

## The Investigation

Judge or (2) request a decision, without a hearing, by the FRTIB. This notice is called the notice of your right to an "election."

If you have a claim that is also appealable to the Merit Systems Protection Board (MSPB), you are not entitled to a hearing by the EEOC. A final agency decision (FAD) will be issued by the FRTIB, and you will be given appeal rights to the MSPB.

## The Hearing

Your request for a hearing must be sent directly to the appropriate EEOC Field Office with a copy to the Bureau. Once you have elected a hearing, the Administrative Judge will have full and complete authority over your complaint. You will be allowed to present witnesses and evidence on your behalf. The hearing is recorded and transcribed verbatim.

The Administrative Judge will have 180 days from the date the EEOC received your request for a hearing to conduct the hearing, issue findings and conclusions and a decision on your complaint. This time frame may be extended by the Administrative Judge. You should be advised, however, that there may be circumstances where the Administrative Judge may decide that a hearing is not necessary.

The Administrative Judge will issue a decision on your complaint which will become the final action of the Department, if the Department does not appeal the Administrative Judge's decision within 40 days of the date the decision was received.

If you do not ask for either a hearing or a decision without a hearing within 30 calendar days after you receive the notice of election described above, the FRTIB will issue a FAD based upon the evidence in the ROI. You will be given appeal rights if you are dissatisfied with the FAD.

## The Final Agency Decision

The FRTIB Office of General Counsel (OGC), as the designee of the Executive Director, will issue you a FAD on your complaint within 60 calendar days from (a) the date of your request for an immediate decision, or (b) the end of the 30-day period after you receive the notice of election.

The FAD will include an analysis on the merits of each claim accepted in your complaint, or a decision to dismiss some or all of your claims. If a finding of discrimination is made, the FAD will also identify the corrective action to which you are entitled.

## The Final Agency Decision

If a hearing has been conducted, the Administrative Judge (AJ) will send you a copy of the decision with a copy to the FRTIB. The FRTIB OGC, will have 40 days to issue a FAD after receipt of the AJ's decision. If the Department rejects the AJ's decision, it must simultaneously appeal to the EEOC. A copy of the appeal will be sent to you.

If you are dissatisfied with the FAD you may, within 30 calendar days of the date on which you received the decision or notice of dismissal, appeal the decision to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, D.C. 20036. You may also deliver the appeal in person to the EEOC, Office of Federal Operations at 1801 L Street, N.W., Washington, D.C. or by fax at 202-663-7022. You must also send a copy of the appeal to the EEO Manager and FRTIB OGC.



**Federal Retirement  
Thrift Investment Board**

## FRTIB EEO, Diversity & Inclusion Initiatives

**Don Sapp,**  
EEO Manager, Office of Resource Management  
77 K Street, NE - Room # 10-098  
Washington, DC 20002

202-864-8536 (Office)  
202-748-2422 (Cell)  
Donald.Sapp@tsp.gov



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*We administer the TSP solely in the interest  
of Participants and Beneficiaries.*

# You And the Federal Sector Employment Discrimination Complaints Process

This leaflet is intended to provide information about the Federal Sector Employment Discrimination Complaints Process within the FRTIB. FRTIB is committed to ensuring that EEO complaints filed by employees and applicants for employment are given fair and timely consideration and to eliminating discrimination.

## Complaints Procedures

Effective November 9, 1999, the U.S. Equal Employment Opportunity Commission (EEOC) published a revised set of regulations governing the processing of Federal Sector Equal Employment Opportunity (EEO) complaints. If, as an employee, former employee, or an applicant for employment, you believe that you may have been discriminated against on one or more of the following bases: race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, disability, genetic information and/or reprisal, you **must** contact and discuss the matter with an EEO Counselor. The goal of the EEO Counselor is to facilitate an informal resolution of the matter between the parties when possible.

### The Informal Complaint Stage

You must contact an EEO Counselor within 45 calendar days of the date of the incident that gave rise to your complaint or, if it is a personnel action, within 45 calendar days of its effective date.

The EEO Counselor has 30 calendar days from the time you report your issue to attempt an informal resolution of the matter. The 30-day period for EEO counseling may extend up to an additional 60 days if you agree in writing to such an extension.

Instead of EEO Counseling, you may elect Alternative Dispute Resolution (ADR). If you elect to participate in the ADR Program, the pre-complaint processing period will be 90 days.

If, at the end of this time (including any extension), the matter is not resolved, you will be advised, in writing, of your right to file a formal complaint as specified in the "The Formal Complaint Stage" section.

You have a right to be represented at any stage of the process in presenting your complaint, including the counseling stage. As a general rule, you may select any person to represent you, including an attorney. You and your representative, if an employee of FRTIB, are entitled to a reasonable amount of official time in preparing and presenting your complaint.

The EEO Counselor will:

- Explain the process to you and advise you in writing of your rights and responsibilities.
- Listen and help you identify your claims.
- Inform you about Alternative Dispute Resolution.
- Conduct a limited inquiry into your claims.

### The Informal Complaint Stage

- Discuss your concerns with an appropriate official who has authority to resolve your claims.
- Attempt to resolve your concerns informally.

The EEO Counselor will report regularly to the EEO Manager about their activities. They will also discuss your claims with appropriate officials, but they will use your name only with your permission. You have a right to remain anonymous during the counseling period.

### Alternative Dispute Resolution

Alternative Dispute Resolution Program (ADR) is a viable alternative to the formal discrimination complaint process which can be complex, lengthy, time consuming, and expensive. The EEO Counselor will offer you ADR at the beginning of the EEO counseling period **if your claim meets established criteria**. You may elect to proceed in the ADR program or to remain in the EEO Counseling Program.

If you elect to enter the ADR Program, a trained mediator from will be assigned to mediate your claim. The mediator is a neutral, objective, and impartial problem solver who will be able to assist you and management in joint problem solving. If your claim is resolved during the ADR process, the resolution will be put in writing to be signed by you and the appropriate management official.

If your claim is not resolved during counseling or ADR, the EEO Counselor will issue you the Notice of Right to File a Discrimination Complaint. Discussions held during the ADR process will not be recorded in the complaint file.

### The Formal Complaint Stage

If the attempts to informally resolve your complaint have been unsuccessful, you will be notified by the EEO Counselor, in writing, of your right to file a formal complaint. If you decide to file a formal complaint, you or your representative have **15 calendar days** from the date of receipt of this notice to submit your formal complaint in writing. It is important to know that if you do not file your formal complaint within the 15-day time limit, the agency may dismiss your complaint.

It is not the duty of the EEO Counselor to file your complaint for you. However, he or she can answer your questions concerning the filing of your complaint. If you wish, your representative may file your complaint for you. Your written complaint must be specific and must be limited to the matters discussed with the EEO Counselor. The formal complaint should be filed, by you or

### The Formal Complaint Stage

your representative, using the FRTIB Individual Formal Complaint of Discrimination form, with the FRTIB EEO Manager. The formal complaint form may be obtained from the EEO Counselor or the EEO Manager.

Your complaint will be reviewed and claims identified. You will then be notified of the claims to be investigated. If some of your claims are accepted for processing but one or more of the claims are dismissed, only the accepted claims will be investigated. Your complaint file will be documented with the reasons why some claims have not been accepted. If your complaint is partially dismissed, you must wait for the agency to issue a final action on accepted claims prior to appealing the dismissed claims. However, if none of your claims are accepted, you will be given appeal rights to the EEOC immediately.

Once your formal complaint is accepted, it will be investigated by an impartial investigator as defined by EEOC regulations at 29 CFR 1614.108 and implementing guidance in EEOC Management Directive (MD) 110, Chapter 6.

### The Investigation

A thorough investigation will be conducted. The investigation will encompass all the information relevant to the accepted claims and may, when appropriate, include comparative data on other individuals who were similarly situated. The investigations may be conducted by verbatim statements, interrogatories, position papers, or by other fact finding methods. During the investigation, you will have an opportunity to present all the facts which you believe show unlawful discrimination.

The Agency has 180 calendar days from the date you filed your complaint to notify you that the investigation has been completed. After the investigation is completed, a Report of Investigation (ROI) and a summary of the ROI will be sent to you. By written agreement between you and the FRTIB, the time period may be extended an additional 90 days. Your complaint may also be amended with like or related claims raised before the completion of the investigation.

If your complaint is amended, the time period will be extended by 180 days from the date of the amendment. Once the ROI is issued to you, you will have 30 days from the date of your receipt of the ROI to exercise your right to either (1) request a hearing before an EEOC Administrative