

Directive No. **HR-D-14**
Effective Date: **12/14/2011**

TO: All Appointing Authorities and Personnel Officers
FROM: Robert Blair, Director, Department of Administrative Services
RE: Employee Anti-Discrimination and Anti-Harassment Reporting Policy and Procedures

PURPOSE

The purpose of this directive is to establish procedures for state employees to report claims of discrimination and discriminatory harassment and retaliation, and to emphasize that discrimination, discriminatory harassment, and retaliation will not be tolerated in the workplace. This directive is not intended to be a complete statement of federal and/ or state law, or an employee's rights regarding discrimination, discriminatory harassment and retaliation. As always, an employee should seek the counsel of an attorney for questions regarding the law and the rights thereby accorded.

GENERAL

It is the policy of the state of Ohio to maintain a working environment free from any discrimination, discriminatory harassment and retaliation. It is the policy of the state of Ohio to prohibit discrimination, discriminatory harassment and retaliation of applicants and employees due to race, color, religion, gender, national origin (ancestry), military status (past, present, or future), disability, age (40 years of age or older), genetic information, or sexual orientation in making certain employment-related decisions.

Procedures for Reporting Claims of Discrimination and Harassment

Any employee or applicant for employment who believes that he or she is a victim of discrimination, discriminatory harassment, or retaliation based on race, color, religion, gender, national origin (ancestry), military status (past, present, or future), disability, age (40 years of age or older), genetic information, or sexual orientation should report the incident(s) to either his or her supervisor, the agency EEO officer, the Department of Administrative Services, Equal Opportunity Division at (614) 466-8380 or the Ohio Civil Rights Commission at (614) 466-7742.

Any employee or applicant who believes that he or she has been subject to sexual harassment, through unwelcome sexual advances, requests for sexual favors or any other verbal or physical conduct of a sexual nature by a superior, subordinate or peer, should advise the individual that the action is not welcome, and request the harasser to cease the offending behavior. The aggrieved individual must then report such incident(s) to either the agency EEO officer, the agency human resources manager or the Department of Administrative Services, Equal Opportunity Division.

Any managerial or supervisory employee, who receives a report of discrimination, discriminatory harassment or retaliation, must immediately report the complaint to the agency EEO officer. The report

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cannot be kept strictly confidential. However, the information concerning the allegations shall be communicated to others only as necessary to investigate and take appropriate disciplinary action. There shall be no retaliation against an employee for reporting allegations of discrimination or discriminatory harassment or other inappropriate behavior.

Internal Resolution of a Claim

Each agency must adopt a policy outlining the process for internal resolution of claims. Such policy must include procedures for promptly and thoroughly investigating allegations and determining what corrective action would be appropriate, if any. All allegations must be investigated.

Procedural Facts Regarding the Filing of a Complaint Based on a Protected Class

A formal complaint of discrimination or discriminatory harassment or retaliation may be filed with any or all of the following entities: (1) the state of Ohio, Equal Opportunity Division, or the agency EEO officer within 30 days of the most recent incident of alleged discrimination, discriminatory harassment or retaliation; (2) the Ohio Civil Rights Commission within six months; and/or (3) the federal Equal Employment Opportunity Commission within 300 days of the most recent incident of alleged discrimination, discriminatory harassment or retaliation. Notwithstanding these deadlines, a complaint reporting an incident of sexual harassment may be filed with the agency EEO officer or Department of Administrative Services, Equal Opportunity Division at any time, but should be made immediately after the incident occurs.

The agency EEO officer shall notify the complainant of the complainant's right to file a complaint as well as the appropriate deadlines for filing. Complaints may also be filed electronically at: <http://das.ohio.gov/Eod/AEEEO.htm>, "Submit an EEO complaint."

Upon the filing of an internal complaint, the EEO officer of the appropriate agency must forward all information to the Equal Opportunity Division in the appropriate format. The EEO Officer of the appropriate agency shall conduct an investigation of the complaint. Within 60 days from the filing of the complaint, the agency shall render a decision regarding the investigation. The investigation time may be continued depending on extenuating circumstances.

The complainant may request a hearing through the Department of Administrative Services, Equal Opportunity Division, if he or she is not satisfied with the agency's decision and/or resolution. The Equal Opportunity Division will select a hearing officer to preside over and render a decision on the case. The agency shall have 30 days to act on the decision of the hearing officer, if any action is required. The complainant may request a final review and decision from the state EEO coordinator (within the Department of Administrative Services, Equal Opportunity Division) within 30 days of the decision of the hearing officer if the complainant is not satisfied with that decision.

Filing a Complaint

A formal complaint may be filed with any or all of the following entities: (1) the state of Ohio, Equal Opportunity Division, or the agency EEO officer within 30 days of the most recent incident of alleged discrimination or harassment; (2) the Ohio Civil Rights Commission within six months; and/or (3) the federal Equal Employment Opportunity Commission within 300 days. Notwithstanding these deadlines, a complaint reporting an incident of sexual harassment may be filed with the agency EEO officer or

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Department of Administrative Services, Equal Opportunity Division at any time, but should be made immediately after the incident occurs.

The agency EEO officer shall notify the complainant of the complainant's right to file a complaint as well as the appropriate deadlines for filing. Complaints may also be filed electronically at:

<http://das.ohio.gov/Eod/AEEEO.htm>, "Submit an EEO compliant."

Upon the filing of an internal complaint, the EEO officer of the appropriate agency must forward all information to the Equal Opportunity Division in the appropriate format. The EEO Officer of the appropriate agency shall conduct an investigation of the complaint (when appropriate). Within 60 days from the filing of the complaint, the agency shall render a decision regarding the investigation. The investigation time may be continued depending on extenuating circumstances.

The complainant may request a hearing through the Department of Administrative Services, Equal Opportunity Division, if he or she is not satisfied with the agency's decision and/or resolution. The Equal Opportunity Division will select a hearing officer to preside over and render a decision on the case. The agency shall have 30 days to act on the decision of the hearing officer, if any action is required. The complainant may request a final review and decision from the state EEO coordinator (within the Department of Administrative Services, Equal Opportunity Division) within 30 days of the decision of the hearing officer if the complainant is not satisfied with that decision.

ENFORCEMENT

Discrimination and discriminatory harassment and retaliation will not be tolerated. Such conduct is subject to discipline, up to and including termination. Supervisory employees are advised that they may be subject to personal liability for acts of discrimination and discriminatory harassment and retaliation and may be responsible to provide their own legal defense.

In addition to enforcement authority vested in the Equal Opportunity Division, each agency is responsible for implementing and enforcing this directive. Agencies must develop internal policies and procedures for reporting discriminatory harassment, discrimination, retaliation and other offensive behavior under the guidance of the Equal Opportunity Division. This directive and each agency's specific policy must be disseminated to all employees, and included in all orientation

materials and employee handbooks. Each agency's internal policies and procedures should be disseminated to each employee on an annual basis.

This directive supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

AUTHORITY & REFERENCE

ORC Chapter 4112

ORC 123:1-49-02

Executive Order 2011-05K