

§ 7.31

shall have a reasonable amount of official time, if the representative is otherwise in an active duty status, to present the complaint.

§ 7.31 Who may file a complaint, with whom filed, and time limits.

Any aggrieved person (hereafter referred to as the Complainant) who has observed the provisions of § 7.25 may file a complaint if the matter of discrimination was not resolved to the complainant's satisfaction. The complaint must be filed with the Director of EEO within fifteen (15) days of receipt of the Notice of Right to File a Complaint issued by the EEO Counselor. The Department may accept a complaint only if the Complainant has met the appropriate requirements contained in 29 CFR 1614.605.

§ 7.32 Contents.

(a) The complaint filed should include the following information:

(1) The specific action or personnel matter which is alleged to be discriminatory;

(2) The date the act or matter occurred;

(3) The protected basis or bases on which the alleged discrimination occurred;

(4) Facts and other pertinent information to support the allegation of discrimination; and

(5) The relief desired.

(b) To expedite the processing of complaints of discrimination, the Complainant should use HUD EEO-1 form to file the complaint.

§ 7.33 Acceptability.

The Director of EEO shall determine whether the complaint comes within the purview of the EEO regulations at 29 CFR part 1614 and shall advise the Complainant and Complainant's representative in writing of the acceptance or dismissal of the allegation(s) of the complaint. Should the Director of EEO dismiss the complaint or any allegations contained in the complaint, the written decision to the Complainant shall inform Complainant of the complainant's right to appeal the decision and of the time limit applicable to the right of appeal, if Complainant believes the dismissal improper.

24 CFR Subtitle A (4-1-98 Edition)

§ 7.34 Processing.

(a) The Director of EEO will process complaints filed under 29 CFR part 1614 for the Department. The Director or the Director's designee has jurisdiction of any case.

(b) The Director of EEO shall provide for the development of a complete and impartial record on which to decide the merits of the allegations accepted for investigation.

(1) The person assigned to develop the factual record for the complaint shall occupy a position in the Department which is not, directly or indirectly, under the jurisdiction of the head of the part of the Department in which the complaint arose, or the person shall develop the record under a contract with the Department.

(2) The Department will develop a complete and impartial factual record, subject to the requirements of 29 CFR part 1614, upon which to make findings on the matters raised in the complaint and accepted for processing.

(3) The Director of EEO will provide the Complainant and the EEO Officer a copy of the record developed.

§ 7.35 Hearing.

(a) The Director of EEO will notify the Complainant of the Complainant's right to request an administrative hearing before the Equal Employment Opportunity Commission or a Final Agency Decision from the Department and the timeframes for executing the right to request an administrative hearing.

(b) The Director of EEO will notify the appropriate EEOC office of Complainant's timely request for a hearing and request the appointment of an administrative judge to conduct the hearing pursuant to 29 CFR 1614.109.

§ 7.36 Decision by Director of EEO.

Following consultation with the General Counsel and the Assistant Secretary for Administration, the Director of EEO shall make the final agency decision for the Department based on the record developed through the processing of the complaint. The decision shall require the remedial and corrective action necessary to ensure that the Department is in compliance with the EEO statutes and to promote the

Department's policy of equal employment opportunity.

§ 7.37 Rights of appeal.

The provisions of 29 CFR part 1614, subpart D, shall govern rights of appeal.

§ 7.38 Relationship to other HUD appellate procedures.

(a) An aggrieved individual covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure can file a complaint under these procedures or a negotiated grievance, but not both. An election to proceed under this part is indicated only by filing of a written complaint. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely grievance.

(b) An aggrieved individual alleging discrimination on the basis of race, color, religion, sex, national origin, age or disability related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB) can file a complaint under these procedures, or an appeal with the MSPB, but not both. Whichever is filed first, the complaint or the appeal, is considered an election to proceed in that forum.

Subpart B [Reserved]

PART 8—NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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AUTHORITY: 29 U.S.C. 794; 42 U.S.C. 3535(d) and 5309.

SOURCE: 53 FR 20233, June 2, 1988, unless otherwise noted.

Subpart A—General Provisions

§ 8.1 Purpose.

(a) The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that no otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development. This part also implements section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309). This part does not effectuate section 504 as