



Transportation
Security
Administration

Managing Through Civil Rights

“Excellence through diversity and service”

Participant’s Workbook

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Introduction

This course will help you maintain a model workplace, with more productive employees, avoid liability and comply with federal laws and policies. You will also learn about your rights and responsibilities to maintain an environment free from discrimination, harassment, and retaliation and your role in the resolution of employment issues. By the end of the course you will be able to apply what you've learned.

Objectives

By the end of this training session, you will be able to

1. List at least three ways to Manage Through Civil Rights.
2. Describe the services provided by the TSA Office of Civil Rights
3. Identify illegal discrimination, harassment, or retaliation in the workplace
4. Describe management's rights and responsibilities to maintain a workplace free from illegal discrimination, harassment, or retaliation

**Office of Civil Rights
Contact Information**

(571) 227-1917 - Local

(877) EEO 4 TSA - Toll Free

(866) 536-9679 - Toll Free TTY

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Assessment

Determine, to the best of your knowledge, if these statements are true (T) or false (F)

	Before	After
1. DHS can be sued and held financially liable when a manager or supervisor illegally discriminates against a TSA employee.		
2. Supervisors and managers are responsible and accountable for maintaining a work environment free from illegal discrimination, harassment, and retaliation.		
3. The costs of findings and settling claims of illegal discrimination, harassment, and retaliation complaints are ultimately the responsibility of DHS.		
4. Federal employees cannot sue an agency in cases of illegal discrimination.		
5. Managers are required to consider reasonable accommodation for employees with disabilities.		
6. The only role of the Office of Civil Rights is to process complaints.		
7. The first step in the EEO complaint process is to notify your supervisor that you want to file a complaint.		
8. A passenger can file a complaint of discrimination with the TSA Office of Civil Rights.		
9. An employee who has filed an EEO complaint cannot be disciplined for filing the complaint, as it would constitute unlawful retaliation.		
10. Managers and supervisors are responsible for maintaining an atmosphere where employees and applicants for employment are judged on the basis of merit and ability.		

Answer the following questions.

Who do employees call to file a civil rights complaint? _____

Telephone Number: _____

Location of office: _____

Types of Discrimination

Disparate Treatment

A person is deliberately treated differently based upon an impermissible consideration. For example: his or her race, sex, religion, color, age, mental or physical disability or national origin. Disparate treatment is therefore another term for intentional discrimination.

Disparate treatment:

- Is intentional
- Is generally a practice, policy or statement that on its face demonstrates bias against a protected group and results in an adverse

Example

It's the holidays and the airport is short-handed. The FSD is requiring all staff to work overtime for the next two weeks. Raymond asks his supervisor for time-off to pick up his son from day care. His supervisor denies the request and says, "Have your wife do it." When Linda and Carol ask for one hour each to pick up their children from day care, the same supervisor grants their requests.

Disparate Impact

An employer uses neutral factors in its decision-making process that disproportionately impact a protected group.

Disparate Impact:

- Is unintentional
- Applies to a group or class of persons
- Is a policy or practice that disproportionately and adversely affects persons in a protected class.

Example

An agency issues a policy that requires all employees to wear trousers as part of their standard uniform.

Disparate Treatment/Impact Exercise

	Example	Disparate Treatment	Disparate Impact	Neither/Don't know
1.	A manager has a weekly staff meeting at which he always asks a female staff member to take notes.			
2.	George has been working in the agency's accounting department for 20 years. He started with the agency when he finished his MBA at age 22 and has achieved a high level of authority. Recently George has noticed that he is being skipped over for promotions in favor of younger, newer staff.			
3.	The FSD has a policy that prohibits all facial hair.			
4.	Arlene notices that whenever she encounters a heavy bag, her supervisor asks one of her male colleagues to take care of it for her.			
5.	A manager believes that the married males with families are entitled to more overtime and a better shot at promotions because they have wives and children to support.			
6.	There is currently a shortage of baggage screeners, and Charlene has volunteered several times to help out. However, her manager assigns Bob and Tom repeatedly even though they did not volunteer.			
7.	The FSD has created a policy that requires employees who drive to be escorted to their vehicles but has no such policy for people who take public transport			

Scenarios

Scenario 1 – Fooling around or Harassment?

Ron told David (an African-American employee) an offensive, racially charged joke about hanging. David immediately reported this to his supervisor. The supervisor spoke with Ron about the inappropriateness of the joke and requested written statements from Ron, David, and another employee who had witnessed the incident. The Supervisor gave Ron a Letter of Reprimand and placed it in his employment file.

According to David, his supervisor's treatment of him dramatically changed after he complained about the nooses. The supervisor began to follow him during his meal breaks, warning him to be back to work promptly. She followed and "intently" watched him while he ate. She also began to stand near David while he was at work and to scrutinize his work closely. David also contends his supervisor began to write him up for minor infractions in the workplace that, while violations of policy, were often ignored when committed by Ron and other subordinate employees. However, David never complained of his supervisors conduct.

Several months later, David filed an EEO complaint alleging racial harassment and retaliation.

As the manager, what could and should you have done differently?

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Scenario 2 – Guys being guys or harassment?

Sally was employed as a Human Resource Specialist. Her job sometimes required her to work with employees of the company contracted to provide Information Technology (IT) services to her office. Fred worked for the contractor as a specialist and maintained all of the computer equipment in the office.

One day, Sally met with her manager, and complained that Fred had been sexually harassing her both verbally and physically for over eight months. Sally provided her manager with a litany of examples. In addition, Sally claimed that, every time she requested his assistance with computer-related issues, Fred would answer her requests with sexually explicit comments.

The Manager immediately began to address Sally's complaint. On the very day that Sally complained about Fred, the manager contacted the agency's Office of Civil Rights (OCR) at headquarters to request guidance on how to handle Sally's concern. The next day, after receiving Sally's written statement, the manager reported the matter to the Contracting Officer Technical Representative (COTR) responsible for the IT contract. The IT contractor fired Fred in response to the information provided by the COTR.

After Fred was fired, several of the IT contractor's employees were rude and uncooperative towards Sally, making it difficult for her to perform her job. At times these incidents caused Sally so much stress and embarrassment that she would break down and cry at work.

What could and should Sally's manager have done differently?

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Scenario 3 – Friends or Favorites?

Brenda and Tom were good friends. In fact, Brenda helped Tom get a job as a screener at her airport. When Tom finished training he went to work at a checkpoint that Brenda supervised.

Tom spent most of his time doing secondary screening and one day Brenda thought she saw him wand a passenger too high between the legs. She made a mental note of it. A few days later, Tom was wand another passenger and Brenda noticed him go a little further than the procedure required. At break, Brenda reminded Tom about the proper way to conduct a hand-wand. Tom listened but thought that he had been doing it correctly.

One day Brenda over heard a loud comment by a passenger that Tom was wand. It seemed like the passenger was offended by the process and, maybe, that Tom was being overly invasive with the wand. She looked into the secondary screening area just as Tom looked up and saw her. Tom blushed deeply, stood up, and continued to wand the passenger, who was clearly upset.

Brenda pulled Tom aside and told him that he must strictly follow the wand procedures. She said that she has seen him incorrectly wand passengers several times and wants it to stop immediately. She also tells Tom that she is going to make a note of this conversation in the checkpoint journal.

What could and should Brenda have done differently?

What if Brenda realized that Tom only behaved this way with passengers who didn't speak English very well?

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Scenario 4 – Best choice or discrimination?

Phan began working for TSA as a Screener but hoped to capitalize on his public relations background. When a stakeholder Liaison position became available, Phan applied for it.

During the next few weeks, Phan was detailed to the Stakeholder Liaison position and the AFSD stated that he would “automatically” be promoted. However, Gail, who had worked as a Stakeholder Liaison at another airport, was selected for the position. A few days later Phan overheard a manager saying that the reason he didn't get the promotion was because he couldn't speak “American.”

Phan began suffering severe emotional distress and depression that suppressed his autoimmune system and made him susceptible to chronic active hepatitis and the Epstein-Barr virus. His emotional and physical problems led to absenteeism. Phan eventually became fully disabled and was unable to work.

Phan filed a complaint alleging that by failing to promote him, the Agency had discriminated against him on the basis of his Cambodian national origin.

What could and should the Agency done differently?

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Scenario 5 – Business decision or discrimination?

Sandra is a Conservative Jew. She kept a kosher home and strictly observed the three major Jewish holidays, Yom Kippur, Rosh Hashanah and Passover. Sandra had never worked on the three major Jewish holidays.

In December, Sandra told her manager that March 31 was a religious holiday and thus she could not come to work. Her manager replied, "You're not here, you're fired." When Sandra tried to explain, her manager said, "Well, what makes you think it's more important for you to have your holiday off than someone celebrating Easter?" After Sandra told her manager she could not come to work, the conversation ended. Her manager made no attempt to assist Sandra in securing the day off.

On March 31 Sandra did not report to her job. When Sandra returned to work she was fired. Her termination letter claimed Sandra was fired for being insubordinate and for being "AWOL."

What could and should the Agency have done differently?

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Scenario 6 – Business decision or discrimination?

Both Joice and Michael apply for and are considered for a Screener Manager position. The FSD selected Michael for the position and Joice remained a Screener Supervisor.

Joice filed a claim of sex discrimination against the Agency. The FSD described the reasons for choosing Michael over Joice as follows:

“I selected Michael based upon his demonstrated performance, his qualifications, and his experience.”

However, the EEO Report of Investigation (ROI) revealed that Michael had never worked at an airport prior to his selection as the Screener Manager. Further, the ROI revealed that Joice had 10 more years of relevant experience than Michael.

What could and should the FSD have done differently?

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Scenario 7 – Business necessity or bias?

Carla supervised both passenger and baggage screeners. Since all screeners at her airport were cross trained, every screener could perform baggage-screening duties. Carla usually selected able male employees but on some days, especially days that followed major football games, she had to send a female to help in baggage.

Katrina was an accomplished athlete and actually competed for the Soviet Union in an Olympic competition. She took her responsibilities very seriously and was willing to help out with whatever was needed. However, it seemed that whenever Carla needed to supplement the guys in baggage, Katrina was selected. There were about a dozen other female screeners who were capable of working in baggage but they were seldom, if ever, selected.

There was a lot of camaraderie among the male baggage screeners and they often made lewd jokes, which offended Katrina.

Recently, one of the guys in baggage quit. Carla informed Katrina that she would have to help out in baggage until they could hire and train a male replacement. Katrina was very upset and decided to start looking for a different job.

What could and should the Agency have done differently?

Resources

Equal Employment Opportunity Commission Management Directive 715

I. Applicability/Scope

The Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 715 is applicable to all executive agencies. It explains responsibilities under Section 717 of Title VII of the Civil Rights Act of 1964 (as amended) and Section 501 of the Rehabilitation Act of 1973. The directive supersedes EEOC MD 712, 713 and 714.

II. Summary

The MD 715 was issued to provide guidance to agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. All federal agencies are required to maintain an affirmative program of equal employment opportunity and an affirmative employment program to provide equal employment opportunity to qualified individuals with disabilities. Agency heads are responsible for demonstrating commitment to equality of opportunity from the highest level of the agency. Agency heads are also responsible for developing a system for program effectiveness, and ensuring accuracy in required data submission. The EEOC is responsible for evaluating these efforts by reviewing agency operations and reports, providing technical assistance and submitting annual reports to the President and Congress based on data received from individual agencies.

The six essential elements of programs required under MD 715 are:

1. **Demonstrated commitment.** Of the six elements, leadership commitment is one of the most crucial. If managers are not actively engaged in efforts to prevent discrimination employees will be more likely to complain about their workplace environment. Some ways in which a manager/supervisor can demonstrate commitment is to lead by example. Specifically:
 - Managers should ensure that they conduct themselves in the workplace in such a way as to not create a hostile, offensive or intimidating work environment for their subordinate employees.
 - Managers should ensure that their subordinate employees are aware of and understand Agency's (TSA's) expectation regarding proper behavior in the workplace.
 - When violations of these standards occur, Managers should take swift effective corrective action to eliminate the offensive behavior from the workplace.
 - Managers should also ensure that their employees are aware of DHS and TSA's standards for behavior in the workplace.
2. **Mission integration.** Managers must ensure that implementation of policies are done in such a way that they do not adversely affect a protected class in the workplace or in the

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general public that utilizes the airport facilities managed by TSA. Further, Managers must ensure that internal policies developed in their specific airports are properly coordinated with the Office of Civil Rights, the Office of Chief Counsel, and the Office of Human Resources to minimize or eliminate claims of disparate treatment or disparate impact.

3. Management accountability. The new MD 715 directs agencies to evaluate managers based on their efforts to prevent discrimination and to track disciplinary actions taken against managers found guilty of violating EEO policies. The directive requires managers to analyze barriers to equal employment opportunity and develop creative, agency-specific methods to help employees overcome the identified barriers. Moreover, the Directive requires managers and supervisors to detail progress on eliminating the barriers.

4. Proactive prevention. Once a manager identifies a barrier to equal employment opportunity, managers should take immediate steps to eliminate the barrier, unless the barrier is necessary for the agency's continued operation.

Another way of demonstrating proactive prevention is to educate employees about TSA's policies against discrimination, harassment and retaliation

Lead by example. Do not illegally discriminate or retaliate against employees, former employees, or applicants for employment on the bases of race, color, religion, sex, national origin, disability, or age, sexual orientation, genetic information and/or parental status.

Also, ensure every subordinate employee has a copy of and understands TSA's *Civil Rights Policy Statement*.

5. Efficient and Fair Agencies must have an efficient and fair dispute resolution process and effective systems for evaluating the impact and effectiveness of their EEO programs. They must maintain an efficient, fair and impartial complaint resolution process, establish and encourage the widespread use of a fair alternative dispute resolution (ADR) program that facilitates the early, effective and efficient informal resolution of disputes. Whenever ADR is offered in a particular workplace matter, ensure that managers at all appropriate levels will participate in the ADR process.

6. Responsiveness and Legal Compliance. Federal agencies must ensure that they are in full compliance with the law, including EEOC regulations, orders and other written instructions. They must respond to EEOC directives and orders in accordance with EEOC instructions and time frames and ensure that management fully and timely complies with final EEOC orders for corrective action and relief in EEO matters.

In developing its affirmative program for equal employment opportunity, agencies are required to conduct a self-analysis. The self-analysis is designed to identify barriers that may operate to exclude certain groups, implement efforts to eliminate the barriers and monitor progress. In addition to eliminating barriers, proactive measures for enhancing opportunities for all employees are also suggested. In addition, an affirmative employment program must also include proactive steps to ensure equal employment opportunity for those with disabilities. Agencies with 1,000 or more employees must maintain a special recruitment program for individuals with disabilities and establish specific goals for employment and advancement for such individuals.

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Civil Rights Laws, Regulations, and Executive Orders

Title VII of the Civil Rights Act of 1964, as amended

Title VII of the Civil Rights Act of 1964, as amended (Title VII), prohibits discrimination against and/or harassment of employees, applicants for employment and former employees based on race, sex, color, religion and national origin. Title VII applies to government employees, private employers, labor unions and employment agencies.

Title VII prohibits discrimination in recruitment, hiring, wages, assignment, promotions, benefits, discipline, discharge, layoffs and almost every aspect of employment.

Title VII also created the U.S. Equal Employment Opportunity Commission (EEOC), a five-member, bipartisan commission whose mission is to eliminate unlawful employment discrimination.

Equal Pay Act of 1963

In June 1963, Congress passed the Equal Pay Act of 1963 (EPA), protecting men and women who perform substantially equal work in the same establishment from sex-based wage discrimination. The EPA is the first national civil rights legislation focusing on employment discrimination. The EPA prohibits employers from paying employees at a rate less than employees of the opposite sex at the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

Age Discrimination in Employment Act of 1967, as amended

The Age Discrimination in Employment Act of 1967, as amended (ADEA), prohibits discrimination in employment on the basis of age (40 years or older) unless the employment decision is based on a "bona fide" occupational qualification. The ADEA provides employees with the option of using the equal employment opportunity complaint process or going straight to court.

Rehabilitation Act of 1973, as amended

The Rehabilitation Act of 1973, as amended (Rehabilitation Act), prohibits discrimination against qualified employees or job applicants with a mental or physical disability.

Section 501 prohibits the Federal Government as an employer from discriminating against qualified individuals with disabilities.

Civil Rights Act of 1991

Congress passed the Civil Rights Act of 1991 (CRA), thereby overruling several Supreme Court decisions rendered in the late 1980s that had made it more difficult for plaintiffs to prevail in their employment discrimination suits and to recover fees and costs when they won their lawsuits. The CRA procedurally and substantively amends Title VII, ADEA, and the Americans with Disabilities Act. For the first time, the amendments provide that the parties can request jury trials and successful plaintiffs can recover

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compensatory and, in some cases not involving federal and state governments, punitive damages in intentional employment discrimination cases. The CRA also expands Title VII to include Congressional and high-level political appointees and eliminates the two and three-year statute of limitations periods for filing private lawsuits under the ADEA.

The Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002

The Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002 (No FEAR Act), requires that agencies that lose or settle discrimination and whistleblower cases pay judgments out of their budgets. Previously, for cases filled in federal district court, such payments were made out of a general federal judgment fund. Under the new law:

- Agencies must make employees aware of discrimination and whistleblower protection laws.
- Each agency is required to file with Congress an annual report detailing the number of discrimination or whistleblower cases filed with it, how the cases were resolved, the amount of settlements made and the number of agency employees disciplined for discrimination or harassment.
- Each agency is also required to post summary statistical data about the numbers and types of equal employment opportunity complaints filed against them on the agency's Internet Web site.

The Administrative Dispute Resolution Act of 1996, as amended

Administrative Dispute Resolution Act of 1996, as amended (ADRA), requires each agency to:

- Adopt a policy that addresses the use of Alternate Dispute Resolution (ADR).
- Designate a senior official to be the dispute resolution specialist of the agency who shall be responsible for the implementation of ADRA and the agency's ADR policy.
- Provide ADR training on a regular basis for employees involved in implementing the agency's ADR policy.
- Review each of its standard agreements for contracts, grants, and other assistance to determine whether to amend any such agreements to authorize and encourage the use of ADR.
- Amend the Federal Acquisition Regulations to implement the provisions of the ADRA.

Executive Order 13087 – Sexual Orientation

It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons and to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, age, or sexual orientation through a continuing affirmative program in each executive department and agency. This

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policy of equal employment opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government, to the extent permitted by law.

Executive Order 13152 - Parental status

'Status as a parent' refers to the status of a caretaker who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is

- (a) a biological parent;
- (b) an adoptive parent;
- (c) a foster parent;
- (d) a stepparent;
- (e) a custodian of a legal ward;
- (f) in loco parentis over such an individual; or
- (g) actively seeking legal custody or adoption of such an individual.

Executive Order 13145 - Genetic Information

Departments and agencies in the Executive branch are prohibited from using "protected genetic information" for employment decisions. They also are prohibited from collecting and disclosing such information, with limited exceptions. Applicants, employees, and former employees of Executive branch departments and agencies are covered. Individuals employed in the private sector are not covered. Protected genetic information is defined as information about:

- The results of an individual's genetic tests, and the genetic tests of that individual's family members; and
- The occurrence of disease, or medical condition or disorder in family members of the individual (For example, family medical history).

EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship

Agencies are required to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment, unless doing so would cause undue hardship.

In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. There are three categories of "reasonable accommodations":

- Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires;

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- Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position;
- Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

The duty to provide reasonable accommodation is a fundamental statutory requirement because of the nature of discrimination faced by individuals with disabilities. Although many individuals with disabilities can apply for and perform jobs without any reasonable accommodations, workplace barriers can keep others from performing jobs which they could do with some form of accommodation. These barriers may be physical obstacles (such as inaccessible facilities or equipment), or they may be procedures or rules (such as rules concerning when work is performed, when breaks are taken, or how essential or marginal functions are performed). Reasonable accommodation removes workplace barriers for individuals with disabilities.

EEOC Guidance on Vicarious Liability for Unlawful Harassment by Supervisors

Harassment is behavior by an individual that is sufficiently frequent or severe that it creates a hostile, offensive or otherwise intimidating environment, or results in a tangible employment action such as hiring, firing, promotion, demotion, or change in work assignments. Harassment can occur in relationships of equal or unequal power and between members of the same sex.

Employers are liable for unlawful harassment by their supervisors.

Two principles support this liability

- an employer is responsible for the acts of its supervisors, and
- employers should be encouraged to prevent harassment and employees should be encouraged to avoid or limit the harm from harassment.

An employer is always liable for a supervisor's harassment if it culminates in a tangible employment action. If no tangible employment action occurs, however, the agency may be able to avoid liability by taking a swift corrective action (known as affirmative defense) against the harasser.

A tangible employment action may include

- Hiring and firing
- Promotion and failure to promote
- Demotion
- Undesirable reassignment
- A decision causing a significant change in benefits
- Compensation decisions

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- Work assignment

An individual qualifies as an employee's "supervisor" if

- The individual has authority to undertake or recommend tangible employment decisions affecting the employee; *or*
- The individual has authority to direct the employee's daily work activities.

Vicarious liability applies to harassment by supervisors based on race, color, sex (whether or not of a sexual nature), religion, national origin, age, disability or retaliation

EEOC 29 C.F.R. Part 1614

Protection from Discrimination

The regulations governing the processing of the federal sector discrimination complaints are contained in 29 C.F.R. Part 1614. Individual and class complaints of employment discrimination and retaliation prohibited by Title VII (discrimination on the basis of race, color, religion, sex, and national origin), ADEA (discrimination on the basis age when the aggrieved is at least 40 years of age), the Rehabilitation Act (discrimination on the basis of disability) or the Equal Pay Act of 1963 (sex based wage discrimination) are processed under 29 C.F.R. Part 1614. A person who files a complaint or participates in an investigation of an EEO complaint, or who opposes an employment practice made illegal under any of the statutes enforced by EEOC, is protected from retaliation. The EEOC makes it illegal to discriminate against employees or applicants for employment on the basis of disability, age, national origin, race/color, and religion . In addition to laws that EEOC enforces, there are federal protections from discrimination on other bases including sexual orientation, status as a parent, marital status, political affiliation, and conduct that does not adversely affect the performance of the employee.

Remedies

EEOC's policy is to seek full and effective relief for each and every victim of discrimination. The remedies may include:

- posting a notice to all employees advising them of their rights under the laws EEOC enforces and their right to be free from retaliation;
- corrective or preventive actions taken to cure the source of the identified discrimination;
- remedial placement in the position the victim would have occupied if the discrimination had not occurred;
- compensatory damages;
- back pay (with interest if applicable) and lost benefits; and
- stopping the specific discriminatory practices involved.

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Filing A Complaint With A Federal Agency

Employees or applicants who believe that they have been discriminated against by a federal agency have the right to file an informal complaint with that agency. The first step is to contact an EEO Counselor at the agency within 45 days of the discriminatory action. The individual may choose to participate in either counseling, or in Alternative Dispute Resolution (ADR) when the agency offers ADR. Ordinarily, counseling must be completed within 30 days and ADR within 90 days. At the end of counseling, or if ADR is unsuccessful, the individual may then file a formal complaint with the agency.

The agency must conduct an investigation of the complaint, unless the complaint is dismissed. If a complaint contains one or more issues appealable to the Merit Systems Protection Board (MSPB), the complaint is a "mixed case." It is then processed under the Board's procedures. For all other EEO complaints, once the agency finishes its investigation, the complainant may request a hearing before an EEOC administrative judge or an immediate final decision from the agency.

In cases where a hearing is requested, the administrative judge issues a decision within 180 days and sends the decision to both parties. Where discrimination is found, the administrative judge orders appropriate relief. If the agency does not issue a final order within 40 days after receiving the administrative judge's decision, the decision becomes the final action of the agency. If the agency issues an order notifying the complainant that the agency will not fully implement the decision of the administrative judge, the agency also must file an appeal at the same time.

An individual, acting as a class agent, also may file a class complaint with an agency. Class complaints must be certified by an EEOC administrative judge in order to be accepted for processing.

Filing An Appeal With EEOC

A dissatisfied complainant may appeal to EEOC an agency's final action within 30 days of receipt. The agency may appeal a decision by an EEOC administrative judge within 40 days of receiving the administrative judge's decision.

On class complaints, a class agent may appeal an agency's final decision on the merits of the class complaint within 30 days from receipt, or a class member may appeal the final decision on his or her claim for individual relief within 30 days from receipt of the final decision.

Office of the Secretary

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

EQUAL EMPLOYMENT OPPORTUNITY AND SEXUAL HARASSMENT POLICY STATEMENT

October 9, 2003

As Secretary of the Department of Homeland Security, I am personally committed to making the Department a model employer with a diverse and effective workforce. To achieve this goal it is essential that managers and supervisors maintain an atmosphere where employees and applicants for employment are judged solely on the basis of merit and ability. We want to create an atmosphere where there is respect for the strength brought to our workforce when we have employees with a wide range of backgrounds and experiences. We must strive to ensure that all employees have an opportunity to reach their full potential and to contribute to the success of the Department.

To this end I ask all managers and supervisors to take two steps. First, please ensure that you advertise job openings as widely as possible. It is critical that we take advantage of the talents of the broadest possible range of Americans as we carry out our critical work. Second, please make special efforts to reasonably accommodate the needs of employees and applicants for employment who have physical or mental disabilities.

Let me be clear about a related point: discrimination against or harassment of any employee cannot be tolerated. Managers and supervisors must make special efforts to identify and eliminate any form of sexual harassment and to maintain an environment free of any conduct – physical or verbal – that could create a hostile or intimidating environment. I emphasize again that we will accomplish our critical mission only if we ensure that all employees are free to fully contribute their talents.

As in all phases of our mission, we must strive for excellence. I challenge supervisors, managers and employees to join me in making DHS a leader in equal employment opportunity.


Tom Ridge

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DHS Office for Civil Rights and Civil Liberties

Throughout their work, the attorneys and professionals who staff the Office for Civil Rights and Civil Liberties will be guided by four principles:

Integrated - We will work diligently to be integrated into the daily operations of the Department.

Constructive - We will be skilled at providing proactive legal and policy advice that will assist DHS senior officers to carry out their various national security and law enforcement initiatives while also protecting civil rights and civil liberties.

Professional - We will establish a culture of professionalism, including a rigorous approach to the law, timeliness, strong writing skills, a strong ethic of nonpartisanship, and the ability to listen to all points of view.

Innovative – We will search for creative solutions to ensure that the Department's objectives are met while also protecting civil rights and civil liberties. We will promote innovation in many ways: respecting and valuing the contributions of immigrants to America while also enhancing the integrity of our nation's immigration laws and borders; integrating people with disabilities into the effort to secure our homeland; enhancing the use of alternative dispute resolution systems; and embracing the expansion of technological developments such as biometric identifiers while also enhancing privacy and individualism in the 21st century.

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U.S. Department of Homeland Security
Arlington, VA 22202

APR 07 2004



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Transportation Security Administration Civil Rights Policy Statement

The Transportation Security Administration (TSA) is dedicated to "*excellence in transportation security through its people, processes, and technology.*" To fulfill this vision, TSA will ensure that all employees and the public are treated in a lawful, nondiscriminatory manner without regard to race, color, national origin, religion, age, gender, disability, sexual orientation, parental status, or genetic information. In addition, TSA will ensure that any barriers to equal employment opportunity are removed.

TSA's greatest asset is its talented and dedicated employees. We strive to have a workforce that mirrors the nation's diversity because it is right and because it is necessary to carry out our mission. Diversity gives the Agency a competitive advantage, enhancing recruitment, marketing, and customer service – all critical activities for TSA.

At TSA, there is zero tolerance for harassment in the workplace and in the delivery of its services. Harassment can create a hostile, offensive, or otherwise intimidating environment for employees and the public, and will not be tolerated. This behavior can occur in relationships among peers, supervisors, and subordinates; between members of the same or different race, religion, or sex; and during TSA's interaction with the public. Harassment may include inappropriate touching, sexual requests, or the use of "jokes" or comments that are offensive to a particular race, national origin, religion, or gender. Any incident of harassment should be reported immediately to a supervisor or to any management official.

Through knowledge, innovation, and leadership, TSA will set the standard in upholding the nation's civil rights laws and policies.

A handwritten signature in black ink, appearing to read "David M. Stone".

David M. Stone
Acting Administrator

www.tsa.gov

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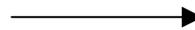
The TSA Office of Civil Rights

The Transportation Security Administration's (TSA's) Office of Civil Rights is responsible for upholding all federal laws and guidelines prohibiting discrimination in employment, in applications for employment, or in TSA federally-assisted and federally-conducted programs or activities. The Office of Civil Rights also ensures that TSA complies with all federally mandated affirmative employment requirements. All TSA employment activities, including recruitment, hiring, evaluation, promotion, transfer, assignment, training, benefits, and separation, are to be conducted pursuant to the applicable equal employment opportunity (EEO) laws and regulations.

Three-Fold Mission

Focus

Promote TSA's strategic human resources goals of achieving a diverse workforce that looks like America.



TSA Workforce

Provide alternative resolutions to conflict involving allegations of unlawful discrimination and harassment.



Employees, former employees, and applicants

Enforce federal laws and policies prohibiting discrimination in federally assisted and federally conducted programs.

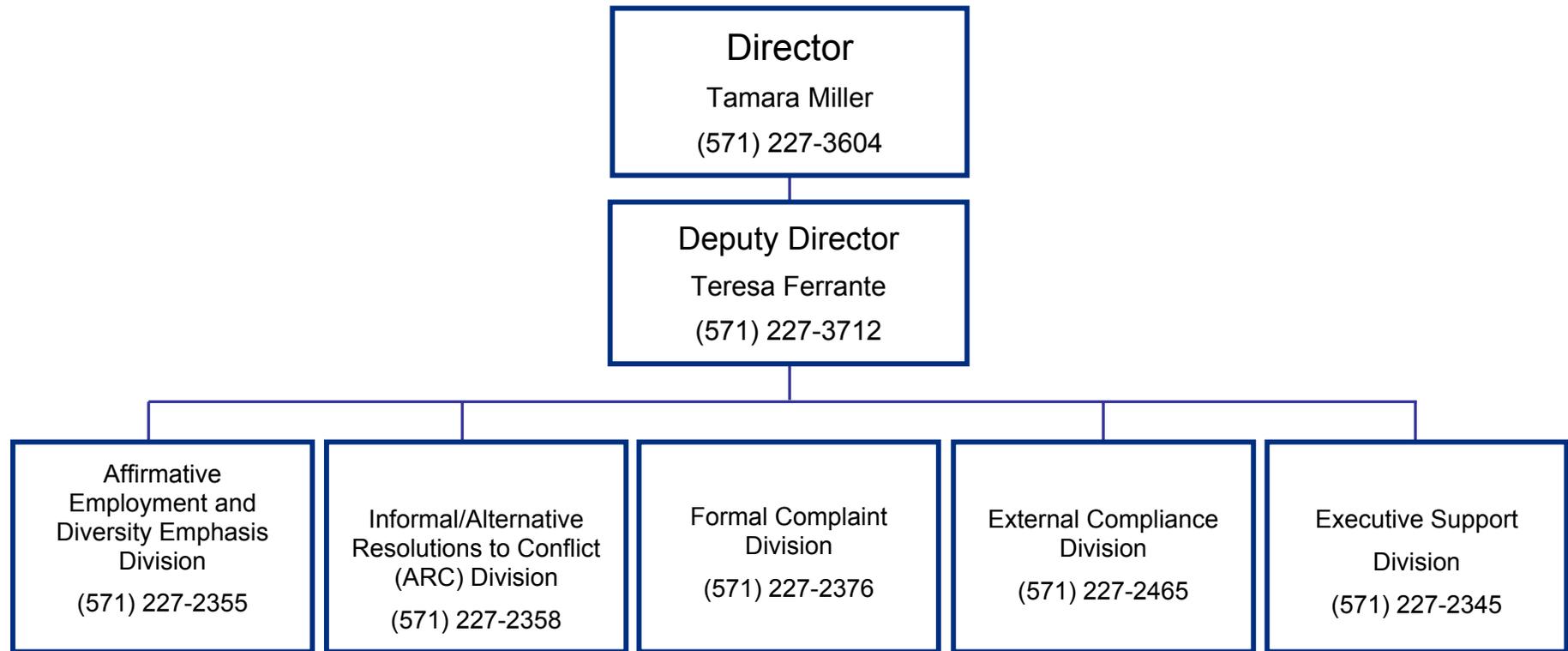


Customers and business partners

Vision Statement

The Transportation Security Administration's Office of Civil Rights is dedicated to delivering excellence through diversity and service to TSA's employees and to the public. Through knowledge, innovation, and leadership, the Office of Civil Rights will set the standard in upholding the nation's civil rights laws and policies.

The Office of Civil Rights



“Excellence through diversity and service”

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Affirmative Employment and Diversity Emphasis Division

The Affirmative Employment and Diversity Emphasis Division in the Office of Civil Rights works to improve employment opportunities for minorities, women, and persons with disabilities. It supports TSA's strategic goal of achieving a workforce that mirrors our nation's diversity. Diversity gives the Agency a competitive advantage, enhancing recruitment, marketing, and customer service – all critical activities for TSA.

The division's aim is to identify and eliminate any practices, personnel policies and procedures that may contribute to the under-representation of minorities, women, and persons with disabilities in TSA, at all levels of the agency. It conducts analyses of the TSA work force. These analyses assist TSA's senior leadership in developing specific strategies to prevent and remove any barriers to the employment and retention of minorities, women, and persons with disabilities throughout the agency, nationwide. The division also works directly with managers, supervisors, employees and TSA leadership on program initiatives. Our services are available to *all* TSA employees and include the following:

- Developing and implementing affirmative employment plans designed to effectively recruit and manage a diverse workforce;
- Implementing and monitoring affirmative employment plans for persons with disabilities and processing requests from disabled employees for reasonable accommodations throughout TSA;
- Collaborating with the Office of Human Resources on the Federal Equal Opportunity Recruitment Program, Disabled Veterans Program, Hispanic Employment Program, and outreach activities that enhance diversity throughout the agency;
- Promoting, coordinating, and facilitating minority student and faculty internships;
- Spearheading diversity initiatives with TSA stakeholders, employee organizations, non-governmental organizations, communities, and other special interest groups; and
- Coordinating agency-wide diversity awareness activities and special emphasis programs, and providing support and assistance to field offices regarding TSA's equal employment opportunity and diversity initiatives.

The division conducts monthly Special Emphasis and Diversity awareness events that highlight the Federal Women's Program, Hispanic Employment Program, Native American and Alaska Native Program, Black Employment Program, People with Disabilities Program, and the Asian American and Pacific Islander Employment Program.

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These educational activities promote the benefits of diversity and encourage community partnerships and related activities throughout the agency.

EEO Data Management

- Developing and maintaining data systems to support affirmative employment planning, workforce utilization analysis, recurring and ad hoc EEO-related reports, and EEO complaints processing
- Evaluating the accuracy of EEO-related data in agency personnel systems
- Evaluating and recommending automated information systems as recruitment sources and generation of reports
- Developing and utilizing appropriate evaluation instruments for assessing EEO and affirmative employment programs
- Conducting program reviews of agency EEO-related policies, procedures, and structures, including civil rights programs, human resources policies, and diversity initiatives.

Affirmative employment in the federal sector extends beyond promoting non-discrimination. Affirmative employment incorporates assessing all facets of an organization and the effect that an agency's policies, programs, and managerial decision-making has on its employees, contractors, and service providers. The cornerstone of civil rights programs, specifically equal employment opportunity, by definition includes consideration of diversity in race, color, sex, age, sex, disability, religion, national origin, and sexual orientation. Moreover, the concept of equal employment opportunity is one of enhancing productivity, ensuring equality, and promotion of fairness in the workplace.

Benefits of the Affirmative Employment and Diversity Emphasis Programs

The programs provide many benefits, including the following

- Increasing employee productivity by utilizing talents
- Creating a work environment that allows everyone to reach their full potential
- Providing multiple options for dealing with workplace diversity
- Reducing complaints and grievances
- Acquiring multiple perspectives on problem solving
- Promoting special emphasis programs and observances of national and historic significance. For example, African-American Heritage Month, Disability Employment Awareness Month, Women's History Month, and Hispanic Heritage Month.

Informal/Alternative Resolutions to Conflict and Formal Complaint Divisions

The Informal/Alternative Resolutions to Conflict and Formal Complaint Divisions in the Office of Civil Rights are primarily responsible for enforcement of applicable civil rights laws, executive orders and policies with respect to Transportation Security Administration employees, former employees, and applicants for employment. These laws, executive orders, and policies are designed to prevent unlawful discrimination and harassment in the federal workplace on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, parental status, genetic information and retaliation for opposing unlawful discrimination.

Both the Informal/Alternative Conflict Resolution Division and the Formal Complaint Division are responsible for the prompt, fair, and impartial processing of equal employment opportunity (EEO) complaints. These divisions work to make sure that mandates and training are in place to ensure a workplace free of discrimination, harassment, and retaliation. An integral part of their role is to provide options for alternative dispute resolution.

Alternative Resolutions to Conflict (ARC) provides employees at all levels of TSA the opportunity to resolve their EEO complaints through a private conversation with their supervisors or managers with the support of a neutral third party. The ARC process is a tool available for parties to work toward resolving issues informally and at the lowest possible level. Any agreements reached as a result of these discussions are fashioned by the parties and are voluntary. Also, these conversations often result in the parties being able to better communicate on a daily basis on-the-job.

The Formal Complaint Division ensures that all individuals who file formal EEO complaints adhere to federal regulatory and statutory requirements. The Formal Complaint Division ensures that the review, acceptance, and investigations of formal complaints of discrimination are conducted fairly, impartially and in a timely manner.

For further information, you may contact the Office of Civil Rights at (571) 227-1917 or toll free at (877) EEO-4-TSA or (877) 336-4872 (voice), or (866) 536-9679 (TTY). An EEO counselor will assist you.

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External Compliance Division

The Transportation Security Administration's (TSA's) External Complaint and Compliance Division in the Office of Civil Rights (ECD) enforces constitutional standards, federal laws, regulations, Executive Orders and policies that prohibit unlawful discrimination on the basis of race, color, sex, national origin, religion, and disability in TSA's federally assisted and federally conducted programs. TSA airport screening activities are a federally conducted activity. ECD works to ensure that these activities are conducted in a manner that respects the rights of the traveling public as required by law. External Compliance Division:

- is responsible for receiving, tracking, evaluating, and resolving complaints from TSA customers who allege violations of the applicable civil rights standards, laws, and policies while traveling through TSA security systems. For example, a passenger may file a complaint alleging discrimination based on his national origin when he was singled out for secondary screening.
- advises appropriate TSA components of civil rights complaints and works with those components to develop appropriate responses in the civil rights and customer service areas.
- examines TSA operational and security policies and procedures and their potential civil rights impact on the traveling public. Where appropriate, the Division proposes changes or revisions to the policies or procedures to ensure compliance with the applicable civil rights standards, laws, and policies.
- works with other TSA components to develop and implement plans and guidance to ensure that all individuals, including individuals with limited English proficiency ("LEP"), have access to TSA's federally conducted and federally assisted programs or activities.
- ensures that TSA implements appropriate compliance procedures concerning the federal grants that TSA awards to private companies, corporations, or educational institutions.
- provides targeted civil rights training to the TSA workforce to address civil rights concerns affecting the traveling public and to ensure quality customer service at the transportation security systems throughout the country.

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Roles and Responsibilities

Management Responsibilities:

1. Educate Employees about TSA's policies against discrimination, harassment and retaliation
 - Lead by example. Do not illegally discriminate or retaliate against employees, former employees, or applicants for employment on the basis of race, color, religion, sex, national origin, disability, or age, sexual orientation, genetic information and/or parental status.
 - Ensure every subordinate employee has a copy of and understands TSA's *Civil Rights Policy Statement*.
 - Make sure resources on Civil Rights are available to all employees.
 - Conduct routine briefings to ensure all employees understand their role and responsibilities in a model agency
2. Maintain a workplace environment in which all individuals can work in an atmosphere free from illegal discrimination, harassment, hostility or intimidation. This includes taking appropriate disciplinary action when necessary.
 - Abstain from discrimination, harassment and retaliation
 - Ensure a rational business reason for all rules, policies and practices
 - Ensure that all employees attain their greatest potential without the detrimental effects of discrimination or harassment
 - Ensure every personnel decision is based on merit and implemented without illegal bias or prejudice
 - Promote policies, programs, and procedures that place a high value on diversity and individual dignity
 - Remove any barriers that may hinder your ability to promote policies, programs, and procedures that place a high value on diversity and individual dignity
 - Create a productive and hospitable workplace that mirrors the nation's diversity
3. Act promptly when an employee makes an allegation of discrimination, harassment or retaliation
 - Create an environment where employees feel safe and respected when they have to file a complaint or grievance
 - Accept and appropriately document allegations
 - Respond appropriately in all cases.
 - Call OCR with any questions
 - Cooperate with investigations

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- Make a commitment to try to resolve all allegations at the most immediate level possible

Management Rights:

- You have the opportunity to contribute regardless of race, color, national origin, religion, age, sex, disability, sexual orientation, parental status, and/or genetic information (TSA EEO Policy).
- You have the right to take appropriate disciplinary actions in an effort to maintain an environment free from discrimination, harassment, and retaliation.
- You have the right to ask for and receive explanations.
- You have the right to order someone to not do something that is illegal or contrary to TSA policy.
- You have the right to review files including computer files. You should consult with Internal Affairs if you have reason to suspect inappropriate use of the agency's computer equipment.
- You have the right to meet with an employee without his or her attorney present.
- You have the right to meet with an employee without being tape-recorded or having the conversation transcribed. Employees may take notes at meetings.

Employee Responsibilities

- Know and follow TSA's policies on discrimination, harassment and retaliation.
- Evaluate personal attitudes about harassment.
- Consider how you would feel about your actions if your spouse, parent or child were present or if they were reported in the local newspaper.
- Avoid making assumptions that practical jokes, friendly gestures or comments are harmless or welcome. Quite often others do not view them that way. Remember it is the effect of the behavior not the intent that matters.
- Think before making personal comments or asking questions that may be misinterpreted. Consider whether or not they will make the other person uncomfortable.
- Set a positive example by treating others with respect, and letting them know you expect the same of them.
- Never go along with the crowd or accept behavior that offends you. Make your feelings known.
- Cooperate in agency investigations.
- Contact the TSA Office of Civil Rights within 45 days of the date of any alleged discriminatory event. (29 CFR 1614).

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- Maintain a high standard of honesty, integrity, and impartiality, thereby assuring proper performance of the Government's business and maintaining the confidence of the American people. (TSA Zero Tolerance for Workplace Harassment).

Employee Rights

- Contact the Office of Civil Rights if you perceive that you have been discriminated against based on your protected class. (29 CFR 1614).
- The opportunity to contribute and participate regardless of race, color, national origin, religion, age, sex, disability, sexual orientation, parental status, and/or genetic information (TSA EEO Policy).
- The right to file a complaint of employment discrimination, harassment or retaliation against the agency. (29 CFR 1614).

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Bases of discrimination

TSA employees, former employees, and applicants for employment can contact the Office of Civil Rights to initiate the Equal Employment Opportunity (EEO) complaint process if they believe they have been subjected to unlawful discrimination or harassment on the basis of one or more of the following factors:

- Race
- Color
- National origin
- Sex
- Age (40 and over)
- Religion
- Disability
- Sexual orientation
- Parental status
- Genetic information

In addition, no one shall be the victim of retaliation for participating in any activity protected by the applicable civil rights statutes

**Office of Civil Rights
Contact Information**

(571) 227-1917 - Local

(877) EEO 4 TSA - Toll Free

(866) 536-9679 - Toll Free TTY

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Race and Color

It is unlawful to discriminate against any employee or applicant for employment because of his/her race or color in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups.

Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude minorities and that are not job related.

Equal employment opportunity cannot be denied because of marriage to or association with an individual of a different race; membership in or association with ethnic based organizations or groups; or attendance or participation in schools or places of worship generally associated with certain minority groups.

Harassment on the basis of race and/or color violates Title VII. Racial slurs, racial "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race or color constitutes unlawful harassment if the conduct creates an intimidating, hostile, or offensive working environment or interferes with the individual's work performance.

National Origin

National origin discrimination means treating someone less favorably because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality. Examples of violations covered under Title VII include:

- Employment Decisions

Title VII prohibits any employment decision, including recruitment, hiring, and firing, based on national origin.

- Harassment

Title VII prohibits offensive conduct that creates a hostile work environment based on national origin. Employers are required to take appropriate steps to prevent and correct unlawful harassment. Likewise, employees are responsible for reporting harassment at an early stage to prevent its escalation.

- Language such as accent discrimination

An employer may not base a decision on an employee's foreign accent unless the accent materially interferes with job performance.

- English fluency
A fluency requirement is only permissible if required for the effective performance of the position for which it is imposed.
- English-only rules
English-only rules must be adopted for nondiscriminatory reasons. An English-

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only rule may be used if it is needed to promote the safe or efficient operation of the employer's business.

Religion

- Employers may not treat employees or applicants less or more favorably because of their religious beliefs or practices. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices.
- Employees cannot be forced to participate or not participate in a religious activity as a condition of employment.
- Employers must reasonably accommodate employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his religion. Flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers and modifying workplace practices, policies and/or procedures are examples of how an employer might accommodate an employee's religious beliefs.
- An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employers' legitimate business interests. An employer can show undue hardship if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.
- Employers must permit employees to engage in religious expression if employees are permitted to engage in other personal expression at work, unless the religious expression would impose an undue hardship on the employer. Therefore, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency.
- Employers must take steps to prevent religious harassment of their employees. An employer can reduce the chance that employees will engage unlawful religious harassment by implementing an anti-harassment policy and having an effective procedure for reporting, investigating and correcting harassing conduct.
- It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on religion or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

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Sex

It is unlawful to discriminate against any employee or applicant for employment because of his/her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis of sex. Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude individuals on the basis of sex and that are not job related.

Disability

An individual with a disability is defined as one who:

- has physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- has record of such an impairment; or
- is regarded as having such an impairment

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Major life activities are basic activities that the average person in the general population can perform with little or no difficulty. Such activities include:

- Caring for one's self
- Doing manual tasks
- Walking
- Hearing
- Speaking
- Breathing
- Learning
- Working

Substantially limits means

- Inability to perform a major life activity that the average person in the general population can perform; or
- Significant restriction on the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

The following factors should be considered in determining whether an individual is substantially limited in a major life activity

- The nature and severity of the impairment;

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- The duration or expected duration of the impairment; and the permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment.

Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, reassignment to a vacant position;
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An agency is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business.

Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

Age

The Age Discrimination in employment Act (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA.

Reprisal/Retaliation

Retaliation is adverse action such as promotion, refusal to hire, denial of job benefits, demotion, suspension, and discharge. Other forms of retaliation may include threats and reprimands, negative evaluations, harassment or any other adverse treatment undertaken in response to:

- Opposition to the practice made unlawful by the anti-discrimination laws
- Participation in the complaint process by filing a charge, testifying, assisting or any other involvement in the investigation procedure
- Disclosure of information by an employee or applicant which he or she reasonably believes evidences a violation of any law or regulation (whistle-blower protections)
 - The Office of Special Counsel processes all complaints regarding retaliation in whistle-blower cases. Please contact their office at 1-800-877-8389 if you have a complaint.

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Parental Status

'Status as a parent' refers to the status of a caretaker who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- a biological parent;
- an adoptive parent;
- a foster parent;
- a stepparent;
- a custodian of a legal ward;
- in loco parentis over such an individual; or
- actively seeking legal custody or adoption of such an individual.

Sexual Orientation

Sexual orientation includes herterosexuality, homosexuality or bisexuality.

Genetic Information

- In general, protected genetic information means:
- Information about an individual's genetic tests;
- Information about the genetic tests of an individual's family members; or
- Information about the occurrence of a disease, or medical condition or disorder in family members of the individual.

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Definitions and Acronyms

Reasonable Accommodation	<p>Reasonable accommodation of disability includes modifications or adjustments to: (1) a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; (2) manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; (3)enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.</p> <p>Reasonable accommodation of religious beliefs is situation specific and may include, for example: (1) using lunch or breaks for religious prayer (2) taking religious holidays off if there is no undue hardship on the employer (3) using a conference room or other available facility when not used for other purposes as a place for prayer</p>
ADR	Alternative Dispute Resolution
AE/DE	Affirmative Employment and Diversity Emphasis
ADEA	The Age Discrimination in Employment Act of 1967, as amended
ADRA	Administrative Dispute Resolution Act of 1996, as amended
ARC	Alternative Resolutions to Conflict
Bias	A partiality that prevents objective consideration of an issue or situation. Prejudice, preconception -- (a partiality that prevents objective consideration of an issue or situation).
Bona Fide Occupational Qualifications (BFOQ)	A limited exception that permits discrimination when such discrimination is reasonably necessary to the normal operation of that particular job. For example, a blind person cannot perform the job of a screener.
COTR	Contracting Officer Technical Representative
DHS	Department of Homeland Security

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Disparate Impact	<p>An employer uses neutral factors in its decision-making process that disproportionately impact a protected group.</p> <p>Disparate Impact:</p> <ul style="list-style-type: none"> • Is unintentional • Applies to a group or class of persons • Is a policy or practice that disproportionately and adversely affects persons in a protected class
Disparate Treatment	<p>A person is deliberately treated differently based upon an impermissible consideration. For example: his or her race, sex, religion, color, age, mental or physical disability or national origin. Disparate treatment is therefore another term for intentional discrimination.</p> <p>Disparate treatment:</p> <ul style="list-style-type: none"> • Is intentional • Is generally a practice, policy or statement that on its face demonstrates bias against a protected group and is linked to the complained adverse action.
EEO	Equal Employment Opportunity
EEOC	The Equal Employment Opportunity Commission (www.eeoc.gov)
EPA	Equal Pay Act of 1963
Essential functions	The fundamental job duties that an employee must be able to perform on his or her own or with the help of a reasonable accommodation.
FSD	Federal Security Director
Harassment	Unlawful harassment is conduct that is sufficiently frequent and severe that it creates a hostile, offensive, or otherwise intimidating environment for employees and the public, or results in tangible employment action. This behavior can occur in relationships among peers, supervisors, and subordinates; between members of the same or different race, religion, or sex; and during TSA's interaction with the public. Harassment may include inappropriate touching, sexual requests, or the use of "jokes" or comments that are offensive to a particular race, national origin, religion or gender.
Illegal Discrimination	The denial of employment or the denial of privileges and/or benefits of employment or the unfavorable treatment of a person or class of people because of their protected status

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	under the law.
MD	Management Directive
Major Life Activities	Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
OCR	Office of Civil Rights
Physical or mental impairment	(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems. (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
Prejudice	Partiality that prevents objective consideration of an issue or situation
Protected bases	Race, color, national origin, sex, age (40 or over), religion, disability, sexual orientation, parental status, genetic information, and prior participation in a protected activity.
Qualified individual with a disability	An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.
Retaliation	Retaliation is adverse action such as promotion, refusal to hire, denial of job benefits, demotion, suspension, and discharge. Other forms of retaliation may include threats and reprimands, negative evaluations, harassment or any other adverse treatment undertaken in response to: <ul style="list-style-type: none"> • Opposition to the practice made unlawful by the anti-discrimination laws • Participation in the complaint process by filing a charge, testifying, assisting or any other involvement in the investigation procedure • Disclosure of information by an employee or applicant which he or she reasonably believes evidences a violation of any law or regulation (whistle-blower protections) <p>The Office of Special Counsel processes all complaints regarding retaliation in whistle-blower cases. Please contact their office at 1-800-877-8389 if you have such complaint.</p>

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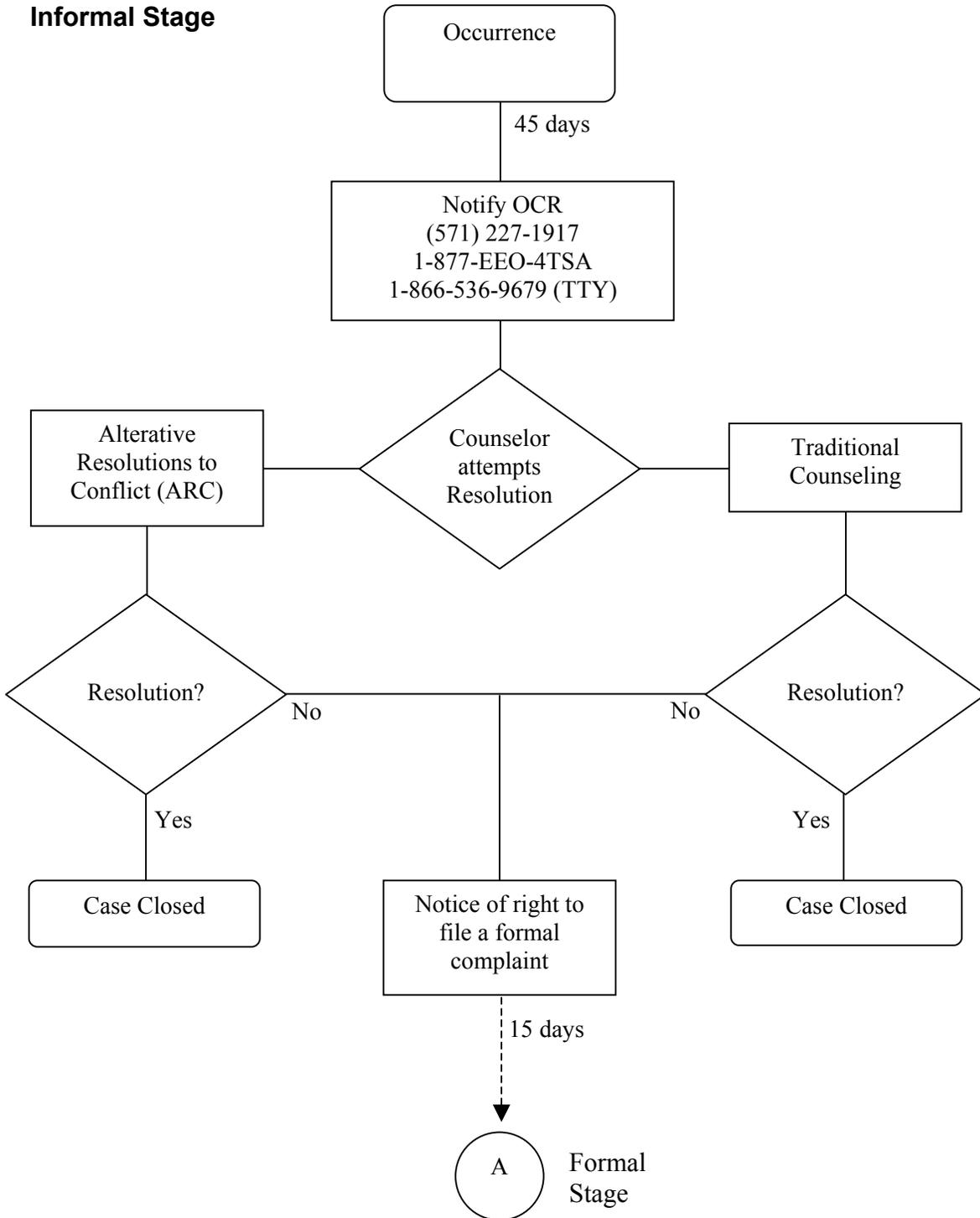
Sexual harassment	A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct affects an individual's employment, unreasonably interferes with work performance or creates an intimidating, hostile or offensive work environment.
Stereotype	A fixed unchanging idea about someone or something that may have little relationship with fact
Tangible employment action	<p>A significant firing, hiring, failure to promote, reassignment with significantly different responsibility or a decision causing a change in benefits.</p> <p>It usually inflicts direct economic harm. In most instances, can only be caused by a supervisor or other person acting with the authority of the agency.</p>
TSA	Transportation Security Administration

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EEO Complaint Resolution Process

This is the Federal Sector EEO Complaint Process, 29 C.F.R. Part 1614, as amended.

Informal Stage

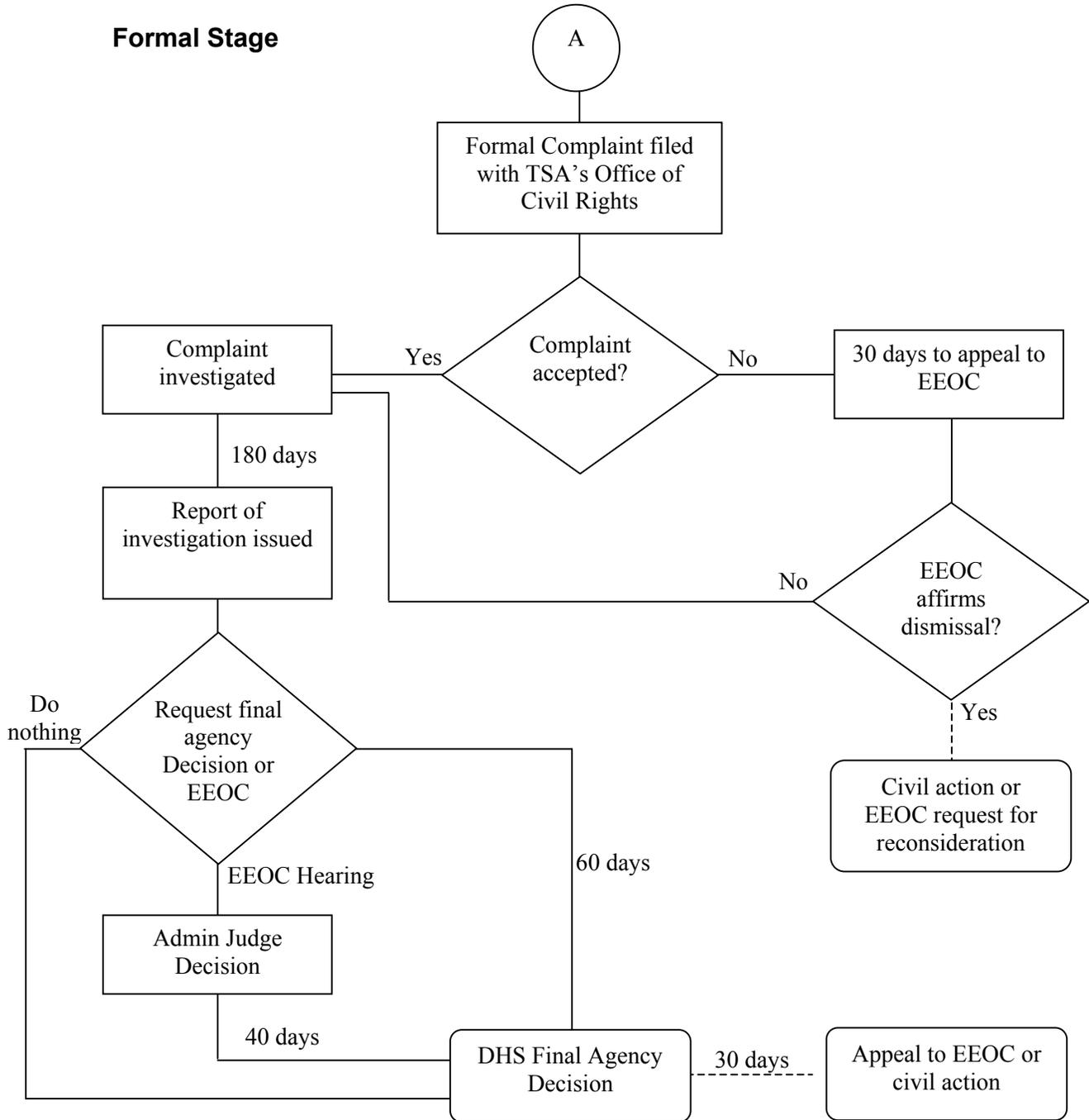


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Element	Description
	An event
	A decision point
	The beginning or end of a process
-----	A possible next step
Occurrence	An event perceived to be illegal discrimination, harassment, and/or retaliation.
45 days	EEOC regulations require that an applicant, current or former employee contact an EEO Counselor in the Office of Civil Rights to initiate the EEO complaint process. The complainant has 45 days from the time of the occurrence or from the date he or she became aware of the occurrence to contact the Office of Civil Rights (OCR).
Counselor attempts resolution	The EEO Counselor in the Office of Civil Rights attempts to resolve the issue through traditional counseling or the Alternate Resolutions to Conflict (ARC) process.
Alternative Resolutions to Conflict (ARC)	The ARC process is an employee option to work toward resolving issues informally. Any agreements reached as a result of these discussions are fashioned by the parties, are voluntary, and follow legal guidelines. The conversations often result in better communication on a daily basis. When this option is selected the processing period is up to 90 days.
Traditional Counseling	In traditional counseling the EEO counselor conducts an informal inquiry in an attempt to resolve the issue at the lowest level possible. The process can take up to 30 days. Traditional counseling can be extended up to an additional 60 days if agreed to in writing by the complainant.
Resolution	The issue is resolved. The action taken to resolve the issue is put in writing and signed by the agency and the complainant.
Case Closed	Issue resolved. No further action required.
Notice of Right to file	If the parties are not able to resolve the issue in the informal stage, the complainant is sent a Notice of Right to File a Formal Complaint of employment discrimination with TSA's Office of Civil Rights. The complainant has 15 calendar days from the receipt of the Notice to file a formal complaint.

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Formal Stage



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Element	Description
Formal Complaint filed with TSA OCR	The complainant has 15 calendar days from receipt of the Notice of Right to File a formal complaint with TSA's Office of Civil Rights. The Notice of Right to File contains instructions on how to file a formal complaint.
Complaint Accepted	TSA's Office of Civil Rights has 30 days to conduct an analysis of the complaint to determine whether the complaint meets the requirements of 29 CFR Part 1614. If the OCR does not accept the formal complaint for further processing, the complainant can appeal the dismissal to the EEOC.
EEOC affirms dismissal?	The EEOC decides whether OCR was correct in dismissing the formal complaint. If the EEOC affirms OCR's decision to not accept the complaint, the complainant can file a lawsuit in Federal court or request EEOC to reconsider its decision. If the EEOC disagrees with OCR's decision to dismiss the complaint, the case is returned to TSA for further processing.
Civil actions and Appeals	If both TSA and EEOC both decline to accept a complaint, the complainant has the right to pursue the matter in Federal District court. The complainant can file a civil action in Federal court within 90 days of the final agency decision or EEOC decision on appeal, or after 180 calendar days after filing a formal complaint.
TSA Complaint investigated	TSA has 180 days to complete an investigation of the formal complaint. An investigator questions the complainant, subject, witnesses, and anyone else who might be able to provide information about the case, and gather relevant documents.
Report of investigation issued	After the investigation is complete, TSA will issue a report based on the investigation.
Request final Agency Decision or EEOC	<p>After the report has been issued, the complainant has three choices; he or she can:</p> <ol style="list-style-type: none"> 1. Request a final agency decision by DHS. A DHS official reviews the information collected in the formal complaint investigation and makes a decision. This process can take up to 60 days 2. Request a hearing by the Equal Employment Opportunity Commission (EEOC). An Administrative Judge at the EEOC schedules a hearing, hears testimony under oath, and makes a decision. This process can take up to 40 days. 3. Do nothing. <p>In any case, the DHS will issue a final agency decision in the case. The complainant can appeal the Final Agency Decision to</p>

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	at the EEOC or file a civil action in Federal court.
Admin Judge Decision	An Administrative Judge at the EEOC schedules a hearing, hears testimony under oath, and makes a decision. This process can take up to 40 days.
DHS Final Agency Decision	DHS will make a final agency decision within 60 days.
Appeal to EEOC or civil action	If the complainant is not pleased with either the Administrative Judge's or DHS's decision, he or she has 30 days to file an appeal with the EEOC or file a civil action in Federal court.