

July 7, 1997

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Processing Equal Employment Opportunity (EEO)
Complaints Concerning Civilian Personnel
Operations Center (CPOC) Actions

The following policy addresses the procedures to be followed in processing EEO (individual and class) complaints of discrimination involving CPOC actions.

When the CPOC is processing actions for a serviced installation or activity it is in the "acting for" capacity for that installation or activity commander/director. As such, the CPOC is working for the commander/director of the activity who requested the personnel action. Under this guiding principle, although geographically separated, the CPOC can be looked upon as part of the serviced commander's/director's staff when processing personnel actions for that commander's/director's installation or activity.

1. EEO Office Responsible for Complaint Processing.

When a CPOC is acting for a serviced commander/director and an employee or applicant alleges discrimination which involves an action taken by the CPOC, the EEO Office servicing the commander/director is responsible for counseling and complaint processing. For example:

(a) If a Fort Bragg employee applies for a position at Fort Bragg and alleges that Southeast CPOC personnel at Fort Benning discriminated based on sex in non referral for the position, the Fort Bragg EEO Office is responsible for counseling and complaint processing.

(b) If a Fort Bragg employee applies for a position at Fort Polk and alleges that South Central CPOC personnel discriminated based on sex in non referral for the position, the Fort Polk EEO Office is responsible for counseling and complaint processing.

Aggrieved employees and applicants who allege discrimination by CPOC personnel should contact their servicing or the nearest Army operating EEO Office for complaint information and direction. That office will help the individual identify the responsible EEO Office for counseling and complaint processing and immediately refer the individual to the responsible EEO Office.

2. Access to CPOC Personnel and Records.

a. Access to Personnel. CPOC Directors will ensure that EEO Counselors, EEO Officers, and Labor Counselors are accorded direct access to CPOC personnel to carry out their respective responsibilities in the EEO complaint process. When a CPOC is acting for a serviced commander/director and an employee or applicant alleges discrimination which involves an action taken by the CPOC, the EEO Counselor must have direct access to CPOC personnel. Additionally, Labor Counselors serving as agency representatives must have direct access to CPOC personnel to gather information about the complaint and to interview prospective witnesses.

b. Access to Records. CPOC Directors will ensure that EEO Counselors, EEO Officers, and Labor Counselors are accorded direct access to CPOC records to carry out their respective responsibilities in the EEO complaint process. When a CPOC is acting for a serviced commander/director and an employee or applicant alleges discrimination which involves an action taken by the CPOC, the EEO Counselor must have direct access to CPOC records. Additionally, Labor Counselors serving as agency representatives must have direct access to CPOC records to gather information about the complaint. However CPOC records may be available through access of the regional data base at the servicing CPAC. Therefore, EEO Counselors, EEO Officers, and Labor Counselors are encouraged to coordinate with their servicing CPAC before requesting records directly from the CPOC. CPOC Directors will designate an individual within the CPOC to serve as EEO Liaison/POC to facilitate timely response to installation or activity requests for records in connection with EEO complaints. Original personnel records should be transmitted through the CPAC to ensure accountability for the records.

3. Settlement Authority and Coordination.

a. Settlement Authority

(1) When an employee or applicant alleges discrimination which involves an action taken by CPOC personnel on behalf of a serviced commander/director, the authority to settle the matter rests with the serviced commander/director (not the CPOC Director).

(2) A serviced commander/director may not offer or agree to a remedy which impacts on the CPOC's processing of other installations' actions except as reasonably necessary to implement specific relief to the individual complainant.

b. The Labor Counselor, the EEO Officer, and the appropriate CPAC official will coordinate and consult with each other as equal members of the commander's/director's advisory team. If a personnel issue involves a matter within the CPOC's purview, the CPAC official should consult with the CPOC.

c. If an installation or activity is considering entering into a settlement agreement, the terms of which require action by the CPOC, the proposed agreement must be coordinated with the CPOC. The same is true when the terms of a proposed agreement would not require action by the CPOC but would have the effect of changing or overruling a CPOC action. If the CPOC objects to the proposed remedy or a proposed term in the settlement agreement, and the commander/director cannot reach agreement with the CPOC on the proposed remedy or proposed term of the agreement, the commander/director, after consultation with the Labor Counselor, EEO Officer, and CPAC Director, will decide the agency's position on the settlement proposal. A serviced commander's/director's authority to settle an EEO complaint over the objections of the CPOC may be delegated no lower than the commander's/director's immediate subordinate who acts for the commander/director such as the Deputy Commander/Director, or Chief of Staff.

d. Under normal circumstances, installation/activity coordination of proposed settlement agreements with CPOCs should be accomplished by the local CPAC.

When time is of the essence (e.g., proposed settlement reached during hearing before an EEOC Administrative Judge or during an OCI investigation or mediation), the EEO Officer or the Labor Counselor serving as the agency representative may directly contact the CPOC for coordination.

e. To assure that the terms of a settlement agreement are carried out and to facilitate any necessary arrangements with the CPOC, the installation or activity should designate an official responsible for implementation. This may be the EEO Officer, a CPAC official, or another management official, as appropriate. Normally the EEO Officer is responsible for monitoring compliance with the terms of the settlement agreement.

4. Processing Costs and Monetary Remedies.

When a CPOC is acting for a serviced commander/director and an employee or applicant alleges discrimination which involves an action taken by the CPOC, the installation or activity that requested the personnel action is responsible for complaint processing costs as well as the payment of any monetary remedy, including compensatory damages agreed to by settlement or awarded in a decision by an appropriate authority.

5. EEO Complaints within the CPOC (internal).

For internal CPOC complaints of discrimination (those filed by CPOC employees or applicants for CPOC positions) the following procedures apply. Except as provided below, the host installation EEO Office is responsible for counseling and complaint processing. If a CONUS CPOC Director is named or otherwise designated as a principal agency witness based upon actions he or she personally has taken against the complainant, the CPOC Director's function in the complaint process will be assumed by the Director, Civilian Personnel Operations Center Management Office (CPOCMA) and the CPOCMA's Servicing EEO Office will process the complaint. If the CPOC Director is named by virtue of his or her position, the CPOC Director's role in the complaint process will not be affected and

the CPOC's servicing EEO Office will continue processing the complaint.

6. Finding of Discrimination.

If the Equal Employment Opportunity Compliance and Complaints Review Agency (EEOCCRA) or the Equal Employment Opportunity Commission finds discrimination in an EEO complaint, and the finding is based upon action or inaction by the CPOC or a CPOC official, the Director, EEOCCRA will notify the Director, Civilian Personnel Operations Center Management Agency or the appropriate OCONUS Major Commander, in addition to normal distribution of the complaint decision.

This policy has been developed in coordination with the Labor and Employment Law Division, Office of The Judge Advocate General (OTJAG), the Department of Army Equal Employment Opportunity Agency, and the Department of Army Equal Employment Opportunity Compliance and Complaints Review Agency (EEOCCRA). This information should be provided to your servicing Civilian Personnel Advisory Center, Equal Employment Opportunity Office and Labor Counselor.

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Carol Ashby Smith
Deputy Assistant Secretary
(Civilian Personnel Policy)

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