

City & County of Honolulu
Employment Discrimination Complaints
Desk Guide

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I. INTRODUCTION AND BACKGROUND INFORMATION

Purpose

This guide is designed to provide general information about the Employment Discrimination Complaint process in the City & County of Honolulu.

Administration of the Complaint Program

The Equal Opportunity Office provides oversight for the processing of employment discrimination complaints filed by City employees or applicants for City employment. Each City department/agency designates an EEO Coordinator who is responsible for receiving and processing, as applicable.

Use of Procedure

Any employee or applicant for employment may use the complaint procedure. Complainants must allege discrimination, harassment based on discrimination or retaliation for engaging in protected activity.

II. FILING INFORMATION

Who may file?

Complaints may be filed by any employee or applicant who believes s/he has experienced discrimination, harassment based on discrimination, or retaliation in violation of a state, local or federal EEO law, ordinance or policy.

Where to file?

- A. Complaints may be filed with the employee's department by contacting a supervisor, manager, or designated EEO Coordinator.
- B. Complaints may also be filed with the City's Equal Opportunity Office.

When to file?

A complaint of discrimination can be filed at anytime, however, it is highly recommended that the complaint be brought as soon as possible after the alleged discriminatory act has occurred.

How to file?

A complaint may be made either verbally or in writing. If made verbally, the complainant may be asked to provide relevant information in writing and/or submit the City's Complaint Form.

What information is required?

- A. The name and contact information of the complainant.
- B. The name and contact information of the accused, if known.
- C. A succinct, concise, clear statement of the alleged discriminatory act(s).
- D. Information about the date, time, location, duration of alleged discriminatory act(s).
- E. Names and contact information of possible witnesses to the alleged discriminatory act(s) and persons who may have knowledge of the alleged discrimination, if applicable.
- F. The complainant's signature.

Why should I use the internal complaint procedure?

Resolving disputes in an equitable and timely manner and at the lowest supervisory level possible is beneficial to all. Thus, individuals are encouraged to use the internal complaint procedure to attempt the resolution of problems, prevent the escalation of serious concerns and promote a healthy workplace.

III. INTERNAL COMPLAINT PROCESSING

Once a complaint is filed, an intake review is completed and if accepted, the complaint is assigned for investigation.

Intake Review

- A. Complaints are initially reviewed by the departmental EEO Coordinator or the City Equal Opportunity Officer (whom ever received the complaint) and a determination is made as to whether

or not the complainant alleges a colorable claim of discrimination over which the Equal Opportunity Program has jurisdiction.

- B. The complainant may be contacted during the intake review to discuss the incident and the complaint procedure. If not already provided, the complainant may be asked to submit a written statement of the allegations and provide other documentation and/or information needed to process the complaint.
- C. Based on review of the complainant's statement/documentation, the reviewer determines, whether the complaint will require further processing.
- D. Reasons for dismissal/termination of processing at this stage can include the following:
 - the complaint lacks a colorable claim of discrimination
 - the Equal Opportunity Office has no jurisdiction in the matter
- E. The complainant will be notified of the acceptance or dismissal of the complaint and the reason for the determination.
- F. Accepted complaints are assigned for investigation. The complainant will generally receive a notice outlining the specific issues being referred to investigation.

The Fact Finding Investigation

Once assigned, the investigator's role in the process includes reviewing, fact-finding and when practicable, resolving the complaint.

Pre-Investigation

- A. The investigator reviews the complainant's statement and intake review sheet (if applicable) to obtain background information about the allegation(s).
- B. An Investigation Plan, including a timeline, may be prepared.

The Investigation

In order to conduct a full and fair investigation, the investigator will conduct interviews and gather evidence, as necessary. The following are possible

actions of the Investigator; however, not all may be applicable in every case:

A. Interview with Complainant

B. Interview with Accused/Respondent

The accused is generally provided an opportunity to respond to the complaint, if applicable.

C. Witness Interviews

The investigator may contact individuals who potentially have direct or indirect knowledge of the matters under investigation, background to the situation under review, or whose statement may be relevant to the processing of the complaint.

D. Evidence Gathering

The investigator may review personnel files, training records, documentary evidence and/or other relevant items, as applicable to the specific allegation(s).

E. Follow up interviews

The investigator may conduct more than one interview and/or follow up with appropriate parties, as needed.

F. Attempts at Resolution

If applicable, the investigator may attempt to discuss resolution of the complaint with the complainant and appropriate management officials.

Post Investigation Activities

Report of Investigation

At the close of the investigation a report of the findings is generally prepared. The report will cover the issues raised, findings of the investigation, analysis, conclusions and recommendations, as applicable.

Determination

Reports of investigative findings, proposed decisions and recommended corrective action are to be reviewed by the City's Equal Opportunity Office before the responsive action is taken. The Final decision as to the disposition of a complaint rests with the appropriate director/appointing authority.

The complainant and accused will be notified of the determination made relative to the complaint.

IV. RELATED PROCEDURES AND ISSUES

Appeal Rights

The determination of complaints filed under the City's Sexual Harassment Policy may be appealed to the Civil Service Commission within 20 days of the date notice of disposition is received.

Further, all complainants are able to file externally to the Hawaii Civil Rights Commission (HCRC) or the Equal Employment Opportunity Commission (EEOC), as applicable. Note: there are strict timeframes for filing complaints with the HCRC or EEOC. The timeframes are not extended by filing a complaint internally to the City.

Confidentiality and Need-to-Know

Information obtained through this complaint process is handled as confidentially as possible, however, complete confidentiality cannot be guaranteed. Every effort will be made to protect the confidentiality of the parties to the extent possible during the processing of complaints under this procedure.

Access to documents or other information related to a complaint is permitted to those with a need-to-know and as allowed by the city ordinance or other applicable statute.

Consolidation of Complaints

If the complainant brings more than one related complaint or more than one complaint is received alleging substantially similar issues, the City Equal Opportunity Officer may authorize the consolidation of cases if it is deemed expedient to the processing of the complaints and will not unnecessarily delay the investigative process.

Copies of Reports

Generally, complainants and accused individuals are entitled to inspect the report of investigation once the final determination in response to the findings of the investigation is made. Copies will be provided upon request as required by law. Reports will be redacted appropriately before inspection or copying of reports.

Filing an External Complaint

Although use of the internal procedure is encouraged, individuals also have the right to file complaints with appropriate external agencies. It should be noted, however, that those agencies have time limits for bringing charges. Equal Employment Opportunity Commission (EEOC) – 300 days and Hawaii Civil Rights Commission (HCRC) – 180 days. The time to file is not extended by the filing of an internal complaint with the city.

External agencies are:

Hawaii Civil Rights Commission (HCRC)
830 Punchbowl Street, Room 411
Honolulu, Hawaii 96813
Phone: (808) 586-8636
Filing limitation: within 180 calendar days of incident

The Equal Employment Opportunity Commission (EEOC)
Prince Kuhio Federal Building
300 Ala Moana Blvd., Room 7123-A
P.O. Box 50082
Honolulu, Hawaii 96850
Phone: (808) 541-3120
Filing limitation: within 300 calendar days of incident

*Note the EEOC and HCRC have a work sharing agreement which allows the complainant to dual file a charge with both agencies when making a complaint with one (provided jurisdictional issues are met).

Representation

The complainant and respondent may be accompanied by a representative of their choice at any time during the complaint and investigative process.

The representative's role is limited to support and consultation with the individual. Representatives are not participants in the complaint or investigation process and, as such, may not respond to questions for the individual they represent. Should the representative wish to consult with the individual, the investigator should allow them to briefly recess the process in order to confer.

Representation is an individual choice and is obtained at the employee's own effort and expense, if applicable.

Retaliation

Retaliation is strictly prohibited against an individual who has opposed a practice that is prohibited by federal, state or local employment discrimination law; has made a complaint; testified; assisted or participated in any manner in an investigation proceeding or hearing under this procedure; or procedures provided by state or federal law.

A complaint of retaliation constitutes a separate and distinct claim which is evaluated independently and can be sustained regardless of the outcome of the original complaint.

Withdrawal of Complaint

A complaint may be withdrawn at any time during the processing. Withdrawals must be provided in writing. *(Note: even a withdrawal by the complainant may not remove the employer's obligation to conduct a fact finding investigation and take appropriate responsive action thereto.)*