

**NEGOTIATED SETTLEMENT AGREEMENT IN THE PRECOMPLAINT(S) OF
Or
NEGOTIATED SETTLEMENT AGREEMENT IN THE FORMAL COMPLAINT(S) OF**

first, middle initial, last name of complainant

Complainant

v.

_____, Secretary of the Army

Name of activity:

Address of activity:

Activity:

1. In the interest of promoting the principles of the Equal Employment Opportunity (EEO) Program, the Parties agree to settle the following complaint(s) on the terms shown in paragraphs 3 and 4 below.

DA Docket Number(s) _____

2. By entering into this settlement, the Army does not admit that the Army, any Army official or employee has violated Title VII of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, the Age Discrimination in Employment Act, as amended, the Equal Pay Act or any other Federal or State statute or regulation.

3. The Army agrees to:

[stipulate remedy to be provided in clear and concise detail and specify time frames for completion, if appropriate.]

4. The complainant agrees to:

[stipulate terms clearly and concisely and specify time frames for completion, if appropriate.]

5. Complainant's signature on this agreement constitutes a full and complete settlement of any and all issues and claims arising from the circumstances of the aforementioned EEO complaint(s). This includes, but is not limited to, attorney's fees and costs arising from or related to the aforementioned complaint(s). No other agreements shall be binding unless signed by all parties. In addition, the complainant

agrees to waive his/her right to pursue administrative or judicial action in any forum concerning the matters raised in this complaint and that they will not be made the subject of future litigation.

6. If the complainant believes that the Army has failed to comply with the terms of this settlement agreement, the complainant shall notify the Office of EEO/Civil Rights (Deputy for EEO Compliance and Complaints Review (EEOCCR)), ATTN: SAMR-EOCCA, 1941 Jefferson Davis Highway, Suite 109B, Arlington, Virginia 22202-4508, in writing, of the alleged noncompliance within 30 calendar days of when the complainant knew or should have known of the alleged noncompliance. A copy should also be sent to the activity EEO Officer. The complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, the complaint be reinstated for further processing from the point processing ceased. If the Deputy for EEOCCR has not responded to the complainant in writing or if the complainant is not satisfied with the attempts to resolve the matter, the complainant may appeal to the Equal Employment Opportunity Commission (EEOC), Office of Federal Operations, P.O. Box 19848, Washington, DC 20036 for a determination as to whether the Army has complied with the terms of this settlement agreement. The complainant may file such an appeal to the EEOC 35 calendar days after service of the allegation of noncompliance upon EEOCCR but no later than 30 calendar days after receipt of the Army determination.

7. The terms of this settlement will not establish any precedent nor will the settlement be used as a basis by the complainant or any representative organization as justification for similar terms in any subsequent case.

8. I have read the negotiated settlement agreement and agree to accept its provisions.

Complainant

For the Army

Date signed by complainant

Title of Army official

Date signed by Army official

Complainant's Representative

Agency Representative

Date signed by complainant's representative

Date signed by Agency Representative

NOTES:

1. The foregoing format will be used as standard guidance for preparation of settlement of complaints of discrimination in the pre-complaint or formal stage, and will include the DA docket number(s), for each complaint being resolved.
2. If the complainant is represented by an attorney, the attorney must sign the NSA prior to execution.
3. As an NSA is a binding legal document on the Army, the NSA should **never** be signed without knowledge of the EEO officer and the agency representative.
4. The agency representative, the EEO officer, and the appropriate civilian personnel official will coordinate and consult each other prior to the execution of the NSA. Any professional judgment among them as to the initiation, conduct, merits, or any other issue of settlement will be resolved by their common superior prior to the execution of the NSA.
5. The term(s) of the agreement should be stated clearly and concisely, and will not commit the management official to any action(s) which are outside of his or her authority to execute. If a specified term has or could have a different definition, the intent of that term must be specifically included in the NSA. The NSA will not obligate another DoD activity or Federal agency without express and written consent from that activity or agency prior to the execution of the NSA. The written consent from that activity or agency will be attached as an enclosure to the NSA or the responsible activity or agency official must sign the NSA.
6. Time frames for completion of the actions agreed upon should not only be reasonable but also very specific to ensure prompt compliance by both parties, and to prevent any subsequent allegation(s) of noncompliance by the complainant. The Army must take the agreed upon action within the time frames specified, or it may be in noncompliance. In the event of noncompliance by the Army, complainant has 30 days from the dates specified in the NSA to notify EEOCCR of the alleged noncompliance.
7. Settlement of a claim under the ADEA must comply with the requirements of the Older Workers Benefit Protection Act. Agreement language should contain the following information: .

Complainant has alleged age discrimination. Settlements of age discrimination complaints must comply with the waiver of claims requirements of the Older Workers' Benefit Protection Act. This means that a waiver in settlement of an age discrimination complaint must be **knowing and voluntary**. A settlement agreement is knowing and voluntary if it contains the following minimum requirements:

- a. The entire waiver agreement is in writing;
- b. The waiver is part of an agreement between the individual (Complainant) and the employer (Agency) that is written in a manner calculated to be understood by the individual party to the agreement;
- c. The waiver specifically refers to rights or claims arising under the Age Discrimination in Employment Act;
- d. The individual does not waive rights or claims that may arise after the date the waiver is executed;

- e. The individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;
- f. The individual is advised in writing to consult with an attorney prior to executing the agreement;
- g. The individual is given at least 21 days within which to consider the agreement.

Accordingly, in light of the requirements outlined above, Complainant acknowledges that s/he has read and understands these requirements. Specifically, Complainant is encouraged to consult with an attorney before executing this Agreement. If Complainant signs this Agreement before the expiration of the 21-day time period, his/her execution of the Agreement constitutes a waiver of his/her right to have 21 days to consider the Agreement.

- 8. Attorney's fees and costs are not payable in age discrimination (ADEA) or equal pay (EPA) complaints.
- 9. Implementation of the NSA is the responsibility of management. To ensure compliance with the terms of the NSA, the activity will designate an official to be responsible for implementation of the NSA. The official may be the EEO officer, the appropriate civilian personnel official, or another management official, as appropriate.
- 10. Monitoring compliance with the NSA is the responsibility of the EEO officer.
- 11. If possible, settle all workplace disputes raised by the complainant including MSPB appeals, grievances, and Office of Special Council complaints.
- 12. Agency advisors and representatives do not have settlement authority without prior delegation by an appropriate management official.

Figure 5-1. Sample Negotiated Settlement Agreement (NSA) in Pre-complaint(s) or Formal Complaints