



February 18, 2004

William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)
Department of the Navy
The Pentagon
Washington, DC 20350-1000

Dear Mr. Navas,

Thanks for your prompt response to our letter of January 30, 2004.

The Council of Federal EEO and Civil Rights Executives is an organization that was founded in 1993 and has as its members the top civil rights leadership throughout the Federal Government. We want to share our wealth of experience with you in order that the Department of the Navy will be in full compliance with the EEO laws, as stated by Secretary of the Navy Gordon R. England in his latest EEO Policy Statement.

EEO is a cohesive program that works in tandem with the components of affirmative action and complaints processing. Therefore, we think that you have been ill-advised on your EEO responsibilities. Amending vacancy announcement NW4-0201-4I247082-SES to exclude the duties related to the discrimination complaints process does not address the issue. While the discrimination complaints process is an important component of any EEO program, it is not its sole responsibility. We believe that the EEO program should be addressed in its entirety, and not in a piece-meal fashion. Consequently, to deal with this issue appropriately and proactively requires the cancellation of the subject vacancy announcement, and the devolution of all EEO duties to your EEO official, who, as you must be aware, should be under the immediate supervision of the agency head. (29 C.F.R. 1614.102(b)(4)). The EEO and Personnel functions must be kept separate all times.

While the Equal Employment Opportunity Act of 1972 amended Title VII of the Civil Rights Act of 1964 by adding Section 717 to centralize all nondiscrimination and affirmative action requirements for federal employees in the Civil Service Commission (currently, the Office of Personnel Management), these requirements were changed again in 1978. President Carter

consolidated all federal equal employment requirements in the Equal Employment Opportunity Commission (EEOC) through his Reorganization Plan No. 1 of 1978. Among the justifications for transferring the EEO functions to EEOC was to minimize potential conflicts between an agency's equal employment opportunity and personnel management functions. If the President had used the logic that you articulated in your February 11, 2004 letter to us, he would have left all non-complaint requirements with the Civil Service Commission, and only transferred the complaint requirements to EEOC.

Further justification for the Council position is found in EEOC Management Directive 110. This Directive requires the EEO Director to be responsible for the implementation of a continuing affirmative employment program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies. Most importantly, it cautions federal agencies that the EEO Director cannot be placed under the supervision of the Director of Personnel or other officials responsible for executing and advising on personnel actions.

Finally, since the authorities cited in EEOC Management Directive 715 include Section 717 of the Civil Rights Act of 1964 and the Reorganization Plan No. 1 of 1978, we conclude that the provisions to maintain all EEO functions within the EEO program remain the same.

Since we encourage a quick resolution of this matter and since the U.S. Government has experienced numerous problems with the mail delivery system, we suggest that we communicate with each other via e-mail. You can reach the Council Co-Chairs, Jorge E. Ponce and Delia L. Johnson, at jorgeponce@aol.com and djohnso@ibb.gov.

Sincerely,

Jorge E. Ponce & Delia L. Johnson
Co-Chairs
Council of Federal EEO and Civil Rights Executives

cc: Secretary of the Navy Gordon R. England
EEOC Chair Cari M. Domínguez
