



# INTERNAL MANAGEMENT POLICY & PROCEDURE

**Applicability:**  Adult Operation Only  JUVENILE Operations Only  DEPARTMENT-WIDE

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IMPP #: 02-101D

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**HUMAN RESOURCES: EEO Discrimination Complaint Resolution**

Original Date Issued: 09-15-15 Replaces IMPP Issued: 09-15-15 **CURRENT EFFECTIVE DATE: 06-17-23**

Approved By:  , Secretary Next Scheduled Review: 09/2025

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## POLICY

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 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. Concerns based upon disability shall be addressed in accordance with IMPP 02-129D.

## DEFINITIONS

Discriminatory Hostile Working Environment: A form of discrimination that is unwelcomed, severe, or pervasive 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 impairs 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 bases including race, ethnicity, color, gender, sexual orientation, gender identity or expression political or religious affiliation, national origin or ancestry, age, military status, disability, marital or family status, genetic information, anything else covered by applicable executive order, 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 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 promote a positive working atmosphere that is free of:
1. Discriminatory acts and practices;
  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. Each new employee shall receive a copy of this policy and shall acknowledge the receipt in writing by completing the EEO Acknowledgment (Attachment A) during new employee orientation. All employees shall be advised of changes to this policy and provided an electronic copy through distribution/email from the Department Policy Coordinator.

## **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**

- 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 the employee's 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 the supervisor adequately addressed their concern(s), within ten (10) days of receiving the supervisor's response an employee who feels discrimination exists in any employment situation with the Department shall contact any of the following regarding the concern: an EEO Representative, the Human Resources Manager, the Appointing Authority, a facility manager of the office or facility where the employee works or where the harassment is occurring, the Manager of EEO/AA in Central Office, or the Director of Human Resources, or may call the Department's toll-free hotline to file a complaint.
2. If the supervisor failed to respond, then within (10) working days of the supervisor's failure to respond the employee shall contact any of the following regarding the concern: an EEO Representative, the Human Resources Manager, the Appointing Authority, a facility manager of the office or facility where the employee works or where the harassment is occurring, the Manager of EEO/AA in Central Office, or the Director of Human Resources, or call the Department's toll-free hotline to file a complaint.
  - a. The Department's toll-free hotline is 1-844-522-1956. The toll-free hotline goes 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.
  - b. No employee shall be required to report discrimination to his or her immediate supervisor for the allegation to be investigated.
  - c. Any employee or manager may contact the Manager of EEO/AA to report an issue or obtain policy guidance.
3. The employee shall be instructed to initiate a formal complaint by completing the EEO Discrimination Complaint Form (Attachment B).
  - a. The completed EEO Discrimination Complaint Form shall be forwarded to the Human Resources Manager of the office or facility where the employee works or where the harassment is occurring.
  - b. If the complaint is received anonymously, it shall be forwarded to the Manager of EEO/AA in Central Office to be processed.
4. The Human Resources Manager shall directly contact the Manager of EEO/AA and the appointing authority (if they are not involved parties) to inform them a complaint has been filed. The Manager of EEO/AA and the appointing authority or their designee shall determine if the complaint is within the scope of EEO.
  - a. If it is determined the complaint is not within the scope of EEO, the Manager of EEO/AA shall so advise the complainant.
  - b. In most cases when it is determined the complaint is within the scope of EEO, the Appointing Authority or their designee will assign an EEO Representative to conduct the investigation.
  - c. Questions by either the EEO Representative or the employee may be directed to the Manager of EEO/AA.

- C. 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 the individual to investigate any complaint of discrimination.
  - 1. No EEO Representative may participate in an investigation of any complaint in which they 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.
- D. 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.
- E. As soon as possible, but within 20 working days following receipt of all materials, records, reports, and a 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 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 VI. for extending time limits.)
- F. Within 20 working days following receipt of the Manager of EEO/AA's report, 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.
- G. 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 a 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).
- H. Once that notification occurs, the complaint will be considered closed, and the Department will take no further action toward resolution.
- I. All EEO investigations and supporting documentation is considered confidential and shall be maintained in a secure area of the office of the Manager of EEO/AA.

#### **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 Chief Legal Counsel.
  - 1. The Chief Legal Counsel shall notify the Human Resources Director and the Manager of EEO/AA that a complaint has been received.
  - 2. Complaints from Department employees who have filed with an outside EEO enforcement agency, and simultaneously filed internally, shall be directed to the Chief Legal Counsel for a determination regarding how to proceed.
- B. During all phases of an investigation by an outside EEO enforcement authority, the Chief Legal Counsel or his or her designee shall act as the Department's liaison with such enforcement authorities.
- C. 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.

D. 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 during the investigation with anyone other than the Manager 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 investigation shall sign the Acknowledgement of Oath of Confidentiality (Attachment C).

## **X. This IMPP must serve as final policy in all departmental facilities, and no General Orders shall be developed or implemented on this subject.**

**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 are not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

## **REPORTS**

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 02-124D, 02-129D

**HISTORY**

09-15-15 Original  
01-13-16 Policy Memorandum 1  
06-17-23 Revision 1

**ATTACHMENTS**

<b>Attachments</b>	<b>Title of Attachments</b>	<b>Page Total</b>
A	EEO Acknowledgment	1 page
B	EEO Discrimination Complaint/Report	1 page
C	Acknowledgment of Oath of Confidentiality	1 page

**KANSAS DEPARTMENT OF CORRECTIONS**

**EEO ACKNOWLEDGMENT**

**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



**KANSAS DEPARTMENT OF CORRECTIONS**

**EEO DISCRIMINATION 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 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: \_\_\_\_\_

