

Ames Supervisor's Guide to Equal Opportunity

This guide is intended to provide general assistance to supervisors when there are questions regarding Equal Opportunity (EO) in the workplace. If you have specific questions, please contact the Office of Diversity and Equal Opportunity (ODEO) at 4-6507 or the ODEO webpage at <http://eo.arc.nasa.gov/>. The Federal Regulations concerning discrimination complaints processing for the Federal Sector may be found at <http://www.eeoc.gov/federal/>.

Please keep in mind that an Equal Opportunity Counselor is always available to assist and discuss issues or provide guidance in confidence. You may reach an EO Counselor at (650) 604-6507 or visit the ODEO office in Building 19, Room 1090, located in the NASA Research Park (NRP).

Being a supervisor is not always an easy job, and when personnel issues and complaints surface, the job can be even more difficult. We hope that this brief guide will give you some insight into the EO process and help answer questions you may have.

Ames Research Center Policy on Equal Opportunity

NASA Ames Research Center policy is to provide equal opportunity regardless of race, color, national origin, gender (including sexual harassment), disability, age, religion, retaliation, genetic information, or gender identity in accordance with Title VII of the Civil Rights Act. Equal opportunity covers all human capital and employment programs, management practices, policies, procedures, and decisions including but not limited to recruitment, hiring, merit promotions, transfers, reassignments, training, career development, benefits, and separation.

Ames supports every employee's right to exercise their legal rights under Federal laws. For more information about Ames Research Center policy statements see <http://eo.arc.nasa.gov/>. For Agency policy statements visit <http://odeo.hq.nasa.gov/policy.html>.

Should there be an employee needing assistance with other bases not covered under federal law (i.e. sexual orientation, marital status, parental status), please refer them to ODEO and ODEO staff will ensure to refer them to the appropriate resource.

Equal Opportunity

Equal Opportunity is the right of all persons to work and advance on the basis of merit, ability, and potential. EO policies provide all employees, applicants for employment, and contingent workers the right to be treated fairly and equally. Reasonable Accommodation for those employees with disabilities should be an interactive process between the supervisor and his/her employee. More information on Reasonable Accommodation can be found on the ODEO website or by contacting the Center Disability Program Manager.

Supervisors should be aware of basic EO regulations and strive to build an organization that is free of all types of discrimination, where the diversity of the organization is valued and appreciated, and all individuals are respected.

As a supervisor, your actions and your ability to communicate with employees provides you with the opportunity to set an example in the workplace. If your treatment of employees and your interviewing and selection process are fair and consistent, you will gain the respect of your organization and your example will be passed on to the workforce.

Discrimination Defined

The United States government has made it unlawful to discriminate against someone because of race, color, religion, sex, national origin, age, disability, genetic information, gender identity, or retaliation based on previous EO activity. Discrimination is defined in the civil rights laws as unfavorable or unfair treatment of a person or class of persons in comparison to others who are not members of a protected class. There may be other bases not covered under federal law (sexual orientation, parental status, marital status) that may be covered under an alternate Center or Agency process. Employees with questions about bases and processes should contact the ODEO office.

An employer is prohibited from discriminating against persons in all aspects of employment including recruitment, selection, evaluation, promotion, training, compensation, discipline, retention, and working conditions.

Many confuse what is perceived to be unfair treatment with discrimination. Treating anyone differently from others may violate EO laws only when that person's protected status is a factor in that treatment. The key to avoiding this type of situation is to ensure that you are fair and consistent in your treatment of all employees, follow merit principles in your interviewing and selection process, and deal with discipline issues in accordance with guidance provided by the Office of Human Capital.

EO Complaint Process

Ames Research Center's EO Counseling Process is the first step that an employee, applicant for employment, or contingent worker should take when they feel that they have been discriminated against based on their race, color, religion, sex (including sexual harassment), age, national origin, disability, reprisal, genetic information, or gender identity.

The discrimination complaint process is an administrative process that provides employees the opportunity to contact an EO Counselor and discuss allegations in confidence. EO Counselors are neutral in the process and are not on the side of the aggrieved individual or management. An aggrieved individual should never be discouraged from seeking the advice of a counselor, in fact, as a supervisor you should keep in mind that an employee has the legal right to seek

redress if they feel discriminated against. Your first step should be to attempt to resolve issues before they get to the EO complaint stage. For EEOC guidance on the federal complaint process visit: <http://eeoc.gov/federal/directives/md110.cfm>.

A counselor must have permission to reveal an aggrieved individual's name. If a counselor is asking questions but won't reveal the identity of the person they are asking about, it's because the individual chose to remain anonymous. Supervisors on the other hand, do not have the right to anonymity when responding to a counselor's request for information and the information provided to the counselor may be used in a counselor's report if there is no resolution and a formal complaint is filed. The best practice is to answer questions to the best of your knowledge. If you don't remember an event, it is okay to say so.

EO Counselors assist the Agency with the EO complaint process, and have been trained in EO related laws, regulations, and procedures. They meet with employees, listen to their concerns, inform them of their legal rights and explain EO regulations. They are limited to a 30 calendar day period in which to perform a limited fact finding investigation into an employee's allegations. It is important to work with the EO counselor in a timely manner to complete the fact finding process within the 30 days. If untimely, the Agency can be held liable. During this informal process, the goal is to resolve the issue(s) at the lowest possible level. Supervisors are a valuable source of resolution. If legitimate circumstances cause counseling delays, the counselor or aggrieved individual may request an extension not to exceed the maximum total 90 calendar days allowable.

Supervisor's Role

As a supervisor, you are representing the Agency. Your role as it relates to EO is to investigate allegations of discrimination or harassment promptly and contact ODEO or the Center Anti-Harassment Coordinator (CAHC) for assistance. Supervisors should work with EO counselors and assist them as much as possible in attempt to resolve issue(s) during the informal part of the process. By resolving issues early, everyone involved is able to resume working without disruptions that can be caused by EO processing and formal complaints. A complaint of discrimination that moves from the informal stage to the formal stage may take years to settle and can take a great deal of time for all of those involved with the process. Good communication with employees is the best way to avoid complaints.

If an employee comes to you and wants information about the EO counseling process or file a complaint, please refer them to ODEO at (650) 604-6507 or the ODEO website at www.eo.arc.nasa.gov. A supervisor may also contact ODEO to discuss possible issues in confidence, and by doing so, you may eliminate the source of a potential complaint. An employee only has 45 calendar days from an event to contact an EO counselor, it is very important to take this into consideration, even if you are working with the employee to attempt to resolve the issue.

Strategies for Preventing Discrimination

- Be consistent
- Be fair and impartial in personnel decisions
- Treat all employees with respect
- Never tolerate any form of discriminatory behavior in your organization
- Take immediate action if harassment is reported to you
- Take immediate action to correct conduct or behavior that is aimed at a particular individual or group
- Seek advice from ODEO, HR, and Chief Counsel if you have doubts about personnel decisions

Alternative Dispute Resolution (ADR)

The Agency requires that all aggrieved individuals are given the right to enter into Alternative Dispute Resolution (ADR). Mediation is a form of ADR that is offered by Ames as an alternative to the formal complaint process. Mediation is an informal process in which a neutral third party (mediator) assists the opposing parties to reach a voluntary, negotiated resolution of a charge of discrimination. The decision to mediate is completely voluntary for the charging party and for the employer.

Mediation gives the parties the opportunity to discuss the issues raised in the charge, clear up any misunderstandings, determine the underlying concerns, find areas of agreement and, ultimately to incorporate agreements into resolutions. A mediator does not resolve the charge or impose a decision on the parties. Instead the mediator helps the parties agree on a mutually acceptable resolution. The mediation process is confidential and information disclosed during mediation will not be revealed to anyone that is not involved in the process.

Mediation is an efficient process that saves time and money. Successful mediation avoids a time consuming investigation and achieves a prompt resolution of the charge. Mediation is fair. Mediators are neutral third parties who have no interest in the outcome. Their role is to help the parties resolve the charge. Ames Research Center will contract with an outside entity to acquire mediators for EO complaints received by the ODEO.

For guidance on ADR please visit <http://www.eo.arc.nasa.gov/ADR%20Pamphlet.pdf>. For the NASA Procedural Requirements (NPR 3713.2) on ADR visit <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=3713&s=2>.

Equal Opportunity Web Resources

Ames Research Center ODEO

<http://eo.arc.nasa.gov>

NASA Procedural Requirements on Alternative Dispute Resolution (NPR 3713.2)

<http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=3713&s=2>

NASA Headquarters Equal Opportunity and Diversity Management Division

<http://eodm.hq.nasa.gov/>

NASA Headquarters Agency Policy Statements

<http://odeo.hq.nasa.gov/policy.html>

Equal Employment Opportunity Commission

<http://eoc.gov>

Equal Employment Opportunity Commission Management Directive 110

<http://eoc.gov/federal/directives/md110.cfm>

Office of Personnel Management

<http://opm.gov>

Department of Labor

<http://dol.gov>

Diversity Resources

<http://diversityresources.com>