



Preserving Access to the Legal System:

A Practical Guide to Providing Employees with Adequate Information about Their Rights under Federal Equal Employment Opportunity (EEO) Laws and Regulations

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INTRODUCTION

The U.S. Equal Employment Opportunity Commission (EEOC) has developed an agency-wide Strategic Enforcement Plan (SEP) for fiscal years 2012-2016 designed to maximize its ability, within the constraints of its resources, to have a sustainable impact on reducing and deterring discriminatory practices in the workplace. As a part of the SEP the Commission has adopted the following national priorities: (1) eliminating barriers in recruiting and hiring; (2) protecting immigrant, migrant, and other vulnerable workers; (3) addressing emerging and developing issues; (4) enforcing Equal Pay Laws; (5) preserving access to the legal system; and (6) preventing harassment through systemic enforcement and targeted outreach. Under the fifth priority, preserving access to the legal system, EEOC has committed to targeting policies and practices which discourage or prohibit individuals from exercising their rights under the employment discrimination statutes or that impede EEOC's enforcement efforts. In order to implement the SEP in the federal sector, the Commission approved the Federal Sector Complement Plan (FCP). One of the strategies the FCP details for preserving access to the legal system in the federal sector is to assess whether agencies are providing employees with adequate information about how to initiate the EEO discrimination complaint process, and, if so, whether that information is easily accessible and understandable.

EEOC's Office of Federal Operations (OFO) has responsibility for, among other things, evaluating federal sector agencies' EEO programs, operations, and activities. Pursuant to these responsibilities, and as part of its federal sector implementation of EEOC's SEP/FCP priority concerning preserving access to the legal system, OFO is issuing this compilation of practices and ideas to provide agencies with a variety of adequate and appropriate methods of distributing EEO information concerning the complaint process, laws, and regulations to their workforce.

BACKGROUND

Each covered federal agency is required to maintain an EEO program. To this end, agencies must use various media to distribute EEO information concerning federal EEO laws, regulations and requirements, rights, and duties and responsibilities and to promote best workplace practices. EEOC Management Directive 715 (MD-715) Part II, Section B.

Pursuant to 29 C.F.R. § 1614.102(b)(5), each agency shall “[m]ake written materials available to all employees and applicants informing them of the variety of equal employment opportunity programs . . . and prominently post such written materials in all personnel and EEO offices and throughout the workplace.”

In addition, agencies shall “publicize to all employees and post at all times the names, business telephone numbers and business addresses of the EEO Counselors (unless

the counseling function is centralized, in which case only the telephone number and address need be publicized and posted), along with a notice of the time limits and necessity of contacting a Counselor before filing a complaint and the telephone numbers and addresses of the EEO Director, EEO Officer(s) and Special Emphasis Program Managers.” 29 C.F.R. § 1614.102(b)(7).

PRACTICES AND IDEAS

OFO provides this compilation of practices and ideas to assist federal agencies in implementing effective communication plans to inform all employees about their rights and responsibilities under federal EEO laws and regulations and to ensure that employees who want to file discrimination complaints know how to initiate the EEO complaint process. We note that agencies continue to face challenges in disseminating information and effectively communicating the EEO complaint process to their workforce. Agencies with a decentralized workforce encounter the most challenging communication issues. EEOC strongly recommends agencies use whatever electronic means available to them, for example, their official websites, phones and employee e-mail accounts as a primary method of communication with its workforce. However, we recognize that under some circumstances agencies may need alternative communication methods. In particular, circumstances in which employees’ workstations are in non-office settings without regular access to the agencies’ computer or office e-mail systems likely present the most complicated communication challenges.

Accordingly, we reached out to agencies whose employees are not in an office environment and asked which methods they used to effectively communicate to employees their rights under EEO laws in this electronic age. The following ideas constitute the agencies’ most common practices:

1. Broadcast, on a quarterly basis, via e-mail to all employees their EEO rights, along with the telephone numbers, physical addresses, and e-mail addresses of EEO Counselors. The communication also indicates that an aggrieved person must initiate contact with an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory.
2. Design and disseminate informative brochures explaining the EEO complaint process, including the following information: specific federal laws as well as the specific bases for discrimination, how to initiate an EEO complaint, specific time frames, and proper contact information. Ensure that every employee receives a copy of the agency’s brochure and request that employees sign for it upon receipt. Additionally, place brochures prominently in common areas (for example, near building entrances and exits) and post the information on the agencies’ internal and external websites that are accessible to employees, former employees, and applicants for employment with the agency.
3. Produce and post video messages in which the agency head and/or the EEO Director provides employees information on various EEO topics on the agency’s TVs throughout the facilities where possible.
4. Use the agency’s intranet home page for special emphasis months and for posting relevant EEO information and documents.

5. Create and hang EEO posters, with information on how to initiate the EEO complaint process and whom to contact to file a complaint, at every agency facility, on each floor in the most frequented areas, for example, in break rooms, lunchrooms, central bulletin boards (including electronic bulletin boards), administrative offices, training offices, physical fitness centers, kitchen areas, and central hallways.
6. Establish as a collateral duty an EEO Point of Contact (POC), located at each of the agency's facilities. EEO POC duties might include providing information and directing employees to the EEO Office with the appropriate contact numbers for EEO Counselors, as well as other avenues for resolutions of non-EEO issues.
7. Send letters via postal mail to employees' addresses of record when there is a very important matter, such as a change of policy or changes in the law.
8. Use monthly divisional town hall meetings and/or staff meetings to remind employees about their rights under EEO laws and disseminate informative brochures.
9. Ensure that the agency's newsletter includes information concerning employees' EEO rights and the telephone numbers and addresses of EEO Counselors. Indicate that an aggrieved person must initiate contact with a Counselor within 45 days of the date of the matter alleged to be discriminatory. Provide examples of issues employees may need resolved and how they can resolve them, along with any updates in the laws.
10. Ensure that the responsible supervisors communicate EEO information orally and by hard copy delivery / postings at the work site.
11. Provide mandatory EEO training to all employees and new employees, including managers and supervisors, regarding the rights, responsibilities, and remedies available under the employment discrimination laws. Provide training in person or via electronic means and require that each employee receive the training every year in accordance with the No FEAR Act of 2002.
12. Conduct brown bag lunches focusing on various EEO topics. Stream live webcast sessions so that employees at remote locations can participate or view the video later on the agency's website.
13. Post EEO information regarding how to initiate an EEO complaint and contact information on employees' pay stubs and/or on the agency's payroll web site.

CONCLUSION

Continuous communication of EEO laws and regulations and the complaint process is an important factor in an agency's success in becoming a model EEO program. Federal agencies must ensure a prompt and efficient complaint process and should make employees aware of the various anti-discrimination EEO laws.

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Agencies must comply with EEOC regulations and management directives and ensure that EEO written materials are available to all employees; agencies should post such written materials in prominent areas throughout the workplace. We strongly encourage agencies to adopt several methods of communication to inform their employees about the EEO Program, in accordance with each agency's unique mission requirements and/or circumstances. We intend this practical guide will assist agencies in developing reliable and effective communication plans for disseminating their EEO program information.