedSEP): <https://publicportal.eeoc.gov/Portal/Login.aspx>

If a complainant does not file an appeal with OFO, they may file a civil action within 90 calendar days of receipt of the Agency's final decision. If a complainant files an appeal with OFO, they may still file a civil action within 90 calendar days of receipt of OFO's final decision.

EEO PROCESS VS. UNION PROCESS

Any employee within the American Federation of Government Employees (AFGE), Local 12, or the National Union of Labor Investigators (NULI) bargaining units may file allegations of discrimination under their respective negotiated grievance procedures. They must choose whether the allegations of discrimination will be processed under their respective negotiated grievance procedures or under the EEO complaint process. Elections will be determined by whichever event comes first, the date of the grievance or the date of the formal EEO complaint.

If any employee in a bargaining unit covered by the National Council of Field Labor Locals (NCFL) files a grievance and an informal EEO complaint on the same matter, the grievance will be held in abeyance. If a formal EEO complaint is filed, the grievance will be terminated unless CRC dismisses the complaint for reasons not about the merits of the complaint. Then the NCFL bargaining unit employee has 30 days from receipt of the dismissal to resume the grievance.