In reply refer to: 08

December 6, 2022

VIA: **(Delivery Method)**

**Director (00)**

Department of Veterans Affairs

govcdm\_stationname

govcdm\_facilityaddress govcdm\_facilityaddress2

govcdm\_facilitycity, govcdm\_facilitystate govcdm\_facilityzip

**SUBJECT:** **Notice of Informal Counseling firstname** **lastname, Case No.** **govcdm\_name.**

Dear **(Director)**:

1. The above-named employee contacted the Office of Resolution Management, Diversity & Inclusion (ORMDI), on **govcdm\_datetimeofinitialcontact**, regarding the matter listed below. The Responsible Management Official**(s)** (RMO) has the right to know of the allegation**(s)** raised; therefore, we encourage you to share this correspondence with **him/her/them**.  For your convenience, we have attached a brief overview of the EEO complaint process and what management can expect.

|  |  |  |
| --- | --- | --- |
| **Basis (es)** | **Claim (s)** | **Date(s) of Occurrence** |
| govcdm\_basis | govcdm\_claimtype | **govcdm\_dateofincident** |

|  |
| --- |
| **Name & Title of Responsible Management Official(s) Involved** |
| **First and Last name, Title** |

|  |
| --- |
| **Resolution Requested** |
| govcdm\_resolutionsought |

|  |
| --- |
| **Alternative Dispute Resolution** |
|  |

2. firstname lastname is the assigned EEO counselor and will contact your EEO program manager/liaison for their assistance if necessary. In order to establish the timeliness of the claim, we are requesting the following document(s) and information:

1. list information requested)
2. (list information requested)
3. (list information requested)

When an individual presents their allegations to a VA EEO official, to include EEO Managers, Specialists, Assistants, and Interns, the EEO official must provide the individual with his/her rights to file an EEO complaint with the Office of Resolution Management, Diversity & Inclusion. If it has been determined that the above named individual contacted your office regarding the stated claims, please provide ORM with the EEO Complaint and Dispute Tracking Report form signed by the employee.

3. It is important to the processing of the complaint that our office receives this information in a timely manner. **Please return the requested information and the attached notices preferably via email to firstname lastname** **EEO Counselor** **at internalemailaddress or by fax at XXX XXX-XXXX within five (5) business days of receipt of this letter.** **You are *strongly encouraged* to use email to submit your correspondence and/or documents to ORMDI.**Your cooperation in providing this information to our office is greatly appreciated.

4. Our goal in the informal stage of the EEO process is to assist the employee and management in reaching a resolution of the claims. Therefore, it is VA’s policy to offer ADR at this stage. If you refuse to offer ADR, you must submit *VA Form 0889c, Notice of Refusal to Offer Alternative Dispute Resolution for EEO related issues* and route through the appropriate channels.  A copy of the *Notice* must be provided to ORM for the complaint file.

5. If an informal resolution cannot be reached during the informal stage, the employee has a right to file a formal EEO complaint. At that stage, ORMDI will review the complaint to determine if it meets the procedural requirements for investigation. In anticipation of that determination, please direct your staff to return the enclosed Merit Systems Protection Board (MSPB)/Grievance forms if either of the following two situations applies:

1. Has the employee filed a grievance through the negotiated grievance process?

If so, we need a copy of the formal grievance and verification of whether grievance was filed by employee or union.

1. If the issue raised with the EEO counselor was also filed with the MSPB, we need a copy of the MSPB filing.

6. If you have any questions, please contact firstname lastname, EEO Specialist at address1\_telephone1.

Sincerely,

firstname lastname

District Manager

Enclosures (2):

1. What to Expect During the Complaint Process
2. Record of MSPB Appeal or a Grievance

cc: First and Last name, EEO Program Manager

***Why Did I Receive this Notice?***

You received the *Notice of Informal Counseling* because an employee, applicant, or former employee under your chain of command contacted an EEO counselor. We have copied your EEO program manager/liaison.

**What actions should I take?**

There are a few actions that you should direct your staff to take:

* If ADR is not being offered, return a refusal via *VA Form 0889c*.
* Advise the EEO counselor if the employee has filed a grievance or MSPB appeal on the issue(s).
* Communicate your expectation that management should attempt to resolve the complaint. The goal of the informal stage of the complaint process is to resolve the issue at the lowest level. The Department has set a goal of 50% resolution rate of EEO informal complaints. If the employee did not elect mediation, the EEO counselor will work with management and the employee to resolve the issue.

**How long will this phase of the process last?**

ORMDI has 30 days to complete counseling if ADR is not elected, and 90 days if it is.

**What happens if the case is not resolved?**

If resolution efforts are not successful, the employee will have 15 days to file a formal complaint from when the informal stage is closed.

**When does ORMDI investigate the complaint?**

If the employee files a formal complaint, ORMDI will acknowledge. We will then review the complaint to determine if it meets EEOC’s procedural requirements for investigation.

We will notify you of our determination to either accept the complaint for investigation, in whole, or in part; or dismiss the complaint. If ORMDI accepts the complaint for investigation, we will advise you and make a request for relevant documentation. We need you to direct your staff to respond to all document requests. **Failure to provide requested documentation/information may result in an adverse inference for the Department in the form of a finding of discrimination.**

**What can management expect at the investigative phase?**

The investigator will develop impartial and appropriate factual information on the claims accepted for processing. ORMDI must complete the investigation within 180 days of the date the formal complaint was filed, so we need the cooperation of all witnesses, including management officials.

ORMDI is available to consult or provide a mediator at this stage.

**What occurs after the investigation?**

The employee can elect an Equal Employment Opportunity Commission hearing or a final agency decision from VA’s Office of Employment Discrimination Complaint Adjudication. If a hearing is elected, your management officials will work with the agency representative (usually Regional Counsel Attorney) to prepare for the hearing.

**When does the process end?**

The employee can also file in U.S. District Court after 180 days have elapsed from the formal filing date or after the case has been adjudicated. If that occurs Regional Counsel works with a U.S. Attorney from the Department of Justice.

For more information, visit <http://vaww4.va.gov/orm/Index.asp>

**Record of Appeal to MSPB/Negotiated Grievance**

**Aggrieved Person: firstname lastname**

**Case Number: govcdm\_name**

**This employee has filed an appeal with the Merit System Protection Board on \_\_\_\_\_\_\_\_\_\_\_. (**If you indicate that the employee has filed an appeal with the MSPB on the claim(s), please enclose documentation that establishes the filing date of the MSPB appeal.)

**This employee has filed a formal union grievance on \_\_\_\_\_\_\_\_\_\_\_.**

(If you indicate that the employee has raised the claim(s) in a negotiated grievance procedure, please enclose a dated copy of the grievance (or other documentation that establishes when the grievance was filed).

**Formal union grievance filed by employee**

**Formal union grievance filed by Union**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Facility Director/Designee Date**

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**EEO Manager Date**