

MANDATORY READING

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY (EEO)—DISCRIMINATION COMPLAINT PROCESS

The process operates under the authority of the Equal Employment Opportunity Commission (EEOC) and is regulated by 29 Code of Federal Regulations (29 CFR) Part 1614. There are two main steps in the administrative process: (1) pre-complaint (or informal) and (2) formal complaint. At the complainant's discretion, a complaint can progress to U.S. District Court.

Title VII of the Civil Rights Act of 1964, as amended, Rehabilitation Act of 1974, as amended by the Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), prohibits employment discrimination or being subjected to a hostile work environment based on:

Race: (e.g., Caucasian (White), African-American (Black) or Asian/Pacific Islanders, etc.) Possessing traits that are transmissible by descent and that are sufficient to characterize persons possessing these traits as a distinctive human genotype.

Color: Skin shade. (e.g., you may feel you are being treated differently (even by your own race) because of your skin shade is lighter or darker than others of your own race.)

Sex: Male or Female (Sexual Orientation or Gender Identity).

Sexual Harassment is one type of sex discrimination, consisting of gender-based harassment, including unwanted and inappropriate sexual advances, consideration of sexual favors in making personnel decisions, or creating a hostile or offensive work environment. For example, remarks, jokes, and actions of a sexual nature.

Age: You must be 40 years of age or above to file an age claim

Religion: Refers to your religious beliefs, or lack thereof, or your membership in a religious group.

National Origin: Refers to your country of origin. These complaints are often based on treatment perceived to be influenced by an individual's last name, accent, or cultural heritage.

Disability (Mental or Physical): A disabled individual is any person who (1) has a physical or mental impairment which substantially limits one or more of the person's major life activities, (2) has a record of such impairment, or (3) is regarded as having an impairment. Decisions made based on the person's disability, unless a Bona Fide Occupation Qualification (BFOQ), are prohibited by law.

Genetic Information: Details regarding an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history).

Reprisal: If you have participated in or opposed an unlawful employment practice that discriminated based on any of the protected categories and perceived adverse treatment because of your participation/opposition, you may file a complaint of retaliation.

NOTE: Formal Complaints must be filed on one or more of the aforementioned bases.

You may file an individual complaint of discrimination if you are an employee, applicant for employment, or former employee (under certain circumstances). **Complaints must be filed within 45 calendar days of becoming aware of the event or personnel action believed to be discriminatory.** Bargaining Unit Employees (BUE) may elect to file under the negotiated grievance procedure within 15 workdays of the date of the alleged discriminatory incident; however, **an employee may not file a grievance and a formal EO complaint on the same issues.**

In the initial stage of the EO process, **complainants have the right to remain anonymous.**

At any stage of the EO process, **the complainant has the right to representation at their own expense.**

EO counselors are a third-party neutral. They are not representatives for either management or employee. They are assigned to facilitate the pre-complaint process only. EO counselors are trained to (1) listen to your concerns, (2) clarify the incident(s) that occurred, and (3) attempt to resolve the issue informally. The EO counselor has **30 calendar days**, unless an extension is granted, to inquire into your concern(s). After the counselor has completed the limited inquiry, and if you are not satisfied with the outcome, you will be notified of your right to file a formal complaint. Within **15 calendar days** of the final counseling interview, a signed formal (written) complaint on DD Form 2655, Complaint of Discrimination in the Federal Government, may be filed with the Equal Opportunity Director.

You must file a pre-complaint (informal complaint) before a formal complaint can be filed.

You are entitled to a reasonable amount of official duty time to meet with an EO counselor.

Alternative Dispute Resolution (ADR) process an additional avenue to assist in resolving employee disputes. The EEOC encourages the use of the ADR process. Mediation is fast, confidential, and maintains your right to file a formal complaint, if not resolved. The mediator is also a third party neutral, trained to assist parties in resolving their dispute. Mediators cannot make or force decisions. The goal is for the parties to reach their own agreement voluntary. Parties have a right to representation at their own expense. However, the participating parties should have the authority to enter into an agreement that is binding for all parties

I certify that I have read and understand the information above on the EEO discrimination complaints process. I understand that I **have not** filed an EEO complaint of discrimination today. This is my decision and I am making it of my own free will. My decision is neither the result of coercion nor intimidation by any individual. I understand by electing not to file, the 45-calendar day time frame for raising the matter to the attention of an EO Specialist will not be waived.

Print: _____ Signature: _____ Date: _____

**EQUAL EMPLOYMENT OPPORTUNITY
CIVILIAN PRE-COMPLAINT INTAKE FORM**

COMPLAINANT INFORMATION

DATE OF INITIAL CONTACT: _____
mm/dd/yyyy

DATE INFORMAL COMPLAINT FILED: _____
mm/dd/yyyy

COMPLAINANT INFORMATION

TITLE: _____ NAME _____ SUFFIX: _____
First Middle Initial Last

DoD ID: _____ POSITION: _____ TITLE: _____

PAY PLAN: _____ GRADE: _____ SERIES: _____

EMPLOYEE TYPE: Applicant Contractor Permanent Full Time
 Permanent Part Time Temporary Full Time Temporary Part Time
 Former Employee Other: _____

SEX/GENDER: _____ RACE: _____

DOB: _____ COUNTRY: _____

BARGAINING UNIT? DOES THE COMPLAINANT WISH TO REMAIN ANONYMOUS?
 YES NO YES NO

FIRST ADDRESS

ADDRESS TYPE: _____
ADDRESS 1: _____
ADDRESS 2: _____
CITY: _____ STATE: _____
ZIP: _____
PHONE: _____ EXT: _____
CELL: _____
EMAIL: _____
FAX: _____

SECOND ADDRESS (IF NECESSARY)

ADDRESS TYPE: _____
ADDRESS 1: _____
ADDRESS 2: _____
CITY: _____ STATE: _____
ZIP: _____
PHONE: _____ EXT: _____
CELL: _____
EMAIL: _____
FAX: _____

**EQUAL EMPLOYMENT OPPORTUNITY
CIVILIAN PRE-COMPLAINT INTAKE FORM**

CLAIM INFORMATION

*Must be filled out separately for each individual claim

INCIDENT DATE: _____
mm/dd/yyyy

CLAIM TYPE: *Check appropriate issue(s)*

- | | | |
|--|---|---|
| <input type="checkbox"/> Appointment/Hire | <input type="checkbox"/> Assignment of Duties | <input type="checkbox"/> Awards |
| <input type="checkbox"/> Conversion to Full Time | <input type="checkbox"/> Duty Hours | <input type="checkbox"/> Disciplinary Action – Demotion |
| <input type="checkbox"/> Disciplinary Action – Warning | <input type="checkbox"/> Disciplinary Action – Other | <input type="checkbox"/> Disciplinary Action – Removal |
| <input type="checkbox"/> Disciplinary Action – Reprimand | <input type="checkbox"/> Disciplinary Action – Suspension | <input type="checkbox"/> Examination/Test |
| <input type="checkbox"/> Harassment – Non-Sexual | <input type="checkbox"/> Harassment – Sexual | <input type="checkbox"/> Medical Examination |
| <input type="checkbox"/> Pay Including Overtime | <input type="checkbox"/> Perf. Eval/Appraisal | <input type="checkbox"/> Promotion/Non-Selection |
| <input type="checkbox"/> Reasonable Accommodation Disability | <input type="checkbox"/> Reassignment – Denied | <input type="checkbox"/> Reassignment – Directed |
| <input type="checkbox"/> Reinstatement | <input type="checkbox"/> Religious Accommodation | <input type="checkbox"/> Retirement |
| <input type="checkbox"/> Sex - Stereotyping | <input type="checkbox"/> Telework | <input type="checkbox"/> Termination |
| <input type="checkbox"/> Terms/Conditions of Employment | <input type="checkbox"/> Time and Attendance | <input type="checkbox"/> Training |
| <input type="checkbox"/> Other: _____ | | |

BASIS/BASES FOR CLAIM: *Check appropriate issue(s)*

- | | |
|--|---|
| <input type="checkbox"/> AGE (OVER 40) | <input type="checkbox"/> NATIONAL ORIGIN |
| <input type="checkbox"/> COLOR | <input type="checkbox"/> RACE |
| <input type="checkbox"/> DISABILITY – PHYSICAL | <input type="checkbox"/> SEX/GENDER/ORIENTATION |
| <input type="checkbox"/> DISABILITY – MENTAL | <input type="checkbox"/> RELIGION |
| <input type="checkbox"/> GENETIC INFORMATION | <input type="checkbox"/> EQUAL PAY |
| <input type="checkbox"/> PREGNANCY | <input type="checkbox"/> NON-EEO |
| <input type="checkbox"/> REPRISAL | |

FOR USE ONLY IN CASES OF SEXUAL HARASSMENT

NATURE OF ALLEGATION:

- | | |
|---|--|
| <input type="checkbox"/> CRUDE/OFFENSIVE BEHAVIOR | <input type="checkbox"/> UNWANTED SEXUAL ATTENTION |
| <input type="checkbox"/> SEXUAL COERCION | <input type="checkbox"/> OTHER: _____ |

RELATIONSHIP OF ALLEGED OFFENDER TO AGGRIEVED/COMPLAINANT:

- | | |
|--|---|
| <input type="checkbox"/> CC | <input type="checkbox"/> SUPERVISOR |
| <input type="checkbox"/> MILITARY PERSON – HIGHER RANK – NON CoC | <input type="checkbox"/> INDIVIDUAL/COWORKER |
| <input type="checkbox"/> MILITARY SUBORDINATE | <input type="checkbox"/> IN CHAIN OF COMMAND |
| <input type="checkbox"/> MILITARY - OTHER | <input type="checkbox"/> MILITARY COWORKER |
| <input type="checkbox"/> DoD/CIV EMPLOYEE (GS 13-15) | <input type="checkbox"/> DoD/CIV EMPLOYEE (GS 1-12) |
| <input type="checkbox"/> PERSON IN LOCAL COMMUNITY | <input type="checkbox"/> DoD/CIV EMPLOYEE (SES) |
| <input type="checkbox"/> DoD/SERVICE CIV CONTRACTOR | <input type="checkbox"/> DoD/SERVICE CIV EMPLOYEE |

**EQUAL EMPLOYMENT OPPORTUNITY
CIVILIAN PRE-COMPLAINT INTAKE FORM**

CLAIM INFORMATION (CONT.)

RESPONSIBLE MANAGEMENT OFFICIAL (RMO): *Enter into 'Contacts' tab as 'RMO' in iComplaints*

TITLE: _____	NAME: _____	SUFFIX: _____
	<i>First Middle Initial Last</i>	
EMAIL: _____	UNIT/ORGANIZATION: _____	
PAY PLAN/SERIES: _____	GRADE/STEP: _____	
RANK: _____	POSITION: _____	
SEX: _____	RACE: _____	HISPANIC: <input type="checkbox"/> YES <input type="checkbox"/> NO

TITLE: _____	NAME: _____	SUFFIX: _____
	<i>First Middle Initial Last</i>	
EMAIL: _____	UNIT/ORGANIZATION: _____	
PAY PLAN/SERIES: _____	GRADE/STEP: _____	
RANK: _____	POSITION: _____	
SEX: _____	RACE: _____	HISPANIC: <input type="checkbox"/> YES <input type="checkbox"/> NO

NARRATIVE OF THE INCIDENT:

Large empty rectangular box for the narrative of the incident.

**EQUAL EMPLOYMENT OPPORTUNITY
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CLAIM INFORMATION - WITNESSES

***Enter into 'Contacts' tab as 'Witness' in iComplaints*

WITNESS 1

TITLE: _____ NAME: _____ SUFFIX: _____
First Middle Initial Last

PAY PLAN/SERIES: _____ GRADE/STEP: _____ RANK: _____

EMAIL: _____ UNIT/ORGANIZATION: _____

WHAT INFORMATION CAN THE WITNESS PROVIDE? _____

WITNESS 2

TITLE: _____ NAME: _____ SUFFIX: _____
First Middle Initial Last

PAY PLAN/SERIES: _____ GRADE/STEP: _____ RANK: _____

EMAIL: _____ UNIT/ORGANIZATION: _____

WHAT INFORMATION CAN THE WITNESS PROVIDE? _____

WITNESS 3

TITLE: _____ NAME: _____ SUFFIX: _____
First Middle Initial Last

PAY PLAN/SERIES: _____ GRADE/STEP: _____ RANK: _____

EMAIL: _____ UNIT/ORGANIZATION: _____

WHAT INFORMATION CAN THE WITNESS PROVIDE? _____

**EQUAL EMPLOYMENT OPPORTUNITY
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COMPLAINT RESOLUTION

DOES THE AGGRIEVED/COMPLAINANT ALREADY HAVE REPRESENTATION?

YES NO

IF YES, WHO IS THEIR REPRESENTATION?

TITLE: _____ NAME: _____ SUFFIX: _____
First Middle Initial Last

EMAIL: _____ UNIT/ORGANIZATION: _____

IS THEIR REPRESENTATIVE AN ATTORNEY?

YES NO

HAS THE AGGRIEVED/COMPLAINANT PREVIOUSLY ATTEMPTED RESOLUTION?

YES NO

IF YES, WITH WHOM DID HE/SHE ATTEMPT RESOLUTION?

TITLE: _____ NAME: _____ SUFFIX: _____
First Middle Initial Last

EMAIL: _____ UNIT/ORGANIZATION: _____

PAY PLAN/SERIES: _____ GRADE/STEP: _____ RANK: _____

SEX: _____ RACE: _____ HISPANIC: YES NO

REQUESTED REMEDY: *What would it take to resolve the complaint?*

WOULD THE AGGRIEVED/COMPLAINANT CONSIDER ADR AS A MEANS TO RESOLVE THE COMPLAINT?

YES NO

ISSUES OF PRE-COMPLAINT & REQUESTED REMEDIES

Aggrieved: _____

Docket Number: _____

Pre-Complaint, Issues and Bases Framed:

1. Whether the Complainant [COMPLAINANT NAME] was discriminated against on the basis of [BASIS (specify)] when on [DATE], [RMO NAME, OFFICE], [INSERT ADVERSE EMPLOYMENT ACTION ASSERTED].

Requested Remedies (be specific):

1. **Example**. Removal of the Letter of Counseling (dated 18 Oct 16)
2. **Example**. Restore 5 days of annual leave

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

**EQUAL EMPLOYMENT OPPORTUNITY (EEO)
CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES**

Aggrieved: _____ **Docket Number:** _____

Your rights and responsibilities under the revised regulations include the following:

1. The following information is provided concerning your rights and responsibilities in the processing of your equal employment opportunity complaint of discrimination in accordance with 29 Code of Federal Regulation (CFR) 1614, Equal Employment Opportunity (EEOC) Management Directive 110 (MD-110) and Air Force Instruction (AFI) 36-2706.

2. The Equal Opportunity Counselor is not an advocate for either the aggrieved person or the agency. Therefore, you have the right to be accompanied, represented and advised by a representative of your choice to include but not limited to: an attorney, friend, spouse, union representative, etc. throughout this complaint process. This designation must be in writing. You are allowed reasonable official time to prepare your complaint. If your representative is an agency employee, s/he is allowed a reasonable amount of official time to prepare the complaint and respond to Agency and EEOC requests for information.

Initial "Yes" if you wish to be represented. If you elect "Yes", please provide your representative's information in the space below. Initial "No" if you do not wish to be represented at this time.

(Please Initial) Yes _____ No _____

REPRESENTATIVE'S NAME: _____

ADDRESS: _____

PHONE #: (_____) _____

ATTORNEY: (Please Initial) Yes _____ No _____

NOTE: Unless you state otherwise in writing, your representative shall receive all official correspondence and you will receive copies. If you designate an attorney as your representative, computing of timeframes for receipt of materials shall be from the time of receipt by your attorney. You will, at all times, be responsible for proceeding with the complaint whether or not you have designated a representative.

3. You have the right to remain anonymous at the pre-complaint stage of the EO complaint process. You can waive your right to anonymity at any time during the pre-complaint process. However, this must be designated in writing to the EO Counselor. Once you elect to file a formal complaint, anonymity is automatically rescinded.

Initial "Yes" if you want to remain anonymous. Initial "No" if the EO Office can use your name during the pre-complaint process.

(Please Initial) Yes _____ No _____

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CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES**

4. You must consult a counselor prior to filing a complaint to attempt to resolve the matter informally. Initial contact must be within forty-five (45) calendar days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within forty-five (45) calendar days of the effective date of the action.

Has this issue been presented to the EEO office in a previous EEO complaint?

(Please Initial) Yes _____ No _____

Docket Number: _____

5. You have the right to participate in EEO counseling or Alternative Dispute Resolution (ADR) to resolve your pre-complaint. Regardless, an EO Counselor will conduct a limited inquiry into the claims outlined in your complaint. If you elect the ADR process, and the agency offers mediation, a trained mediator will attempt to resolve your complaint. If the mediation is unsuccessful, you have the right to continue with the EEO process.

In EEO counseling, you have the right to receive in writing within thirty (30) calendar days of the first counseling contact (unless you agree in writing to an extension) a notice terminating counseling and informing you of:

- a. the right to file a formal individual or class complaint within fifteen (15) calendar days of receipt of the notice,
- b. the appropriate official with whom to file a formal complaint, and
- c. your duty to immediately inform the agency if you retain counsel or a representative.

If you agree to participate in an established ADR program, the written notice terminating the counseling period will be issued upon completion of the dispute resolution process or within ninety (90) calendar days of the first contact with the EEO Counselor, whichever is earlier.

Initial "Yes" if you would like to attempt resolution with the agency through the mediation process. Initial "No" if you do wish to participate in mediation. **NOTE:** ADR may be offered again at the formal stage of the EEO process. Additionally, matters with elements of sexual harassment will not enter into ADR.

(Please Initial) Yes _____ No _____

6. If you have allegation(s) of sexual harassment you may choose EEO counseling or you can request a Commander Directed Investigation (CDI) under Section 591 of the 1998 National Defense Authorization Act (NDAA), codified at 10 U.S.C. Section 1561, 29 C.F.R. Part 1614, or both simultaneously. Filing under Section 1561 will not serve to exhaust administrative remedies with respect to 29 C.F.R. Part 1614. Command decisions under Section 1561 are final, with no right of appeal to court, and compensatory damages are not awardable.

Initial "CDI" if you want the commander to initiate an inquiry under Section 1561. Initial "Both" if you want a CDI to be conducted in conjunction with EEO counseling. Initial "EEO Counseling" if you are waiving your rights to a CDI.

(Please Initial) CDI _____ Both _____ EEO Counseling _____

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CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES**

7. If you are covered by a collective bargaining agreement (CBA) that permits claims of discrimination to be raised in a negotiated grievance procedure, you may elect to file an EEO complaint **or** a grievance. You have a choice of forums in which to proceed, but you may not go forward in more than one forum. If you first file a grievance and thereafter file a complaint of discrimination on the same claim, the complaint must be dismissed without prejudice to the complaint's right to proceed through the negotiated grievance procedure.

Initial "Yes" if you have filed a grievance on the same issue(s) addressed in your EEO complaint. Initial "No" if you have not filed a grievance related to your EEO complaint.

(Please Initial) Yes _____ No _____

8. If your complaint contains issue(s), which are appealable to Merit Systems Protection Board (MSPB), you may be required to choose between the EEO complaint process and an appeal to the MSPB. Cases appealable to the MSPB include agency adverse actions--removals, suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. Other types of actions that may be appealed to the MSPB include: performance-based removals or reductions in grade, denials of within-grade salary increases, reduction-in-force actions, OPM suitability determinations, OPM employment practices (the development and use of examinations, qualification standards, tests and other measurement instruments), denials of restoration of reemployment rights, and certain terminations of probationary employees. NOTE: If this is a mixed case, you will be provided additional information concerning your right to appeal to MSPB.

Initial "MSPB" if you would like to appeal your issue(s) through the MSPB. Initial "EEO Counseling" if you want to have your issues addressed through the EEO complaint process at this time.

(Please Initial) MSPB _____ EEO Counseling _____

9. You have the right to file a notice of intent to sue and file a federal lawsuit in a United States District Court under the Age Discrimination Employment Act (ADEA) instead of an age EEO complaint pursuant to 29 CFR Section 1614.201(a). You must give the EEOC not less than thirty (30) calendar days' notice of intent to file such an action. This notice must be filed, in writing, with EEOC, at the Office of Federal Operations, P.O. Box 77960, Washington, D.C. 20013, or by personal delivery or facsimile within 180 calendar days of the occurrence of the alleged unlawful practice.

Initial "ADEA" if you are electing to file a federal lawsuit under the ADEA. Initial "EEO Counseling" if you are electing to file through the EEO complaint process.

(Please Initial) ADEA _____ EEO Counseling _____

10. You must inform the counselor if you wish to file a class complaint. A class complaint is a written complaint of discrimination filed on behalf of the class by the agent of the class, alleging that the class is so numerous that a consolidated complaint by the members of the class is impractical, that there are questions of fact common to the class, that the claims of the agent of the class are typical of the claims of the class, and that the agent of the class, and if represented, the representative, will fairly and adequately protect the interests of the class.

11. You have the right to go directly to a court of competent jurisdiction on claims of sex-based wage discrimination under the Equal Pay Act (EPA) even though such claims are also cognizable under Title VII.

**EQUAL EMPLOYMENT OPPORTUNITY (EEO)
CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES**

Initial "EPA" if you are electing to go directly to court. Initial "EEO Counseling" if you are electing to file through the EEO complaint process.

(Please Initial) EPA _____ EEO Counseling _____

12. You have the right to file a formal complaint, at the conclusion of counseling or ADR, within fifteen (15) calendar days of receipt of the Counselor's Notice of Right to File a Discrimination Complaint letter.

13. You have the right to request a hearing before an EEOC Administrative Judge (except in a mixed case) after completion of the investigation or 180 calendar days from the filing of a formal complaint, whichever comes first.

Your request should be made directly to:

Equal Employment Opportunity Commission
Office of Federal Operations
P.O. Box 77960
Washington, D.C. 20013

You must notify the EO office of your hearing request and it is your duty to certify to the Administrative Judge that you provided the agency with a copy of the request for a hearing. Alternatively, if you have not requested a hearing, you may request an immediate final decision after an investigation by the agency. If it is a mixed case or you have not requested a final decision, the agency will issue a final agency decision in accordance with 29 C.F.R. Section 1614.108(f). **NOTE:** When a person is sending a notice of appeal/petition to the EEOC via Form 573, they must also furnish a copy of the appeal to SAF/MRBA, 1500 W. Perimeter Rd, Suite 3700, Andrews AFB MD 20762- 7002 at the same time they appeal to the Commission.

14. You have the right to go to U.S. District Court 180 calendar days after filing a formal complaint if no final action has been taken on the complaint (when a 90-day extension is not granted), or 180 days after filing an appeal if no decision has been issued on the appeal.

15. You have a duty to mitigate damages, i.e. you must look for other appropriate employment and you must seek treatment for any injury you claim. Consistent with the guidance of the EEOC in *Broughton vs Department of the Navy*, EEOC Appeal No. 0195199 (April 25, 1996), additional information concerning compensatory damages will be provided.

16. You have a duty to keep the EO office and EEOC informed of your current contact information, including your mailing address and telephone number, and serve copies of hearing requests and appeal papers on the agency.

17. Only claims raised at the counseling stage or claims that are like or related to them may be the subject of a formal complaint or an amendment to a complaint after it has been filed.

18. Your rejection of an agency's offer of resolution made pursuant to 29 C.F.R. Section 1614.109(c) may limit the amount of attorney's fees or costs you can recover.

19. If you have filed two or more complaints, the agency must consolidate them after appropriate notice to you under 29 C.F.R. Section 1614.606. When a complaint has been consolidated with one or more previous complaints, the agency shall complete its investigation within the earlier of 180 calendar days after

**EQUAL EMPLOYMENT OPPORTUNITY (EEO)
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the filing of the last complaint or 360 calendar days of the filing of the first complaint.

20. Any reasonable accommodation request should be made to the Civilian Personnel Office.

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

**AIR FORCE ALTERNATIVE DISPUTE RESOLUTION (ADR)
PROGRAM NOTICE**

Aggrieved Name: _____

Docket Number: _____

1. USAF ADR Program Policy: It is the Policy of the United States Air Force to voluntarily use ADR to the maximum extent practicable and appropriate to resolve disputes at the earliest stage feasible, by the fastest and least expensive method possible, and at the lowest possible organizational level. Use of these techniques may resolve the entire issue in controversy or a portion of the issue in controversy.

Initials _____ (read and understand)

2. ADR Program Availability: The Air Force ADR Program recognizes the value in using ADR techniques toward efficient and timely resolution of workplace disputes arising from a variety of administrative dispute procedures. If you want to learn more about the Air Force ADR Program and our results to date, or if you want more information about ADR generally, see the ADR Program website at <http://www.adr.af.mil>. Initials _____ (read and understand)

3. Types of ADR Procedures: The ADR procedures currently employed within the Air Force are primarily Mediation or Facilitation. Other ADR procedures such as Binding Arbitration, Peer Review Panels, Ombudsman, and Early Neutral Evaluation can also be employed, but are not often used at this time. The definitions of Mediation and Facilitation are:

a. Mediation: A structured proceeding in which disputing parties use a trained Mediator to assist the parties in arriving at a mutually agreeable resolution. Mediation conferences usually involve private confidential meetings (caucuses) with the parties.

b. Facilitation: A flexible proceeding in which the Neutral uses an Interest Based Negotiation approach to assist the parties in achieving a better understanding of the issue(s) and a resolution of the dispute. Facilitation usually does not involve private meetings (caucuses) with the parties, but may do so depending on the situation.

If you are interesting in learning more about how mediation works in the Air Force, please see our Mediation guidance at: <http://www.adr.af.mil/Portals/82/documents/AFD-121115-026.pdf?ver=2016-08-01-121806-170>.

4. Time Frames for EEO Disputes and Using ADR Procedures: The EEO administrative process begins with an informal 30-day counseling procedure, involving complaint intake, counselor inquiry and fact-gathering activities. This period can be extended for not more than 60 calendar days with the complainant's consent. If this process does not result in resolution, you have the right to file a formal complaint. The formal investigative procedure can take as long as 180 calendar days (270 calendar days when extended) before you can request a hearing before the Equal Employment Opportunity Commission (EEOC). The EEOC hearing procedure can take from 180 calendar days to 400 calendar days or more. In contrast, the ADR procedure may result in resolution of your issue(s) within 90 calendar days of the date you originally brought the matter to the attention of the EEO office. Please note that if ADR is made available in your particular EEO complaint, then it can be attempted at any point during the processing of an EEO complaint.

Initials _____ (read and understand)

5. Source(s) of Neutrals: The Air Force has invested time, money, and extensive training to develop a cadre of internal Neutrals. At most installations, there are trained Neutrals to assist parties through either of the ADR procedures of mentioned above. If there is no Neutral available locally, there are Neutrals



assigned to other Air Force bases that can travel to your installation to assist the parties. In the event there are no Neutrals available within Air Force resources, there are contract Neutrals that can be assigned by the Air Force General Counsel's Office or Investigations and Resolutions Directorate, who can assist in attempting to resolve your local dispute matters. Initials _____ (read and understand)

6. Exceptions to ADR Availability: In some cases, ADR may not be appropriate because of the nature of the particular dispute. Accordingly, each EEO complaint is evaluated to ensure it should be resolved through the use of an ADR process. Some examples of complaints that may not be appropriate for ADR include complaints that require a formal written decision, to determine precedent in a given case, that could affect the outcome of other similar (non-associated or attached) cases. In addition, complaints involving potential criminal involvement, such as fraud, waste, or abuse are also not appropriate resolution in an ADR process. The Air Force does not; however, exclude complaints from consideration for ADR because of the type of EEO bases (e.g. race, color, religion, sex, age, national origin, disability or reprisal) alleged by a complainant. Initials _____ (read and understand)

7. ADR is Voluntary: The decision to use ADR for a particular complaint is completely voluntary. **Management and the aggrieved must both agree to use ADR.** Once the ADR proceeding has begun it can be terminated by either party. If the ADR process is terminated in this manner, the EEO complaint will then proceed into the formal complaint process. Please note that if an Air Force employee acted as the mediator then he or she will not be involved in the further processing of your complaint. Initials _____ (read and understand)

8. Representation During ADR: You have the right to representation of your choice and at your own expense unless the representation would pose a conflict with the official or collateral duties of the representative. Your right to have a representative remains in effect during your participation in ADR. The process is fair to both parties and provides an opportunity for individuals to be heard and to develop options for resolution. You cannot be forced to agree to terms or outcomes if they are not satisfactory to you. Initials _____ (read and understand)

9. Air Force ADR Program Requirements: The Air Force is committed to providing ADR proceedings that reflect **confidentiality, neutrality, and enforceability.** Confidentiality applies to ADR proceedings with regard to joint discussions between the parties where the Neutral is providing information to either party and with regard to private discussions (caucuses) held by the neutral with a respective party. Neutrality is a cornerstone of the Air Force ADR program. The local Air Force installation, or contractor, Neutrals practice the highest standards of integrity and ethics in conducting ADR proceedings. Being able to enforce a settlement reached through the ADR process is very important. When reached, resolutions are reduced to writing, and include appropriate safeguards for individuals if they believe that the terms of a particular written agreement have not been implemented. Persons in the room during mediation will be the mediator, aggrieved and representative (if applicable), the settlement authority, and management's representative (if applicable). Additional members may be attendance as a subject matter expert (i.e. CPS/Union). Initials _____ (read and understand)

10. Air Force Policy on Settlement Authority: If management offers ADR and you agree, an appropriate management official will participate in the proceeding. Any resulting settlement agreement will, upon approval by appropriate Air Force officials, be binding on the Air Force. Initials _____ (read and understand)

Aggrieved Signature: _____

Date: _____



**NOTICE OF EVIDENCE REQUIRED TO ESTABLISH
COMPENSATORY DAMAGES
(BROUGHTON NOTICE)**

Aggrieved Name: _____ **Docket Number:** _____

1. If you prevail in your complaint of discrimination, you may be entitled to compensatory damages for the harms, injuries, or losses caused by that discrimination. The Civil Rights Act of 1991 authorized payment of compensatory damages in complaints against federal agencies for some types of complaints. Compensatory damages are not available in disability discrimination cases where the employer demonstrates good faith efforts at reasonable accommodation; in cases where the sole basis is age; in cases where discrimination is shown, but the employer demonstrates it would have taken the same action in the absence of the impermissible motivating factor; or in cases where the conduct or complaints occurred prior to 21 November 1991.

2. Consistent with the guidance of the U.S. Equal Employment Opportunity Commission in *Broughton v. Department of Navy*, EEOC Appeal No. 0195199 (April 25, 1996), you are advised as follows concerning the evidence required to show entitlement to compensatory damages. Compensatory damages may include payment for past pecuniary losses, future pecuniary losses and non-pecuniary losses. **Past pecuniary losses** are quantifiable monetary or out-of-pocket expenses, such as medical bills, moving expenses, or job search expenses, which you have incurred as a result of the discriminatory conduct. In order to prove past pecuniary losses, you must (1) establish the amount of the losses through objective evidence such as bills, receipts, or canceled checks, and (2) demonstrate that the need for the expenses was caused by, or directly related to, the acts of discrimination.

3. **Future pecuniary losses** are out-of-pocket expenses, such as medical care or counseling, which will be incurred in the future due to the discriminatory conduct. Evidence of such losses must establish three elements: (1) the likelihood of future expenses, (2) the expected amount of future expenses, and (3) the causal relationship between the discriminatory conduct and the future expenses. Usually, expert testimony and/or medical documentation are required to show future pecuniary losses. **Non-pecuniary losses** are non-monetary harms or injuries such as emotional pain or suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional or credit standing, injury to character or reputation, or loss of health. In order to establish non-pecuniary losses, you must provide objective evidence of the nature, duration, severity, cause, and prognosis of the claimed injury. You must also establish a causal relationship between the discriminatory conduct and the claimed non-pecuniary losses.

4. Objective evidence of harms or losses may include documents which show your actual expenses, if any, related to medical treatment, counseling, and so forth, pertaining to the injuries caused by the discrimination. You should submit your own statement(s) concerning any past pecuniary losses, future pecuniary losses, or non-pecuniary losses that you believe were incurred as a result of the discriminatory conduct. You may also submit statements from family members, friends, health care providers, and other counselors (including clergy), addressing, for example, the outward manifestations or physical consequences of any losses, harms, or injuries which you claim were caused by the discriminatory conduct. You are once again reminded that you must establish a connection between the discriminatory conduct and any claimed injury.

5. Finally, you are advised that any claim of injury or harm may permit the agency to seek personal and sensitive information about you or those close to you. Such a detailed examination may be required to determine whether the claimed injury or harm actually exists, and whether your claim is linked solely, partially, or not at all to the discriminatory conduct. I have been advised of the evidentiary requirements for claims of compensatory damages, and I have received a copy of this notice.

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

**EQUAL EMPLOYMENT OPPORTUNITY
CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES
(SEXUAL HARASSMENT)**

1. In addition to other avenues of redress for sexual harassment (EEO complaints, negotiated grievance procedures, mixed case MSPB appeals), civilian employees can request a Commander Directed Investigation (CDI). Upon completion, the commander will take appropriate correction action. There are no monetary damages awarded, nor is there an appeal from the commander's decision. *The complainant can elect to choose this avenue of complaint while pursuing other available means of redress, either sequentially or simultaneously.*

2. Within forty-eight (48) hours after initial contact by the complainant, the EO office will provide the installation commander, in writing, a detailed description of the allegations. Within seventy-two (72) hours of receipt of the written description, the installation commander will:
 - a. Provide the next superior officer in the chain who is a General Court-Martial Convening Authority (GCMCA) with a copy of EO's written notification;
 - b. Direct an investigation into the truth of the allegation(s); and
 - c. Advise the complainant of the commencement of the investigation.

3. The investigation should be completed within fourteen (14) calendar days after commencement. If it is not, the installation commander will provide an interim report to the GCMCA on the fourteenth day and each subsequent fourteen (14) calendar days thereafter until the investigation is complete.

4. After completion, the installation commander will determine if the allegations are substantiated and will, within six (6) calendar days, notify the complainant in writing of the findings and decision on substantiation and, to the extent possible, on any corrective action taken.

5. The Complainant's request for a CDI may not toll any statutory requirements to initiate contact with the EEO office to make an EEO complaint.

I acknowledge receipt and understand my option to request a commander directed inquiry for sexual harassment complaints.

I request a CDI into my sexual harassment complaint. Yes _____ No _____ (Please Initial One)

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

EO Director: _____

Date: _____

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) COMPLAINTS

When a person contacts an EEO Counselor with a complaint of age discrimination, the EEO Counselor must make the person aware of two important options:

1. You may choose to file a formal complaint under 29 C.F.R. Part 1614; or
2. You may bypass the administrative complaint process in Part 1614 and file a civil action directly in an appropriate U.S. District Court. To invoke this bypass provision, you must file a notice of intent to file a civil action with the EEOC within 180 calendar days from the alleged discriminatory conduct, and then wait thirty (30) calendar days before filing the civil action. 29 U.S.C. § 633a(d); 29 C.F.R. § 1614.201(a). The notice may be mailed to EEOC Headquarters at the following address:

Equal Employment Opportunity Commission
Office of Federal Operations
Federal Sector Programs
P.O. Box 19848
Washington, D.C. 20036

Or hand delivered to:

Equal Employment Opportunity Commission
Office of Federal Operations
131 M St NE
Washington, D.C. 20507

3. The bypass provision of the ADEA does not address the time period you have to properly file a complaint in the U.S. District Court. When a federal statute, like the ADEA, is silent as to its period of limitation, a federal court will either look to the analogous state statute or borrow from a statute of limitations in federal law. Therefore, to preserve your ability to file a federal lawsuit, the aggrieved choosing to bypass the administrative process should initiate a federal lawsuit as soon as possible after the expiration of the thirty (30) day waiting period that follows the notice of intent to sue.

I was briefed on my rights and responsibilities regarding the Age Discrimination in Employment Act Complaints.

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

NEGOTIATED GRIEVANCE PROCEDURES IN COLLECTIVE BARGAINING AGREEMENTS

1. Aggrieved Person Makes Election. At the initial counseling session, the EEO Counselor must inform the aggrieved person of the possible applicability of the election of remedies provisions from the Civil Service Reform Act of 1978, 5 U.S.C. § 7121(d), concerning negotiated grievance procedures.

a. In order for an aggrieved person to be covered under 5 U.S.C. § 7121(d), both of the following conditions must be met:

i. S/he must be employed in a federal agency subject to the provisions of 5 U.S.C. § 7121(d);
and

ii. S/he must be covered by a collective bargaining agreement at the agency where the grievance arises. The agreement must also permit allegations of discrimination to be raised in the negotiated grievance procedure.

b. If these conditions are met, then the EEO Counselor must inform the aggrieved person that 5 U.S.C. § 7121(d) applies. This means that the aggrieved person must be informed of the requirement that s/he choose one (not both) of the following:

i. A right to have his/her allegations of discrimination addressed in the negotiated grievance procedure of the collective bargaining agreement with a caution that the opportunity to raise allegations of discrimination will be lost if not raised in the grievance process; or

ii. A right to have his/her allegations of discrimination addressed under 29 C.F.R. Part 1614.

iii. An election to proceed under Part 1614 is indicated only by the filing of a formal complaint, in writing. Use of the pre-complaint process does not constitute an election to proceed under Part 1614.

iv. Allegations of discrimination that are raised by employees not covered by Section 7121(d) are to be processed as EEO complaints under Part 1614 regardless of whether they are also pursuing a grievance on the same claim (e.g. a five-day suspension from work) under a collective bargaining agreement not covered by Section 7121(d).

(a) Under Section 1614.301(c), the complaint may be held in abeyance while the grievance on the same claim is processed. The abeyance shall terminate without further notice upon the issuance of a final decision on the grievance. The complaint may be held in abeyance only if the aggrieved is provided written notice of the abeyance.

(b) The notice of abeyance shall state that the abeyance is instituted pursuant to Section 1614.301(c) and that time limits for processing the complaint contained in Section 1614.106 and for appeal to the Commission contained in Section 1614.402 will also be held in abeyance until fifteen (15) calendar days following the issuance of the final decision on the grievance.

(c) If the EEO complaint is held in abeyance, the time limits for processing are tolled until a final decision is rendered in the grievance process.

2. Election is Final

a. Pursuant to Section 1614.301, EEO Counselors are required to inform an aggrieved person that once s/he decides which forum s/he will use the negotiated grievance procedure in a collective bargaining agreement covered by Section 7121(d) or Part 1614-the aggrieved person is precluded from using the other forum to address the same claim. This preclusion holds regardless of whether discrimination is actually raised. For example, if an aggrieved person elects to have a dispute involving a claim of discrimination addressed under the terms of a collective bargaining agreement by filing a grievance, s/he could not also file a formal complaint of discrimination under Part 1614 on the same claim. This bar to a subsequent formal EEO complaint would hold true even if the complainant failed to raise the discrimination claim in the grievance, as long as the grievance process could have addressed the facts supporting any discrimination allegations.

b. If an agency issues a decision rejecting the grievance either because the individual is not covered by the collective bargaining agreement, the collective bargaining agreement does not contain a provision that allows allegations of discrimination to be raised in the grievance process, or because the grievance was untimely filed, the agency shall include appeal rights to the EEOC. The case shall be processed as a complaint under Part 1614. 29 C.F.R. § 1614.301(b).

3. Appeals

Unless the grievance is a mixed case, the complainant has the right to appeal a final decision on his/her grievance that contains a discrimination allegation to the Commission as provided in subpart D of 29 C.F.R. Part 1614. If the grievance is a mixed case, the complainant has the right to appeal to MSPB.

I was briefed on my rights and responsibilities regarding Negotiated Grievance Procedures in Collective Bargaining Agreements.

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

**EQUAL EMPLOYMENT OPPORTUNITY
CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES
(EQUAL PAY ACT)**

Equal Pay Act (EPA)

1. You may file a civil action in federal district court within two (2) years, or three (3) years if the violation is willful, of the date of the alleged violation, regardless of whether you have pursued an administrative action against the agency. The filing of an EEO complaint under Part 1614 alleging a violation of the EPA does not toll the time for filing a civil action.

2. If you seek to allege a violation of Title VII's prohibition against sex discrimination based on the same allegation, you must raise the Title VII allegation in the administrative process even if you file a civil action on the EPA allegation.

3. Notwithstanding the two/three-year limitations period applicable to the current action under the EPA, in order to present an administrative EPA claim, you must contact an EEO Counselor within forty-five (45) calendar days of the date you become aware of or reasonably suspect a violation of the EPA.

I was briefed on my rights and responsibilities regarding the Equal Pay Act.

Aggrieved Signature: _____

Date: _____

Counselor Signature: _____

Date: _____

**EQUAL EMPLOYMENT OPPORTUNITY
CIVILIAN EMPLOYEE RIGHTS & RESPONSIBILITIES
MIXED CASE COMPLAINTS / MERIT SYSTEM
PROTECTION BOARD (MSPB)**

Aggrieved Name: _____ **Docket Number:** _____

1. An individual may file an administrative complaint with an agency (pursuant to Title 29 CFR Part 1614) **or** (s)he may file a Mixed Case Appeal directly with the Merit Systems Protection Board (MSPB) pursuant to 5 C.F.R. § 1201.151, **but not both**.

2. A Mixed Case involves an action that may be appealed to the MSPB and which is alleged to have been the result of discrimination or of reprisal in connection with a complaint of discrimination. Examples of actions appealable to the MSPB are removals, suspensions for more than fourteen (14) calendar days, reductions in grade and reductions in pay.

3. A Mixed Case may be presented as a discrimination complaint or as a charge of reprisal under Equal Employment Opportunity Commission (EEOC) regulations **or** may be appealed to the MSPB. Individuals who wish to appeal may choose one system or the other, **but not both**. The choice is made when a timely appeal or formal complaint is filed. An MSPB appeal must be filed within thirty (30) calendar days of the effective date of the personnel action in dispute.

4. An individual who wishes to file a discrimination complaint under EEO complaint procedures is advised that the complaint will be processed in accordance with EEOC guidance, which does not allow for an EEOC hearing before an EEOC Administrative Judge for matters that create a Mixed Case Appeal. This step is excluded and the matter is forwarded to the agency to prepare a final agency decision. Once a Final Agency Decision is reached, the individual will have the right to appeal the decision to the MSPB and request a hearing before an MSPB Judge.

5. If an individual appeals to the MSPB, (s)he may appeal the MSPB decision to the EEOC within thirty (30) calendar days after receiving the MSPB final decision. The appeal to the EEOC is filed with the EEOC Office of Federal Operations, Washington, D.C.

I acknowledge the above rights have been explained to me, in detail, and I understand my issue(s) involve an MSPB appealable action. I elect to have my concerns addressed in the Traditional EEO Process.

Aggrieved Signature: _____ **Date:** _____

I understand these rights as explained to me and DO NOT wish to proceed in the EEO complaint process.

Aggrieved Signature: _____ **Date:** _____



**EQUAL EMPLOYMENT
OPPORTUNITY CIVILIAN EMPLOYEE
RIGHTS (OFFICIAL TIME NOTICE)**

Aggrieved Name: _____ **Docket Number:** _____

1. Management Directive 110, chapter 6, section VIII, paragraph C outlines the rights of official time associated with a complaint. The Code of Federal Regulations, Section 1614.605 provides that complainants are entitled to a representative of their choice during pre-complaint counseling and at all stages of the complaint process. Both the complainant and the representative, if they are employees of the agency where the complaint arose and was filed, are entitled to a **reasonable amount of official time** to present the complaint and to respond to agency requests for information, if otherwise on duty. 29 C.F.R. § 1614.605(b). Former employees of an agency who initiate the EEO process concerning an adverse action relating to their prior employment with the agency are employees within the meaning of Section 1614.605, and their representatives, if they are current employees of the agency, are entitled to official time. Witnesses who are federal employees, regardless of whether they are employed by the respondent agency or some other federal agency, shall be in a duty status when their presence is authorized or required by Commission or agency officials in connection with the complaint.

a. Reasonable Amount of Official Time: "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 complainant and his/her representative are entitled will vary, depending on the nature and complexity of the complaint and considering the mission of the agency and the agency's need to have its employees available to perform their normal duties on a regular basis. The complainant and the agency should arrive at a mutual understanding as to the amount of official time to be used prior to the complainant's use of such time. Time spent commuting to and from home should not be included in official time computations because all employees are required to commute to and from their federal employment on their own time.

b. Meeting and Hearing Time: Most of the time spent by complainants and their representatives during the processing of a typical complaint is spent in meetings and hearings with agency officials or with EEOC Administrative Judges. Whatever time is spent in such meetings and hearings is automatically deemed reasonable. Both the complainant and the representative are to be granted official time for the duration of such meetings or hearings and are in a duty status regardless of their tour of duty. If a complainant or representative has already worked a full week and must attend a hearing or meeting on an off day, that complainant or representative is entitled to official time, which may require that the agency pay overtime.

c. Preparation Time: Since presentation of a complaint involves preparation for meetings and hearings, as well as attendance at such meetings, conferences, and hearings, complainants and their representatives are also afforded a reasonable amount of official time, as defined above, to prepare for meetings and hearings. They are also to be afforded a reasonable amount of official time to prepare the formal complaint and any appeals that may be filed with the Commission, even though no meetings or hearings are involved. However, because investigations are conducted by agency or Commission personnel, the regulation does not

envision large amounts of official time for preparation purposes. Consequently, "reasonable," with respect to preparation time (as opposed to time actually spent in meetings and hearings), is generally defined in terms of hours, not in terms of days, weeks, or months. Again, what is reasonable depends on the individual circumstances of each complaint and the needs of the organization's mission.

d. Aggregate Time Spent on EEO Matters: The Commission considers it reasonable for agencies to expect their employees to spend most of their time doing the work for which they are employed. Therefore, an agency may restrict the overall hours of official time afforded to a representative, for both preparation purposes and for attendance at meetings and hearings, to a certain percentage of that representative's duty hours in any given month, quarter, or year. Such overall restrictions would depend on the nature of the position occupied by the representative, the relationship of that position to the mission of the agency, and the degree of hardship imposed on the mission of the agency by the representative's absence from his/her normal duties. The amount of official time to be afforded to an employee for representational activities will vary with the circumstances. Moreover, 29 C.F.R. § 1614.605(c) provides that in cases where the representation of a complainant or agency would conflict with the official or collateral duties of the representative, the Commission or the agency may, after giving the representative an opportunity to respond, disqualify the representative. At all times, the complainant is responsible for proceeding with the complaint, regardless of whether s/he has a designated representative. The Commission does not require agencies to provide official time to employee representatives who are representing complainants in cases against other federal agencies. However, the Commission encourages agencies to provide such official time.

2. Requesting Official Time: The agency must establish a process for deciding how much official time it will provide a complainant. The agency must also inform complainants, their representatives, and others who may need official time, such as witnesses, of the process and how to claim or request official time.

3. Denial of Official Time: If the agency denies a request for official time, either in whole or in part, the agency must include a written statement in the EEO file noting the reasons for the denial. If the agency's denial of official time is made before the complaint is filed, the agency shall provide the complainant with a written explanation for the denial, which it will include in the EEO file if the complainant's subsequently files a formal complaint.

Aggrieved Signature: _____

Date: _____