

### Brief Overview of the EEO Complaint Process

You are encouraged to contact the EEO Director as soon as a concern arises to ensure that it can be addressed quickly and at the earliest stage possible. Please know that the EEO Director is available to:

- Discuss the issue and address it in a manner that you feel comfortable
- Work with you to identify ways to seek resolution
- Identify the right people to be involved in seeking resolution - Provide information and an overview of the Museum's EEO complaint process

*For more information, contact the EEO Director at [EEO@ushmm.org](mailto:EEO@ushmm.org) or refer to the full [EEO Complaint Processing Policy](#). For other questions or concerns not covered by the Policy, contact the Chief Human Resources Officer.*

### Purpose

As the Director reiterates each year in the Museum's [annual policy statement](#), the Museum is committed to supporting a diverse, equitable, accessible, and inclusive workforce and to ensuring equal opportunity in employment (EEO) for all employees and applicants. The Museum's Complaint Processing Policy and Procedures (Policy) reinforces that commitment by describing the Museum's efficient, fair, and impartial EEO complaint resolution process.

### Your Rights to Equal Employment Opportunity

The Museum prohibits and will not tolerate discrimination (including discriminatory harassment). This policy covers unlawful discrimination based on:

- race
- color
- sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping)
- religion
- national origin
- age (40 years and older)
- disability or
- genetic information.

The Museum likewise prohibits and will not tolerate retaliation against those who exercise their rights to file an EEO complaint, participate in the EEO process, or otherwise engage in protected EEO activity.

If a Museum employee or other individual working at the Museum is found to have engaged in discrimination, discriminatory harassment, or retaliation, the Museum will hold that individual accountable and will take prompt action such as discipline up to and including removal from the Museum.

**Applicability**

This policy applies to all Museum employees (including former employees) and applicants (including former applicants) for Museum employment. Contractors are generally not covered by this policy.<sup>1</sup>

**Pre-Complaint (Informal) Process:**

**Raise Your Concern to the EEO Director within 45 Days**

You must contact the EEO Director within **45 days** of an alleged discriminatory action, or in the case of a personnel action, within **45 days** of the effective date of action. Failure to do so may result in dismissal of an otherwise viable complaint.

**Traditional EEO Counseling (30-90 Days)**

The EEO Director will either refer you to an EEO Counselor or serve as the EEO Counselor themselves. The EEO Counselor will explain the EEO complaint process and inform you about your rights and responsibilities. The EEO Counselor conducts a limited inquiry at this stage of the process and attempts to resolve your complaint. The EEO counselor will conclude traditional EEO counseling within **30 days** from the date you first contacted the EEO Director unless you agree to extend the counseling period by up to **60 additional days** to attempt a resolution.

**Mediation (90 Days)**

You will normally also have the option to attempt to resolve your matter through voluntary mediation instead of traditional EEO counseling. If you select mediation, the 30-day counseling period is automatically extended to **90 days**.

**Formal Complaint Process:**

**Send Formal Complaint to EEO Director within 15 Days**

If your matter is not resolved during the pre-complaint (informal) stage, you will receive a written notice of your right to file a formal complaint from the EEO Director. If you choose to file a formal complaint, you must do so by submitting a signed written statement to the EEO Director within **15 days** of receiving that notice.

**Accepting or Dismissing the Complaint**

The Museum will either accept or dismiss your formal complaint for procedural reasons (e.g., not timely, contains matters not raised in informal counseling, fails to state a claim, is premature, etc.). If your complaint is accepted, an investigator will be assigned to collect relevant information pertaining to your

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<sup>1</sup> Contractors should raise complaints of discrimination with their employing agency and may raise concerns or seek information from the Museum’s EEO Director or the Director of Procurement.

complaint. If your complaint or portions of your complaint are dismissed, you will receive a notice with the reasons for dismissal and information about your rights to appeal the dismissal decision.

### **Investigating a Formal Complaint (180-360 days)**

Investigations must normally be completed within **180 days** of the date you filed your formal complaint unless you agree to an extension of up to **90 additional days** or your complaint was amended or consolidated with another complaint, in which case the timeframe for investigation is extended and must be completed within the earlier of 180 days after the filing of the last complaint or within **360 days** after the filing of the original complaint, whichever is earlier. If an investigation is not completed within the required timeframe, you may request an EEOC hearing.

### **Request a Final Agency Decision or EEOC Hearing within 30 Days**

After the investigation is complete, you will receive a report of investigation and a notice of your right to request a Final Agency Decision (FAD) from the Museum or a hearing in front of an EEOC Administrative Judge (AJ). Upon receipt of the notice, you have **30 days** to request a FAD or a hearing in front of an AJ.

### **Museum Final Agency Decision (FAD) (60 days)**

If you request a final agency decision, the EEO Director will issue a decision based on information in the file within **60 days** of your request. The EEO Director will also issue a decision if you do not select either a hearing or a FAD during the required timeframe.

### **Appeal Museum's FAD to EEOC within 30 Days**

If you are not satisfied with the FAD, you may file an appeal to the EEOC within **30 days**.

### **Administrative Judge Hearing and Decision (180 days)**

If you request a hearing, an EEOC Administrative Judge (AJ) will hold the hearing and issue a decision within **180 days** of receiving the request. Conversely, the AJ may issue a summary decision based on the record without a hearing. Once a case is before an AJ, the AJ is fully responsible for processing it.

The Museum will either issue a final order implementing the AJ's decision or may appeal the AJ's decision within **40 days**. If the Museum does not appeal the AJ's decision, or issue a final order within **40 days**, the AJ's decision becomes the final decision of the Museum.

### **Appeal Museum's Final Order to the EEOC within 30 Days**

If you are dissatisfied with the Museum's Final Order, you may appeal to the EEOC within **30 days** of your receipt of the Final Order.

### Request EEOC Reconsider its Decision on Your Appeal within 30 Days

If you do not agree with the decision of the EEOC on appeal, you may ask the EEOC to reconsider its decision within **30 days** of your receiving that decision. Once the EEOC has made a decision on your request for reconsideration, that decision is generally final (i.e., not appealable).

### Filing a Lawsuit

Generally, you cannot go directly to court but must first try and resolve your complaint through the Museum and EEOC's administrative complaint process. There are several different points during the administrative process, however, where you have the opportunity to exit the process and file a lawsuit in court, including:

- After 180 days have passed from the day you filed a complaint, if the Museum has not issued a decision and no appeal has been filed;
- Within 90 days from the day you received the Museum's decision on your complaint, so long as no appeal has been filed;
- After the 180 days from the day you filed an appeal if the EEOC has not issued a decision, or
- Within 90 days from the day you received the EEOC's decision on your appeal.

Further, there are two exceptions to the general rule that allow you to go directly to court and skip the administrative process if you have an Age Discrimination in Employment Act (ADEA) claim or an Equal Pay Act (EPA) claim.

You should keep in mind that once you choose to file a lawsuit, the Museum and the EEOC will close the complaint and take no further action.

### Additional Information

This document provides only a brief overview. For more information, refer to the Museum's [EEO Complaint Processing Policy and Procedures](#) including the resources compiled in Appendix A, contact the Museum's EEO Director [EEO@ushmm.org](mailto:EEO@ushmm.org) or (202) 488-6131, or refer to the EEOC's website [here](#).