PURPOSE

It is important to the Department that employees have a process that allows them to raise concerns of perceived discrimination and have those concerns fairly and objectively evaluated. This procedure provides guidance to employees in filing complaints of discriminatory practices or actions, and defines the responsibilities of the Department and all Department employees in the complaint process.

**DEFINITIONS**

Complaint: An allegation that an employee has been discriminated against (treated differently) based upon or because of protected category (race, color, sex, age, national origin, religion, disability, or genetic information, and where applicable: veteran status, ancestry, and sexual orientation).

Complaint Investigation: A formal gathering of facts, interviews, and evidence pertinent to a complaint that is conducted by the Department’s Human Relations Officer (HRO) or other authorized person. After review by the Office of General Counsel, The Department’s HRO will notify all appropriate parties of the complaint’s outcome.

Time Frames: All time frames shall be calculated beginning the next working day excluding weekends and holidays after receipt of the complaint or response. Time frames calculating the time in which to file the complaint will begin the next working day after the event occurs, date of the final action, or the date the complainant becomes aware of the action.

Witness: An individual who has direct, firsthand knowledge of the situation either by participation or observation.

Working Days: Monday through Friday, excluding weekends and holidays.

Business Hours: 8:00 a.m. through 5:00 p.m. unless extenuating circumstances apply.

POLICY

1.0 GENERAL PROVISIONS

* 1. Any Department employee may file a complaint if s/he believes s/he has experienced discrimination.
	2. Work-related grievances that do not involve alleged discrimination are exempted from this policy. See Policy 12.1 Grievance Procedure - Non-Union Represented.
	3. The HRO will monitor and investigate all complaints unless the Chief, Office of Human Resources (OHR) assigns other management or OHR personnel. Complaints shall not become part of an employee’s official personnel file, unless a substantiated complaint results in disciplinary action. In this case, only the disciplinary action itself will be made part of a personnel file. The HRO will maintain a separate confidential file for complaints.
	4. Complaint forms will be made available to employees on the Department’s Intranet and through the HRO and/or the Office of Human Resources.
	5. A complainant is allowed to use Department equipment to prepare (type on computer or typewriter) and distribute his/her complaint as required. S/he shall be given a reasonable amount of work time up to one (1) hour for preparation. Supervisors may request complainants attend to pressing work prior to processing a complaint, but may not unreasonably deny or delay such processing.
	6. Individuals who are not employees of the Department may not file a complaint for an employee. Employees shall not file complaints for other staff, but more than one complainant may join one complaint if the alleged discrimination is under circumstances common to all of them.
	7. All Department employees shall act in good faith when utilizing these procedures. Complete cooperation is required of all Department employees in any investigation, and failure to cooperate fully and truthfully will result in disciplinary action up to and including dismissal.

1.8 Any employee found to have knowingly made a false or malicious complaint under this policy will face disciplinary action up to and including dismissal.

1. **COMPLAINT PROCESS**

2.1 An employee who believes s/he has been discriminated against by any other employee of the Department shall fill out an HR-22 Internal Complaint form (attachment 12.6A). The HR-22 Internal Complaint form should be filled out as completely and accurately as possible, and as soon as possible, preferably no later than fifteen (15) days after the alleged discriminatory event or action.

2.2 Employees are encouraged to file complaints via the Department’s complaint process, but are not restricted from filing similar complaints with the Missouri Commission on Human Rights (MCHR) or the Equal Employment Opportunity Commission (EEOC).

2.2 After completion, the employee shall forward the HR-22 Internal Complaint form to the HRO or e-mail directly to the HRO’s state e-mail address; or mail to Department of Health and Senior Services, Office of Human Resources, Attn. Human Relations Officer, PO Box 570, Jefferson City, MO 65102-0570.

2.3 After receipt, the HRO shall discuss the complaint with the complainant(s) and/or review the completed HR-22 Internal Complaint form within ten (10) working days of receipt to determine if the allegation is appropriate for the complaint process, or if it is better handled through the grievance/mediation process. If necessary, the HRO shall consult with the Chief, Office of Human Resources and/or the Office of General Counsel in making this determination.

2.4 If the allegation is determined to be better handled through the grievance process, the HRO shall advise the complainant of such and provide guidance under Policy 12.1 Grievance Procedure – Non-Union Represented.

2.5 If the allegation remains within the complaint process, the HRO will initiate an investigation. The HRO will conduct the investigation as expeditiously as possible, but to ensure thoroughness, will not be limited by a specific time frame.

2.6 Upon completion of the investigation, the HRO will prepare a fact-finding report.

2.7 The HRO will provide completed reports of investigations to the offices of Human Resources and General Counsel. The appropriate personnel in these offices will review the report, and make recommendations as appropriate for action to the Department Director, or designee. The Department Director, or designee will then render a decision and take what action (if any) is deemed proper.

1. **CONFIDENTIALITY**
	1. All complaints and associated information are confidential. All Department employees involved in complaints and investigations thereof are expected to maintain this confidentiality. Complainants, witnesses and other persons involved may be required to sign a statement of confidentiality.
	2. Any correspondence/files related to complaints should be marked “Confidential” and shall be handled and maintained in a confidential manner.

3.3 Results of investigations made under this policy are confidential personnel information and will not be released to anyone not specifically authorized by law or statute to possess such information.

Prepared By: Approved By:

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Chief, Office of Human Resources DHSS Director (or designee)

**REFERENCES**

* [Administrative Policy 12.1 – Grievance Procedure - Non-Union Represented](https://dhssnet.state.mo.us/policiesprocedures/)
* [Americans with Disabilities Complaint Procedure](https://www.usa.gov/disability-rights)
* [Genetic Information Non-Discrimination Act of 2008 (GINA) Public Law 110-233](https://www.hhs.gov/hipaa/for-professionals/special-topics/genetic-information/index.html#:~:text=The%20Genetic%20Information%20Nondiscrimination%20Act,health%20coverage%20and%20in%20employment.)

**FORMS**

* HR-22 – Internal Complaint form – Admin Policy 12.6-Attachment A
* posted in Policy Manual and HR intranet page under “Procedural Reference Forms @ <https://dhssnet.state.mo.us/hr/forms.php>