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## EQUAL EMPLOYMENT OPPORTUNITY

### PURPOSE

To provide for procedures that promulgate equal employment opportunity in employment and prohibit discrimination in employment.

### STATEMENT OF POLICY

It is the policy of the government of Guam to provide Equal Employment Opportunity (EEO) in all matters of employment based on merits without regard to race, color, sex, religion, age, national origin, marital status, political affiliation and mental/physical disability.

### A. APPLICABILITY

The regulations in this Chapter shall apply to all classified employees and applicants for classified positions. Unclassified employees, excluding agency heads and their deputies, may use the EEO counseling process to resolve complaints of discrimination.

#### 1. *Unclassified coverage*

When the complaint of an unclassified employee cannot be resolved informally, counseling should be terminated and the employee with the permission of the agency head, may request an informal hearing before the CSC-EEO Review Board within 10 work days from the date counseling ended. Unclassified employees do not have a right to file a formal complaint.

#### 2. *Status of employee*

At any level of the EEO procedure, the employee shall not have his employment status changed. Administrative leave shall be granted to those employees who file their complaint formally or informally.

**B. DEFINITION**

A discrimination complaint is any allegation against an alleged discriminatory official for applying discriminatory practices in employment.

**C. COVERAGE**

Complaints based on discrimination are to be based on race, religion, color, sex, national origin, age, disability, marital status, or political affiliation.

**D. COUNSELING**

1. Complainant contacts EEO counselor within 20 days after becoming aware of the alleged discriminatory action, or 20 days after the effective date of a personnel action.
2. Complainant discusses issues of case with the Counselor who will try to resolve the complaint informally within 15 days. If the complaint involves an adverse action (suspension, dismissal, demotion), Complainant must be advised to follow the adverse action procedures. If it involves a complaint not based on race, religion, color, sex, national origin, age, disability, marital status, or political affiliation, Complainant must be advised of the appropriate complaint procedures.
3. If the complaint is resolved within the 15 days, counseling is terminated. The Counselor must submit counseling report to the Complainant, the agency EEO Coordinator/Officer and the Civil Service Commission.
4. If the Counselor cannot resolve the problem within 15 days after the first interview with the Complainant, the Counselor must notify in writing of the right to file a formal complaint of discrimination within five days from receipt of the notice.
5. If the Complainant does not elect to file a formal complaint within the five days, counseling may continue if the Counselor believes and Complainant agrees that informal resolution of the complaint is still possible.
  - a. If the complaint is resolved, counseling is terminated. The Counselor must submit counseling report to the Complainant, EEO Coordinator/Officer and the Civil Service Commission.
  - b. If the Counselor is reasonably certain that the complaint cannot be resolved to the satisfaction of the

Complainant, counseling is terminated and a final interview is held with the Complainant. The Counselor must notify the Complainant in writing of the right to file a formal complaint within five days following the receipt of this final notice.

6. The Complainant files the formal complaint with the Civil Service Commission with copies of the complaint given to the agency's EEO Coordinator/Officer.

## **E. INVESTIGATION**

1. The Civil Service Commission will advise the Agency Head and/or the EEO Coordinator/Officer in writing that a formal complaint has been filed by a Complainant no later than three days following the receipt of the formal complaint.
2. The Civil Service Commission will secure the assignment of an EEO Investigator upon receipt of the Counselor's report.
3. Upon assignment, the Investigator has five days to begin investigation. The Investigator has 15 days to prepare, conduct and submit its report to the Civil Service Commission. Extensions of the investigation period may be granted for reasonable cause.
4. The Civil Service Commission will provide copies of the Investigator's report to the Complainant and Agency Head within five days following receipt of the report. The Agency Head is responsible for providing copies of the report to all the Alleged Discriminatory Officials(ADO) within the agency. At the same time, the Commission will also advise the Complainant in writing, of the right to an EEO Review Committee Hearing.

## **F. EEO REVIEW COMMITTEE HEARING**

1. The Complainant has five days following the receipt of the "Notice of Right To An EEO Review Committee Hearing", to file a request with the Civil Service Commission for an EEO Review Committee Hearing. The request must include a suggested list of witnesses the Complainant may wish the Committee to call. The Complainant is also required to supply two, 60 minute cassette tapes.
2. Upon receipt of the Complainant's request, the Commission shall inform the Agency. The Agency has five days following notification to submit a suggested list of witnesses it may wish the Committee to call. It is also required to supply two, 60 minute cassette tapes.

3. The Civil Service Commission will organize an EEO Review Committee upon receipt of the Complainant's request for a Review Committee Hearing. There is no right to legal representation in this proceeding.
4. The EEO Review Committee will be composed of three members. The Complainant and the Agency Head (ADO) will each select a member of the Review Committee and the Civil Service Commission will select the third member. The members of the Review are not advocates for either Complainant or Management (ADO), and must maintain impartiality throughout the conduct of the hearing.
5. The EEO Review Committee has 25 days to prepare for and conduct the hearing, and to submit its findings and recommendations to the Civil Service Commission. The Civil Service Commission will provide copies to the Agency Head and the Complainant.
6. The EEO Review Committee shall give at least five days notice to both parties and witnesses of the hearing date, time and place.
7. The Agency Head has five days following the receipt of the Review Committee report to accept, or reject the Committee's recommendations, and to submit a decision to the Civil Service Commission.
8. The Civil Service Commission will provide the Complainant with the Agency's decision together with a "Notice of Right to A Hearing Before the Civil Service Commission-EEO Review Board."
9. If the Complainant is not satisfied with the decision of the Agency, he has the right to file a request for a hearing before the Civil Service Commission-EEO Review Board.

## **G. EEO REVIEW BOARD**

1. The Complainant has five days following the Receipt of Notice of Right to a Hearing Before the Civil Service Commission-EEO Review Board, to request a hearing. The Complainant may amend the basis (race, religion, color, sex, national origin, age, disability, marital status, or political affiliation) once as a matter of right at the time of filing. Any amendments thereafter will be at the discretion of the Board.
2. A hearing date will be set upon timely receipt of the Complainant's request.

3. The hearing is formal and involves a new determination of the issues. At this stage the Complainant has the right to be represented by an Attorney and should be prepared for a trial-type hearing.
4. The Civil Service Commission-EEO Review Board will issue a decision within 30 days after the conclusion of the hearing.

Note: "Days" in the discrimination complaint process refers to work days unless otherwise specified.