

## § 7.12

address of the Director of EEO, the EEO Officer(s), and the EEO Counselor(s), the EEO Discrimination Complaint Manager(s), the Diversity Program Manager, ADR Officials, and the EEO complaint procedures;

(d) Informing all managers and supervisors in the organizational unit of the responsibilities and objectives of the EEO Counselors, DCMs, ADR officials, EEO investigators, and of the EEO complaint process and the importance of cooperating and coordinating with all appropriate Department personnel to informally find solutions to problems brought to the EEO Officer's attention by current or former employees and applicants;

(e) Evaluating and documenting the performance by the managers and supervisors in the organizational unit in carrying out their responsibilities under this subpart;

(f) Seeking a resolution of EEO matters brought to their attention;

(g) Designating a senior-level manager in Headquarters responsible for providing advice and guidance to managers and supervisors in removing barriers to EEO/ADR and in implementing all of their EEO responsibilities; and reviewing recruitment and personnel actions taken by managers and supervisors to ensure the achievement of EEO standards;

(h) Designating the Administrative Officer (AO) or other Headquarters organizational unit official as the DCM to manage and direct the organization's EEO responsibilities. In making such designation, the EEO Officer shall ensure that the designation as the DCM does not otherwise conflict with the official duties of the employee so designated;

(i) Designating a senior level Diversity Program Manager in HUD Headquarters to manage and direct the organization's Diversity Program and providing resources for diversity activities for its employees;

(j) Ensuring the successful operation of the EEO/ADR Program by requiring management's support;

(k) Approving and making reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue

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hardship on the operations of Department; and

(1) Adhering to and implementing the Department's policy on religious accommodation.

[66 FR 20564, Apr. 23, 2001, as amended at 69 FR 62173, Oct. 22, 2004]

### § 7.12 Responsibilities of the EEO Counselors.

The EEO Counselor is responsible for counseling and attempting resolution of matters brought to the EEO Counselor's attention pursuant to §§ 7.25 and 7.30 and 29 CFR part 1614, by any current or former employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, national origin, age, disability or in reprisal for participating in EEO activity or opposing policies and practices that are illegal under the EEO statutes. These responsibilities include, but are not limited to:

(a) Advising individuals, in writing, of their rights and responsibilities, including:

(1) The right to request a hearing and decision from EEOC or an immediate final decision from the agency after an investigation;

(2) Election rights;

(3) The right to file a notice of intent to sue and a lawsuit under the ADEA instead of an administrative complaint of age discrimination; and

(4) The duty to mitigate damages;

(5) Relevant time frames.

(b) EEO Counselors shall advise aggrieved persons that only the claims raised in pre-complaint counseling (or issues or claims like or related to claims raised in pre-complaint counseling) may be alleged in a subsequent complaint filed with the Department.

(c) EEO Counselors shall advise aggrieved persons of their duty to keep the Department and EEOC informed of their current address and the name of the representative, if applicable, and to serve copies of hearing and appeal notices on the Department.

(d) EEO Counselors shall provide to the aggrieved person the notice of the right to file an individual or a class complaint. If the aggrieved person informs the EEO Counselor that the aggrieved person wishes to file a class

complaint, the EEO Counselor shall explain the class complaint procedures and the responsibilities of a class agent and provide class complaint counseling prior to the issuance of the notice of right to file a complaint.

(e) EEO Counselors shall advise aggrieved persons that, where the Department agrees to offer ADR in a particular case, they may choose between participation in the EEO ADR Program and the traditional EEO counseling process. The EEO Counselor shall conduct the final interview with the aggrieved person within 30 days of the date the aggrieved person initially contacted the Department's EEO office to request counseling, unless the aggrieved person agrees to a longer counseling period or if the aggrieved person elects the ADR program and agrees to extend the initial 30-day pre-complaint period for an additional period of no more than 60 days.

(f) If the matter has not been resolved before the conclusion of the agreed extension, the EEO Counselor shall issue the notice of right to file a discrimination complaint no later than the 90th day of the aggrieved person's initial contact with the EEO Office. The notice shall inform the aggrieved person of the right to file a discrimination complaint within 15 days of receipt of the notice; of the appropriate official with whom to file a complaint; and of the aggrieved person's duty to assure that the Department is informed immediately if the aggrieved person retains counsel or a representative and if the aggrieved person changes address.

(g) EEO Counselors shall prepare a report sufficient to document the fact that the required counseling actions were taken and an attempt to resolve any jurisdictional questions was made. The report shall include a precise description of the claim(s) and the basis(es) identified by the aggrieved person; pertinent documents gathered during the inquiry, specific information concerning timeliness of the initial counseling contact, and a statement as to whether a resolution attempt was undertaken, and if so, the disposition.

(h) EEO Counselors shall not attempt in any way to dissuade the aggrieved

person from filing an EEO complaint. The EEO Counselor shall not reveal to the responsible management officials the identity of an aggrieved person who consulted the EEO Counselor, except when authorized to do so by the aggrieved person, or until the Department has received a formal discrimination complaint from that person involving that same matter.

#### **§ 7.13 Responsibilities of the Assistant Secretary for Administration.**

The Assistant Secretary for Administration shall:

(a) Provide leadership in developing and maintaining personnel management policies, programs, automated systems, and procedures that will promote and ensure equal opportunity in the recruitment, selection, placement, training, awards, recognition, and promotion of employees, including an applicant flow tracking system to track information reflecting characteristics of the pool of individuals applying for an employment opportunity.

(b) Provide positive assistance and guidance to organizational units and personnel offices to ensure the effective implementation of the personnel management policies, programs, automated systems, and EEO procedures;

(c) Participate at the national level with other government departments and agencies, other employers, and other public and private groups, in cooperative action to improve employment opportunities and community conditions which affect employability;

(d) Prepare and implement plans for recruitment and reports in accordance with the Federal Equal Opportunity Recruitment Program (FEORP) and the Disabled Veterans Affirmative Action Program (DVAAP);

(e) Provide reasonable accommodations to the known physical or mental limitations of qualified employees with disabilities unless the accommodations would impose an undue hardship on the operation of the Department's programs;

(f) Adhere to and implement the Department's policy on religious accommodation;

(g) Designate a senior-level Disability Program Manager to promote EEO/ADR for persons with disabilities;