

AFFIRMATIVE ACTION DISCRIMINATION COMPLAINT PROCEDURE

INTRODUCTION

The purpose of this procedure is to provide a method for processing and resolving allegations of discrimination under Connecticut General Statutes 46a-60, 46a-64 and 46a-81; The Americans with Disabilities Act; Title VII of the Civil Rights Act of 1964; and Section 504 of the Rehabilitation Act of 1973. These statutes are described below.

Connecticut General Statutes prohibit discrimination in employment and the provision of services because of race, sex, age, religious creed, ancestry, color, national origin, criminal record, marital status, genetic information, past or present mental disability (or mental retardation), physical disability or handicap, learning disability, sexual orientation or civil union status. These statutes also cover sexual harassment discrimination.

Sexual harassment may be seen as "an attempt to coerce an unwilling person into a sexual relationship, or to subject a person to unwanted sexual attention, or to punish a refusal to comply. This definition includes a wide range of behavior, from the coercing of sexual relations to the forcing of sexual attentions, verbal, written or physical, on a nonconsenting individual."

The Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified person with a disability. The ADA also outlaws discrimination against individuals with disabilities in all state and local government services, public accommodations, transportation and telecommunications.

Titles VI and VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in employment or programs and activities receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973 provides that no qualified person with a disability shall, on the basis of handicap, be subjected to discrimination in employment or the receipt of services under any program or activity that receives or benefits from federal financial assistance.

AFFIRMATIVE ACTION DISCRIMINATION COMPLAINT PROCEDURE

SUMMARY

The Department of Social Services has formulated an internal discrimination procedure to resolve complaints of alleged violations under Connecticut General Statutes 46a-60, 46a-64 and 46a-81; The Americans with Disabilities Act; Title VII of the Civil Rights Act of 1964; and Section 504 of the Rehabilitation Act of 1973. Persons who believe they have been discriminated against or denied the benefits of programs, services or activities sponsored by the Department of Social Services can file a complaint.

FILING A COMPLAINT

Where to file:

Department of Social Services
Affirmative Action Division
55 Farmington Avenue
Hartford, CT 06105-3730
Tel: 424-5040

Time period for filing:

You should file a complaint in writing or verbally within 30 days of the alleged violation and/or when you become aware of the alleged violation. The employee shall be advised of his/her rights under State/Federal laws as cited in the Commissioner's Policy Statement, given a copy of this Complaint Procedure, and informed that all records of the complaint shall be kept confidential.

Investigation of complaint:

Once we receive a complaint, the Affirmative Action Division will investigate it with the help of other Department of Social Services employees as appropriate. We will conduct a thorough investigation and you (and/or any interested party) may submit information relevant to your complaint.

Written determination:

We will forward a written determination to you stipulating the response to your complaint. The Affirmative Action Division will maintain the files and records of all complaints processed under this procedure in a central file.

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SUMMARY (CONT.)

Appeals:

You can file a further appeal if you are not satisfied with the resolution of your complaint. You must file your appeal within ten (10) days of receipt of your written determination. You should file any such appeal in writing with the Commissioner of Social Services or his/her designee. Copies of the appeal should be forwarded to the Affirmative Action Office. The Commissioner's Office will make a final determination within (10) days of the receipt of appeal.

If you use the above complaint procedure, it does not preclude you from filing a complaint with the appropriate state or federal department or agency.

What can you do to help:

We want to eliminate barriers before they become complaints. You can assist us in that objective by identifying a Department of Social Services program, service or activity that you believe is a barrier to non-discrimination by contacting the DSS Affirmative Action Division at (860) 424-5040.

DISCRIMINATION COMPLAINT PROCEDURE

This procedure provides for the timely resolution of complaints and ensures that an individual who files an internal complaint is advised of his/her right to file the same complaint with an outside governmental agency. Time frames for filing, processing and resolving internal matters that come within this procedure shall not exceed ninety (90) calendar days.

- A. Any individual (also referred to as complainant) who feels that he/she has been discriminated against by the Department of Social Services may contact the Affirmative Action Division. The complainant will be advised of his/her rights in accordance with relevant laws cited in the attached DSS Affirmative Action policy statements. The complainant may decide at this time if he/she wants to file a written complaint and may request the assistance of the Affirmative Action Division in drafting the complaint. The written complaint must be signed and dated by the individual making the complaint.

All written complaints should be submitted within thirty (30) days of the alleged discriminatory treatment. The Affirmative Action Division will notify the accused party of the particulars of the complaint.

- B. Any discussion concerning allegations of discrimination will remain confidential. Such information will be shared only on a need to know basis relative to resolution of the matter.
- C. The complainant will be notified by the Affirmative Action Division during this initial meeting of his/her right to file a complaint with the Commission on Human Rights and Opportunities (C.H.R.O.) or other enforcement agencies.

COMPLAINT RESOLUTION

The DSS Affirmative Action Division will attempt to resolve the alleged discriminatory or unfair employment practice within ninety (90) calendar days after the receipt of a written complaint. The Affirmative Action Division shall further attempt to reconcile the complaint at the supervisory or other necessary level, whichever is deemed appropriate.

INVESTIGATION

- A. The Affirmative Action Division shall investigate the alleged unfair employment or discriminatory practice and if the Affirmative Action Division staff finds reason to believe an unfair employment practice and/or discriminatory act has occurred, they shall take steps to seek internal resolution.

This agreement does not constitute an admission of a discriminatory or unfair employment practice(s).

- B. If, after an informal inquiry into the complaint, the Affirmative Action Division staff concludes that no discriminatory or unfair employment practice has occurred, they may dismiss the complaint. Any complainant adversely affected by such dismissal retains all other administrative and legal remedies provided by the State Personnel Act; the regulations of the Personnel Policy Board; the Connecticut Commission on Human Rights and Opportunities; the United States Equal Employment Commission; the United States Department of Labor, Wage and Hour Division; the Department of Health and Human Services; and any other agency (state, federal or local) that enforces laws concerning discriminatory or unfair employment practices.
- C. If the response from the Affirmative Action Division does not satisfactorily resolve the issue, the complainant or his/her designee may appeal the decision within ten (10) calendar days after receiving notice of the response. This appeal should be directed to the Department of Social Services Commissioner or his/her designee.
- D. Complaints that are not resolved to the satisfaction of the complainant may be filed with C.H.R.O. no later than one hundred and eighty (180) calendar days from the date on which the alleged unfair employment or discriminatory practice occurred.

EXTERNAL PROCESS

Any person applying for employment with or currently employed by the Department of Social Services, or any person requesting or receiving services from the Department of Social Services who believes that he/she is being subjected to an unfair employment or discriminatory practice because of his/her race, color, religious creed, sex, age, national origin, ancestry, marital status, criminal record, past or present mental disability (or mental retardation), physical disability or handicap, sexual orientation, civil union status, genetic information, or learning disability has the right to file a complaint, regardless of his/her status or classification. A written complaint may be filed by the complainant or his/her representative with the DSS Affirmative Action Division or with any of the agencies listed below.

A. The Connecticut Commission on Human Rights & Opportunities

Southwest Region

350 Fairfield Avenue, 6th Floor
Bridgeport, CT 06604
Telephone:(203) 579-6246

Eastern Region

100 Broadway
Norwich, CT 06360
Telephone:(860) 886-5703

West Central Region

Rowland State Government Center
Suite 210
Waterbury, CT 06702
Telephone:(203) 805-6530

Capitol Region

999 Asylum Avenue
Second Floor
Hartford, CT 06105
Telephone:(860) 566-7710

B. The Equal Employment Opportunities Commission (E.E.O.C.) Area Office

JFK Federal Building
Room 409 B
Government Center
Boston, MA 02203
Telephone:(617) 565-3200

C. United States Department of Labor, Wage and Hour Division (W.H.D.)

William Cotter Federal Building
135 High Street, Room 210
Hartford, CT 06103
Telephone: (860) 240-4160

D. United States Department of Health and Human Services (Region 1)

John F. Kennedy Federal Building
Room 1875
Boston, MA 02203

Telephone: (617) 565-1340

- E. United States Department of Agriculture (USDA)
Director, Office of Civil Rights,
200 Independence Avenue, S.W
Room 509F HHH Building
Washington, D.C., 20201
Telephone: (800) 795-3272 (voice) (202) 720-6382 (TTY)

Complaints submitted through outside agencies will be fully investigated and responded to by the Department in accordance with the requirements of those respective agencies. The Department of Social Services will fully cooperate with those agencies. If a finding is made by an outside agency to support a complaint of discrimination, the Department of Social Services will work toward final resolution of the matter.

All records pertaining to the investigation and/or resolution of a complaint will be maintained by the Department in a limited access file. Information or material from these files may be made available on a business necessity need to know basis only and to the Equal Employment Opportunity Commission; the Commission on Human Rights and Opportunities; or other federal, state or local enforcement agencies investigating the complaint.

PROTECTION FROM ADVERSE ACTION

- A. No person shall be restrained, intimidated, threatened, coerced or discriminated against by any administrative/supervisory personnel or associates because he/she made a complaint, testified, assisted in or participated in an investigation, proceeding or hearing. Such actions are a protected activity. The protection from adverse action is held to be inviolate by the Department of Social Services and alleged violations by a person(s) are to be brought immediately to the attention of the Affirmative Action Division by the complainant, by his/her representative or by any other adversely affected person, for investigation and appropriate disciplinary action.
- B. All employees, clients and grantees of the Department of Social Services shall have the right to make a complaint under this procedure, regardless of protected group or other status, classification or length of service.

GUIDELINES ON SEXUAL HARASSMENT COMPLAINT PROCESSING

Sexual harassment is a "form of misconduct and sex discrimination that undermines the integrity of the employment relationship."

Procedures for handling complaints of sexual harassment:

1. Alleged victims are to report the incident to the Affirmative Action Division. The staff will receive their complaints in written form or may assist the complainant in preparing a statement of the allegations. Once the complaint form has been completed and signed, the Affirmative Action Division shall notify the Commissioner's Office of the complaint and of a pending investigation.
 - a. The Affirmative Action Division may make available a resource person trained to counsel on sexual harassment issues and who may act as a support person for the alleged victim.
2. Upon receiving a complaint of sexual harassment, the alleged harasser shall be called to meet with an Affirmative Action professional and presented with the allegations. This individual shall be given an opportunity to respond.
3. The Affirmative Action Division staff shall investigate all the charges. The investigation shall include, but not be limited to, the following:
 - a. Examination of agency records of the accused to determine if any prior complaint patterns exists.
 - b. Interviews with individuals necessary to gather information. These may include the accused supervisor, colleagues or other workers.
 - c. Interviews of witnesses (if any) of the alleged offense; interviews with other victims of the accused harasser, if any.
4. An assessment of the severity of the offense shall be made to include, but not be limited to the following general categories:
 - a. Mild: staring, flirting, pictures, calendars, other artifacts, etc.
 - b. Moderate: suggestive gestures, sexual remarks, etc.
 - c. Severe: Sexual relations with promise of ensuing rewards, forced sexual relations, sexual propositions, touching, grabbing, brushing or any unwelcome sexual advances.

1. In severe cases of alleged sexual harassment, it may become necessary to suspend the alleged harasser until the investigation has been completed. This action will be instituted with the consent of all parties, and acknowledgment of all applicable collective bargaining agreements.
5. Discipline will be determined based on the severity of the offense, the certainty that it occurred and recommendations made by the appointing authority or his/her designee. Disciplinary action shall generally consider the following guidelines as well as the applicable collective bargaining provisions on discipline:
 - a. Mild: No record of the complaint is included in the file of the accused; or a letter with an annotation that the evidence and acts were mild shall be placed in the accused file, and/or a letter shall be sent to the accused stressing agency policy against sexual harassment.
 - b. Moderate: A warning or disciplinary letter shall be included in the file of the accused, with provision for further action if subsequent offenses occur (up to and including suspension or dismissal,) and with provision for removal of notice if no subsequent offenses occur within a specified period of time, and the accused shall be directed to seek counseling through the Employee Assistance Program or a private source. Failure on the part of the accused to seek counseling may result in further disciplinary action. Documentation of this activity shall be provided.
 - c. Severe: Written reprimand to the violator, transfer or demotion, and/or;

Suspension;

Dismissal;
6. Persons who maliciously file false accusations will receive disciplinary action as outlined under item 5(b) and (c) above.
7. Upon completing its investigation, the Affirmative Action Division shall make written recommendations to the Commissioner for resolution of the matter. The Commissioner or his/her designee shall, approve, disapprove or modify the recommendation(s) of the Affirmative Action Division in writing. Once approved by the Commissioner or his/her designee, all signed recommendations become a directive from the Commissioner's Office.
 - a. The complainant, his/her supervisor and the accused will be notified of the final determination.
 - b. The complainant will either accept the recommendation(s) or decide whether or not to pursue other available avenues.

- c. It shall be the responsibility of the Director of the accused/Respondent to carry out (or cause to be carried out) the Commissioner's directive. Failure to do so (or refusal to do so) shall be brought to his/her attention and handled accordingly.
- 8. This "Sexual Harassment" complaint procedure shall be part of the Department of Social Services' Discrimination Complaint Procedure.

Discrete treatment in the handling of these complaints is essential to the successful implementation of the procedure. All records pertaining to the investigation and/or resolution of sexual harassment complaints are maintained by the Department and are kept in a separate, limited access file. Information or materials from these files may be made available on a business necessity need to know basis only and to the Equal Employment Opportunity Commission; the Commission on Human Rights and Opportunities; or the federal, state or local enforcement agencies investigating the complaint.

Protection of Rights:

Any person who willfully interferes with or otherwise impairs the processing of any complaints taken under this process, or in any way restricts or impairs the employment rights of the complainant or any witness involved in a complaint, will be dealt with through the appropriate disciplinary action, including but not necessarily restricted to the following: written reprimand, suspension or dismissal. The confidentiality of all investigations and counseling will be protected by the issuance of this procedure.

Nothing in this procedure shall be construed as having the effect of barring any person from due process of law. They may file through any of the several processes available to them. Additionally, if any person feels that he/she has been treated in a discriminatory manner by the Affirmative Action Division, a complaint may be filed directly with the Commissioner of Social Services, The Department of Administrative Services-Human Resources Division or the Commission on Human Rights and Opportunities.

**CONNECTICUT DEPARTMENT OF SOCIAL SERVICES
DISCRIMINATION COMPLAINT FORM**

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Statement of Facts: (Explain specifically **Why, What, When, How.**)

I hereby attest that the facts given in the above summary and/or in the attached written complaint are true and correct to the best of my knowledge. I have been advised of the procedure that will be followed and of the other avenues of legal redress open to me.

Complainant's Signature _____ Date _____

Division _____ Work # _____

Witness' Signature _____ Date _____

Witness' Title _____

