

is reached, the complainant is issued a **Notice of Right to File (NRF)** a formal complaint of discrimination.

Alternative Dispute Resolution (ADR)

ADR includes a variety of techniques and approaches to achieve a collaborative resolution. The primary ADR technique used by USDA is **mediation**. It is offered in both the Pre-Complaint and Formal Complaint stages of the EEO Complaint Process. The ADR process, or mediation, must be completed within 90 calendar days from the date of initial contact with the counselor. An ADR Specialist assigned to the complaints branch contacts all involved parties to schedule face-to-face mediations. If a resolution is reached, the parties complete a mutually agreed upon settlement agreement and the complainant withdraws the complaint. If no resolution results from mediation, the complainant is issued a NRF.

What is Mediation?

Mediation is a process of assisted negotiations aimed at resolving conflicts. It allows parties to control their own dispute resolution process. The mediator is a trained, neutral, third-party whose role is to primarily support and facilitate the problem-solving process. Mediators have no decision-making authority and are bound by confidentiality within legal statutes. The parties to mediation are usually the complainant, the responding management official and the resolving official. The responding management official is the person who has been identified as allegedly responsible for the discriminatory event(s). The resolving official is the person who has the authority to approve, on behalf of the agency, any resolution to which the parties mutually agree.

Mediation is beneficial for many reasons, but it is highly successful for these reasons:

- **Fast, inexpensive**
- **Informal, confidential**
- **Collaborative, future-focused**
- **Win-win, builds relationships**

Formal Process

A complainant has **15 calendar days** from the day he or she receives the NRF to file a complaint of discrimination with the USDA Office of Adjudication and Compliance (formerly the Office of Civil Rights (OCR)).

In accordance with (IAW) EEOC Management Directive 110 (MD-110) and 29 (Code of Federal Regulation) C.F.R. 1614.108, USDA is required to develop an impartial and appropriate factual record upon which to make findings on the claims raised in a formal EEO complaint. An **appropriate factual record** is one that allows a reasonable fact-finder to draw conclusions as to whether discrimination has occurred. This Report of Investigations (ROI) must be completed within **180 calendar days** of filing a formal complaint. Once the investigation has been completed the Complaints Branch will review the ROI. When the review of the ROI is completed and is found sufficient they distribute a letter to the complainant (and, if applicable, to the complainant's representative) which notifies him/her of the avenues of redress. A copy of the ROI is also included. The **avenues of redress** are below.

Redress Options

A. Administrative Hearing

The complainant has the right to request a hearing before an administrative judge after 180 calendar days from filing of a formal complaint of discrimination or after completion of the investigation.

B. Final Agency Decision (FAD)

The complainant has the right to request a Final Agency Decision (FAD) within 30 calendar days from receipt of ROI. USDA has 60 calendar days from the date of request to issue the complainant a FAD. If the complainant does not make a request by the 31st day, USDA will automatically initiate the FAD process based on the record.

C. Withdraw the Complaint

The third redress option is for the complainant to withdraw the complaint of discrimination.

For more information, contact the NRCS Civil Rights Division or visit online at: http://www.nrcs.usda.gov/about/civilrights/Complaints_Branch.html

NRCS Civil Rights Division

Mission Statement

Ensure compliance with Agency policies for equal employment and programs.

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USDA is an equal opportunity employer and provider.

Civil Rights Division

Title VI and Title VII and The Complaints Process

Equality for People and Programs



Equality for People and Programs

Title VI and Title VII

Titles VI and VII are part of the Civil Rights Act of 1964 and specifically deal with prohibited discrimination practices.

Title VI addresses Program Complaints. A *Program Complaint* is a civil rights complaint about the delivery of US Department of Agriculture (USDA) programs and/or services. The Program Complaint Process is managed and administered by the USDA Office of Civil Rights. All Program Complaints must be filed with the USDA Office of Civil Rights.

Title VII addresses laws prohibiting discrimination in federal employment on the basis of an individual's race, color, religion, sex, national origin, age, or disability. Details about the complaint procedure are explained in this document.



TITLE VI

Program Complaints

To file a USDA Program Discrimination Complaint, please write a letter to:

**U.S. Department of Agriculture,
Director, Office of Adjudication and Compliance**
(formerly the Office of Civil Rights)
**1400 Independence Avenue, SW,
Washington, D.C. 20250-9410**

The letter of complaint should include the following:

1. Name, address and phone number of complainant and authorized representative or attorney, if applicable.
3. The basis of the complaint.
4. The date(s) that the incident(s) of discrimination occurred.

5. The name of the individual(s) or entity believed to commit the discrimination and the agency that employs the individual(s).
6. The issue(s) of the complaint. The *issue* is a description of what happened, or the action that was taken by the individual(s) or agency that discriminated against the complainant, resulting in some harm.

You may also contact the Office of Adjudication and Compliance Customer Service Unit for further information at **(866) 632-9992 (toll free)**, **(202) 260-1026**, or **(202) 401-0216 (TDD)** or visit online at: www.ascr.usda.gov/complaint_filing_program.html

TITLE VII

Employment Complaints Process

The NRCS Civil Rights Division (CRD) Complaints Branch (CB) is responsible for administering the Agency's Equal Employment Opportunity (EEO) Complaints and Alternative Dispute Resolution (ADR) processes to ensure compliance with Federal statutes. These statutes prohibit discrimination in hiring, employment and program delivery for applicants, customers, and employees. The CB implements the Equal Employment Opportunity Commission's (EEOC) Federal sector applicable laws and policies in processing allegations of employment.

Federal sector EEO laws prohibit discrimination based on the following:

- **Race**
- **Color**
- **National origin**
- **Religion**
- **Sex (including sexual harassment)**
- **Age (40 and above)**
- **Disability (physical and mental)**

In addition to these prohibited bases, any person who feels that he/she has been mistreated by restraint, interference, coercion, retaliation, or discrimination because he or she: (1) filed a previous EEO complaint; (2) assisted or participated in any manner with an investigation, proceeding or hearing, or; (3) because of any opposition to an unlawful employment practice; may also file a complaint of **"reprisal."**

As a part of its commitment to provide a work environment free from discrimination, USDA also

adheres to internal policies which prohibit employment discrimination based on **sexual orientation, genetic information, political status, parental status and marital status.** Complaints filed on these bases cannot be appealed through EEOC. Redress is determined through a Final Agency Decision (FAD).

Pre-Complaint Process

A complainant has 45 calendar days from the alleged discriminatory event, or from when he/she becomes aware that a discriminatory event has occurred, to file an EEO Complaint of Discrimination in the **Pre-Complaint (Informal) Process.** The complainant makes an initial contact with an EEO Counselor assigned to the division branch. During that initial contact the counselor explains his or her role in the Pre-Complaint Process. The counselor is to facilitate resolution, provide information and guidance about the complaint process, explain appropriate timeframes, and advise complainants about their rights and responsibilities within the process. Additionally, the counselor will advise the complainant that her or she may elect to seek resolution through **traditional counseling** or the **Alternative Dispute Resolution (ADR) Process.** The complainant makes his or her election by completing and returning an election form to the counselor as soon as possible from the date of initial contact.

Traditional Counseling

In the Pre-Complaint stage, if the complainant elects traditional counseling, the counselor has 30 calendar days to complete a limited inquiry to attempt resolution. The counselor works with both management and the complainant. If a resolution is reached and the parties agree, then the complainant withdraws the complaint. If no resolution