

| | |
|---|--|
| DEPARTMENT OF PUBLIC WORKS MANAGEMENT MANUAL | |
| Personnel Directive | Subject: <u>PUBLIC WORKS DISCRIMINATION COMPLAINT PROCEDURE</u> |
| <i>ADOPTED BY THE BOARD OF PUBLIC WORKS, CITY OF LOS ANGELES</i> | |

June 20, 2007

PERSONNEL DIRECTIVE NO. 36

BACKGROUND

This discrimination complaint procedure was originally adopted by the Board of Public Works on June 14, 1974 and was revised in 1979, 1983 and 1987. It is again being revised to reflect the most recent changes in the law and to maintain consistency with the City's Equal Employment Opportunity policy. This procedure is based on the City's discrimination complaint procedure as published by the Personnel Department. While this procedure pertains to complaints of discrimination, employees should also refer to related Personnel Directive No. 47: "Procedures for Preventing and/or Resolving Problems Related to Sexual Harassment," and No. 58: "Sexual Orientation Discrimination in Public Works." (Note: Those who wish to file a sexual harassment and/or sexual orientation discrimination complaint may utilize the procedure in this Directive; Directive No. 47; or Directive No. 58.)

PROCEDURE

I. Employee and Candidate Rights

- A. This complaint procedure may be used by any employee, contractor or applicant for employment in the Department of Public Works who believes any action, procedure or practice in selection or employment is discriminatory on the basis of race, color, sex, age, creed, religion, national origin, ancestry, marital status and actual or presumed medical condition, disability, sexual orientation, gender identity - or expression, trans gender status, acquired immune deficiency syndrome (AIDS or HIV virus) or in retaliation for having filed or participated in a discrimination complaint. It provides for the resolution of complaints regarding actions or attitudes, which are at variance with the City's Equal Employment Opportunity Policy.
- B. Any employee, contractor or applicant wishing to utilize this procedure shall have the right to be: 1) provided with factual information regarding the filing of discrimination complaints; 2) provided with a list of organizations and associations authorized to represent Public Works employees; 3) represented by any person or organization of his/her choosing; and 4) protected against reprisal or adverse action solely for filing a discrimination complaint.

- C. This procedure shall be available to all employees except those who have utilized another City grievance or appeal procedure for the same or closely related issues (see III.A). If an employee files a complaint under this procedure and subsequently files a complaint on the same matter under another City procedure, the processing of the complaint under this discrimination complaint procedure shall be terminated.
- D. Nothing in this procedure shall restrict the right to file a complaint with any State or Federal agency responsible for the enforcement of anti-discrimination legislation.

II. Steps in Using the Procedure

An employee wishing to utilize this procedure shall take the following steps:

- A. The employee shall discuss his/her complaint with the respective Bureau Equal Employment Opportunity (EEO) Counselor within one year of the alleged discrimination. (See attachment "Department Coordinators" (incl. EEO Counselors).

The Bureau EEO Counselor will answer the employee within five working days of their initial discussion. The Bureau EEO Counselor should observe the general guidelines for conducting a discrimination complaint investigation as outlined in the Personnel Department Procedures Manual, Sections 16.000 – 16.900.

- B. An employee who is dissatisfied with the answer of the Bureau EEO Coordinator Counselor may, within ten working days of the receipt of that answer, appeal the decision to the Departmental EEO Counselor at the Office of Management-Employee Services). The written appeal should be submitted on "Request for Review of Discrimination Complaint", Form No. PAA-3A (copy attached). Copies of the form are available from the respective Bureau EEO Counselors. The Departmental EEO Counselor will answer the complaint in writing within five working days of the receipt of the appeal.
- C. An employee who is dissatisfied with the decision of the Departmental EEO Counselor may, within ten working days of the receipt of the answer, file a written appeal with the Board of Public Works through the Secretary, Board of Public Works using "Appeal to the Board of Public Works", Form No. PAA-3B (copy attached.)

The Board of Public Works will take one of the following steps:

1. Affirm the decision of the Departmental EEO Counselor
2. Return the complaint to the Departmental EEO Counselor for further investigation; or

3. Appoint one of its members to investigate the merits of the complaint.

A Commissioner who is assigned a discrimination complaint may, at his/her discretion, hold a hearing for the purpose of receiving evidence. The Commissioner's recommendations for disposition of the complaint will be submitted to the Board within 15 days of the day the Commissioner was assigned the complaint. Any time limits established in this procedure may be extended by mutual agreement of the concerned parties.

III. Other Complaint Procedures

An employee with a complaint has several other procedures available to him/her. These alternate procedures are described below. For assistance in selecting the most appropriate procedure within the City, employees should contact their Bureau EEO Coordinator. If this is not feasible, an employee may request assistance, by telephone or in person, from the Employee Relations Division, Office of Management-Employee Services.

A. Within the City

1. A represented employee may file a grievance in accordance with his/her applicable memorandum of understanding.
2. An un-represented employee may file a complaint under the Department's Employee Grievance Procedure (see Personnel Directive No. 34).
3. An employee, whether represented or not, may file a complaint with the Board of Civil Service Commissioners, Room 360, Personnel Building, 700 E. Temple Street. (see attached procedure)

B. Outside the City

1. Equal Employment Opportunity
Commission (Federal)
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
(213) 894-1000
2. Office of Federal Contract Compliance Program
11000 Wilshire Bl., Suite 8103
Los Angeles, CA 90024
(310) 235-6803

3. U.S. Department of Justice Civil Rights Division
P.O. Box 65808
Washington, D.C. 20035-5808
(202) 514-4609
4. Department of Fair Employment and Housing (State)
611 W. Six Street, 15th Floor
Los Angeles, CA 90012
5. Industrial Relations Department
Division of Labor Standards Enforcement (State)
320 W. Fourth Street, Suite 450
Los Angeles, CA 90013
(213) 620-6330

Filing a complaint with the Board of Civil Service Commissioners or within the Department of Public Works will not extend the time for filing a charge with other State and Federal agencies.

Questions regarding the above bases for discrimination complaints and filing requirements should be directed to the concerned agency.

References:

CITY OF LOS ANGELES DISCRIMINATION FREE WORKPLACE POLICY RESOLUTION, last revised by City Council 10/1/99 <http://www.lacity.org/per/EEO/DISCRIM.pdf>

Mayor's Executive Directives

PE-1 (Hahn Series) of 8/31/04

http://www.lacity.org/mayor/hahned/mayorhahned248333327_02082005.pdf

2001-35 (Riordan Series) of 2/8/2001

<http://www.lacity.org/PER/eo/ED2001-35.pdf>

The Personnel Department's

Discrimination Complaint Procedure <http://www.lacity.org/PER/eo/DISCRIME.htm>

Sexual Harassment Discrimination Complaint Procedure

<http://www.lacity.org/PER/eo/sexharas.pdf>

Sexual Orientation Discrimination Complaint Procedure

<http://www.lacity.org/PER/eo/sexual%20orientation%20complaint%20procedure.pdf>

Department Coordinators (including EEO Counselors)

<http://www.lacity.org/PER/eo/DeptCoord.pdf>

EEO Handbook for City Commissioners (and all other City Employees)

<http://www.lacity.org/PER/eo/EEO%20Handbk%20CityComm.pdf>

Department of Public Works' (all revised2007)

Personnel Policy No. 7 – “Guide to Employee Discipline”,

Personnel Policy No. 13 – “Sexual Harassment and Sexual Orientation Discrimination”,

Personnel Directive No. 47 – “Procedure for preventing and/or Resolving Problems related to sexual Harassment”

Personnel Directive No. 58 – “Prohibition against Sexual Orientation Discrimination iPublic Works”

DEPARTMENT OF PUBLIC WORKS
OFFICE OF MANAGEMENT-EMPLOYEE SERVICES

REQUEST FOR REVIEW OF DISCRIMINATION COMPLAINT

Instructions: This form should be used by any employee or applicant requesting review of an unresolved complaint under the provisions of the Department of Public Works Discrimination Complaint procedure. To appeal a decision by the Bureau EEO Counselor, complete this side of the form and send it to the EEO Counselor of the Department of Public Works at the, Office of Management-Employee Services). The reverse side of this form should be completed only to appeal a decision by the Department EEO Counselor to the Board of Public Works.

| | |
|---|------------|
| Employee's Name | Date |
| Bureau or Department (If employed by the City of Los Angeles) | Phone |
| Home Address | Home Phone |
| Describe the basis of your discrimination complaint, including the discriminatory practice, procedure, or incident which has occurred and the date of occurrence. Name(s) of person(s) thought responsible for discrimination. Name, address, phone number of complainant's representative, if any. | |
| Name of Bureau EEO Counselor with whom you discussed your complaint (including date of discussion) and indicate what has been done about resolving your complaint. What remedy to the complaint are you seeking? | |

USE THIS SIDE ONLY
TO APPEAL TO THE BOARD OF PUBLIC WORKS

Instructions: Complete this side of the form to appeal a decision made by the Departmental EEO Coordinator under provisions of the Public Works Discrimination Complaint Procedure. When complete, file it with the Secretary to the Board of Public Works.

| | |
|--|------------|
| Employee's Name | Date |
| Bureau or Department (If employed by the City of Los Angeles) | Phone |
| Home Address | Home Phone |
| <p>State reasons for your appeal. Also, indicate the date when the complaint was submitted to the Department EEO Counselor for review and state the results of that review. (Attach a copy of the written reply from the Department EEO Counselor)</p> | |
| Employee's Signature | |