

Office of the Secretary, HUD

§ 7.11

policies of the Government's and the Department's EEO program;

(e) Making changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's EEO/ADR programs;

(f) Selecting EEO Counselors;

(g) Providing for counseling by an EEO Counselor to a 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 retaliation for participation in protected EEO activity; or for opposing a policy or practice illegal under EEO statutes;

(h) Providing for the prompt, fair and impartial processing of individual complaints involving claims of discrimination within the Department subject to 29 CFR part 1614;

(i) Making the final decision on discrimination complaints and ordering such corrective measures as may be necessary, including disciplinary action warranted in circumstances where an employee has been found to have engaged in a discriminatory practice.

(j) Executing settlement agreements to resolve EEO complaints;

(k) Making available an ADR Program for EEO matters at both the pre-complaint and formal EEO complaint stages of the EEO administrative process;

(l) Developing and providing annual mandatory EEO and ADR training for EEO Counselors, and all supervisors and managers in conjunction with HUD Training Academy, Office of Human Resources, and the Office of General Counsel, other federal agencies and resources with ADR information and expertise; and

(m) Publicizing to all employees and posting at all times the names, business telephone numbers and addresses of the EEO Counselors, EEO Director, EEO Officers, and Diversity Program Managers, notice of EEO complaint processing time limits and the requirements of contacting an EEO Counselor and completing the counseling phase before filing a complaint.

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

§ 7.11 Responsibilities of the EEO Officers.

Each EEO Officer is responsible for:

(a) Advising the Director of EEO on matters affecting the implementation of the Department's EEO/ADR policies and programs in the organizational unit;

(b) Developing and maintaining a program of equal employment opportunity for the organizational unit and ensuring that the program is carried out in an exemplary manner;

(c) Publicizing to all employees of the organizational unit the name and 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

§ 7.12

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 hardship on the operations of Department; and

(l) 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

24 CFR Subtitle A (4-1-10 Edition)

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.