

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED

FEB 11 1987

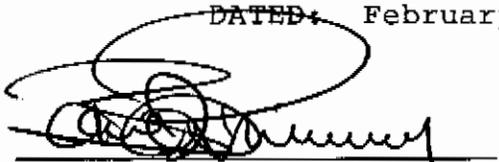
CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY DB DEPUTY CLERK

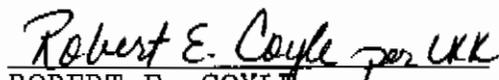
RE:)
)
AMENDED AFFIRMATIVE) GENERAL ORDER NO. 210
ACTION PLAN (AMENDS)
GENERAL ORDER NO. 95)

Pursuant to the direction of the Judicial Conference of the United States, the attached amended Affirmative Action Plan, with accompanying discrimination complaint procedures, is hereby adopted by the Judges of the Eastern District of California.

DATED: February 11, 1987

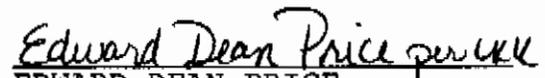

RAUL A. RAMIREZ
U.S. DISTRICT COURT JUDGE


LAWRENCE K. KARLTON, CHIEF
U. S. DISTRICT COURT JUDGE


ROBERT E. COYLE
U.S. DISTRICT COURT JUDGE


MILTON L. SCHWARTZ
U.S. DISTRICT COURT JUDGE


EDWARD J. GARCIA
U.S. DISTRICT COURT JUDGE


EDWARD DEAN PRICE
U.S. DISTRICT COURT JUDGE

JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

APPENDIX 1

DISCRIMINATION COMPLAINT PROCEDURES

**Judicial Conference of the United States
March 1980**

(Rev. September 1986)

I. SCOPE OF COVERAGE.

All applicants for court positions and all court personnel may seek timely redress of discrimination complaints through these procedures. These procedures, however, are not intended to be a replacement for the working relationship which must exist between supervisors and employees, nor are they intended to interfere in the administrative processes of the courts.

II. DEFINITION.

A discrimination complaint is any allegation that a person has been denied employment, promotion, or advancement, or has been affected in any other condition of employment, because of his or her race, sex, color, national origin, religion, age (at least 40 years of age at the time of the alleged discrimination), or handicap. It also includes allegations of restraint, interference, coercion, discrimination, or reprisal because a person has raised an allegation of discrimination or has served as a representative, a witness, or an EEO Coordinator in connection with a complaint. It does not include complaints relating other dissatisfactions in a person's conditions of employment which are commonly known as grievances.

III. RIGHTS OF PERSONNEL.

A. Retaliation.

Every complainant has the right to be free from retaliation, coercion, or interference because of filing a timely complaint.

B. Representation.

Every complainant and every person against whom a complaint has been filed has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A court employee may accept the responsibilities of representation if it will not unduly interfere with his or her court duties or constitute a conflict of interest. A representative who is a court employee shall be free from restraint, interference, coercion, discrimination, and reprisal, and shall have a reasonable amount of official time to accompany, represent, and advise the complainant or the person complained against at any stage in the complaint procedures.

C. Notice.

Every person against whom a complaint has been timely filed has the right to have notice of the charges filed against him or her. All persons involved have the right to reasonable notice of any hearing conducted on a complaint.

D. Preparation.

All court employees involved in a complaint procedure may use a reasonable amount of official time to prepare their case so long as it does not unduly interfere with the performance of their court duties.

IV. PROCEDURES.

A. Initiation of a Complaint.

Any applicant or any court employee, or his or her representative, may file a timely discrimination complaint with the EEO Coordinator. If the EEO Coordinator is named in the complaint or otherwise directly involved in the complaint, he or she shall promptly transmit the complaint to the Chief Judge or a designee who will appoint another person to perform the functions of the EEO Coordinator with respect to the complaint in question. The complaint must be in writing, must allege all relevant facts constituting the basis for such complaint, and must specify the relief requested. A complaint form is available upon request.

B. Informal Procedures.

Upon receipt of a complaint, the EEO Coordinator:

1. May reject a complaint that was not timely filed and shall reject those allegations in the complaint that are not within the purview of Section II of these Discrimination Complaint Procedures, or that set forth identical matters contained in a pending or previous complaint filed by the same complainant;
2. Will make any investigation into the matter which he or she deems necessary;
3. Will consult with the involved parties and seek an informal resolution of the problem;
4. Will prepare a report to the parties identifying the issues, describing his or her findings and recommendations, explaining what resolution, if any, was achieved, and defining what corrective actions, if any, will be undertaken; and
5. May cancel a complaint because of the complainant's failure to prosecute the complaint.

C. Formal Procedures.

1. Filing.

If either the complainant or the person against whom the complaint has been filed objects to the rejection or cancellation of the complaint or any portion thereof, or to the findings and recommendations of the EEO Coordinator, such person may file a written request with the Chief Judge or a designee to have the matter reviewed.

2. Review.

Upon receipt of a request to review the findings and recommendations of the EEO Coordinator, the Chief Judge or a designee will:

- a. Conduct any additional investigation which he or she deems necessary;
- b. Determine whether to interview the parties or other persons;
- c. Determine whether to hold a formal hearing on the matter; and
- d. Issue a final decision on the rejection, cancellation, or merits of the complaint if it is found that no interviews or hearings are necessary.

3. Hearing.

If the Chief Judge or a designee finds that a hearing is necessary, all parties will be notified of such action. At the hearing, each party will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses. The Chief Judge or a designee will issue a final decision on the merits based upon his or her findings.

D. Deadlines.

Initial complaints and the review of complaints are subject to the following deadlines:

1. All complaints must be filed within 15 calendar days of a particular act or occurrence or within 15 calendar days of becoming aware of the act or occurrence, and no late filing will be accepted unless good cause is presented to the EEO Coordinator;
2. The EEO Coordinator will prepare a report within 20 calendar days after consultation with the involved parties;

3. All requests for review of the EEO Coordinator's findings must be submitted within 5 calendar days after receipt of the report;
4. The Chief Judge or a designee will issue a final decision within 45 calendar days after receipt of the request if no hearing is held;
5. The Chief Judge or a designee will issue a final decision within 30 calendar days after the close of a hearing; and
6. The Chief Judge may extend any of the above-mentioned deadlines for good cause.

V. RECORDS

All papers, files, and reports will be filed with the EEO Coordinator at the conclusion of any informal or formal proceeding in a complaint. No papers, files, or reports relating to a complaint will be filed in any employee's personnel folder, except as necessary to implement disciplinary action against any person who engaged in discriminatory conduct.

VI. ANNUAL REPORT.

The EEO Coordinator will prepare an annual report for the year ending September 30, indicating:

1. The number of complaints initiated;
2. The types of complaints initiated according to race, sex, color, national origin, religion, age or handicap;
3. The number of complaints resolved informally;
4. The number of complaints resolved formally without a hearing; and
5. The number of complaints resolved formally with a hearing.

(The foregoing information will not identify the names of the parties involved.)

A copy of the report will remain in the court and will be made available to the public upon request.

VII. NOTICE.

Copies of these procedures shall be given to all employees and, upon request, to members of the public.

**COMPLAINT OF DISCRIMINATION
UNDER THE JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PLAN**

1. Full Name of Complainant: _____
2. Address: _____
_____ Zip Code: _____
3. Home Phone: _____ Work: _____
4. If You Are Now a Court Employee, State the Title and Grade of Your Job: _____
5. Type of Alleged Discrimination: (Check and identify as many as are applicable)
_____ Race _____
_____ Sex _____ National Origin _____
_____ Color _____ Handicap _____
_____ Religion _____ Age _____
6. Date of alleged discrimination: _____
7. Please identify by name and position the official you believe discriminated against you.

8. Please summarize the events or occurrences giving rise to your complaint, and explain how you believe you were discriminated against (i.e., treated differently from other employees or applicants because of your RACE, SEX, COLOR, NATIONAL ORIGIN, RELIGION, AGE, OR HANDICAP). * You should attach a copy of any documents that relate to your complaint, such as applications, resumes, notices of denial of employment or promotion, letters of reprimand, termination, etc.

* Please use back if additional space is needed.

**COMPLAINT OF DISCRIMINATION
UNDER THE JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PLAN**

1. Full Name of Complainant: _____
2. Address: _____
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* Please use back if additional space is needed.

