

## Notice of Pre-Complaint Rights and Responsibilities

1. You have the right to anonymity during the informal process. Should you choose to remain anonymous, your anonymity is only protected during the informal stage of the complaint process. If you file a formal complaint, your anonymity is no longer protected.
2. You have the right to representation throughout the complaint process including the counseling stage. The EEO Counselor is not an advocate for either the aggrieved person or the agency but acts strictly as a neutral in the EEO process.
3. You have the right to choose between the agency's EEO alternative dispute resolution (ADR) process or EEO counseling. Information about the agency's ADR process can be found here: <https://www.neh.gov/sites/default/files/inline-files/NEH-Alternate-Dispute-Resolution-2019.pdf>
4. If you are covered by a collective bargaining agreement that permits claims of discrimination to be raised in a negotiated grievance procedure, you must elect to file an EEO complaint or a grievance. You may not file both an EEO complaint and a grievance for the same incident(s).
5. If the claim at issue is appealable to the Merit Systems Protection Board (MSPB), *i.e.*, the dispute is a mixed case, you may raise your claim(s) either as a direct appeal to the MSPB or as a mixed case EEO complaint with the agency, but not both.
6. In the event that you wish to file a complaint at the conclusion of counseling or ADT, you must do so within 15 calendar days of receipt of the EEO Counselor's Notice of Right to File a Formal Complaint. Once you have filed a formal complaint, the agency has 180 calendar days to conduct an investigation.
7. You have the right to may file a civil action in a United States district court under the ADEA instead of an administrative complaint of age discrimination after giving the Commission not less than 30 days' notice of the intent to file such an action. Such notice must be filed in writing with EEOC, at P.O. Box 77960, Washington, DC 20013, or by personal delivery or facsimile within 180 days of the occurrence of the alleged unlawful practice.
8. You have the right to go directly to a court of competent jurisdiction on claims of sex-based wage discrimination under the Equal Pay Act even though such claims are also cognizable under Title VII.
9. You have the right to request a hearing before a Commission Administrative Judge, except in a mixed case, after 180 calendar days from the filing of a formal complaint or after completion of the investigation, whichever comes first.

10. You have the right to request an immediate final decision after an investigation by the agency.
11. You have the right to go to U.S. District Court 180 calendar days after filing a formal complaint or 180 days after filing an appeal.
12. You have the duty to mitigate damages. For example, interim earnings or amounts that could be earned with reasonable diligence generally must be deducted from an award of back pay.
13. You have the duty to keep the agency and the Commission informed of your current mailing address and to serve copies of appeal papers on the agency.
14. Where counseling is selected, you have the right to receive in writing within 30 calendar days of the first counseling contact (unless you agree in writing to an extension) a notice terminating counseling and informing you of:
  - a. (1) the right to file a formal individual or class complaint within 15 calendar days of receipt of the notice,
  - b. (2) the appropriate official with whom to file a formal complaint, and
  - c. (3) your duty to immediately inform the agency if you retain counsel or a representative. Any extension of the counseling period may not exceed an additional sixty (60) calendar days.
15. Where you agree to participate in an established EEO ADR program, the written notice terminating the counseling period will be issued upon completion of the dispute resolution process or within ninety (90) calendar days of the first contact with the EEO Counselor, whichever is earlier.
16. Only those claims raised at the counseling stage or claims that are like or related to those that were raised may be the subject of a formal complaint. You may amend the complaint by submitting a letter to the EEO Director describing the new incident(s) and stating that you wish to amend your complaint to include the new incident(s)
17. If you wish to request a hearing, you must send your request to the Equal Employment Opportunity Commission Washington Field Office, 131 M Street, NE, Fourth Floor, Suite 4NWO2F, Washington, DC 20507-0100.
18. You must send a copy of the request for a hearing to Acting EEO Director Kelsey Coates, 400 Seventh Street SW, Washington, DC 20506. It is your duty to certify to the Administrative Judge that you provided the agency with a copy of a request for a hearing.
19. If you wish to file a class complaint as class agent on behalf of a group of employees, former employees, or applicants, you must first seek counseling and

file a complaint. A Commission Administrative Judge will issue a decision on certification of the complaint.

20. Rejection of an agency's offer of resolution may result in the limitation of the agency's payment of attorney's fees or costs.
21. The agency must consolidate two or more complaints filed by the same complainant after appropriate notice to you. When a complaint has been consolidated with one or more earlier complaints, the agency shall complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days of the filing of the first complaint and you may request a hearing before a Commission Administrative Judge at any time after 180 days of the filing of the first complaint.
22. If you require reasonable accommodations to navigate the EEO process, you may contact Acting EEO Director Kelsey Coates, 400 Seventh Street SW, Washington, DC 20506/kcoates@neh.gov.