



DEPARTMENT OF DEFENSE
OFFICE OF DEPENDENTS EDUCATION
4040 NORTH FAIRFAX DRIVE
ARLINGTON, VA 22203-1635
OCT 6 1994



DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS
REGULATION SYSTEM TRANSMITTAL

SUBJECT DS Regulation 5713.9- Change 1

INSTRUCTIONS FOR RECIPIENTS

The following pen changes to DS Regulation 5713.9, "Equal Employment Opportunity Program," dated September 25, 1992, are authorized:

Pen Changes to Regulation

Page 1, Section D-1 to read: '

"The Director, DoDDS, has official responsibility for the full range of the EEO function. The Deputy Director is the chief advisor to the Director on EEO matters."

Page 2, Section D-3 to read:

"The Director will annually review the EEO program for DoDDS."

Page 1-1, Section A to read:

"The Director, DoDDS, 4040 North Fairfax Drive, Arlington, VA 22203-1635, is designated as the Director of EEO. The Deputy Director is the chief advisor to the Director, DoDDS for the accomplishment of the DoDDS EEO program."

Page 1-1, Section B to read:

"The Deputy Director, DoDDS, is designated as the EEO Officer and will assist the Director in developing policies and programs for DoDDS to comply with the requirements of the Equal Employment opportunity Commission (EEOC). The EEO Officer is located at 4040 North Fairfax Drive, Arlington, VA 22203-1635."

Page 1-4, Section M-1 to read:

"1. The following officials are designated to receive formal complaints of discrimination:

- a. DoDDS EEO Officer
4040 North Fairfax Drive
Arlington, VA 22203-1635
- b. Director, DoDDS
4040 North Fairfax Drive
Arlington, VA 22203-1635


- c. Director, DoDDS Europe
Unit 29649, Box 285
APO AE 09096

- d Director, DoDDS Panama/Islands
4040" North Fairfax Drive
Arlington, VA 2220301635

- e. Director, DoDDS Pacific
PSC 556, Box 796
FPO AP 96372-0796"

Page 18-1, Enclosure 18
"DoDDS EEO Officer
4040 North Fairfax Drive
Arlington, VA 22203-1635

Page 19-1, Enclosure 19
"DoDDS EEO Officer
4040 North Fairfax Drive
Arlington, VA 22203-1635



Marilee Fitzgerald
Chief, Executive Services

Attachment:
DS Regulation 5713.9

Cancelled



DEPARTMENT OF DEFENSE
OFFICE OF DEPENDENTS SCHOOLS
1225 JEFFERSON DAVIS HIGHWAY SUITE 1500 .
CRYSTAL GATEWAY 2
ARLINGTON, VA 22202 DS REGULATION 5713.9

SEP 25 1992

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS REGULATION
EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

Reference: Title 29, Code of Federal Regulations, Part 1614
EEOC Regulations

A. PURPOSE.

This regulation establishes the Department of Defense Dependents Schools (DoDDS) Equal Employment Opportunity (EEO) Program. It implements Chapter 713 of the Federal Personnel Manual and Part 1614 of the Equal Employment Opportunity Commission (EEOC) Regulations.

B. APPLICABILITY.

This regulation applies to all U.S. citizen DoDDS employees and U.S. citizen applicants for DoDDS employment. In keeping with treaties and agreements with the Republic of Panama, provisions of this regulation have been administratively extended to cover non-U.S. citizen personnel, except as precluded by law.

C. POLICY.

Employment practices in DoDDS will adhere to the Federal Government policy of ensuring equal employment opportunity to all U.S. citizen employees and U.S. citizen applicants for DoDDS employment without regard to race, color, religion, sex, national origin, or age; prevent discrimination against qualified physically or mentally handicapped persons; and promote the full realization of equal employment opportunity through a continuing affirmative action program.

D. RESPONSIBILITIES.

1. The Deputy Director, DoDDS, has official responsibility for the full range of the EEO function and is the chief advisor to the Director, DoDDS, on EEO matters.


2. The regional directors, in coordination with ODS, will establish and maintain an EEO affirmative action plan applicable to their regions. Regional directors shall inform all employees and recognized employee organizations covered by this regulation of the EEO affirmative action plan and shall enlist employees' cooperation in accomplishing a personnel

management program that is free from discrimination. Each regional director shall provide leadership and direction for and be fully supportive of the EEO and affirmative action programs and will ensure that policies are vigorously and positively implemented. They shall ensure that copies of this regulation are available to employees, and that employees are informed of the identity of all officials designated to carry out the functions of the DoDDS EEO program.

3. The Director of Equal Employment Opportunity will annually review the EEO program for DoDDS.

E. EFFECTIVE DATE.

This regulation is effective October 1, 1992. It may not be supplemented or changed without the written approval of the Director, Office of Dependents Schools.


John L. Stremple
Director

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DESIGNATION AND FUNCTIONS OF EEO PROGRAM OFFICERS

A. Director of EEO.

The Deputy Director, DoDDS, 1225 Jefferson Davis Hwy, Crystal Gateway 2, Suite 1500, Arlington, VA 22202, is designated as the Director of EEO. The Director of EEO is chief advisor to the Director, DoDDS, the official responsible for the accomplishment of the DoDDS EEO program. The Director of EEO normally will render the final DoDDS decision in discrimination complaint cases in accordance with section 1614.110 of the EEOC regulations.

B. EEO Officer.

The Personnel Director, DoDDS, is designated as the EEO Officer and will assist the Director, DoDDS, and Director of EEO in developing policies and programs for DoDDS to comply with the requirements of the EEOC. The EEO Officer is located in the Personnel Center, DoDDS, 2461 Eisenhower Avenue, Alexandria, VA 22331-1100.

C. Federal Women's Program Manager.

1. The Director of EEO shall designate, in writing, a member of the ODS staff as the Federal Women's Program Manger (FWPM). The FWPM will advise the Director of EEO on the special concerns affecting women and will assure that equal employment opportunity for women is an integral part of the DoDDS EEO program.
2. Each regional director will designate a regional FWPM to advise the DoDDS EEO Officer and others on the special concerns affecting women and to ensure that EEO for women is an integral part of the DoDDS EEO program.

D. Hispanic Employment Program Manager.

1. The Director of EEO shall designate, in writing, a member of the ODS staff as the Hispanic Employment Program Manager (HEPM). The HEPM will advise the Director of EEO on the special concerns affecting Hispanic persons and will assure that equal employment opportunity for Hispanic persons is an integral part of the DoDDS EEO program.

2. Each regional director will designate a regional HEPM to advise the DoDDS EEO

Officer and others on the special concerns affecting Hispanic persons and to ensure that EEO . ““ for Hispanic persons is an integral part of the DoDDS EEO program.

E. Black Employment Program Manager.

1. The Director of EEO shall designate, in writing, a member of the ODS staff as the Black Employment Program Manager (BEPM). The BEPM will advise the Director of EEO on the special concerns affecting Black persons and will assure that equal employment opportunity for Black persons is an integral part of the DoDDS EEO program.

2. Each regional director will designate a regional BEPM to advise the DoDDS EEO Officer and others on the special concerns affecting Black persons and to ensure that EEO for Black persons is an integral part of the DoDDS EEO program.

F. Asian/Pacific Islander Employment Program Manager.

1. The Director of EEO shall designate, in writing, a member of the ODS staff as the Asian/Pacific Islander Employment Program Manager (AEPM). The AEPM will advise the Director of EEO on the special concerns affecting Asian and Pacific Islander persons and will assure that equal employment opportunity for Asian and Pacific Islander persons is an integral part of the DoDDS EEO program.

2. Each DoDDS regional director will designate a regional AEPM to advise the DoDDS EEO Officer and others on the special concerns affecting Asian and Pacific Islanders and to ensure that EEO for Asian and Pacific Islanders is an integral part of the DoDDS EEO program.

G. American Indian/Alaskan Native Employment Program Manager.

1. The Director of EEO shall designate, in writing, a member of the ODS staff as the Native American Program Manager (AIEPM). The AIEPM will advise the Director of EEO on the special concerns affecting Native Americans and will assure that equal employment opportunity for Native Americans is an integral part of the DoDDS EEO program.

2. Each regional director will designate a regional AIEPM to advise the DoDDS EEO Officer and others on the special concerns affecting Native Americans and to ensure that EEO for Native Americans is an integral part of the DoDDS EEO program.

H. Handicapped Individuals Employment Program Manager.

1. The Director of EEO shall designate, in writing, a member of the ODS staff as the Handicapped Individuals Program Manager (HIPM). The HIPM will advise the Director

of EEO on the special concerns affecting handicapped individuals and will assure that equal employment opportunity for handicapped individuals is an integral part of the DoDDS EEO program.

2. Each regional director will designate a regional HIPM to advise the DoDDS EEO Officer and others on the special concerns affecting handicapped individuals and to ensure that EEO for handicapped individuals is an integral part of the DoDDS EEO program.

I. EEO Counselors.

To avoid disruption of the educational process and to reduce the need to hire substitute teachers, a DoDDS EEO counselor shall be not the only counselor available to a given school, complex, community, base, or installation. The EEO counselors of the servicing military departments will be utilized by DoDDS to the maximum extent feasible.

J. EEO Investigators.

Investigators assigned to the Air Force, Army, and Navy will investigate EEO complaints. The investigators' services will be provided on a reimbursable basis between the military department and the region using such services.

K. EEO Administrative Judges.

Administrative judges are employees assigned by the EEOC and will be utilized to conduct hearings into discrimination complaints in compliance with the EEOC regulations.

L. Agency Officials.

1. The DoDDS EEO Officer, in coordination with the regional directors, will review investigators' reports, EEO counselors' reports, and the complaint files, then recommend a course of action.

2. For complaints of discrimination filed in a region that name the Director, DoDDS, as the involved agency official (IAO), the Army, Navy, or Air Force EEO investigator's report and the EEO counselor's report will be forwarded to the Director of EEO, DoDDS, who will refer the report to the appropriate official for review and conclusions.

3. Dismissals of complaints and offers of hearings will be in compliance with the EEOC regulations, part 1614.

M. Officials Designated to Receive Complaints.

1. The following officials are designated to receive formal complaints of discrimination:

- a. DoDDS EEO Officer
2461 Eisenhower Ave
Alexandria, VA 22331-1100
- b. Director, DoDDS
1225 Jefferson Davis Hwy
Crystal Gateway 2, Suite 1500
Arlington, VA 22202
- c. Director of EEO, DoDDS
1225 Jefferson Davis Hwy
Crystal Gateway 2, Suite 1500
Arlington, VA 22202
- d. Director, DoDDS Atlantic
APO AE 09241-0005
- e. Director, DoDDS Germany
APO AE 09634-0005
- f. Director, DoDDS Mediterranean
APO AE 09283-5000
- g. Director, DoDDS Panama/Islands
APO AA 34002-0005
- h. Director, DoDDS Pacific
Box 796
FPO AP 96372-0005

2. When a formal complaint of discrimination is received by a regional director, it will be immediately forwarded to the DoDDS EEO Officer.

3. Individuals in organizations subordinate to regional directors should file complaints with the DoDDS EEO Officer. If the complaint is filed with an official other than the DoDDS EEO Officer, that official will forward the complaint to the DoDDS EEO Officer for processing.

4. If an EEO officer or any other EEO program official of a servicing military department receives a complaint of discrimination from a DoDDS employee, that official should advise the individual of the proper person with whom to file the complaint, normally the DoDDS EEO Officer. Management's time limits for processing do not start until the complaint is properly filed with an official identified in paragraph 1 above.

Cancelled

TERMS EXPLAINED

A. Complainant.

A complainant is any individual covered by this regulation who believes that he or she has been the subject of an unlawful employment practice based on discrimination on grounds of race, color, religion, national origin, sex, physical or mental handicap, or age where he or she was at least 40 at the time of the action which gave rise to the complaint, and who seeks resolution of his or her complaint through these EEO complaint procedures.

B. Unlawful Employment Practice.

An unlawful employment practice is to unlawfully discriminate against an individual with respect to conditions of employment because of such individual's race, color, religion, national origin, sex, age, or physical or mental handicap. This includes the Equal Pay Act (sex-based wage discrimination). Complaints alleging retaliation prohibited by these statutes are considered to be complaints of discrimination for the purpose of this part. Refer to Title VII of the Civil Rights Act for the full legal definition. Decisions of the courts and the EEOC impact on the meaning of discrimination as it applies to various specific case facts.

C. Class Complaints of Discrimination.

1. A "class" is a group of covered DoDDS employees, former employees, and/or applicants for employment with DoDDS on whose behalf it is alleged that they have been, are being, or may be adversely affected by a DoDDS personnel management policy or practice which DoDDS has authority to rescind or modify, and which unlawfully discriminates against the group on the basis of their common race, color, religion, sex, national origin, age (at least 40), or physical or mental handicap of qualified person;

2. A "class complaint" is a written complaint of discrimination filed on behalf of a class of employees by an agent of the class alleging that:

a. The class is so numerous that a consolidated complaint of the members of the class is impractical.

b. There are questions of fact common to the class.

c. The claims of the agent of the class are typical of the claims of the class.

d. The agent of the class, or his/her representative, if any, will fairly and adequately -protect the interest of the class.

3. An “agent of the class” is a class member who acts for the class during the processing of the class complaint.

D. Complaint or Formal Complaint.

A formal complaint is the written allegation of discrimination basal on one of the prohibited factors. The complaint must be signed and dated, and it must be timely filed with an official designated to receive a complaint (see Enclosure 1). There are special forms for the formal filing of a complaint, and they may be made available by a counselor or the DoDDS EEO Officer. A complaint is NOT a statement of intent to file, or desire to file, or general statement of dissatisfaction that indicates an ultimate intent to file, if some condition is not met. For the purpose of this regulation a complaint is an allegation of employment discrimination or retaliation prohibited by Title 29, Code of Federal Regulations, part 1614. The rules of the EEOC are very specific as are the time limits for processing a complaint. Absent a specific written extension by the DoDDS EEO Officer to the time limits for filing a complaint, untimely complaints normally will not be processed, notwithstanding intent to file.

E. Equal Pay Act.

The Equal Pay Act prohibits sex-based wage discrimination and applies to all Federal agencies. EEOC enforces the provision of this act under section 1614.202.

F. Rehabilitation Act.

This act prohibits employment discrimination regarding individuals with handicap(s). EEOC has identified individuals covered by this act and specified agency obligations regarding affirmative action and specific requirements necessary to comply with the act in section 1614.203.

G. Statutory Right.

1. A complaint who has filed an individual complaint, an agent who has filed a class complaint or a claimant who has filed a claim for individual relief pursuant to a class complaint is authorized under Title VII, the ADEA and the Rehabilitation Act” to file a civil action in an appropriate United States District Court:

a. Within 90 days of receipt of the final decision on an individual or class complaint if no appeal has been filed;

b. After 180 days from the date of filing an individual or class complaint if an appeal has not been filed and a final decision has not been filed and a final decision has not

been issued;

c. Within 90 days of receipt of the EEOC's final decision on an appeal;- or

d. After 180 days from the date of filing an appeal with the EEOC if there has been no final decision by the EEOC.

2. For purposes of this Enclosure, the decision of an agency shall be final only when the agency makes a determination on all of the issues on complaint, including whether or not to award attorney's fees/cost.

Cancelled

PROCESSING OF EEO -DISCRIMINATION COMPLAINTS

A. Precomplaint Counseling.

1. An individual covered by this regulation who believes he or she has been discriminated against on the basis of race, color, religion, sex, national origin, age, handicap, or reprisal must first consult with an EEO counselor at or nearest his or her place of employment to try to informally resolve the matter. Applicants will be advised as to available counselors. EEO counselors may be DoDDS or military department employees. For a complaint to be timely, the complainant must bring the matter to the attention of an EEO counselor within 45 calendar days of the incident alleged to be the cause of the discrimination or, if a personnel action, within 45 calendar days of its effective date. An aggrieved individual may contact his/her supervisor or the regional director to obtain names and locations of the nearest EEO counselors. The agency or EEOC shall extend the 45-day time limit where the individual shows that: (i) he/she was not notified of the time limits or was otherwise aware of them; (ii) he/she did not know and reasonable should not have known that the discriminatory matter or personnel action occurred; (iii) he/she was prevented by circumstances beyond his/her control from contacting a counselor within the time limits; or (iv) for other reasons considered sufficient by the agency or the EEOC. At the initial counseling session, the counselor must advise the aggrieved person in writing of their rights and responsibilities under part 1614. When advised that a complaint has been filed, the counselor shall submit a written report within 15 calendar days to DoDDS EEO Officer concerning the issues discussed and action taken during counseling. The DoDDS EEO Officer will forward a copy of the report to the aggrieved person. A complaint must contain a signed statement from the aggrieved person or his/her designated representative describing the basis of the complaint and the telephone numbers and address where complainant and the representative can be reached. This statement must be sufficiently precise to identify the aggrieved individual, the agency, and generally describe the action(s) or practice(s) that form the basis of the complaint.

2. The EEO counselor will notify the district superintendent that the counseling process has begun. This notification will enable the management official between the school principal and regional director to attempt to resolve the issue and report his/her efforts to the DoDDS EEO Officer prior to the complaint being referred for investigation. The EEO counselor:

a. Makes whatever inquiry into the matter that he or she believes is necessary.

- b. Seeks a solution to the matter on an informal basis.
- c. Counsels the aggrieved person concerning the issues in the matter.
- d. Keeps a record of his or her counseling activities so as to periodically brief the regional director and DoDDS EEO Officer.
- e. Does not reveal the identity of the complainant unless authorized by the complainant or until the discrimination complaint has been accepted for investigation following the precomplaint counseling stage:
- f. Shall not attempt in any way to restrain the aggrieved person from filing a complaint.

3. Maximum emphasis should be placed on the resolution of a discrimination complaint during the informal stage. If the counselor meets with resistance or indifference during his or her inquiry, he or she should immediately involve higher level management officials and the DoDDS EEO Officer. When the counselor recommends a reasonable and practical resolution to a complaint and it is not accepted by the management official, the next higher level of management should become involved to assure that every effort is made to resolve the complaint during the informal stage. If these efforts fail, the regional director and DoDDS EEO Officer should be thoroughly briefed on the complaint and recommended resolution. If the DoDDS EEO Officer, in coordination with the regional director, determines that informal resolution is not possible, the complainant will be advised of his or her right to file a formal complaint.

4. Unless the complainant and the agency agree to an extension of not more than 60 calendar days, the EEOC counselor will, within 30 calendar days after the date on which the matter was called to his or her attention, conduct the final interview with the aggrieved person and give the DoDDS EEO Officer and the aggrieved individual a Notice of Final Interview (see Enclosure 18). This notice informs the aggrieved person of the right to file a complaint and of the name and address of the appropriate official with whom the complaint can be filed. The notice shall inform the complainant that a complaint must be filed within 15 calendar days of receipt.

5. Where there is a dispute resolution procedure and the aggrieved person agrees to participate in the procedure, the precomplaint processing period shall be 90 calendar days. If the final interview is not concluded within 90 calendar days and the matter has not been resolved to the satisfaction of the aggrieved person, the complainant will be informed, in writing, of the right to file a formal complaint of discrimination (see Enclosure 19 for format of written "notice).

6. The EEO counselor shall submit a written report to the DoDDS EEO officer which summarizes all actions taken, explains the advice given, and lists the officials

contacted, within 15 calendar days after notification that a complaint has been filed by the complainant. The DoDDS EEO Officer shall forward a copy of the report to the aggrieved person.

7. EEO counselors shall be free from-restraint, 'interference, coercion, discrimination, or reprisal in the performance of their counselor duties.

B. Rights to Representation.

A complainant has the right to be accompanied, represented, and advised by a representative of his or her own choosing at any stage in the processing of the complaint, including the counseling stage. The complainant and his or her representative, if they are employees and are otherwise in a duty status, shall be given a reasonable amount of official time, as determined by management, to present the complaint. Complainants and their representatives shall make arrangements with their respective supervisors for the use of official time. Absent a conflict of interest or position, representatives are free to accept, but cannot be compelled or directed to act as an employee's representative. If a complainant names a representative, that designation must be in writing, must contain the representative's name, duty address, and duty phone number, must be signed by the complainant, and must be addressed to the EEO counselor or official identified in Enclosure 1, paragraph M, as appropriate.

C. Filing Formal Complaint

1. A formal complaint must be submitted in writing, by the complainant or his/her representative, be signed by the complainant, and must be filed with one of the officials designated to receive a complaint in Enclosure 1 of this regulation. Upon request, the EEO counselor will assist the complainant to ensure that the formal complaint is sent to the appropriate official.

2. The formal complaint must be submitted to the appropriate official or DoDDS EEO Officer within 15 calendar days of the date of the final interview with the EEO counselor. The DoDDS EEO Officer, in making an acceptability decision, shall extend the time limit upon a showing by the complainant that he or she was not advised of the time limits; that he or she was prevented by circumstances beyond his or her control from submitting the formal complaint within the time limits; or for other reasons considered sufficient by the DoDDS EEO Officer.

D. Dismissals of Complaints or Agency Right.

1. The DoDDS EEO Officer or his/her designee:

a. May dismiss a formal complaint which was not timely filed, or that raises a matter that has not been brought to the attention of a counselor and is not like or related to a matter that has been brought to the attention of a counselor.

b. Shall dismiss complaints “that do not cover allegations of discrimination based on color, religion, sex, national origin, age, handicap, or reprisal of qualified persons.

c. Shall dismiss complaints that have identical allegations to those contained in previous complaints filed by the same complainant that are pending or that have been previously decided by DoDDS.

d. Shall dismiss a complaint where the matter raised is in an appeal to the Merit Systems Protection Board.

e. Shall dismiss a complaint that alleges the agency is proposing to take action that may be discriminatory.

f. Shall dismiss a complaint that the complainant elected to pursue under a negotiated grievance procedure.

g. Shall reject a complaint that is the basis of pending civil action in a U.S. district court in which the complainant is a party.

h. Shall dismiss a complaint when the complainant cannot be located after reasonable efforts to locate have been made and the complainant has not responded within 15 calendar days to a proposed dismissal sent to last known address.

i. May dismiss a complaint where the agency provided the complainant with a written request for relevant information and the request contained a notice of dismissal for failure to respond and the complainant did not respond within 15 calendar days of receipt, or the agency may adjudicate the complaint if there is sufficient information for that purpose.

j. Shall dismiss a complaint where the complainant refuses within 30 days of receipt to accept a valid agency settlement offer of full relief containing a notice that failure to accept would result in dismissal of the complaint.

2. A letter dismissing a complaint must be in writing and sent to the complainant with a copy to his or her representative, if any, and to the regional director. It must inform the complainant of his or her appeal rights, and of the time limits. Additionally, the complainant will be informed of the statutory right to file a civil action in an appropriate U.S. district court.

3. An appeal of a decision to dismiss a complaint must be in writing and sent to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, DC 20036. The appeal may be filed by the complainant at any time up to 30 calendar days after receipt of the notice of dismissal or final decision.

E. Investigation of a Complaint.

1. When a formal complaint has been found acceptable for processing, the DoDDS EEO Officer shall request the services of an investigator from an appropriate Civilian Appellate Review Office of the military departments.

2. The request for the service of an investigator shall be made without delay. The investigation shall be conducted in compliance with section 1614.108 of the EEOC regulations. If a fact-finding or similar conference is held by an investigator of the Army, Air Force, or Navy, management has the right to be present at all phases of the conference to make its view known to the fact-finder. Any right or privilege to examine or cross examine witnesses that is extended to the complainant or his/her representative shall be fully and equally extended to management's representative.

3. The agency shall complete its investigation within 180 calendar days of the date of the filing of the complaint or of the expiration of a period of extension, if applicable, or within the time period contained in an order from EEOC. Upon completion of the investigation, the investigator forwards his or her report to the DoDDS EEO Officer. The DoDDS EEO Officer shall provide the complainant with a copy of the investigative file and shall notify the complainant that he/she has 30 days of receipt of the file within which to request a hearing before an administrative judge or to receive an immediate final decision from the agency.

4. In the absence of the required notice, the complainant may request a hearing at any time after .180 days has elapsed from the filing of the complaint.

F. Hearing.

1. If the complaint is not resolved and the complainant requests a hearing, the DoDDS EEO Officer will arrange for the services of an EEOC administrative judge.

2. The EEOC administrative judge shall conduct a hearing into the complaint in accordance with section 1614.109 of the EEOC regulation, The following procedures apply to hearings of complaints.

a. The complainant, DoDDS; and any employee of the federal agency shall produce such documentary and testimonial evidence deemed necessary by the administrative judge.

b. When the complainant, or DoDDS, or any DoDDS employees fail without good cause to respond fully and in timely fashion to request for documents, records, comparative data, statistics, affidavits, or the attendance of witness, the administrative judge may, (i) draw an adverse inference that the requested information, or the testimony of the requested witness, would have reflected unfavorable on the party refusing to provide the requested information; (ii) consider the matters to which the requested information or testimony pertains to be established in favor of the opposing party; (iii) exclude other evidence offered by the party failing to produce the requested information or witness; (iv) issue a decision fully or partially in favor of the opposing party; or (v) take such other actions as appropriate.

c. At least 15 calendar days prior to the date of the hearing or at such earlier time as required by the administrative judge, either DoDDS or the complainant may under section 1614.109 file with the administrative judge a statement that facts and credibility are not at issue. The opposing party may file an opposition within 15 calendar days of receipt of the statement.

d. The hearing shall be recorded and DoDDS shall arrange and pay for verbatim transcripts, All documents submitted to and accepted by the administrative judge shall be made part of the record of the hearing.

e. Unless the administrative judge makes a written determination that good cause exists for extending the time for issuing findings of fact and conclusions, within 180 days of a request for a hearing being received by the EEOC, the administrative judge shall issue findings of fact and conclusions of law on the merits of the complaint, and shall order appropriate relief where discrimination is found. The administrative judge shall send copies of the entire record, the transcript, and the findings and conclusions to the parties by certified mail, return receipt requested. Within 60 days of receipt of the findings and conclusions, DoDDS may reject or modify the findings, conclusions or relief ordered by the administrative judge and issue a final decision. If DoDDS does not, within 60 days of receipt, reject or modify the findings and conclusion of the administrative judge, then the findings and conclusions of the administrative judge and the relief ordered shall become the final decision and DoDDS shall notify the complainant of the final decision in accordance with section 1614.110.

G. Final Decision.

1. Based on information in the complaint file, the DoDDS Director of EEO will render a final DoDDS decision or, if necessary, refer the file to an appropriate official for decision. This final decision shall be in conformance with section 1614.110 of the EEOC

regulation. A decision will be issued:

a. Within 60 calendar days of receiving notification that a complainant has requested an immediate decision from the agency;

b. Within 60 calendar days of the end of the 30-day period for the complainant to request a hearing or an immediate final decision where the complainant has not requested either a hearing or a decision; or

c. Within 60 calendar days of receipt of the findings and conclusions of an administrative judge.

2. The decision of the DoDDS EEO Officer shall be in writing and shall be transmitted to the complainant, agent or designated representative. A copy of the decisions also will be provided to the appropriate regional director.

3. When the DoDDS decision is to dismiss or modify the findings and conclusions of the administrative judge, the decision shall contain the specific reasons in detail for the action.

4. If DoDDS EEO Officer has not issued a decision within 60 calendar days of his/her receipt of the administrative judge's report of findings and conclusions, the administrative judge's findings and conclusions shall become the final DoDDS decision, and DoDDS shall notify the complainant of the final decision in accordance with section 1614.110.

5. The decision of DoDDS shall require any remedial action authorized by law which is determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy to equal opportunity, whether or not there is a finding of discrimination.

6. The final decision shall consist of findings by the agency on the merits of each issue in the complaint and, when discrimination is found, appropriate remedies and relief in accordance with part 1614.

7. The final decision shall contain notice of the right to appeal to the EEOC, the name and address of the agency official upon whom an appeal should be served, notice of the right to file "a civil action in a U.S. district court, the name of the proper defendant in any such lawsuit and the applicable time limits for appeals and lawsuits.

8. A copy of EEOC Form 573, Notice of Appeal/Petition, shall be attached to the decision.

AGE DISCRIMINATION IN EMPLOYMENT ACT

A. Age Discrimination in Employment Act.

1. As an alternative to filing a discrimination complaint, a complainant may, under section 1614.201, file a civil action in a United States district court under the ADEA against the head of an alleged discriminating agency after giving EEOC not less than 30 calendar days' notice of the intent to file such an action. Such notice must be filed in writing within 180 calendar days of the alleged unlawful practice with:

EEOC
Federal Sector Programs
1801 L. Street, NW
Washington, DC 20507

2. EEOC may exempt a position from the provisions of the ADEA if the EEOC establishes a maximum age requirement for the position on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the " position.

EQUAL PAY ACT

EEOC has the authority to investigate an agency's employment practices on its own initiative at any time in order to determine compliance with the provisions of the Act, and will provide notice to the agency that it will be initiating an investigation. Complaints alleging violations of this act (sex-based wage discrimination) will be processed as discrimination complaints in accordance with the procedure at Enclosure 3 of this regulation. Complainants also are authorized to file a civil action as set forth in section 1614.409. As explained in section 1614.103(d), Equal Pay Act complaints are not applicable to employees whose service are performed within a foreign country or certain United States Territories as provided in 29 USC section 218(f).

Cancelled

REHABILITATION ACT

An individual with handicap(s) defined in part 1614.203 may file a complaint of discrimination under the provisions of this act based on handicap. Such complaints are processed in accordance with the procedures at Enclosure 3, of this regulation. A complainant who has filed a complaint under this act is authorized to file a civil action in accordance with the provisions of part 1614.408.

Cancelled

CLASS COMPLAINT PROCESSING

A. General.

1. An employee or applicant who wishes to file a class complaint must seek counseling and be counseled in accordance with section 1614.105.
2. The complaint must be submitted in writing by the agent or his or her representative and be signed. The complaint must be filed with the DoDDS EEO Officer in accordance with Enclosure 1. If it is filed with an official other than the DoDDS EEO Officer, that official immediately will forward it to the DoDDS EEO Officer for processing.
3. The complaint shall set forth specifically and in detail:
 - a. A description of the agency personnel management policy or practice giving rise to the complaint.
 - b. A description of the resultant personnel action or matter adversely affecting the agent.
4. The complaint must be filed not later than 15 calendar days after the agent's receipt of the notice of right to file a class complaint.
5. A complaint shall be deemed filed on the date it is postmarked when addressed to an official with whom it may be filed, or, in the absence of a postmark, on the date it is received by an official with whom complaint may be filed.
6. At any stage, in the processing of a complaint- including the counseling stage under section 1614.105, the agent or claimant shall have the right to be accompanied, represented, and advised by a representative of his or her own choosing, provided the choice of a representative does not involve a conflict of interest or position. The representative shall be designated in writing and the designation made a part of the class complaint file. A person selected as a representative is not, and cannot be, compelled to accept the designation as an employee's representative.
7. If the agent is an employee in a duty status, he or she shall have a reasonable amount of official time to prepare and present his or her complaint. Employees who are

representing other DoDDS employees in discrimination complaint cases must be permitted to use a reasonable amount of official time to carry out that responsibility whenever it is not inconsistent with the faithful performance of their duties. DoDDS employees may represent employees of other agencies; however, official time will not be granted. Annual leave, any purpose leave, or leave without pay may be approved if requested by the employee representative. The agent and representative must make arrangements with their respective supervisors for the use of official time.

B. Acceptance or Dismissal.

1. Within 30 calendar days of receipt, the DoDDS EEO Officer shall designate an agency representative and forward the complaint, along with a copy of the counselor's report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to the servicing EEOC region. The EEOC assigns the complaint to an administrative judge for processing.

2. The administrative judge may recommend that the DoDDS EEO Officer dismiss the complaint, or a portion thereof, for any of the reasons listed in section 1614.107, or because it does not meet the prerequisites of a class complaint under section 1614.204(a)(2).

3. The administrative judge's recommendation on whether to accept or dismiss a complaint shall be transmitted to the DoDDS EEO Officer in accordance with section 1614.204. The administrative judge's recommendation to accept, or dismiss shall become the DoDDS decision unless DoDDS accepts, dismisses, or modifies the decision within 30 calendar days of receipt of the decision and complete complaint file. DoDDS shall notify the agent, the agent's representative, and the administrative judge of decision to accept or dismiss a complaint. The dismissal of a class complaint shall include the information called for in section 1614.204(d)(7).

C. Notification.

1. After acceptance of a class complaint, the DoDDS EEO Officer, within 15 calendar days, shall use reasonable means, such as hand delivery, mailing, distribution, or posting, to notify all class members “in DoDDS of the acceptance of the class complaint.

2. A notice shall contain:

- a. The name of the agency or organizational segment thereof, its location, and the date of acceptance of the complaint.
- b. A description of the issue accepted as part of the class complaint.
- c. An explanation of the binding nature of the final decision on, or resolution of, the complaint.
- d. The name, address and telephone number of the class representative.

D. Obtaining Evidence Concerning the Complaint.

1. The DoDDS EEO Officer and any designated individual will be subject to the provision of OPM regulations, rules, and instructions concerning privacy and access to individual personnel records and reports.

2. The administrative judge shall notify the agent, or his or her representative, and the management representative that a period of not more than 60 calendar days will be allowed both parties to prepare their cases. This time period maybe extended by the administrative judge upon the request of either party. Both parties are entitled to reasonable development of evidence on matters relevant to the issues raised in the complaint. Evidence may be developed through interrogatories, depositions, and requests for admissions, stipulations, or production of documents. It shall be grounds for objection to producing evidence that the information sought by either party is irrelevant, overburdensome, repetitious, or privileged.

3. In the event that mutual cooperation fails, either party may request the administrative judge to rule on a request to develop evidence. When a party fails to comply with the administrative judge’s evidentiary request, the administrative judge may:

- a. Consider the matters to which the requested information pertains to be established in favor of the opposing party.

b. Draw an adverse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information.

c. Exclude other evidence offered by the party failing to produce the requested information.

d. Recommends that a decision be entered in favor of the opposing party.

“e. Take such other actions as the administrative judge deems appropriate.

4. During the time period for development of evidence, the administrative judge may direct that an investigation of facts relevant to the complaint, or any portion thereof, be conducted by an investigator trained and/or certified by EEOC.

5. Both parties shall furnish the administrative judge all materials which they wish and such other material as the judge requests.

E. Opportunities for Resolution of the Complaint.

1. The administrative judge shall furnish the agent or the agent's representative and the management representative a copy of the materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the management representative and attempt resolution of the complaint.

2. The complaint may be resolved by agreement as long as the agreement is fair and reasonable.

3. If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing and signed by the agent and the DoDDS EEO Officer or his or her designee. A resolution may include a finding on the issue of discrimination, an award of attorney fees or costs, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive Order, and OPM and EEOC regulations, rules, and instructions.

4. Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by DoDDS. A resolution shall bind all members of the class.

5. Within 30 days of the date of the notice of resolution, any member of the class may petition the DoDDS EEO Director to vacate the resolution because it benefits only the class agent or is otherwise not fair and reasonable. Such a petition will be processed in accordance with 1614.204(d) and if the administrative judge finds that the resolution is not fair and reasonable, he or she shall recommend that the resolution be vacated and that the original class agent be replaced by the petitioner or some other class member who is eligible

to be the class agent during further processing of the class complaint. A decision by DoDDS that the resolution is not fair and reasonable vacates any agreement between the former class agent and DoDDS. The decision by DoDDS on such a petition shall inform the former class agent or the petitioner of the right to appeal the decision to the Office of Federal Operations and include EEOC form 573 Notice 'of Appeal/Petition.

F. Hearing.

On the expiration of the period allowed for preparation of the case, the administrative judge shall set a date for a hearing. The hearing shall be conducted in accordance with EEOC regulations.

G. Report of Findings and Conclusions.

1.. The administrative judge shall transmit to the DoDDS EEO Officer:

a. The record of the hearing.

b. His or her findings and analysis with regard to the complaint.

c. His or her report of findings and recommended decision on the complaint, including corrective action pertaining to systematic relief for the class and any individual corrective action, where appropriate, with regard to the personnel action or matter which gave rise to the complaint.

2. The administrative judge shall notify the agent of the date on which the report of findings and recommendations was forwarded to the DoDDS EEO Officer.

H. Agency Decision.

1. Within 60 calendar days of receipt of the report of findings and recommendations issued under part 1614.204, the DoDDS EEO Director shall issue a final decision to accept, reject, or modify the findings and recommendations of the administrative judge.

2. The final decision of the DoDDS EEO Director shall be in writing and shall be transmitted to the agent or his or her representative, by certified mail, along with a copy of

the record of the hearing and a copy of the record of the hearing and a copy of the findings and recommendations of the administrative judge. A COPY of the decisions also will be provided to the appropriate regional director.

3. When the DoDDS decision is to reject or modify the findings and recommendations of the administrative judge, the decision shall contain the specific reasons in detail for the action.

4. If DoDDS Director of EEO has not issued a decision within 60 calendar days of his/her receipt of the administrative judge's report of findings and recommendations, the administrative judge's findings and recommendations shall become the final DoDDS decision. DoDDS shall transmit the final decision to the agent within 5 days of the expiration of the 60-day period.

5. The decision of DoDDS shall require any remedial action authorized by law which is determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy to equal opportunity.

6. A final DoDDS decision on a class complaint shall be binding on all members of the class and DoDDS.

7. The final decision shall inform the agent or representative of the right to appeal or right to file a civil action in accordance with part 1614 of the EEOC regulations, and of the time limits applicable thereto.

I. Notification of Decision.

Class members shall be notified by the DoDDS, through the same media employed to give notice of the existence of the class complaint, of the agency decision and corrective action, if any. The notice, where appropriate, shall include information concerning the right of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the agency within 10 calendar days of the transmittal of its decision to the agent.

J. Corrective Action.

1. When discrimination is found, DoDDS must eliminate or modify the personnel policy or practice out of which the complaint arose, and provide individual corrective action including an award of attorney's fees and costs to the agent in accordance with the EEOC regulations." Corrective action in all cases must be consistent with law, Executive Order, and OPM and EEOC regulations, rules, and instructions.

2. When class-wide discrimination is not found, but it is found that the class agent is a victim of discrimination, section 1614.501 shall apply. DoDDS shall within 60 calendar

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days of the issuance of the final decision issue the acknowledgement of receipt of individual complaint, and process each individual complaint that was subsumed into the class complaint.

3. When discrimination is found and a class member believes that but for that discrimination he or she would have received employment or an employment benefit, the class member may file a written claim with the Director, DoDDS, or the Director of EEO, DoDDS, within 30” calendar days of notification by DoDDS of the decision.

4. The claim must include a specific, detailed showing that the claimant is a class member who was affected by a personnel action or matter resulting from the discriminatory policy or practice, and that this discriminatory action took place within the period of time for which DoDDS found class-wide discrimination in its final decision. The period of time for which DoDDS can find class-wide discrimination shall begin no more than 45 calendar days prior to the agent’s initial contact with the counselor and end not later than the date when DoDDS eliminates the policy or practice found to be discriminatory. DoDDS shall issue a final decision on each such claim within 90 calendar days of filing. Each decision must include a notice of the right to file an appeal or a civil action in accordance with the provisions of subpart D of the EEOC regulation.

RELATIONSHIP TO GRIEVANCE

A. General.

1. A person covered by a collective bargaining agreement that permits discrimination complaints to be raised under the grievance procedure, must elect to raise the matter under either the grievance procedure or the EEO procedure, but not both.
2. An EEO complaint is deemed filed only by the filing of a written complaint of discrimination.
3. A grievance is deemed filed only by the filing of a timely written grievance.

B. Processing.

1. When an aggrieved employee files a discrimination complaint after having filed a negotiated agreement grievance over the same matter, the discrimination complaint will be dismissed without prejudice, DoDDS will ensure the complainant is advised to raise discrimination in the grievance process and the right to appeal the final grievance decision to the EEOC.
2. When an aggrieved employee not subject to a collective bargaining agreement or “covered by a collective bargaining agreement that permits the filing of discrimination complaints, the allegations of discrimination shall be processed under the EEO procedures, section 1614.301.

MIXED CASE COMPLAINTS

A. General.

1. A mixed case complaint is a complaint of discrimination filed with DoDDS based on race, color, religion, sex, national origin, age, or handicap related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB).

2. A mixed case appeal is an appeal filed with the MSPB that alleges that an appealable management action was effected, in whole or in part, because of discrimination.

3. An aggrieved employee may file a mixed case under EEO procedures or under MSPB procedure, but not both. DoDDS shall inform every employee who is the subject to an action that is appealable to MSPB and who has orally or in writing raised the issue of discrimination of the right to file either a mixed case complaint or mixed case appeal, but not both.

4. Mixed cases will be processed on a case by case basis as prescribed by the procedures in the EEO regulation section 1614.302. This includes the establishment of proceeding and enforcement of special panel when applicable.

APPEALS TO EEOC

A. General.

1. A complainant may appeal a DoDDS final decision, or dismissal of all or a portion of a complaint.

2. An agent may appeal the DoDDS decision accepting or dismissing all or a portion of a class complaint, or a final decision on a class complaint; a class member may appeal a final decision on a claim for individual relief under a class complaint; and both may appeal a final decision on a petition pursuant to section 1614.204(g)(4).

3. A grievant may appeal the final decision of DoDDS, the arbitrator or the Federal Labor Relations Authority (FLRA) on the grievance when an issue of employment discrimination was raised in a negotiated grievance procedure that permits such issues to be raised. A grievant may not appeal under this part, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration, is before the FLRA, is appealable to the Merit Systems Protection Board (MSPB) or if 5 U.S.C. 7121(d) is inapplicable to the involved agency.

4. A complainant, agent or individual class claimant may appeal to EEOC an agency's alleged noncompliance with a settlement agreement or final decision in accordance with section 1614.504.

B. Time for Appeals.

1. Except for mixed case complaints, any dismissal of a complaint or a portion of a complaint or any final decision may be appealed to EEOC within 30 calendar days of the complainant's receipt of the dismissal or final decision. Any grievance decision may be appealed within 30 calendar days of receipt of a decision. In the case of class complaints, any final decision received by an agent, petitioner or an individual claimant may be appealed to EEOC within 30 calendar days of its receipt. Where a complainant has notified the EEO Director of alleged noncompliance with a settlement agreement, the complainant may file an appeal 35 calendar days after service of the allegations of noncompliance, but must file an appeal within 30 calendar days of receipt of DODDS determination.

2. If the complainant is represented by an attorney of record, then the 30 calendar day time period to appeal shall be calculated from the receipt of the required document by

the attorney. In all other instances, the time within which to appeal shall be calculated from the receipt of the required document by the complainant.

C. How to Appeal.

1. The complainant, agent, grievant or individual class claimant (hereinafter complainant) must file an appeal with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, at P.O. Box 19848, Washington, DC 20036, or by personal delivery or facsimile. The complainant should use EEOC Form 573, Notice of Appeal/Petition, and should indicate what he or she is appealing.

2. The complainant shall furnish a copy of the appeal to the DoDDS EEO Officer at the same time that he or she files the appeal with the EEOC. The complainant must certify the date and method by which service was made.

3. If a complainant does not file an appeal within the time limits of this subpart, the appeal will be untimely and shall be dismissed by EEOC.

4. Any statement or brief in support of the appeal must be submitted to the Director, Office of Federal Operations, and to the agency within 30 calendar days of filing the appeal. Following receipt of the appeal and any brief in support of the appeal, the Director, Office of Federal Operation, will request the complaint file from the agency,

D. Appellate Proceduree.

1. On behalf of the EEOC, the Office of Federal Operations shall review the complaint file and all written statements and brief form either party. EEOC may supplement the record by an exchange of letters of memoranda, investigation, remand to the agency or other procedures.

2. If the Office of Federal Operations requests information from one or both of the parties to supplement the record, each party providing information shall send a copy of the information to the other party.

E. Decisions on Appeals.

1. The Office of Federal Operations shall issue a written decision setting forth its reasons for the decision. The EEO shall dismiss appeals in accordance with 1614. The decision shall be based on the preponderance of the evidence. If the "decision contains a finding of discrimination, appropriate remedy(ies) shall be included. The decision shall reflect the date of its issuance, inform the complainant of his or her civil action rights, and be transmitted to the complainant and the agency by certified mail, return receipt requested.

2. Such a decision is final, unless:

- a. Either party files a timely request for reconsideration.
- b. EEOC on its own motion may reconsider the case.

F. Reconsideration.

1. Within a reasonable period of time, EEOC may, in its discretion, reconsider its decision.

2. A party may request reconsideration of a EEOC decision provided that such request is made within 30 calendar days of receipt of the decision, or within 20 calendar days of receipt of another party's timely request for reconsideration. All other parties shall have 20 calendar days from the date of service in which to submit to all other parties any statement or brief in opposition to the request.

3. The request or the statement or brief in support of the request shall contain arguments or evidence which tend to establish that:

a. New and material evidence is available that was not readily available when the previous decision was issued; or

b. The previous decision involved an erroneous interpretation of law, regulation or material fact, or misapplication of established policy; or

c. The decision is of such exceptional nature as to have substantial precedential implications.

4. A decision on a request for reconsideration by either party is final and there is no further right by either party to request reconsideration of the decision.

CIVIL ACTIONS

A. Civil Action: Age Discrimination in Employment Act & Rehabilitation Act.

An individual complainant or an agent who has filed a class complaint, or a claimant who has filed a claim for relief pursuant to a class complaint is authorized to file a civil action in an appropriate United States district court:

- a. Within 90 calendar days of receipt of the final decision on an individual or class complaint if no appeal has been filed;
- b. After 180 calendar days from the date of filing an individual or class complaint if an appeal has not been filed and a final decision has not been issued;
- c. Within 90 calendar days of receipt of EEOC final decision on and appeal; or
- d. After 180 calendar days from the date of filing an appeal with EEOC if there has been not final decision by EEOC.

B. Filing a Civil Action.

1. General.

Filing a civil action under the situation in a. and b. above terminates the processing of an appeal in EEOC.

2. Remedies and Relief.

When DoDDS, or EEOC, in an individual case of discrimination, finds that an applicant or an employee has been discriminated against, DoDDS shall provide full relief, in accordance with EEOC regulations, which shall include the following elements in appropriate circumstances:

- a. Notification to all employees of the agency in the affected facility of their right to be free of unlawful discrimination and assurance that the particular types of discrimination found will not recur;

b. Commitment that corrective, curative or preventive action will be taken, to ensure that “violations of the law similar to those found will not recur;

c. An unconditional offer to each identified victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by that person, or a substantially equivalent position;

d.. Payment to each identified victim of discrimination on a make whole basis for any loss of earnings; and

e. Commitment that the agency shall cease form engaging in the specific unlawful employment practice.

3. Relief for an applicant will be accomplished in accordance with procedures under part 1614, to include the award of back pay and attorney’s fees.

Cancelled

Settlement AGREEMENTS

1. Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. A final decision that has not been the subject of an appeal or civil action shall be binding on DoDDS. If the complainant believes that DoDDS has failed to comply with the terms of a settlement agreement or final decision, the complainant shall notify the DoDDS EEO Officer, in writing, of the alleged noncompliance within 30 calendar days of when the complainant knew or should have known of the alleged' noncompliance.

2. DoDDS shall try and resolve the matter and respond to the complainant, in writing. If the agency has not responded to the complainant, in writing, or if the complainant is not satisfied with the agency's attempt to resolve the matter, the complainant may appeal to EEOC for determination as to whether the agency has complied with the terms of the settlement agreement or final decision. The complainant may file this appeal 35 calendar days after serving the agency with the allegations of noncompliance, but must file an appeal within 30 calendar days of his or her receipt of the agency's determination. The complainant must serve a copy of the appeal on the agency and the agency may submit a response to EEOC within 30 calendar days of receiving notice of the appeal.

EEO STATISTICS

A. General.

Each agency shall establish a system to collect and maintain accurate employment information on the race, age, national origin, sex and handicap(s) of its employees. The information collected must be safeguarded in accordance with the procedures in the EEOC regulations. The information collected can be disclosed in the form of gross statistics and may be used in studies and analyses which contribute affirmatively to achieving the objectives of the EEO program. DoDDS shall not establish a quota for the employment of persons on the basis of race, age, color, religion, sex or national origin.

B. Reports for EEOC.

1. DoDDS shall report to EEOC information concerning precomplaint counseling and status, processing and disposition of complaints as prescribed and “when requested by EEOC.
2. DoDDS shall advise EEOC whenever it is served with a federal court complaint based upon a complaint that is pending appeal at EEOC.
3. DoDDS shall submit annually to EEOC for review and approval written national and regional EEO plan of action in the format prescribed by the EEOC regulations.

REPORTING REQUIREMENTS

Reporting requirements as prescribed in EEOC regulations will be accomplished as follows:

a. Each EEO counselor shall furnish a report covering DoDDS precomplaint counseling and disposition to the DoDDS EEO Officer in accordance with instructions issued from ODS.

b. The DoDDS EEO Officer or his/her designee will ensure that all EEOC reporting requirements are accomplished within the EEOC's established time frames.

Cancelled

SETTLEMENT ATTEMPTS

A complaint shall be resolved promptly. The complainant, as well as DoDDS management, the civilian personnel officer, and the EEO counselor involved in the complaint processing must proceed with the complaint without undue delay so that the complaint is resolved as early as possible after receipt of the complaint.

Cancelled

PROCESSING AND CONSOLIDATION

Complaints of discrimination filed by two or more complainants consisting of substantially similar allegations of discrimination or relating to the same matter, or two or more complaints of discrimination from the same complainant, may be consolidated by the DoDDS or the EEOC for joint processing after appropriate notification to the parties. The date of the first filed complaint controls the applicable time frames under subpart A of part 1614.

Cancelled

FREEDOM FROM REPRISAL OR INTERFERENCE

1. Complainants, representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the precomplaint stage or any time thereafter.

2. A complainant, his or her representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint may, within 45 calendar days of the alleged occurrence, elect to have the allegation reviewed as an individual complaint under Enclosure 3 of this regulation, or elect to have an inquiry made into the allegations.

Cancelled

SAMPLE LETTER

(Date)

SUBJECT: NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR

FROM: EEO COUNSELOR

TO: NAME OF PERSON COUNSELED

This is a notice that on the above date the final counseling interview was held with you in connection with the matter you presented to me.

If you believe you have been discriminated against on the basis of race, color, religion, sex, the Equal Pay Act, national origin, age, or physical or mental handicap, you have the right to file a COMPLAINT OF DISCRIMINATION WITHIN 15 CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE.

If you file a complaint, it must be in writing and filed in person or by mail to:

**DoDDS EEO Officer
Office of Dependents Schools
2461 Eisenhower Ave.
Alexandria, VA 22331-1100**

Your complaint must be specific and must be limited to the matter that you discussed with me. Further, it is your duty to assure that the DoDDS EEO Officer is informed immediately if you retain counsel or a representative.

(Signature)

**Printed Name
EEO Counselor**

cc: DoDDS EEO Officer

Note: The EEO counselor will provide the complainant with the appropriate discrimination complaint form.

SAMPLE LETTER

(Date) . .

SUBJECT: NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

FROM: EEO COUNSELOR

TO: NAME OF PERSON COUNSELED

This is to inform you that although counseling on the matter you brought to my attention has not been completed, 30 calendar days (or 90 calendar days in case of an extension) have gone by since you first contacted me and you are now entitled, if you want to do so, to file a discrimination complaint if you believe you have been discriminated against on the basis of race, color, religion, sex, the Equal Pay Act, national origin, age, or mental or physical handicap. **YOU HAVE 15 CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE IN WHICH TO FILE A COMPLAINT.**

If you file a complaint, it must be in writing and be filed in person or by mail to:

**DoDDS EEO Officer
Office of Dependents Schools
2461 Eisenhower Ave.
Alexandria, VA 22331-1100**

Your complaint must be specific and must be limited to the matter that you discussed with me. Further, it is your duty to assure that the DoDDS EEO Officer is informed immediately if you retain counsel or a representative.

(Signature)

**Printed Name
EEO Counselor**

cc: DoDDS EEO Officer

Note: The EEO counselor will provide the 'complainant with the appropriate discrimination complaint form.