

Reclamation Manual

Directives and Standards

Subject:	Processing of Informal Equal Employment Opportunity Complaints
Purpose:	To ensure that informal Equal Employment Opportunity complaints are processed uniformly across the Bureau of Reclamation and consistently with the applicable statutes, regulations, and guidance. The benefits of this Directive and Standard (D&S) include regulatory compliance, avoidance of sanctions and more efficient complaint processing.
Authority:	Title VII of the Civil Rights Act of 1964, as amended (Title VII); Age Discrimination in Employment Act (ADEA) of 1967, as amended; the Rehabilitation Act of 1973, as amended (Rehab Act); Fair Labor Standards Act of 1938, as amended - Equal Pay Act of 1963 (EPA); Executive Order 11478, as amended; and Executive Order 13145, Title 29 Code of Federal Regulations (CFR) Part 1614, Equal Employment Opportunity Commission (EEOC) Management Directive (MD)-110, 373 DM 5, Office of Civil Rights EEO Complaints Processing Handbook
Approving Official:	Deputy Commissioner - Policy, Administration and Budget
Contact:	Civil Rights Division, 84-11000

- 1. Introduction.** Each of Reclamation's Regions and the Denver/Washington office has an Equal Employment Opportunity (EEO) office which is responsible for processing informal complaints of discrimination filed by employees, former employees and applicants for employment. Each EEO office has its own procedures for processing these informal complaints but are required to meet standards set by the Equal Employment Opportunity Commission (EEOC) and the Department of the Interior's Office of Diversity, Inclusion and Civil Rights (ODICR). This D&S sets forth standard procedures for processing informal complaints that meet these requirements and additional requirements for processing within Reclamation.
- 2. Applicability.** This D&S applies to all Reclamation staff and offices that process informal EEO complaints.
- 3. Requirements and Responsibilities.** The Civil Rights Division (CRD) is responsible for oversight of the processing of all informal complaints in Reclamation and, as such, must ensure that the processing of informal complaints meets all required standards. The standards are set forth in the EEOC's Management Direction (MD) – 110 and ODICR's Complaints Processing Handbook (Handbook). Both of these documents are incorporated herein by reference.
 - A. Reclamation Specific Requirements:** CRD developed a Standard Operating Procedure (SOP) that provides additional requirements to streamline informal complaint processing and ensure consistency across Reclamation. CRD shall review

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and update the SOP on a periodic basis and post it, along with the MD-110 and Handbook, on Reclamation's intranet for access by all EEO personnel.

B. Responsibilities.

- (1) Regional Managers and the Deputy Commissioner - Policy, Administration and Budget, shall ensure that sufficient funding and staffing exist for the EEO offices to process informal EEO complaints pursuant to the standards set forth in this D&S.
- (2) CRD is responsible for oversight of the processing of all informal complaints in Reclamation and serves as the Regional EEO Office for the Denver and Washington offices. Further, CRD shall post and regularly update the SOP for processing of informal EEO complaints at Reclamation, which supplement the Handbook and MD-110.
- (3) Regional EEO Managers shall ensure that all EEO staff are sufficiently trained to process informal EEO complaints and for ensuring that processing of informal EEO complaints meets the standards set forth in this D&S.

4. Processing Informal EEO Complaints.

A. Informal EEO complaints shall be processed in accordance with the Handbook and SOP. The Handbook provides the minimum requirements for processing informal complaints Department-wide. The SOP provides more detailed standards for processing informal complaints at Reclamation and incorporates the Handbook by reference.

- (1) Informal EEO complaints shall be processed by the Regional EEO office in which the complaint resides unless a conflict of interest exists.
 - (a) Regional EEO staff will be considered to have a conflict of interest for processing an informal complaint when 1) an EEO staff member is identified as a Responsible Management Official, 2) someone in the EEO staff chain of command has been identified as a Responsible Management Official, or 3) other circumstances which may prevent, or appear to prevent, unbiased processing of the informal EEO complaint.
 - (b) When a potential conflict of interest is identified, the Regional EEO Manager will contact the CRD Manager for final determination of whether a conflict of interest exists and for direction on processing the informal complaint.
 - (c) This section does not prohibit the sharing of counselors between Regions in order to manage workload. However, the Regional EEO Manager for the

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region in which the complaint resides shall remain responsible for processing of the informal complaint.

B. Counseling Process.

- (1) All individuals who request EEO counseling shall be provided counseling regardless of the possibility that their claim may be dismissed at the formal stage, including contractors or other non-employees.
- (2) If a Contact decides not to enter the informal EEO process or requests time to consider whether or not to enter the process, the Counselor must send the Contact an email informing them of the forty-five (45)-day requirement for timely initiation of the process.
- (3) If a Contact or Counselee has an open formal case, the Counselor must contact Reclamation's EEO Manager or Complaints Manager to determine if the new claims are like or related to the claims in the open formal case. If the new claims are determined to be like or related, the Contact or Counselee shall be informed that they must request that the new claims be added to the existing formal complaint as an amendment. If the claims are determined not to be like or related to the claims in the open formal case, counseling on the new issues may commence.
- (4) All Contacts and Counselees shall be informed that EEO Counselors are mandatory reporters of claims of harassment and must report such claims to the appropriate Human Resources office using Reclamation's online tool for initiation of the anti-harassment process.
- (5) All claims regarding breach of settlement terms must be referred to CRD.
- (6) Reports of Counseling must be approved by Reclamation's CRD Manager, CRD Complaints Manager, or other designated CRD staff prior to finalization and prior to the issuance of a Notice of Final Interview.
- (7) Alternative Dispute Resolution (ADR):
 - (a) Methods of ADR other than mediation may be used but must be approved by Reclamation's CRD Manager or CRD Complaints Manager.
 - (b) The agency official assigned to participate in ADR shall be at least one supervisory level above any alleged responsible party(ies) or any alleged involved party(ies) and must have settlement authority, direct or delegated, pursuant to the Memorandum on Directive Regarding Settlement Authority in Employment and Labor Matters.
 - (c) Responsible management officials may attend mediation if:

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- (i) All parties agree; and
- (ii) Their presence will not inhibit the ADR process.

(d) If the Counselee is represented, the official assigned to participate in ADR may be represented by Human Resources or the Office of the Solicitor. If the Counselee is not represented, the official assigned to participate in ADR may consult with Human Resources and/or the Office of the Solicitor prior to the ADR session and/or during caucus.

C. Settlement.

- (1) All settlements and settlement processes shall be in accordance with Department and Reclamation policies and directives and standards, and shall be in the format provided in the Handbook.
- (2) If a settlement has not been finalized by day ninety (90) in the ADR process or the end of the counseling period, including any extensions, in the fact-finding process, the Counselor shall issue the Notice of Final Interview letter, with instructions to the Counselee that they must file a formal complaint within the fifteen (15)-day filing period in order to continue the process until the settlement is finalized.
- (3) Terms requiring monetary corrective action must be drafted to allow at least thirty (30) days from the date that payment information is provided for the payment to be processed and issued.
- (4) The Regional EEO Manager shall inform Reclamation's CRD Manager or CRD Complaints Manager of the settlement and provide a copy within two (2) business days. CRD will inform ODICR of the settlement.
- (5) The Regional EEO Manager shall be responsible for assigning a Point of Contact (POC) for tracking compliance of the terms of the settlement. The POC will be responsible for ensuring compliance with the terms of the settlement, with the exception of monetary corrective action. CRD will process all monetary corrective action.

D. Tracking and Records.

- (1) The official system of records for EEO complaints is the electronic tracking system provided by ODICR. As such, all documents and substantive correspondence shall be uploaded into said tracking system.
- (2) EEO contacts shall be input into the tracking system within two (2) business days and converted to an informal case within two (2) business days of the person initiating the counseling process.

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- (3) All documents, correspondence, events and other case information shall be input and/or uploaded into the tracking system within two (2) business days.

5. Definitions

- A. **Alternative Dispute Resolution (ADR):** Collaborative processes for resolution of EEO cases used in place of adjudicatory or adversarial processes.
- B. **Mediation:** A type of ADR in which a trained neutral person (mediator) facilitates resolution discussions between parties to a conflict without rendering a decision on the merits.
- C. **Caucus:** A practice in mediation in which the mediator consults with the parties to a conflict separately and confidentially.
- D. **Counseling:** The processing of a complaint of discrimination, which can include either fact-finding or ADR.
- E. **Counselor:** EEO staff trained to process informal complaints of discrimination.
- F. **Counselee:** A person who has initiated the informal EEO process.
- G. **Corrective Action:** The action taken by the Agency pursuant to a settlement agreement or decision.
- H. **EEO Contact:** Initiation of communication with EEO staff to request information on the EEO process or to initiate the informal EEO process; also an individual initiating such communication.
- I. **Fact-finding:** A method of conducting EEO counseling in which the counselor conducts a limited inquiry in the Counselee's claims, including interviews of key witnesses and review of relevant documents.
- J. **Substantive Correspondence:** Correspondence in the informal complaint process which is related to the issues and/or the processing of a case if that information could affect the outcome of the case. Procedural matters that could affect the case include, but are not limited to, timeliness of counseling, substantial delays in counseling, information about filing a formal complaint, and emails indicating receipt of documents.

6. **Review Period** The originating office will review this release every two (2) years.

RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: _____

Release No. _____

Ensure all employees needing this information are provided a copy of this release.

Reclamation Manual Release Number and Subject

Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: _____

Date: _____