

# **Equal Employment Opportunity (EEO) Policy and Procedures**

1087.03

Effective November 22, 2024



**MILLENNIUM**  
CHALLENGE CORPORATION  
UNITED STATES OF AMERICA



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## 1. PURPOSE

This document provides policy, definitions, and procedural guidelines for implementing an Equal Employment Opportunity (EEO) policy and program at the Millennium Challenge Corporation (MCC) and procedures for processing and adjudicating complaints.



## 2. SCOPE

This policy applies to all MCC employees as defined herein, applicants for employment with the MCC, and former employees.





### 3. AUTHORITIES

#### a. Statutes.

1. Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e, et. Seq.)
2. The Equal Pay Act of 1963 (EPA) (29 U.S.C. § 206(d))
3. The Age Discrimination in Employment Act of 1967 (ADEA), as amended (29 U.S.C. § 633(a))
4. Title I of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101)
5. Sections 102 and 103 of the Civil Rights Act of 1991 (42 U.S.C. § 1981)
6. Sections 501 and 505 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 1614.203)
7. The Genetic Information Nondiscrimination Act of 2008 (GINA) (42 U.S.C. § 2000ff)
8. The Pregnant Workers Fairness Act of 2022 (42 U.S.C. § 2000gg)

#### b. Federal Government Regulations, Standards, and Other Guidance.

1. *29 C.F.R. §1604* Sets forth policies and principles governing discrimination based on sex.
2. *29 C.F.R. §1606* Sets forth policies and principles governing discrimination based on national origin.
3. *29 C.F.R. §1607* Establishes policies, principles, and procedures for determining when a “selection procedure” has an unlawful impact on the hiring, promotion, or other employment opportunities of members of any race, sex, or ethnic group.
4. *29 C.F.R. Part 1614* Sets forth policies and regulations to effectuate the Government’s obligation to promote equal employment opportunity and to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or disability.
5. *29 C.F.R. §1614.601* Requires each agency to establish a system to collect and maintain accurate employment information on the race, national origin, sex, and disability of its employees. *1614.601(b)* states that data on race, national origin, and sex should be collected by voluntary self-identification. Subsection (e) states that an agency shall not establish a quota for employing persons based on race, color, religion, sex, or national origin. Subsection (g) states that an agency shall report to the Commission on employment by race, national origin, sex, and disability in the form and at the times the Commission may require.
6. *29 C.F.R. §1614.602* Requires that each agency report to the Commission complaint processing information. Subsection (c) states that each agency shall submit annually for the review and approval of the Commission’s written national and regional equal employment opportunity plans of action. The plans shall be in a format prescribed by the Commission.
7. *29 C.F.R. §1690* Sets forth procedures for the prescribed coordination between the EEOC and other federal agencies having responsibility for the enforcement of statutes, regulations, Executive Orders, and policies that require equal employment opportunity without regard to race, color, national origin, sex, religion, age, or disability.

8. EEOC Management Directive 110 (EEO MD-110): Federal Sector Complaint Processing Manual
  9. EEOC Management Directive 715 (EEO MD-715): EEO Reporting Requirements for Federal Agencies
  10. *Executive Order 11478*, as amended (1971) – Reiterated the federal government’s policy to provide equal employment opportunity based on merit and fitness and “without discrimination because of race, color, religion, sex, or national origin. To promote the full realization of this policy, the Order requires, among other things, that agencies and departments establish “continuing affirmative programs” to ensure that equal employment opportunity is an “integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees in the Federal Government.”
  11. *Executive Order 12106* (1978) – Amended Executive Order 11478 to include, in its coverage, non-discrimination based on age and disability. The Order further transferred federal equal employment opportunity enforcement authority to the Equal Employment Opportunity Commission. It made the EEOC responsible for “directing and furthering” the implementation of the equal employment opportunity policy.
  12. *Executive Order 12067* (1978) – Effected the transfer of the functions of the Equal Employment Opportunity Coordinating Council to the EEOC and delineated the EEOC’s responsibility for “develop[ing] uniform standards, guidelines, and policies for promoting and furthering equal employment opportunity in the government.
  13. *Executive Order 13078*, as amended (2000) – Established the National Task Force on Employment of Adults with Disabilities (now called the Presidential Task Force). The purpose of the Task Force is to implement a national policy to effect gainful employment of adults with disabilities, including employment in the Federal Government.
  14. *Executive Order 13163* (2000) – Promotes a policy to increase opportunities for individuals with disabilities employed at all levels and occupations in the federal government.
  15. *Executive Order 13164* (2000) – Requires agencies to establish written procedures to facilitate the provision of reasonable accommodations under the Rehabilitation Act.
- c. **Related MCC Policies and Procedures.**
1. 1092 Anti-Harassment Policy
  2. 1093 Reasonable Accommodation Policy

## 4. KEY DEFINITIONS

Term	Definition
Administrative Judge (AJ)	An official assigned by the EEOC to hold hearings on formal complaints of discrimination and to otherwise process individual complaints for the EEOC.
Aggrieved Person	Any federal employee, former employee, or job applicant who believes they have suffered harm or loss concerning a term, condition, or privilege of employment and who brings the matter to the attention of an EEO Counselor. The law protects aggrieved persons from discrimination because of their race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, or genetic information. The law also protects aggrieved persons from retaliation if they oppose employment discrimination, file a complaint of discrimination, or participate in the EEO complaint process ( <i>protected activity</i> even if the complaint is not theirs).
Alternative Dispute Resolution (ADR)	The use of a means of dispute resolution designed to facilitate an early resolution of employment discrimination disputes without seeking recourse through traditional administrative or judicial channels. ADR methods utilized by the EEO Director include mediation and facilitation.
Applicant for Employment	An individual who applies to MCC for available positions that MCC has advertised.
Barrier	An individual who applies to MCC for available positions that MCC has advertised.
Complainant	A person who files a formal EEO complaint of discrimination
Discrimination	To treat a person differently, or less favorably, because of their race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information, or in retaliation for participating in protected activity. Unlawful discrimination may be either intentional or unintentional.
Employee	For this policy, an employee is any full-time or part-time hire employee.
EEO Counselor	An MCC collateral duty employee or contracted counselor who, service as a neutral, provides an aggrieved person with their rights and responsibilities under EEO laws, gathers limited data, and may attempt informal resolution where the aggrieved person does not elect or accept ADR. The EEOC requires that new EEO counselors, including contract and collateral duty EEO counselors, receive a minimum of thirty-two (32) hours of EEO counselor training prior to assuming counseling duties. In addition to the training for new counselors, all EEO counselors are required to receive at least eight (8) hours of continuing EEO counselor training each fiscal year.

Final Agency Action	There are two types of final actions by agencies. One is a final action by an agency following a decision by an administrative judge that informs the complainant whether the agency will fully implement that decision. The other is a final action when the agency dismisses an entire complaint, the complainant requests an immediate final decision, or the agency issues a final decision after the complainant did not elect between a hearing before an EEOC administrative judge or an agency final decision.
Formal Complaint	A written allegation of illegal discrimination by an employee, former employee, or applicant for employment who believes they have been unfairly treated because of their race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information, or in retaliation for participating in protected activity. A person who files a complaint is called a complainant
Grievance Process	Employees covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure may choose to file either a EEO complaint through the EEO process or a grievance through the negotiated grievance procedures, but not both. The employee is considered to have made this choice when he or she first files either a written complaint or a written grievance. EEO counseling does not constitute an election. Once made, the choice is binding and may not be changed
Hearing	Conducted by an EEOC Administrative Judge who will hold a hearing on the formal complaint, issue a decision on the merits of the formal complaint, and order relief if discrimination is found.
Informal Complaint	A matter of alleged discrimination that an aggrieved person brings to the attention of the EEO Counselor before a formal discrimination complaint is filed.
Mixed Case	In cases where the matter is appealable to the Merit Systems Protection Board (MSPB) and discrimination is alleged, the aggrieved person may elect to file either a “mixed-case appeal” to the MSPB, which must be filed within 30 calendar days after the effective date of the action being appealed, or a “mixed-case complaint” through the administrative EEO complaint process, but not both. EEO counseling does not constitute an election. If the aggrieved person files an MSPB appeal and timely seeks counseling, counseling may continue pursuant to the applicable regulations, at the option of the parties. However, any formal complaint submitted by an aggrieved person who previously elected to file a mixed-case appeal on the same matter will not be accepted for processing.

Report of Investigation (ROI)	A report that contains the documents and information acquired during the investigation of the discrimination complaint, including affidavits of the complainant, the alleged responsible management official (RMO), and witnesses; and copies of or extracts from records, policy statements, or Agency regulations, organized to show their relevance to the complaint or general environment out of which the complaint arose.
Representation	An aggrieved person has the right to be represented at all stages of the complaint process including the counseling stage. While an aggrieved person may generally select anyone to be his or her representative (provided that the selectee is willing), management may disallow the choice of representative if the representation would present a conflict of interest (i.e., an incompatibility between the representation functions and an employee's official duties). An employee's right to choose a representative is not restricted by a collective bargaining agreement granting a union the right of exclusive representation.
Reprisal	Interference with, coercion of, or discrimination against a complainant, their representative, or witnesses involved in any stage of the presentation and processing of a complaint, including the informal counseling stage.
Resolution	Resolving a complaint by agreement between the MCC and the complainant at any time during the processing of the complaint. Either party may offer terms.
Right to Anonymity/Confidentiality	Any aggrieved person has the right to confidentiality/remain anonymous throughout the counseling stage. An EEO Counselor's processing of an anonymous, informal complaint does not prohibit the sharing of the aggrieved person's issues with management.
Settlement Agreement	A written agreement signed by the complainant and appropriate MCC official whereby, in exchange for specific terms (consideration) outlined in the agreement, the complainant and MCC agree to mutually resolve the complaint of discrimination, which is the subject of the settlement agreement. The MCC official signing the agreement must have the authority to bind MCC to the terms of the agreement. A settlement agreement is entered into voluntarily and is binding on all parties.
U.S. Equal Employment Opportunity Commission (EEOC)	Federal agency with overall responsibility for leadership and supervision of the Federal sector EEO program.



## 5. RESPONSIBILITIES

- a. **Chief Executive Officer.** Ensure compliance with EEOC Management Directive 715 and those implementing instructions issued by the EEOC in accordance with existing law and authority. Demonstrate commitment to equality of opportunity for all employees and applicants for employment that is communicated through the ranks from the top down. Appointing the EEO Director.
- b. **Managers and Supervisors.** Demonstrate a firm commitment to equality of opportunity for all employees and applicants for employment, as well as to ensuring there is a work environment free from discrimination and reprisal. Translate equal opportunity into everyday practice and make those principles a fundamental part of MCC culture.
- c. **Department of Administration and Finance (A&F) Human Resources (HR) Division.**
  1. Maintain clearly defined, well-communicated, consistently applied, and fairly implemented policies and procedures in areas such as personnel, selection and promotion, performance evaluation, rules of conduct, and training systems.
  2. Implement effective reasonable accommodation procedures that comply with applicable executive orders and EEOC guidance.
  3. Maintain anti-harassment policy and procedures that comply with EEOC's Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors and Enforcement Guidance on Harassment in the Workplace (issued April 29, 2024).
  4. Ensure that MCC's EEO policy information is posted on all vacancy announcements.
  5. Provide personnel and recruitment data to the EEO Director on an as-needed basis for use in completing required reports to the EEOC.
- d. **EEO Director. Reports directly to the CEO and is responsible for:**
  1. Implementing continuing affirmative employment programs to promote equal employment opportunity per 29 C.F.R. § 1614.102(c)(1) and EEOC-issued Directives and Guidance (such as MD-715);
  2. Identifying and eliminating discriminatory employment practices and policies, including the counseling of individuals and the fair and impartial investigations of complaints.
  3. Advising the agency head on matters related to equal employment opportunity.
  4. Coordinating and monitoring the implementation of the EEO policy and providing leadership and direction on EEO regulations and directives.
  5. Overseeing the discrimination complaints processing system, including final authority to dismiss, in whole or in part, all formal complaints of discrimination, terminating complaints in accordance with EEO regulations.
- e. **EEO Counselors.** Regularly report counseling activities to the EEO Director, educate aggrieved persons on their rights and responsibilities under EEO laws, gather limited data, and attempt informal resolution when aggrieved persons do not elect to participate in ADR.

- f. **U.S. Equal Employment Opportunity Commission (EEOC).** Enforces federal laws that prohibit employment discrimination against applicants for federal employment, current federal employees, or former federal employees. Provide leadership and guidance to federal agencies on all aspects of the federal government's EEO program.



## 6. POLICY

MCC is committed to a workplace free of discrimination and will not tolerate discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, sex stereotyping, gender identity, gender expression, or transgender status), national origin, physical or mental disability, age (40 or older), protected genetic information, status as a parent, marital status, political affiliation, or retaliation based on prior protected EEO activity. In addition, MCC will not permit harassment – sexual or otherwise – of any employee or applicant for employment.



## 7. PROCEDURES

### a. Contact an EEO MCC Counselor

If an employee, applicant for employment, or former employee believes they may have been subjected to discrimination based on their race, color, religion, sex (including pregnancy, sexual orientation, sex stereotyping, gender identity, gender expression, or transgender status), national origin, physical or mental disability, age (40 or older), protected genetic information, status as a parent, marital status, political affiliation, or retaliation based on prior protected EEO activity, they must contact an MCC EEO Counselor *within 45 calendar days of the date the alleged discrimination occurred*. The EEO Counselor can be contacted in person, by phone, or via email to schedule an initial interview session.

### b. EEO Counselor Role

When an aggrieved person seeks EEO counseling, the EEO Counselor begins the role of educator and must ensure that the aggrieved person understands their rights and responsibilities in the EEO process, including the option to participate in EEO ADR. The EEO Counselor will also perform the roles of information gatherer, facilitator, messenger, suggestion maker, and report writer. The EEO Counselor must perform several tasks in all cases, regardless of whether the aggrieved person ultimately participates in EEO ADR, including:

1. Advising the aggrieved person about the EEO complaint process (including their right to representation and confidentiality) and explaining the MCC EEO ADR program. (Educator)
2. Determine the claim(s) and basis(es) raised by the aggrieved person. (Information Gatherer)
3. Conduct a limited inquiry during the initial interview with the aggrieved person for the purpose of determining jurisdictional questions and whether there may be issues relating to the timeliness of the individual's contact with the EEO Counselor. (Information Gatherer)
4. Seek a resolution of the dispute at the lowest possible level unless the aggrieved person agrees to participate in the EEO ADR program. (Facilitator, messenger, and suggestion maker)
5. Advise the aggrieved person of their right to file a formal discrimination complaint if attempts to resolve the dispute through EEO counseling or EEO ADR are unsuccessful. (Educator).
6. Prepare a report sufficient to document that the EEO Counselor undertook the required counseling actions and to resolve any jurisdictional questions that arise. (Report Writer)

The EEO Counselor has 30 calendar days from the date of initial contact to attempt an informal resolution. The 30-day period may be extended for up to 60 calendar days if the aggrieved person agrees to such an extension in writing. If the matter is not resolved at the end of this time, the EEO Counselor will issue a Notice of Right to File, advising the aggrieved person, in writing, of their right to file a formal complaint.

### c. Alternative Dispute Resolution (ADR)

Traditional EEO counseling will not be attempted if the aggrieved person elects in writing to participate in the ADR process. MCC will have 90 days to conduct ADR. If there is no resolution during ADR, the EEO

Counselor will issue a Notice of Right to File, advising the aggrieved person, in writing, of their right to file a formal complaint.

d. Filing a Formal Complaint

A formal complaint can only be filed after the aggrieved person has received Notice of the Right to File a formal complaint of discrimination. The formal complaint must be filed *within fifteen (15) calendar days* of receipt of the Notice of Right to File a formal complaint of discrimination. The written complaint must be specific and limited to the matters discussed with the EEO Counselor during the informal complaint process. Once the written complaint has been filed, the EEO Director will determine whether the complaint will be accepted for investigation.

e. Dismissal of Complaints

The EEO Director may either accept for investigation all of the claims alleged in the complaint or dismiss some or all of the claims in a complaint for any of the following reasons: (1) failure to state a claim, or stating the same claim that is already pending or has been decided by the agency or the EEOC; (2) failure to comply with the time limits; (3) filing a complaint on a matter that has not been brought to the attention of an EEO counselor and which is not like or related to the matters counseled; (4) filing a complaint which is the basis of a pending civil action, or which was the basis of a civil action already decided by a court; (5) where the complainant has already elected to pursue the matter through either the negotiated grievance procedure or in an appeal to the Merit Systems Protection Board; (6) where the matter is moot or merely alleges a proposal to take a personnel action; (7) where the complainant cannot be located; (8) where the complainant fails to respond to a request to provide relevant information; (9) where the complaint alleges dissatisfaction with the processing of a previously filed complaint; (10) where the complaint is part of a clear pattern of misuse of the EEO process for a purpose other than the prevention and elimination of employment discrimination.

f. Accepted Formal Complaints and Investigation

Upon issuing a Notice of Accepted Issues raised in a formal complaint, the EEO Director will assign the complaint to a contract EEO vendor to conduct the investigation of the accepted issues. The investigation will encompass all the information relevant to the accepted allegations and may, when appropriate, include comparative data on other similarly situated individuals. During the investigation, the Complainant will have an opportunity to present all the facts that they believe show unlawful discrimination. MCC is required to complete the investigation within 180 calendar days from the date the complaint was filed unless the EEO Director and the complainant agree in writing to an extension of not more than an additional ninety (90) calendar days.

g. Amending a Formal Complaint

The complainant may amend a pending complaint at any time before the completion of the investigation to add claims that are like or related to those claim(s) raised in the pending complaint. The complaint must submit a letter to the EEO Director requesting to amend the pending complaint. There is no requirement that the complainant seek counseling on the new claims. The investigation of the amended complaint should be completed within 180 calendar days after the last amendment or 360 calendar days

after filing the original complaint, whichever comes first. After the complainant has requested a hearing, they may file a motion with the EEOC Administrative Judge to amend the complaint to include claims that are like or related to the claims raised in the pending complaint.

#### h. Report of Investigation

After the investigation is completed, a copy of the Report of Investigation (ROI) will be provided to the complainant, along with a notification that, within thirty (30) calendar days of the date the ROI is received the complainant has the right to request either (1) a hearing and a decision from an EEOC AJ or (2) an immediate Final Agency Decision (FAD) from MCC. If the complainant does not request a hearing or an MCC Final Agency Decision without a hearing within 30 calendar days after they receive the ROI, MCC will issue a FAD based on the evidence in the ROI.

#### i. EEOC Hearing

If the complainant opts to request a hearing, the request must be made directly to the EEOC with a copy to the EEO Director. The request must be submitted to the EEOC in accordance with the instructions provided to the complainant in the ROI transmittal letter. A copy of the request should simultaneously be provided to the MCC EEO Director.

#### j. Final Agency Decision (FAD)

MCC will issue a FAD on the merits of the complaint within sixty (60) calendar days from (1) the date of the complainant's request for an immediate decision or (2) the end of the 30-day period after the complainant receives the ROI and notice of election.

#### k. Appealing a Final Agency Decision (FAD)

MCC will issue a FAD on the merits of the complaint within sixty (60) calendar days from (1) the date of the complainant's request for an immediate decision or (2) the end of the 30-day period after the complainant receives the ROI and notice of election.

#### l. Filing a Civil Action with the U.S. District Court

A complainant may file a private lawsuit in a U.S. District Court under Title VII, the Rehabilitation Act of 1973, or the Age Discrimination in Employment Act (ADEA):

1. Within 90 calendar days of receipt of MCC's FAD on an individual complaint (30 calendar days for mixed cases); or
2. After 180 calendar days from the date of filing an individual complaint if no appeal has been filed and no final agency action has been issued; or
3. Within 90 calendar days after receipt of the EEOC's final decision on appeal; or
4. After 180 calendar days from the date of filing an appeal with the EEOC if there has been no final decision by the EEOC.

m. Special Procedures for Age Discrimination in Employment Act (ADEA) and Equal Pay Act (EPA) Complaints.

An age discrimination complainant may choose between two different procedures:

1. He or she may bypass the administrative complaint process and file a civil action directly in U.S. District Court provided that he or she first provides the EEOC with a written notice of intent to sue under the ADEA. The notice must be filed within 180 calendar days of the date of the alleged discriminatory action. Once a timely notice of intent to sue is filed with the EEOC, the aggrieved person must wait at least thirty (30) calendar days before filing a civil action; or
2. He or she may file a complaint of age discrimination with the agency pursuant to 29 CFR Part 1614 completing all necessary administrative steps before filing a civil action. Complainants are responsible for determining the applicable statute of limitations in the jurisdiction in which they reside.

A private lawsuit for violation of the Equal Pay Act (EPA) may be filed in any court of competent jurisdiction within two years of the date of the alleged violation (or within three years in cases of willful violation). An aggrieved person does not have to file an administrative complaint before filing an EPA lawsuit.

## **8. EFFECTIVE DATE**

This policy was approved as of November 22, 2024, and is effective immediately. For the avoidance of doubt, this policy will remain in effect with respect to any successor position or office performing the functions of its predecessor until this policy is modified, revoked, or superseded. In addition, this policy supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.





## 9. AMENDMENTS TO THIS POLICY

This policy may be modified or amended at any time in writing with the approval of CEO.

Reducing Poverty Through Growth

