

## **Statutory Authority**

### **What to Expect at an EEO Hearing**

#### **PRE-HEARING**

An Equal Employment Opportunity (EEO) hearing is not an informal discussion but rather a formal proceeding. All persons who testify are sworn under oath to tell the truth and a taped transcript is made.

The Equal Opportunity Division (EOD) selects the Hearing Officer and the date, time, and place for the hearing and informs all involved parties of such arrangements.

Complainants may be represented at the hearing; however, payment for such services is the responsibility of the Complainant.

All testimony must relate to whether or not discrimination took place against the complainant based upon his/her protected class status in the complaint.

Witnesses should have direct knowledge of facts regarding the alleged discrimination rather than being character witnesses. The EOD and the agency EEO Officer will notify witnesses of the hearing and arrange for their appearance. The number of witnesses used in a hearing may be limited by the hearing officer to eliminate repetitious testimony.

#### **HEARING**

The hearing officer will read the complaint aloud in order to establish the basis for the proceeding. The complainant and the respondent (agency) will then be asked to make opening statements, i.e., a few sentences which state the basic case for each side.

The complainant will begin by giving testimony and by calling witnesses who can also testify that discrimination took place. The Agency will then go through the same procedure with witnesses who can corroborate that discrimination did not take place.

After both sides have completed testimony and cross-examination the hearing officer will ask if either wants to make closing statements. These are very brief remarks regarding why each side believes that the hearing officer should find in their favor.

#### **NOTATIONS ON TESTIMONY AND EVIDENCE**

All witnesses may be cross-examined. That simply means that both the complainant and Agency will be able to ask questions of each witness.

Either side may object to the questions of the other if it is felt that the questions are irrelevant or improper to the case. If the Hearing Officer over-rules an objection, it means that the question is allowed. If the objection is sustained, it means that the question is not allowed.

Leading the witness is an improper procedure. It means putting words into the mouth of the witness instead of letting the witness answer questions on his/her own.

The hearing officer may also question witnesses if there is a particular issue which needs clarification and such information is not brought out through regular questioning.

Documents may be used as evidence if the hearing officer approves of each one. An original and two copies should be made of each document in order that the hearing officer and the Agency may also have a copy. The Agency must go through the same procedure.

### **POST-HEARING**

Copies of the hearing officer's decision are mailed to the complainant and representative (if any), the agency representative, and to the appropriate appointing authority. The agency is then given 30 calendar days to accept, reject, or modify the hearing officer's decision and to inform the complainant of such action in writing