

## GSA ORDER

SUBJECT: Civil Rights and Equal Employment Opportunity (EEO)

1. Purpose. The purpose of this revision is to update the Civil Rights Handbook to include GSA's updated civil rights policy statements and orders and to outline the internal and external civil rights programs managed by the Office of Civil Rights (OCR).

2. Background. The handbook is reviewed and revised periodically by the Associate Administrator (AA) for OCR. It is updated to reflect changes to applicable civil rights and equal employment opportunity (EEO) policy statements, orders, laws, regulations, and executive orders. It is further updated to reflect adjustments made to the management or implementation of the civil rights and EEO programs for GSA.

3. Responsibility. The AA is responsible for the leadership and execution of all program areas of OCR, including the issuance of the GSA Civil Rights Handbook. See [GSA Delegations of Authority Manual 5450.39D ADM CHGE 1, Chapter 15 1\(a\)](#). All GSA employees are responsible for abiding by this policy and fully cooperating in any investigations of allegations of discrimination under the laws, regulations, executive orders, and policies discussed herein.

4. Scope and Applicability.

a. The provisions of this Manual related to EEO apply to all GSA employees, former employees, applicants for employment unless otherwise indicated and subject to the following exceptions:

b. The Office of the Inspector General.

The Office of Inspector General (OIG) has independent personnel authority. See GSA Order ADM P 5450.39D GSA Delegations of Authority Manual (Delegations Manual), Chapter 2, Part 1 ("the Inspector General has independent authority to formulate policies and make determinations concerning human capital issues within the [OIG]" and GSA determinations/delegations do not limit that authority). Similarly, GSA specifically recognizes that the Inspector General has

independent authority to formulate policies and make determinations concerning training, employee development, and career management; and

c. The Civilian Board of Contract Appeals.

This policy applies to personnel of the Civilian Board of Contract Appeals (CBCA) only to the extent that the CBCA determines it is consistent with the CBCA's independent authority under the Contract Disputes Act and it does not conflict with other CBCA policies or the CBCA mission.

d. External Civil Rights Programs.

The provisions of this Manual related to OCR's external civil rights programs apply to all participants of those programs, including organizations receiving federal financial assistance through GSA.

5. Cancellation. ADM 2300.1B, dated August 8, 2016, is canceled.

6. Summary of Changes. The title of the Civil Rights Handbook has been changed to the Civil Rights Manual and it has been changed to include:

- a. A reorganized and more comprehensive table of contents;
- b. A section consolidating all relevant laws, regulations, executive orders, and agency policies;
- c. A chapter on the GSA Language Access Plan;
- d. Removal of the Grievance Review Process;
- e. An updated Glossary;
- f. Hyperlinks to relevant laws, regulations, executive orders, and policies;
- g. Hyperlink to a Supplemental Guide; and
- h. Hyperlinks to the OCR InSite page and Library.

7. Policy. This Manual provides GSA employees with a comprehensive explanation of the civil rights programs managed by OCR and the associated rights and responsibilities of GSA employees, managers, supervisors, as well as GSA's donees, recipients, and subrecipients to: (1) promote and maintain a work environment free of unlawful discrimination; and (2) administer GSA's programs and services in a nondiscriminatory manner.

8. Signature.

/S/  
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 Associate Administrator  
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## **Chapter 1: Introduction**

### **1.1. The Office of Civil Rights**

The mission of OCR is to protect civil rights, champion equal opportunity, and foster a fair workplace. OCR's vision is to be a trusted advisor to everyone we serve and to advance equal opportunity for all.

OCR oversees GSA's nationwide civil rights programs, including developing and administering policies and procedures to ensure compliance with relevant federal laws, regulations, executive orders, and GSA policy statements.

### **1.2. Purpose and Description of the Manual.**

The purpose of this Manual is to provide GSA employees with information on: (a) the applicable civil rights laws, regulations, executive orders, and policies requiring the agency to promote a work environment free of discrimination and to deliver GSA programs and services in a nondiscriminatory manner; (b) the operation of, and services provided by, the internal and external civil rights and EEO programs in OCR; and (c) the rights and responsibilities of GSA's managers, supervisors, and employees to promote a work environment free of discrimination and to provide GSA's services in a nondiscriminatory manner.

### **1.3. Applicability, Scope and Contents.**

This Manual is updated periodically to provide current information, guidance, and resources concerning developments in civil rights laws, regulations, executive orders, and policies; the operation of OCR's internal and external civil rights programs; and the responsibilities of GSA's employees to external stakeholders accessing agency programs, services, and activities. This Manual contains updated civil rights policies and orders issued by GSA and explains the overall operation of the civil rights and EEO programs.

## Chapter 2: The Legal and Programmatic Authorities for OCR

### 2.1. Laws

This section provides an overview of the various laws, executive orders, regulations, and policies related to OCR's mission areas discussed in this manual. All of the laws cited below prohibit retaliation against individuals who exercise their rights under these laws.

#### 2.1.1. [Randolph-Sheppard Act \(Vending Facilities for Blind in Federal Buildings\)](#)

Enacted in 1936, this law allows priority to be given to licensed blind vendors to operate vending facilities on any federal property.

#### 2.1.2. [Sec. 606 of the Federal Property and Administrative Services Act of 1949](#)

Prohibits sex-based discrimination by a state participating in the State Agency for Surplus Property (SASP) Program or any entity that receives federal financial assistance through the Federal Property Act.

#### 2.1.3. [The Equal Pay Act of 1963 \(Equal Pay Act\)](#)

Prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort and responsibility under similar working conditions. The law applies equally to men and women.

#### 2.1.4. [Title VI of the Civil Rights Act of 1964 \(Title VI\)](#)

Prohibits discrimination in GSA's federally assisted programs based on race, color, or national origin, such as the Federal Surplus Personal Property Donation Program.

2.1.5. [Title VII of the Civil Rights Act of 1964 \(Title VII\), as amended, Title 42 United States Code \(USC\) Sec. 2000e, et seq.](#) Prohibits discrimination in employment based on race, color, national origin, religion, and sex (including pregnancy, sexual orientation, and gender identity).

#### 2.1.6. [The Age Discrimination in Employment Act of 1967 \(ADEA\), as amended](#)

Prohibits age discrimination in employment against employees age 40 and over.

#### 2.1.7. [Title IX of The Education Amendments Of 1972 \(Title IX\)](#)

Prohibits discrimination based on sex by entities that receive federal funding, including GSA's external programs.

2.1.8. [The Rehabilitation Act of 1973 \(The Rehabilitation Act\), as amended \(Sections \(Sec.\) 501, 504 and Sec. 508\)](#)

Prohibits discrimination against federal employees with disabilities and in federally conducted programs based on disability.

2.1.9. [Age Discrimination Act of 1975 \(Age Discrimination Act\)](#)

Prohibits discrimination based on age by entities that receive federal funding, including GSA's external programs.

2.1.10. [The Pregnancy Discrimination Act of 1978 \(PDA\)](#)

Prohibits discrimination on the basis of pregnancy. Title VII now includes pregnancy, childbirth, or related medical conditions under sex discrimination.

2.1.11. [Civil Service Reform Act of 1978 \(Civil Service Reform Act\)](#)

Creates a process for federal employees to file complaints based on marital status and political affiliation.

2.1.12. [Notification and Federal Employees Anti-Retaliation Act of 2002 \(No FEAR Act\)](#)

Requires federal agencies to provide annual notice to employees, former employees, and applicants for federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

2.1.13. [The Genetic Information Nondiscrimination Act of 2008 \(GINA\)](#)

Prohibits discrimination in employment based on genetic information or family health history.

2.1.14. [The Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020 \(Cummings Act\)](#)

Provides greater transparency in federal agencies related to findings of discrimination, including retaliation.

2.1.15. [Pregnant Workers Fairness Act \(PWFA - 2023\)](#)

Requires federal agencies to provide a reasonable accommodation to a qualified worker's known limitation related to pregnancy, childbirth, or related medical conditions, absent undue hardship.

2.1.16. [Providing Urgent Maternal Protections Act \(PUMP Act\)](#)

Requires federal agencies to provide a break time and a clean lactation room that is free from intrusion by co-workers and the public. A break time allows an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk.

## 2.2. Regulations

### 2.2.1. [Title 29 Code of Federal Regulations \(C.F.R.\)Part 1614](#)

This regulation, issued by the U.S. Equal Employment Opportunity Commission, (EEOC) governs the federal EEO process. The regulation works in tandem with the EEOC's Management Directive 110 to provide the foundation for the administration of the federal EEO process. See 2.3.1, below.

### 2.2.2. [Title 41 C.F.R. Subpart 101-6.2](#)

Implements GSA's policy prohibiting discrimination based on race, color, or national origin in its programs that receive federal financial assistance through GSA.

### 2.2.3. [Title 41 C.F.R. Subpart 101-8.3](#)

Implements GSA's policy prohibiting discrimination based on "handicap" (disability) in its programs or programs that receive federal financial assistance through GSA.

### 2.2.4. [Title 41 C.F.R. 101-8.7](#)

Implements GSA's policy prohibiting discrimination based on age in its programs or programs that receive federal financial assistance through GSA.

## 2.3. [EEOC](#) Management Directives

The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy and related conditions, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. The laws enforced by the EEOC apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

### 2.3.1. [EEOC Management Directive 110 \(MD-110\)](#)

Provides federal agencies with policies, procedures, and guidance relating to the processing of employment discrimination complaints governed by Title 29 C.F.R. Part 1614.

### 2.3.2. [EEOC Management Directive 715 \(MD-715\)](#)

Provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII and effective affirmative action programs under Section 501 of the Rehabilitation Act, and also sets forth general reporting requirements.

## 2.4. Executive Orders

### 2.4.1 [Executive Order 11478](#) *Equal Employment Opportunity in the Federal*

*Government*, signed on August 8, 1969, established equal opportunity in the federal Government for all individuals and prohibits discrimination in federal employment based on race, color, national origin, sex, religion, disability or age. It also requires executive departments and agencies to promote equal employment opportunity through a continuous affirmative program.

2.4.2. [Executive Order 13152](#), *Further Amendment to Executive Order 11478, Equal Employment Opportunity in Federal Government*, signed on May 2, 2000, prohibits discrimination in the federal workplace based on an individual's status as a parent.

2.4.3. [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 and Training Programs*, signed on June 23, 2000, prohibits discrimination based on race, color, national origin, religion, sex, disability, age, political affiliation, or parental status in federally conducted education and training programs available to the public.

2.4.4. [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*, signed on August 11, 2000, requires federal agencies and their recipients and subrecipients to provide language services to individuals who are limited English proficient (LEP) to ensure meaningful access to an agency and the programs of its recipients and subrecipients.

2.4.5. [Executive Order 13672](#), *Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government and Executive Order 11246, Equal Employment Opportunity*, signed on July 21, 2014, amended both EO13152, above, and E.O. 11462 expanded sex discrimination to include sexual orientation and gender identity.

2.4.6. [Executive Order 12898](#), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, signed on February 11, 1994, directs each federal agency to make environmental justice part of its mission and focus federal attention on the environmental and human health conditions of minority and low-income populations, with the goal of achieving environmental protection for all communities.

2.4.7. [Executive Order 13985](#), *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, signed on January 20, 2021, directs the federal Government to revise agency policies to account for racial inequities in their implementation.

2.4.8. [Executive Order 13988](#), *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, signed on January 25, 2021, directed federal agencies to review their policies and extend protections to sexual orientation and gender identity.

2.4.9. [Executive Order 14008](#), *Tackling Climate Change at Home and Abroad* E.O. 14008, signed on January 27, 2021, and established the White House Office of Domestic Climate Policy and the National Climate Task Force.

2.4.10. [Executive Order 14031](#), *Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders*, signed on June 3, 2021, established the White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders that is charged with coordinating a whole-of-government agenda to advance, equity, justice, and opportunity for Asian American, Native Hawaiian, and Pacific Islanders communities.

2.4.11. [Executive Order 14091](#), *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, issued on Feb. 16, 2023, to extend and strengthen equity-advancing requirements for federal agencies with the intent to deliver better outcomes for the American people.

2.4.12. [Executive Order 14096](#), *Revitalizing Our Nation's Commitment to Environmental Justice for All*, issued on April 26, 2023, advances environmental justice for all people.

2.5. [GSA Annual EEO Policy Statement](#) communicates the GSA Administrator's commitment to EEO and a workplace free of discriminatory harassment.

## 2.6. GSA's Civil Rights Orders

### 2.6.1. [GSA Policy Statement on EEO](#) (GSA EEO Order)

This Order defines and prescribes GSA's policy on EEO and supports GSA's commitment to provide a workplace free of discrimination, harassment, and retaliation in accordance with all federal civil rights laws, executive orders, regulations, policies, and guidance. GSA's goal is to prevent and address workplace discrimination, harassment, and retaliation in order to create and maintain a fair and equitable workplace where all GSA employees, former employees, and applicants for employment have equal employment opportunities.

The EEO Order also provides the process for filing an EEO complaint. The most efficient way to initiate an EEO complaint is by using eFile (available at: [efile](#)). An EEO complaint may also be initiated by contacting OCR by email ([eeo@gsa.gov](mailto:eeo@gsa.gov)) by phone (202-501-4571) or Speech-to-Speech Relay (800-898-0740). To file an EEO complaint by mail, contact OCR.

### 2.6.2. [GSA Policy Statement on Harassment, Including Sexual and Non-sexual ADM 2325.8A](#)

This Order defines and prescribes the GSA policy on harassment, including sexual harassment, non-sexual harassment, and sexual misconduct (Anti-Harassment Policy). This policy supports GSA's well-established commitment to providing a workplace free from harassment. This policy ensures that GSA is taking all reasonable steps to prevent

harassment from occurring and to address such conduct before it becomes unlawful (severe or pervasive).

At GSA, employees may file a harassment complaint through GSA's Anti-Harassment Program, administered by the Office of Human Resources Management (OHRM), as well as through the EEO process. See 2.8, below, for information on the Anti-Harassment Program. The two programs are distinct from each other. The Anti-Harassment Program is in place to promptly stop unwelcome conduct and to determine if there has been a violation of GSA's Order on Maintaining Discipline. Additionally, only employees may file an anti-harassment complaint through the Anti-Harassment program. On the other hand, the EEO process is designed to determine if there has been a violation of the EEO laws. The EEO process is open to applicants, employees, and former employees.

#### 2.6.3. [GSA Anti-Harassment Procedures in the Workplace](#) (Anti-Harassment Procedures).

This Policy is administered by GSA's OHRM and establishes procedures to ensure GSA maintains a workplace free from unlawful harassment. It defines harassing, hostile, or abusive conduct, outlines the rights and responsibilities of employees, requires periodic training on harassment and establishes a system of accountability for ensuring a workplace free from unlawful harassment. This order is a part of GSA's ongoing efforts to provide a model workplace for its employees.

#### 2.6.4. [GSA Policy on Nondiscrimination in Federal Financial Assistance Programs](#) [2320.1A ADM](#)

This directive defines and prescribes GSA's policy and procedures on nondiscrimination in federal financial assistance programs. It is the policy of GSA that individuals who participate in programs receiving federal financial assistance through GSA be treated equitably and without regard to race, color, national origin, sex, age, or disability in accordance with the applicable federal civil rights laws, regulations, policies, and guidance.

## Chapter 3: OCR's Programs

3.1. Purpose. This chapter describes OCR's programs and how they are administered. OCR is organized as follows: the Mission Delivery Office (MDO), the Adjudication & Compliance Team (A&C), and the Performance Management & Mission Support Office (PMMS). Within the Mission Delivery Office, there are two branches: the Complaint Processing Branch (CPB) and the External Programs Branch (EPB), and the Affirmative Employment Program (AEP). See [OCR's Organizational Chart With Names.pptx.pdf \(gsa.gov\)](#)

3.2. Mission Delivery Office. The MDO maintains oversight and programmatic responsibility for the Complaint Processing Branch, the Affirmative Employment Program, and the External Programs Branch.

3.3. Complaint Processing Branch. The CPB administers the informal and formal stages of EEO complaint processing from the initial intake to the completion of a formal complaint investigation in accordance with [Title VII](#); [Title 29 C.F.R. Part 1614](#); and [MD-110](#).

3.4. Affirmative Employment Program. The AEP oversees execution of programs and activities designed to achieve and maintain compliance with EEO laws, regulations, and EEOC guidance and proactively identify and eliminate discrimination, in accordance with [Title VII](#), the Rehabilitation Act, and [EEOC MD-715](#). The AEP also collaborates with the Office of Human Resources Management (OHRM) to develop and implement affirmative actions to recruit, hire, advance, and retain persons with disabilities (PWFd) and persons with targeted disabilities. Additionally, AEP partners with other relevant programs to identify and eliminate discriminatory barriers and collaborate on other mutual objectives, including Special Emphasis Programs (e.g., Federal Women's Program, Hispanic Employment Program, PWD Program); OHRM recruitment programs (e.g., Diversity and Inclusion Program, Selective Placement Program for PWD, Federal Equal Opportunity Recruitment Program, Disabled Veterans Affirmative Action Program); and the Diversity, Inclusion, Equity, and Accessibility (DEIA) Program.

3.5. External Programs Branch. The EPB is responsible for updating and implementing the GSA Language Access Plan, which guides the provision of language access services, including translation and interpretation services, to external stakeholders who are LEP. EPB collaborates across the agency to advance GSA's Environmental Justice initiatives. EPB is responsible for processing complaints alleging noncompliance with various federal anti-discrimination laws, regulations and executive orders. Additionally, EPB oversees compliance monitoring to ensure that GSA's conducted and assisted programs, services, and activities are administered in a nondiscriminatory manner, consistent with relevant laws, regulations, and executive orders.

3.6. Adjudication & Compliance. The A&C team prepares final actions, such as final agency decisions (FAD) and final orders (after an EEOC administrative judge has issued a decision), and decisions on allegations of breach of a settlement agreement, consistent with Title VII and MD 110. The A&C team is also responsible for ensuring agency compliance with settlement agreements and orders issued by OCR, the EEOC, and civil courts.

3.7. Performance Management & Mission Support Office. The PMMS office supports OCR's mission by promoting management best practices and efficient government operations through technological innovation and performance management. PMMS coordinates OCR training and webinar offerings for GSA employees and program offices on equal employment opportunity and external civil rights matters. The office supports the development and implementation of contracts, interagency agreements, budget, human resource management, and overall operational support for OCR.

## **Chapter 4: Roles and Responsibilities of GSA's Officials and Employees**

4.1. Purpose. This chapter outlines the responsibilities of GSA's Officials and Employees in promoting a model work environment that is free from unlawful discrimination, including harassment, and that promotes equal opportunity for all.

4.2. Background. GSA is required to maintain a civil rights program to promote equal opportunity and to identify, address, mitigate and/or eliminate discriminatory practices and policies in GSA's internal and external operations agency-wide.

4.3. Responsible Officials. The GSA officials responsible for the administration and implementation of the program include, but are not limited to:

a. Administrator. The Administrator is responsible for the establishment and maintenance of a continuing nationwide civil rights program to ensure nondiscrimination in GSA policies and practices in employment, personnel management, procurement, and other GSA programs and services.

b. Deputy Administrator (DA). The Deputy Administrator acts in the absence of the Administrator in all such programs and also carries out individual OCR responsibilities as directed by the Administrator.

c. Associate Administrator (AA), OCR. The AA is responsible for planning, developing, coordinating, and administering GSA's nationwide civil rights programs including developing agency-wide nondiscrimination policies, including anti-harassment, and procedures, administering the EEO complaint process in accordance with Title 29 C.F.R. Part 1614, providing technical advice and recommendations to the Administrator, regional and program offices, tracking, analyzing, and reporting nationwide EEO statistical data, and executing all other program areas of OCR.

d. Deputy Associate Administrator (DAA), OCR. The DAA acts in the absence of the AA in all program areas and also carries out OCR responsibilities as directed by the AA.

e. GSA Senior Leadership Officials. GSA's heads of staff offices (HSSO) and regional administrators are responsible for ensuring that all program operations are free from unlawful discrimination, including harassment.

f. GSA Managers and Supervisors. All managers and supervisors are responsible for ensuring that all GSA program operations are free of unlawful discrimination, including harassment. All managers and supervisors are required to cooperate with the EEO complaint process, and must provide timely and relevant responses as needed by EEO counselors, mediators, investigators, and other officials

to resolve the complaint at the lowest possible level when possible and to ensure compliance with regulatory requirements throughout the process.

g. GSA Employees. All employees are responsible for treating others in a nondiscriminatory manner, consistent with GSA's policy statements and orders regarding EEO and anti-harassment, including the responsibility of cooperating with the EEO process.

## Chapter 5: The EEO Complaint Processing Program, CPB

5.1. Purpose. This chapter provides a detailed explanation of the processing of complaints of discrimination in accordance with the EEOC's regulations, management directives, and enforcement guidance; the regulations of the [Merit Systems Protection Board](#) (MSPB), GSA's Annual EEO Policy Statement, EEO Order, Anti-Harassment Policy, the Anti-Harassment Procedures, and OCR's standard operating procedures.

5.2. Background. CPB administers the informal and formal stages of EEO complaint processing from the initial intake to the completion of a formal complaint investigation in accordance with [Title 29 C.F.R. Part 1614](#) and [Title 5 USC Sec. 1201.151](#). See also, [GSA EEO Order](#).

5.3. General Overview.

a. The provisions of this chapter apply to all GSA employees, former employees, and applicants for employment who believe they have been subjected to unlawful discrimination in connection with GSA's employment policies and/or practices, unless otherwise indicated.

b. Discrimination, including harassment, may be raised on the basis(es) of race, color, religion, sex (including pregnancy, sexual orientation, gender identity, and transgender status), national origin, age (40 and over), disability (mental or physical), genetic information, and retaliation (exercise of protected EEO activity).

c. Claims of discrimination based on marital status, parental status, and political affiliation may be pursued through the informal EEO process, discussed in Sec. 4 of this chapter. However, they will not be investigated through the formal EEO process. Instead, OCR staff will provide information on how to pursue those claims through the [U.S. Office of Special Counsel](#) (OSC), MSPB, negotiated grievance procedures, or GSA's administrative grievance procedures.

d. Aggrieved individuals alleging discrimination based on sexual orientation or gender identity have the option of filing a complaint with other federal agencies, but such complaints will be processed through GSA's EEO complaints process unless the complainant specifically requests a referral to another federal agency charged with investigating discrimination complaints. Employees or applicants who feel that they have been subjected to discriminatory treatment based on sexual orientation or gender identity may also pursue the claim with [OSC](#) and [MSPB](#).

e. Negotiated Grievance Procedures. When an employee is covered by a collective bargaining agreement that allows allegations of discrimination to be raised in

a negotiated grievance procedure, the employee may choose to file **either** an EEO complaint with OCR, **or** a grievance through the grievance procedure, **but not both**.

f. Whistleblower Complaints. In cases where an individual seeks protection from retaliation after disclosing allegations of wrongdoing, he or she should contact GSA's Office of Inspector General (OIG) [Hotline](#) or [OSC](#).

g. The timeframes referenced in this manual are expressed in calendar days.

h. All EEO complaint processing procedures are derived from the statutory requirements found at [Title 29 C.F.R. Part 1614](#); the [EEOC's MD-110](#); and [Title 5 United States Code \(U.S.C.\) Sec. 1201.151](#).

#### 5.4. Key Roles in Processing EEO Complaints.

a. OCR Mission Delivery Director. The Division Director for the Mission Delivery Office is responsible for programmatic oversight, direction, and implementation of GSA's EEO complaint process, under the leadership of the AA and as directed by the DAA.

b. CPB Chief. The Branch Chief is responsible for overseeing and ensuring that all day-to-day functions of the branch are executed in an efficient and timely manner.

c. EEO Specialists. EEO specialists are responsible for conducting the daily programmatic requirements necessary as directed by OCR's leadership. Each EEO specialist, regardless of branch assignment, will support the continuing function of OCR's program areas as necessary. Common tasks include EEO complaint management, including EEO counseling and other necessary tasks, conducting training, offering advice and guidance to other GSA offices in support of the agency's EEO and civil rights requirements, and participating in GSA's various agency-wide task forces and special projects as assigned.

d. EEO Counselors. EEO counselors are EEO specialists who, among other duties, meet with aggrieved individuals during the informal complaint process to advise them of their rights and responsibilities, conduct limited fact-finding, and facilitate resolution of the complaint. As EEO counselors are often the first contact that individuals have with OCR, this is a critical role in shaping OCR's image throughout GSA.

e. EEO Investigators. EEO investigators may be vendors or OCR personnel responsible for investigating claims of discrimination by obtaining sworn statements and relevant documents necessary to provide an impartial and complete report of investigation in accordance with the requirements of the EEOC MD-110.

5.5. The Informal EEO Complaint Process. The first step in addressing allegations of discrimination is the informal stage, also referred to as the pre-complaint or EEO counseling stage. The following provisions provide the procedures and timeframes for the processing of informal EEO complaints:

5.5.1 Filing An Informal Complaint. To file an informal EEO complaint, OCR can be reached by mail, email, telephone, or by electronically initiating a complaint through eFile.

- Email: [eeo@gsa.gov](mailto:eeo@gsa.gov)
- Phone: 202-501-4571 or FedRelay: 1-800-898-0740
- Efile: <https://insite.gsa.gov/efile> (current GSA employees with GSA equipment only)
- U.S. Mail: Contact OCR for the address.

a. An individual (aggrieved party [AP]) must first contact OCR, using one of the methods identified above, within 45 calendar days of the date the AP knew, or should have known of the alleged discriminatory act and/or within 45 calendar days from the effective date of a personnel action. This timeframe may be extended in certain circumstances.

b. During the informal EEO process, an AP has the right to remain anonymous. Additionally, the AP may elect to seek resolution through traditional EEO counseling (See 5.5.2, below) or through GSA's EEO alternative dispute resolution (ADR) process. The agency's preferred method of ADR is mediation and is offered throughout the complaint's informal and formal complaint process. In accordance with the EEO policy and MD-110, managers are required to participate in mediation when the complainant elects mediation, unless the AA determines that ADR would be inappropriate.

c. The AP may elect traditional EEO counseling, which is a 30-day period in which the EEO counselor conducts an informal inquiry into the allegation(s) in order to resolve the matter raised by the AP. The 30-day timeframe may be extended for an additional 60 days upon agreement between the AP and the agency.

d. If the AP elects to participate in ADR in lieu of traditional EEO counseling, the timeframe for the informal process will be extended by 60 days for a total of 90 days.

5.5.2. Requesting ADR. ADR may be requested at all stages of the administrative EEO process. During the informal stage, an AP has a right to representation during the ADR process. Management is also entitled to representation. If ADR is elected, then an EEO Specialist (serving as the ADR manager) will:

- Arrange for an independent mediator, the AP or complainant, and the management official (settlement official) to engage in mediation to resolve the complaint;
- Ensure all ADR documents are signed;
- Inform the parties that a mediator has been assigned;
- Ensure the mediation is scheduled and conducted before the end of the informal process;
- Send mediation notifications, which include the date and time of the mediation and the issues, bases, and remedies that will be discussed;
- Meet with settlement officials to discuss settlement options and mediation strategies;
- Confer with the Office of General Counsel (OGC) on the issues, bases, and remedies;
- Obtain fully executed settlement agreements (See d, below);
- Provide settlement agreements to A&C staff to monitor compliance;
- Explain prior to and/or during the mediation session, that settlement agreements entered into knowingly and voluntarily are both authorized and encouraged by the EEOC;
- Explain that settlement agreements are generally entered into without a finding of fault and do not constitute an admission of wrongdoing by GSA or its employees; and
- Explain that matters discussed in mediation are confidential.

In the case of a formal complaint, after the investigation has been completed and if a hearing is requested, the EEOC administrative judge (AJ) assigned to the case may order ADR prior to a scheduled hearing.

a. Settlement Agreements. If the parties agree to resolve the complaint, the parties (including OGC) will write the terms of the agreement in a settlement agreement. The written settlement agreement shall contain the terms and conditions of the resolution that is signed by the AP, the AP's representative (if applicable), and the appropriate management official(s) with authority to settle the case. Once a settlement agreement is fully executed, an informal or formal complaint is considered resolved.

After a settlement agreement is executed, the A&C team assumes responsibility for ensuring implementation of the terms and conditions agreed upon by monitoring the agency's compliance with the terms. The settlement agreement will contain a clause that permits the complainant to allege breach of the settlement agreement if the terms are not met within the agreed upon time frame. An individual alleging that the responsible agency officials have breached the settlement agreement, may contact the

AA using one of the methods listed above. The AA will issue a decision on the breach allegation within 60 days of receiving the allegation(s).

b. When Resolution Is Not Achieved during the Informal Process.

1. If the allegations are not resolved during the 30-day or 60-day extension period of the informal EEO process, the EEO counselor must issue the AP a Notice of Right to File a Formal EEO complaint (NORTF). The NORTF advises the AP of the right to file a formal EEO complaint in writing within 15 calendar days of receipt.
2. If the AP files a formal written complaint, the EEO counselor must provide a copy of the EEO counselor's report within 15 calendar days after the filing of a formal complaint. After a formal complaint is filed, the individual filing the complaint is referred to as a complainant.

5.6 The Formal Complaint Process. A complainant may file a formal complaint within 15 days of receiving the NORTF.

a. Filing a Formal Complaint. Formal EEO complaints may be filed by email [eeo@gsa.gov](mailto:eeo@gsa.gov); by phone (202-501-4571) or Speech-to-Speech Relay: 800-898-0740. To file an EEO complaint by mail, contact OCR.

b. Acknowledgement of the Formal Complaint. Upon receipt of a formal complaint, the assigned EEO Specialist will issue an acknowledgement letter to the complainant to indicate that OCR has received the complaint.

c. Acceptance and Dismissal of a Formal Complaint.

1. The EEO specialist will review the formal complaint and determine whether to accept, dismiss, or partially accept the complaint. OCR will notify the complainant in writing of the claim(s) that will be accepted for investigation or dismissed. If a complaint is dismissed in its entirety, the complainant will be notified in writing of the dismissal and advised of appeal rights.
2. If a formal EEO complaint is accepted for investigation, OCR will notify the complainant in writing of the claims that will be investigated. The complainant will have an opportunity to review the letter and confirm whether the issue(s) as written accurately reflect the complainant's understanding of the issue(s).
3. If some of the claims in the formal complaint are accepted and others are dismissed (partial acceptance), then OCR will notify the complainant in writing specifying which claims have been accepted for investigation and

which have been dismissed. An investigation will be conducted on the accepted claims. The dismissed claims will not be investigated. OCR will provide appeal rights for the claims that were dismissed.

4. Appeals of claims in a partial acceptance may not take place until after the investigation is completed and the complainant requests a hearing at the EEOC or until the agency issues a final agency decision (FAD) on the claims that were accepted for investigation.

d. Dismissed Claims. With a few exceptions, OCR is required to dismiss for the following reasons in accordance with Title 29 C.F.R. Sec. 1614.107:

1. Untimely EEO counseling contact;
2. Untimely filing of the formal complaint;
3. Failure to state a claim;
4. Mootness;
5. Complainant cannot be located;
6. Complainant fails to respond to a written request to provide relevant information or to proceed with the complaint;
7. Complainant has filed a negotiated grievance alleging discrimination;
8. Complainant files an appeal to the MSPB;
9. The complaint is the basis of a pending civil action in a United States district court provided that at least 180 days have passed since the filing of the administrative complaint, or that was the basis of a civil action decided by a United States district court in which the complainant was a party;
10. Complainant alleges dissatisfaction with the processing of a previously filed complaint;
11. Filing the same claim on a complaint that is pending before the EEOC or previously adjudicated;
12. There is a clear pattern of misuse of the EEO process for a purpose other than the prevention and elimination of employment discrimination; or
13. The complaint alleges that a proposal to take a personnel action, or other preliminary step to taking a personnel action, is discriminatory, unless the complaint alleges that the proposal or preliminary step is retaliatory.

e. Accepted Claims. If a complaint is accepted for investigation, the EEO Specialist will arrange for the complaint to be investigated, typically by an independent investigator. The investigator will obtain sworn statements and relevant documents from the complainant, managers, and other relevant witnesses.

f. Duration of the Investigation.

1. Non-mixed Case Complaint. The investigation of a non-mixed case complaint (one with issues that are not appealable to MSPB)<sup>1</sup> must be completed within 180 days of the filing of the formal complaint, unless the complaint is amended, consolidated, or there is a written agreement to extend the investigation period up to an additional 90 days.

When a complaint is amended to add a new issue or consolidated with another complaint, the investigation must be completed within 180 days of the date of the last amendment or consolidation, or 360 days after the filing of the original complaint, whichever is earlier.

At the completion of the investigation, the complainant has a right to request either a FAD based on information gathered for the report of investigation (ROI), or a hearing before an EEOC AJ within 30 days of receipt of the ROI. If no request for a hearing is received from the complainant within the 30-day time period, a FAD will be issued based on the ROI. The 60 day count begins from the last day of the 30-day period.

If a complainant has not received the ROI upon the expiration of the 180 days of filing of the formal complaint, the complainant has the right to request an EEOC hearing or file a lawsuit in a U.S. District Court.

2. Mixed Case Complaint. A mixed case complaint is a formal EEO complaint arising from an adverse personnel action that is appealable to the MSPB. A complainant may elect to proceed with a complaint through GSA's EEO complaint process or through the MSPB appeals process, but not both. Actions appealable to the MSPB may include any of the following: removal, suspension of more than 14 days, reductions in grade or pay, furloughs of 30 days or less, reconsideration of denials of within-grade salary increases, reduction-in-force actions, involuntary resignations, and involuntary retirements.

If a mixed complaint is accepted for investigation, the investigation must be completed within 180 days of the filing of the complaint, unless there is a written agreement to extend the investigation period up to an additional 90 days. However, the most significant difference in the processing of a mixed complaint and a non-mixed complaint is that in a mixed complaint, if OCR does not issue a FAD within 120 days from the date of the formal filing of a mixed complaint, the complainant may at any time thereafter appeal the matter to MSPB or file a lawsuit in a U.S. district court.

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<sup>1</sup> Most EEO complaints are non-mixed complaints.

At the completion of an investigation of a mixed case, OCR will issue to the complainant a copy of the ROI along with a notice advising that OCR will issue a FAD within 45 days with appeal rights to MSPB, not the EEOC. In a mixed case complaint, the complainant does not have an option to elect a hearing before an EEOC AJ.

For additional information about the formal EEO complaint process, follow this link: [Formal EEO Complaint Process](#). For additional information on mixed case complaints, follow this link: [Mixed Case EEO Complaints](#).

## 5.7. The Adjudication Process.

a. Hearing Before an EEOC AJ. If a complainant elects to have a hearing before an EEOC, the AJ takes over the case. OGC represents the agency, and OCR is no longer involved in the case. The AJ will create a schedule and can order parties to exchange documents through a process called discovery. The AJ will preside over the hearing during which the parties will call witnesses and introduce documents. After the hearing and upon review of the evidence, the AJ will issue a decision on whether discriminatory conduct occurred.

1. No Finding of Discrimination. If the AJ does not find that discriminatory conduct occurred, then the agency has 40 days to issue a Final Order stating whether it will adopt and fully implement the AJ's decision. If GSA adopts the decision finding that no discrimination occurred, the complainant has 30 days to appeal the agency's Final Order. See Appeals in Section 8, below.
2. Finding of Discrimination. If the AJ finds that discriminatory conduct occurred, then they can order the agency to take corrective action to compensate the complainant for discriminatory conduct. For example, as corrective action, the AJ can order reinstatement, promotion, implementation of a reasonable accommodation, restoration of leave, training, removal of adverse actions from a personnel file, payment of attorney fees and other remedies designed to compensate the complainant for the agency's discriminatory conduct. (See Corrective Action in Sec. 7 and Remedies in Sec. 12, below.)

The AJ will send the decision to OCR and OCR has 40 days to issue a Final Order, which is a document that states whether GSA agrees with the decision. If GSA does not agree with the AJ's decision, it means that the agency will appeal the decision. (See Appeals, below.)

b. FAD. The A&C Team is responsible for preparing final actions, such as FADs that are based on the ROI and issued on behalf of the agency. A FAD is prepared when: (1) a complainant elects to receive a FAD without a hearing; (2) a complainant fails to elect either a hearing or a FAD; (3) the complaint is a mixed case complaint requiring a FAD; or (4) the EEOC requests GSA to issue a FAD under certain circumstances. A FAD will determine whether or not discriminatory conduct occurred based upon the information in the ROI. Additionally, GSA may issue a FAD when an allegation of breach of a settlement agreement is alleged. (See Settlement Agreements in Sec. 3, below.)

1. If the agency issues a FAD finding that no discriminatory conduct has occurred, then the complainant may exercise appeal rights, which are included with the FAD.
2. If the agency issues a FAD finding that discriminatory conduct occurred, it may also order corrective action. See Corrective Action in Sec. 7 and Remedies in Sec. 12, below.

c. Notice of Final Actions. OCR must provide a copy of the FAD or the Final Order to the complainant, the complainant's representative (if applicable), and the agency's legal representative. In addition, a copy of the Final Order must be provided to the EEOC AJ who issued a decision.

Special Circumstances: Office of the Inspector General (OIG) and Senior Executive Service (SES). When a complaint is filed against the OIG, the Final Order or FAD shall be signed by the Deputy Administrator of GSA. However, when a complaint is filed by a member of the SES, the AA of OCR will sign the FAD and will notify the Deputy Administrator of GSA when the FAD is issued.

5.8. Corrective Action and Compliance. Corrective action may come in many forms, such as restoration of leave, reinstatement to a position, back pay, front pay, revocation of an adverse personnel action, implementation of a reasonable accommodation, or anything that corrects the conduct found to be discriminatory. (See also Remedies in Sec. 12, below.)

When corrective action is ordered, the AA will advise the head of the respective service or staff office or designee, in writing, to implement the specific corrective action(s) and will provide guidance to stakeholders on the timeframe for implementing such actions.

The A&C team will monitor the implementation of corrective action providing guidance to agency stakeholders as necessary.

5.9. Appeals. If a complainant is dissatisfied with a Final Order (accepting or rejecting an AJ's decision), or a FAD, the complainant has the right to appeal the Final Order or

FAD to the EEOC's Office of Federal Operations (OFO) within 30 days of receipt of the Final Order or FAD. The complainant is encouraged to use the [EEOC Public Portal](#) to file the appeal. The complainant can also use the EEOC Form 573, Notice of Appeal/Petition, that is attached to the final decision or Final Order to file the appeal. The statement or brief does not have to be included with the appeal petition. However, pursuant to Title 29 C.F.R. Sec.1614.403(d), any statement or brief on behalf of a complainant in support of the appeal must be submitted to OFO within 30 days of filing the notice of appeal. The complainant must provide a copy of the statement in support of the appeal to the EEOC and the AA. Note: If a complainant is dissatisfied with GSA's FAD on a mixed case complaint, any appeal must be made to the **MSPB, not the EEOC**. (See 3(f)(2), Mixed Case Complaints of this chapter, above.)

For additional information on non-mixed case appeals, visit: [EEOC Appeals](#). For additional information on mixed case appeals, visit: [MSPB Appeal Process](#).

5.10. Post Appellate Action. If the person making an appeal (appellant) is dissatisfied with the decision on appeal, the appellant may file a **request for reconsideration** of the decision with the EEOC. A request for reconsideration must be made no later than 30 days after receipt of EEOC's decision. The request must allege that the decision involved a clearly erroneous interpretation of material fact or law; or the decision will have a substantial impact on the policies, practices, or operations of the agency. The EEOC's decision on a request for reconsideration is final and there is no further right by either party to request reconsideration. For additional information on requests for reconsideration, follow this link: [Requests for Reconsideration](#).

5.11. Filing a Lawsuit in Federal Court on a Non-Mixed Case. The complainant has the right to file a lawsuit (civil action) in an appropriate U.S. District Court within the following timeframes:

a. Within 90 days of receipt of the final decision or final order on the complaint, if no appeal has been filed;

b. After 180 days of the date of filing the complaint with the agency, if a final decision has not been issued and an EEOC appeal has not been filed;

c. Within 90 days of receipt of the EEOC's final decision on an appeal; or

d. After 180 days from the date of the complainant's initial appeal to the EEOC if the EEOC has not issued a final decision.

e. Age Discrimination and Equal Pay Claims. GSA employees, former GSA employees, and applicants for employment who believe they have been discriminated against based on age in violation of the ADEA or in violation of the EPA may elect to file a lawsuit in federal court in lieu of pursuing a complaint through the administrative EEO complaint process with OCR. However, before an individual files a lawsuit under ADEA,

the individual must file a notice of intent to sue with the EEOC at least 30 days prior to filing the civil action. Filing a civil action under the EPA does not require a notice of intent to sue. For additional information on filing EEO lawsuits in federal courts, follow this link: [Filing a Lawsuit in Federal Court](#).

f. Effect of a Lawsuit on an EEO Complaint. If a complainant files a lawsuit, after filing an EEO complaint, GSA and/or EEOC will terminate the processing of the administrative complaint or appeal.

#### 5.12. Filing a Lawsuit in Federal Court on a Mixed Case Complaint.

The complainant has the right to file a lawsuit (civil action) in an appropriate U.S. District Court within the following timeframes:

a. Instead of appealing GSA's FAD to the EEOC, a complainant may file a civil action within 90 calendar days from the day the FAD was received.

b. If a complainant appeals GSA's FAD to the EEOC, the complainant may file a civil action within 90 calendar days from the date the EEOC's decision on the appeal is received.

c. If 180 calendar days have elapsed from the date the formal was filed and GSA has not issued a FAD, a complainant may file a civil action.

d. If the EEOC has not issued a decision on an appeal within 180 calendar days from the date of filing the appeal.

5.13. Remedies and Relief. The appropriate remedy in employment discrimination cases is make-whole relief, which is corrective action to compensate a complainant for conduct found to be discriminatory. Make-whole relief in discharge, failure to hire, and denial of promotion cases may include reinstatement, hiring, and promotion, respectively, and additionally an award of back pay and/or front pay. Other forms of make-whole relief vary, depending upon the allegation and may include, for example, expunging documents, EEO training for employees found to have engaged in discriminatory conduct, reassignment, and compensatory damages for out-of-pocket expenses and pain and suffering. Attorney's fees may also be awarded. All costs associated with findings of discrimination and judgments are paid from the operating expenses of the GSA organization against which the complaint was filed. For more information, see [EEOC's Guidance on Remedies](#).

5.14. Representatives. A complainant has the right to a representative at any point in the complaint process. This may be a relative, friend, co-worker, union representative, or an attorney. However, the following categories of individuals cannot serve as representatives, e.g., EEO counselors, EEO specialists, EEO managers, OGC attorneys, or any associate whose official or collateral duties conflict with the

representation. Upon a finding of discrimination, reimbursement of attorney's fees may be awarded. Representatives who are not attorneys are not eligible to receive attorney's fees. Additionally, the regulations permit GSA management officials to ask OCR to disqualify a representative if the representation conflicts with the duties of the representative. See [Title 29 C.F.R. Sec. 1614.605\(c\)](#).

A manager or supervisor may also hire a representative of their own choosing in their individual capacity. OGC attorneys always represent the interest of GSA.

5.15. Official Time. An employee involved in the EEO complaint process, such as an AP, complainant, representative, or witness, is entitled to a **reasonable** amount of time while on duty to prepare the complaint and to respond to OCR's and the EEOC's requests for information. However, official time must be requested and approved by the individual's supervisor before any meeting or appointment. See [Title 29 C.F.R. Sec. 1614.605\(b\)](#).

a. APs and complainants are entitled to a reasonable amount of official time to participate in all aspects of the EEO process. "Reasonable" is defined as whatever is appropriate, under the particular circumstances of the complaint, in order to allow a complete presentation of the relevant information associated with the complaint and to respond to agency requests for information. The actual number of hours to which a complainant, their representative or a witness is entitled will vary, depending on the nature and complexity of the complaint along with consideration of the agency's mission and need to have employees available to perform their normal duties on a regular basis.

b. Time spent in meetings and hearings with the agency, the EEOC or the MSPB regarding EEO complaints is automatically deemed reasonable.

c. Managers and supervisors who receive requests for official time related to EEO complaints, should consult with OCR (and/or with OGC as needed) before approving or denying requests from employees. Determinations will be made solely based on the time generally necessary based on the experience and knowledge of the OCR staff, but are subject to modification based on extenuating circumstances specific to each EEO complaint. Managers or supervisors with questions concerning official time should either contact the assigned EEO Specialist or send an email to [eeo@gsa.gov](mailto:eeo@gsa.gov) for additional information.

5.16. Conflict of Interest (COI) Complaints. With respect to EEO complaints, a conflict of interest occurs when an EEO complaint involves facts and/or allegations that are determined to pose an actual or perceived conflict between an individual's personal interest and GSA's duty to administer a fair and impartial complaint process and resolution of the complaint. Complaints filed by OCR staff against other OCR staff and management officials are considered COI complaints. Additionally, complaints filed

against high-ranking GSA officials, such as the Administrator and Deputy Administrator, are considered COI complaints.

When OCR determines that a complaint presents a COI, the conflict case manager will arrange for processing of the complaint, typically by another federal agency, if possible and shall serve as the point of contact for the external agency that is processing the complaint. If no outside agency is available to process the complaint, then an OCR EEO specialist may manage the matter using outside vendors to perform all EEO services. COI EEO complaints are subject to the same processes and procedural time limits as non-COI complaints.

5.17. Class Complaints. A class complaint is a complaint filed on behalf of a group of GSA employees, former employees, or applicants for employment alleging that the group has been or is being adversely affected by GSA personnel management policies and/or practices. The class must designate a class agent who may file a written discrimination complaint on their behalf. Once a class complaint is filed with OCR, OCR must forward the complaint and any supporting documents to the EEOC. The EEOC will determine if the class should be certified. The EEOC will consider if the class agent has demonstrated that:

- a. the class is so numerous that a consolidated complaint of the members of the class is impractical;
- b. there are questions of fact common to the class;
- c. the claims of the class agent are typical of the claims of the class; and
- d. the class agent, or if represented, the representative, will fairly and adequately protect the interests of the class.

If the EEOC determines that the class should not be certified, OCR must process each complaint individually. (See [Title 29 C.F.R. Sec 1614.204.](#))

If the EEOC certifies a complaint for class processing, all individual complaints that raise claims identical to the definition of the class claim(s) shall be subsumed within the class complaint. If the class claim proceeds to a hearing on the merits, the subsumed individual claim(s) may be presented during the liability stage by the class agent, or at the remedy stage by the individual complainant. If class-wide discrimination is not found, OCR will process each individual claim that was subsumed into the class complaint. See 29 C.F.R. §1614.204(l)(2). For additional information on class complaints, follow this link: [EEO Class Complaints](#).

5.18. Harassment. Harassment refers to unwelcome conduct, verbal or physical, that is so objectively offensive that it alters the terms or conditions of employment, or is

sufficiently severe or pervasive that it creates a hostile work environment. GSA does not tolerate harassment or retaliation because an individual reported harassment.

GSA has two harassment complaint processes and complainants may pursue both at the same time. GSA's Anti-Harassment program, administered by OHRM, is designed to take immediate action after an inquiry finding that harassment occurred. An inquiry under the GSA's Anti-Harassment Procedures determines whether there was a violation of GSA's [Order on Maintaining Discipline](#). A harassment complaint filed under the EEO process determines whether anti-discrimination laws were violated.

a. In order to file an EEO harassment complaint with OCR, an employee must contact OCR within 45 days of the most recent harassment incident. (See, The Informal EEO Process, Sec. 5.5, above, [GSA's Policy Statement on Harassment, Including Sexual and Nonsexual](#) and [GSA's Policy Statement on Equal Employment Opportunity](#).)

b. Additionally, in accordance with [GSA's Anti Harassment Procedures](#), employees who believe that they have been subject to, or have been a witness to harassment in violation of the anti-harassment procedures must report the matter promptly to:

1. the employee's first-line supervisor; another management official in the employee's supervisory chain; or
2. an [Anti-Harassment Coordinator](#); or
3. bargaining unit employees may also seek assistance from their union and initiate grievances pursuant to the governing collective bargaining agreement, as appropriate.

c. When a manager or supervisor is made aware of a harassment allegation or observes harassing conduct, the manager or supervisor must initiate an inquiry within 10 days of becoming aware of the conduct or alleged conduct, in accordance with the Anti-Harassment procedures. (See [GSA's Anti Harassment Procedures](#).) Under the procedures, an anti-harassment coordinator may also make or direct further inquiries into any report of harassment.

5.19. Reporting Requirements. GSA is required to capture data on EEO complaint activity and report the data in three major annual reports.

a. No FEAR Act requirements. The EEOC's regulations pursuant to the [No FEAR Act](#) require GSA to, among other things, submit an annual report to Congress, the EEOC, and the U.S. Attorney General on the number and severity of discrimination cases filed. The report must contain information pertaining to, for example, the number

of complaints filed against an agency identified by issue, basis, number of complainants, and disciplinary action(s) taken.

1. The EEOC regulations require GSA to post, and update quarterly, on its public website statistical data relating to individual, class, and mixed complaints of employment discrimination filed by GSA employees, former employees, and applicants for employment. (See [Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 | GSA](#).)
2. The annual report and posting must reflect data for each of the 5 immediately preceding fiscal years. If data are not available for all of the 5 fiscal years, the report and posting must include data for those fiscal years for which data is available. Data posted on the website must include data for the current fiscal year including both interim year-to-date and final year-end data.

b. [The Cummings Act](#) amended the No FEAR Act by requiring GSA to take additional steps to ensure a workplace free from unlawful discrimination, including retaliation. For example, when there has been a finding of discrimination, GSA must post a notice of the finding on its public website once all appeals have been exhausted. The notice must include the date of the finding, the law violated, and the dates of the discriminatory activity. Additionally, the information must remain posted for at least one year. See [Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 | GSA](#).

Another key feature of the Cummings Act is that, after all appeals have been taken, GSA must submit a disciplinary report to the EEOC including the date of the finding and stating whether disciplinary action has been proposed against an employee as a result of the finding of discrimination, the type of disciplinary action taken, and the reason the disciplinary action was taken. Additionally, if GSA takes disciplinary action against an employee for a prohibited act of discrimination, GSA must, after all appeals relating to the action have been exhausted, include a notation of the disciplinary action and the reason for disciplinary action in the employee's personnel record. The EEOC has the discretion to refer the matters in the disciplinary report to OSC if the EEOC determines that the agency did not take appropriate action.

c. Annual Federal Statistical Report of Discrimination Complaints. The EEOC requires that GSA collect data on discrimination complaints filed against the agency and report the information to the EEOC. This report is known as the 462 Report. It is posted annually and can be found here: [Office of Civil Rights Library | GSA](#).

d. Federal agency Annual EEO Program Status Report MD-715 report. The EEOC requires GSA to use the MD-715 and [Instructions to Federal Agencies for EEO](#)

[MD-715](#) to develop and submit a comprehensive annual report to the EEOC to document the status and progress made by GSA throughout the year towards establishing and maintaining an effective EEO program. For more information about MD-715, see chapter 6.

## Chapter 6: The Affirmative Employment Program

6.1. Purpose. This chapter outlines GSA's affirmative EEO responsibilities under [EEOC MD-715](#); [Title 29 C.F.R. Sec. 1614.102](#).

6.2. Background. In accordance with [Title 29 C.F.R. Sec. 1614.102](#), GSA must maintain a continuing affirmative program to promote equal opportunity and to proactively identify and eliminate discriminatory policies, procedures, practices, and conditions.

6.3. Overview. The AEP is responsible for ensuring the implementation of Management Directive MD-715 through collaboration with agency officials, data collection, an annual assessment, barrier analysis and elimination, and annual reporting.

6.4. Effective EEO Program. [EEOC MD-715](#) provides the EEOC's policy guidance and standards for establishing and maintaining an effective affirmative EEO program. Additionally, the EEOC issues comprehensive *Instructions to Federal Agencies for EEO MD-715 (Instructions)* detailing how to implement the policies set forth in MD-715. MD-715 assigns overall responsibility to GSA's Administrator to ensure demonstrated commitment and engagement from agency leadership, effective human resources data systems, coordination and collaboration between OHRM and OCR, and compliance with the requirements of MD-715. GSA's major responsibilities are addressed in the framework of the MD-715 Report.

6.5. Development and Submission of Annual Data.

a. The AEP is responsible for compiling employee and applicant data in accordance with the EEOC's *Instructions* and providing the compiled data to the EEOC.

b. In accordance with [Title 29 C.F.R. Sec. 1614.203\(d\)\(6\)](#) and [Title 29 C.F.R. Sec. 1614.601](#) OHRM is responsible for collecting and maintaining accurate information on the race, national origin, sex, and disability status of GSA's employees. In accordance with [MD-715](#), II(E), OHRM is responsible for maintaining a system that tracks applicant flow data, which identifies applicants by race, national origin, sex and disability status and the disposition of all applications, as well as a tracking system of recruitment activities to permit analyses and examination of potential barriers to equality of opportunity.

c. Annual and Recurring MD-715 Report Data:

1. OHRM is responsible for providing the AEP with specified recurring report data relating to employees, applicants, career development programs, requests for reasonable accommodations, allegations of harassment, grievances, exit surveys, recruitment activities, and hires made under Title

5 C.F.R. 213.3102(u) [appointment authority for persons with intellectual disabilities, severe physical disabilities, or psychiatric disabilities](#) (commonly referred to as Schedule A(u)).

2. OHRM is responsible for providing specified data on organizational climate surveys, GSA Competitive Development Programs, and training compliance to the AEP.

e. Information on Reported Plans and Activities: OHRM is responsible for providing the AEP, by their respective target dates, with all time-constrained OHRM deliverables reported in prior-year MD-715 reports (e.g., information related to plans to correct identified deficiencies, data on elimination of barriers; narrative status and progress updates on planned activities to recruit, hire, advance, or retain PWD).

6.6. Special Program Plan. Development, Implementation, and Submission of the Special Program Plan for the Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities.

a. The AEP is responsible for assessing the status of GSA's Special Program Plan for the Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities (Part J of the MD-715 report), including progress toward correcting identified deficiencies and eliminating identified barriers.

b. The AEP and OHRM are jointly responsible for collaborating to implement the Special Program Plan for PWD and PWTD, including development of associated outreach and recruiting initiatives.

c. OHRM is responsible for providing the AEP, no later than October 31 each year, with specified data and information relating to planned activities and steps taken to increase the number of persons with disabilities (PWD) and persons with targeted disabilities (PWTD)<sup>2</sup> employed at the agency, plans to ensure PWD and PWTD have sufficient opportunities for advancement, and plans to retain PWD and PWTD.

6.7. Assessment of Agency Compliance. The AEP must conduct an annual assessment of GSA's compliance with key EEO laws, regulations, and EEOC guidance.

6.8. Correction of Identified Deficiencies. If the AEP finds GSA to be non-compliant, the agency must develop, execute, and report on planned activities to systematically correct the identified deficiency. Responsibility for timely correcting each identified deficiency is assigned to a relevant GSA management official with oversight of the subject area. The

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<sup>2</sup> Targeted Disabilities are 12 specific disabilities identified on OPM's Standard Form (SF) 256 and tracked due to historical discrimination and employment-related issues, including developmental disabilities, traumatic brain injury, deafness, blindness, missing extremities, intellectual disabilities, seizure disorders, paralysis, psychiatric disorders, significant mobility impairments, dwarfism, and significant disfigurement.

AEP is responsible for collaborating with the responsible management official to help develop, track, and report progress on planned corrective actions.

#### 6.9. Barrier Investigation and Elimination.

a. The AEP is responsible for annually analyzing relevant data and information to identify “triggers” that may be indicators of barriers to employment opportunity (e.g., in recruitment, qualification, referral, interview, selection, hiring, promotion, discipline, awards and recognition, reasonable accommodation separation) based on disability or religion. For example, if females represent 50 percent of candidates for a career development opportunity, but only 5 percent of those selected, that disparity might be an indicator of an EEO barrier.

b. The AEP and OHRM are jointly responsible for collaborating to conduct ongoing barrier investigations to determine the root cause(s) of prioritized triggers, to determine if the root causes are EEO barriers, and if barriers are identified, to develop barrier elimination plans.

c. OHRM is responsible for supporting relevant ad hoc requests for data and information when needed to support the investigation of prioritized triggers.

d. When a barrier is identified, responsibility for timely eliminating each barrier is assigned to a relevant management official with oversight of the subject area. The AEP will collaborate with the responsible management official to help develop, track, and report progress on planned barrier elimination or mitigation actions, including follow-up assessments to assess the effectiveness of the plan.

#### 6.10. Development and Submission of the MD-715 Report.

a. The AEP and OHRM are jointly responsible for collaborating to prepare the annual MD-715 report (Annual Agency EEO Program Status Report) for approval by the GSA Administrator and submission to the EEOC by the annual deadline established by the EEOC. The MD-715 report includes the status of activities undertaken pursuant to EEO program obligations under Title VII, activities undertaken pursuant to affirmative action obligations under the Rehabilitation Act, planned activities to be implemented in the future to correct deficiencies, and plans to eliminate identified barriers.

b. Following approval and submission of the annual MD-715 Report, the AEP is responsible for developing a “State of the Agency” briefing for GSA leadership addressing the status and progress of the agency toward attaining and maintaining an effective EEO program and specifically including the status of the barrier analysis process.

## Chapter 7: The External Civil Rights Program

### PART 1. Federally Conducted Programs

7.1.1. Purpose. This Chapter outlines GSA's responsibility to implement and monitor compliance with federal civil rights laws, regulations, executive orders, policies, and guidance related to its conducted programs, services, and activities.

7.1.2. Background. federal laws and executive orders require that external stakeholders have equal opportunity to access and participate in GSA's programs, services, and activities free from unlawful discrimination.

7.1.3. General Overview. EPB is responsible for developing, implementing, and monitoring the agency's compliance with the civil rights laws, regulations, executive orders, and policies related to conducted programs, services, and activities. Further, EPB is responsible for responding to and investigating complaints alleging civil rights violations in the execution of GSA's programs, services, and activities.

7.1.4. Applicable Statutes. (See Chapter 2 for descriptions of the laws.)

- a. [Sec. 606](#);
- b. [Title VI](#);
- c. [Sec. 504 of the Rehabilitation Act](#); and
- d. [Sec. 508 of the Rehabilitation Act](#).

7.1.5. Applicable Executive Orders and Guidance. (See Chapter 2 for a description of each E.O.)

- a. [Executive Order 13166](#);
- b. [Executive Order 13160](#);
- c. [Executive Order 12898](#);
- d. [Executive Order 13985](#);
- e. [Executive Order 13988](#);
- f. [Executive Order 14008](#);
- g. [Executive Order 14031](#);
- h. [Executive Order 14091](#); and
- i. [Executive Order 14096](#).

7.1.6. The Complaint Process.

a. Sec. 504 Complaints. OCR is responsible for receiving and processing complaints arising under Sec. 504. Members of the public and employees of GSA's tenants may file complaints with OCR regarding disability access to a GSA-owned or GSA-leased real property. Such complaints must be filed within 180 days of the alleged act of discrimination and will be processed in accordance with GSA's implementing

regulation found at Title 41 C.F.R Sec. 105-8. The complaint should provide specific information regarding the date and location of the program area(s) at issue, along with the specific allegations pertaining to non-compliance with Sec. 504.

b. **Sec. 508 Complaints.** OCR is responsible for receiving and processing complaints arising under Sec. 508. Individuals with disabilities (job applicants, federal employees, and members of the public) may file a complaint with OCR requesting that existing electronic and information technology, such as a GSA-branded website or a document that does not conform to Sec. 508 accessibility standards, be reviewed and brought into compliance with the provisions of Sec. 508. Such complaints must be filed with OCR within 180 days of the alleged act of discrimination and will be processed in accordance with GSA's implementing regulations for Title VI. See Title 41 C.F.R. 105-8.170-4.

c. **Sec. 606.** Individuals may file a complaint of discrimination on the basis of sex with OCR within 180 days if they feel they have been subjected to unlawful discrimination in the conduct of GSA's activities related to public buildings, property, and works.

d. [Executive Order 13160](#). OCR is responsible for receiving and processing complaints arising under Executive Order 13160 (federally conducted education and training programs). Individuals may file a complaint with OCR within 180 days of the alleged act of discrimination. The complaint will be processed in accordance with the implementing regulations found at Title 41 C.F.R. 105-8.170-4.

e. Individuals wishing to file a complaint as outlined above, may contact OCR at [civilrights@gsa.gov](mailto:civilrights@gsa.gov), 202-501-0767 or via Speech-to-Speech Relay at 1-800-898-0740. If an individual wants to file a complaint via regular U.S. mail, they should contact OCR through the methods indicated above. If any GSA official other than OCR receives a complaint, the official must immediately forward the complaint to OCR.

## **PART 2. Federally Assisted Programs**

7.2.1. Purpose. This Chapter outlines GSA's policies and prohibitions against discrimination with regard to external organizations or stakeholders that receive financial assistance through GSA.

7.2.2. Background. Pursuant to various federal laws and executive orders, GSA is required to ensure nondiscrimination in the programs, services, and activities of organizations (donee or recipient) that receive financial assistance through GSA. GSA administers several federal financial assistance programs, including the federal Surplus Personal Property Donation Program. Recipients, sub-recipients, donees and beneficiaries who receive donations through this program are often state agencies, known as SASPs. Other GSA programs or services that provide federal financial assistance include the conveyance of excess real property (real property disposition) for public purposes and the Computers for Learning program. Additionally, under the Randolph-Sheppard Act, GSA provides space in federal buildings to blind vendors free of charge. Similarly, GSA provides space to childcare facilities that employ federal employees.

7.2.3. General Overview. EPB is responsible for developing, implementing, and monitoring the agency's compliance with civil rights laws, regulations, executive orders, and policies related to assisted programs, services, and activities. Further, EPB is responsible for responding to and investigating complaints alleging civil rights violations filed against GSA's assisted programs, services, and activities. (See [GSA Policy on Nondiscrimination in Federal Financial Assistance Programs 2320.1A ADM](#) in Chapter 2.)

7.2.4. Laws and Implementing Regulations. The following laws and regulations apply to GSA's federal financial assistance programs (See Chapter 2 for descriptions of the laws and regulations):

- a. [Randolph-Sheppard Act](#);
- b. [Sec. 606](#);
- c. [Title VI](#);
- d. [Age Discrimination Act](#);
- e. [Sec. 504](#); and
- f. [Title IX](#).

7.2.5. Compliance Reviews. EPB conducts periodic compliance reviews of SASPs. EPB first identifies the sampling of SASPs to be reviewed and notifies the SASP Director to request a list of donees receiving surplus personal property valued at \$100,000.00 or more during the prior 2 fiscal years. EPB follows the procedures outlined below to conduct the compliance reviews.

- a. Conduct census analysis using the most recent Census data available for each donee's service population. Share the findings with the SASP Director.

b. Contact the SASP Director to ascertain pending concerns with regard to program compliance at the SASP location. Conduct a pre-compliance review teleconference with the SASP Director and/or supporting staff to discuss the areas subject to the compliance review, including the Memorandum of Agreement, to ascertain the details about how the SASP operates, i.e., structural or virtual warehouse, age and size of warehouse, etc.; and to answer any questions the SASP Director may have about the compliance review.

c. Coordinate with GSA's Federal Acquisition Service if EPB is conducting a joint review of a particular SASP. In the event of an in-person compliance review, take or ship the accessibility toolkit (personal protective equipment, such as gloves and face masks, and measuring devices used for determining physical compliance) to the SASP Director to assist in conducting the review. Conduct the compliance review (in person or virtual) to include, as applicable: an entry overview; an assessment of the facility(s) to assess compliance, including taking measurements and documentation (photographs); a review of the documentation regarding the financial assistance received through GSA; civil rights compliance training; and a close-out meeting to provide feedback and recommendations regarding the SASP's compliance with the civil rights requirements.

d. If EPB conducts a virtual SASP review, staff will conduct an entry overview followed by a civil rights training presentation. Before the review, the SASP is required to conduct a self assessment of its facilities and provide photographs and measurements ensuring accessibility compliance. The SASP must also send documentation to OCR for review, including the amount of financial assistance received through GSA for the fiscal year under review. After EPB reviews the information, a close-out meeting is conducted, discussing the findings, highlighting positive undertakings, and discussing areas of concern, if applicable. As needed, technical assistance is provided to address any non-compliance issues.

e. EPB issues the post compliance review letter to the SASP Director.

7.2.6. SASP Training. EPB conducts civil rights training for SASPs via webinars, and provides copies of the training materials to encourage additional training for their donees and/or sub-recipients.

7.2.7. Complaint Procedures Related to Federal Financial Assistance Programs.

a. EPB has the responsibility to receive and process complaints of discrimination against recipients of federal financial assistance through GSA where discrimination on the basis of race, color, national origin, sex, age, or disability are alleged. Complaints must be filed within the permitted time frames, unless the time for filing is extended by the AA or designee. EPB does not have authority to investigate employment discrimination complaints against recipients or donees.

b. When EPB receives a complaint alleging discrimination against a recipient or donee, a determination will be made as to whether EPB has the jurisdiction to investigate the allegations. If EPB does not have jurisdiction to conduct an investigation,

EPB will refer the complaint to the appropriate agency and will provide written notice of the referral to the complainant.

c. If EPB has jurisdiction to process the complaint, the parties may seek to resolve the issue informally. If the issue is not resolved informally, EPB will complete an investigation by interviewing relevant witnesses, collecting relevant documentation, and/or conducting a site visit (in person or virtual), if necessary.

d. In EPB's investigations involving federally assisted programs, the identity of the complainant is kept confidential except to the extent necessary to ensure an effective investigation.

e. Within 180 days of receiving the complaint, EPB will issue a decision on whether there has been a violation of an applicable federal statute or regulation. If a violation is found, the recipient is provided a specific time period, usually 30 days, to correct the violation or to provide EPB with a corrective action plan. Corrective action may involve a change in policy or procedure, provision of a service, or a notice to clients and employees that a recipient has taken steps to comply with a federal statute or regulation. If a recipient is unwilling to take corrective action to come into compliance, EPB will recommend that enforcement proceedings be initiated. A final decision upholding a finding of a violation may result in the termination of federal financial assistance to the recipient.

7.2.8. Appeals. If a complainant is dissatisfied with EPB's decision, they may, within 30 days of receiving the decision, appeal the decision to the AA by emailing [civilrights@gsa.gov](mailto:civilrights@gsa.gov) or by calling (202) 501-4571 or Speech-to-Speech Relay at 800-898-0740. If a complainant seeks to appeal the decision via regular U.S. mail, they should contact OCR using one of the above methods.

#### 7.2.9. Complaint Timelines

a. [Title VI](#). Individuals may file a complaint of discrimination on the basis of race, color, or national origin (including on the basis of LEP) with OCR within **180** days if they feel they have been subjected to unlawful discrimination by an entity that receives federal financial assistance through one of GSA's federal financial assistance programs.

b. [Age Discrimination Act](#). Individuals may file a complaint of discrimination on the basis of age with OCR within **80** days if they feel they have been subjected to unlawful discrimination by an entity that receives federal financial assistance through GSA.

c. [Sec. 504](#). Individuals may file a complaint of discrimination on the basis of disability with OCR within **180** days if they feel they have been subjected to unlawful discrimination by an entity that receives federal financial assistance through one of GSA's federal financial assistance programs.

d. [Title IX](#). Individuals may file a complaint of discrimination on the basis of sex with OCR within 180 days if they feel they have been subjected to unlawful discrimination by an entity that receives federal financial assistance through one of GSA's federal financial assistance programs.

e. [Sec. 606](#). Individuals may file a complaint of discrimination on the basis of sex with OCR within 180 days if they feel they have been subjected to unlawful discrimination by a SASP or any entity that receives federal financial assistance through the Federal Property Act.

## **PART 3. Environmental Justice**

7.3.1. Purpose. The chapter provides information on EPB's role in the agency's environmental justice efforts across its programs, services, and activities. EPB provides collaborative intra-agency leadership to meet the mission objectives, and technical assistance and public education on the importance of considering the environmental impact of GSA's operations on underserved communities.

7.3.2. Background. EJ is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

7.3.3. Overview. EPB is responsible for leading the intra-agency mission focused on EJ issues and coordinates the efforts to integrate EJ into all policies, programs and activities. EPB will chair the GSA's Environmental Justice Committee (EJC) and work with other SSOs' to coordinate EJ activities across GSA. As part of this role, EPB is a member and active participant of the GSA's Senior Sustainability Advisory Group and the Interagency Committee of EJ Officers, and will provide periodic status updates on the EJ activities across GSA.

7.3.4. EJ Executive Orders (See Chapter 2 for a description of EJ executive orders.)

- a. [Executive Order 12898](#), *"Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"*
- b. [Executive Order 14008](#), *Tackling Climate Change at Home and Abroad*
- c. [Executive Order 14096](#), *Revitalizing Our Nation's Commitment to Environmental Justice for All*

For more information about environmental justice, visit [GSA's EJ webpage](#).

## **PART 4. Language Access**

7.4.1. Purpose. This chapter provides GSA employees with information on (a) the applicable civil rights laws, regulations, executive orders and policies requiring the agency to provide meaningful access to its programs, services, or activities for external stakeholders who are LEP; (b) the responsibilities of GSA's managers, supervisors and employees to provide language access services to facilitate effective communication and meaningful access to GSA's conducted and assisted programs; and (c) technical assistance and guidance for GSA's employees on the types of language services that are available to them to facilitate their interactions with external stakeholder show are LEP.

7.4.2. Background. Title VI prohibits discrimination on the basis of race, color, and national origin. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. Language discrimination falls under a class of unlawful discrimination known as national origin discrimination. GSA is required to take reasonable steps to ensure meaningful access to GSA's programs, services, and activities by LEP individuals. EPB is charged with leading the Language Access Working Group (LAWG), which works to coordinate language access activities across GSA in coordination with internal and external stakeholders.

7.4.3. Overview. EPB is responsible for monitoring the agency's compliance with providing external LEP stakeholders with language access services to facilitate meaningful access to GSA's programs, services, buildings, and activities. This includes identifying and translating vital documents into the most frequently encountered languages, providing interpretive services where appropriate, and educating GSA employees about their responsibility to provide language services as needed.

7.4.4. Executive Orders Related to Language Access.

- a. [Executive Order 13166](#);
- b. [Executive Order 13985](#);
- c. [Executive Order 14031](#); and
- d. [Executive Order 14091](#).

7.4.5. [LAP](#). GSA's current LAP provides comprehensive guidance on providing access to external stakeholders who are LEP, including the provision of translation and interpretation services, discussed above.

7.4.6. Language Access Services. OCR facilitates the provision of translation (written) services and interpretation (oral) services for use by GSA employees and in-house

contractors when communicating with LEP individuals. These services, which are provided via contracted services, are reasonable steps to provide meaningful access to LEP individuals. For more information about language access services and GSA's LEP Guidance for Recipients, follow these links: [Office of Civil Rights Library](#) and [LEP Resources](#).

## **PART 5. Equity Programs**

7.5.1 Purpose. This chapter provides GSA employees with information on GSA's responsibilities under various executive orders enacted to further equity and environmental justice initiatives as well as the [GSA Equity Action Plan](#).

7.5.2 Background. Executive Orders 13985 and 14091 charge the federal Government with advancing equity for all, including communities that have long been underserved. By advancing equity, the federal Government's goal is to provide everyone with the opportunity to reach their full potential and that each agency must assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups. Such assessments will better equip agencies to develop policies and programs that deliver resources and benefits equitably to all.

7.5.3 Overview. The [GSA Equity Action Plan](#) outlines how the Agency will focus its mission and service delivery to promote equitable access to the GSA programs, services, and activities by all Americans, including underserved communities. Through its programs, OCR supports GSA's equity efforts in the conduct of the Agency's business and in the programs and activities of organizations that receive financial assistance through GSA.

### 7.5.4 OCR's Responsibilities Under the EO 13985:

- a) Create opportunities to engage with members of underserved communities that have been historically underrepresented in the federal Government and underserved by, or subject to discrimination in, federal policies and programs; and
- b) Evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations and civil rights Organizations.

### 7.5.5 OCR's Responsibilities Under EO 14091:

- a) Address discrimination and advance equity through compliance reviews and other activities to increase public awareness of civil rights principles, consistent with applicable law.
- b) Consult with other areas of GSA on decisions regarding the design, development, acquisition, and use of artificial intelligence and automated systems;
- c) Increase coordination, communication, and engagement with community-based organizations and civil rights organizations;

- d) Increase staffing capacity in coordination with the Office of Management and Budget;
- e) Improve accessibility for people with disabilities and improve language access services to ensure that all communities can engage with agencies' respective civil rights offices, including by fully implementing Executive Order 13166; and
- f) Prevent and remedy discrimination, including by protecting the public from algorithmic discrimination.

#### 7.5.6 OCR's Responsibilities Under the [GSA Equity Action Plan](#):

a) Equity in GSA Conducted Programs - OCR is responsible for maintaining and updating, as needed, GSA's Language Access Plan to provide meaningful access for individuals with LEP to GSA's programs and activities, in alignment with recent executive orders focusing on equity, environmental justice and climate. OCR is also responsible for collaborating with GSA's program staff to develop and implement GSA's 5-year Environmental Justice Strategy that advances environmental justice in alignment with the executive orders identified mentioned above.

Additionally, OCR is responsible for developing and launching employee training that addresses equity and environmental justice at GSA. The quarterly training will highlight the work that OCR related to the principles of equity and environmental justice. This training will be offered on a quarterly basis each fiscal year.

b) Environmental Justice - OCR's AA, as the EJ Officer, chairs GSA's Environmental Justice Committee (EJC). The EJC reviews and evaluates GSA's policies, procedures and practices in procurement, real property, personal property, services, supplies, and technology to ensure that civil rights and environmental justice principles consistent with the executive orders and GSA's Climate Change Risk Management Plan are included in the policies, procedures, and practices related to those areas. Recommendations for any changes will be made to the appropriate lead organizations.

c) Equity in GSA Federally Assisted Programs - OCR is responsible for conducting civil rights compliance reviews of the 56 SASPs, with a target of reviewing 14 SASPs each fiscal year. These reviews focus on verifying that methods of administration are in place to provide for the fair and equitable donation of federal surplus personal property to eligible underserved communities and eligible non-profit organizations. Methods reviewed include;

- Assessment of the SASPs' outreach programs and activities to underserved communities;

- A survey of the SASPs' facilities and programs to verify that they are accessible to individuals with disabilities; and
- A review of the SASPs' procedures to verify meaningful access for individuals with limited English proficiency.

d) OCR conducts civil rights compliance reviews of the largest recipients of federal surplus personal property to verify their programs and activities are similarly accessible to the public they serve. Each fiscal year, OCR annually develops and delivers civil rights training to the SASPs and recipients being reviewed. The training highlights the SASPs' statutory civil rights responsibilities and their alignment with a commitment to equity and environmental justice. Each fiscal year, OCR partners with five various SASPs to develop and launch a robust stakeholder engagement plan that promotes the benefits of the donation program to five underserved communities.

e) OCR is responsible for conducting compliance reviews for real property dispositions consistent with Title VI.

## Appendix A: References and Resources

### [OCR](#) on InSite

#### Relevant GSA Policies & Resources

- [GSA's Policy Statement on Equal Employment Opportunity](#)
- [GSA's Anti Harassment Procedures](#)
- [GSA's Policy Statement on Harassment, Including Sexual and Nonsexual](#)
- [GSA's Reasonable Accommodation Policy and Procedures](#)
- [Anti Harassment Coordinators](#)
- [Reasonable Accommodation Coordinators](#)
- [Alternative Dispute Resolution](#)
- [Flow Chart - GSA Federal EEO Discrimination Complaint Process](#)

#### Helpful Resources from the EEOC

- [Overview of the Federal Sector EEO Complaint Process](#)
- [EEOC Management Directive 110](#)
- [Title 29 Code of Federal Regulations \(C.F.R.\)Part 1614](#)
- [EEOC Enforcement Guidance on Reasonable Accommodation](#)
- [EEOC Summary of Harassment](#)
- [Harassment Frequently Asked Questions](#)
- [EEOC Enforcement Guidance: Vicarious Liability for Unlawful Harassment by Supervisors](#)
- [EEOC Enforcement Guidance on Retaliation and Related Issues](#)
- [EEOC Questions and Answers on Retaliation and Related Issues](#)
- [Information on the Pregnant Workers Fairness Act](#)

#### Federal Civil Rights Laws

- [Randolph-Sheppard Act](#)
- [Sec. 606](#)
- [The Equal Pay Act of 1963](#)
- [Title VI of the Civil Rights Act of 1964, as amended](#)
- [Title VII of the Civil Rights Act of 1964, as amended](#)
- [The Age Discrimination in Employment Act of 1967, as amended](#)
- [The Rehabilitation Act of 1973, as amended](#)
- [Sec. 504 of the Rehabilitation Act](#)
- [Sec. 508 of the Rehabilitation Act](#)
- [Age Discrimination Act of 1975](#)
- [The Pregnancy Discrimination Act of 1978](#)
- [Civil Service Reform Act of 1978](#) (marital status and political affiliation);

- [No FEAR Act of 2002](#)
- [The Genetic Information Nondiscrimination Act of 2008](#)
- [Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020](#)
- [Pregnant Worker's Fairness Act](#)
- [Providing Urgent Maternal Protections for Nursing Mothers Act](#) (PUMP Act)

### **Executive Orders**

- [Executive Order 11478](#) (EEO in the Federal Government);
- [Executive Order 12898](#), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*
- [Executive Order 13152](#), *Further Amendment to Executive Order 11478, Equal Employment Opportunity in Federal Government* (parental status);
- [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 and Training Programs*
- [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*
- [Executive Order 13672](#), *Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government and Executive Order 11246, Equal Employment Opportunity* (sexual orientation and gender identity);
- [Executive Order 13985](#), *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*
- [Executive Order 13988](#), *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*
- [Executive Order 14008](#), *Tackling Climate Change at Home and Abroad*
- [Executive Order 14031](#), *Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders*
- [Executive Order 14091](#), *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, issued on Feb. 16, 2023

### **Federal Regulations**

- [Title 29 Code of Federal Regulations Part 1614](#)
- [Title 41 C.F.R. Subpart 101-6.2](#)
- [Title 41 C.F.R. 101-8.7](#)
- [Title 41 C.F.R. Subpart 101-8.3.](#)

## OCR's Training Offerings

- **Basic EEO for Managers and Supervisors** - [OLU Link](#)
  - This course is a component of the managers' and supervisors' 3-year rotational training program. It is designed to provide managers and supervisors with a basic understanding of equal employment opportunity (EEO) laws and regulations. Duration: 1 hour
- **Identifying and Interrupting Unconscious Bias** - [OLU Link](#)
  - Whether we know it or not, we all possess unconscious biases affecting us inside and outside the workplace. Unconscious biases are learned stereotypes that are automatic, unintentional, deeply ingrained, universal and influence our behavior and decisions. Unconscious Bias Training uses research to help participants recognize unconscious biases. It also teaches tools for adjusting automatic patterns of thinking and mitigating the impact of biases. Duration: 2 hours
- **A Glimpse of Civil Rights** - [OLU Link](#)
  - During this training, participants will gain a basic understanding of what EEO is and how the federal EEO complaint process works. The training also highlights other civil rights programs and training opportunities. Duration: 1.5 hours
- **A Lesson in EEO for Supervisors** - [OLU Link](#)
  - This training provides an overview of what EEO is, why the Alternative Dispute Resolution (ADR) program is beneficial, what the roles, functions and expectations are for managers and supervisors, and discusses different scenarios of workplace behavior.
  - This training course does not replace the mandatory Basic EEO for Managers and Supervisors. Duration: 1.5 hours
- **Settlement Official Training** - [OLU Link](#)
  - When an EEO complainant indicates they would like to participate in the ADR process, a settlement official is required to participate in the process on behalf of management. This training is designed for individuals who are or might be designated as a settlement official. Participants will gain an understanding of what their role is, the benefits of a productive mediation, and a discussion regarding real life scenarios. Duration: 1.5 hours
- **Fundamentals of Environmental Justice** - [OLU Link](#)
  - This course provides an introduction to Environmental Justice (EJ) by defining what EJ is, the history of EJ, and how GSA has adopted the principles and best practices of EJ into the agency's core work. This course highlights GSA's efforts in advancing EJ in agency operations and mission-critical work. Duration: 1 hour

- **Fair Employment Rights and Responsibilities** - [OLU Link](#)
  - Fair Employment Rights and Responsibilities (FERR) helps supervisors at every stage of their careers develop skills proven to positively impact the workplace, further the GSA mission, and improve business outcomes. This highly interactive virtual discussion simulates some of the most important conversations supervisors have with their employees. The topics discussed include: welcoming employee concerns, a manager's duty to act, addressing inappropriate behavior, and modeling the behaviors that ensure an inclusive work environment. Duration: 3 hours
  
- **No FEAR Act** - [OLU Link](#)
  - This course explains employees' rights and responsibilities concerning equal employment opportunity (EEO) laws and regulations, EEO processes, Anti-Harassment & Reasonable Accommodation, and the Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020. Duration: 45 minutes

## Appendix B: Glossary

**B 1.1. Administrative Process** – The complaint process prescribed by the EEOC for processing individual and class complaints of discrimination and retaliation.

**B 1.2. Allegation** – An assertion, declaration, or statement made in a complaint that sets out or identifies what the party expects to prove.

**B 1.3. Affirmative Employment** – Proactive steps taken by an employer to prevent and eliminate discrimination and/or to ensure equal employment opportunities for protected class members.

**B 1.4. Alternative Dispute Resolution** – Resolution of a dispute through negotiation, mediation, arbitration, or similar means rather than litigation.

**B 1.5. Barrier** - A policy, procedure, practice, or condition that limits, or tends to limit, employment opportunities for members of a particular group based on membership in a group protected by law, such as race, color, national origin, religion sex, age, disability status, genetic information, marital status, parental status, or political affiliation.

**B. 1.6. Basis** – The type of discrimination prohibited by statute or executive order, also referred to as protected classes, such as discrimination because of an individual's race, color, religion, sex (including pregnancy, sexual orientation, gender identity), national origin, age, disability, genetic information, retaliation, parental status, marital status, and political affiliation.

**B. 1.7. Class Complaint/Class Action** – A complaint articulated or filed by a group of people who feel that personnel or management policies or practices discriminate against them as a class. Members of the class believe that a characteristic they share -- race, color, religion, sex, national origin, age, and/or disability is the basis for the discrimination. When a class complaint goes to court, it becomes a class action. As with complaints by individuals.

**B.1.8. Discrimination** - Discrimination within the meaning of this manual is any action taken based on an individual's membership in one or more groups because of one or more of the bases described above under Basis, above (B.1.6).

**B. 1.9. Disparate Treatment** – Inconsistent application of rules and policies to an individual or one group of people over another based on one or more protected classes. For example, disciplining Hispanic and Black or African American employees for tardiness, while ignoring tardiness among other employees. Disparate treatment is the most common form of discriminatory conduct.

**B. 1.10. Equal Employment Opportunity (EEO)** – When employment decisions are based exclusively on merit and fitness; and a workplace is free from any consideration of race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age, disability, genetic information, and/or retaliation.

**B. 1.11. EEO Complaint** – A document filed with OCR that alleges conduct believed to be based on one's membership in a protected class. See Basis, above.

**B. 1.12. EEO Investigator** – A person officially designated and authorized to conduct inquiries into claims raised in EEO complaints. The authorization includes the authority to administer oaths, gather documents, and to require employees to furnish testimony under oath or affirmation without promise of confidentiality. The EEO Investigator does not make or recommend a finding of discrimination.

**B. 1.13. MD-715 Report** – The EEO Program Status Report that each federal agency submits to the EEOC annually to report the status and progress of its activities undertaken pursuant to its affirmative employment obligations.

**B.1.14. Mediation** – An ADR technique that involves a confidential discussion among two or more parties in conflict, with at least one disinterested individual who facilitates the discussion in an attempt to reach a resolution that is acceptable to all parties.

**B. 1.15. Mediator** – An individual who conducts, leads, or facilitates an ADR session. The neutral has no personal interest in the outcome of the conflict, and performs the neutral duties impartially and without bias.

**B. 1.16. Responsible Management Official** – An individual who is identified in a complaint as having engaged in discriminatory conduct or who is responsible for ensuring correction of an identified compliance deficiency or elimination or mitigation of an identified barrier.

**B. 1.17. Settlements Agreements** – When parties reach a solution, the terms are documented in a written agreement that is reviewed by appropriate individuals, including agency attorneys, and signed by all parties.

**B. 1.18. Settlement Official** - The participating management official who represents the agency during mediation and attempts to resolve the EEO complaint by being an active listener while offering creative solutions to resolve the complaint.

**B. 1.19. Terms, conditions, and privileges of employment** - Refers to a wide range of activities or practices that occur in the workplace, such as work environment, duration of work, work rules and policies, job assignments, duties, production standards, job advancement, hiring, selection, pay, benefits, and discipline. A prerequisite to an employment agreement that qualifies, restricts, or makes employment contingent upon some other occurrence that may or may

not be expressly mentioned; a stated, implied, or presumed stipulation that suspends, rescinds, modifies, or destroys an employment agreement.

### **B.1.20 Types of Employment Discrimination**

**B. 1.20.a. Age Discrimination** – Age discrimination under the ADEA is present if an individual who is 40 years of age or older is treated unfavorably in the terms and/or conditions of employment because he or she is 40 years of age or older. Additionally, the Age Discrimination Act of 1975 relates to age discrimination in federal programs and covers individuals of all ages.

**B. 1.20.b. Color Discrimination** – Discrimination based on color occurs when individuals are treated less favorably than others who are similarly situated because of the color of their skin. This is a separately identifiable basis of discrimination, which can also occur in conjunction with race discrimination and national origin discrimination.

**B. 1.20.c. National Origin** – National origin discrimination includes the denial of equal employment opportunity because of an individual's or his/her ancestor's country of origin or because an individual has the physical, cultural, or linguistic characteristics of a particular national origin group.

**B. 1.20.d. Race** – Racial discrimination is present when people are treated differently than others who are similarly situated because they are members of a specific race. Racial discrimination in employment can occur when employees are treated differently because of their relationship with individuals of other races.

**B. 1.20.e. Religious** – Religious discrimination occurs when an employment rule or policy conflicts with an individual's sincerely held religious beliefs, practice, or observance. The definition of "religion" is not restricted to the major religions and includes lesser known or unknown religions. Religious discrimination also protects individuals who do not embrace any religion.

### **B.1.21. Types of harassment and retaliation as forms of discrimination**

**B. 1.21.a. Harassment** – Unwelcome conduct, verbal or physical, based on an individual's membership in a group in any of the groups defined in Basis, above (B.1.6).

**B. 1.21.b. Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to such conduct is made either explicitly or implicitly a term condition of employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

**B. 1.21.c. Sexual Misconduct** - Sexual harassment or any conduct of a sexual nature by or between employees that interferes with the performance of their official duties or the official duties of other employees, including conduct that results in or gives the appearance of favoritism in employment decisions concerning one of the participants.

**B. 1.21.d. Retaliation** – Retaliation (or reprisal) occurs when an individual is subjected to adverse action because they have engaged in protected activities such as filing a complaint of discrimination, serving as a witness in a discrimination complaint, opposing or rejecting discriminatory conduct, or requesting a reasonable accommodation based on disability or religion. The adverse action need not be an employment action as long as it would dissuade a reasonable person from engaging in EEO activity.

**B. 1.21.e. Retaliation *Per Se*** - Occurs when an act, possibly unintentional, has a chilling effect on an individual's willingness to participate in the EEO process, such as talking someone out of filing a complaint, sharing information about an individual's complaint with someone who does not have a business need to know about the complaint, failing to protect the confidential medical information of an individual who has participated in the EEO process.

**B. 1.21.f. Retaliatory Harassment** - Unwelcome conduct, verbal or physical, based on an individual's participation in protected EEO activity, such as filing an EEO complaint, supporting another individual's EEO activity; opposing conduct made unlawful by the anti-discrimination laws of GSA's EEO policies; or requesting a reasonable accommodation.

**B. 1.22. Withdrawal** – A complainant's election to end the EEO complaint process during the pre complaint or formal complaint stage.