

# TRUMBULL COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

## Procedure

## Section 3.26

### EQUAL EMPLOYMENT OPPORTUNITY/HARASSMENT COMPLAINT PROCEDURE

The following complaint procedure has been developed by Leadership to address allegations of all forms of discrimination and harassment.

#### **1. Filing of Discrimination/Harassment Complaint**

Any employee, person served, or applicant having a complaint of discrimination or harassment on basis of race, color, gender (including identity expression), creed, culture, sexual orientation, spiritual beliefs, disability, age (over 40), national or ethnic origin, language, socioeconomic, marital, or veteran status, the inability to pay, or any other characteristic protected by law should report the alleged act immediately to their supervisor, Department Director, the Human Resource Director, or other leadership employee. The election of whom to file the notice or complaint with rests with the individual, irrespective of the chain of command. The individual may file a written complaint outlining the nature of the allegation.

The individual should be prepared to provide the following information:

- a. The employee's/individual's name, classification, and work site (name and address if a non-employee);
- b. The name of the person or persons alleged to have committed the harassment;
- c. The specific nature of the harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threat made against the employee as a result of the harassment.
- d. Potential witnesses to the harassment or discrimination; and
- e. Whether the allegation has previously been reported and to whom.

The individual making the allegation may also seek assistance from the Equal Employment Opportunity Coordinator, as designated by the Superintendent, located at the Gladys Morrison Board Office. A complaint form is available for this purpose, and can be obtained from the EEO Coordinator, or any leadership employee.

The complaint will be promptly investigated, even if the individual alleging harassment refuses to fill out a written statement.

The complaint must be filed within thirty (30) days of the alleged discriminatory action, except that this time limit may be extended if the complainant can show that he or she did not have notice of the time limit, or was prevented by circumstances

beyond his/her control from submitting the complaint within the time limit, or for other reasons considered sufficient by the Coordinator.

Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses.

A complaint shall be deemed filed on the date it is received, or on the date postmarked if mailed. The EEO Coordinator shall acknowledge receipt of the complaint in writing, and inform the complainant in writing of the complaint procedure and of his/her right to file with the EEO Commission and the Ohio Rights Civil Rights Commission.

## **2. Complainant's Right to Representation**

At any time during the course of the procedure, the complainant has the right to be accompanied, represented, and advised by a representative of his/her choosing. If the complainant is an employee and has designated another employee as his or her representative, both the representative and the complainant will be given a reasonable amount of time off work during normal working hours to present the complaint. Time spent during non-working hours to prepare the complaint will not merit compensation under this policy.

## **3. Rejection of Complaint**

The EEO Coordinator may reject a complaint which was not timely filed or where information supplied by the complainant is deemed insufficient for the purpose of conducting an investigation.

The EEO Coordinator shall reject those complaints which do not allege discrimination or harassment on the basis of race, color, religion, gender, creed, culture, sexual orientation, spiritual beliefs, disability, national origin, language, socioeconomic status, inability to pay, or age (40 and over), or which are substantially identical to a previous complaint filed by the same complainant which is pending or has been decided under this procedure.

The decision to reject a complaint, and the reason(s) for the decision, shall be communicated to the complainant in writing within ten (10) days of the filing of the complaint.

## **4. Informal Resolution of Complaint**

Upon receipt of complaint, the EEO Coordinator shall have twenty-one (21) days in which to investigate and attempt to resolve the complaint. If the investigation reveals that the complaint is valid, prompt remedial action designed to immediately stop the harassment, and to prevent its recurrence, will be taken. Any employee who is found to have engaged in harassment shall be subject to disciplinary action, up to and including termination.

If a resolution of the complaint is achieved, the terms of the resolution shall be set forth in writing, made part of the complaint file, and a copy shall be provided to the complainant.

If a resolution of the complaint is not achieved, the EEO Coordinator shall notify the complainant in writing: (1) of the proposed disposition of the complaint; and (2) of his/her right to a determination by the Superintendent if the complainant notifies the Superintendent in writing of his/her desire for a determination within fifteen days of his/her receipt of this notice.

Given the nature of these types of allegations, it is also recognized that false accusations of sexual or discriminatory harassment can have serious effects upon innocent individuals. Disciplinary action may also be taken against any employee who refuses to cooperate in the investigation of a complaint of discriminatory harassment, or who knowingly files a false complaint of discriminatory harassment.

#### **5. The Determination by the Superintendent**

Upon receipt by the Superintendent of the complainant's written notification of this/her desire for a determination, the Superintendent shall have thirty (30) days in which to conduct a determination proceeding on the complaint.

The EEO Coordinator shall transmit to the Superintendent all materials concerning the complaint which have been acquired. Should the Superintendent determine that further investigation is needed; the Superintendent may direct the EEO Coordinator to conduct such investigation.

The determination proceeding shall be conducted in accordance with the following:

- a. Adequate notice to parties of the determination proceeding including time, place, and procedures.
- b. Reasonable timing.
- c. Right of each party to representation.
- d. Right of each party to present evidence.
- e. Right of each party to question evidence of the other.
- f. Decision made solely on the basis of the evidence.

The Superintendent shall have authority to:

- a. Regulate the course of the determination proceeding.
- b. Exclude irrelevant or unduly repetitious evidence.
- c. Limit the number of witnesses.
- d. Exclude any person from the determination proceeding for misconduct.

The Superintendent shall render a decision within ten (10) days of the conclusion of the determination proceeding or as soon thereafter as possible. The decision shall be made in writing and shall contain a statement of the reason(s) for the decision. Copies of the decision shall be provided to the EEO Coordinator and the complainant. In addition, a letter shall be provided the complainant informing him/her of his/her right to file with the EEO Commission and the Ohio Civil Rights Commission. The complainant has the right to file with the EEO Commission and the Ohio Civil Rights Commission within 180 days (federal) 6 months (state) of the date of the alleged discrimination.

The decision of the Superintendent shall be final; subject to the appeal mechanisms described above.

## **6. Freedom from Reprisal**

Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal during all stages and following the completion of the complaint procedure.

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