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Overview

These Equal Employment Opportunity Complaint Procedural Guidelines (the “Guidelines”) are designed to assist Equal Employment Opportunity (“EEO”) Officers, Investigators and Counselors in handling EEO complaints and inquiries in a fair, consistent, and timely manner. A person who wishes to make an EEO complaint, or who inquires about a possible EEO complaint, should be referred to the City’s EEO Policy (the “Policy”) and the “About EEO: What You May Not Know” Handbook (the “Handbook”).

As provided in the Policy, the City prohibits discriminatory employment actions against, and treatment of, City employees and applicants for employment based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including “gender identity” --which refers to a person’s actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, caregiver status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, unemployment status consumer credit history, and familial status. Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation, or reasonable accommodation processes are also prohibited. The Policy also prohibits the denial of reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking, so long as they do not cause an undue hardship. Persons who claim discrimination in violation of the Policy may file a complaint within one year of the alleged discriminatory incident with the EEO Office at the City agency where the incident occurred (“internal complaint”) or with a Civil Rights enforcement agency, subject to its filing requirements (“external complaint”).
Protected Categories Under the City’s EEO Policy

New York City employees are protected from discrimination based on any of the following categories, whether perceived or actual, and including retaliation for filing a complaint or assisting in the investigation of an EEO complaint.

Age: persons age 18 or older.

Alienage or Citizenship Status: the citizenship of any person or immigration status of any person who is not a citizen or national of the United States. Employers are required by law, however, to verify the identity and work eligibility of employees. Moreover, citizenship is a lawful requirement for certain jobs (such as Police Officer).

Caregiver Status: you cannot be treated differently at your job because you have children, or because you care for a relative who is sick or has disabilities.

Color: frequently viewed synonymously with race, discrimination based on color may occur because of a preference for, or aversion to, a particular skin color and may occur within the same racial group based on body pigmentation.

Credit History: includes credit worthiness, credit capacity, and payment history. Credit history cannot be used to decide whether to hire, fire, or promote an individual.

Disability: any physical, medical, mental, or psychological impairment, or a history or record of such impairment, whether perceived or actual. Pregnancy may also be considered a temporary disability if there are medical conditions arising from the pregnancy or childbirth.

Familial Status: any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of eighteen years, or one or more individuals (who have not attained the age of eighteen years) being domiciled with:
   (1) a parent or another person having legal custody of such individual or individuals, or
   (2) the designee of such parent.

Gender (or Sex): gender includes actual or perceived sex and includes a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth. Pregnancy or childbirth is a gender-related condition; therefore, discrimination due to pregnancy or childbirth is considered to be gender discrimination.

Marital Status: whether a person is married, divorced, single, separated, or widowed. “Marital Status” should be distinguished from discrimination based on whom an individual is married to.

Military Status: military service includes past, present, and applicants for membership in the uniformed service, whether voluntary or involuntary.

National Origin: place of origin, as well as ancestry, and physical, cultural, linguistic or ethnic characteristics of, or names associated with, a particular country or region. Discrimination based on alienage (immigration status) or citizenship status can be found, in some cases, to be discrimination based on national origin.
**Partnership Status:** all individuals in a domestic partnership.

**Predisposing Genetic Characteristics/Genetic Information:** any inherited gene or chromosome, or alteration thereof, determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.

**Prior Record of Arrest or Conviction:** generally, agencies may not deny or deprive someone of a job because of a criminal conviction, unless there is a direct relationship between the conviction and the duties of the job or an unreasonable risk to property or safety, based on a variety of factors. Agencies also may not ask about arrests that did not lead to conviction unless it is a pending arrest. These restrictions do not apply to law enforcement agencies.

**Race/Ethnicity:** includes such categories as American Indian or Alaskan native, Asian or Pacific Islander, Black, Hispanic, White, and two or more races, as well as personal characteristics associated with race/ethnicity (such as hair texture, skin color, or certain facial features).

**Religion or Creed:** includes all aspects of religious observance, practice and belief, including moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.

**Sexual Harassment:** “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature” when:

a) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;

b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

**Sexual Orientation:** heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

**Unemployment Status:** refers to those who do not have a job, are available for work, and are seeking employment.

**Victim of Domestic Violence:** a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

**Victim of Sex Offenses or Stalking:** a victim of acts which are defined as crimes that are considered to be “sex offenses” or “stalking.”
The EEO Complaint Process at a Glance

EEO Office Reviews Matter (Complaint/Inquiry)

Intake

Mediation

Investigation Conducted

Referral to OATH

Written Report

Approval by Agency Head

Substantiated
  Corrective Action

Unsubstantiated
  Counsel & Advice

Referral to Discipline, Human Resources, Office of General Counsel, etc.
THE INTAKE PHASE

The EEO complaint or inquiry process begins when a person (the “Complainant”) contacts the EEO Office regarding an alleged discriminatory incident.

The person making the complaint may do so anonymously, if he or she so chooses. Anonymous complaints must be treated the same as identified complaints, to the extent possible.

A complaint may be filed by an employee, a former employee, independent contractor, a consultant, a volunteer, an intern, a job training program participant, or an applicant for City employment.

A complaint may be filed on the Complainant’s own behalf or on behalf of someone else.

Supervisors and managers are required under the Policy to timely notify their EEO Office of any alleged discriminatory conduct they observe or become aware of.

Upon receiving an EEO complaint or inquiry, the EEO Office must memorialize the complaint or inquiry and enter it into the complaint tracking system, as well as schedule, by email or letter, an intake session with Complainant, if known, for purposes of assessing or confirming the following:

✔ Is the complaint timely?
  o Determine when the alleged discriminatory conduct occurred. A complaint must be filed within one year of the date the alleged discriminatory conduct occurred.
  o While a Complainant may not be able to file a complaint, and obtain specific relief sought if the complaint is untimely, the EEO Office may conduct an investigation and may make recommendations to address inappropriate conduct.

✔ Has Complainant previously filed a lawsuit or complaint with an enforcement agency regarding the same claims of discrimination? If so, the matter must be transferred to the agency’s Office of General Counsel.
  o If an external complaint or lawsuit is filed subsequent to the filing of the internal complaint, the matter must also be transferred to the agency’s Office of General Counsel. The EEO Office must notify Complainant (and Respondent, if any) in writing of the transfer.
  o If the Complainant alleges retaliation after filing the external complaint, the retaliation complaint must also be transferred to the Office of General Counsel.

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2 The complaint tracking system is available at https://mspwva-dcslnx01.csc.nycnet/Login.aspx.
3 The Respondent is the person or entity alleged to have engaged in the discriminatory conduct.
If a subsequent complaint involves allegations unrelated to the initial external complaint, the EEO Office may retain and investigate the subsequent complaint as a separate complaint. The EEO Office must consult with the Office of General Counsel in determining whether the subsequent complaint involves separate allegations.

Has Complainant previously raised the same issues with others at the agency?

- Did Complainant discuss the alleged discriminatory conduct with a supervisor/manager, Human Resources, or co-workers?
- Has Complainant filed a grievance with his or her union regarding the same conduct, practice or policy?

Does the complaint or inquiry involve one or more of the protected categories under the City’s Policy, including when discrimination is based on perception or association?

- If the complaint or inquiry does not involve an EEO basis, the EEO Office should make a referral, as appropriate.

If the complaint or inquiry cites an EEO basis, what specific conduct, practice or policy is the alleged violation of the Policy? The issues raised could involve one or more of the following issues:

- Harassment, including, but not limited to “the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation or unequal treatment” based on any of the protected categories (see the City’s EEO Policy, page 3).

- Adverse employment actions, such as negative performance evaluation or denial of promotion or benefits, allegedly based on one or more protected categories as demonstrated by, e.g., discriminatory comments or different treatment of other employees who are similarly situated.

- Failure to reasonably accommodate disability, pregnancy, childbirth and/or related medical condition, religion/religious observance, or victims of domestic violence, sex offenses or stalking.

- Retaliation due to opposition to, or complaining about discrimination, or participating in the complaint, investigation or reasonable accommodation process. Retaliatory conduct includes conduct reasonably likely to dissuade a person from engaging in protected activity.

- Policy alleged to have a discriminatory impact on a protected category that is not job-related or justified by business necessity.

What is Complainant’s status with the agency?

- Does Complainant work at the agency?
- What is Complainant’s civil service status?
o Is Complainant an employee of the agency or a different agency or an independent contractor?
  ▪ The EEO Office must contact the EEO Office of the employing agency and coordinate the investigation.

☑ Which person(s), if any, is alleged to have engaged in the discriminatory conduct (the “Respondent”)?
  o Complaints against the EEO Officer and agency heads should be referred to the City’s Law Department or Department of Citywide Administrative Services (“DCAS”).
  o Complaints by employees or others against a member of the public visiting the agency should be referred to the agency’s EEO Officer.
  o Complaints by the public against persons working at the agency should be handled by the agency’s EEO Officer.
  o In the case of complaints against employees of other agencies, the EEO Office of each agency should conduct a joint inquiry or investigation of the complaint.

☑ Is there a specific document or rule that applies to the conduct or practice complained about?
  For example:
  o Personnel Services Bulletins
  o Personnel Rules and Regulations of the City of New York
  o Collective bargaining agreements (http://www1.nyc.gov/site/olr/labor/labor-recent-agreements.page)
  o Title Specifications and Notices of Examinations (http://mspwvadctso01.dcas.nycnet/TitleSpecs/home.aspx)
  o Agency Code of Conduct

☑ Is it necessary that action be taken prior to the investigation of the complaint?
  o After consultation and approval from appropriate agency personnel, it may be necessary to provide interim relief to alleged victims of harassment.
  o Interim relief may include, among other actions, temporary transfers and assignment or shift changes.

☑ Inform Complainant regarding confidentiality and anonymity, and the Policy regarding retaliation.
☑ Prior to meeting Complainant, inform Complainant of the right to be accompanied by a representative.
Begin investigation immediately after determining that the allegations raised, if true, are sufficient to establish a case of discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. Complete an investigation within 90 calendar days of the filing of the complaint.

- Ensure a Complaint Form is completed, preferably by Complainant although it can be done by the EEO Office, but should be signed by Complainant.

REFERRALS

Do the allegations involve conduct which must be reported to or investigated by a different office or agency? For instance:

- Discipline (Advocate): violations of code of conduct.
  - The EEO Office may rely on fact-findings of Discipline or may conduct separate or additional investigation.
- Inspector General: fraud, corruption and unethical conduct.
- Police/Law Enforcement: criminal conduct.
  - The EEO Office may have to place an investigation or inquiry on hold if the matter is referred to law enforcement.

MEDIATION

Mediation is a voluntary approach to dispute resolution in which the parties try to resolve the dispute themselves on mutually agreeable terms, with the help of a trained third-party mediator. The EEO Officer may recommend mediation, or either party to the complaint may request mediation.

The EEO Office may recommend mediation at the inquiry/intake stage and/or the parties may subsequently request mediation during the investigation, subject to the approval of the EEO Officer. Requests for mediation must be made in writing.

Mediation may be conducted by a trained third-party mediator. The Center for Creative Conflict Resolution, which is part of the Office of Administrative Trials and Hearings (“OATH”), conducts

Mediation is most appropriate for complaints involving interpersonal conflict, and should not be considered in certain cases, such as when the complaint includes allegations of sexual harassment or criminal conduct.

Mediation efforts must not exceed 45 days from the start of mediation. The EEO Office may extend the mediation for good cause.

While mediation continues, the 90-day period for completion of the investigation is suspended.

If the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and the referring EEO Officer. The resolution agreement will resolve the pending EEO complaint. Any resolution agreement requiring agency action or approval will only become effective subject to agency approval. If a resolution is not reached, the matter is returned to the EEO Officer and the 90-day investigative period resumes. The EEO Officer may also determine if an agreement has been violated and if so, whether to refer it for further mediation or declare the agreement void.

A party may withdraw from mediation at any time. The EEO Office may also terminate the mediation process if it deems that the effort has been unproductive. The EEO Office must inform all parties to the complaint, in writing, of the termination of mediation. The notice must also inform the parties that the EEO Office will resume its investigation of the complaint.

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**INVESTIGATION**

- The purpose of the investigation is to determine whether there are facts supporting the allegations of discrimination.
- The complaint investigation should begin immediately after a determination that the allegations raised, if true, are sufficient to establish discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint.
- The complaint investigation should be completed and the Complainant should be notified of the outcome within 90 calendar days of the filing of a complaint.
  - The EEO Office should ensure that a Complaint Form is completed, preferably by Complainant, although this can be done by the EEO Office. The form should be signed by Complainant, and logged into the complaint tracking system.
Complainants should be provided the following upon filing a complaint:
- a copy of the written complaint
- acknowledgement of receipt of the complaint
- a copy of or links to the City’ EEO Policy and Handbook

Meet with Complainant to supplement or clarify information provided during the intake phase.
- Confirm if there are any persons who witnessed the alleged discriminatory conduct.
- Does the Complainant have or know of any documents, such as emails or photos, containing information about the alleged conduct?

Conduct a thorough investigation that provides answers as to:
- who was involved in the alleged discriminatory conduct;
- what occurred during the alleged conduct;
- when and where the alleged conduct took place;
- the identity of all witnesses to the alleged conduct, anyone with whom the alleged conduct has been discussed, or anyone who may have identified as having been subject to similar conduct as that alleged or who has information concerning any aspect of the alleged conduct;
- whether this was an isolated incident or part of a pattern of conduct;
- what impact, if any, the alleged conduct has had on the Complainant and/or the work environment;

Determine whether the action alleged to be discriminatory was based on a legitimate, nondiscriminatory reason.

Obtain and review any available and relevant notes, recordings, photographs, physical evidence, or other documentation.

Conducting Interviews

- Explain objective of the interview.
- Explain the City’s EEO Policy on retaliation.
- Ask open-ended interview questions in a non-judgmental manner.
- Determine what witnesses know based on personal knowledge versus what they have heard.
- During each interview, take thorough notes, as close to verbatim as possible. Notes should reflect the content of the interview, both the questions and answers, as completely as possible.
Notice to Respondent of the Complaint

- The EEO Office must serve Respondent with a notice of complaint along with a redacted copy of the complaint, or a summary of the complaint and allegations, after interviewing the Complainant. The following information must be redacted: the Complainant’s home address and telephone number, and the name(s), title(s), and division(s) of witnesses.

- Schedule a meeting with Respondent, ensuring that Respondent is informed of the right to be accompanied by a representative.

- Remind Respondent of the City’s EEO Policy against unlawful discrimination and retaliation.

- Inform Respondent of the right to respond in writing to the complaint, and that the response should be submitted as soon as possible.

- Give Respondent an opportunity to offer his/her version of events and any other relevant information, including any witnesses who are likely to have relevant information. The EEO Office should interview witnesses identified by Respondent.

Amending the Complaint

The complaint may be amended in writing, for any reason, prior to conclusion of the investigation and notice of outcome to the parties. For purposes of the one-year filing period, amendments to the original complaint will be deemed timely if the original complaint was itself timely. However:

- If a Complainant, after filing an initial complaint, seeks to file a subsequent complaint based on different facts than those alleged in the initial complaint, the subsequent complaint should be treated as a separate complaint.

- If a Complainant, after filing an initial complaint, seeks to file a subsequent complaint alleging retaliation for making the initial complaint, the later complaint should be treated as a separate complaint.

- All initial, amended, and new complaints should be cross-referenced in the EEO Office’s complaint file and the complaint tracking system.

Right to be Accompanied by a Representative

Any person who is interviewed during the course of an EEO investigation has the right to be accompanied by a representative of his or her choice. This includes individuals who make complaints, persons against whom complaints were made, or witnesses. It is preferable that the EEO Office receive advance notice
that the person who is being interviewed will be bringing a representative. The representative may not respond on behalf of the party being interviewed or interfere with the interview.

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<th>Confidentiality and Record Keeping</th>
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<tr>
<td>Complaints and complaint investigations should be accorded the strictest confidentiality possible. The EEO Office should make every effort to protect from disclosure the complaint allegations, the identity of parties to the complaint and any witnesses. Exceptions include disclosing to persons with a legitimate need to know certain information in order to respond to the complaint allegations or implement interim or corrective action. All persons with whom the EEO Office interacts concerning the complaint and its investigation should be asked to refrain from discussing the complaint beyond their interaction with the EEO Office.</td>
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<tr>
<td>All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office. The EEO Office may consult the agency’s Office of General Counsel concerning a request to view or have copied, in whole or part, the EEO Office’s files.</td>
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<tr>
<th>Meeting with EEO Office and Obligation to Cooperate</th>
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<tr>
<td>Anyone has the right to meet privately with the EEO Office during its office hours. An employee seeking to meet with the EEO Office at a reasonable time during that office’s hours must secure prior permission for same from his/her appropriate supervisor. Such requests must be granted as a matter of right, but the supervisor may determine a reasonable time for the employee to visit the EEO Office. The employee is not required to disclose to the supervisor or anyone the reason for the employee’s visit to the EEO Office. If appropriate or preferred by the employee, the meeting between the employee and the EEO Office may be scheduled before or after that office’s hours, or during the employee’s lunch break or personal time.</td>
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<td>All employees are expected to cooperate with EEO investigations. Failure to cooperate in an investigation may result in disciplinary action.</td>
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<th>False Allegations</th>
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<td>If an employee knowingly makes a false complaint or knowingly provides false information to the EEO Office in the course of a complaint or complaint investigation, such conduct may be grounds for disciplinary action. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.</td>
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Agency as Respondent

Whenever an agency and/or subdivision of an agency are named as a Respondent in a complaint, the Agency Head should designate an appropriate person to respond to the allegations in the complaint on behalf of the agency or subdivision.

PREPARING THE FINAL REPORT

The final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and noted in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report.

The EEO Officer should routinely consult the agency’s Office of General Counsel on questions that arise while preparing the written report or at any phase of the investigation.

- After all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation and must submit the report to the Agency Head for review.

- In preparing the written report, the EEO Officer should determine the credibility of the parties and witnesses, including their motives and biases. The EEO Officer should routinely consult the agency’s Office of General Counsel on questions that arise while preparing the written report or at any phase of the investigation.

- If, based on the facts, the EEO Officer determines that it is more likely than not that the Respondent engaged in unlawful discriminatory conduct in violation of the City’s EEO Policy, the EEO Officer must determine the most appropriate action to be taken in light of the facts and circumstances and make a written recommendation to the Agency Head.

- Corrective action may include measures necessary to address the impact that the violation of the City’s EEO Policy had on the Complainant or within the agency. Disciplinary action must be taken in accordance with provisions of law, rules and regulations and any relevant collective bargaining agreement. Determining the appropriate disciplinary action is often a difficult and sensitive matter with potential legal consequences. Therefore, the agency’s Office of General Counsel, Agency Advocate and/or Labor Relations Office must concur in any recommendation to pursue discipline before it can be adopted as part of a written report.
- The written report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation.

- The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified. After review of the report by the Agency Head, the EEO Office should inform all parties in writing of the outcome of the investigation.

### Informing Parties of Outcome

The decision after investigation should be communicated to the parties, in writing, in a discreet and confidential manner, indicating the conclusion reached, whether the misconduct alleged has been substantiated, and the agency’s opposition to that kind of activity.

### Final Complaint Decisions

#### 1. Internal Complaints

- a) Substantiated: upon analysis of the evidence (interview statements and documents), it is more likely than not that there has been a violation of the EEO Policy.

- b) Unsubstantiated: upon analysis, there is no or insufficient evidence to establish that it is more likely than not that a violation of the EEO Policy occurred.

- c) Withdrawn: the complainant affirmatively states that he or she no longer wishes to pursue the action that was initiated with the EEO Office. It requires a written acknowledgement that the decision (to withdraw) was done freely, without coercion, intimidation, promises or inducements.

- d) Mediated: this is a voluntary approach to dispute resolution in which the parties try to resolve the dispute themselves on mutually agreeable terms, with the help of a trained third-party mediator.

- e) Administrative Closing: The case is closed due to the following:
  - Lack of Subject Matter Jurisdiction - Complainant interviewed, documents and records reviewed. No case of employment discrimination/retaliation articulated. Full investigation not required. The matter may be referred to immediate manager/supervisor or another agency (e.g., DOI) for investigation or corrective action concerning other misconduct that is not a violation of EEO Policy.
  - Uncooperative Complainant
2. External Complaints (the decisions of cases are determined by the fair employment agencies; the definitions below are for OCEI database purposes only)

   a) The fair employment agency investigating the complaint must be selected from the below options:

   CCHR: City Commission on Human Rights
   CORT: State/Federal Court
   EEOC: Equal Employment Opportunity Commission
   JOCR: Department of Justice Office of Civil Rights
   SDHR: NY State Division of Human Rights

   b) The decision of the case must be selected based on the information provided from the fair employment agency:

   1. Probable Cause\(^4\): Evidence shows that it is more likely than not that there has been a violation of the federal, state or local fair employment law.
   2. No Probable Cause\(^5\): There is no evidence and\(\) or testimony to establish that a violation of the federal, state or local fair employment law occurred.
   3. Withdrawn by Complainant.
   4. Mediated: a voluntary approach to dispute resolution in which the parties attempt to resolve the dispute on mutually agreeable terms with the assistance of a trained, neutral mediator.
   5. Administrative Closing: The case is closed due to the following:
      - At the request of the complainant, the investigation is terminated to allow the complainant to pursue remedies in court.
      - The complainant does not cooperate with the investigation.
      - The agency does not investigate the complaint because of limited resources.

   6. Please note, if the complainant deems that the investigation is taking too long, he\(\) or she can request a right to sue letter from the EEOC after it has had 180 days to investigate. The EEOC is obligated to provide the letter even if the investigation is not complete, at which time

\(^4\) EEOC reasonable cause is equivalent to probable cause.

\(^5\) EEOC no reasonable cause is equivalent to no probable cause
EEOC will close the investigation. A complainant has 90 days from the time of receipt to file the lawsuit. (A complainant may file a lawsuit under the Age Discrimination in Employment Act 60 days after filing the complaint with the EEOC without receiving a right to sue letter.)

**EEO Complaint Tracking and Reporting**

**All** EEO complaints are to be entered in the complaint tracking system.

- **Recommended** that this be done immediately following the initial intake interview with the Complainant(s).
- **Required** that this be done before the end of the quarter.

All entries and updates made in the EEO Complaint Database must be entered as complaints are filed and the investigation progresses. All quarterly updates should be inputted no later than March 31, June 30, September 30 and December 31.

Agencies are required to submit an electronic affirmation (prompted by a DCAS email), regarding their review and entry of all required information into the EEO Complaint Database.

DCAS will send quarterly complaint summaries to agencies within five business days after the close of the quarter.

Each Agency will have five business days to review its summary and make any necessary edits in the system. DCAS will have five business days to issue new summaries to agencies that have made edits.

DCAS will publish citywide EEO complaint data on a quarterly basis on the DCAS website.

**APPENDICES: Forms and Templates**

The following pages contain templates in the form of sample documents and letters that were developed to promote consistency in the complaint and investigative processes. Although agencies are not mandated to use these specific templates, the information captured in these templates should be considered the **minimum** requirement.

Regarding the sample final investigative report included here, this format is strongly encouraged in the interest of consistency and clarity of reporting.
SAMPLE A – Intake Form

[Insert agency name and logo]

Complaint #: __________________________

Date received: _________________________

Origin (circle one):  Letter  Telephone  Office Visit  Email

Received by (circle one): EEO STAFF NAME  EEO STAFF NAME  EEO STAFF NAME

1. Contact Information

Name ______________________________________________________

Title _________________________ Employee ID# _________________

Work Unit _____________________ Location ______________________

Work Telephone # _________________ Shift ________________

Home Address ______________________________________________

City _____________________ State __________ Zip ____________

Home Phone # ________________________________

Cell Phone # ______________________ Email Address ______________________

2. Subject/Respondent Information

Name ______________________________________________________

Title _________________________ Employee ID# _________________

Work Unit _____________________ Location ______________________

Work Telephone # _________________ Shift ________________

Home Address ______________________________________________

City _____________________ State ________ Zip ____________ Home Phone #

__________________________

Cell Phone # ______________________ Email Address ______________________

17
Complaint #: ________________

**Describe the nature of the complaint**
Attach additional sheets as necessary

- [ ] Supervisor Behavior  - [ ] Employee Behavior  - [ ] Employment Practice

**Action(s) taken by EEO Office**

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What resolution are you seeking?

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- [ ] Counsel and Advice
- [ ] Mediation
- [ ] Not an EEO matter, referred to appropriate department for handling:
  
  Date: _____________________________
  
  Department / Contact: _____________________________

- [ ] Inquiry/Investigation Commenced

Complaint #: ________________
## Complaint of Discrimination

*(Please print the following information)*

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<th>Name</th>
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<th>Division/Office/Agency</th>
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<th>Civil Service Title</th>
<th>Office Title</th>
<th>Supervisor</th>
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### What is the alleged basis of discrimination?

*(Please check all that apply)*

- [ ] Age
- [ ] Alienage/Citizenship
- [ ] Arrest/Conviction record
- [ ] Caregiver Status
- [ ] Color
- [ ] Credit History
- [ ] Disability/Familial Status
- [ ] Gender/including gender identity/Pregnancy
- [ ] Predisposing Genetic Characteristic
- [ ] Marital Status
- [ ] Military Status
- [ ] National Origin
- [ ] Partnership Status
- [ ] Race
- [ ] Religion/Creed
- [ ] Sexual Harassment
- [ ] Sexual Orientation
- [ ] Unemployment Status
- [ ] Victim of Domestic Violence, Sex Offense or Stalking
- [ ] Retaliation for filing a complaint or assisting in the investigation of an EEO complaint

### Please give the name, title and division of the person(s) you believe discriminated against you.


When did the alleged discrimination occur?  Date: _____/_____/_______

Where did the alleged incident occur?

Were there witnesses to the discrimination?  Yes_____ No_____  

Did you report this incident to anyone?  Yes_____ No_____  

(Please provide the name(s) of witnesses on the Witness Information Form)

### Have you filed a complaint about the alleged discrimination with any of the following agencies?

- [ ] New York City Commission on Human Rights
- [ ] New York State Division of Human Rights
- [ ] United States Equal Employment Opportunity Commission
- [ ] United States Department of Labor
- [ ] United States Department of Justice

*(If so, please state the date and the complaint number)*

Complaint# ____________________________ Date Filed: _____/_____/_______

### Please describe what happened to you on the following pages, what you believe is unlawful discrimination, and/or how other persons were treated differently. This statement may be amended to correct omissions. Please use extra pages if necessary.

### What corrective action do you want taken?
Description of Alleged Unlawful Discrimination

Please describe what happened to you that you believe is unlawful discrimination, and how other persons were treated differently. This statement may be amended to correct mistakes or omissions. *(Please use extra pages if necessary)*

I certify that I have read the above charge, including any attachments, and that it is true to the best of my knowledge, information and belief. I have read the attached notices concerning my rights to file a complaint with federal, state and local civil rights enforcement agencies.

Date: _____/___/____     Complainant’s Signature ________________________________
NOTICE

YOUR RIGHTS TO FILE A COMPLAINT WITH CIVIL RIGHTS ENFORCEMENT AGENCIES

Any employee or applicant for employment who believes that they have experienced unlawful discrimination has a right to file a formal complaint with the federal, state or local agencies listed below. A person does not give up this right when they file a complaint with the DCAS EEO Officer, or any of the DCAS EEO Representatives. The following federal, state and local agencies enforce laws against discrimination:

**NEW YORK CITY COMMISSION ON HUMAN RIGHTS**

22 Reade Street - First Floor  
New York, NY 10007  
(212) 306-7450  

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<th>Location</th>
<th>Address</th>
<th>Phone</th>
<th>Website</th>
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<tr>
<td>Bronx</td>
<td>1932 Arthur Avenue, Room 203A</td>
<td>(718) 579-6900</td>
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<tr>
<td>Queens</td>
<td>153-01 Jamaica Avenue, Room 203</td>
<td>(718) 657-2465</td>
<td></td>
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<tr>
<td>Staten Island</td>
<td>60 Bay Street, 7th Floor</td>
<td>(718) 390-8506</td>
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**NEW YORK STATE DIVISION OF HUMAN RIGHTS**

Central Headquarters  
One Fordham Plaza, 4th Floor  
Bronx, NY 10458  
Toll-free number: 1-888-392-3644  
For general inquiries: info@dhr.ny.gov.  
TDD/TTY:718-741-8300.  
Email a complaint: complaints@dhr.ny.gov  
Fax a complaint: 718-741-8322.
In addition to filing with the aforementioned agencies, a person with a complaint alleging discrimination based on disability may file with:

**UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION**

Disability Rights Section 1425 NYAV
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Telephone Number: 202-307-0663 (voice and TTY)
Fax: (202) 307-1197
You may also file a complaint online at [www.ada.gov/complaint/](http://www.ada.gov/complaint/).
If you have questions about filing an ADA complaint, please call: ADA Information Line: 800-514-0301 (voice) or 800-514-0383 (TTY).

A person with a complaint alleging discrimination based on citizenship or immigration status may file with:
A person who has been discriminated against by a recipient of financial assistance from the U.S. Department of Labor may file a complaint, either with the recipient or with the Civil Rights Center (CRC). Those who wish to file complaints with CRC should mail their complaints to:

UNITED STATES DEPARTMENT OF LABOR
Director, Civil Rights Center
Frances Perkins Building, Room N-4123
200 Constitution Avenue N.W.
Washington, D.C. 20210
(202) 693-6500 (voice) Federal Relay Service: TTY/TDD: (800) 877-8339
Video Relay: (877) 709-5797
Fax: (202) 693-6505
Main Email - CivilRightsCenter@dol.govExternal - crcexternalcomplaints@dol.gov

Please Note: There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days. If you wish to file a complaint with an external administrative agency, you should promptly contact any of these agencies directly or a private attorney for information about how to file a complaint, time limits, and how to preserve your rights.

Discrimination complaints filed with the DCAS EEO Office must be made within One Year of the incident that you are complaining about.
SAMPLE C – Witness Information Form

[Insert agency name and logo]

WITNESS INFORMATION FORM
CONFIDENTIAL

Complaint #___________________________

Complainant’s Name:__________________________________________________________

Please provide the name, address/location and telephone number of any witness to the alleged unlawful discrimination. If DCAS employs the person please provide their division and title, if known. If the person(s) is employed by another city agency please provide the name of the agency, if known.

Please complete a separate form for each witness

(Please Print)

Name: ________________________________________________________________

Agency: __________________________________________________________________

Division: __________________________________________________________________

Civil Service or Office Title: ________________________________________________

Address/Location: _________________________________________________________

Telephone: (       )_____________________________________________
SAMPLE D – EEO Complaint Activity Sheet

[Insert agency name and logo]

EEO Investigator: __________________________ Complaint #: ____________

<table>
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<th>DATE</th>
<th>NAME</th>
<th>NATURE OF CONTACT</th>
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SAMPLE E – CHECKLIST: TYPICAL QUESTIONS TO ASK A COMPLAINANT

- What is the basis of your complaint?
- What is the specific behavior that you experienced?
- Who was engaged in the behavior?
- When did the incident(s) take place?
- Was the behavior repeated or has it happened before?
- How long has this been going on?
- Where did the incident take place?
- How, if at all, did you react?
- Was your ability to work affected in any way?
- How were you affected otherwise?
- Do you know of anyone who witnessed this or similar incidents?
- Do you know of other employees who have been subjected to the same treatment or have the same concern?
- Do you have any evidence regarding this matter? (Photos, notes, letters, personal emails, texts, social media messages, voice mail messages, any objects of any kind, etc.)
  - If Complainant (or witnesses) reference evidence that resides on Department computers, the Department’s office of Information Technology should be contacted for collection of this evidence.
- What resolution are you seeking? In other words, what is the outcome that you expect to result from filing this complaint?
SAMPLE F – Acknowledgment of Receipt of Policy

[Insert agency name and logo]

I, ________________________, employee ID number __________, acknowledge that I received the City of New York’s Equal Opportunity Policy.

I have reviewed the policy and understand its content. I also acknowledge that it was reviewed and explained to me during my counseling session.

____________________________________   ______________
Signature of Employee                      Date

____________________________________   ______________
EEO Representative                         Date
Ms./Mr. FIRST NAME LAST NAME
STREET ADDRESS
BOROUGH, New York ######

Re: EEO Complaint #

Dear Ms. ________:

Thank you for contacting the EEO Office with your concerns. We will be conducting an inquiry into your complaint. The matter has been assigned to NAME and TITLE of EEO Investigator, who will be contacting you shortly.

In the interim, please feel free to contact Ms. __________ (EEO Investigator) directly at (###) ###-#### if there is any additional information you think may assist her. Thank you for your cooperation in advance.

Sincerely,

EEO OFFICER
SAMPLE H – Notice of Discrimination Complaint

Complainant v. Respondent

On __________________, ________________________________

Date Complainant's Name(s)

filed a complaint of discrimination against you on the basis of ____________________.

You may respond in writing to the allegations contained in this complaint after receiving this notice and a summary of the complaint allegations. Any response you wish to make must be received by the (agency’s) _________________ EEO Office on or before __________ (14 calendar days from date of notice).

We have scheduled a meeting on _________________ at the EEO Office. Please call (phone number) immediately if you need to reschedule the meeting. You have the right to be accompanied by a representative of your choice. Please notify the EEO Office in advance of the meeting if you plan to be accompanied by a representative.

Responsibility for investigating this complaint rests with the agency's EEO Office. The complaint process is usually completed within 90 calendar days of the date on which the complaint was filed.

At the conclusion of the investigation, a confidential written report of the investigation will be submitted to the agency head. If, based upon the investigation, it is determined that the City’s EEO Policy has been violated, a recommendation will be made to the agency head that appropriate corrective action be taken, which may include disciplinary action. All parties will be notified in writing of the outcome of the investigation.

A copy of The City’s EEO Policy is attached for your reference. Please review this policy.

Please note that it is a violation of the City’s EEO Policy to retaliate against or harass any person for filing a complaint of harassment or discrimination or cooperating with an investigation of a complaint. Such retaliation or harassment will be cause for disciplinary action regardless of the findings of the initial investigation.

EEO Officer or designee Date
I, ____________________________, Employee ID number __________ hereby request withdrawal of my complaint of employment discrimination filed with the EEO Office on _________________. My decision to request withdrawal of this complaint is not the result of either coercion or intimidation by any other individual. I understand that this withdrawal may NOT conclude the investigation of my complaint by the EEO Office of ______________ Agency.

I wish to withdraw this complaint because

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

Complainant’s Signature __________________________ Date ____________

FOR OFFICE USE ONLY

ACCEPTED:  ☐ YES ☐ NO

COMMENTS:
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

EEO Office Representative Signature __________________________ Date ____________
Dear Ms. ________:

Thank you for contacting the EEO Office with your concerns. Recently we requested that you provide us with information and list of witnesses to assist us in our inquiry/investigation. However, to date, you have failed to provide us with that statement.

Please forward the statement to us immediately. If we do not receive the information within the next 10 days, we will administratively close your case. If and/or when you submit the statement, your case will be re-opened.

Thank you for your cooperation.

Please feel free to contact me with any questions or concerns that you may have at ### ###-####.

Sincerely,

EEO Officer
Ms./Mr. FIRST NAME LAST NAME  
STREET ADDRESS  
BOROUGH, New York ######  

Re: EEO Complaint #  

Dear Ms. _______:  

Please be advised that the EEO Office has concluded its investigation of the above referenced complaint which you filed alleging discrimination on the basis of ___________.  

Upon a review of all the pertinent facts presented in the complaint, this office finds that the allegations were substantiated.  

This case has been referred to our [State agency department/office] which will implement disciplinary action as the Commissioner deems appropriate.  

If you should have any questions, I can be reached at ### ###-####.  

*[Disciplinary Officer, Dept., Advocate, Labor Relations Department or Inspector General]*  

Sincerely,  

EEO OFFICER  

c: Commissioner
Date

Ms. / Mr. FIRST NAME LAST NAME
STREET ADDRESS
BOROUGH, New York ######

Re: EEO Complaint #
__________________

Dear Ms. ________:

Please be advised that the EEO Office has concluded its investigation of the above referenced complaint which [Name of Complainant] filed alleging discrimination on the basis of ________________, in which you were named respondent.

Upon a review of all the pertinent facts presented in the complaint, this office finds that the allegations were substantiated.

The following corrective measures will be taken: [Please enter steps that will be taken here, either in a sentence or as a bulleted list.]

Please note that it is a violation of the City’s EEO Policy to retaliate against or harass any person for filing a complaint of harassment or discrimination or cooperating with the investigation of a complaint.

If you should have any questions, I can be reached at ### ###-####.

Sincerely,

EEO OFFICER

c: Commissioner
Ms./Mr. FIRST NAME LAST NAME
STREET ADDRESS
BOROUGH, New York # Re: EEO Complaint # ________________

Dear Ms. ________:

I am writing to inform you that the EEO Office has concluded its review of the complaint you filed on ________________. We conducted a comprehensive investigation of the charges made in your complaint, including ________________. We have kept the investigation impartial and objective. Based on our investigation, your charges of a violation of New York City’s EEO Policy could not be substantiated. [State reason, if appropriate].

Thank you for bringing your concerns to our attention and for being patient while we addressed them. Please continue to report any conduct that you deem inconsistent with The City’s policies. I want to assure you that [Agency Name] is committed to protecting you from any retaliation as a result of your complaint and our investigation. Please call me if you feel you are being subjected to retaliation in any form.

To protect the privacy of everyone involved in this investigation we have taken steps to handle this matter in confidence. We expect you to treat the information contained in this letter in the same manner.

Sincerely,

EEO OFFICER

c: Commissioner
DATE

Ms./Mr. FIRST NAME LAST NAME
STREET ADDRESS
BOROUGH, New York ######

Re: EEO Complaint # __________________

Dear Ms. ________:

Please be advised that the EEO Office has concluded its investigation of the above referenced complaint which [Name of complainant] filed alleging discrimination on the basis of ________________, in which you were named respondent.

Upon a review of all the pertinent facts presented in the complaint, this office finds that the allegations were unsubstantiated.

To protect the privacy of everyone involved in this investigation we have taken steps to handle this matter in confidence. We expect you to treat the information contained in this letter in the same manner.

Please note that it is a violation of the City’s EEO Policy to retaliate against or harass any person for filing a complaint of harassment or discrimination or cooperating with the investigation of a complaint.

If you should have any questions, I can be reached at ### ###-####.

Sincerely,

EEO OFFICER

c: Commissioner
Date: __________________________

To: __________________________________________ [Agency Head]

From: __________________________________________ [EEO Officer or Investigator]

Re: __________________________________________ [EEO Complaint Number]

Complainant: __________________________________________

Respondent: __________________________________________

The undersigned was designated to conduct an investigation of alleged misconduct involving the above referenced matter.

Statement of Basis of Complaint:

This complaint alleges discrimination in the form of __________________________________________

The initial information that served as a basis for this investigation was provided by __________________________________________ [Identify person or persons who supplied information of possible misconduct] and consisted of [an oral statement and/or a written statement attached hereto as Appendix A].

The investigation was initiated on _____________________, and concluded on _____________________.

Summary of History of Complaint:

• __________________________________________
• __________________________________________

All potential witnesses have been interviewed and are listed as follows:

• Name: __________________________ Title (If NYC Employee) __________________________
• Name: __________________________ Title (If NYC Employee) __________________________
• Name: __________________________ Title (If NYC Employee) __________________________
• Name: __________________________ Title (If NYC Employee) __________________________
Employee: ____________________ was contacted on _____________________, but declined to be interviewed.

The documents that were reviewed are listed as follows:

- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________

The following evidence has also been secured (any objects, images, printout of text messages, social media content, etc.):

- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________

Findings of Fact

[This section should contain statements made by the complainant and witnesses. Please cite attachments, if any.]

- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________

[This section should contain statements made by the complainant and witnesses that are disputed or unsubstantiated by the investigator(s).]

- ____________________________________________________________
- ____________________________________________________________
- ____________________________________________________________

Statement of Response:

The Respondent responded to the allegations by stating

________________________________________________________________________
Opinions:
[This section should contain the opinions and observations of the EEO Investigator.]

Determination:
[This section should contain the EEO Investigator’s determination as to whether or not the allegations were substantiated.]

Conclusion and Recommendations:
Based upon the conclusion of this investigation it is recommended that:

Date: _____________________

[Signature] EEO Officer

I have reviewed this report and the recommendation(s) made above.
The recommendations meet with my approval and will be adopted ____________
The recommendations made above do NOT meet with my approval ____________
Comments:

Date: _____________________

[Signature] Agency Head