

# COMPLAINT PROCESS

The Secretary of Transportation's policy statement and the Illinois Department of Transportation (IDOT) affirms its commitment to a policy of Equal Employment Opportunity through the implementation of a Complaint Investigation Process to promote the internal resolution of applicant and employee complaints of alleged discrimination. It is the belief of IDOT that the establishment of this Complaint Investigation Process shall provide an internal avenue of redress to resolve complaints of alleged civil rights violations while informing applicants and employees of their right to file a complaint externally.

To that end, supervisors and managers are responsible for the resolution of valid complaints of civil rights violations within their organizational level. The Bureau of Civil Rights shall advise and support management by investigating the complaints, documenting the facts, presenting the findings and making recommendations to resolve the dispute. Allegations of inappropriate behavior that do not constitute civil rights violations will be referred to labor relations or management.

All employees will follow IDOT policies and procedures as stated in Chapter 10-3 Section C and Chapter 17-3 Section E of the policy manual when allegations of civil rights violations occur.

**10-3 C. Civil Rights Violations.** An employee shall not engage in actions which constitute a violation of federal and state laws and Executive Orders. Examples of conduct which could constitute such violations are: sexual harassment, racial harassment, sexually or racially-offensive remarks/materials, discrimination on the basis of an individual's race, color, national origin, religion, age, sex, marital status, disability, unfavorable discharge from military service or any other non-merit factor. See also Chapter 2: Equal Employment Opportunity/Affirmative Action for further information.

**17-3 E. Civil Rights Violations:** Disciplinary action involving matters that represent a potential violation of the Illinois Human Rights Act or federal Civil Rights Act shall be treated as follows:

1. Any Office/Division/Bureau that receives a complaint against an employee alleging an act which constitutes a potential violation of the Illinois Human Rights Act or the federal Civil Rights Act shall immediately report such matter to the department's Bureau of Civil Rights. Employees may file a complaint directly with the Bureau of Civil Rights.
2. The Bureau of Civil Rights shall investigate the matter and report its investigation to the Civil Rights Committee.
3. Employees shall be allowed scheduled time during working hours, with no deduction of their pay or benefit time which is of a reasonable duration, to present their complaints. Such time shall not interfere with the operations of the department.
4. The Civil Rights Committee shall consist of the following persons: the Secretary or his/her designee, the Chief Counsel, the Director of Finance and Administration or his/her designee and the Bureau Chief of Civil Rights.

5. The Civil Rights Committee shall review all information concerning the alleged violation, including but not limited to the investigative reports prepared by the Bureau of Civil Rights investigators and shall have the authority to interview witnesses and discuss the matter with the employee's supervisor(s).
6. Subsequent to review, the Committee shall make the following recommendations to the Secretary:
  - a. whether the employee has committed a violation of department policy; and
  - b. the range of discipline that can be imposed, if such a violation has occurred.
7. The Secretary shall review the Committee's recommendations and impose discipline based on the range of discipline provided by the Committee or return the matter to the Committee for further review.
8. Once the Secretary has set the discipline to be imposed, the Director of Finance and Administration in conjunction with the bureau where the complaint originated shall implement the discipline.
9. An employee who is disciplined pursuant to a recommendation by the Committee shall retain all grievance rights set forth in this Chapter or the employee's applicable collective bargaining agreement.

## **RESOLUTION**

Attempts will be made to resolve issues informally before a complaint has been filed. Both parties will be given an opportunity to present their side of the issue. Successful resolution of the issue will close the complaint. If warranted, the resolution will be documented and presented in the form of a Settlement Agreement. If the issues are not resolved, the Complainant may use the internal and/or external complaint process.

## **INTERNAL COMPLAINTS**

Any person alleging to be aggrieved by a discriminatory practice may complete IDOT's Employment Discrimination Complaint form and forward it to the Bureau of Civil Rights. Employees are encouraged to complete the internal complaint form and return the signed form along with any documents substantiating the allegations within ninety (90) days of the alleged discriminatory or harassing practice to the Bureau of Civil Rights.

### **Procedure**

Any office/division/bureau that receives a complaint against an employee alleging an act that constitutes a potential violation of the Illinois Human Rights Act or federal Civil Rights Act shall immediately report such matter to the department's Bureau of Civil Rights. Employees may file a complaint directly with the Bureau of Civil Rights.

Once the complaint form is received, it is logged into the Bureau of Civil Rights Tracking System (BCR tracking system). A file is established and the matter is assigned to a staff investigator. Within two (2) working days after receipt of the complaint, notification of receipt is forwarded to

the Complainant, the office where the alleged violation occurred, the director of that office/division, and the Secretary of Transportation.

In addition, the Complainant will be notified if additional information/documentation is necessary.

### **Investigation**

Management is asked to respond to the allegations of the complaint within ten (10) working days of receipt. The response shall entail the verification of information with the immediate supervisor, collection of all documentation related to the complaint and additional information deemed necessary.

As for sexual harassment complaints, the investigation procedures previously outlined in Chapter 17, of IDOT's Personnel Policies Manual will be followed.

### **Options**

The Complainant may withdraw or amend all or a portion of the complaint during the investigation. Items may be added to the complaint as long as they are written within three hundred (300) days of the alleged infraction.

The complaint may be dismissed after the investigation has concluded if a preponderance of the evidence indicates that there is no merit to the complaint or the issue is not a civil rights issue.

### **Counseling**

Throughout the investigation process, management and the Complainant are kept apprised of the status of the investigation. Counseling is an integral component of the investigation process. Both the Complainant and the Respondent are involved.

### **Conciliation**

The Bureau Chief of Civil Rights shall conduct and coordinate conciliation efforts by conferring with the appropriate parties in an attempt to secure a reasonable settlement. A conciliation conference may be convened where all parties may attend or may be represented to propose, discuss and agree to a resolution of the complaint.

If the complaint cannot be satisfactorily resolved at this level, the Bureau Chief of Civil Rights shall document the efforts made to resolve the complaint. The Bureau Chief shall provide a written explanation of the reasons why the complaint was not able to be resolved to the director of the particular office/division/bureau involved and the Civil Rights Committee.

### **Investigation Findings**

All documentation will be compiled and presented to the Civil Rights Committee along with recommendations from the Bureau of Civil Rights.

The use of this internal Complaint Investigation Process does not preclude the employee from filing a complaint directly with the Illinois Department of Human Rights (IDHR) within one hundred eighty (180) days of the alleged violation or with the Equal Employment Opportunity Commission (EEOC) within three hundred (300) days of the alleged violation. The filing of any complaint of alleged discrimination may not be used as a basis for future retaliation adversely affecting the rights of any employee.

## **EXTERNAL COMPLAINTS**

An external charge is one that is filed with IDHR or the EEOC. A person who feels he or she has suffered direct harm from an alleged discriminatory conduct or practice may file a charge with either agency.

### **Procedure**

All written complaints received from IDHR or the EEOC will be logged into the BCR tracking system before they can be processed. Once it is logged in, a file is established and it is assigned to a staff investigator. Within two (2) working days after receipt of the complaint, notification of receipt is forwarded to the Complainant, the office where the alleged violation occurred and the director of that division. In addition, the Complainant will be notified if additional information/documentation is necessary.

### **Investigation**

Management is asked to respond to the allegations of the complaint within ten (10) working days of receipt. The response shall entail the verification of information with the immediate supervisor, collection of all documentation related to the complaint and supplementation of additional information if deemed necessary. The response received from management is reviewed and analyzed for its thoroughness. Additional information such as evaluations, time sheets, etc. may be required. Meetings will be scheduled with management, the Complainant and witnesses in an effort to obtain all related facts. Investigation procedures previously outlined in IDOT's Personnel Policies Manual will be followed.

### **Conciliation**

The Bureau of Civil Rights shall conduct and coordinate conciliation efforts by conferring with the parties in an attempt to secure a settlement. A conciliation conference may be convened which all parties may attend in person or by a representative to propose, discuss and agree to a resolution of the complaint.

If the complaint can be resolved, the terms of the settlement are forwarded to IDHR or the EEOC, and a formal settlement is compiled and signed by all appropriate individuals. If the complaint cannot be satisfactorily resolved, the complaint will follow the normal process required by IDHR or the EEOC.

### **Response to IDHR or the EEOC**

IDHR requires that the department respond to the charge with a position statement and provide a verified response to the allegations contained in the charge within sixty (60) days of the date the charge was filed. (A verified response includes a notarized statement that information submitted to IDHR is correct.)

Correspondence is then forwarded to the investigating agency, which includes all relevant documents. The Complainant receives a copy of the verified response. The investigation process can be continued after the position statement has been submitted to the enforcement agency in an effort to effect conciliation.

The EEOC requires the department to respond to the charge within thirty (30) days of the date the charge was perfected.

## **Fact-Finding Conference**

IDHR will schedule a fact-finding conference. The attendees will include management cited in the alleged violation, personnel from the Bureau of Civil Rights assigned to investigate the complaint, the Complainant and the Bureau Chief of Civil Rights. The EEOC usually does not require a fact-finding conference.

## **Determination**

IDHR has three hundred sixty-five (365) days to conduct its investigation. If IDHR determines that there is no substantial evidence and dismisses the charge, the Complainant may request a review by the Chief Legal Counsel of IDHR within thirty (30) days of receipt of the notice of dismissal. If no complaint or dismissal is issued in 365 days, Complainant may file their own complaint with the Human Rights Commission (HRC) within 30 days of day 365.

If IDHR determines that there is substantial evidence, an IDHR attorney will be designated to conciliate. If conciliation is unsuccessful, a complaint can be filed with the HRC where a public hearing by an Administrative Law Judge will preside. If conciliation is successful, a settlement agreement will be processed.

## **Mediation**

IDHR and the EEOC offer a mediation program. The mediation programs are free, fast, provide an opportunity for both parties to present their side of the issue and the mediator is neutral.

If management within the office/division/bureau where the complaint is filed agrees to mediation, the Director of the Office of Business and Work force Diversity will be notified. Once the Director has granted approval, IDHR or the EEOC will be notified.

The mediation program is designed to settle the dispute immediately without deciding the merits of the charge. Successful mediation results in settlement and closure of the complaint. If the mediation is not successful, the complaint will continue to be processed and investigated by IDHR or the EEOC.

## **CONTACTS**

The addresses and telephone numbers of IDOT's Bureau of Civil Rights, IDHR and the EEOC are as follows:

1. Illinois Department of Transportation  
Bureau of Civil Rights  
2300 Dirksen Parkway, Room 317  
Springfield, Illinois 62764  
(217) 782-2762  
TTY (217) 524-4875

2. Illinois Department of Human Rights  
222 South College, Room 101  
Springfield, Illinois 62704  
(217) 785-5100  
TTY (866) 740-2953
3. Illinois Department of Human Rights  
James R. Thompson Center  
100 West Randolph Street, Suite 10-100  
Chicago, Illinois 60601  
(312) 814-6200
4. Illinois Department of Human Rights  
Marion State Regional Office Building  
2309 W. Main Street, Suite 112  
Marion, Illinois 62959  
(618) 993-7463  
(618) 993-7464 (Fax)
5. The Equal Employment Opportunity Commission  
500 West Madison Street, Suite 2800  
Chicago, Illinois 60661  
(312) 353-2713  
TTY (312) 869-8001
6. The Equal Employment Opportunity Commission  
1222 Spruce Street, Room 8-100  
St. Louis, Missouri 63103  
(314) 539-7800  
TTY (314) 425-6547