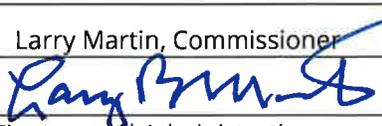


POLICY

Approved by: Larry Martin, Commissioner	Policy Number: 37
Signature: 	Supersedes:
Application: Finance and Administration Employees	Effective Date: May 21, 2018
Authority:	Rule:

Subject:

Investigations of Allegations of Illegal Discrimination and Harassment

Pursuant to the Tennessee Department of Human Resources (DOHR) Policy No. 12-009, the Department of Finance and Administration (F&A) adopts the following internal procedure for investigation of allegations of illegal discrimination and harassment:

- A. The F&A Director of Human Resources or designee will be charged with investigating all claims of illegal discrimination and harassment.
- B. The results of such investigations will be reported to the Deputy Commissioner for Operations or designee and the F&A General Counsel or designee.
- C. When a complaint is filed, the investigator shall inform the complainant, accused, and all witnesses of (a) the State's policy concerning retaliation; and (b) the following limitations on confidentiality:

To the extent provided by law, the State will try to maintain the confidentiality of each party involved in a workplace harassment investigation, complaint, or charge, provided it does not interfere with the department's ability to investigate the allegations or take corrective actions. However, state law may prevent the state from maintaining total confidentiality of investigations. Therefore, the State does not guarantee confidentiality.

- D. The investigator will communicate information concerning the allegations only to those persons to whom the investigator is authorized to report such matters.
- E. The standardized intake/referral form, found as attachment no. 1 to DOHR Policy No. 12-009, and attachment no. 1 hereto, shall be completed for every allegation of illegal discrimination and harassment. Upon completion of the intake/referral form, the F&A Human Resources Director will determine what information is needed to complete the investigation, and proceed accordingly with the investigation.

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- F. All investigations shall include, at a minimum, an interview with the Complainant, and all persons against whom the Complaint has been made.
- G. For every complaint of illegal discrimination and harassment, the investigator shall create an investigation memorandum using the standard format, found as attachment no. 2 to DOHR Policy No. 12-009, and attachment no. 2 hereto.
- H. Upon the conclusion of the investigation, F&A will issue a letter to the accuser and accused to notify the parties of the outcome of the investigation. The notification will be in general terms unless more specific information is required or appropriate under the circumstances.
- I. In all cases which result in disciplinary action, the records of the disciplinary action shall be maintained in the disciplined employee's human resources file as required by DOHR Rules regarding retention of disciplinary records.
- J. All documents generated by such investigations and any subsequent disciplinary action will be preserved in by the F&A Human Resources Director for five (5) years as required under RDA 5-2963, which retention requirement may exceed the retention in the disciplined employee's human resources file.
- K. F&A reserves the ability to transfer the internal investigation process to DOHR, by agreement, for handling consistent with the process outlined in DOHR Policy No. 12-009

**DOHR Policy:
Investigations of Allegations of Illegal
Discrimination and Harassment**

Policy Number: 12-009

Attachment 1

Intake/Referral Form

Statement Concerning Confidentiality

Pursuant to Tennessee Code Annotated § 10-7-503(a)(2)(A), "all state . . . records . . . shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law." Accordingly, the State cannot and does not guarantee the confidentiality of this document or any notes, files, reports, or other documents, whether created by the State or received from the complainant, accused, or witnesses.

NAME OF COMPLAINANT OR PERSON REPORTING EVENT: _____
TELEPHONE NUMBERS OF COMPLAINANT OR PERSON REPORTING EVENT:

WORK: _____

PREFERRED: _____

NAME OF AGENCY AND DIVISION INVOLVED: _____

NAME OF PERSON(S) WHO ALLEGEDLY DISCRIMINATED AGAINST YOU OR HARASSED YOU?

RELATIONSHIP OF ALLEGED ACCUSER TO YOU (I.E. DIRECT SUPERVISOR, CO-WORKER):

DATE OF EARLIEST OCCURRENCE OF EVENTS? _____

DATE OF LATEST OCCURRENCE OF EVENTS? _____

HOW WERE YOU DISCRIMINATED AGAINST (E.G. DISCIPLINARY ACTION, PROMOTION, DEMOTION, HOSTILE ENVIRONMENT)?

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EXPLAIN AS CLEARLY AS POSSIBLE WHAT HAPPENED, INCLUDING WHO DID WHAT, WHERE IT HAPPENED, WHO WAS INVOLVED, ETC. PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

EXPLAIN WHY YOU BELIEVE THESE EVENTS OCCURRED:

DESCRIBE HOW OTHERS WERE TREATED DIFFERENTLY THAN YOU:

WERE THERE OTHER EMPLOYEES WHO WERE TREATED BETTER IN SIMILAR CIRCUMSTANCES?

PLEASE CHECK ONE: YES NO

IF YOU ANSWERED YES TO THE PREVIOUS QUESTION, PLEASE PROVIDE THE NAMES OF THE EMPLOYEES WHO WERE TREATED BETTER AND DESCRIBE HOW THEY WERE TREATED BETTER:

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PLEASE LIST BELOW ANY PERSONS (WITNESSES, FELLOW EMPLOYEES, SUPERVISORS, OTHERS) WHO MAY HAVE ADDITIONAL INFORMATION TO SUPPORT OR CLARIFY THIS COMPLAINT. EXPLAIN WHAT INFORMATION EACH CAN PROVIDE.

WHAT EXPLANATION DO YOU THINK THE AGENCY OR ACCUSED WILL GIVE AS TO WHY YOU WERE TREATED IN THIS MANNER?

PLEASE IDENTIFY ANY OTHER INFORMATION (INCLUDING DOCUMENTARY EVIDENCE SUCH AS DIARIES, JOURNALS, RECORDINGS, EMAILS, VOICEMAILS, CORRESPONDENCE, ETC.) THAT YOU THINK IS RELEVANT TO THIS MATTER.

WHAT DO YOU WANT TO HAPPEN AS A RESULT OF THIS COMPLAINT?

IF YOU HAVE TOLD ANYONE ELSE ABOUT THIS MATTER, PLEASE LIST THE NAME(S) AND RELATIONSHIP(S) (CO-WORKER, FAMILY MEMBER, ETC.)

SIGNATURE OF COMPLAINANT: _____

DATE: _____

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IF COMPLETED BY SUPERVISOR OR AGENT OF STATE AS A RESULT OF INTERVIEWING A COMPLAINANT,
PLEASE PROVIDE THE FOLLOWING INFORMATION:

PRINTED NAME: _____

SIGNATURE: _____

TITLE: _____

AGENCY AND/OR DIVISION: _____

WORK TELEPHONE NUMBER: _____

DATE COMPLAINT RECEIVED: _____

DATE FORM COMPLETED: _____

REASON FOR DELAY, IF ANY, BETWEEN THE DATE THE COMPLAINT WAS RECEIVED AND THE DATE THE
FORM WAS COMPLETED:

NAME AND TITLE OF PERSON TO WHOM THE FORM WAS FORWARDED FOR ACTION:

DATE ON WHICH THE FORM WAS FORWARDED:

PR-0411

DOHR Policy: Investigations of Allegations of Illegal Discrimination and Harassment	Policy Number: 12-009
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Attachment 2

Investigation Memorandum Format

1. Complainant's name, job title, agency, location
2. Initiation of investigation:
 - a. Persons involved in conducting investigation
 - b. Date complaint received by agency
 - c. Person in agency who initially received complaint
 - d. Date investigation began and, if applicable, reason for any delay
3. Description of complaint
 - a. General nature of events giving rise to complaint, including dates of alleged events
 - b. Person(s) accused of inappropriate behavior and organizational relationship to complainant
4. Statements and evidence gathered in the investigation
 - a. Complainant
 - i. Specific allegation(s). If more than one allegation, list each separately
 - ii. Additional witnesses named by complainant
 - iii. Resolution desired by complainant
 - b. Person accused of inappropriate behavior. If more than one, list each separately
 - i. Specific response(s) to allegation(s). If more than one, list each separately
 - ii. Additional witnesses named by accused
 - c. Witnesses interviewed
 - i. Name and job title. If more than one, list each separately
 - ii. Evidence about specific allegations (noting firsthand knowledge v. secondhand knowledge)
 - iii. Additional witnesses, if any
5. Summary of evidence
 - a. Corroboration of specific allegations
 - b. Non-corroboration of specific allegations
 - c. Other pertinent information
6. Conclusions concerning violation of policy. **INCLUDE ONLY AT THE DIRECTION OF THE AGENCY.**
7. Appendices
 - a. List of potential witnesses not interviewed and reason
 - b. List of attachments (documentary evidence)