



ADF MANUAL TRANSMITTAL MEMORANDUM

TM No. 137

DATE: May 1, 2012
TO: ADF MANUAL HOLDERS
FROM: Lloyd Pierson, President and CEO
SUBJECT: Manual Section Update Project - Renumbering

BACKGROUND:

One activity of the 2012 Manual Section Update Project will re-group and re-sequence the current Manual Section's numbering convention. The purpose of the re-numbering is to add a level of priority, function, and logical sequence to Manual Section naming convention. The overall structure for the updated and re-ordered Manual is seen in the table below:

New Series Categories	
000	Interim Policy Statements and Manual Content
100	Authorities, Agreements, Organizations
200	Program
300	Human Resources
400	Administration
500	Finance

MANUAL MAINTENANCE:

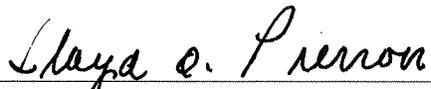
Change the following 15 Manual Sections to the new numbering convention:

Old Number	New Number	Series Name
MS-201	101	ADF ACT
MS-503	303	Merit Promotion Plan
MS-561	310	Exit Clearance Procedures
MS-550	320	Equal Employment Opportunity Policy & Procedures
MS-557	323	Elimination and Prevention of Workplace Harassment ...
MS-504	324	Admin Grievance Policy - Non-Bargaining Unit Employees

MS-556	325	Workplace Anti-Harassment Policy
MS-553	341	No FEAR Act Policy on Annual Notification
MS-560	351	Reduction in Force Policy
MS-572	363	Federal Career Intern Program
MS-577	365	Recruitment of Attorney, Attorney-Advisor Positions
MS-545	371	Personal Identification Verification Cards
MS-410	410	Use of Binding Arbitration
MS-526	450	Procedures for Public & Confidential Financial Disclosure Systems
MS-558	451	Reporting Allegations of Criminal Offenses, Misuse of Grant & ...

Clearance: 
 Doris M. Martin, General Counsel

Date: 05/01/2012

Approved: 
 Lloyd O. Pierson, President

Date: May 1, 2012

ADF MANUAL

SUBJECT: Equal Employment Opportunity Policy and Procedures

Section: MS-320

Date: May 1, 2012

Responsible Office: Office of the President

Supersedes: MS-550 “Equal Employment Opportunity Policy and Procedures”

1. AUTHORITY

Federal civil rights laws prohibit discrimination in employment due to race, color, religion, sex, national origin, age, physical/mental disability, and genetic information. These laws also prohibit retaliation against any employee or job applicant who opposes an unlawful employment practice or who participates in any procedure alleging a discriminatory practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, as amended; the Civil Rights Act of 1991; or the Genetic Information Nondiscrimination Act of 2008.¹

Moreover, Executive Orders 13087 and 13152 prohibit discrimination and harassment against Federal employees or job applicants on the basis of sexual orientation or parental status. Complaints alleging discrimination on the basis of sexual orientation will be processed within the African Development Foundation (ADF), but the Complainant does not have appellate or judicial rights beyond the administrative stage. Further, Executive Order 11246 requires nondiscrimination in employment by government contractors. Specifically, a Federal contractor is prohibited from discriminating against any employee or applicant for employment because of race, color, religion, sex, or national origin.

2. PURPOSE

This sets forth the policy of the African Development Foundation that all employees and applicants for employment are entitled to a work environment free of discrimination, harassment

¹ Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

and retaliation. This also sets forth the complaint procedure for employees or applicants for employment who believe that discrimination, harassment, and/or retaliation has occurred.

3. POLICY AND SCOPE

The African Development Foundation (ADF) is firmly committed to equal employment opportunity and the promotion of a diverse and civil work environment. It is the policy of the ADF to provide equal opportunity in employment to all employees and applicants for employment without regard to race, color, sex, religion, national origin, age, physical/mental disability, genetic information, or sexual orientation. The ADF also strongly enforces full compliance with equal opportunity laws, regulations, and principles throughout its employee and contractor workforce. The ADF is further committed to providing reasonable accommodation for individuals with disabilities and for religious practices in accordance with applicable authorities.

Equal employment opportunity principles must govern all aspects of the ADF's personnel policies, program practices, and operations. All terms and conditions of employment such as recruitment, hiring, evaluation, promotion, transfer, assignment, training, benefits, and separation shall be conducted in compliance with equal employment opportunity laws and regulations.

ADF policy regarding equal employment opportunity requires that every effort be made to ensure that our workforce is representative of the population from which it is drawn. To this end, ADF, through effective outreach, recruitment, hiring, and employee development, fosters an inclusive workforce that reflects America's diversity. ADF is committed to ensuring that its employment practices result in a highly engaged workforce where employees are given equal opportunity for training, career development, promotion, awards, recognition, and other applicable benefits of employment.

To help promote a culture of transparency, equality, and workplace harmony, ADF encourages its employees to discuss with their supervisors any perceived unfair treatment in an effort to reach a resolution. Managers and supervisors are held accountable for ensuring equal opportunity. Additionally, managers and supervisors must continue to take positive steps toward ensuring a supportive work environment and reaching early resolution of complaints.

The ADF is committed to voluntary resolution of equal employment opportunity (EEO) discrimination claims whenever possible. Voluntary resolution of EEO claims avoids the prospect of costly litigation, and contributes to a working environment which is less stressful, more harmonious, more productive due to improved communication. Early in the EEO process, the aggrieved employee and the manager will be offered an opportunity to participate in an Alternative Dispute Resolution (ADR) process with a neutral third party. Since ADF has a stake in the early resolution of workplace issues, once ADR is offered and the employee elects to participate, a management official must participate in the ADR session. As ADR is intended to facilitate voluntary resolution, no participant in ADR during the EEO process shall be compelled to settle or to compromise any of rights against his/her will.

Managers and supervisors must also avoid even the appearance of acts of reprisal against employees who exercise their rights to file complaints. Retaliation against an employee who

exercises his/her rights under this process is against the law and will not be tolerated by ADF. Any retaliation actions should be immediately reported to the EEO Officer. Managers and supervisors will be held accountable for any retaliation that is proven through a formal investigation. Accordingly, equal employment opportunity will be a factor in the performance evaluation of all managers and supervisors.

All persons in ADF's workforce play an important role in maintaining a work environment that is not only free of discrimination but also welcoming of people from all backgrounds; each person has a moral and legal responsibility to treat all colleagues with respect and professionalism. ADF is strongly committed to equal employment opportunity and every member of its workforce is expected to adhere to this policy and assist in expanding opportunities for all persons.

It is the policy of ADF to update and reissue this EEO Policy Transmittal Memorandum on an annual basis in accordance with regulations.

4. RESPONSIBILITIES

4.1 The ADF EEO Counselor. The EEO Counselor is a trained, neutral third party whose primary responsibilities are fact-finding and attempting to resolve informally the complaint at the earliest stage of the process. During the thirty (30) day EEO counseling period, the EEO Counselor will: (1) advise the complainant of his or her rights and responsibilities under EEO statutes, as well as advise bargaining unit employees of their right to pursue the matter as a grievance pursuant to ADF's Collective Bargaining Agreement; (2) inquire into the facts of the case; and (3) attempt resolution. The counseling period may be extended for an additional 60 calendar days if the complainant elects to pursue his or her complaint through an Alternative Dispute Resolution (ADR) procedure, in which case the pre-complaint processing period shall be a total of 90 calendar days.

If resolution is reached at the informal stage, the terms of the resolution are incorporated into a written Settlement Agreement and signed by all appropriate parties. If resolution is not reached during the informal stage, the EEO Counselor conducts a final interview with the complainant to inform the complainant of his or her right to pursue the matter through the formal complaint stage. Upon the completion of the final interview, the complainant is issued a Notice of Right to File a Discrimination Complaint. This concludes the informal stage. It is the complainant, not the EEO Counselor, who must decide whether to file a formal complaint of discrimination at this time.

4.2 The Complainant. In accordance with 29 C.F.R. Part 1614, any African Development Foundation (ADF) employee, or applicant for ADF employment, who believes his or her employment rights have been violated, or who believes reprisal has occurred because of prior involvement in an Equal Employment Opportunity (EEO) complaint, may pursue a complaint. The latter case is a violation of the law which specifically prohibits retaliation. The complaint may be filed pursuant to Section 717 of Title VII of the Civil Rights Act of 1964, which prohibits discrimination against applicants and employees based on race,

color, religion, sex, and national origin; Section 501 of the Rehabilitation Act of 1973, which prohibits employment discrimination on the basis of disability; Section 15 of the Age Discrimination in Employment Act of 1967, which prohibits employment discrimination based on age; the Equal Pay Act of 1963, which prohibits sex-based wage discrimination; and the Genetic Information Nondiscrimination Act (GINA) of 2008 which prohibits employment discrimination on the basis of genetic information including information about genetic tests of applicants, employees, or their family members.

- 4.3 **Administrative Law Judge.** An employee of the Equal Employment Opportunity Commission, the AJ conducts hearings when he/she receives a report of investigation on a complaint.
- 4.4 **ADF EEO Officer.** The Equal Employment Opportunity Officer is a designated management official of the Foundation who oversees and coordinates the Foundation's EEO program in accordance with law and regulation.
- 4.5 **EEO Investigator.** The Foundation contracts for the services of an outside, disinterested third party when the situation warrants. Contracted individuals are trained and knowledgeable in the whole array of equal employment opportunity law and regulation and perform their duties in an impartial and unbiased manner.

5. DEFINITIONS

As contained in the text of this Manual Section.

6. PROCEDURES

- 6.1 **First Step.** The first step for an ADF employee or an applicant for ADF employment who believes that he or she has been discriminated against is to contact ADF's EEO Officer within 45 calendar days of the alleged discriminatory action or the date when the employee or applicant for employment became aware of the alleged discriminatory action. The EEO Officer will assign an EEO Counselor who will contact the complainant to begin the informal or pre-complaint stage of the process and attempt resolution within 30 calendar days.
- 6.2 **Complaint Filing.** Formal complaint must be in writing and be signed by the complainant. The complaint must be filed by the complainant (or that person's representative) within 15 calendar days of receipt of the EEO Counselor's issuance of the Notice of Right to File a Discrimination Complaint. It must be submitted to the EEO Officer, ADF. If a formal complaint is not postmarked, faxed, or hand-delivered within 15 calendar days of the date of the complainant's receipt of the Notice of Right to File an EEO complaint, the EEO Officer will consider the matter closed.

The employee or applicant may file a complaint based on race, color, sex (including sexual orientation, or same-sex harassment), national origin, religion, age, disability, genetic predisposition, or reprisal because of prior involvement in EEO activity. The employee or applicant may also file a complaint based on equal pay.

As soon as the formal complaint is received by the EEO Officer, a written acknowledgement of receipt of the complaint will be issued, as well as a review of issues to determine if the complaint will be dismissed or accepted for further processing by the Agency. If the complaint is dismissed, the complainant will be notified, in writing, and provided with the appropriate appeal rights. If the complaint is accepted for processing, the complainant will receive a written notification and an EEO investigator, under contract to the Agency, will be assigned to investigate the accepted issues.

- 6.3 Complaint Investigation.** An authorized EEO investigator conducts an investigation of a formal complaint of discrimination. The investigator takes formal depositions under oath from all relevant parties and collects factual information concerning the allegations or issues in the formal discrimination complaint. The investigator then prepares a Report of Investigation (ROI), a document that may be used in a formal hearing or court of law. To ensure the integrity of the investigative process, all persons interviewed by the EEO investigator are enjoined from disclosing their sworn statements to anyone (except a legal representative). The EEO Investigator is required to complete the investigation and the ROI within 180 calendar days of the date the formal discrimination complaint was filed.

Upon receipt of the ROI, the EEO Officer will forward a copy of the report with a letter to the complainant (and the complainant's representative, if applicable). The letter will request that, within 30 calendar days (of receipt of the ROI), the complainant advise the EEO Officer of his/her decision to: (1) request a hearing conducted by the Equal Employment Opportunity Commission; or (2) request a Final Decision based solely on the information contained in the ROI.

- 6.4 Complaint Hearings.** If, after receipt of the ROI, the complainant requests a hearing, the entire complaint file is forwarded to the Equal Employment Opportunity Commission (EEOC). Within 180 calendar days of receipt of the request, an EEOC Administrative Judge (AJ) will conduct the hearing. The AJ will then issue a finding of fact and conclusion of law, and forward a final decision to the Agency and the complainant. The AJ may also make a determination, in writing, whether good cause exists for extending this 180-day period. The EEOC will continue to encourage resolution of the complaint during this period.

ADR may be requested at any time during the formal processing of your complaint prior to the issuance of the final decision.

- 6.5 Decision Issuance.** If, after receipt of the ROI, the complainant requests a Final Decision, the EEO Officer has 60 calendar days from receipt of the notification from the complainant to review the entire complaint file, including the ROI, and issue the Final Decision including the appropriate appeal rights.
- 6.6 Filing an Appeal.** If the complainant is not satisfied with the outcome of the Final Decision, an appeal may be filed with the EEOC within 30 calendar days of receipt of the decision. Within 90 calendar days of receipt of the Final Decision, the complainant may file a civil action in an appropriate United States District Court.
- 6.7 Resolution.** Resolution of a Discrimination Complaint may be reached at any time during the complaint process. If this occurs, the resolution is summarized in a written confidential settlement agreement signed by all parties. The complaint is closed, and all further processing terminated.