



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
WASHINGTON, D.C. 20362

IN REPLY REFER TO
NAVSEAINST 12713.5 CH-1
OOH6/CM
Ser 391
21 December 1983

NAVSEA INSTRUCTION 12713.5 CHANGE TRANSMITTAL 1

From: Commander, Naval Sea Systems Command
To: All Offices Reporting Directly to COMNAVSEA
Distribution List

Subj: Equal Employment Opportunity Complaint Processing
Procedures

Encl: (1) Reprinted page 1 and revised page 2 of Basic
Instruction

1. Purpose. To furnish additional guidance regarding class
action complaints.

2. Action. Remove page (2) of basic instruction and insert
enclosure (1) of this transmittal.

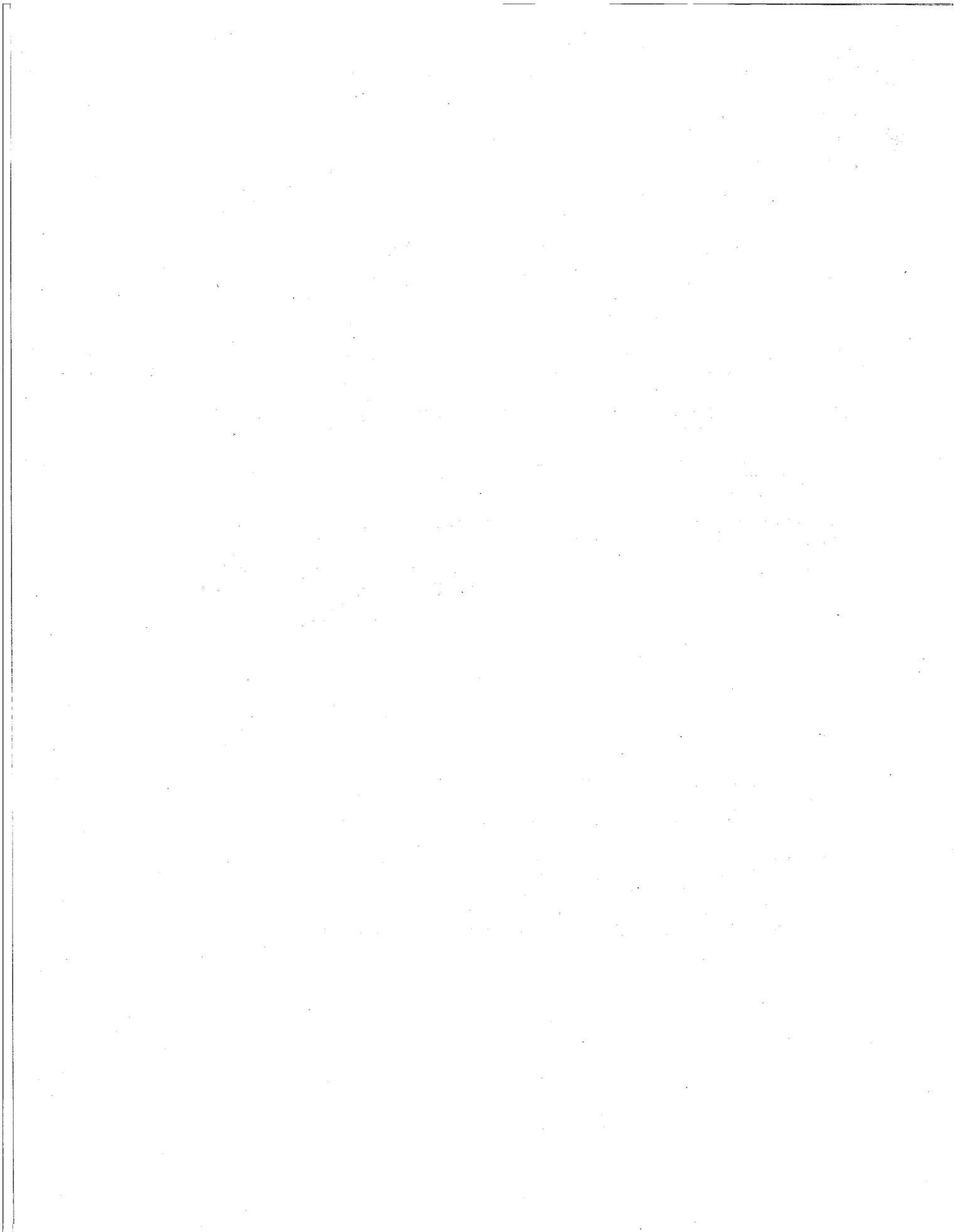
E. B. FOWLER

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NAVSEAINST 12713.5
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22 August 1983

NAVSEA INSTRUCTION 12713.5

From: Commander, Naval Sea Systems Command
To: All Offices Reporting Directly to COMNAVSEA
Distribution List

Subj: Equal Employment Opportunity Complaint Processing
Procedures

Ref: (a) NAVMATINST 12713.3C of 15 Jul 1983; Subj: Naval
Material Command Equal Employment Opportunity/Human
Resources Management (NMC EEO/HRM) Program
(b) OPNAVINST 12000.14 CH-33 of 29 Sep 1982; Subj:
Civilian Personnel/Equal Employment Opportunity
Directives System (CIVPERS/EEODIRSYS)

Encl: (1) Procedures for Filing and Processing Individual
Complaints of Discrimination in NAVSEA Headquarters
(2) Procedures for Filing Class Complaints
(3) NAVSEASYSCOM Shore Activity Procedures for Elevating
Complaints of Discrimination for Processing
(4) EEO Reports and Forms Requirements

1. Purpose. To issue the procedures for filing, processing, and resolving complaints of discrimination by employees or applicants for employment. Class action guidance is also provided.

2. Cancellation. Enclosure (4) to NAVSEAINST 12713.3A.

3. Background. Reference (a) designates the Command Deputy EEO Officer and activity Deputy EEO Officers as the principal EEO advisors. Reference (b) outlines procedures for processing individual and class complaints of discrimination, and provides Navy policy guidance on complaint processing.

4. Scope. This instruction applies to all military and civilian personnel, including nonappropriated fund personnel, in the Naval Sea Systems Command (NAVSEA) and shore activities under NAVSEA's cognizance.

5. General Policy

a. The policy of the Naval Sea Systems Command is to provide equal opportunity for all persons; to prohibit discrimination in employment because of race, color, religion, sex, age, national

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origin, or physical or mental handicap; and to promote the full realization of equal employment opportunity through a continuing affirmative program.

b. Despite existence of the foregoing policy, instances may arise where persons believe they have been discriminated against due to one or more of the cited bases. Enclosures (1) and (2) set forth procedures for them to make their concerns known and have them dealt with in a timely and fair manner. Enclosure (1) deals with individual complaints of discrimination and enclosure (2) deals with class action complaints. A class complaint of discrimination differs significantly from an individual complaint by definition, time requirements, and methods of processing.

c. Enclosure (3) provides guidance for shore activities to elevate complaints of discrimination to the Naval Sea Systems Command for action.

6. Responsibilities

a. The Naval Sea Systems Command Deputy EEO Officer (SEA OOH) is responsible for managing the complaints program in NAVSEA, including providing procedural guidance to shore activities.

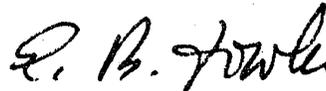
b. The counseling function and resolution process discussed in enclosures (1) and (2) will also be managed by the Command Deputy EEO Officer.

7. Action

a. Headquarters personnel shall be guided by enclosures (1) and (2).

b. Shore activities will process discrimination complaints in accordance with reference (b). Complaints involving EEO officials shall be handled as discussed in enclosure (3).

8. Reports and Forms. Reporting requirements with symbols and forms are listed in enclosure (4).



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Distribution: (See Page 3)

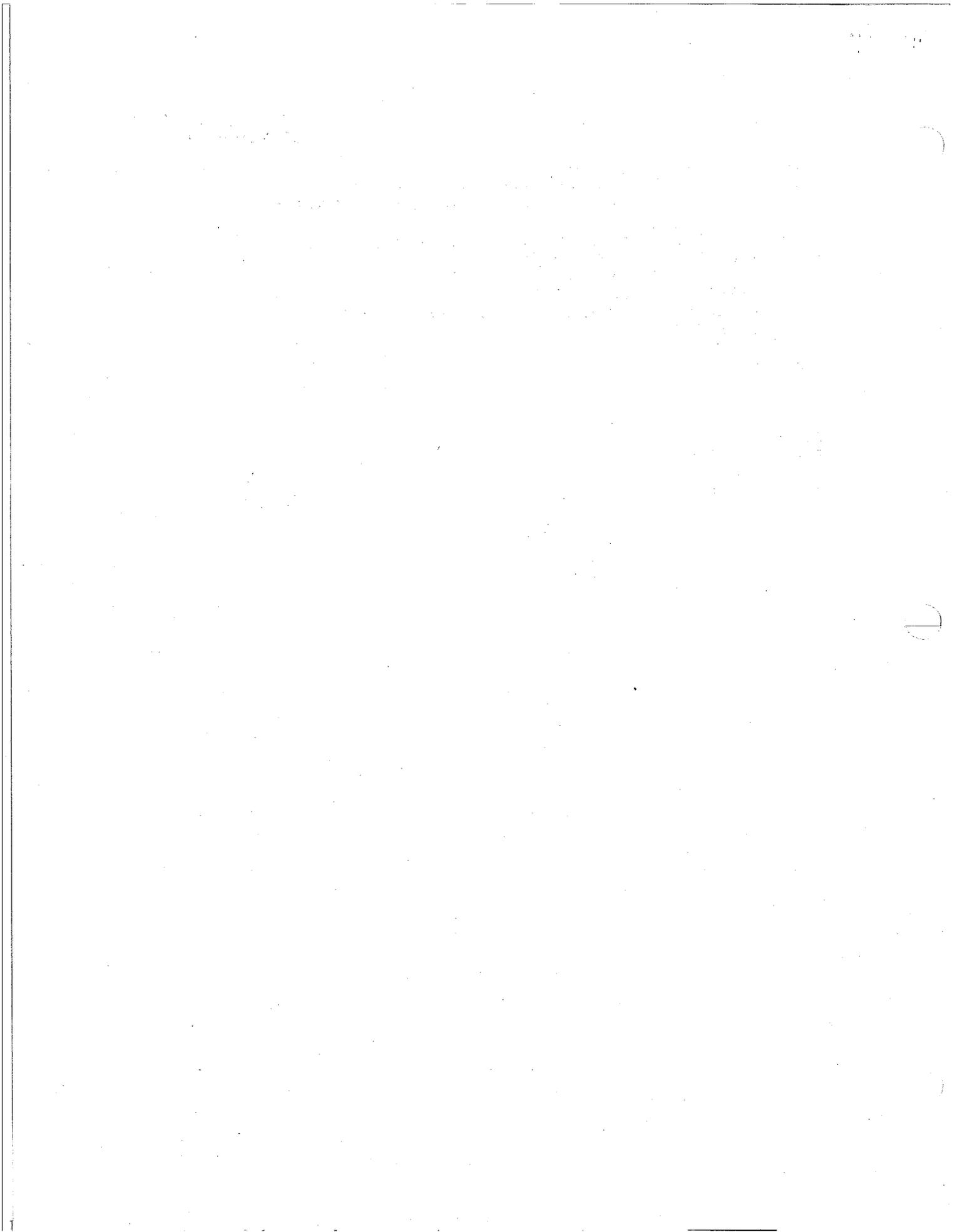
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Procedures for Filing and Processing Individual
Complaints of Discrimination in NAVSEA Headquarters

A. Precomplaint Processing

1. A person who believes that he or she has been discriminated against because of race, color, religion, sex, age, national origin, or physical or mental handicap must initially consult with an EEO Counselor not later than 30 calendar days from the date of the alleged discriminatory act, or, if a personnel action, within 30 calendar days of its effective date. The person has a right at this stage or any other stage to be represented.

2. The Counselor shall conduct his or her final interview with the aggrieved person not later than 21 calendar days after the date on which the matter was called to his or her attention by the person. If the final interview is not concluded within 21 calendar days and the matter has not been resolved to the satisfaction of the person, the Counselor shall promptly inform the person (copy to his or her representative), in writing, of his or her right to file a written formal complaint of discrimination by the use of attachment (1).

B. Formal Complaint Processing

1. A formal discrimination complaint must be submitted in writing by the complainant or his or her representative and be signed by the complainant. The complaint must be specific and must be limited to matters discussed with the EEO Counselor. Attachment (2) will be used to complete the counseling phase. Form NAVSO 12713/1, on which complaints may be initiated, may be obtained from the EEO Office. The completed form may be mailed or delivered in person to the EEO Officer (EEOO), Commander, Naval Sea Systems Command, or to the NAVSEA Command EEO Office, SEA OOH, Room 4W26, NC#3.

2. If the complaint is valid for processing (i.e., timely, concerns matters for which this is the correct administrative process), the complainant will be notified, in writing, within five calendar days that it has been accepted. Allegations of discrimination which are not within the purview of the regulations (i.e., are not filed by an employee or applicant for employment with the agency where the alleged discriminatory act occurred, are not made in connection with an employment matter over which the agency had jurisdiction, or are not based on the complainant's race, color, religion, sex, age, national origin, or physical or mental handicap) or which set forth identical

Enclosure (1)

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matters to those contained in a previous complaint by the same complainant, either pending or adjudicated, must be rejected.

3. The EEO Officer will obtain an investigator from the Naval Civilian Personnel Command (NCPC) to conduct an impartial investigation. The investigator is authorized to require employees having knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidentiality. It is NAVSEA policy that all employees, civilian and military, fully cooperate with the investigator. Every effort is made to complete the investigation within 30 calendar days from the time the investigator receives the assignment. Within ten calendar days from receipt of the investigative file, another effort will be made to resolve the complaint through a discussion between the complainant and the EEO Officer, or his designated representative. If such an effort is not successful, the EEO Officer will notify the complainant, in writing, within seven calendar days of the adjustment meeting of the proposed disposition.

4. If the complainant is dissatisfied with the proposed disposition, the complainant may request a decision by the Secretary of the Navy (Employee Appeals and Review Board (EARB)) with or without a hearing (presided over by a complaints examiner supplied by the Equal Employment Opportunity Commission (EEOC)). This request must be made within 15 calendar days from receipt of the notice of the EEO Officer's proposed disposition, or the complainant may choose instead to file a civil action in the U.S. District Court. Complaints based on age will be processed if complainants are at least 40 years of age or older at the time the discriminatory act was alleged to have occurred. In lieu of the above method of complaint processing, the complainant may serve the EEOC with a notice of intent to file a civil action and, after 30 days, proceed directly into Federal Court.

5. If the complainant chooses to file a civil action, it must be done within 30 calendar days from receipt of the notice of proposed disposition. If the complainant appeals to the EARB and is not satisfied with its decision, the complainant may still file a civil action in the U.S. District Court. This must be done within 30 calendar days from the complainant's receipt of the EARB's decision. The complainant may also take this step if, after 180 calendar days, the EARB has not taken action on the appeal. If the complainant fails to notify the EEO Officer within 15 calendar days, the EEO Officer will adopt the proposed decision as the final Department of the Navy decision on the complaint.

PROCEDURES FOR FILING CLASS COMPLAINTS

Alleged Discriminatory Action
90 Calendar days to contact an EEO Counselor
Counseling
30 days
Final Interview by Counselor
15 days
Complaint Formally Filed
10 days
EEOC Complaints Examiner
Recommendation
10 days
Agency Rejection/Acceptance
Begin 60 days

180 days
Start here

Notification
to Agent

Notification to
All Class Members
(15 days)

Opt Out (any
member of the
class who does not
wish to participate
must opt out within
30 days. Otherwise
they will be bound
by decision.)

Designate Agency Representative
Preparation of Case/
Discovery/Investigative
60 days
Adversarial Hearing
EEOC Complaints Examiner's
Recommended Decision to Agency
30 days

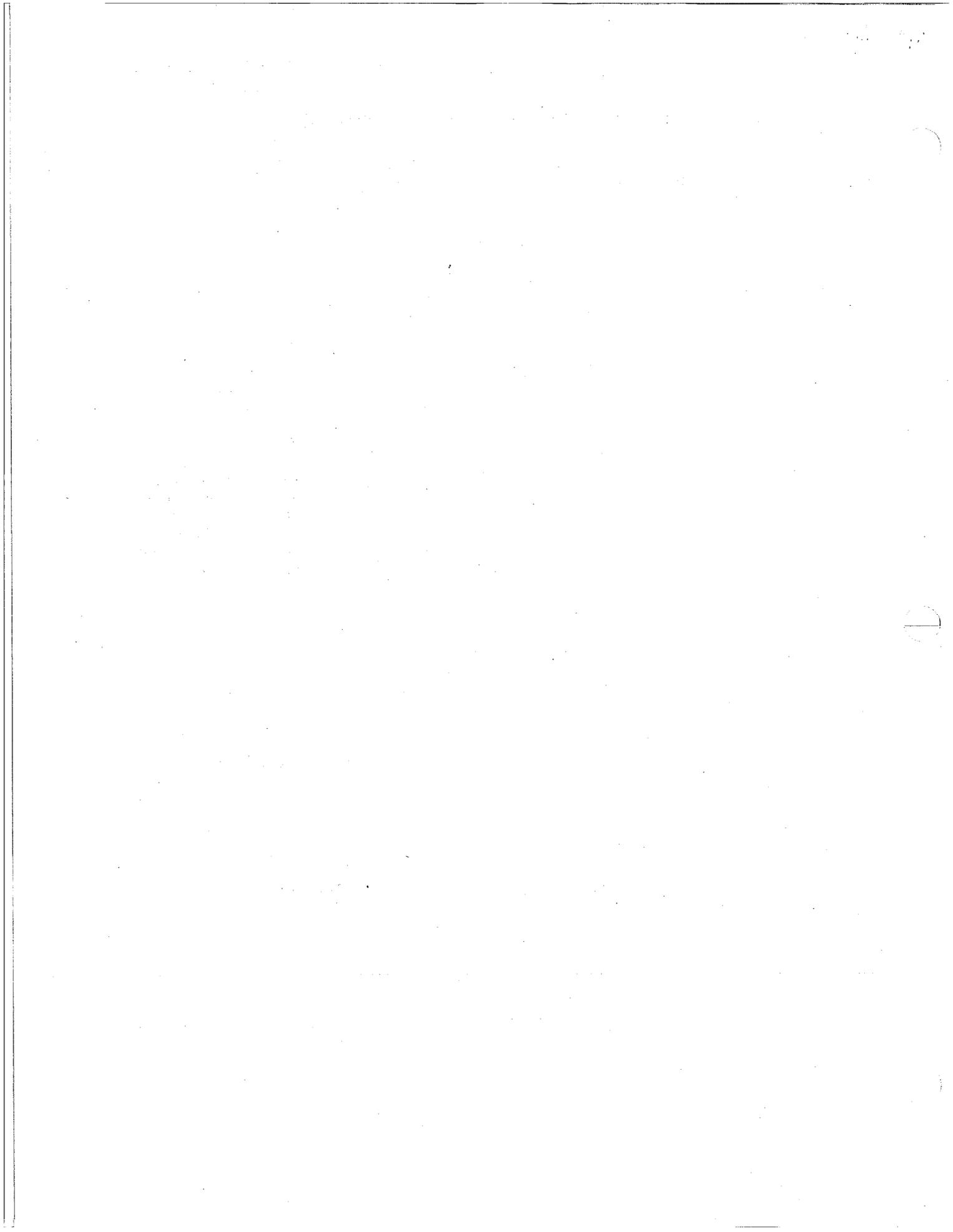
Notification to
Agency (5 days)

If no response is
given, Complaints
Examiner's decision
becomes agency deci-
sion. Notification
to all members of the
class (10 days)

If complainant does not agree with the decision,
he can then appeal to the Appeals Review Board (ARB)
(EEOC) or go to court - or go to court 30 days after receipt
of ARB decision. Members of class may file individual claims.

Agency Decision
30 days
Individual Class Members Claim
for Relief Filed with Agency
Attempt at Resolution
If Resolution not Achieved
EEOC Complaints Examiner
Hearing
EEOC Complaints Examiner's
Recommended Decision to Agency
30 days
Agency Decision
5 days
Notification of Claimant

60 days



PROCEDURES FOR ELEVATING SHORE ACTIVITY COMPLAINTS FOR
PROCESSING

The following procedures shall be used for elevating discrimination complaints to NAVSEA OOH for processing. Every effort should be made to adhere to the requirements established to assure expeditious processing of complaints in accordance with the guidelines of CPI 713-A. The procedures set forth below have been developed for the guidance of activity officials.

A. Two types of discrimination complaints are required to be elevated to NAVSEA Headquarters (SEA OOH) for processing or resolution:

1. Complaints in which the Commanding Officer of a shore activity may have contributed personally to the circumstances or events alleged by an employee (or applicant) to be discriminatory.

2. Complaints filed against any other EEO Official of an activity. When it is determined that a complaint must be elevated to NAVSEA because the Commanding Officer or other EEO Official is involved, include a rough draft of a proposed acceptance or rejection letter for review. NAVSEA does not have access to local records of other complaints or grievances filed by the same individual and would have difficulty determining whether duplicate issues might be involved. A NAVSEA staff member will follow up to resolve discrepancies.

B. Care should be taken in reviewing a complaint for acceptance or rejection on a matter the activity does not control or have the authority to remedy. Guidance should be requested from SEA OOH.

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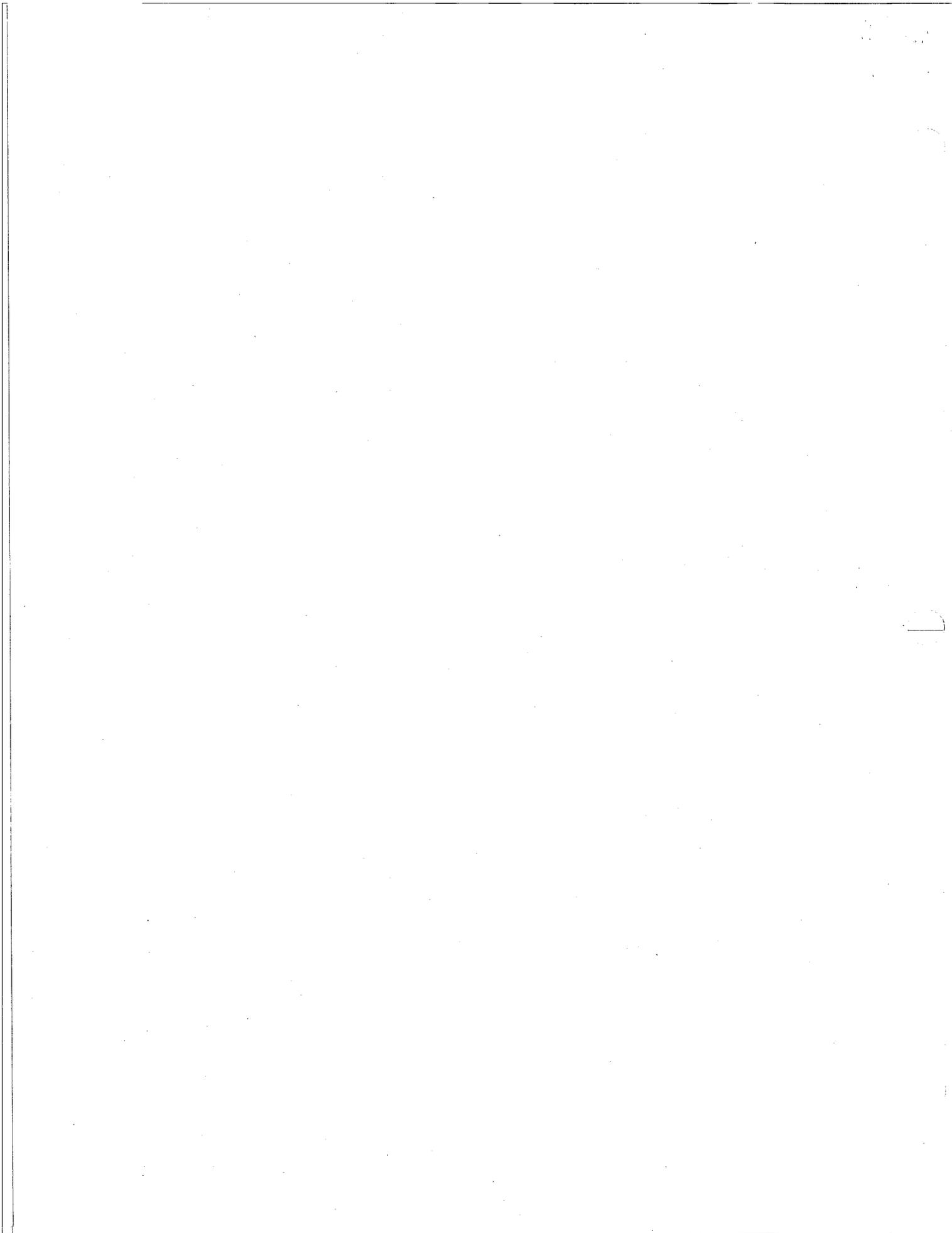
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EEO REPORTS AND FORMS REQUIREMENTS

<u>REPORTS</u>	<u>DUE DATE</u>	<u>FORM</u>	<u>RECIPIENT</u>
1. Report symbol OPNAV 12713-3 Navy Quarterly Statistical Report on Discrimination Complaints	The 7th calendar day (after the end of the reporting period	NAVSO Form 12713/5	NAVSEA (SEA-OOH)
2. Report symbol OPNAV 12713-4 Navy Quarterly Report on Status of Class Action Complaints	31 Dec, 31 Mar 30 Jun, 30 Sep	NAVSO Form 12713/1	NCPC, Code-04 with copy to SEA-OOH
3. Report symbol OPNAV 12713-5 Disposition of Complaint Discrimination Report	Within 10 days of termination	NAVSO Form 12713/3	NCPC, Code-04 with copy to SEA-OOH
4. Complaint of Discrimination in the Department of the Navy (including Counselor's worksheet and report)	Upon acceptance	NAVSO Form 12713/4	NCPC, Code-04 with copy to NAVSEA (SEA-OOH)

Enclosure (4)



SAMPLE

Date: _____

From: _____
EEO Counselor

To: _____
Name of Person Counseled

Subj: NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

1. This is to inform you that, although counseling on the matter you brought to my attention has not been completed, 21 calendar days have gone by since you first contacted me. You are now entitled, if you want to do so, to file a discrimination complaint if you believe you have been discriminated against on the basis of age (40 or over), race, color, religion, sex, national origin, physical or mental handicap, or retaliation (reprisal) for prior EEO complaint involvement.
2. If you do not file a complaint at this time, counseling will continue and your right to file a complaint will also continue until 15 calendar days AFTER THE FINAL INTERVIEW with the counselor. I will inform you in writing when the final counseling interview is conducted.
3. If you file a complaint, it must be in writing, signed by you, and may be filed in person or by mail with the activity head who is the Equal Employment Opportunity Officer (EEOO), or the Command Deputy Equal Employment Opportunity Officer (CDEEOO).

(EEOO) or (CDEEOO)

Naval Sea Systems Command

Washington, D.C. 20362

Complaints may also be filed with the Secretary of the Navy, the Deputy Assistant Secretary of the Navy (Civilian Personnel Policy and Equal Employment Opportunity), the Navy's Federal Women's Program Manager, or the Navy's Hispanic Employment Program Manager, all located at the Navy Department, Washington, D.C. 20350. However, to expedite processing your complaint, it is urged that you file directly with the Equal Employment Opportunity Officer,

Attachment (1)
Enclosure (1)

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since your complaint will be referred to him or her for processing regardless of with whom it is filed.

4. You have the right to be accompanied, represented, and advised by the representative of your own choosing. If you are a Department of the Navy employee and you designate another Department of the Navy employee as your representative, that representative shall have a reasonable amount of official time, if he or she is otherwise in an active duty status, to assist you in presenting and processing the complaint. A REGULATION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 29 C.F.R. 1613.213 (a), PROVIDES THAT IT IS A "COMPLAINANT'S DUTY TO ASSURE THAT THE AGENCY IS IMMEDIATELY INFORMED IF THE COMPLAINANT RETAINS COUNSEL, OR ANY OTHER REPRESENTATIVE."

5. You will receive a notice of receipt of your discrimination complaint from the Equal Employment Opportunity Officer (EEOO) or the Command Deputy Equal Employment Opportunity Officer (CDEEOO).

Signature of EEO Counselor

Attachment (1)
Enclosure (1)

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SAMPLE

Date: _____

From: _____
EEO CounselorTo: _____
Name of Person Counseled

Subj: NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR

1. This is notice that on the above date the final counseling interview was held in connection with the matter you presented to the EEO counselor.
2. If you believe you have been discriminated against on the basis of age (40 or over), race, color, religion, sex, national origin, physical or mental handicap, or retaliation (reprisal) for prior EEO complaint activity, you have the right to file a COMPLAINT OF DISCRIMINATION WITHIN 15 CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE.
3. The complaint must be in writing and may be filed in person or by mail with the following officials who are the Equal Employment Opportunity Officer (EEOO) or the Command Deputy Equal Employment Opportunity Officer (CDEEOO).

(EEOO) or (CDEEOO)_____
Naval Sea Systems Command_____
Washington, D.C. 20362

Complaints may be filed with the Secretary of the Navy, the Deputy Assistant Secretary of the Navy (Civilian Personnel Policy and Equal Employment Opportunity), the Navy's Federal Women's Program Manager, or Navy's Hispanic Employment Program Manager, all located at the Navy Department, Washington, D.C. 20350. However, to expedite processing your complaint, it is urged that you file directly with the Equal Employment Opportunity Officer, since your complaint will be referred to him or her for processing regardless of with whom it is filed.

The complaint must be specific and must be limited to the matters discussed with the EEO counselor.

Attachment (2)
Enclosure (1)

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The complaint must be specific and must be limited to the matters discussed with the EEO counselor.

4. You have the right to be accompanied, represented, and advised by a representative of your own choosing. If you are a Department of the Navy employee and you designate another Department of the Navy employee as your representative, that representative shall have a reasonable amount of official time, if he or she is otherwise in an active duty status, to assist you in presenting and processing the complaint. A REGULATION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 29 C.F.R. 1613.213 (a), PROVIDES THAT IT IS A COMPLAINANT'S DUTY TO ASSURE THAT THE AGENCY IS IMMEDIATELY INFORMED IF THE COMPLAINANT RETAINS COUNSEL, OR ANY OTHER REPRESENTATIVE."

5. You will receive a notice of receipt of your discrimination complaint from the Equal Employment Opportunity Officer (EEOO) or the Command Deputy Equal Employment Opportunity Officer (CDEEOO).

Signature of EEO Counselor

Attachment (2)
Enclosure (1)