

Name of complainant/attorney representative:
Address of complainant/attorney representative:
City, State, Zip Code:

Complaint of _____
v. _____, Secretary of the Army
DA Docket Number(s):

Dear _____:

This refers to your (your client's) discrimination complaint filed on (insert date). Your initial contact with an EEO official was (insert date) and you received the Notice of Right to File a Formal Complaint of Discrimination on (insert date). Although the claim(s) giving rise to the complaint was (were) also appealable to the Merit Systems Protection Board (MSPB), you (your client) elected to use mixed case complaint procedures under 29 C.F.R. Part 1614.

In your formal complaint of discrimination, you allege discrimination on the basis/bases of (insert basis/bases) in the following action(s) when: (FRAME THE CLAIM(S) RAISED IN THE FORMAL COMPLAINT, TO INCLUDE DATE AND SPECIFIC ACTION.). IF SEVERAL CLAIMS INVOLVED, START WITH MOST RECENT.)

- a.
- b.
- c.
- d.

Based on my review of the complaint file, and conditioned upon a final decision by the Army Director of EEO or designee, I have accepted claim(s) (list from above, i.e. (a) and (b) for investigation.

(INSERT FOLLOWING IF PARTIAL DISMISSAL OF COMPLAINT IS APPROPRIATE AND PROVIDE A THOROUGH RATIONALE (AND REFERENCE APPROPRIATE ATTACHMENTS) FOR DISMISSAL DETERMINATION:)

Further, after careful analysis of the complaint file, I have dismissed claim(s) (enumerate from list from above) in accordance with the referenced provisions of 29 CFR section 1614.107 and AR 690-600 as follows:

Include dismissed claim(s) and appropriate provision(s) and rationale for dismissal.

The dismissed portion of your (your client's) complaint will not be investigated and is not appealable to the MSPB until final action is taken on the remainder of the complaint.

If you believe the claim(s) in this complaint has/have not been correctly identified, please notify me, in writing, within 5 calendar days after you receive this letter, and specify why you believe the claim(s) has/have not been correctly identified. If you fail to contact me, I will conclude you agree that the claim(s) has/have been properly identified above. Any statement submitted in this regard will be placed in the complaint file.

Your (Your client's) complaint will be assigned to an investigator for formal investigation. Once assigned, you will be informed of the investigator's identity and when the investigation is expected to begin. The investigation must be completed and a final Army decision issued within 120 calendar days of filing this complaint. In the event a final Army decision is not rendered within 120 calendar days of the date of filing this complaint, you (your client) may appeal to the MSPB at any time after the 120th day or may file a civil action, but not both. Appeals to MSPB should be addressed to the Merit Systems Protection Board, (insert MSPB regional office). You must serve a copy of your (your client's) appeal to the MSPB simultaneously to the Office of EEO/Civil Rights (Deputy for EEO Compliance and Complaints Review), ATTN: SAMR-EOCCA, 1941 Jefferson Davis Highway, Suite 109B, Arlington, VA 22202-4508.

You (You, on behalf of your client,) may amend a complaint at any time prior to the conclusion of the investigation to include claim(s) like or related to those identified above. Any amendment must be submitted, in writing, to the EEO officer for a determination whether the new claim(s) warrant(s) inclusion in the pending mixed case complaint or processing as a new non-mixed complaint.

If a new claim(s), not like or related to a previously filed complaint, provide(s) the basis for a separate complaint, the new claim(s) will be referred to an EEO counselor and will be subject to all regulatory requirements regarding the EEO complaint process. In cases where complaints are consolidated, the agency is required to conduct an investigation within the earlier of 120 calendar days after the filing of the last complaint or 240 calendar days after the filing of the original complaint.

After completion of the investigation and if the case has not been settled, the EEO officer will provide you (you, on behalf of your client) with the Notice of Post Investigative Options. This notice will inform you that your (your client's) entire complaint file will be forwarded to the Army Director of EEO or designee for a final Army decision on the merits of the complaint. There is no right to a hearing before an EEOC administrative judge on a mixed case complaint.

If you are (your client is) dissatisfied with the final Army decision on the merits of the case, you (you, on behalf of your client) have the right to appeal the matter to the MSPB (not EEOC) within 30 calendar days of receipt of the notice or to file a civil action. Appeals to MSPB should be addressed to the Merit Systems Protection Board at the address provided above. A copy of the appeal must be served simultaneously on the Office of EEO/Civil Rights (Deputy for Compliance and Complaints Review), ATTN: SAMR-EOCCA, 1941 Jefferson Davis Highway, Suite 109B, Arlington, VA 22202-4508.

You (You, on behalf of your client,) may file a civil action in the proper US District Court within 30 calendar days after receiving the final Army decision if no appeal has been filed or, if the Army has not issued a final decision on the complaint, after 120 calendar days from the date the formal complaint was filed. If you file a civil action under Title VII of the Civil Rights Act of 1964, as amended, or the Rehabilitation Act of 1973, as amended, and you do not have, or are unable to obtain the services of an attorney, you may request the court to appoint an attorney to represent you. In such circumstances as the court may deem just, the court may appoint an attorney and may authorize the commencement of the action without the payment of fees, costs, or security. Any such request must be made within the above referenced limits for filing suit and in such form and manner as the court may require.

You are further notified that if a civil action is filed, you must name the appropriate Department head or Agency head as the defendant and provide his or her official title. DO NOT NAME JUST THE AGENCY OR DEPARTMENT. Failure to name the Department head or Agency head or to state his or her official title may result in the dismissal of your case. The appropriate agency is the Department of the Army. The head of the Department of the Army is (insert name), who is the Secretary of the Army.

[INSERT THE FOLLOWING PARAGRAPH IF COMPENSATORY DAMAGES ARE REQUESTED:]

In your formal complaint, it appears as though you are, or may be seeking compensatory damages as part of the requested relief. The “Notice to EEO Complainant Seeking Compensatory Damages” is attached for your information and review. Please provide the requested documentation to [insert name of EEO officer and/or agency representative] within [15-30 days depending on circumstances].

If at any time a settlement/resolution of the complaint is reached, the terms of the settlement/resolution will be agreed to in writing by all parties and you (and your client) will be provided a copy.

The agency’s representative in this complaint is (insert name), (address), (telephone number), (e-mail address). You are advised that copies of all official correspondence must be served on the EEO officer and the agency representative.

A copy of your (your client's) EEO Counselor's Report was previously sent to you on [insert date].

Sincerely,

Signature block of EEO officer or appropriate official

Copy Furnished:

Complainant, if represented by an attorney; or

Non-attorney representative

Agency representative

NOTES:

1. This notice will be issued to complainant/representative in accordance with the service rules set forth in paragraph 1-23.
2. A copy of this notice and the certified return receipt will be filed in the complaint file.
3. The date of alleged discrimination and the date of the initial contact with an EEO official are included in the acceptance letter to serve as an initial reference point to determine timeliness. An explanation should be provided if (a) facially untimely claim(s) is/are being accepted.
4. This notice will be issued for partial dismissal of a complaint. Figure 4-6 will be issued when a complaint is dismissed in its entirety.
5. A copy of this notice and all certified return receipt (green) cards will be filed in the complaint file under Tab "Formal".
6. The format of this sample notice may be modified to conform with local requirements.
7. A copy of MSPB Form OF 283 (figure 4-19) should be attached to this notice.
8. Do not consolidate mixed and non-mixed complaints.
9. Actions appealable to MSPB:

5 CFR/Part

Action

302

Denial of restoration from compensable injury after recovery of an excepted service employee

315

Termination during probation (under limited circumstances)

317

Certain involuntary reassignments or demotions

	connected with conversions to Senior Executive Service
330	Improper application of re-employment priority rights
351	Reduction-in-force (separation, demotion, or furlough for more than 30 days)
352	Denial of re-employment rights under various circumstances
353	Denial of restoration following military duty or recovery of competitive service employees from certain injuries
432	Reduction-in-grade and removal based on unacceptable performance
531	Denial of within-grade increases
731	Adverse suitability determinations
752	Adverse actions by agencies -Removal -Suspensions for more than 14 days -Reduction-in-grade (demotion) -Furloughs for 30 days or less
831	All adverse retirement decisions of OPM except termination of annuity payments
930	Adverse actions involving administrative law judges

Figure 4-3 Sample Notice of Acceptance of Discrimination Complaint (Mixed Complaint)