

Pilot projects could be the key to speeding discrimination complaint processing

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August 13, 2009

Agency pilot projects could be the answer to developing a more efficient equal opportunity employment complaint process, according to a new report from the Government Accountability Office.

But strong oversight would be critical to the success of that approach, the report (GAO-09-712) said. If the Equal Opportunity Employment Commission "approves pilot projects to test ways to improve complaint processing, it should direct pilot project officials to develop sound evaluation plans and EEOC staff to review and approve such plans," GAO stated.

Under EEOC regulations, federal employees who claim discrimination must go through counseling or alternative dispute resolution, such as mediation or peer review, before filing a formal complaint. Once a complaint has been filed and accepted, agencies must investigate within 180 days. Employees then can request an immediate decision from the agency or seek a hearing before the EEOC, which has another 180 days to issue a decision. GAO has called the process "inefficient, expensive and time-consuming." Since 1996, the watchdog agency has expressed concern about growing EEO caseloads and the time required to resolve disputes.

For its latest study, GAO surveyed EEO practitioners at the 16 agencies responsible for 88 percent of complaints in fiscal 2005, as well as EEOC and private sector attorneys. Respondents pointed to numerous problems contributing to delays and a perceived lack of fairness, such as unclear EEO regulations, limited resources, and unclear or conflicting roles of legal counsel and human resources departments.

Practitioners offered several solutions, such as establishing performance measures for agency EEO personnel and allowing complainants to file claims directly with the EEOC. Agency pilot projects -- if monitored closely by EEOC -- could help determine whether these and other ideas are effective, GAO concluded.

Federally Employed Women, an advocacy group that has worked with EEOC on this issue, expressed support for GAO's recommendations. FEW "welcomes this idea of a pilot project to test ways to improve the complaint process, which FEW firmly believes must be improved," said Sue Webster, the group's national president. "This will be a good initiative to see what works and what does not work."

Peter Mina, an attorney specializing in federal employment law, agreed pilot programs could work but emphasized EEOC involvement would be critical. "These programs need to have strong oversight from the EEOC in order to be effective, including approval of the initial program design, consistent monitoring, and an assessment of the programs' successes and failures," he said. "A lack of basic guidelines from the EEOC for the creation of these programs will only further contribute to the perception that agencies are left to police their own EEO programs."

"The commission continues to examine the entire federal sector complaint process for areas of improvement," said David Grinberg, an EEOC spokesman. "We are currently reviewing the recommendations contained in the GAO report."

EEOC already has begun to measure agencies' progress on timeliness and quality of complaint processing, the report noted. And in 2008 EEOC proposed regulations allowing agencies to experiment with alternative procedures for handling complaints.

"EEOC is committed to improving the timelines and quality of the EEO complaint process, from the report of investigation to the hearings process as well on appeal," EEOC Acting Chairman Stuart Ishimaru wrote in a June letter to GAO. "These efforts are ongoing and we will continue to strive to make the EEO complaint process a more efficient and fair system for our federal employees."