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**THE EEOC'S GUIDE TO APPEAL BRIEF WRITING**  
**CHAPTER 5**  
**(entire chapter)**

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{8/6/2021}

*"Guide to Appeal Brief Writing for Unrepresented Complainants  
before the EEOC Office of Federal Operations"*

Chapter 5: How to Format Your Brief

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**EEOC HANDBOOK**  
**GUIDE TO APPEAL BRIEF WRITING**

**AUTHOR:** EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**CHAPTER:** 5 HOW TO FORMAT YOUR BRIEF

**SECTIONS:** 5.0 through 5.3



## 5.0 | CHAPTER 5 INTRO

There is no required format for briefs, but you may find helpful the following suggestions for formatting.

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### 5.1 | FONT AND FONT SIZE

For typed briefs, a font size between 12 to 14 will help with legibility and readability.

While the EEOC accepts handwritten briefs, we do not recommend it.

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## 5.2 | CITATIONS TO THE RECORD

You should follow every factual statement that you make in your brief with a citation to the record. The record contains all of the paperwork filed in the EEO process, which usually includes the report of investigation, exhibits, the administrative hearing transcript, motions, orders, and the final decision or action from the case. Citing to the record will help the EEOC Office of Federal Operations understand whether a factual assertion is accurate. If you do not provide supporting cites for every factual statement, it is harder for the EEOC Office of Federal Operations to fairly consider the issues you raise.

If you refer to documents in:

- o the Report of the Investigation, cite to them as (ROI \_\_) and put the page number in the blank;
- o an exhibit, cite to them as (Exh. \_\_ at \_\_) and put the exhibit number in the first blank and the relevant page number from that exhibit in the second blank;
- o The hearing transcript, cite to them as (Tr. \_\_) and put the page number in the blank.

For example, if you say in your brief, "The Agency denied my request for reasonable accommodation on July 14, 20XX" you should provide a citation to the record to support that statement.

- o "The Agency denied my request for reasonable accommodation on July 14, 20XX." (ROI 110). (ROI 110) means that on page 110 of the Report of Investigation, there is a document that supports the statement that you were denied a reasonable accommodation on July 14, 20XX. Page 110 may be an email from the disability program manager informing you of the denial, or an affidavit where your supervisor testified that he told you about the denial in a meeting on that date.
- o "The Agency denied my request for reasonable accommodation on July 14, 20XX." (Exh. 2b, at 3). (Exh. 2b, at 3) means that page 3 of Exhibit 2b contains a document that supports the statement that you were denied a reasonable accommodation on July 14, 20XX. Page 3 of Exhibit 2b may contain an official letter of denial of your reasonable accommodation request.
- o "The Agency denied my request for reasonable accommodation on July 14, 20XX." (Tr. 301). (Tr. 301, 346-47) means that pages 301, 346, and 347 of the hearing transcript contain



testimony that supports the statement that you were denied a reasonable accommodation on July 14, 20XX.” Page 301 may be testimony from the disability program manager recounting when the email was sent informing you of the denial. Pages 346 to 347 may be testimony from your supervisor about being copied on the email notifying you of the denial of reasonable accommodation.

When you are citing to documents contained in the Report of Investigation or other parts of the record, you do not need to attach copies of those documents to your brief. The agency is required to submit a copy of the record including: the complaint file, Report of Investigation, and any documents once the case went before an EEOC AJ (if applicable). However, if you believe there is something missing from the agency’s record, please discuss this information in your brief and, if possible, attach a copy of the document or other evidence you believe is missing.

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### 5.3 | CITATIONS TO CASE LAW

Case law are legal propositions that are based on administrative appellate and judicial decisions rather than on statutes. You do not need to cite to case law in your brief. But if you are aware of a case supporting your argument, you may cite to it.

Where can you research case law?

- You can read published administrative appellate decisions at <https://www.eeoc.gov/federal-sector/appellate-decisions>.
- Particularly noteworthy administrative appellate decisions are listed at <https://www.eeoc.gov/federal-sector/selected-noteworthy-federal-sector-appellate-decisions>.
- You can review summaries of decisions by topic in the Digest of Equal Employment Opportunity Law, at <https://www.eeoc.gov/digest>.

While there is no required format for citing to a case, this is the way we cite previous EEOC administrative appellate decisions:

- Initial EEOC appellate decision: the name of complainant or pseudonym v. the name of the agency (the name of the subagency is in parenthesis), EEOC Appeal No. \_\_\_\_\_ (date of the decision).

Example: Jones v. U.S. Department of Justice (Federal Bureau of Prisons), EEOC Appeal No. 01996624 (Nov. 1, 2001).

- EEOC decision upon a request for reconsideration: the name of complainant or pseudonym v. the name of the agency (the name of the subagency is in parenthesis), EEOC Request No. \_\_\_\_\_ (date of the decision).

Example: Adams v. U.S. Department of Justice (Federal Bureau of Prisons), EEOC Request No. 05990718 (May 16, 2001).

- EEOC decision upon a petition for review of a decision by the U.S. Merits Systems Protection Board: the name of complainant or pseudonym v. the name of the agency (the name of the subagency is in parenthesis), EEOC Petition No. \_\_\_\_\_ (date of the decision).

Example: Petitioner v. Department of Homeland Security, EEOC Petition No. 0320110053 (July 10, 2014)



When looking for complainant's names in decisions, you may find some published decisions do not list complainants' names. This is because from October 2013 to October 2015, the Commission used the term "Complainant" or "Petitioner" in the caption of cases, rather than complainants' names to protect privacy interests. After October 1, 2015, all federal sector appellate decisions issued for publication use a randomly generated name as a substitute for the name of the complainant. This randomly generated name consists of a first name and last initial, and is assigned using a computer program that selects names from a list of pseudonyms bearing no relation to the complainant's actual name.

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## APPENDIX



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### **INTERACTIVE VERSION**

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Congratulations! You're now **booked up** on **Chapter 5** from the EEOC's Guide to Appeal Brief Writing!

