



NASA Policy Directive

NPD 3713.6QEffective Date: June 27, 2013
Expiration Date: June 27, 2020**COMPLIANCE IS MANDATORY FOR NASA EMPLOYEES**[Printable Format \(PDF\)](#)

Request Notification of Change (NASA Only)

Subject: Delegation of Authority to Act in Matters Pertaining to Discrimination Complaints

Responsible Office: Office of Diversity and Equal Opportunity

1. POLICY

It is NASA policy for the Associate Administrator for Diversity and Equal Opportunity (AA, ODEO) to provide executive leadership and establish Agency policy in matters pertaining to discrimination complaints processing.

2. APPLICABILITY

a. This NPD is applicable to NASA Headquarters (HQ) and NASA Centers, including Component Facilities and Technical and Service Support Centers. b. In this directive, all mandatory actions (i.e., requirements) are denoted by statements containing the term "shall." The terms "may" or "can" denote discretionary privilege or permission, "should" denotes a good practice and is recommended, but not required, "will" denotes an expected outcome, and "are/is" denotes descriptive material. c. In this NPD, all document citations are assumed to be the latest version unless otherwise noted.

3. AUTHORITY

a. Alternative Dispute Resolution Act of 1996, as amended, 5 U.S.C. § 575 et seq. b. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, 5 U.S.C. § 2301 note. c. Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d). d. Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 et seq. e. Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 et seq. f. Civil Rights Act of 1991, 42 U.S.C. § 1981a. g. Pregnancy Discrimination Act of 1978, 42 U.S.C. § 2000e-12. h. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-16 et seq. i. Genetic Information Non-Discrimination Act of 2008, 42 U.S.C. § 2000ff et seq. j. Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 note. k. The Space Act, as amended, 51 U.S.C. § 20113. l. Exec. Order No. 11478, as amended, 3 C.F.R. 803 (1966-1970). m. Exec. Order No. 12106, as amended, 3 C.F.R. 263 (1978-1979). n. Federal Sector Equal Employment Opportunity, 29 C.F.R. Part 1614.

4. REFERENCES

a. Guidelines on Discrimination Because of Sex, 29 C.F.R. Part 1604. b. Guidelines on Discrimination Because of Religion, 29 C.F.R. Part 1605. c. Guidelines on Discrimination Because of National Origin, 29 C.F.R. Part 1606. d. Guidelines on Equal Pay Act, 29 C.F.R. Part 1620. e. Age Discrimination in Employment Act Implementing Regulations, 29 C.F.R. Part 1625. f. Americans with Disabilities Act Amendments Act (ADAAA) Regulations, 29 C.F.R. Part 1630. g. Genetic Information Nondiscrimination Act (GINA) Regulations, 29 C.F.R. Part 1635. h. U.S. Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 110. i. Equal Employment Opportunity Commission Management Directive 715. j. NASA Policy Directive (NPD) 3713.2, Federal EEO Programs of NASA. k. NASA Procedural Requirements (NPR) 3713.2, Alternative Dispute Resolution for

Discrimination Complaints. l. NPR 3713.1, Reasonable Accommodation Procedures. m. NPR 3713.3 Anti-Harassment Procedures. n. NPR 3713.4, Procedures for Discrimination Complaints Based on Sexual Orientation (SxO).

5. RESPONSIBILITY

- a. The AA, ODEO reports directly to the NASA Administrator on all matters pertaining to equal employment opportunity (EEO). The AA, ODEO shall keep the Administrator and Deputy Administrator fully and currently informed of significant actions, concerns, and other matters of substance related to the exercise of the authority delegated hereunder.
- b. The AA, ODEO shall administer effective and efficient Agency-wide EEO and sexual orientation (SxO) complaint processes, including the development of complaint and Alternative Dispute Resolution (ADR) policies and procedures.
- c. The Director, Complaints Management Division, shall oversee and manage the processing and adjudication of individual and class complaints of discrimination for the entire Agency and will keep the AA, ODEO informed of significant actions, concerns, and other matters related to the exercise of the authority delegated hereunder.
- d. In accordance with reference 4.a, NPD 2010.2, Sec. 5(b), 6(b), the Deputy General Counsel serving as the Dispute Resolution Specialist or his designee shall be kept informed of ADR activities and be able to comment on whether ADR is appropriate in a particular case.
- e. The Center Directors, the Executive Director, Headquarters (HQ) Operations, the Executive Director, NASA Shared Services Center (NSSC), and Center Equal Opportunity Directors shall keep the AA, ODEO informed of significant actions, concerns, and other matters of substance related to the exercise of the authority delegated hereunder.

6. DELEGATION OF AUTHORITY

- a. The AA, ODEO is delegated authority for the following:
 - (1) Promulgate and implement policies, plans, procedures, and appropriate training for NASA's EEO programs. The Agency's EEO policies, plans, and procedures shall be consistent with all relevant authorities, including but not limited to, the following guidelines and regulations:
 - (a) Guidelines on Discrimination Because of Sex, 29 C.F.R. Part 1604;
 - (b) Guidelines on Discrimination Because of Religion, 29 C.F.R. Part 1605;
 - (c) Guidelines on Discrimination Because of National Origin, 29 C.F.R. Part 1606;
 - (d) Guidelines on Equal Pay Act, 29 C.F.R. Part 1620;
 - (e) Age Discrimination in Employment Act Implementing Regulations, 29 C.F.R. Part 1625;
 - (f) Americans with Disabilities Act Amendments Act (ADAAA) Regulations, 29 C.F.R. Part 1630; and
 - (g) Genetic Information Nondiscrimination Act (GINA) Regulations, 29 C.F.R. Part 1635.
 - (2) Evaluate the sufficiency of NASA's EEO policies, plans, procedures, and training utilizing the U.S. Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 715. NASA EEO policies, plans, and procedures include the following:
 - (a) NPD 3713.2, Federal EEO Programs of NASA;
 - (b) NPR 3713.1, Reasonable Accommodation Procedures; and
 - (c) NPR 3713.3 Anti-Harassment Procedures.
 - (3) Process formal individual and class complaints of discrimination and retaliation in a manner that is consistent with EEOC Federal Sector Complaints Regulations (29 C.F.R. Part 1614; EEOC MD 110; EEOC Federal Sector case law and Directives; applicable U.S. Supreme Court, U.S. Court of Appeals, and U.S. District Court case law; and NPR 3713.4, Procedures for Discrimination Complaints Based on Sexual Orientation.

- (4) Ensure that the processing of informal individual and class complaints of discrimination and retaliation is conducted in a manner that is consistent with EEOC Federal Sector Complaints Regulations, 29 C.F.R. Part 1614; EEOC MD 110; EEOC Federal Sector case law and Management Directives, e.g., MD 715; applicable U.S. Supreme Court, U.S. Court of Appeals, and U.S. District Court case law; and NPR 3713.4.
- (5) Ensure that the EEO complaint resolution process, including ADR, is prompt, fair, and impartial, as required by 29 CFR § 1614.102, as well as EEOC and applicable NASA policy, such as NPR 3713.2, Alternative Dispute Resolution for Discrimination Complaints.
- (6) Ensure that EEO counseling and resolution attempts, including ADR, are available at the informal stage.
- (7) Ensure that the ADR process is implemented in accordance with NPR 3713.2 throughout the Agency and is utilized for both informal and formal EEO complaints.
- (8) Advise all Agency managers, supervisors, and employees of their responsibility to cooperate with EEO Counselors and Agency EEO personnel in the processing and resolution of informal and formal complaints.
- (9) Advise all Agency managers, supervisors, and employees of their responsibility to cooperate with formal investigations, hearings, appeals, and related EEO matters.
- (10) Receive formal individual and class complaints of employment discrimination and accepting or dismissing formal individual complaints.
- (11) Issue final orders implementing or appealing decisions of an EEOC Administrative Judge, in regard to the certification of class complaints.
- (12) Conduct necessary investigations and inquiries, delegating EEO Investigators authority to administer oaths or obtain notarized statements and requiring statements of witnesses to be under oath or affirmation.
- (13) Render final Agency decisions (FADs) on the merits of complaints.
- (14) Issue final orders implementing or appealing decisions of EEOC Administrative Judges on individual and class complaints of discrimination.
- (15) Implement decisions or orders issued by EEOC's Office of Federal Operations (OFO) on individual and class complaints of discrimination.
- (16) Require appropriate corrective actions, including but not limited to, awards of attorney fees and costs and pecuniary and compensatory damages on individual and class complaints of discrimination.
- (17) Determine whether to issue EEOC appeals and requests for reconsideration and defining the Agency's position on all appeals and requests for reconsideration to EEOC. However, in cases that were adjudicated before an Administrative Judge, ODEO will forward appeals and requests for reconsideration to the Office of the General Counsel (OGC) for coordination with the applicable NASA Center Office of Chief Counsel (OCC). OGC, and/or OCC will determine whether to appeal adverse decisions and will provide the Agency's position on appeal or reconsideration. ODEO will then forward the Agency's response to EEOC.
- (18) Issue the Agency's final decision on all requests for reconsideration submitted pursuant to NPR 3713.4.
- (19) Monitor compliance with all Agency settlement agreements, FADs, final orders, decisions of EEOC Administrative Judges, and appellate decisions of EEOC's OFO.
- (20) Receive legal sufficiency reviews from the OGC prior to issuing legal decisions and Agency-wide policies or procedures. ODEO will also receive legal sufficiency reviews from the OGC prior

to submitting appeal comments in cases involving appeals from procedural dismissals and FADs.

(21) For cases that emanate from the Office of the Inspector General, the following applies:

(a) The authority to render FADs on the merits of individual and class complaints is retained within the Office of the Administrator (OA);

(b) The authority to issue final orders or final decisions, as well as breach of settlement agreements, in individual and class complaints is retained within the OA;

(c) The authority to require appropriate corrective actions in individual and class complaints is retained within the OA;

(d) The authority to make request for appeal and request for reconsideration determinations, defining the Agency's position on all complaint matters on appeal and requests for reconsideration to EEOC is retained within the OA;

(e) The authority to resolve class complaints is delegated to the Inspector General, in consultation with the OA. If the Inspector General has a conflict of interest, then the authority is retained within the OA;

(f) In cases that involve litigation, the authority to designate co-counsel is delegated to the Counsel to the Inspector General or designee; and

(g) The Inspector General in consultation with the OA is delegated the authority to resolve individual complaints of discrimination and to require appropriate remedial actions. In the event of a conflict of interest, the authority is retained by the OA.

b. Where the AA, ODEO has a conflict of interest in an individual or class complaint, the AA, Mission Support, or other appropriate individual, is delegated the authority to process and adjudicate the complaint.

c. The Center Directors, Executive Director, HQ Operations, and the Executive Director, NSSC, are delegated authority to resolve individual complaints of discrimination and to require appropriate remedial actions at any time prior or subsequent to issuance of a FAD or final order by the AA, ODEO or the receipt of a decision from an EEOC Administrative Judge.

d. The AA, ODEO is delegated authority to process and monitor class complaints and to require remedial policies, procedures, or other actions, as deemed appropriate, in consultation with the OGC. In consultation with the AA for ODEO and the NASA General Counsel, the Center Directors and the AA for Mission Support are delegated authority to resolve class complaints.

e. The NASA General Counsel, or the Center Chief Counsel, or designee, as appropriate, is delegated the authority to designate Agency Representatives in individual complaints where a hearing is requested, and in all formal class complaints of discrimination. In addition, the NASA General Counsel, or the Center Chief Counsel, or designee, will prepare the Agency's position to any appeals from an Administrative Judge's decision. The response will then be forwarded by OGC to ODEO. Consecutively, ODE O will forward the response to EEOC.

f. The authority delegated in paragraph 6.a. may be redelegated to the Director, Program, Planning and Evaluation Division, or other appropriate senior official.

g. The authority delegated to the Center Directors, the Executive Director, HQ Operations, and the Executive Director, NSSC, in paragraph 6.c. may be redelegated.

7. MEASUREMENTS

None.

8. CANCELLATION

NPD 3713.6P, Delegation of Authority to Act in Matters Pertaining to
Discrimination Complaints Under 29 C.F.R. Part 1614, dated June 8, 2007.

/s/ Charlie F. Bolden
Administrator

ATTACHMENT A: (TEXT)

(URL for Graphic)

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