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 Approved:/s/Jordan A. Scheff/

Policy Statement

The DDS Equal Employment Opportunity Office shall investigate complaints of discrimination within its jurisdiction and make recommendations following such investigations in carrying out the applicable policies and procedures set forth by the Department of Developmental Services (DDS) and to conform with section 46a-68-89 “Discrimination Complaint Process” of the Regulations of Connecticut State Agencies, consistent with chapters 67 and 68 of the Connecticut General Statutes.

1. Purpose

The Department of Developmental Services and its Equal Employment Opportunity Office have established these procedures to carry out their responsibilities in administering and enforcing applicable federal and state laws and the department’s policies and procedures related to non-discrimination. The Equal Employment Opportunity Office may, from time to time, amend these procedures as necessary.

1. Applicability

This Internal Discrimination Complaint procedure applies to (1) all Department of Developmental Services employees; (2) all applicants for employment with the department; (3) all employees of providers or contractors licensed or funded by the department; (4) all volunteers who provide services to the department or to individuals funded by the department; and (5) all visitors to department funded programs and facilities.

1. Definitions

“Complainant” means a person who files a complaint alleging that she or he has been the subject of discriminatory action as listed in the definition of Discriminatory Act or Action.

“Discriminatory Act or Action” means any unlawful discrimination on the basis of **Protected Class status** of: age; ancestry; color; gender identity or expression; genetic information; intellectual disability; learning disability; marital status; national origin; present or past history of mental disability; physical disability including, but not limited to, blindness; pregnancy; race including, but not limited to, ethnic traits historically associated with race, hair texture and protective hairstyles; religious creed; sex; sexual harassment; status as a veteran; status as a victim of domestic violence; sexual orientation in accordance with section 46a-81c of the general statutes; conviction information or criminal record for state employment or state licensing in accordance with sections 46a-80, 46a-80d and 46a-80e of the general statutes, unless such employment is governed by the provisions of sections 46a-80(b), or 46a-81(b) of the general statutes or the information is directly related to a bona fide occupational qualification or need.

“Equal Employment Opportunity Manager” means the title of the DDS employee, who is designated to mitigate all claims of discrimination as per state and federal laws and who holds the job title of Equal Employment Opportunity Specialist, Manager or Director.

“Finding” means a determination made by an Equal Employment Opportunity Manager as to whether sufficient evidence exists to conclude that a violation of federal or state law or Department of Developmental Services’ policy or procedure occurred relating to unlawful discrimination as defined in “Discriminatory Act or Action” in this section.

“Internal Discrimination Complaint” means a written charge filed in accordance either with this or other DDS policy or procedure that alleges a violation of federal or state law or Department of Developmental Services’ policy or procedure related to unlawful discrimination.

“Respondent” means a person or persons or an entity against whom a complaint is filed.

1. Implementation

Any employee of the Department of Developmental Services believing that he or she has been discriminated against is encouraged to notify the Equal Employment Opportunity Office.

**Complaint Investigation**

**Who May File an Internal Discrimination Complaint?** Persons may file a complaint alleging discrimination with the Equal Employment Opportunity Office in accordance with these complaint procedures.

**Jurisdiction of the Equal Employment Opportunity Office:** Employees of the Equal Employment Opportunity Office shall investigate complaints of discrimination within its jurisdiction and make recommendations following such investigations in carrying out the applicable policies and procedures set forth by the Department of Developmental Services and to conform with section 46a-68-89 “Discrimination Complaint Process” of the Regulations of Connecticut State Agencies, consistent with chapters 67 and 68 of the Connecticut General Statutes.

**Timeframe for Filing an Internal Discrimination Complaint:** Internal Discrimination Complaints shall be submitted not later than 60 calendar days after the alleged discriminatory act occurred directly to the DDS Equal Employment Opportunity Office.

**Filing a Discrimination Complaint:** A discrimination complaint may be filed utilizing the Internal Discrimination Complaint Form (II.F.PR.004 Attachment A). A complaint also may be made in person, by telephone, email, letter, written report, or union grievance. Also, a discrimination complaint may be filed with the U.S. Equal Employment Opportunity Commission (EEOC) or the Connecticut Commission on Human Rights and Opportunities (CHRO) or both within 300 days after the alleged discriminatory act occurred. The DDS Equal Employment Opportunity Office receives notice of any complaints filed with EEOC or CHRO. (Refer to II.F. PR.004 Attachment B External Discrimination Investigative Agencies)

1. **Elements**: Each discrimination complaint shall include the following:

a. The full name, address, and contact number of the complainant, who must be the person claiming to be harmed by the discrimination;

b. The name of all parties involved in the complaint;

c. A clear and concise written statement of the facts that constitute the alleged discriminatory act(s) or action(s), including pertinent dates and sufficient information to identify any other persons who may provide information during the course of an investigation conducted under these procedures;

d. A statement by the complainant verifying that the information supporting the allegations of unlawful discrimination is true and accurate to the best of the complainant’s knowledge; and

e. The signature of the complainant.

2. **Initial Complaint Review**: Upon receipt of the Internal Discrimination Complaint Form, the EEO Office shall make an initial assessment of the allegations, to determine whether the issue is under the jurisdiction of the EEO Office. If it is not, the EEO Office shall offer the complainant suggestions to appropriately address the matter or refer the complainant to the appropriate internal department.

**Complaint Processing**

1. **Notice to Respondent:** A respondent shall be given reasonable notice of the complaint as well as the opportunity to provide information and to be heard concerning the allegations of the complainant.
2. **Right to Union or Legal Representation:**All employees have the right to union or legal representation, as appropriate, and in accordance with the prevailing union contract or state personnel procedures.
3. **Notice to Others Regarding Complaint**: Only those persons with a legitimate need to know will be notified of the filing and final disposition of a complaint. Those persons may include, but are not limited to, appropriate organizational unit administrators (i.e., Commissioner, Deputy Commissioner, Regional Director or their designees, Human Resource Manager, etc.), who may have an obligation to monitor the workplace to ensure that retaliatory action does not occur during the investigative process or after it concludes, or who may be required to implement the recommendations of the Equal Employment Opportunity Office upon completion of its investigation.
4. **Access to Information Regarding the Investigation**: Complainants and respondents, upon inquiry, shall be advised of the status of the investigation by the assigned EEO Manager. An equal employment opportunity officer shall not disclose witness statements or documents received or compiled in conjunction with the investigation of a complaint of discriminatory conduct within the agency, department, board or commission until the conclusion of such investigation, except that witness statements or documents may be disclosed to personnel charged with investigating or adjudicating such complaint, or to the Commission on Human Rights and Opportunities.
5. **Amending an Internal Discrimination Complaint:** If, during an investigation, a staff member from the Equal Employment Opportunity Office determines that more information is required to enable a meaningful investigation, he or she may request the complainant to clarify allegations in the complaint. The complainant also may be allowed to add a new respondent or a new charge of discrimination related to the original complaint, as long as the addition of a respondent or a charge falls within the time limits otherwise applicable to the filing of the original complaint.
6. **Dismissal Based Upon Insufficiency of Complaint:** If a complainant alleges conduct that, if true, would not constitute a violation of federal or state law or Department of Developmental Services’ policies and procedures related to an unlawful discriminatory act or actions, as defined in section C of this procedure, the matter shall be dismissed without further investigation by the DDS Equal Employment Opportunity Office. If a complainant fails to identify a protected class or if the complaint does not contain sufficient evidence, such as the name of the respondent, the case, also, may be dismissed.

**Investigation of Complaint Allegations:** Following receipt of a complaint, the Equal Employment Opportunity Office will act as a neutral fact-finder***.***

1. **Conciliation or Mediation:** When appropriate, the Equal Employment Opportunity Office shall endeavor to resolve the internal discrimination complaint through conciliation or mediation. Conciliation or mediation involves EEOO staff meeting informally with the complainant or the person or persons against whom the allegations have been directed, or both, to obtain agreement on a satisfactory resolution. If the complaint is not resolved through conciliation or mediation, a complete investigation shall be conducted. Conciliation or mediation may occur at any time during the course of the investigation.

1. **Formal Investigation:** The Equal Employment Opportunity Manager shall assemble statements, documents, and other relevant evidence from the complainant, respondent, witnesses, and other identified persons who have or may have information concerning the allegations set forth in the internal discrimination complaint as required in section 46a-68(b)(4)(A) of the Connecticut General Statutes.

**Findings of the Internal Investigation Report and Recommendations**

1. When assessing credibility, the Equal Employment Opportunity Manager shall review records to determine whether the complainant or the respondent has been involved in past complaints of discrimination. If there are previous complaints the EEOC Manager shall review the previous complaint’s findings and any corrective action that was taken by the department.
2. The Equal Employment Opportunity Office shall consult with the DDS Human Resources staff on investigations that may result in the need to determine a course of corrective action to address the actions of persons identified as having engaged in discrimination.
3. The department shall comply with the CHRO regulations that require resolution of complaints within **ninety (90) days.**
4. No complainant shall be transferred in connection with a complaint of discrimination to another worksite or assignment unless the complainant agrees to such change.
5. In the course of investigation, the Equal Employment Opportunity Office shall report to the Department of Emergency Services and Public Protection or a local law enforcement agency any conduct that the Equal Employment Opportunity Manager reasonably believes constitutes criminal conduct, regardless of any mitigating or other circumstances.
6. Upon completion of an investigation, the Equal Employment Opportunity Manager shall evaluate the evidence in accordance with standards set forth in applicable federal and state law, including case law, and the Department of Developmental Services’ policies and procedures related to unlawful discrimination. The Equal Employment Opportunity Manager shall make a finding regarding the allegations and shall draft a final investigative report.
7. Upon completion of the investigation, conciliation, or mediation, a final draft report with recommendations shall be submitted to the Equal Employment Opportunity Director or his or her designee to be reviewed for accuracy and completeness. The final written report shall be submitted to the Commissioner, or the commissioner’s designee, for review.
8. The Equal Employment Opportunity Manager shall send a letter to the complainant and the respondent notifying them of the completed investigation and whether the Equal Employment Opportunity Complaint had been substantiated along with the information necessary to file a complaint with an external agency.

**Closure:** An investigation shall be considered completed upon the review by and signature of the EEO Director or his or her designee. The complainant, the respondent and other appropriate parties shall be notified of the completion of the investigation after the review by the Commissioner of Developmental Services and the disciplinary determination by DDS’s Human Resource Division, if applicable. In accordance with section 46a-68(b)(4) of the Connecticut General Statutes**,** the Equal Employment Opportunity Office shall not represent the department in any EEOC or CHRO proceedings concerning complaints of discrimination. The Commissioner shall assign such department representation to a designee.

**Disciplinary Action:** The Equal Employment Opportunity Manager shall report all internal discrimination complaints received that may subject an employee to disciplinary action to the Human Resources Director, or his or her designee, for any proper and appropriate action in accordance with DDS personnel procedures.

**Retaliation:** Any person who files a complaint, seeks information, or appears as a witness or representative in any court proceeding or hearing shall be protected from current and future retaliation and reprisal by DDS employees or affiliates. Retaliation or reprisal is a separate violation of the anti-discrimination laws.

**Withdrawal of Internal Discrimination Complaint:** Once a discrimination complaint is filed, the Equal Employment Opportunity Office is obligated to investigate any complaint that raises significant claims of discrimination. However, in appropriate circumstances, and at the discretion of the EEO Director, the Equal Employment Opportunity Office may agree to have a complaint withdrawn, upon a written and signed request to do so by the complainant. A complainant seeking to withdraw an internal discriminationcomplaint shall set forth reasons in the request why the complaint should be withdrawn. A complainant may not withdraw a complaint once the Equal Employment Opportunity Manager has determined that there is a violation of affirmative action policies and procedures.

# **Information Related to Internal Discrimination Complaint and Investigations**

**Confidentiality**: Employees of the Equal Employment Opportunity Office shall respect the confidentiality of information they obtain during an investigation, except where disclosure is required (1) by state or federal law; or (2) to advise the respondent, the complainant, or other appropriate parties.

**File Management**: The Equal Employment Opportunity Complaint file, including all information and documents pertinent to the complaint, shall be maintained in the Equal Employment Opportunity Office. The Equal Employment Opportunity Office shall develop procedures for the control and maintenance of these files.

1. References

**Federal Law**

1. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination.
2. 28 C.F.R. Part 35 - Title II of the Americans with Disabilities Act “Nondiscrimination on the Basis of Disability in State and Local Government Services”
3. 34 C.F.R. Part 104 “Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance”
4. 45 C.F.R. Part 84 “Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance” (Section 504 of the Rehabilitation Act of 1973)

**Connecticut General Statutes**

1. [Sec. 46a-60. Discriminatory employment practices prohibited.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-60)
2. [Sec. 46a-68. State affirmative action plans: Filing; monitoring; reports; equal employment opportunity officers; review and investigation of discrimination complaints; regulations.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-68)
3. [Sec. 46a-80. Denial of employment based on conviction information. Inquiry re prospective employee's conviction information. Dissemination of records and information prohibited.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-80)
4. [Sec. 46a-80d. Discrimination on basis of erased criminal history record information: Employment.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-80d)
5. [Sec. 46a-80e. Discrimination on basis of erased criminal history record information: Associations of licensed persons.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-80e)
6. [Sec. 46a-81b. Sexual orientation discrimination: Associations of licensed persons.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-81b)
7. [Sec. 46a-81c. Sexual orientation discrimination: Employment.](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-81c)

**Regulations of Connecticut State Agencies**

Section 46a-68-89 “Discrimination Complaint Process”

1. Attachments

II.F.PR.004 Attachment A [Internal Discrimination Complaint Form](https://portal.ct.gov/-/media/DDS/AdminManual/IIF/IIFPR004_Attachment_A_Internal_Discrimination_Complaint_Form.docx)

II.F.PR.004 Attachment B [External Discrimination Investigative Agencies](https://portal.ct.gov/-/media/DDS/AdminManual/IIF/IIFPR004_Attachment_B_External_Discrimination_Investigative_Agencies.docx)

II.F.PR.004 Attachment C [Waiver of Union Representation](https://portal.ct.gov/-/media/DDS/AdminManual/IIF/IIFPR004_Attachment_C_Waiver_of_Union_Representation.docx)