

Discrimination Complaint Processing Update

**From the Deputy Assistant Secretary
for Resolution Management
Office of Resolution Management**



August 2001

From the Deputy Assistant Secretary

“The Three Keys to Effective EEO Complaint Processing”

The most effective tool of Equal Employment Opportunity (EEO) Complaint Processing is an employer of choice of environment. Creating an environment where employees feel valued, are treated fairly, are respected, their input is valued and sought, and where they believe discrimination does not exist. This tool is **Prevention** (*An ounce of prevention is worth a pound of cure*). The next tool in degree of effectiveness is **Early Resolution** (*Mediation involving the complainant and Responding Management Official (RMO) is often the most effective method of resolution*). When preventive measures and early resolution efforts do not resolve the issues, then we must have **Expert and Timely Processing** of informal and formal complaints. ORM provides service in all of these areas.

ORM is committed to providing expert, thorough, fair and timely processing of complaints. We have a variety of tools (*mediation services, education and training activities, and root cause analysis and feedback*) to help you identify and address issues that may lead to discrimination complaints and to resolve complaints once they have been filed.

I encourage you to share your thoughts with me, the Chief Operating Officer (COO), (Malcolm Porter), ORM Field Managers, and other ORM staff who interact with you. This will help us fully understand your concerns, to address those concerns and do a better job of meeting the needs of those using the services of ORM. We are committed to being the **best** complaint resolution service through prevention, early resolution and expert timely processing of complaints. Your feedback is vital to our successful collaboration to assure VA is an **employer of choice**.

I encourage you to share this and future “updates” with all your managers (*the most senior through first line supervisors*) as these articles are intended to help managers and non-managers create complaint free environments through prevention, early resolution, and effective processing when complaints are filed.

/s/
James S. Jones

Cari M. Dominquez Takes Oath as EEOC Chair

Cari M. Dominquez was sworn in on August 6, 2001, as Chair of the U.S. Equal Employment Opportunity Commission (EEOC).

Ms. Dominquez succeeds Ida L. Castro, who served as EEOC Chair since October 1998. Ms. Castro's term as a member of the Commission expires on July 1, 2003.

"I am humbled and honored to have this opportunity to serve President Bush and the American people as Chair of the EEOC," Ms. Dominguez said at her swearing-in at EEOC headquarters. "EEOC has a unique and rich history. Its mission captures the promise of America and the mandate of our times: that no worker be left behind for reasons as wasteful and abhorrent as prejudice and discrimination."

She added: "I look forward to working closely with the President and his Cabinet, Congress, my fellow Commissioners and dedicated EEOC team members, the employer and employee communities, and all others who are committed to our mandate and wish to partner with us in the race to end discrimination in the work place once and for all."

EEOC to Utilize Computer Based Training to Improve Federal Sector EEOC Process

The U. S. Equal Employment Opportunity Commission (EEOC) announced on April 4 2001, a new computer-based training initiative for Federal agencies and stakeholders as part of its broader efforts to improve the federal sector complaint process. The training is being conducted using a state-of-the-art CD-ROM that provides comprehensive information and interactive instruction to federal employees, managers, and others involved in the Federal EEO process.

The CD-ROM, entitled, "***Sailing Through the Federal Sector EEO Process***", is being issued by EEOC to federal agencies and

stakeholders. The CD is fully accessible to people with disabilities. In addition to the training information, the CD includes additional reference material on the federal sector program, including sections of the Code of Federal Regulations governing the federal sector complaint process (29 CFR Part 1614), and the implementing guidance covering the federal sector regulations and EEO process (EEOC Management Directive 110). This innovative CD-ROM will allow all of those with a stake in the federal sector EEO process to receive valuable computer-based training wherever and whenever it is needed. This will help ensure that the EEO process is fair, effective, and efficient for federal workers and managers

alike. Computer-based training will move us closer to creating a model federal workplace.

For additional information, contact EEOC's Office of Federal Operations by E-mail at eeo.cbt@eeoc.gov.

[Highlights of New Regulations and Programs](#)

“The Mediation Zone” New VA Training Video on the Mediation Process

A new training video entitled **“The Mediation Zone”** is now available. It provides an overview of the mediation process and is a tool for Alternative Dispute Resolution awareness training. VA wants to increase employees and managers awareness of the value of mediation in settling workplace disputes. Copies of this training video have been sent to all VA facilities.

Mediation Training for Executives

The Office of Resolution Management (ORM) offers mediation training for VA Executives (SES or GS15) throughout the fiscal year. The Justice Center of Atlanta conducts this training. Dates and locations for upcoming training sessions in FY 2001 are:

9/11/01 to 9/13/01-Atlanta

Contact **Denise Bryant, ORM ADR Coordinator, at (202) 501-2904** for additional information.

ORM Root Cause Analysis

The Office of Resolution Management (ORM) has developed a root cause report designed to identify the possible root causes (reasons) for employees filing Equal Employment Opportunity (EEO) discrimination complaints. This report provides the Department of Veteran Affairs (VA) senior headquarter and field facility directors information about issues that surface in the EEO complaint process that appear to be of a non-discriminatory nature, with the exception of claims of Sexual Harassment. The claims of Sexual Harassment shown in this report appear to be discrimination, if the allegations prove to have merit. They are recorded in this report to inform VA employees of the type of behavior that can be construed as Sexual Harassment. This report is generated each quarter and is available on the World Wide Web at: <http://vaww.va.gov/orm>. ORM hopes managers and employees acquire an understanding of the types of behavior that exists within the Department that can lead to complaints being filed through the EEO process. Topics covered in the most recent issue include claims of harassment (non-sexual), sexual harassment, working conditions (hostile), and failure to promote. Race, sex, and reprisal are the bases for filing these claims. This report contains summary highlights of select EEO cases.

The EEO complaint summaries reported by ORM Field Offices resulted in the following findings:

2nd Quarter of Fiscal Year 2001 indicate that harassment (non-sexual) based on race; failure to promote based on race, and working conditions (hostile) based on reprisal are the most prevalent issues reported during this period. Although sexual harassment allegations continue to exist, there was a slight decrease in incidents reported during this quarter. This may be contributed to heightened awareness and training conducted throughout the Department.

3rd Quarter: Harassment (non-sexual) continues to be the most prevalent issue reported. However, reprisal is the leading basis, instead of race. The second most prevalent issue remains the same as the 2nd quarter; Failure to promote based on race. Sexual harassment allegations also continue to exist with a slight decrease in incidents reported during this quarter. This may also be attributed to heightened awareness due to policy enforcement and ongoing training in this area throughout the Department.

The primary root cause for filing EEO complaints appears to be a lack of effective communication between management and the employee, and in many instances, between co-workers. These problems demonstrate the need for many employees to develop better communication skills and respect for one another, as well as attempting to understand and value each other's differences. This may be accomplished through continuous training in the following areas:

- Managing a changing workforce
- Diversity and Sensitivity Awareness
- Sexual harassment prevention
- Effective communication skills
- Stress management
- Value clarification workshops
- Self-awareness/self-concepts

A positive finding appears to be an increased use of Alternative Dispute Resolution (ADR) at the earliest stage of the process. However, there is potential for more resolution EEO complaint related issues earlier in the process, if more employees use ADR to solve workplace disputes.

*Ernestine Richardson, EEO Specialist,
ORM Office of Policy and Compliance*

• **ORM Web Based Tracking System**

The Office of Resolution Management (ORM) has created a Web Based Tracking System (WBTS) which enables us to process complaints of employment discrimination more efficiently and expeditiously. The WBTS application operates over ORM's own wide area network.

The WBTS provides ORM with the tools to create a complete case history, supporting documentation and report results at the initial stages as well as during and at the completion of an EEO complaint. While providing functional necessities that allow ORM employees to do their jobs, this tracking system has integrated security functions that, with the proper authority, provides read

access to certain information in the system to designated individuals outside ORM.

Other enhancements include greater security and audit features that track who, what, and when changes are made outside of the normal updating and editing, the ability to track amendments and consolidation of cases, and triggers that notify ORM staff when certain due dates are nearing or have passed. ORM began using this system on August 13, 2001. It replaces the previously used tracking system.

ORM Office of Policy and Compliance

New Diversity Management/EEO Web Site

The Office of Diversity Management and Equal Employment Opportunity (DM&EEO) has launched a new Web site at www.va.gov/dmeeo. The site offers tools and resources that promote diversity; enhance the employment of women, minorities, and persons with disabilities; and help prevent EEO complaints. It hosts information on the Secretary's Annual EEO Awards, VA's Special Emphasis Programs, conferences, special observances, and many other resources for veterans, staff diversity partners, and the general public. The new Web site, which is Section 508 compliant (accessible to the disabled), reinforces the mission of DM&EEO to increase awareness and promote acceptance of diversity and EEO throughout the Department. For more information, contact the Webmaster at eeovaco@mail.va.gov.

Report Shows Increase in Diversity within SES during Past 10 Years

A new General Accounting Office (GAO) report shows that an increasing number of women and minorities have achieved Senior Executive Service (SES) status during the past decade. The proportion of women in the SES went from about 10 percent in 1990 to about 22 percent in 1999. The percentage of minority members in the SES grew from about 7 percent to about 13 percent during the decade. The report details for the 10-year period to what extent the composition of the career SES changed, what proportion of women and minorities were appointed, and how the representation of women and minority employees in the career SES compared with other labor forces. *(Reprinted with permission of FEDmanager Newsletter)*

Building and Maintaining a Diverse High Quality Workforce

"A Guide for Federal Agencies"

The Office of Personnel Management (OPM) offers an online guide to "**Building and Maintaining a Diverse, High-Quality Workforce**"

This guide provides a basis for diversity from a business, cultural, demographic, and legal standpoint. It provides a blueprint for building and maintaining a diverse workforce within Federal agencies and offices.

Go to www.opm.gov to obtain a copy of this guide.

Human Capital: The Role of the Ombudsman in Dispute Resolution

The General Accounting Office (GAO) has recently issued a report on the role of ombudsmen in resolving workplace issues.

The report entitled “**Human Capital: The Role of the Ombudsman in Dispute Resolution**” states in part that Federal agencies have created ombudsmen offices to expedite the resolution of employees’ complaints about workplace issues. An ombudsman provides an informal alternative to more formal administrative processes in the workplace, using various techniques and often working “outside the box” to deal with conflicts and other organizational disputes. GAO found that the number of ombudsman offices handling workplace issues in federal agencies is small but is expected to grow. These offices deal with a wide range of workplace issues, from helping employees get answers to questions about agency policies and cutting through “red tape” to more serious situations, such as allegations about employment discrimination.

For the full report go to www.gao.gov

Section 508, Final FAR Rule on Technology Accessibility Published



The Federal Acquisition Regulatory Council has published a final rule revising the Federal Acquisition Regulations (FAR) to implement the Access Board’s standards governing section 508 of the Rehabilitation Act. Section 508 requires that when federal departments or agencies develop, procure, maintain, or use Electronic and Information Technology (EIT), they must ensure that the EIT allows federal employees with disabilities to have access to and use of information and data that is comparable to the access to and use of information and data by other federal employees. The final rule became effective June 21, 2001, and will apply in most cases to contracts awarded on or after the effective date. For more information, go to <http://vaww.va.gov/accessible> or <http://www.section508.gov> (Reprinted with the permission of FEDmanger Newsletter)

**Executive Order 13160,
“Nondiscrimination on the Basis
of Race, Sex, Color, National
Origin, Disability, Religion, Age,
Sexual Orientation, and Status as
a Parent in Federally Conducted
Education Programs”**

Former President Clinton signed this executive order on June 23, 2000. It directs all Federal agencies that conduct education and training programs to commit themselves to providing educational environment that are free of discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent. VA policies to ensure compliance with this executive order are being developed. For more information go to www.usdoj.gov/crt/cor.

**Executive Order 13166,
“Nondiscrimination on the Basis
of Limited English Proficiency”**

On August 11, 2000, former President Clinton signed Executive Order 13166, “Nondiscrimination on the Basis of Limited English Proficiency.” The purpose of this executive order is to reduce or eliminate, to the maximum extent possible, limited English proficiency (LEP) as an artificial barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities. This executive order is part of Title VI of the Civil Rights Act of 1964. VA policies to ensure compliance with this executive order are being developed. For more

information go to www.usdoj.gov/crt/cor.

**EEOC Increases Availability of
On-Line Information for the
Federal Sector**

EEOC announced on January 25, 2001, that it has increased on-line access to key federal sector information by posting Federal sector appeals decisions and a comprehensive EEO Resource Directory on its Web site at <http://www.eeoc.gov>.

The EEO Resource Directory lists approximately 30 federal agencies that administer statutes requiring equal employment opportunity by private employers and non-federal public employers. For each agency the Resource Directory identifies the EEO law enforced, the industries or other entities regulated, and the office(s) within the agency responsible for compliance. Additionally, the Resource Directory provides recent EEOC memoranda of understanding and EEO coordinating regulations.

Special Studies on the Federal Civil Service

The Office of Personnel Management (OPM) has posted studies on human resource management issues and policies that have a critical effect on the Federal civil service. The topics covered include:

- **Supervisors in the Federal Government: A Wake-Up Call**
Assess the status of current efforts in Federal agencies to identify, select, develop, and evaluate first-level supervisors.
- **Achieving a Balance: Meeting Work and Family Obligations**
Describes work and family workplace arrangements available to Federal employees.
- **Opportunity Lost: Openness in the Employment Process**
Reports a statistically valid estimate of the extent to which federal agencies are complying with their obligations to provide public information on available Federal job vacancies in government wide compliance, discusses the common reasons cited by agencies for their actions, and includes recommendations to achieve full public notice.
- **Poor Performance in Government: A Quest for the True Story**
Reports a first time ever (statistically valid) estimate of the size of the “poor performer problem” in the Federal Government. In addition, the study provides first-hand accounts of supervisors who have actually taken official action against a poor performer. The study draws conclusions and makes recommendations that will help improve the Government’s approach to performance management

For more information on the OPM studies, click on www.opm.gov/studies

If you would like additional information concerning recent EEOC changes, adverse inference, discrimination law, rights and responsibilities, and ORM responsibilities and procedures, please access ORM’s website on the Intranet <http://vaww.va.gov/orm>, or the Internet <http://www.va.gov/orm>

