

EQUAL EMPLOYMENT OPPORTUNITY OFFICE

U.S. ARMY GARRISON PRESIDIO OF MONTEREY

Home of

THE DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER



197 Patton Avenue, BLDG 218

AMIM-PMG-EE

Presidio of Monterey, CA 93944-3223

Phone: (831) 242-5105

DSN: 768-5105

FAX: (831) 242-5814

Website: <https://home.army.mil/monterey/index.php/about/garrison-directorates/equal-employment-opportunity>

The Equal Employment Opportunity Office

The Equal Employment Opportunity Office provides an effective Equal Employment Opportunity program at the Presidio of Monterey which promotes an environment free of discrimination based on race, age, sex, color, genetics, religion, national origin, physical and/or mental disability or reprisal.

- **EEO MANAGER**

The POM EEO Manager is the advisor to the Commander and management officials on all EEO matters and directs and monitors the overall EEO Program to include affirmative employment. The EEO Manager ensures that EEO plans of action are effective, evaluates EEO progresses and supervises EEO performance and achievements.

- **EEO SPECIALIST**

EEO Specialists assist the EEO Manager by performing assignments related to the management and implementation of EEO Programs, including but not limited to EEO counseling and complaints, reasonable accommodations, anti-Harassment, and Alternative Dispute Resolution (ADR); which are designed to provide equal employment opportunity through recruitment, training, utilization, recognition and advancement in various occupations and grade levels.

EEO personnel provide basic EEO training to all employees and supervisors on a recurring basis. Sexual Harassment/Assault Response and Prevention (SHARP) training for employees and supervisors can also be provided by EEO personnel.

EEO personnel are available to answer questions from employees/applicants pertaining to EEO matters and also counsel employees relating to complaints by interviewing witnesses, gathering facts, preparing summaries of findings and making recommendations for action. Employees having questions should get prior approval from their supervisor/manager to make an appointment with EEO if official duty time is being used. Personnel are available at any time; however, APPOINTMENTS ARE PREFERRED.

Check the employees' bulletin boards for current EEO Program information.

EEO PROGRAM RESPONSIBILITIES OF MANAGERS AND SUPERVISORS

Managers/Supervisors are required to adhere to and implement EEO policies and principles in every action which deals with or affects personnel and management.

Managers/Supervisors establish and maintain a work environment which is free of discrimination, harassment (sexual or non-sexual) and reprisal.

Managers/Supervisors are responsible for removing employment barriers and giving equal consideration in the development and advancement of qualified women and minorities.

EEO PROGRAM RESPONSIBILITIES OF EMPLOYEES

It is the responsibility of each employee to monitor their own behavior and personal workspace to ensure the work environment is based on mutual respect and geared toward mission accomplishment. Review your own conduct through application of the following guidelines:

- Does your behavior contribute to output and/or mission accomplishment? Negative examples are excessive discussion of personal life or problems, emphasis on developing your social life instead of work.
- Could your behavior sometimes offend or hurt other members of the work group? Examples are offensive jokes, posters, cartoons, etc.; language which targets or puts down any group.
- Could your behavior be misinterpreted as intentionally harmful or harassing? Examples are constant derogatory or sexually suggestive comments, deliberate or repeated physical contact.
- Could your behavior be sending out signals that invite harassing behavior on the part of others? Examples are clothing that is too tight, too revealing or informal for work; expecting or giving personal favors based on gender related issues; inappropriate religious-related articles; inappropriate racial/national origin-related materials.
- Are you taking personal responsibility for maintaining a positive work environment? Examples: Are you immediately correcting any inappropriate work site behaviors as noted above? Are you communicating directly with the person who has personally offended you, and/or reporting harassment or inappropriate behavior through the supervisory chain of command, and/or your Equal Employment Opportunity Office?

It is important that you review your behavior and personal workspace from the perspective of how it may be perceived as opposed to your intent.

NOTE: While there is no formal dress code, employees are required to wear appropriate attire for the type of work they perform.

SPECIAL EMPHASIS PROGRAM (SEP)

The Department of Army requires installations to establish Special Emphasis Program to ensure equal opportunity in hiring, training, advancement, and treatment of women and minority employees. These programs are the Asian Pacific American Employment Program, Black Employment Program, Federal Women's Program, Hispanic Employment Program, American Indian/Alaskan Native Employment Program, and Program for Individuals with Disabilities.

Special Emphasis Program Managers (SEPM) are appointed by the EEO Manager. The SEP Committee assists SEPMs. The SEP Committee is composed of employees from various organizations at the POM. Membership on the committee is voluntary and open to all military personnel and civilian employees. The SEP Committee aids the program manager in conducting ethnic and cultural awareness events during all observances that have been established by law, bill, or resolution of Congress.

Membership on the SEP Committee provides an opportunity for employees to become involved and make a personal commitment to the program. Committee members are on official appointment orders and attend regularly meetings.

If you are interested in becoming a member of the SEP Committee contact the POM EEO Office for further information.

EEO DISCRIMINATION COMPLAINT PROCESS

Department of the Army Regulation 690-600, Equal Employment Opportunity Discrimination Complaints, sets policies and procedures for filing, processing, investigation, and settling complaints of discrimination. It implements Federal law and the regulations of the Equal Employment Opportunity Commission (EEOC).

WHO MAY FILE A COMPLAINT?

Any employee, former employee, or applicant for the federal employment who feels she/he has been discriminated against (treated differently) may file a complaint based on:

- Race
- Color
- Religion
- Sex (including sex based harassment, gender identity, transgender status, pregnancy or sexual orientation)
- National Origin
- Age (40 years and older)
- Mental and/or Physical Disability
- Genetic Information (GINA)
- Reprisal (based on previous EEO activity)

The aggrieved must identify the basis of the complaint (above). The aggrieved must also identify the adverse action/issue they suffered leading to the complaint. Discrimination may arise from a specific action or from an ongoing policy or practice. Some examples of issues in discrimination complaints are:

- Failure to be promoted/hired
- Failure to be selected for training
- Disciplinary action
- Termination
- Performance appraisal

If an individual, instead of a system or organization, perpetrated the alleged discriminatory action, the aggrieved will identify that individual, hereinafter known as the Responsible Management Official (RMO).

As part of their complaint, the aggrieved may request relief that is appropriate considering the nature of the alleged discrimination. Relief is identified as that which would make the aggrieved “whole” again; i.e., what the aggrieved would have had if there had not been discriminatory actions taken against them. Examples of forms of relief are:

- Retroactive promotion/back pay to the position in question
- Special consideration for promotion to the level/type position in question
- Assignment to attend training

- Cancellation of disciplinary action
- Reinstatement of employee
- Reclassification of position

INFORMAL COMPLAINT: THE FIRST STEP

The first step in the complaint system is the filing of an informal complaint of discrimination. If you believe that you have been the victim of discrimination, you generally have **45 calendar days** from the date the discrimination occurred to contact a POM EEO Counselor. If the discrimination involved a personnel action (for example, a demotion or firing), you generally must contact a POM EEO Counselor within 45 calendar days of the date the personnel action takes effect.

The aggrieved need not furnish “proof” of discrimination in order to file a complaint. It is sufficient for the aggrieved to demonstrate that they have been adversely affected and to have reason to believe that the adverse action is because of race, color, religion, sex, age, national origin, disability, genetic information or reprisal.

At the initial meeting with the POM EEO Counselor, if they wish to file, the aggrieved will elect to voice their complaint through either Traditional Processing **or** Alternative Dispute Resolution.

Traditional Processing

If the aggrieved chooses Traditional Processing, an EEO counselor will be assigned to the case and will initiate the **30 calendar day** period during which the counselor will attempt to reach an informal resolution of the complaint. The counselor will talk with the aggrieved to determine the nature and background of the complaint and the relief desired. If the aggrieved so wishes, their name may be kept confidential during the informal stage; however, this can hinder the counselor in obtaining facts. Depending on the matter, the counselor may research regulations, review personnel records, statistical information, interview witnesses and/or speak with the Responsible Management Official (RMO) and other management officials, if appropriate. The counselor will present facts to both parties and determine whether a mutually acceptable informal resolution of the complaint is possible. If so, terms of the resolution will be documented and presented to the aggrieved and the RMO by an EEO Official. Aggrieved and RMO(s) are entitled to present evidence, names of witnesses and have representatives of their choice during all stages of the complaint process; however, no staff member of the EEO Office or Civilian Personnel Advisory Center (CPAC) may serve as a representative for either party.

An EEO Counselor’s Report is submitted to the EEO Manager after traditional counseling is performed. This report details the counselor’s efforts to reach an informal resolution and their results of the inquiry.

Alternative Dispute Resolution (ADR)

If the aggrieved decides to participate in Alternative Dispute Resolution (ADR), the case is automatically extended up to **90 calendar days** from the date of contact with the EEO counselor in order to allow time for the mediation to take place. ADR is a confidential process that uses DA certified mediators to assist parties in reaching a voluntary settlement of their differences in a manner that is acceptable to both sides. ADR creates a forum where the parties can candidly discuss their concerns.

Participation in mediation is voluntary for both the aggrieved and the commander’s designee.

The commander or their designee will determine which management official will participate in the mediation. The management official selected should be one who is authorized to engage in resolution discussions and execute a Negotiated Settlement Agreement (NSA). Managers have an affirmative duty to cooperate in an ADR process once the decision is made to offer ADR. Likewise, the commander/designee and the aggrieved have the option to "opt out" of ADR at any point prior to resolution and for any reason. ADR differs from traditional litigation in that it is informal, the rules of evidence do not apply and testimony is not taken. The mediator has no stake in the outcome of the dispute and does not make any final decisions.

Mediation begins with all the participants present and the mediator explains the process and answers any general questions at that time. After each party presents their concerns by giving some brief opening remarks, the mediator may ask questions to clarify or elaborate on a particular topic. After the first joint session, the mediator will meet with each party separately (caucus) to discuss issues in greater detail and to gain a better sense of how the parties would like to resolve the issues. During the joint and private sessions, the mediator will explore the options the aggrieved person has identified for resolution. If a satisfactory resolution is reached, the parties compose and sign a binding Negotiated Settlement Agreement (NSA) which will then be reviewed by the legal department and enforced upon both parties.

Advantages to using ADR are that it typically takes only one session as opposed to waiting sometimes several years for a hearing, it is less costly and if a resolution is reached, it becomes documented in a binding NSA that must be upheld by both parties.

FORMAL COMPLAINT: THE SECOND STEP

Filing a Complaint

If a resolution is not reached **within 30 calendar days**, the EEO Counselor, must, NLT the 30th day, give written notice to the aggrieved of the right to file a formal complaint; unless the aggrieved elected ADR at which point the timeline for resolution is extended **up to 90 calendar days**. If needed, the aggrieved may agree to an extension up to an additional 60 days to complete the inquiry, but it is not mandatory. In order to exercise the right to file a formal complaint, the aggrieved must file **within 15 calendar days** of receipt of the Notice of Right to File a Formal Complaint of Discrimination. Upon filing of a formal complaint, the aggrieved becomes known as the "complainant." A formal complaint must be dated and signed by the complainant, and preferably should be submitted on DA Form 2590, which is available at the EEO Office, online or via email from the EEO Counselor. The EEO Office's mailing address is:

ATTN: AMIM-PMG-EE
Equal Employment Opportunity Office
197 Patton Ave, BLDG 218, RM 1
Presidio of Monterey, CA 93944-3223

Accepting or Dismissing a Complaint

The EEO Manager has the authority to accept or dismiss a formal complaint. The authority to dismiss a complaint is limited to situations where:

1. Untimely Counseling Contact;
2. Untimely Filing of the Formal Complaint;

3. Failure to State a Claim;
4. Abuse of Process;
5. States the Same Claim;
6. Complainant Files a Civil Action;
7. Issue Has Been Decided;
8. Allegation Raised in Negotiated Grievance Proceeding;
9. Appeal Made to MSPB;
10. Complaint Alleges a Preliminary Step;
11. Complaint is Moot;
12. Dissatisfaction with the Processing of a Complaint;
13. The Complainant Cannot Be Located;
14. The Complainant Failed to Respond or Proceed in a Timely Fashion.

When the complaint is accepted, the RMO(s) are informed of the complainant's identity regardless of whether anonymity was previously requested. At this point, the Complainant is allowed to receive a copy of the Counselor's Report.

Investigating the Complaint

A formal complaint will lead to an investigation, which is conducted by the Investigations and Resolutions Division (IRD). The IRD investigator takes affidavits/testimony from the complainant, RMO(s) and other witnesses and gathers evidence about the complaint. The IRD will provide a Report of Investigation (ROI) to the EEO Manager who, in turn, will forward a copy to the complainant.

Hearing and Decision

Within **30 calendar days** of receipt of the Report of Investigation (ROI) of discrimination complaint, the complainant may elect to:

1. Request a hearing before an Administrative Judge (AJ) designated by the Equal Employment Opportunity Commission (EEOC), with subsequent action by the Director of Equal Employment Opportunity for the Department of the Army.

If a request for an EEOC hearing is submitted, the EEOC AJ hears relevant testimony and considers documentary evidence about the allegations. Witnesses give testimony under oath or affirmation and can be cross-examined. The AJ submits their findings and a decision to the EEO Manager. If there are no disputed facts in the complaint, the AJ can render a decision solely on written record without conducting a hearing.

The Department of the Army either accepts or appeals the AJ's decision. A verbatim transcript of the hearing (if held) and a copy of the decision accompany the final decision.

OR

2. Request a decision by the Director of Equal Employment Opportunity, Department of the Army, without a hearing. Decision will be based on the record as it stands.

If the complainant does not reply within **30 calendar days** after receipt of the ROI, the EEO Manager will submit the entire case file to the Army Director of EEO for a final Army Decision on the merits of the complaint or on the record as it stands.

Appealing the EEOC

If the complainant is dissatisfied with the action/final decision of the Department of the Army (after an EEOC hearing or without an EEOC hearing), they may appeal to the EEOC Office of Federal Operations (OFO) **within 30 calendar days** of receipt of that decision. A copy of the appeal and documentation will be submitted to the EEO Officer.

Right to File Civil Action

Except in cases of age discrimination or gender-based pay discrimination where the aggrieved wishes to bring an action under the Equal Pay Act, an aggrieved person is authorized to file a civil suit in an appropriate U.S. District Court:

1. After **180 days** have passed from date the complainant filed their complaint, if the Army has not issued a decision and no appeal has been filed.
2. Within **90 days** from the date the complainant receives the agency's decision on their complaint, so long as no appeal has been filed
3. After the **180 days** from the date the complainant filed their appeal if the EEOC has not issued a decision, or
4. Within **90 days** from the date the complainant receives the EEOC's decision on their appeal

Freedom from Reprisal

The complainant and any witness of the complainant have a right to be free from restraint, interference, coercion, discrimination and reprisal because of their EEO involvement. A complaint of reprisal is filed and processed in the same manner as other complaints of discrimination.

SPECIAL PROCEDURES FOR AGE AND GENDER-BASED WAGE DISCRIMINATION

If a complaint involves age discrimination, the administrative complaint process can be skipped altogether and the aggrieved person can directly file a civil action in a United States District Court (as long as they give the EEOC at least **30 calendar days** written notice of their intent to go to court). Also, if a claim involves gender-

based pay discrimination and the aggrieved wishes to bring an action under the Equal Pay Act, they can skip the administrative complaint process and file a lawsuit anytime within two years of the day the discrimination occurred (three years if the discrimination is willful). Keep in mind, though, Title VII also makes it illegal to discriminate based on sex in the payment of wages and benefits. If you have an Equal Pay Act claim, there may be an advantage to also filing your claim under Title VII. Before you can pursue a Title VII claim in court, though, you must go through the EEO complaint process.

In most cases, a complainant may recover reasonable attorney's fees if they prevail in the administrative process. Complainants prevailing on claims under the Age Discrimination in Employment Act of 1967, as amended, and the Equal Pay Act of 1963, as amended, are not entitled to attorney's fees at the administrative level. To recoup attorney's fees, the name, address, and date attorney was retained must be provided to the EEO Office in writing at the time the attorney is hired.

FREQUENTLY ASKED QUESTIONS REGARDING EEO COMPLAINTS

Q. Doesn't the EEO complaint process favor management?

A. The EEO complaint process is designed to favor neither management nor complainant, but rather to make it possible for the facts to be established and equitable solutions reached. Beyond legal obligations to implement EEOC laws and regulations, the POM has vested interest in maintaining high morale and productivity, both of which are adversely affected by discrimination. The various levels of appeal in the process work to ensure against possible abuse.

Q. What can I do if my supervisor decides to make things difficult for me because I filed a complaint?

A. EEOC regulations prohibit reprisal against employees who have filed, or have been associated with EEOC complaints. The employee may file a new complaint of discrimination based on reprisal.

Q. Isn't the EEOC complaint process basically for minorities?

A. EEOC laws and regulations prohibit discrimination based on race, color, religion, sex, national origin, age, genetic info, or physical or mental disability. This means that "non-minorities" have the same rights as "minorities" in the complaint system, and are equally protected against discrimination.

Q. How long does the complaint process take before receiving a decision of a finding of discrimination from the EEOC Administrative Judge?

A. If the issue(s) is not resolved during the informal stage and the employee wants to pursue the complaint in the formal stage, it may take as long as 2-3 years before a decision is handed down by the EEOC administrative judge. On the last page is a processing chart of estimated timeframes at each step of the process.

APPENDIX A EQUAL EMPLOYMENT OPPORTUNITY (EEO) TERMINOLOGY

EEO, like any other field, has its own terminology. The definitions given below will help you understand any technical language you may come across either in official court decisions or in other EEO-related publications.

ACCESSIBILITY	A barrier-free environment in which the mobility of persons with disabilities is not precluded by external forces such as architectural design.
COMPLAINANT	A federal employee, a former Federal employee, or an applicant for Federal employment who files a formal complaint of discrimination based On their race, color, religion, sex, national origin, age, physical and/or mental disability, genetic info and/or reprisal
(CLF) CIVILIAN LABOR FORCE	Persons 16 years of age or over in the outlying community, including those in the Armed Forces, who are employed or seeking employment.
DISABILITY	A physical or mental impairment which substantially limits one or more major life activity.
DISABLED VETERAN	A person whose discharge or release of active duty was for a disability incurred or aggravated in the line of duty and who is entitled to a 30% disability compensation under the laws administered by the Veterans Administration.
DISCRIMINATION	Any act or failure to act, impermissible based in whole or in part of a person's race, color, religion, sex, national origin, age, physical or mental disability, genetic info, and/or reprisal, that adversely affects privileges, benefits, working conditions, and results in desperate treatment, or has desperate impact on employees or applicants.
EQUAL EMPLOYMENT OPPORTUNITY	Administering all terms and conditions of employment without regard to race, color, religion, sex, national origin, age, disability, or genetic info.
(EEOC) EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (OFO) OFFICE OF FEDERAL OPERATIONS	The Federal agency with overall responsibility for federal sector complaints. The EEOC issues policy and regulations on the discrimination complaint process.
EEOC (MD) MANAGEMENT DIRECTIVES	Interpretations of Title VII expressed by the EEOC that have the force of law, and tend to be supported by the courts. These positions are outlined in various EEOC publications.
MAJOR LIFE ACTIVITY	Functions, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
(IRD) INVESTIGATIONS AND RESOLUTIONS DIVISION	The Department of Defense organization that investigates formal EEO complaints filed against DoD agencies (i.e., Army).

RACE

A protected class, members of which have been defined by the EEOC as:

- Black/African-American -- Persons having origins in any of the black racial groups of Africa
- Hispanic -- Persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race
- American Indian/Alaskan Native -- Persons having origins in any of the original peoples of North America
- Asian/Pacific Islanders -- Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands
- White (non-Hispanic) -- Person having origins in any of the original peoples of Europe, the Middle East, or North America

(RMO) RESPONSIBLE
MANAGEMENT OFFICIAL

A person identified or implicated by the complainant who is responsible for a specific act or policy alleged to be discriminatory.

APPENDIX B

EQUAL EMPLOYMENT OPPORTUNITY (EEO) LAWS

[Title VII of the Civil Rights Act of 1964 \(Title VII\)](#)

This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

- [The Pregnancy Discrimination Act](#)

This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

[The Equal Pay Act of 1963 \(EPA\)](#)

This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

[The Age Discrimination in Employment Act of 1967 \(ADEA\)](#)

This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

[Title I of the Americans with Disabilities Act of 1990 \(ADA\)](#)

This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

[Sections 102 and 103 of the Civil Rights Act of 1991](#)

Among other things, this law amends Title VII and the ADA to permit jury trials and compensatory and punitive damage awards in intentional discrimination cases.

[Sections 501 and 505 of the Rehabilitation Act of 1973](#)

This law makes it illegal to discriminate against a qualified person with a disability in the federal government. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

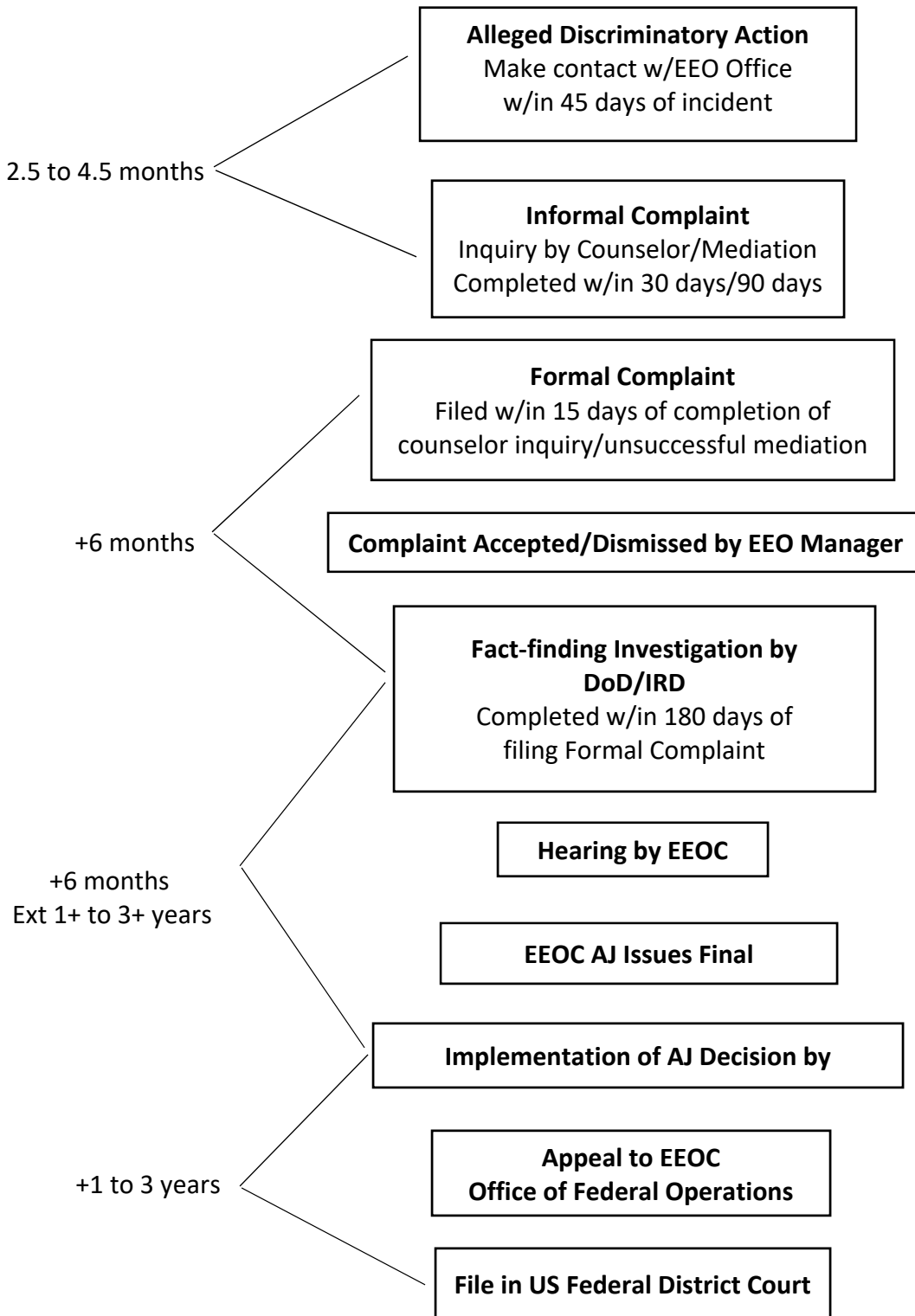
[The Genetic Information Nondiscrimination Act of 2008 \(GINA\)](#)

This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

APPENDIX C ARMY EQUAL EMPLOYMENT OPPORTUNITY (EEO) REGULATIONS

- [AR 690-600, EEO Discrimination Complaints](#)
- [AR 690-12, Equal Employment Opportunity and Diversity: Appendix C, Reasonable Accommodation](#)

Federal EEO Complaint Process



DOD/IRD-- Investigations & Resolutions Divisions
 EEOC-- Equal Employment Opportunity Commission
 AJ-- EEOC Administrative Judge
 EEOCCR-- DA EEO Compliance & Complaints Review
 FAD-- Final Agency (Army) Decision