

DHS DISCRIMINATION AND HARASSMENT GUIDELINES AND PROCEDURE

DHS-010-017-01

The Office of Equity and Multicultural Services (OEMS) is the DHS Director's designee for employee Reports of Discrimination and Harassment.¹ The following procedure applies to all DHS employees, interns, and volunteers and extends to contractor/vendor and employee interactions.

Guiding Principles

- All DHS employees¹ are valued as diverse individuals and will be treated with dignity and respect.
- DHS employees treat each other and customers with respect and inclusivity.
- DHS employees value diversity.
- DHS employees thrive in a safe and fair environment for themselves and clients.
- DHS employees consistently rise to challenges with adequate resources and support.
- OEMS will provide respectful, individualized support.
- DHS employees hold the solutions to improve diversity and establish welcoming work environments.

¹ [DAS Discrimination and Harassment Policy 50.010.01.](#)

² Employees include leadership, managers, staff, contractors, interns and volunteers.

Procedure

First Contact

Who can Report. Reports³ by DHS employees or contractors may be brought directly to the attention of OEMS by the complainant, union steward, supervisor, manager, or Human Resources staff. A direct witness of the alleged action may also make a report on behalf of another employee. A verbal report may be filed, but for documentation purposes, an *Equal Opportunity Discrimination/Harassment Incident Report Form* should be completed by the reporter or an OEMS Specialist.

When to Report (Jurisdiction). Reports to OEMS must include an alleged harm that is in whole or part related to a protected class as defined by federal, state, local law or policy.⁴ Reports that do not allege a protected class issue shall be timely referred to an appropriate designee. Reports under this procedure shall be filed within one year from the last known (or could have reasonably been known) date of the alleged event.

In order for OEMS to proceed, reports must allege credible facts that if true, lead to a violation related to a protected class. Additionally, OEMS will not proceed with reports previously resolved that contain the same allegation(s) and issue(s). OEMS may defer to resolutions reached through external remedies, such as BOLI and EEOC.

OEMS staff shall have access to any and all files, records, notes, electronic correspondence or recordings maintained by DHS. Access to this information will assist in identifying issues and developing the best resolutions or recommendations.

Compliance and Retaliation. Failure to comply with DHS policy and procedure may result in disciplinary action up to and including dismissal

³ A report of discrimination or workplace harassment is considered a complaint. [See DAS 50.010.01.](#)

⁴ Protected Classes include, but are not limited to: Race, color, religion, sex, marital status, national origin, disability, age, sexual orientation, gender identity and sexual harassment.

from state service and/or termination of provider contractual agreement. Failure to comply means failure to cooperate with the OEMS procedure or failure to report incidents of Discrimination and Harassment to OEMS.⁵

Retaliation against any person who files a complaint, reports inappropriate behavior, or participates in an Informal or Formal Resolution Process is prohibited and may be subject to discipline, up to and including dismissal from state service and/or termination of provider contractual agreement.

Nothing in the Guidelines and Procedures precludes any person from filing a formal grievance in accordance with the collective bargaining agreement, Bureau of Labor and Industries, Equal Employment Opportunity Commission, from seeking private legal counsel or pursuing other legal remedies.

The Process. First, if OEMS determines that a report does not fall within OEMS jurisdiction, then notice to the reporter will be sent within 14 days that the report is closed.

Second, for reports that fall under OEMS jurisdiction, there are two possible paths. **A report will automatically proceed under the Informal Resolution Process, unless weighted factors indicate an exception for the Formal Resolution Process is more appropriate.** OEMS may determine that a report proceed under the Formal Resolution Process by considering the following factors and balancing the weight of those factors as to which approach, Formal or Informal, will be the most helpful.

Formal Exception Factors:

- Severity of credibly alleged actions.
- Risk and scope of harm to persons, programs, agency.
- Failure of respondent(s) or key participant(s) to cooperate in informal process.

⁵ [DAS 50.010.01\(g\)\(D\).](#)

Third, at the discretion of the Director of OEMS: 1) issues may be referred to a neutral third-party outside of the agency when available OEMS staff have a present conflict of interest; and 2) complicated issues may be referred to a Conflict Resolution Committee (CRC) to evaluate and determine how to proceed.

In some cases, OEMS may prepare a confidential Supplemental Report to address systemic issues. The confidential Supplemental Report is not available to participants or parties.

Informal Resolution Process

A report will automatically proceed under the Informal Resolution Process, unless weighted factors indicate an exception for the Formal Resolution Process is more appropriate.

Participants. OEMS staff will identify and contact the participants necessary to address the issues. Participants can include reporter, responding employee(s), supervisors, and managers. OEMS will notify appropriate upper management and Human Resources staff regarding the issues raised and the resolutions developed.

Support Options. The Informal Resolution Process is designed to resolve conflicts at the lowest level possible and with the least amount of disruption to the workplace. There are a variety of options and levels of support available. OEMS staff, working with key participants, will determine what options to implement. Such options may include mentoring, facilitated discussions, training, and/or referrals to resources.

Greater Support - Resolution Action Plan (RAP). If a greater level of support is appropriate, such as a facilitated discussion, mediation, or conflict transformation, then OEMS will develop and share a process plan with participants that identifies expectations and steps for the process. For example, facilitated discussions, mediation and conflict transformation can include a combination of one-on-one discussions with participants and providing support for participant joint conversations to safely create agreements and foster understanding. In joint conversations, participants may create a joint Resolution Action Plan (RAP) and/or a final agreement.

Conclusion. The Informal Resolution Process will conclude when either: (1) the reporter withdraws request for support or fails to demonstrate a continued commitment to the process; (2) a resolution is reached by participants; or (3) the Formal Resolution Process is initiated.

OEMS will prepare and share a closing letter and meet with relevant persons to reflect on the conclusion and evaluate participation in the process.

Formal Resolution Process

OEMS may proceed with a Formal Resolution Process when an Informal Resolution Process is not appropriate, as determined by the above factors.

Parties. The complainant and respondent(s) are the parties to the Formal Resolution Process. Witnesses are not parties to the Formal Resolution Process.

Notice. If the integrity of the Formal Resolution Process can remain preserved, OEMS will notify the parties, Chief Operating Officer, and Human Resources staff assigned to the area within seven days of an intent to proceed under the Formal Resolution Process.

Confidentiality. To protect the integrity of the Formal Resolution Process, participants shall maintain confidentiality and not disclose information to others that was requested by or discussed with OEMS.

Interviews & Data. The Formal Resolution Process is comprised of OEMS staff conducting interviews of relevant persons and collecting and analyzing relevant evidence. A party may have another DHS employee present as support during the interviews, as long as that employee is not also a witness or party. During interviews, represented respondents may have a union steward or attorney present and management respondents may have a management peer or attorney present.

Findings and Recommendations. The Formal Resolution Process will be completed within 90 days, unless OEMS requests a waiver for extraordinary circumstances and notifies the parties. At completion, OEMS will provide a Letter of Findings that identifies any alleged violation of policy

as unsubstantiated, substantiated, or undeterminable by a preponderance of the evidence, i.e., it is more likely than not that the alleged actions occurred. OEMS will communicate with necessary persons to develop and implement a plan of action for any recommendations made as a result of the Formal Resolution Process. By request, OEMS will prepare a written final report.

Appeals. Parties may appeal in writing, with a signature and date, indicating that either there is new relevant evidence that was not known or could not have reasonably been known during the time of the Formal Resolution Process that would affect the findings or there was a gross error. Appeals must be received by the Director's Office within 20 days from receipt of the Letter of Findings.

Findings are modified or reversed only if a party can establish there is (1) new relevant evidence that was not known or could not have been reasonably known during the time of the Formal Resolution Process that would affect the findings, or (2) there was a gross error. Examples of a gross error are excluding primary witnesses, direct evidence or a significant departure from the formal procedure.

The Director (or designee) may uphold, modify, or reverse the findings. Additional information may be requested or the Formal Resolution Process re-opened prior to this determination. The Director's decision on appeal is final.