



JEFFERSON COUNTY COMMISSION

Office of Affirmative Action

Procedures for Receiving, Investigating & Remediating Complaints of Employment Discrimination

In 2013, the United States District Court for the Northern District of Alabama (the “federal court”) issued a Consent Decree requiring Jefferson County to employ an Affirmative Action Officer. The Consent Decree further specifies certain roles and duties the Affirmative Action Officer is required to perform. One of the Affirmative Action Officer’s major functions is to receive, investigate, conciliate, and remedy complaints of workplace discrimination. As used in this document, the term “discrimination” includes unlawful discrimination in all its forms, including harassment and retaliation, as well as any conduct that violates the County’s Equal Employment Opportunity Policy (June 10, 2014, updated September 30, 2014) (“EEO Policy”).

The Affirmative Action Officer is a neutral party, and is available as a resource to all Jefferson County employees, regardless of race or sex. The County’s Affirmative Action Officer is:

Lourie A. Bradley
Affirmative Action Officer
716 Richard Arrington Jr. Blvd. North, Suite A640
Birmingham, AL 35203
(205) 583-8330

The office hours of the Affirmative Action Officer are Monday through Friday, 8:30 a.m. to 4:00 p.m.

Employees may make a formal complaint of discrimination or may simply visit the Affirmative Action Officer for an informal consultation seeking advice or information. More information about how to take advantage of the services of the Affirmative Action Officer is provided below.

Informal Consultation Process

Sometimes, employees just have questions and just want to talk or learn more about workplace EEO issues. If you have questions or concerns about discrimination or other issues arising in the workplace, but do not wish to initiate a formal investigation, you are encouraged to contact the Affirmative Action Officer to arrange for a private consultation. Starting the informal consultation process does not prevent you from escalating the matter to a formal complaint later on.

Receiving a Formal Complaint and the Investigation Process

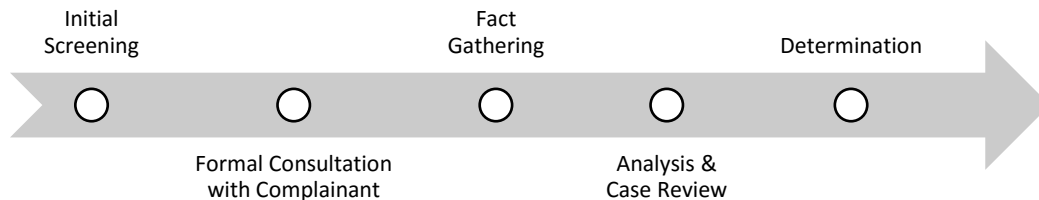
Employees or former employees who believe they have been subjected to discrimination or harassment of any kind are encouraged to bring the matter to the attention of the Affirmative Action Officer. Complainants may walk in between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, to report a complaint of discrimination. The complainant will be asked to complete and sign an *Employment Discrimination and Harassment Complaint Form*. A staff member will conduct a cursory review of the form to be sure that all required fields are complete. After the cursory review, each page will be time/date stamped received and initialed by the staff member accepting the form. A copy will be made and provided to the complainant. The Employment Discrimination and Harassment Complaint Form is also available via the internet at <http://jeffconline.jccal.org/AAO> and complainants may also submit a complaint via e-mail or regular mail.

Under the County's EEO Policy, supervisors have an affirmative obligation to report any actual or suspected violations of that Policy to the Affirmative Action Officer. A supervisor who receives or becomes aware of actual or suspected violations of the EEO Policy must document, in writing, all known information about the complaint, and forward that information to the Affirmative Action Officer without delay. The supervisor may e-mail the information to the Affirmative Action Officer at: affirmative_action@jccal.org, place it in interoffice mail for delivery, or hand deliver it at the office location set out above. A supervisor who fails to report discrimination to the Affirmative Action Officer is in violation of the EEO Policy, and may be subject to disciplinary action.

All new complaints must be promptly stamped and dated upon receipt. At which time, a letter will be generated and mailed to the complainant acknowledging receipt of the complaint, explaining the steps in the investigation process. Depending on the facts alleged in the complaint, the head of the department

within which the complaint originated may be notified of the complaint, and may also be asked to provide information, normally within ten (10) business days.

AAO Complaint Process



Initial Screening

Within 48 hours of receipt of a formal complaint, the Affirmative Action Officer will assign an analyst to perform an Initial Screening review, solely for the purpose of determining whether the complaint alleges discrimination, harassment, or retaliation within the scope of the Affirmative Action Officer's responsibility. At the Initial Screening phase, the Affirmative Action Officer and analyst do not consider the truth or falsity of the allegations, nor whether the allegations are likely to be supported by evidence. Rather, the only issue to be considered during Initial Screening is whether the complainant has alleged discrimination on the basis of race, sex, age, religion, national origin, or whether the complainant has allegedly been a victim of retaliation for engaging in protected activity.

If the Affirmative Action Officer concludes that the complaint does not fall within the scope of the Affirmative Action Officer's responsibility, a letter will be generated within ten (10) days to the complainant explaining why, and inviting the complainant to provide further information or clarification. If no further information or clarification is received, processing of the complaint will conclude at this point with a memorandum to the file documenting this decision. Even after processing of the formal complaint is concluded, the complainant may still utilize the Affirmative Action Officer's informal consultation process, as outlined above.

Formal Consultation

If the Affirmative Action Officer concludes that the complaint falls within the scope of the Affirmative Action Officer's responsibility, the Affirmative Action Officer will instruct the analyst

assigned to the case to carefully review the *Employment Discrimination and Harassment Complaint Form*, all documents in the file, and determine if there are any additional documents that should be obtained and reviewed before formally interviewing the complainant. During this initial file review, the analyst should identify key issues and questions that need to be addressed through interviews. The analyst assigned to the case should then request any missing or additional information in writing within ten (10) business days of receiving the complaint. If missing or additional information is requested, the complainant will be asked to provide the information within ten (10) business days of the date of the letter.

Upon receipt of any requested information, a letter will be generated and mailed to the complainant confirming receipt of the submitted information. If the requested information is not provided, an additional written request for information will be mailed to the complainant advising that the file will be closed if no response is received within ten (10) business days.

Next, the assigned analyst should conduct a formal consultation and thorough interview of the complainant and/or persons who brought the alleged misconduct to the attention of the Affirmative Action Officer. During the initial interview, the analyst should ask questions to clarify any issues or reconcile any discrepancies identified in the documents in the file. The analyst should seek to determine who was involved; what occurred; when and where it took place; the identity of any witnesses; whether this was an isolated incident or part of a pattern; what impact, if any, the alleged discriminatory conduct might have had; the identities of all persons with whom the alleged discriminatory conduct has been discussed; and whether there are any additional relevant notes, recordings, photographs, or other documents in existence and the location of the documentation.

Fact Gathering

In the Fact Gathering phase, the analyst assigned to the case will make every reasonable effort to learn all relevant facts. The assigned analyst should begin by interviewing other persons who may have witnessed the alleged misconduct, who may have been identified as having been subjected to similar conduct or who have information concerning any aspect of the alleged discriminatory conduct. Careful and clear notes should be taken of all interviews. Analysts' notes should memorialize the facts uncovered in the investigation, and not the analysts' impressions or judgments about the facts. The analyst may take formal statements from the complainant and other witnesses, but this is not always necessary.

As part of the Fact Gathering phase, the analyst will seek to determine whether the complainant has missed any work days, incurred any non-reimbursable medical expenses or had any monetary loss as a result of the alleged discriminatory conduct.

Analysis and Case Review

Upon completion of the Fact Gathering Phase, the assigned analyst will present the case for peer review with other analysts and the Affirmative Action Officer. In this peer review, the assigned analyst will present all steps taken by the analyst during the Formal Consultation and Fact Gathering phases, the outcome of each step, and the analyst's preliminary factual findings and impressions based upon the information gathered. Based upon the information provided by the analyst, the peer review panel and/or the Affirmative Action Officer may determine that there is sufficient information to advance the file into the Determination Phase, or that more fact gathering is needed before the file may be advanced to the Determination Phase, or that some other documented disposition of the file is appropriate.

Determination Phase/Report of Factual Findings and Determination:

When the file is moved into the Determination phase, the Affirmative Action Officer will prepare and/or direct the assigned analyst to draft a Report of Factual Findings and Determination ("Report"), for the Affirmative Action Officer's decisive approval and signature. The Report shall include the following sections: (1) Factual Findings, (2) Determinations, and (3) Recommendations.

- (1) Factual Findings: The Factual Findings section of the Report will carefully detail all relevant factual findings made during the Fact Gathering phase, including the name(s) of each interviewee, dates of each interview, a detailed account of each interviewee's statement, and all documents reviewed.
- (2) Determinations: The Determinations section of the Report may include one or more of the following determinations:
 - (a) that there is sufficient evidence to indicate a probable violation of County policy;
 - (b) that there is sufficient evidence to indicate probable discrimination;
 - (c) that there is not sufficient evidence to indicate a probable violation of County policy;
 - (d) that there is not sufficient evidence to indicate probable discrimination;
 - (e) that inappropriate behavior occurred, not constituting probable discrimination nor any probable violation of County policy; or
 - (f) a determination that the complaint is not supported by the evidence.

To reach the Determination(s), the Affirmative Action Officer need not take a legalistic approach nor necessarily rely upon the applicable legal standard(s) that would be used by a court in the course of formal legal proceedings to determine whether discrimination has occurred. Rather, in reaching his or her Determinations with regard to whether discrimination has occurred, the Affirmative Action Officer should consider the totality of the evidence and facts uncovered during the Fact Gathering phase, viewed in the light of his or her human experience. In reaching his or her Determinations with regard to whether a violation of County policy occurred, the Affirmative Action Officer should compare the Factual Findings with the language of the applicable County policies. The appropriate County policies or standards will be cited in the Report. The Determinations section of the Report shall also specify whether the Receiver has authority to “resolve and remediate” the claim pursuant to Paragraph 2(i) or only to “review” the claim pursuant to Paragraph 2(h) of the Receiver’s Order, and/or whether monetary relief may be awarded from the monetary fund created by the Court’s Order of March 14, 2014.

(3) Recommendations: The Recommendations section of the Report will set forth the Affirmative Action Officer’s recommended disposition of the complaint. During the Receivership imposed by the Court in its order of October 25, 2013, the Recommendation shall be in the form of a recommendation from the Affirmative Action Officer to the Receiver. The Affirmative Action Officer may make one or more of the following recommendations:

- (a) that the parties conciliate the complaint through formal or informal mediation;
- (b) that corrective/disciplinary action be taken, ranging from informal or written counseling, written reprimand, suspension, demotion, or other action up to and including termination;
- (c) that certain individuals be required to attend specific training;
- (d) that the Receiver award relief to the complaining party, including monetary relief, non-monetary relief, such as preferential hiring and promotion, retroactive Merit System service credit, or remedial/corrective training, or any other relief as deemed appropriate pursuant to the Receiver’s authority as assigned by the Court;
- (e) that the file be closed with no further action;
- (f) any other proper course of action.

If corrective actions are recommended, the Office of the Affirmative Action Officer will conduct follow-up activities with the appropriate department head or Jefferson County personnel, as necessary, to ensure that the situation has been corrected.

Normally, investigation of the complaint and preparation of the Report of Factual Findings and Determination shall be completed no later than ninety (90) days from the date the complaint is received by the Office of the Affirmative Action Officer or the date on which any requested documents are received from the complainant and/or department within which the complaint initiated, whichever date is latest, absent holidays, inclement weather, or extenuating circumstances.

Recordkeeping Obligations

During the duration of the Consent Decree, the Affirmative Action Officer will maintain complainant files indefinitely (including complaint intake forms, analyst notes, witness statements, other documents received and reviewed as part of the investigation, the Report of Factual Findings and Determination, and the Determination Letter). After conclusion of the Consent Decree, all such records will be maintained for a period of not less than five (5) years.