

### §7.3

discharging his or her EEO responsibilities and is responsible for carrying out the EEO discrimination complaint process for the organizational unit pursuant to the applicable civil rights laws, the regulations at 29 CFR part 1614 and this part.

*Diversity Program Manager* means the designee appointed by the Assistant Secretary (EEO Officer) or the Assistant Secretary's comparable who assists the EEO Officer in promoting appreciation of the contributions of women, minorities, and persons with disabilities, and in promoting the value of all Department employees.

EEO means equal employment opportunity.

*EEO Officer Pro Tem* means the Chief of Staff or an official at a neutral federal agency designated to process an EEO claim that would be a conflict of interest for the Director of EEO or the Deputy Director of EEO or both. EEO Officer Pro Tem also refers to the Assistant Secretary or the Assistant Secretary-comparable designated by the Director of EEO to serve as the EEO Officer for an EEO claim that would be a conflict of interest for a responding Assistant Secretary or Assistant Secretary-comparable.

*EEOC and Commission* mean the Equal Employment Opportunity Commission.

*Final action* means the Department's issuance of a final decision or final order.

*Final decision* means HUD's determination of the findings of fact and law on the merits or the procedural issues of an EEO complaint based upon the available record.

*Final order* means the Department's final action which states whether the Department will fully implement the decision or order of an EEOC Administrative Judge, or both.

*Neutral* means an individual who mediates or otherwise functions to specifically aid the parties in resolving the issues, and has no official, financial, or personal conflict of interest with respect to the issues being disputed, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

*Organizational unit* means the jurisdictional area of the Department's program offices such as the Office of the

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Secretary, the Office of General Counsel, etc.

*Record* means all documents related to the EEO complaint as outlined in EEOC Management Directive 110.

*Reprisal* means the action taken against a current or former employee or applicant in retaliation for previous EEO participation in protected EEO activity or for opposing employment practice or policy illegal under EEO statutes. The terms "reprisal" and "retaliation" are used interchangeably.

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

#### §7.3 Designations.

(a) *Director of Equal Employment Opportunity*. The Director of the Office of Departmental Equal Employment Opportunity (ODEEO) is designated as the Director of EEO, except for complaints naming the Director or Deputy Director of Departmental EEO, or both, as the responsible management official(s) in complaints arising in the ODEEO which present a conflict-of-interest. In such cases, the Director of EEO may:

(1) Transfer the case to the Chief of Staff for processing; or

(2) On behalf of the Department, enter into an agreement with one or more federal agencies for processing of the Department's conflict-of-interest cases by the designated federal official chosen to serve as the EEO Officer Pro Tem.

(b) *Deputy Director of Equal Employment Opportunity*. The Deputy Director of the ODEEO is designated as the Deputy Director of EEO and acts in the absence of the Director of EEO.

(c) *Equal Employment Opportunity Officer*. The Director of EEO shall designate the Assistant Secretary or the Assistant Secretary's comparable as EEO Officer for the Department's respective organizational units for complaints arising in the respective Assistant Secretary's or Assistant Secretary's comparable organizational unit.

(d) *Equal Employment Opportunity Discrimination Complaint Manager (DCM)*. Each Assistant Secretary (EEO Officer) shall designate a DCM to represent the organizational unit in EEO matters and assist the EEO Officer in carrying

out EEO responsibilities. The DCM shall be the Administrative Officer (AO) for the organizational unit or another designee of the EEO Officer.

#### § 7.4 Equal employment opportunity programs.

The Secretary, each Assistant Secretary, the General Counsel, the Inspector General, the President of the Government National Mortgage Association, the Chief Financial Officer, the Director of Healthy Homes and Lead Hazard Control, the Director of the Office of Departmental Operations and Coordination, and other HUD officials who may be determined by the Secretary for purposes of this part to be comparable to an Assistant Secretary, shall establish, maintain, and carry out a plan of equal employment opportunity to promote equal opportunity in every aspect of employment policy and practice. Each plan must be consistent with 29 CFR part 1614 and EEOC Management Directive 715. A copy of the EEOC Management Directive 715 is available at <http://www.eeoc.gov>.

[69 FR 62173, Oct. 22, 2004]

#### § 7.5 EEO Alternative Dispute Resolution Program.

In accordance with the Secretary's Policy Statement regarding Alternative Dispute Resolution (ADR) located on the Department's website and 29 CFR 1614.102(b)(2), the Department shall establish and maintain an ADR program that addresses, at a minimum, EEO matters at the pre-complaint and formal complaint stages of the EEO process. ADR is a non-adversarial process that does not render a judgment with respect to the dispute. With the assistance of an impartial and neutral third party, ADR offers parties involved the opportunity to reach early and informal resolution of EEO matters in a mutually satisfactory fashion.

(a) *Program availability.* In appropriate cases, the EEO ADR Program is made available to an aggrieved person or Complainant during the pre-complaint and the formal complaint processing periods. Participation in the program by the parties is knowing and voluntary. Agency managers have a duty to cooperate in an ADR proceeding once the agency has deter-

mined that a matter is appropriate for ADR and the aggrieved person/complainant has elected to participate in ADR. At the formal stage, the complainant may request participation in the ADR Program. However, a determination of the appropriateness of ADR at the time of the request will be made on a case-by-case basis by the appropriate ODEEO official designated by the Director of EEO and does not affect the processing of the formal complaint, including the investigation.

(b) *EEO ADR program procedures.* The ODEEO shall establish and maintain all EEO ADR Program procedures which include appropriate consultations.

(c) *ADR training.* Training and education on the EEO ADR Program will be provided to all Department employees, managers and supervisors, and other persons protected under the applicable laws.

(d) *Pre-complaint ADR election process.* The appropriateness of a particular EEO matter or EEO complaint for the Department's ADR Program shall be determined on a case-by-case basis by the ODEEO official designated by the Director of EEO. The EEO Counselor shall advise the aggrieved person that the aggrieved person may choose between participation in the EEO ADR Program or the EEO traditional counseling activities provided for at 29 CFR 1614.105(c). The aggrieved person's election to proceed through ADR instead of EEO counseling is final.

(e) *ADR counseling requirements.* (1) The minimum information to be provided by the EEO Counselor about the Department's ADR Program includes the following:

- (i) Definition of the term ADR;
- (ii) An explanation of the stages in the EEO process at which ADR may be available;
- (iii) A description of the ADR technique(s) used by the Department;
- (iv) A description of how the program is consistent with the EEO ADR core principles that ensure fairness and require voluntariness, neutrality, confidentiality, and enforceability;
- (v) An explanation of procedural and substantive alternatives; and
- (vi) All time frames for the EEO administrative process including ADR.