In reply refer to: 08

September 6, 2022

VIA: **(Delivery Method)** emailaddress3

firstname lastname

address1\_line1 address1\_line2

address1\_city, govcdm\_address1statepicklist address1\_postalcode

**SUBJECT: Notice of Dismissal for EEO Complaint** **of** **firstname** **lastname, Case No.** **govcdm\_name, Filed** **govcdm\_dateformalcomplaintfiled against officials of the govcdm\_name in govcdm\_address1\_city, govcdm\_address1statepicklist.**

Dear firstname lastname:

1. On **govcdm\_datetimeofinitialcontact**, your client initiated contact with an EEO counselor. Counseling concluded on **govcdm\_datenoticeofrighttofileissued**, when you and your client were emailed the *Notice of Right to File a Discrimination Complaint*, which you received on **<date atty/rep received NORTF>**, and your client received on **<date Complainant received NORTF>**. If atty/rep and complainant received the NORTF on the same day then use “on **<date NORTF received>** you and your client received the NORTF. On **govcdm\_dateformalcomplaintfiled** your client filed a formal complaint of discrimination, VA Form 4939, received in our office on **<DATE>**.

\*If CP did not elect representation until after counseling, second sentence, including footnote, should read as follows: Counseling concluded on **govcdm\_datenoticeofrighttofileissued**, when your client was emailed[[1]](#footnote-1) the *Notice of Right to File a Discrimination Complaint*, which was received on **govcdm\_datenoticeofrighttofilereceived**.

2. Your client’s complaint of discrimination raises the following claim[s]:

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| **Claim(s)** |
| govcdm\_claimtype govcdm\_claimtypeother |

**Whether complainant was discriminated against based on [bases], when on [Insert date], [she/he] was [describe employment harm].**

**\*If claim is HWE frame as follows: Whether complainant was subjected to a hostile work environment based on [bases] as evidenced by the following events:**

3. Decision must articulate why claims do not meet criteria for acceptance. If more than one paragraph is required, renumber following paragraphs accordingly.

**Your client’s complaint of discrimination is hereby DISMISSED in its entirety pursuant to 29 C.F.R. §1614.107(a)(x) for [failure to state a claim; failing to comply with regulatory time limits; etc.]** This constitutes the **FINAL AGENCY DECISION** on this complaint. If your client is dissatisfied with this decision, an appeal may be filed in accordance with the attached appeal rights.

4. If you have any questions, please contact firstname lastname ORMDI Case Manager at address1\_telephone1, internalemailaddress.**You are *strongly encouraged* to use email to submit your correspondence and/or documents to ORMDI.**

Sincerely,

firstname lastname

District Manager

Enclosures: Appeal Rights

EEOC Form 573

cc: Facility Director, **email address**

**APPEAL RIGHTS**

This final agency decision may be appealed within 30 calendar days of receipt of this decision. If you decide to appeal this decision to EEOC, you should use EEOC Form 573, a copy of which is enclosed.

Your client may file an appeal and submit relevant documents through the EEOC’s Public Portal. To access the Public Portal, go to <https://publicportal.eeoc.gov>. To begin, click on the link: “Filing with EEOC” and answer the questions. After you submit your appeal, complainants can then use the Public Portal’s “My Cases” feature to view their appeal in one convenient location. Complainants can also identify and manage their representative contact information in the Portal. Once identified by a complainant, registered representatives can then upload documentation on their client’s behalf. If a complainant does not want to use the Public Portal, appeals to the EEOC and supporting documents can still be submitted directly to the EEOC/OFO office at the following address.

If you file an appeal beyond the above-noted time limit, you should provide the Commission with an explanation as to why the appeal should be accepted despite its untimeliness. If you cannot explain why timeliness should be excused, the Commission may dismiss the appeal as untimely.

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| The appeal should be mailed to: Equal Employment Opportunity Commission (EEOC)  Office of Federal Operations  P.O. Box 77960  Washington, DC 20013  Or hand delivered to: Equal Employment Opportunity Commission  Office of Federal Operations  Appellate Review Programs  131 M Street, NE, Suite 5SW12G  Washington, DC 20507  Or sent by fax to: (202) 663-7022  To file an appeal go to: <https://publicportal.eeoc.gov> (**preferred**) |

A copy of your appeal to the EEOC must also be sent to the VA Office of General Counsel at the following address. Statements or briefs in support of your appeal must be submitted to the EEOC within 30 calendar days of the filing of the appeal. Copies of any such statements or briefs, including any made on EEOC’s “Appellant Docketing Statement,” must also be sent to the VA Office of General Counsel. Your appeal, and any subsequently filed statement or brief, must contain a statement certifying the date and method by which copies of these documents were served on the VA Office of General Counsel.

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| You must send a **copy** of your appeal to: | You must send a **copy** of your appeal to the District Manager at: |
| Department of Veterans Affairs  Office of General Counsel (024)  810 Vermont Avenue, NW  Washington, DC 20420 | Department of Veterans Affairs  Office of Resolution Management, Diversity & Inclusion (08)  **govcdm\_name**  **govcdm\_address1\_line1 govcdm\_address1\_line2**  **govcdm\_address1\_city, govcdm\_address1statepicklist govcdm\_address1\_postalcode**  Fax Number: (xxx) xxx-xxxx  **You are *strongly encouraged* to use email to submit your correspondence to ORMDI at Email: @va.gov** |

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| **RIGHT TO FILE A CIVIL ACTION** |

You have the right to file a civil action in an appropriate United States District Court. A civil action may be filed:

* Within 90 days of receipt of this final decision if no appeal to EEOC has been filed;or,
* If an appeal is filed with the EEOC, within 90 days after receipt of EEOC’s final decision on your appeal; or,
* After 180 days from the date of filing an appeal with the EEOC if there has been no final decision by the EEOC.

If you file a civil action, the court may, at its discretion and upon your request, appoint an attorney to represent you in the matter, if you do not have or cannot afford one. The court may also authorize the civil action to begin without payment of fees, costs, or other security. The grant or denial of the request is within the sole discretion of the court. Filing a request for an attorney does not extend the time in which to file a civil action. Both the request and the civil action MUST BE FILED WITHIN NINETY (90) CALENDAR DAYS of the date of receipt of this final agency decision or, if this decision is appealed to the EEOC, within NINETY (90) CALENDAR DAYS of the date of receipt of the EEOC’s final decision on the appeal.

Additionally, if you file a civil action, you must name the **Secretary of Veterans Affairs**, as the defendant. Failure to provide the name and official title of the head of the Department may result in the dismissal of your case.

1. Complainant did not obtain representation until after counseling concluded. [↑](#footnote-ref-1)