

Marvin Green

v.

HRC, Secretary,  
U.S. Dept. of State

DOS Case: DOS F-125-10  
EEOC Case: 570-2011-00700X

Exhibit 22 of \_\_\_\_.

EEO Rights and Responsibilities.



U.S. Department of State  
Office of Civil Rights (S/OCR)

**NOTICE OF RIGHTS AND RESPONSIBILITIES**

Date (mm-dd-yyyy) 08-05-2010  
 To: Aggrieved - Marvin E. Green  
 From: EEO Counselor - Kendl E. Williams

1. In regards to the EEO matter that you brought to my attention, and to the extent the issues relate to alleged discriminatory actions by U.S. Department of State employees, I am required to advise you of your rights and responsibilities. They are:

a. **Anonymity**

You have the right to remain anonymous during the EEO counseling process. I will divulge your name to others only if you authorize me to do so. You should know, however, that it may be very difficult to resolve your issues informally if you choose to remain anonymous. Please check one:

- I want to remain anonymous during counseling.  
 I do not want to remain anonymous during counseling.

b. **Representation**

You have the right to a representative during the EEO complaint process, including EEO counseling. You may select anyone to represent you, including a current Department of State employee as long as his/her official position would not present a conflict of interest with his/her duties as your representative. I cannot serve as your representative. Please check the box next to your election below:

- I have a representative. My representative will be:  
 (Please indicate)  Attorney  Non-Attorney

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Phone \_\_\_\_\_  
 E-mail \_\_\_\_\_

- I do not have a representative at this time.

I understand I may select a representative at any stage of the EEO process and that I must provide S/OCR a signed and completed Designation of Representative Form before S/OCR will discuss anything having to do with my case with my representative.

c. **Alternative Dispute Resolution (ADR)**

During the informal stage, your claim(s) may be addressed through the agency's Alternative Dispute Resolution (ADR) program or EEO counseling. If you elect to participate in the ADR program as a voluntary means to resolve your dispute, the Office of Civil Rights will arrange for the appropriate management officials to engage in the dispute resolution process. If you elect to address your claim(s) through the ADR program, the counseling period will be extended up to, but not more than, 90 (ninety) calendar days. Election to participate in the ADR program must be in writing.

Once I receive your signed ADR Election Form, I will gather enough information on your basis(es) and issue(s) to assist the agency in making a procedural decision on whether or not your case is appropriate for ADR. You will be notified in writing of S/OCR's decision either approving or disapproving your case for ADR and giving you further procedural rights.

c. **ADR (Continued)**

If your case is processed through ADR but a resolution is not reached, S/OCR will issue you a Notice of Right to File a Discrimination Complaint. If you elect the ADR process and the process has not reached a conclusion **within 90 (ninety) calendar days**, S/OCR will issue you a Notice of Right to File a Discrimination Complaint on the **90th day**. You will also have an opportunity to elect ADR in the formal stage of the process.

**NOTE-** The following cases are considered inappropriate for ADR: cases brought by applicants or contractors; cases involving security, OIG, or discipline matters; cases where significant government policies would require statutory and procedural development; class complaints; and cases involving workplace violence, sexual harassment, and other complaints dealing with sensitive issues.

d. **Contractors**

I must advise you that while I will provide you counseling on your complaint, should your complaint not resolve and you seek to file a formal complaint, ultimately you may not have a right to relief through the Department's EEO complaint process. S/OCR will review your complaint to determine whether you have the right to file a formal complaint of discrimination with that office. For this reason, you should immediately seek to pursue any other avenues of redress to which you may be entitled.

e. **Negotiated Grievance Process**

If you are in a bargaining unit, you may have the right to file a grievance on this matter through a union negotiated grievance procedure that accepts issues of discrimination. However, you may not file both an EEO complaint and a grievance on the same matter. Whichever you file first (a formal EEO complaint or step 1 of a grievance) will be considered your election to proceed in that forum and will preclude you from pursuing your issue(s) in the other forum.

\* Department's Civil Service Grievance Process - Civil Service Employees may file a grievance through the Department's Civil Service grievance process. Contact HR/G at (202) 261-8119 regarding this process.

\* Department's Foreign Service Grievance Process - Foreign Service Employees may file a grievance through the Department's Foreign Service grievance process. Contact HR/G at (202) 261-8110 regarding this process.

f. **Merit Systems Protection Board (MSPB)**

If you are disputing a matter that can be appealed to the MSPB, you may file an EEO complaint or an MSPB appeal, but not both. Whichever you file first (a formal EEO complaint or an MSPB appeal) will be considered an election to proceed in that forum. Information on filing an MSPB appeal can be found at <http://mspb.gov/howtoappeal.html>.

g. **Notice of Right to File (NRF)**

Within **30 (thirty) calendar days** of your first contact with an EEO Counselor, you have the right to receive a written notice terminating counseling and informing you of the right to file a formal complaint (unless the time period has been extended by your prior written consent). You also have the right, at the conclusion of counseling, to file a formal complaint **within 15 (fifteen) calendar days** of your receipt from me of the written Notice of Right to File a Discrimination Complaint. If you choose to file a formal complaint, it must be sent directly to S/OCR. As the EEO Counselor, I am not authorized to accept a formal complaint on behalf of S/OCR. If you are alleging discrimination against another agency, your complaint must be forwarded directly to that agency in accordance with its established procedures.

h. **EEO Counselor's Report**

Should you file a formal complaint S/OCR will provide you with a copy of the EEO Counselor's Report pursuant to 29 C.F.R. 1614.

i. **Age Complaint**

If you allege age discrimination, you have the right to file a lawsuit in Federal District Court without first filing a formal EEO complaint. Your lawsuit must be filed **within 180 calendar days** of the date of the alleged discriminatory act. However, you must first notify the Equal Employment Opportunity Commission (EEOC), EEOC One NoMa Station, 131 M Street, NE Fourth Floor, Suite 04K05 Washington, DC 20507-0100, of your intent to begin litigation in Federal District Court **at least 30 (thirty) calendar days** in advance of the filing of your lawsuit.

*150 days from tenure decision*

j. **Equal Pay Complaint**

If you are complaining about sex-based wage discrimination (being paid less than a person of the opposite sex, even though you are doing equal work), you may file a formal EEO complaint, and/or a lawsuit in Federal District Court, pursuant to the Equal Pay Act.

*Final agency decision*

**k. Request for FAD or Hearing After 180 Calendar Days From Filing Formal Complaint**

If you file a formal EEO complaint with S/OOCR and it is accepted for further processing, you have the right to request an immediate Final Agency Decision from the Department, or a hearing before an Administrative Judge at the EEOC, after 180 calendar days from the date you filed your formal complaint, or after completion of the investigation, whichever comes first.

**l. Filing in U.S. District Court 180 Days After Filing a Formal Complaint**

Except for complaints of age discrimination, you have the right to file a lawsuit in Federal District Court at any time after 180 calendar days have past since filing a formal complaint or within 90 (ninety) calendar days after receipt of a Final Agency Decision from the Department. You may also appeal a Final Agency Decision to the EEOC within 30 (thirty) calendar days of receipt of the Decision. If you choose to appeal a Final Agency Decision to the EEOC, you have the right to file a lawsuit in Federal District Court at any time after 180 calendar days from the filing of such an appeal or within 90 (ninety) calendar days after receiving a decision from the EEOC.

**m. Class Action Complaint**

If you believe that other individuals similarly situated to you have suffered from the same kind of discrimination, you may have the right to file a class action complaint. A class action complaint must allege that you have been individually harmed by a Department personnel management policy or practice that has similarly harmed numerous other class members. You must also allege that there are questions of fact that are common to and typical of the issues of the class, and that you or your representative will fairly and adequately protect the interest of the class. The EEOC also requires that a qualified attorney represent a class agent.

**n. Cooperation During Processing of Complaint**

You have the responsibility to cooperate with the Department during the processing of your complaint. This includes keeping the Department informed of your current address, claiming any registered, express, or certified mail sent to you, and cooperating with any investigator assigned to your complaint. If you eventually file an appeal with the EEOC regarding your complaint, you must serve copies of your appeal papers to the Department's Office of Civil Rights.

**o. Back Pay and Damages**

If your complaint involves back pay, you have a duty to mitigate damages by actively seeking and/or retaining employment. Interim earnings or amounts which could be earned by a complainant with reasonable diligence generally must be deducted from back pay.

**p. Consolidation of Complaints**

If you have filed two or more complaints, the agency may consolidate them after appropriate notice to you if you have not already elected a hearing before the EEOC. When a complaint has been consolidated with one or more earlier complaints, the agency shall complete its investigation within 180 days after the filing of the last complaint or 360 days after the filing of the first complaint. In addition, the Administrative Judge may consolidate multiple complaints at the EEO hearing stage.

**q. Issues Filed in Formal Complaint**

You must limit any formal EEO complaint you may file to those matters you discussed with me, or to like or related matters (that is, matters which are directly related to those matters or which are unmistakably derived from those matters discussed with me). To protect your rights, discuss all issues with me before you file a formal EEO complaint.

*deleted e-mails / ACT ISSO / missing UAB, final checkout*

**r. Amending Previously Filed Complaint**

Additionally, if you file a formal complaint and wish to amend a previously filed complaint, only matters that are like or related to the issue(s) in the pending complaint may be considered. In order to add new issues or new evidence to your previously filed complaint, you must submit a written request to the Office of Civil Rights. In your letter, please provide the following information: (a) indicate the case number of your previous complaint; (b) describe the new issue(s)/incident(s); (c) indicate the date(s) of the new issue(s)/incident(s); (d) provide the name(s) of the management official(s) involved in the issue(s)/incident(s).

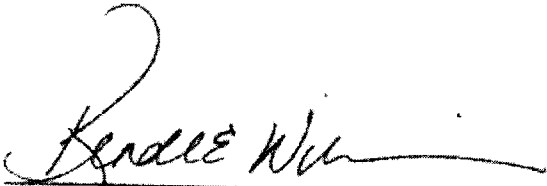
**s. Rejection of Agency Offer of Full Relief**

If you reject an agency offer of resolution made pursuant to 29 C.F.R. § 1614.109(c), it may result in the limitation of the Agency's payment of attorney fees or costs.

2. If you wish to discuss your rights and responsibilities further, please advise me. If you have any questions or need additional information regarding your issue(s) or the EEO process, please contact me at (410) 595-1648


or Williams k2@State.gov

3. Any questions or concerns regarding the counseling of your case should be directed to the Intake and Resolution Section Chief, via email at SOCR\_direct@state.gov or telephone at (202) 647-9295.

  
\_\_\_\_\_  
Signature - EEO Counselor

8/5/2010

\_\_\_\_\_  
Date (mm-dd-yyyy)

  
\_\_\_\_\_  
Signature - Aggrieved

08-23-2010

\_\_\_\_\_  
Date (mm-dd-yyyy)