

DEPARTMENT OF MILITARY AFFAIRS
STATE HUMAN RESOURCES
PRACTICE AND PROCEDURE MANUAL

STATUS: (X) FINAL () DRAFT
EFFECTIVE DATE: February 3, 2014

BULLETIN NO.: 3.140
PAGE: 1 of 4

SUBJECT: Employee Discrimination and Harassment Complaint Policy and Procedure

SECTION: Employee Services/Programs

I. PRACTICE

A. STATEMENT OF POLICY AND PURPOSE

In accordance with Subchapter II of the Wisconsin Fair Employment Law, Title VII of the Civil Rights Act of 1964, the Genetic Information Nondiscrimination Act of 2008, and the Adjutant General's Policy Memorandum 4, the Department of Military Affairs (DMA) established this Employee Discrimination and Harassment Informal Complaint Procedure to provide state employees with a mechanism to informally resolve alleged incidents of sexual harassment, hostile work environment, and/or discrimination based on age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, genetic testing and information, use or nonuse of lawful products off the employer's premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters.

The Department of Military Affairs State Equal Employment Opportunity Policy strictly prohibits retaliation against employees for filing complaints, internally or externally, about discrimination and/or sexual harassment.

The Department's Affirmative Action Advisory Committee (AAAC) will serve in an oversight role to ensure that the policy and purpose of this procedure is effectively carried out.

The procedures outlined in this Directive are designed to encourage internal, informal resolution of discrimination and sexual harassment complaints, prior to or in lieu of, an employee seeking formal avenues of relief. However, an employee may decide to use one of the formal complaint procedures available at any time, including concurrently with this informal process. It should be noted that formal complaints must be filed within specific time limits. See the Formal Complaint Process heading at the end of this policy.

DMA is committed to receiving and addressing any informal complaint as quickly as is reasonably possible.

B. DEFINITIONS

Harassment – Any occurrence of unwanted or unwelcome verbalism or behavior of a sexist, racist, or age-related nature, or with overtones related to a protected characteristic.

Sexual Harassment – Any unwelcome verbal or physical interactions of a sexual nature, directed towards a person of the same or opposite gender, whether or not repeated, that creates a quid pro quo situation or is sufficient to create a hostile work environment.

Hostile Work Environment – Any conduct which has the purpose or effect of unreasonably interfering with a person’s job performance or creating an intimidating or offensive work environment.

Quid Pro Quo Sexual Harassment – A situation where a manager/supervisor is (1) making submission to sexual demands an implicit or explicit term or condition of employment, or (2) making decisions affecting someone’s employment or compensation on the basis of whether the person submits to or rejects sexual demands.

Discrimination – Unlawful practices or actions which have the effect of unequal or different treatment of an individual or group of people on the basis of a protected category, and are not related to job qualifications, skills, or performance.

C. PRINCIPLES FOR INFORMAL COMPLAINT PROCEDURE

1. This complaint procedure is not meant to be a substitute for an employee's right to file a formal complaint with either the Equal Rights Division of the WI Department of Workforce Development or the U.S. Equal Employment Opportunity Commission. For further information on the formal complaint process, see Formal Complaint Process heading at the end of this policy.
2. All state employees of this Department may utilize this informal complaint procedure.
3. Employees have the right to utilize the Department's informal complaint procedure without fear of retaliation pursuant to § 111.32(3), Wis. Stats.
4. Confidentiality of the complaint, complainant, and all other involved parties and witnesses is assured to the extent possible, consistent with state and federal laws. Failure to maintain confidentiality may result in disciplinary actions. However, to allow for the investigation and conciliation to occur, employees who file a complaint may need to authorize the release of pertinent names and issues to appropriate parties.
5. Employees will receive an objective and impartial investigation of their complaint.
6. An employee, in order to invoke this informal procedure, is not required to discuss the complaint with his/her supervisor.
7. The complaint procedure is intended to foster and provide an informal resolution of the problem.

II COMPLAINT PROCEDURE

If an employee feels that they are a victim of harassment or discrimination, or believes that they are working in a hostile work environment, they are encouraged to bring this to the attention of a supervisor or management official, to State Human Resources (SHR), to DMA’s Affirmative Action Officer (AAO), or to a member of the AAAC (hereinafter referred to as designee). A listing of the designees can be found within the SHR pages on the DMA [website](#). There is an informal complaint procedure to attempt resolution of the situation internally, as well as formal complaint procedures involving outside agencies.

A. Informal Complaint Process

1. The employee may submit a complaint alleging discrimination and/or sexual harassment to the designee verbally and/or in writing. For complaints submitted verbally, the designee may prepare a written statement of the complaint for the complainant's signature. Complaints submitted anonymously will be taken seriously, and will be investigated as thoroughly as appropriate and possible.
2. All complaints should be filed as soon as possible after the date of the alleged occurrence.
3. The complainant may withdraw from or terminate the procedure at any time.
4. The designee shall seek the following information from the complainant:
 - a. The type of discrimination and/or harassment alleged;
 - b. Specific details of the complaint (nature, date, time, persons involved, witnesses, etc.); and,
 - c. The relief/remedy desired.
5. The designee shall inform the AAO of any complaints received and coordinate with the AAO to assign an investigator.
6. Within twenty (20) working days after the date when the complaint was filed or as soon as is reasonable and practical; the investigator shall meet with the complainant, the respondent(s) and witnesses to the specific incident(s) identified in the complaint. The investigator shall gather sufficient information and evidence to make a determination as to whether illegal harassment or discrimination took place.
7. Within thirty (30) working days of the date when the complaint was assigned or as soon as is reasonable and practical; the investigator shall write a summary report and submit it to the AAO. This written report will do the following:
 - a. summarize the issues identified,
 - b. identify the witnesses and the evidence considered, and
 - c. make a preliminary conclusion as to whether or not illegal harassment or discrimination has occurred.

The summary report will be sent to the DMA SHR Director/AAO. The SHR Director/AAO will consult with legal counsel as necessary and provide the agency's conclusion to the complainant, with other avenues for redress as appropriate if the resolution of the complaint is not satisfactory.

B. Formal Complaint Process

I. State Procedure

An employee may file a formal complaint with the Department of Workforce Development, Equal Rights Division (ERD) for **sexual harassment**. An employee may also file a formal complaint with the Department of Workforce Development, Equal Rights Division (ERD) for **discrimination** if the allegations are based on:

Age (40 or over)	Sex
Race	National Origin
Creed	Ancestry
Color	Arrest Record
Disability Status	Conviction Record
Marital Status	Sexual Orientation
Religion	Political Affiliation
Membership in Military Forces	Genetic Testing
Use or Non-use of Lawful Products off the Employer's Premises	

Any formal complaints must be filed with the Department of Workforce Development, Equal Rights Division within 300 days after the alleged discrimination and/or sexual harassment took place. You may write to the ERD for their complaint form or you may call and ask to speak to an investigator at:

Equal Rights Division
201 East Washington Avenue, Room A100
Post Office Box 8928
Madison, Wisconsin 53708-8928
Phone: (608) 266-6860
Email: erinfo@dwd.wisconsin.gov

II. Federal Procedure

A formal complaint can also be filed with the U.S. Equal Employment Opportunity Commission (EEOC) for **sexual harassment** and for **discrimination** if the alleged discrimination is based on:

Race	Religion
Color	National Origin
Sex	Age (40-70)
Genetic Information	

This formal complaint must be filed with the U.S. Equal Employment Opportunity Commission within 180 days after the alleged discrimination and/or sexual harassment took place. You may write to the Commission for their complaint form or call:

U. S. Equal Employment Opportunity Commission
Reuss Federal Plaza
310 West Wisconsin Avenue, Suite 500
Milwaukee, Wisconsin 53203-2292
Phone: (800) 669-4000



State of Wisconsin / DEPARTMENT OF MILITARY AFFAIRS

P O BOX 14587
MADISON 53708-0587

OFFICE OF THE ADJUTANT GENERAL

TELEPHONE 608 242-3000
DSN 724-3000

PRACTICE & PROCEDURE BULLETIN RECEIPT CERTIFICATION

This is to certify that I have received the Practice & Procedure (P&P) Bulletin on Employee Discrimination and Harassment Complaint Process (3.140). I have read P&P 3.140 and understand that state employees of the Department of Military Affairs are provided informal and formal mechanisms to address alleged incidents of sexual harassment, hostile work environment, and/or discrimination, as defined in P&P 3.140.

(Signature)

(Date)

(Typed or Printed Name)

Please return this certification to DMASHRFeedback@wisconsin.gov or fax to (608) 242-3168 or mail to ATTN: SHR, PO Box 14587, Madison, WI 53708-0587 within 2 weeks of receipt.