

ARTICLE 48

EQUAL EMPLOYMENT OPPORTUNITY/ AFFIRMATIVE ACTION

SECTION 1

The parties agree that the Employer will not discriminate against any employee on the basis of race, color, national origin, age, sex, sexual orientation, disabilities or religion. Toward this end, the Employer will administer an equal employment opportunity (EEO) program in accordance with applicable laws and regulations. Under current policy, EEO complaints based upon sexual orientation may be pursued through the administrative process within the Department; current law does not permit that basis for discrimination to be pursued outside the employing Federal agency.

SECTION 2

- A. EEO issues raised under this Agreement either through the negotiated grievance procedure, through the HHS-wide administrative EEO complaint process established pursuant to and in conformance with government-wide regulations of the Equal Employment Opportunity Commission (EEOC), or, in cases within its jurisdiction, in an appeal to the Merit Systems Protection Board.
- B. Once an employee has elected one of these procedures, that election is irrevocable. The employee may not decide to change thereafter to a different procedure.

SECTION 3

The Employer will provide bargaining unit employees with access to trained Equal Employment Opportunity Counselors with whom they may speak in connection with an EEO issue, in an effort to resolve the issue before pursuing a formal action complaining of discrimination on a protected basis.

SECTION 4

- A. The Employer will provide to the Union a copy of each report on the HHS EEO program that is prepared for EEOC, provided that such report encompasses data/information on at least one of the OPDIVs represented by NTEU. This provision includes the Affirmative Employment Accomplishment and Update Report, annual compliance with EEO law reports, and the Affirmative Employment Plan.
- B. If the Employer makes changes to its affirmative employment plan, a copy of any proposed changes will be provided to National NTEU. The Union may submit comments on the document within ten workdays after receipt of proposed changes and the Employer will consider any timely comments in determining final changes.

SECTION 5

The Union shall maintain the same representative rights at the meeting of any existing, management-chartered committee that deals with race, color, national origin, age, sex, sexual orientation, disabling condition, and/or religion, and which addresses conditions of employment of bargaining unit employees. In the event the Employer charters additional committees of such nature, the Employer will provide the Union notice and an opportunity to bargain to the extent allowable by law.