

# Complaint Investigations

The Office of Civil Rights (OCR) manages the Department of Commerce's Equal Employment Opportunity (EEO) and Sexual Orientation Discrimination complaint processes. This fact sheet includes basic information about complaint investigations.

## Q. Who conducts complaint investigations?

**A.** OCR assigns Investigators to collect information on all EEO and Sexual Orientation Discrimination complaints that are accepted for processing.

## Q. What is the role of the investigator?

**A.** Investigators develop evidence related to the complaint by interviewing complainants, management officials, and other witnesses and collecting documents. They do not determine whether a law has been violated, or give advice to the complainant or other witnesses.

## Q. What happens during the investigation ?

**A.** During each interview, investigators should:

- introduce themselves;
- show a letter of authority and explain the purpose of the interview;

- answer questions about the rights and obligations of witnesses;
- state the desire of the Department to process the complaint as promptly as possible;
- take testimony by asking questions; and
- collect documentary evidence and statistical data.

## Q. How is testimony taken during the investigation?

**A.** Testimony is usually summarized in signed statements, also called declarations. Other methods may be used, including:

- sending interrogatories, or questions to be answered in writing; and
- gathering evidence through a fact-finding conference, in which testimony is recorded by a court reporter.

Whatever method is used, witnesses swear to the truth of their testimony under penalty of perjury.

OCR determines the method of investigation.

## Q. What is the deadline for completing investigations?

**A.** OCR must complete its investigation within 180 calendar days after the date a complaint is filed.

In some cases, the deadline may be extended.

- **If the complainant and OCR agree that more time is needed**, it may be extended for up to 90 days.

- **If a complaint is amended**, i.e., the complainant adds new allegations that are accepted for processing, the deadline is adjusted so that the agency must complete its investigation within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing the original complaint.

- **When a complaint has been consolidated with an earlier filed complaint**, the agency must complete its investigations within the earlier of 180 days after the filing of the last complaint or 360 days after the filing of the original complaint.

**Q. Is Alternative Dispute Resolution (ADR) available in the formal EEO complaint process?**

**A.** Yes. It is available if the Departmental EEO ADR Manager has determined the conflict is suitable for ADR. Complainants are informed through a Notice of Investigation memorandum of the possibility of ADR. If the employee elects ADR and management agrees to participate, arrangements will be made for a mediator and the mediation session.

**Q. What if resolution is not reached through mediation?**

**A.** If resolution is not reached through mediation, the complaint will be returned to the stage in the complaint process where it originated for further processing.

**Q. Are Commerce employees required to participate in investigations?**

**A.** Yes. All Department employees are required to cooperate with EEO Investigators.

An employee may have do the following:

- meet with the Investigator and answer questions;
- sign a sworn statement summarizing answers provided during the interview;
- give the Investigator the names of other people with information about the complaint; and/or
- provide documentary evidence related to the complaint.

**Q. Does the investigator file a report of investigation?**

**A.** Yes. The Report of Investigation (ROI) includes the Investigator's summary of the evidence, procedural correspondence, documents and statistics collected by the Investigator and declarations.

The ROI is sent by certified mail to the complainant and the complainant's representative, if any, unless other arrangements have been made with OCR.

*Unauthorized disclosure by anyone of personal information containing in the ROI is prohibited.*

**Q. What happens after the investigation?**

**A.** In most EEO complaints, complainants may choose to:

- have the Equal Employment Opportunity Commission (EEOC) conduct a hearing; or
- request a final decision by the Department of Commerce without a hearing.

In a Sexual Orientation Discrimination Complaint, the Department will issue a final decision within 60 days after the ROI is issued.

With the ROI, complainants are also sent a letter that outlines their rights and the next steps in the complaint process.

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**Reasonable Accommodations:** Individuals who need an accommodation to participate in the EEO or Sexual Orientation Discrimination Complaint processes (e.g., sign language interpreter, print materials in accessible format) should inform the bureau EEO Office or OCR so appropriate arrangements can be made.

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