

Responsible Office: HQ Office of Equal Opportunity & Diversity Management
Subject: Equal Opportunity Pre-Complaint Process

1. Purpose

Ensure the management and coordination of the Equal Employment Opportunity Pre-Complaint process as outlined in the Code of Federal Regulations (29 CFR Part 1614.105).

2. Scope and Applicability

The Headquarters Office of Equal Opportunity and Diversity Management Programs provide a specific process to ensure equal opportunity to all Headquarters employees and ensure compliance with 29CFR Part 1614. This process allows employees to seek counseling if they allege discrimination has occurred due to race, color, national origin, sex, sexual orientation, religion, age, equal pay and physical/mental disability.

3. Definitions

3.1 ADR. Alternate Dispute Resolution – Mediation alternate offered to all federal employees in addressing Discrimination Complaints and Grievances.

3.2 ADEA. Age Discrimination Employment Act

3.3 EO. Equal Opportunity - refers to the requirement of Federal Agencies to implement programs to prevent discriminatory practices due to Race, Sex, Color, National Origin, Religion, Reprisal, Disability and Age.

3.4 CFR. Code of Federal Regulations

3.5 CPM. Complaints Program Manager

3.6 EEO Counselor (EOC). The counselor duties can be contracted out to a vendor or assigned to a civil servant on a collateral basis.

3.7 HHS. Health and Human Services– Federal agency that sponsors the Share Neutrals Program mediation program available to all Government agencies. This program is in response to the ADR requirement.

4. References

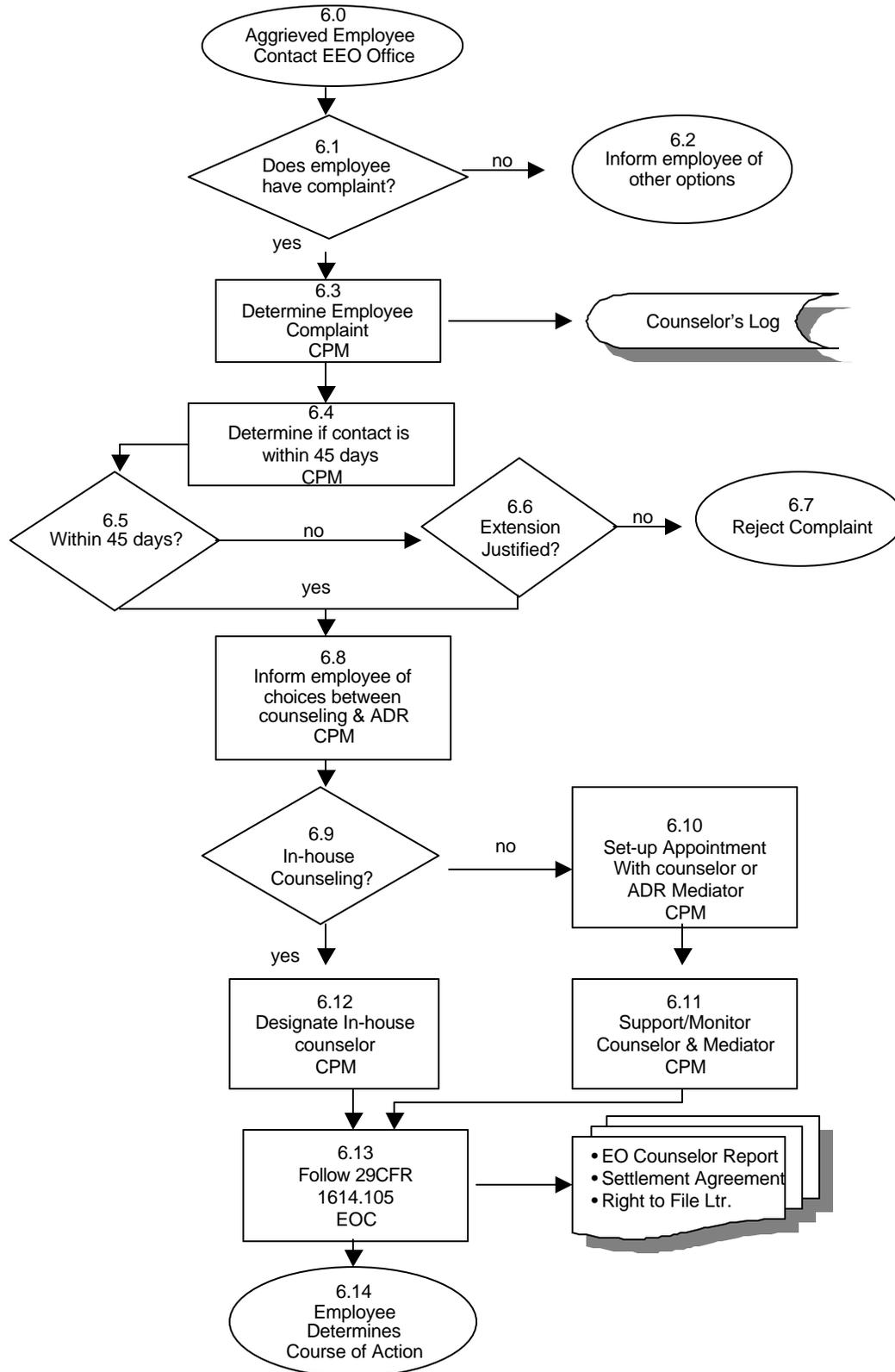
4.1 29 Code of Federal Regulations 1614 , Subpart A-Agency Program to Promote Equal Employment Opportunity, Section 1614.105 Pre-complaint processing

4.2 Rehabilitation Act of 1973

4.3 ADEA-Age Discrimination Employment Act

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5. Flowchart



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6. Process

<u>Step</u>	<u>Actionee</u>	<u>Action</u>
6.0		Aggrieved employee contacts HQ EO Office with an alleged EEO complaint
6.1	Complaints Program Manager	Does employee have an EEO complaint? If no, proceed to 6.2. If yes, proceed to 6.3.
6.2	Complaints Program Manager	Inform employee of other options regarding grievance processes available at HQ when it is determined that the pre-complaint process is not the venue to pursue the complaint. This closes the pre-complaint process.
6.3	Complaints Program Manager	Determine if employee has an EEO complaint by describing the bases of discrimination covered under Title VII of the Civil Rights Act of 1964, ADEA and the Rehabilitation Act of 1973. The aggrieved must communicate whether discrimination occurred due to race, color, religion, national origin, sex, age, or mental/physical disabilities. Log employee's complaint into the Electronic Counseling Log.
6.4	Complaints Program Manager	Determine if contact was within 45 days of the event. A time limit is imposed by 29CFR 1614.105.
6.5	Complaints Program Manager Complaints	Within 45 days? If yes, proceed to 6.8. If no, employee may request an extension of the 45 days with proper justification. Proceed to 6.6.
6.6	Program Manager	Extension justified? If no, proceed to 6.7. If yes, extenuating circumstances have been considered and accepted as justification. The decision will be communicated in writing to the aggrieved by the HQ EO Director.
6.7	Complaints Program Manager	Reject complaint if there is no justification for exceeding the 45-day timeline required by 29 CFR 1614.105. The process is terminated.
6.8	Complaints Program Manager	Inform employee of choices between counseling or ADR depending on the complexity of the case and the amount of fact-finding required determines whether or not counseling services is contracted out. A roster of mediators is maintained by the HHS Shared Neutrals Program in order to respond to ADR process outlined in the final ruling of 29CFR 1614.105.
6.9	Complaints Program Manager	In-house counseling? If yes, proceed to 6.12. If no, proceed to 6.10.
6.10	Complaints Program Manager	Set appointment with contract counselor or ADR mediator after employee chooses the complaint resolution venue. Based on the amount of fact-finding involved and the level of management i.e. Associate Administrator, a contract counselor or ADR mediator is preferable in order to provide a level of objectivity to address the issues in the complaint. Contract counselors or ADR mediator are not employed by the agency limiting the potential of a conflict of interest.

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6.11	Complaints Program Manager	Support and monitor counselors and mediators for their logistical needs including providing letters of authorization and scheduling conference rooms. Complaint manager will intervene in situations where management or complainants' refuses to respond to counselor or mediator request, which impedes the fact-finding process.
6.12	Complaints Program Manager	Designate an in-house counselor based on the quality of experience and availability to follow through until the end of the fact-finding process.
6.13	Complaints Program Manager	Follow 29CFR 1614.105 guidelines. At this juncture, the employee may file a formal complaint, agree to a settlement or drop the complaint altogether.
6.14	Complaints Program Manager	Employee determines the course of action.

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7. Quality Records

Record Identification	Owner	Location	Record Media: Electronic or Hard Copy	Schedule Number and Item Number (NPG 1441.1)	Retention/Disposition
Counselor's Log	EEO & Diversity Management Office/Code CE	EEO & Diversity Management Office/Code CE	Hard copy	3 50 (E) (3)	Destroy 2yrs after final resolution of case
EO Counselor Report	EEO & Diversity Management Office/Code CE	EEO & Diversity Management Office/Code CE	Hard copy	3 50 (E) (3)	Destroy 2yrs after final resolution of case
Settlement Agreement	Code CE EEO & Diversity Management Office/Code CE	EEO & Diversity Management Office/Code CE	Hard Copy	3 50 (E) (3)	Destroy 2yrs after final resolution of case
Rights and Responsibilities Letter	Code CE EEO & Diversity Management Office/Code CE	EEO & Diversity Management Office/Code CE	Hard Copy	3 50 (E) (3)	Destroy 2yrs after final resolution of case