

## Policy Memorandum<sup>1</sup>

This Policy Memorandum Issuance # 16-01-004

Effective Date Upon Issuance      Expiration Date Upon Reissuance of IMPP<sup>2</sup> (required)

\_\_\_\_\_ Addresses subject matter for which an IMPP will be forthcoming and assigned to Chapter(s) \_\_\_\_\_ of the IMPP manual.


X \_\_\_\_\_ Amends or modifies existing IMPP(s) # 02-101D

\_\_\_\_\_ Elaborates on the contents of IMPP(s) # \_\_\_\_\_

\_\_\_\_\_ Is for Staff Only    X \_\_\_\_\_ Is for Both Staff and Offenders

This policy memorandum is being issued to amend Section III.C.1.a. of IMPP 02-101D, EEO Discrimination Complaint Resolution, as follows:

The Department's toll free hotline number is corrected to 1-844-522-1956.



  
 \_\_\_\_\_
   
 Secretary of Corrections

Date: 01/13/16

<sup>1</sup> Note: To keep your IMPP Manual current, please place this Policy Memorandum in your manual at the appropriate location. If the memorandum addresses subject matter for which an IMPP will be forthcoming, place this issuance before the first IMPP in the Chapter indicated. If the memorandum addresses an existing IMPP, the issuance should be placed in front of the existing policy. If this memorandum is for both staff and offenders, it shall be immediately posted.

<sup>2</sup> Unless another Policy Memorandum or IMPP on this subject is issued, the requirements contained herein have no force and effect after the indicated expiration date.

# KANSAS DEPARTMENT OF CORRECTIONS

 Kansas Department of Corrections	<b>I</b> NTERNAL <b>M</b> ANAGEMENT <b>P</b> OLICY AND <b>P</b> ROCEDURE	SECTION NUMBER <b>02-101D</b>	PAGE NUMBER 1 of 6
		SUBJECT: <b>HUMAN RESOURCES: EEO Discrimination Complaint Resolution</b>	
Approved By:   <div style="text-align: right;">Secretary of Corrections</div>		Original Date Issued: <span style="float: right;"><b>09-15-15</b></span>	
		Replaces Version Issued: <span style="float: right;">N/A</span>	
		<b>CURRENT VERSION EFFECTIVE: <span style="float: right;">09-15-15</span></b>	

<b>APPLICABILITY:</b>	<input type="checkbox"/> <b>ADULT Operations Only</b>	<input type="checkbox"/> <b>JUVENILE Operations Only</b>	<input checked="" type="checkbox"/> <b>DEPARTMENT-WIDE</b>
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## POLICY STATEMENT

The Department of Corrections shall provide equal employment opportunity to all employees based upon merit and bona fide occupational qualifications. The Agency will undertake continuous actions to seek out and eliminate discrimination in all facets of employment based upon race, gender, color, political or religious affiliation, national origin or ancestry, age, military status, or any other non-merit factor. (ACO 2-1C-09; ACI 3-4053; APPFS 3-3052) Concerns based upon disability shall be handled in accordance with IMPP 02-129D.

## DEFINITIONS

Discriminatory Hostile Working Environment: A form of discrimination that is unwelcomed, severe, pervasive or encouraged and is exhibited by speech, conduct or actions that would adversely or negatively impact a member of a protected group and is so offensive to a reasonable person that it creates an abusive working environment and/or impair the employee's job performance (e.g., One incident, if severe enough, could create a hostile work environment, or that many minor incidents could accumulate, and become pervasive enough to create a hostile work environment).

EEO Complaint: A complaint alleging discrimination in employment action(s) on one or more basis including, but not limited to, race, ethnicity, color, gender, political or religious affiliation, national origin or ancestry, age, military status, disability, and/or retaliation prohibited under federal or state laws, or this policy. Disability complaints shall be addressed according to IMPP 02-129D, which parallels the statewide discrimination procedure.

Human Resources Director: Agency Executive Team Manager located in Central Office Human Resources Division and who is responsible for the administration of the Department's Human Resource Functions.

Manager of EEO/AA: The staff member assigned to the Central Office Human Resources Division who is responsible for the administration of the Department's Equal Employment Opportunity and Affirmative Action Programs.

## PROCEDURES

### **I. Provision of a Work Environment Free of Discrimination**

- A. Managers and supervisors shall set a positive example, shall inform the appointing authority and Manager of EEO of allegations of discrimination, and shall take immediate corrective action when violations of this policy are known whether or not a formal complaint is made.

1. In addition, any supervisor or manager who himself or herself engages in discriminatory behavior or who enables or ignores the discriminatory actions of others shall be subject to disciplinary action, up to and including dismissal.
- B. It is the responsibility of the Department's managers, supervisors, and employees to create a positive working atmosphere that is free of:
1. Discriminatory acts and practices; (ACO 2-1C-09; ACI 3-4053; APPFS 3-3052)
  2. Other factors related to protected group membership which could create an offensive, or oppressive working environment; and,
  3. Retaliation against employees who exercise their access to redress under the provisions of this IMPP.
- C. Every employee shall receive a copy of this policy and shall acknowledge the receipt in writing (Attachment A) during new employee orientation.

## **II. Expectations**

- A. Employees shall report discrimination.
1. Actions away from work violate this policy when they involve inappropriate actions or behaviors at work related or sanctioned functions and/or if the actions of staff of the Department that occur at other locations are severe enough to reasonably carry over to and interfere with the employee's Departmental work environment.
- B. The appointing authority for each work site shall monitor the atmosphere and events at the work site and work to maintain an environment free of discrimination.
1. If such discriminatory treatment is reported or observed, or there is otherwise cause to believe it is occurring, all managers and supervisors shall take steps, or cause steps to be taken, necessary to rectify the situation, whether or not a complaint has been filed.

## **III. Processing Internal EEO Discrimination Complaints (ACO 2-1C-09; ACI 3-4053; APPFS 3-3052)**

- A. Informal Process:
1. Within five (5) days of an event, employees should discuss EEO concerns with their supervisor indicating that they believe the concern to be related to discrimination. EEO Representatives can be consulted. Any concern, which involves their supervisor, should be directed to the next level in the supervisory chain. When so notified, supervisors shall undertake reasonable action to look into and address the concern. The supervisor shall issue a response in writing within five (5) days of being notified, copying the Appointing Authority and the Manager of EEO.
  2. If an appropriate manager or supervisor, and/or the EEO Representative can address or achieve a mutually agreeable resolution, they may do so and draft a written report of the resolution at this informal stage.
- B. Formal Process:
1. If the employee does not believe that the supervisor adequately dealt with the concern or the supervisor did not respond, then within ten (10) working days of the event if no response was received, or ten (10) days of receiving the response, an individual who feels that discrimination exists in any employment situation with the Department shall contact someone listed in section 2.B or may call the Department's toll free hotline to file a complaint. Once assigned, an EEO Representative to initiate a formal complaint by completing the EEO Discrimination Complaint Form (Attachment B). Any employee or

manager may contact the Manager of EEO/AA at any time to report an issue, or obtain policy guidance.

2. If it is determined during the initial interview that the complaint is outside the scope of EEO, the EEO Representative shall advise the complainant of appropriate policies for pursuing such complaints. The EEO Representative shall notify the Manager of EEO/AA to provide a listing of the basic allegations. Questions by either the representative or employee may be directed to the Manager of EEO/AA.
- C. Any EEO Representative of the office or facility where the employee works or where the harassment is occurring, the Manager of EEO/AA in Central Office, the Director, DOC Human Resource Division, the Human Resources Manager of the facility where the employee works, the facility Appointing Authority or any facility manager or supervisor. The appointing Authority or their designee will assign the complaint to an appropriate EEO representative.
1. No employee shall be required to report discrimination to his or her immediate supervisor in order for the allegation to be investigated.
    - a. The Department's toll free hotline is 1-888-317-8204. The toll free hotline goes directly to the desk of the Manager of EEO/AA. In order to ensure an adequate investigation is conducted regarding the allegation of discrimination, employees are urged to provide specific and detailed information about the discrimination they believe is occurring or has occurred.
- D. The EEO Representative shall directly contact the Manager of EEO/AA, the appointing authority, and the human resource manager (if they are not involved parties) to inform them that the complaint has been filed. In most cases, the Appointing Authority will determine who will investigate and assign the EEO Representative to conduct the investigation.
1. The Manager of EEO/AA is responsible for the complaint procedure and to assure fairness may ask for the assignment of a different representative or choose to individually investigate any complaint of discrimination.
  2. No EEO Representative may participate in an investigation of any complaint in which he or she may otherwise be involved as a witness or participant, or if they are in a close personal or working relationship with individuals who are principals in the matter being reported.
- E. Within 20 working days following the receipt of a complaint, the assigned EEO Representative(s) shall investigate the complaint (see Section VI. for extending time limits).
1. The EEO Representative shall be authorized to interview all individuals and to review all documents and records, which might provide relevant information concerning the complaint.
  2. Upon completion of the investigation, the EEO Representative shall submit copies of all materials, records, and summaries of all interviews, and his or her investigative findings to the Manager of EEO/AA.
- F. As soon as possible, but within 20 working days following receipt of all materials, records, reports, and summary of findings from the EEO Representative, the Manager of EEO/AA shall gather any additional information needed, make a determination on the complaint, and forward a report and recommendation for resolution to the appropriate appointing authority or other appropriate respondent. In most cases Chief legal Counsel or their designee, and the Human Resources Director should also receive that report. (See Section V. for extending time limits.)
- G. Within 20 working days following receipt of the report and the Manager of EEO/AA's recommendation, the appointing authority, or other appropriate respondent, shall make a determination concerning resolution of the complaint, which shall be subject to review by the Chief

Legal Counsel or designee and the Human Resources Director.

- H. Following review by the Chief Legal Counsel or designee and the Human Resources Director, the appropriate appointing authority, or appropriate respondent, shall make the final decision and issue the decision to the complainant copying the Manager of EEO/AA and Chief Legal Counsel or their designee.
  - 1. This decision shall set forth the findings and the complainant's right to pursue the matter further with the Kansas Human Rights Commission (KHRC) or Equal Employment Opportunity Commission (EEOC).
- I. Once that notification occurs, the complaint will be considered closed and the Department will take no further action toward resolution.
- J. All EEO investigations and supporting documentation shall be maintained in a secure area in the Manager of EEO/AA office.

#### **IV. Filing a Complaint with the Manager of EEO/AA**

- A. Any employee who so desires may file a complaint directly with the Manager of EEO/AA, who shall determine the appropriate course of investigation to be conducted in a manner consistent with the previously listed procedures.

#### **V. Resolution During Investigative Procedure**

- A. A decision to undertake a written resolution prior to the completion of an investigation any time after the informal complaint procedure, requires the concurrence of the Manager of EEO/AA and appointing authority, and any final resolution must be approved by the appropriate appointing authority.
  - 1. The resolution shall be signed by all parties to the agreement.
  - 2. The original agreement shall be maintained by the Manager of EEO/AA. A copy of the agreement shall be provided to the appointing authority and to each of the parties to the agreement.

#### **VI. Time Frames Involved in Processing a Complaint**

- A. The Manager of EEO/AA shall be responsible for this procedure to include ensuring compliance with the procedures and timeframes indicated in the policy.
  - 1. Those involved in investigating the complaint or making decisions regarding the complaint may submit a notice to the Manager of EEO/AA that an extension, not to exceed thirty (30) working days, of any time limit shall be required.
    - a. Upon approval of an extension to any time limit, the Manager of EEO or designee shall provide notice of such extension to the complainant, to the human resource manager, and to the appointing authority of the facility or office where the complaint originated.

#### **VII. Complaint Filed Against an Appointing Authority**

- A. Any complaint against an appointing authority shall be made directly to the Manager of EEO/AA who shall determine the appropriate course of investigation.

#### **VIII. The Following Internal Procedure Shall Be Followed in Processing Complaints Against the Department Filed with External Enforcement Authorities**

- A. Any person within the Department receiving notice of an employment related complaint or charge from an outside EEO enforcement authority shall notify his or her appointing authority that a complaint has been filed, and shall immediately forward the complaint or charge and all materials to the Manager of EEO/AA.
  - 1. The Manager of EEO/AA shall notify the Human Resources Director and Chief Legal Counsel that a complaint has been received.
  - 2. Complaints from Department employees who have filed with outside EEO enforcement agency, simultaneously filed internally, shall be directed to the Manager of EEO/AA for a determination regarding how to proceed.
- B. The Manager of EEO/AA shall process the complaint based upon the allegation(s) and a preliminary investigation of the circumstances precipitating the complaint.
- C. During all phases of an investigation by an outside EEO enforcement authority, the Manager of EEO/AA or his or her designee shall act as the Department's liaison with such enforcement authorities.
  - 1. The Manager of EEO/AA or his or her designee shall be present during all interviews conducted with departmental employees other than the complainant(s) and during review of any documentary materials by representatives of any EEO enforcement authority.
- D. In the event of a finding by an EEO/ADA enforcement authority that probable cause exists to believe the validity of the complaint, any negotiation with such authorities for a settlement agreement shall be conducted by the Chief Legal Counsel or his or her designee.
  - 1. The Manager of EEO/AA shall provide such assistance as the Chief Legal Counsel requires in the conduct of these negotiations and a satisfactory resolution of the complaint.
- E. The Manager of EEO/AA shall notify and consult with the Director of Human Resources and the Department's Chief Legal Counsel in all cases where court action or where the complainant has obtained independent legal representation pursuant to an action outside the realm of an internal complaint. The Department's Chief Legal Counsel or his or her designee shall act as the Department's liaison with such authorities or agents and shall represent the Department in all subsequent actions.

#### **IX. Confidentiality of Investigative Information**

- A. With or without a formal complaint, once discrimination is verbally alleged, all sharing of information between complainants, prospective witnesses and others shall cease and any breach of confidentiality can result in discipline, which may include termination.
  - 1. All information obtained or shared during an investigation shall be considered confidential to the extent feasible by all parties.
    - a. No employee or manager involved in the investigation shall discuss or divulge any information obtained in the course of the investigation with anyone other than the Manger of EEO/AA, the assigned EEO Representative, the Human Resources Director, DOC legal counsel, investigators from outside enforcement entities, and when appropriate the local Human Resource Manager and/or the appointing Authority.
    - b. Questions may be directed to the Manager of EEO/AA.
  - 2. Any breach of confidentiality may result in disciplinary action against the person committing the breach, which may include termination.

3. The Manager of EEO/AA may direct employees to share information with people other than those on the above list.
- B. Each employee involved in an EEO/AA or Sexual Harassment investigation shall sign the KDOC EEO/Sexual Harassment Acknowledgement of Confidentiality (Attachment C).

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

### **REPORTS REQUIRED**

None.

### **REFERENCES**

Civil Rights Act of 1964 & 1991 as amended by the Equal Employment Opportunity Act of 1972  
Age Discrimination in Employment Act of 1967 as amended  
The Kansas Act Against Discrimination as amended  
The Kansas Age Discrimination in Employment Act of 1983  
IMPP 02-129D  
ACO 2-1C-09, 2-1C-11  
ACI 3-4053  
APPFS 3-3036

### **ATTACHMENTS**

<b>Attachment</b>	<b>Title of Attachment</b>	<b>Page Total</b>
A	DDO Acknowledgments	1 page
B	EEO Discrimination/Sexual Harassment Complaint/Report	1 page
C	KDOC EEO and/or Sexual Harassment Acknowledgment of Confidentiality	1 page

**KANSAS DEPARTMENT OF CORRECTIONS**  
**EEO ACKNOWLEDGMENTS**

**I. Receipt of KDOC EEO Discrimination Complaint Resolution Policy**

I, \_\_\_\_\_, the undersigned, am employed by the Kansas Department of Corrections in the position of \_\_\_\_\_, and hereby acknowledge, by my signature below, that on this date I was provided with a full and complete copy of the KDOC EEO Discrimination Complaint Resolution policy (IMPP 02-101D), was afforded adequate time, on the job, to read the same, and was informed by my supervisor that I could ask any questions of said supervisor, the appointing authority, or the human resources manager, necessary to understand the policy. I further hereby agree that I understand and agree to fully abide by the policy.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Supervisor

**II. Receipt of KDOC Sexual Harassment Policy**

I, \_\_\_\_\_, the undersigned, am employed by the Kansas Department of Corrections in the position of \_\_\_\_\_, and hereby acknowledge, by my signature below, that on the date indicated, I was provided with a full and complete copy of the KDOC Sexual Harassment Policy (IMPP 02-124D), was afforded adequate time, on the job, to read the same, and was informed by my supervisor that I could ask any questions of said supervisor, the appointing authority, or the human resources manager, necessary to understand the policy. I further hereby agree that I understand and agree to fully abide by the policy.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Supervisor

**AFTER THIS FORM HAS BEEN SIGNED BY THE EMPLOYEE AND SUPERVISOR, IT SHALL BE FORWARDED TO THE HUMAN RESOURCES OFFICE OF THE FACILITY OR OFFICE WHERE THE EMPLOYEE WORKS, AND SHALL BE MADE A PERMANENT PART OF THE OFFICIAL PERSONNEL FILE OF THE EMPLOYEE.**



**KANSAS DEPARTMENT OF CORRECTIONS**

**EEO DISCRIMINATION/SEXUAL HARASSMENT COMPLAINT/REPORT**

1. Name of Person Reporting or filing complaint: \_\_\_\_\_  
Position: \_\_\_\_\_ Facility/Office: \_\_\_\_\_  
At what phone number should we call you? \_\_\_\_\_

2. Name(s) of Person(s) Alleged to have committed the actions:

Name	Position Title/Rank
_____	_____
_____	_____
_____	_____

Facility/Office \_\_\_\_\_

3. Date(s) of incident(s): \_\_\_\_\_

4. Describe the incident(s) in detail. Include names, dates, locations, approximate time of day, etc.; (use additional pages and attach if necessary)

5. State the name and phone number or work location of any person(s) who witnessed any of the alleged harassment/discrimination. Briefly explain what you think they know about this complaint and how they were involved or observed the alleged incident:

6. Have you discussed this alleged incident with any other person(s) within the Department of Corrections? If so, tell us their name(s) and phone number(s) or work location(s), the dates on which such discussions occurred and what, if anything, happened as a result of your discussion.

7. How would you like to see this complaint resolved? What action would you like to see take place?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Complainant/Reporter      Date of Filing      Signature of Person Receiving Complaint      Date Received

=====

**FOR OFFICE USE ONLY**  
Resolution:  
Date of Resolution: \_\_\_\_\_

## KDOC EEO/Sexual Harassment Acknowledgement of Confidentiality

I, \_\_\_\_\_, an employee of \_\_\_\_\_,  
(Print Name) (Facility or Office)

hereby affirm that the Kansas Department of Corrections policies on maintaining confidentiality related to EEO and/or sexual harassment investigations has been made available to me. I further acknowledge that I have read and fully understand the policies as they apply to any involvement I may have in an EEO and/or sexual harassment investigation. I understand that I am not to discuss or divulge any information I have obtained or will obtain in the course of an EEO and/or sexual harassment investigation with anyone other than the Manager of EEO/AA, the assigned EEO Representative(s), the Human Resources Director, DOC legal counsel, investigators from outside enforcement entities, and when appropriate the local Human Resources Manager and/or the Appointing Authority unless directed to do so by the Manager of EEO/AA and that a breach of confidentiality can result in disciplinary action up to and including termination.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date