

## **The EEO Complaint Process**

**You Must Contact EOCL to File an EEO Complaint:** If you believe that you have been subjected to prohibited discrimination, you should contact TSA's Equal Opportunity and Civil Liberties (EOCL) division to learn more about the equal employment opportunity (EEO) complaint process and to explore your options. Prohibited discrimination is defined as any decision, act, or failure to act based on your race, sex (including pregnancy, sexual orientation, and sex stereotypes), color, national origin, religion, age (40 years or older), disability, protected genetic information, parental status, and/or retaliation for participation in the EEO process or otherwise protesting discrimination.

You can start this process by contacting EOCL at 877-336-4872 or by sending an email to [TSA.CivilRights@tsa.dhs.gov](mailto:TSA.CivilRights@tsa.dhs.gov).

**Informal/Counseling:** EEO Counseling is an integral and mandatory part of the EEO complaint process. After you contact EOCL and express an interest in filing an EEO complaint, you will be assigned a Case Manager. Your Case Manager will explain the EEO complaint process to you, discuss with you the claims you wish to raise, and provide you with various options. These options include a choice between traditional EEO counseling, where your Case Manager will contact management in an attempt to reach a resolution of your complaint, or EEO Alternative Dispute Resolution (ADR). During the EEO ADR process you have an opportunity to discuss your issues directly with management and, with the assistance of a trained facilitator or mediator, work to jointly craft and evaluate potential solutions to your issues.

Traditional EEO counseling generally takes up to 30 days; if you elect to participate in ADR, the process may take up to 90 days. At the conclusion of the regulatory time frame (30-90 days for traditional EEO counseling, depending on whether ADR is elected, or 90 days if ADR is elected at the outset), you will be issued a Notice of Right to File (NRTF). The NRTF notifies individuals of their right to pursue a formal EEO complaint. If you wish to file a formal EEO complaint on some or all of the claims raised in counseling, you must file the formal EEO complaint within 15 days of receipt of the NRTF.

If you have been assigned a Case Manager and have additional questions, please direct any questions to your Case Manager.

**Alternative Dispute Resolution:** If you have elected to participate in the EEO ADR process, an ADR session with you, your representative (if you have one), management, and a facilitator or mediator will be held within 90 days of the date you sought EEO counseling.

Please direct your ADR related questions to [ADRIntake@tsa.dhs.gov](mailto:ADRIntake@tsa.dhs.gov). For all other EEO related questions or inquiries, please contact your Case Manager.

**Formal:** If your matter was not resolved in the counseling stage or through the ADR process, you will be instructed on how to file a formal EEO complaint. Once you file a formal complaint, your complaint will be reviewed and a determination will be made on whether to accept all the claims raised in the complaint, or to dismiss all or any of the claims raised. You should receive an Acceptance Letter setting forth the accepted claims within a reasonable time after the date you filed your formal complaint. If all the claims are dismissed, you will receive a Final Agency Decision (FAD) (issued by the Department of Homeland Security) setting forth the reason for the dismissal of your EEO complaint and notifying you of your right to appeal the dismissal to the U.S. Equal Employment Opportunity Commission (EEOC).

**Investigation:** Once an Acceptance Letter is issued, the claims identified in the Acceptance Letter will be investigated. Federal regulations require an EEO investigation be completed within 180 days of the date you filed your EEO complaint. However, you may agree to extend that time by 90 days. In addition, if you amend your complaint to include additional claims, the time period is extended up to 180 days from the date of your accepted amended complaint. The maximum time allowed to complete any investigation is 360 days.

When the investigation is complete, you will be sent a copy of the Report of Investigation (ROI) together with an Election Letter. The Election Letter provides you 30 days from receipt of the Election Letter to choose between requesting a FAD issued by DHS or a hearing before an Administrative Judge with the EEOC or to withdraw your complaint. If you do not respond to the Election Letter within the 30-day timeframe indicating your choice, your case will be sent to DHS and they issue a FAD. The Election Letter will provide you with instructions on how to elect a hearing or a FAD.

However, you will not receive an Election Letter if you are eligible to file an appeal with the U.S. Merit Systems Protection Board (MSPB) and your EEO complaint alleged that an appealable agency action was taken against you based on prohibited discrimination. In that case, you will be sent a copy of the ROI together with a Notice explaining that DHS will issue a FAD on your complaint. The TSA EOCL division is not involved in the issuance of a FAD. If you are dissatisfied with the FAD issued by DHS, you may file an appeal from that decision with the MSPB.

**Hearing:** If, after receiving the ROI on the claims raised in your EEO complaint, you elected to request a hearing before an EEOC Administrative Judge, EOCL will provide the EEOC hearing office with a copy of the ROI. The scheduling of a hearing is completely within the control of the EEOC. Both you and TSA must comply with any orders issued by the EEOC Administrative Judge. Both the EEOC Administrative Judge and TSA counsel will provide you with a copy of any correspondence. The TSA EOCL is not involved in the hearing process and has no knowledge of when your hearing may be or is scheduled or of any other steps in the hearing process.

If you wish to know when your hearing is scheduled or have other questions about the hearing, please contact the EEOC hearing office where your complaint will be heard. A list of the EEOC hearing offices and contact information for each hearing office is available on the EEOC's website at Appendix N: [https://www.eeoc.gov/federal/directives/md-110\\_appendix\\_n.cfm](https://www.eeoc.gov/federal/directives/md-110_appendix_n.cfm)

**Final Agency Action:** As set out in more detail below, a final agency action is issued by DHS if you have requested a FAD or after an EEOC Administrative Judge has issued a decision on your EEO complaint. The TSA EOCL division is not involved in the issuance of a FAD.

The final agency action is called a FAD if you elected to have DHS issue a FAD on your EEO complaint (or otherwise failed to elect a hearing before an EEOC Administrative Judge), or if you are eligible to file an appeal with the U.S. Merit System Protection Board (MSPB) and your complaint was based on an action appealable to the MSPB.

If an EEOC Administrative Judge has issued a decision on your EEO complaint, DHS may issue an Agency Final Order implementing (adopting) the Administrative Judge's decision. If DHS does not agree to implement the EEOC Administrative Judge's decision, within 40 days after receipt of the Administrative Judge's decision, DHS must issue an Agency Final Order stating that it will not implement the decision. In addition, DHS must simultaneously file an appeal from the Administrative Judge's decision with the EEOC's Office of Federal Operations. You will be given a copy of the appeal. If after receipt of an EEOC Administrative Judge's decision, DHS fails to issue a Final Order within 40 days, or fails to timely appeal the Administrative Judge's decision, DHS is bound by the EEOC Administrative Judge's decision. If you have questions regarding a FAD or a Final Agency Order, you may contact the DHS Office for Civil Rights and Civil Liberties, Complaints Management and Adjudication Section, by calling 202-357-7705.

If you are dissatisfied with the outcome of a FAD or an Agency Final Order implementing a decision issued by an Administrative Judge (AJ), you have 30 days from receipt of the FAD or Final Order to file an appeal with the EEOC's Office of Federal Operations. The appeal must be sent to:

U.S. Equal Employment Opportunity Commission  
Office of Federal Operations  
P.O. Box 77960  
Washington, D.C. 20013

If you are eligible to file an appeal with the MSPB, and a FAD was issued on an action appealable to the MSPB, the FAD will inform you about how to file an appeal with the MSPB.

**Appeal:** If you filed an appeal with the EEOC, the TSA EOCL division is not involved and has no knowledge of when a decision on your appeal may be issued. If you wish to inquire about your appeal with the EEOC, please call the EEOC's Office of Federal Operations at 202-663-5001.

**Closed:** An EEO complaint will be closed if you withdraw the complaint, do not file a formal complaint, or enter into a settlement agreement. A complaint is also closed if you did not file an appeal from a FAD or from an Agency Final Order, or because you did file an appeal and the EEOC has issued its final decision on your appeal.