

NOTICE OF RIGHTS AND RESPONSIBILITIES FOR:

Encl: (1) Department of the Navy EEO Complaint Procedures

This is to notify you that you have the following rights and responsibilities regarding the processing of your complaint. It is important that you understand each of these as they may affect the way in which your complaint is processed.

**1. YOU HAVE THE RIGHT TO REMAIN ANONYMOUS DURING THE INFORMAL PROCESS.**

a. If you choose to remain anonymous, your anonymity is only protected during the informal stage of the complaint process.

b. If you file a formal complaint, your anonymity is no longer protected.

***I hereby grant permission for use of my name as necessary for processing my informal discrimination complaint.***

***I do not want my name used at this time, but understand that my name must be used if I choose to file a formal complaint later, or if choose to participate in ADR.***

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(Initials)

**2. YOU HAVE THE RIGHT TO REPRESENTATION, YOU ARE RESPONSIBLE FOR NOTIFYING THE EQUAL EMPLOYMENT OPPORTUNITY OFFICE, IN WRITING, OF ANY REPRESENTATIVE (ATTORNEY OR NON-ATTORNEY) OBTAINED.**

a. If you obtain a representative, you must provide written notice of your representative's name, address, and telephone number. All official correspondence shall be addressed to the representative, with copies provided to you.

b. If you designate an attorney as your representative, service of documents and decisions shall be made on the attorney and timeframes for receipt of materials shall be computed from the time of receipt by the attorney.

c. You must serve all official correspondence to the EEO Office **and** to the designated agency representative.

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(Initials)

**3. YOU HAVE THE RIGHT TO CHOOSE BETWEEN ALTERNATIVE DISPUTE RESOLUTION (ADR) OR TRADITIONAL EEO COUNSELING AT THIS TIME. YOU WILL BE PROVIDED ADDITIONAL INFORMATION ABOUT EACH PROCEDURE.**

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- a. If you choose ADR, the pre-complaint processing period will conclude upon reaching a resolution of the dispute between the parties, or up to 90 calendar days from the date of first contact with a counselor, whichever is earlier.
- b. If the dispute is not resolved, you will be issued a Notice of Right to File a Formal Complaint of Discrimination.
- c. The agency may decline to participate in ADR on a case-by-case basis.

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(Initials)

**4. YOU HAVE THE RIGHT TO FILE A FORMAL COMPLAINT, A CLASS COMPLAINT, AND/OR A CIVIL ACTION.**

- a. You have 15 calendar days from receipt of the Notice of Right to File a Formal Complaint to file a formal complaint of discrimination.
- b. Only the matter(s) raised during informal counseling, or issues like or related to issues raised during informal counseling, may be alleged in a subsequent formal complaint filed with the EEO Office.
- c. The issues in the formal complaint, which were discussed with the Equal Employment Opportunity (EEO) Office, and the matter giving rise to the complaint, must be sufficiently precise to describe the action(s) or practice(s) that form the basis of the complaint.
- d. You may amend a complaint at any time prior to the conclusion of the investigation to include issues or claims like or related to those raised in the complaint. Amendments must be submitted in writing to the designated EEO official stating that you wish to amend the pending complaint to include new incidents. After requesting a hearing, you may file a motion with the administrative judge to amend a complaint to include issues or claims that are like or related to those raised in the complaint.

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(Initials)

**5. IN PRESENTING OR PROCESSING A DISCRIMINATION COMPLAINT, YOU WILL BE FREE FROM RESTRAINT, INTERFERENCE, COERCION, HARASSMENT, DISCRIMINATION, AND REPRISAL.**

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(Initials)

**6. ENTITLEMENT: YOU HAVE THE RIGHT AS A PREVAILING PARTY TO RELIEF**

- a. If you are a prevailing party as a result of your discrimination complaint, you may be eligible for possible relief. Relief may include back-pay, retroactive personnel actions, expunging or correcting records, attorney's fees, compensatory damages and any other equitable relief.
- b. If you claim compensatory damages, you will need to provide objective evidence of compensatory damages, how they were caused by the alleged discrimination and/or reprisal.

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(Initials)

NOTICE OF RIGHTS AND RESPONSIBILITIES FOR:

**7. YOU HAVE THE DUTY TO MITIGATE DAMAGES**

If you are a prevailing party and you are seeking damages, you may have to show how you determined them and understand that they may be subject to reduction.

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(Initials)

**8. IF YOU ARE AN EMPLOYEE(S) COVERED BY A COLLECTIVE BARGAINING AGREEMENT THAT PERMITS ALLEGATIONS OF DISCRIMINATION TO BE RAISED IN A NEGOTIATED GRIEVANCE PROCEDURE:**

a. You have the right to file an EEO complaint or grievance and raise the matter of alleged employment discrimination under either 29 CFR § 1614 or the negotiated grievance procedure, but not both.

b. If you file under 29 CFR § 1614, you may not thereafter file a grievance on the same matter. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely written grievance.

c. If your collective bargaining agreement allows allegations of discrimination and you raise these allegations in the grievance, you will not be allowed to later file an EEO discrimination complaint on the same issue.

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(Initials)

**9. YOU HAVE THE RIGHT TO REQUEST A HEARING AND DECISION BEFORE AN EEOC ADMINISTRATIVE JUDGE:**

a. You have the right to a final agency action on your discrimination complaint.

b. You have 30 days after receipt of the official record/ investigative report to request a hearing before an EEOC Administrative Judge or a Final Agency Decision based upon the record.

c. A request for hearing shall be submitted directly to the EEOC Field Office having jurisdiction of the geographic area in which your complaint arose. You must certify to the EEOC Field Office that you provided a copy of the request for hearing to the servicing EEO office.

Due to COVID-19 the EEOC asked that all submissions and communications from both agencies and complainants be digital, via the Public Portal/FEDSEP. The EEOC asks those who submitted items via U.S. Mail on or after 6 March 2020 to resubmit them via the Public Portal at: <https://publicportal.eeoc.gov/Portal/Login.aspx>

d. If the official record/investigation is not completed and you have not agreed to extend the period of time to complete the investigation, you may request a hearing at any time after 180 calendar days have elapsed from the filing of the formal complaint.

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(Initials)

**10. YOU HAVE A DUTY TO KEEP THE EEO OFFICE AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) INFORMED OF YOUR CURRENT ADDRESS AND TO SERVE COPIES OF APPEAL PAPERS TO THE EEO OFFICE.**

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a. It is your responsibility to keep the EEO Office responsible for processing your complaint informed of any changes in your address or telephone number or other matters pertaining to your complaint.

b. Your complaint may be dismissed for failure to pursue if you cannot be located.

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(Initials)

**11. HOW YOU MAY FILE MIXED CASE COMPLAINTS.**

a. If the subject of the action is appealable to the Merit Systems Protection Board (MSPB), you may file a complaint with the EEO Office or an appeal with MSPB, but not both.

b. Whichever is filed first will be considered an election to proceed in that forum. If you file a mixed case appeal with MSPB instead of a mixed case complaint and MSPB dismisses the appeal for jurisdictional reasons, you have the right to contact an EEO Counselor within 45 days of receipt of the notice and to file an EEO complaint. The date on which you file your appeal with MSPB will be deemed to be the date of the initial contact with the Counselor. If you file a timely appeal with MSPB from the processing of a mixed case complaint and MSPB dismisses it for jurisdictional reasons, you may have the right to a hearing before an EEOC AJ.

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(Initials)

**12. HOW YOU MAY ALLEGE A VIOLATION OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA):**

As an alternative to filing an administrative complaint, you have the right to file a civil action in a U.S. District Court under the age discrimination in Employment Act (ADEA) against the Department of the Navy after giving the EEOC not less than 30 days' notice in writing of the intent to file such an action. The notice must be submitted by mail, personal delivery, or facsimile within 190 days of the occurrence of the alleged unlawful practice. The notice must be submitted to: (Due to COVID-19 the EEOC asks that all submissions be done through the Public Portal at <https://publicportal.eeoc.gov/Portal/Login.aspx>)

Equal Employment Opportunity Commission Office of  
Federal Operations  
ATTN: Federal Sector Programs  
P.O. Box 19848 Washington,  
D.C. 20036

Or hand delivered to:

Equal Employment Opportunity Commission Office of  
Federal Operations  
Appellate Review Programs  
131 M Street N.E. Washington, D.C.  
20507-0004

Or sent by Fax to:

(202) 663-7022

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(Initials)

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**13. EQUAL PAY OPTION;**

If you are alleging sex-based wage discrimination under the Equal Pay Act (EPA), you have the right to go directly to the U.S. District Court even though such claims are also cognizable under Title VII of the Civil Rights Act of 1964 as amended in 1991. A civil action must be filed within 2 years of the date of the occurrence, or within 3 years of this date if the administrative complaint does not toll (waive) the time for filing a civil action.

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**14. YOU HAVE THE RIGHT TO GO TO U.S. DISTRICT COURT 180 CALENDAR DAYS AFTER FILING A FORMAL COMPLAINT OR 180 CALENDAR DAYS AFTER FILING AN APPEAL WITH EEOC.**

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(Initials)

**15. YOU HAVE THE RIGHT TO RECEIVE IN WRITING A NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT AFTER A TIME PERIOD OF NO MORE THAN 90 DAYS (WHERE YOU AGREE IN WRITING TO AN EXTENSION):**

a. Initial counseling will be for a period of 30 days. Any extension of the counseling period may not exceed an additional 60-calendar days. Where notice is not provided and no extension is secured you have the right to file a formal complaint after the 30<sup>th</sup> day.

b. Where you agree to participate in an established alternative dispute resolution program, the written notice terminating the counseling period will be issued upon unsuccessful completion of the dispute resolution processor within 90-calendar days of the first contact, whichever is earlier.

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(Initials)

**16. YOU HAVE A RIGHT TO RECEIVE IN WRITING A NOTICE TERMINATING COUNSELING AND INFORMING YOU OF THE FOLLOWING:**

a. The right to file a formal individual or class complaint within 15-calendar days of receipt of the notice.

b. The appropriate official with whom to file a formal complaint.

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(Initials)

**17. YOU HAVE THE RIGHT TO RECEIVE IN WRITING A NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT AFTER A TIME PERIOD OF NO MORE THAN 90 DAYS (WHERE YOU AGREE IN WRITING TO AN EXTENSION):**

a. Initial counseling will be for a period of 30 days. Any extension of the counseling period may not exceed an additional 60-calendar days. Where notice is not provided and no extension is secured you have the right to file a formal complaint after the 30<sup>th</sup> day.

NOTICE OF RIGHTS AND RESPONSIBILITIES FOR:

b. Where you agree to participate in an established alternative dispute resolution program, the written notice terminating the counseling period will be issued upon unsuccessful completion of the dispute resolution processor within 90-calendar days of the first contact, whichever is earlier.

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(Initials)

**18. IF YOU HAVE ALLEGATIONS OF SEXUAL HARASSMENT, YOU MAY HAVE THE RIGHT TO DUAL PROCESS OF INQUIRY/INVESTIGATION/ ONE UNDER TITLE VII, 29 CFR § 1614, AND THE OTHER UNDER 10 USC 1561, COMPLAINTS OF SEXUAL HARASSMENT; INVESTIGATION BY COMMANDING OFFICERS.**

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(Initials)

**19. YOU MAY REQUEST A REASONABLE AMOUNT OF OFFICIAL TIME DURING REGULAR WORKING HOURS TO PREPARE AN EEO COMPLAINT, RESPOND TO AGENCY OR EEO REQUESTS FOR INFORMATION, PARTICIPATE IN AN EEO INVESTIGATION, OR TO PREPARE FOR AND PARTICIPATE IN AN EEO HEARING OR RELATED MEETINGS. YOU WILL NOT BE REQUIRED TO TAKE LEAVE TO PARTICIPATE IN THESE ACTIVITIES. IF YOU ARE REPRESENTED BY AN EMPLOYEE OF THE U.S. NAVY, YOUR REPRESENTATIVE MAY ALSO REQUEST OFFICIAL TIME DURING THE WORK DAY FOR SIMILAR ACTIVITIES. THE ACTUAL NUMBER OF HOURS TO WHICH YOU AND YOUR REPRESENTATIVE ARE ENTITLED WILL VARY, DEPENDING ON THE NATURE AND COMPLEXITY OF THE COMPLAINT AND THE ACTIVITY FOR WHICH YOU ARE REQUESTING OFFICIAL TIME, WHILE CONSIDERING THE MISSION OF THE AGENCY AND THE AGENCY'S NEED TO HAVE ITS EMPLOYEES AVAILABLE TO PERFORM THEIR NORMAL DUTIES. THE AGENCY IS NOT REQUIRED TO GRANT OFFICIAL TIME ON ANY PARTICULAR DAY OR TIME, UNLESS A FORMAL PROCEEDING IS SCHEDULED FOR WHICH YOU MUST BE PRESENT, SUCH AS A HEARING, MEDIATION, OR DEPOSITION. YOU MAY NOT USE OFFICIAL TIME FOR TIME SPENT COMMUTING TO AND FROM HOME. YOU WILL NOT BE GRANTED OFFICIAL TIME FOR TIMES OR DAYS THAT YOU ARE OFF DUTY, UNLESS THE AFOREMENTIONED FORMAL PROCEEDINGS ARE SCHEDULED OUTSIDE OF YOUR NORMAL WORK HOURS. YOU MUST REQUEST OFFICIAL TIME AND OBTAIN APPROVAL FROM YOUR FIRST LINE SUPERVISOR OR DESIGNEE IN WRITING (IE, EMAIL) IN ADVANCE OF USING ANY WORK HOURS TO WORK ON YOUR EEO COMPLAINT. YOUR SUPERVISOR OR DESIGNEE MAY GRANT OR DENY YOUR REQUEST, FULLY OR IN PART, OR OFFER AN ALTERNATIVE DAY OR TIME DEPENDING ON THE CIRCUMSTANCES OF YOUR COMPLAINT AND REQUEST.**

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(Initials)

**20. AS PART OF THE COMPLAINT PROCESS, YOU MAY BE PROVIDED WITH INFORMATION AND/OR DOCUMENTS THAT CONTAIN IDENTIFIABLE PERSONAL DATA. THIS INFORMATION IS PROTECTED BY THE PRIVACY ACT OF 1974 AND IS PROVIDED TO YOU ONLY FOR OFFICIAL USE AS PART OF THIS COMPLAINT. ANY INFORMATION AND/OR DOCUMENTS PROVIDED TO YOU AS PART OF THIS COMPLAINT CAN ONLY BE RELEASED TO AUTHORIZED PERSONNEL WHO HAVE A NEED TO KNOW IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. UNAUTHORIZED DISCLOSURE OF SUCH INFORMATION AND/OR DOCUMENTS MAY RESULT IN DISCIPLINARY ACTION UP TO TERMINATION AND POSSIBLE CIVIL AND CRIMINAL PENALTIES.**

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(Initials)

NOTICE OF RIGHTS AND RESPONSIBILITIES FOR:

21. *I HAVE RECEIVED A COPY OF MY RIGHTS AND RESPONSIBILITIES AS STATED.*

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Signature of Aggrieved

\_\_\_\_\_  
Date

I \_\_\_\_\_ wish to participate in Alternative Dispute Resolution (ADR).

\_\_\_\_\_  
Signature of Aggrieved

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Date