

STATE OF NEW JERSEY

MODEL PROCEDURES FOR PROCESSING INTERNAL COMPLAINTS ALLEGING DISCRIMINATION IN THE WORKPLACE

Each State department, commission, State college or university, agency, and authority (hereafter referred to in this section as "State agency") is responsible for implementing this model procedure, completing it to reflect the structure of the organization, and filing a copy of the completed procedure with the Division of EEO/AA.

1. All employees and applicants for employment should promptly report suspected violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace, *N.J.A.C. 4A:7-3.1* ("State Policy").
2. Complaints of prohibited discrimination/harassment can be reported to either **Fred Cole**, the EEO/AA Officer, **Elizabeth George-Cheniara**, Senior Legal & Administrative Affairs Officer or to any supervisory employee of the State Agency or through the State's Hotline (833-691-0404). To facilitate the reporting of a complaint, Discrimination Complaint Processing Forms (DPF-481) can be found on the **NJEDA** Intranet or the New Jersey Civil Service Commission's ("NJ CSC") website.
3. Complaints and allegations of discrimination/harassment should be reported promptly. Delays in reporting may not only hinder a proper investigation, but may also unnecessarily subject the victim to continued prohibited conduct.
4. Supervisory employees shall immediately report all alleged violations of the State Policy to **Fred Cole**, EEO/AA Officer. Such a report shall include both alleged violations reported to a supervisor, and those alleged violations directly observed by the supervisor.
5. If reporting a complaint to any of the persons set forth in paragraphs 2 through 4 above presents a conflict of interest, the complaint may be filed directly with the Division of EEO/AA, P.O. Box 315, Trenton, NJ 08625. An example of such a conflict would be where the individual against whom the complaint is made is involved in the intake, investigative or decision-making process.
6. In order to facilitate a prompt, thorough, and impartial investigation, all complainants are encouraged to submit a Discrimination Complaint Processing Form (DPF-481). An investigation may be conducted whether or not the form is completed.
7. Each State agency shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate. A copy of all complaints (regardless of the format in which submitted) must be submitted to the Division of EEO/AA, by the State agency's EEO/AA Officer, along with a copy of the acknowledgement letter(s) sent to the person(s) who filed the complaint and, if applicable, the complaint notification letter sent to the person(s) against whom the complaint has been filed including the basis for the complaint and whether or not an investigation will be initiated. When a complaint on its face is insufficient to determine the nature and scope of the allegations the EEO/AA Officer shall interview the person submitting the complaint for additional information to determine whether the allegations implicate the State Policy. If after conducting the interview of a complainant, the EEO/AA Officer determines that an investigation is not warranted, a letter shall be sent to the complainant explaining the basis for the decision not to investigate. If a written complaint has not been filed, the EEO/AA Officer must submit to the Division of EEO/AA a brief summary of the allegations that have been made. Copies of complaints filed with the New Jersey Division on Civil Rights, the U.S. Equal Employment Opportunity Commission, or in court also must be submitted to the Division of EEO/AA.
8. During the initial intake of a complaint, the EEO/AA Officer or Authorized Designee will obtain information regarding the complaint, and determine if interim corrective measures are necessary to prevent continued violations of the State Policy. Interim corrective actions include, but are not limited to:
 - a. Separation of parties;
 - b. Removal of parties from the workplace; and
 - c. Involvement of law enforcement, when appropriate, for instances involving bodily harm or serious bodily harm.
9. At the EEO/AA Officer's discretion, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place. The complainant shall have the burden to articulate a sufficient nexus between the alleged conduct to a protected category pursuant to the State Policy. In determining whether or not a thorough and impartial investigation is warranted, the EEO/AA Officer when reviewing complaints shall consider, but is not limited to considering, the following factors: the facts presented, whether the complainant articulated a sufficient nexus between the alleged conduct to a protected category as set forth in *N.J.A.C. 4A:7-3.1(a)*, the time the incident(s) occurred, the time the incident was reported, and whether the complainant and/or respondent is a current State employee (regardless of when the incident occurred).
10. An investigative report will be prepared by the EEO/AA Officer or Designee when the investigation is completed. The report will include, at a minimum:
 - a. A summary of the complaint;
 - b. A summary of the parties' positions;
 - c. A summary of the facts developed through the investigation; and
 - d. An analysis of the allegations and the facts.
 The investigative report will be submitted to **NJEDA Chief Executive Officer** who will issue a final letter of determination to the parties.
11. The **NJEDA Chief Executive Officer** will review the investigative report issued by the EEO/AA Officer or Authorized Designee, and make a determination as to whether the allegation of a violation of the State Policy has been substantiated. If a violation has occurred, the **NJEDA Chief Executive Officer** will determine the appropriate corrective measures necessary to immediately remedy the violation.
12. The **NJEDA Chief Executive Officer** will issue a final letter of determination to both the complainant(s) and the person(s) against whom the complaint was filed, setting forth the results of the investigation and the right of appeal to the NJCSC, as set forth in paragraphs 13 and 14, below. To the extent possible, the privacy of all parties involved in the process shall be maintained in the final letter of determination. The Division of EEO/AA shall be furnished with a copy of the final letter of determination.
 - a. The letter shall include, at a minimum:
 1. A brief summary of the parties' positions;
 2. A brief summary of the facts developed during the investigation; and
 3. An explanation of the determination, which shall include whether:
 - I. The allegations were either substantiated or not substantiated, and
 - II. A violation of the State Policy did or did not occur.
 - b. The investigation of a complaint shall be completed and a final letter of determination shall be issued no later than 120 days after the initial intake of the complaint referred to in paragraph 8 above is completed.
 - c. The time for completion of the investigation and issuance of the final letter of determination may be extended by the State Agency Head for up to 60 additional days in cases involving exceptional circumstances. The State Agency Head shall provide the Division of EEO/AA and all parties with written notice of any extension and shall include in the notice an explanation of the exceptional circumstances supporting the extension.
13. A complainant who is in the career, unclassified, or senior executive service, or who is an applicant for employment, who disagrees with the determination of the **NJEDA Chief Executive Officer**, may submit a written appeal, within 20 days of the receipt of the final letter of determination from the **NJEDA Chief Executive Officer**, to the NJCSC, Division of Appeals and Regulatory Affairs ("DARA"), Written Record Appeals Unit, P.O. Box 312, Trenton, NJ 08625-0312. The appeal shall be in writing and include all materials presented by the complainant at the State agency level, the final letter of determination, the reason for the appeal, and the specific relief requested. Please be advised that there is a \$20 fee for appeals. Please include a check or money order along with the appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.
 - a. Employees filing appeals which raise issues for which there is another specific appeal procedure must utilize those procedures. The NJCSC may require any appeal, which raises issues of alleged discrimination and other issues, such as examination appeals, to be processed using the procedures set forth in this section or a combination of procedures as the NJCSC deems appropriate. See *N.J.A.C. 4A:2-1.7*.
 - b. If an appeal under this chapter raises issues concerning the employee not receiving an advancement appointment, the NJCSC shall decide those issues in the course of its determination.
 - c. The NJCSC shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate. See *N.J.A.C. 4A:2-1.1(d)*.
 - d. The appellant shall have the burden of proof in all discrimination appeals brought before the NJCSC.
14. In a case where a violation has been substantiated, and no disciplinary action recommended, the party(ies) against whom the complaint was filed may appeal the determination to the NJCSC at the address indicated in paragraph 13 above, within 20 days of receipt of the final letter of determination by the State Agency Head or Designee.
 - a. The burden of proof shall be on the appellant.
 - b. The appeal shall be in writing and include the final letter of determination, the reason for the appeal, and the specific relief requested.
 - c. If disciplinary action has been recommended in the final letter of determination, any party(ies) charged may appeal using the procedures set forth in *N.J.A.C. 4A:2-2* and 3.
15. Where an appeal of a decision on a discrimination complaint has been filed with the NJCSC, the Director of the Division of EEO/AA shall be placed on notice of the appeal and given the opportunity to submit comments to the NJCSC regardless of whether or not the complaint was initially filed directly with the Director of the Division of EEO/AA.
16. Any employee or applicant for employment can file a complaint directly with external agencies that investigate discrimination/harassment charges in addition to utilizing this internal procedure. The time frames for filing complaints with external agencies indicated below are provided for informational purposes only. An individual should contact the specific agency to obtain exact time frames for filing a complaint. The deadlines run from the date of the last incident of alleged discrimination/harassment, not from the date that the final letter of determination is issued by the State Agency Head or Designee.

Employees may file complaints with the following external agencies:

**Division on Civil Rights
N.J. Department of Law & Public Safety
(Within 180 days of the discriminatory act)**

Central Regional Office
140 East Front Street, 6th Floor
P.O. Box 090
Trenton NJ 08625-0090
(609) 292-4605

Northern Regional Office
31 Clinton Street, 3rd floor
P.O. Box 46001
Newark, NJ 07102
(973) 648-2700

South Shore Regional Office
1325 Boardwalk, 1st Floor
Tennessee Avenue and Boardwalk
Atlantic City, NJ 08401
(609) 441-3100

Southern Regional Office
5 Executive Campus, Suite 107
Cherry Hill, NJ 08034
(856) 486-4080

**United States Equal Employment Opportunity
Commission (EEOC)
(Within 300 days of the discriminatory act)
National Call Center 1-800-669-4000**

*Newark Area Office
2 Gateway Center, 17th Floor
Newark, NJ 07102
(973) 645-4684

**Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
(215) 440-2600

Issued: December 16, 1999
Revised: June 3, 2005
Revised: August 20, 2007
Revised: October 15, 2009
Revised: March 24, 2010
Revised: February 8, 2011
Revised: November 15, 2011
Revised: March 22, 2016
Revised: July 1, 2019
Revised: August 20, 2020
See *N.J.A.C. 4A:7-3.2*

* Newark Area Office has jurisdiction over the State of New Jersey Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren.

** The Philadelphia District Office has jurisdiction over the State of New Jersey, Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem.