



JUN 6 1994

TO: All Employees

FROM: Director, Office of Equal Opportunity

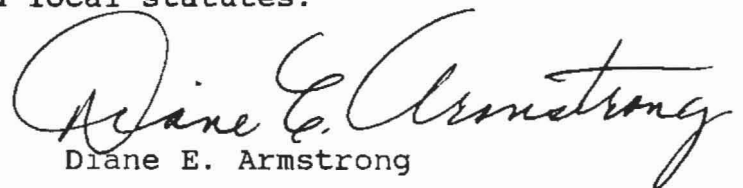
SUBJECT: Procedure for Processing Complaints of Discrimination
Filed on the Basis of Sexual Orientation

On December 6, 1993, Secretary Shalala issued an EEO policy statement that included a prohibition against discrimination on the basis of sexual orientation. On February 4, 1994, the Department issued a memorandum providing guidance for the implementation of the Department's policy.

Employees and job applicants may file discrimination complaints with allegations based on sexual orientation in accordance with the existing procedures with slight modifications. Entitlement to file complaints based on sexual orientation derives from Departmental policy and not from the regulations of the Equal Employment Opportunity Commission (EEOC), 29 C.F.R. 1614. Therefore, complaints based on sexual orientation cannot be the subject of either a hearing before an EEOC Administrative Judge or an appeal to the EEOC.

In accordance with existing policy, if EEO counseling does not result in the resolution of a complaint based on sexual orientation, the Complainant has the right to file a formal complaint with the Director, Office of Human Relations (OHR), DHHS. If accepted, the complaint will be investigated, a Report of Investigation will be provided to the Complainant, and another attempt will be made to resolve the complaint. If resolution is not possible, the Director, Office of Equal Opportunity, will issue a decision on the complaint, with instructions for the appeal of the decision. The appellate decision, which will be issued by the Director, OHR, is final, and there is no entitlement to further administrative review of the complaint.

Since sexual orientation is not covered by Federal statute, Complainants seeking to file complaints of sexual orientation in court must do so under state and local statutes.


Diane E. Armstrong