

	<b>STANDARD OPERATING PROCEDURE</b> <small>State Form 39870( R/ S- 06 )</small>	Reference Number <b>IIS-003</b>
	Subject <b>Equal Employment Opportunity</b>	
	Special Instructions Replaces IIS-003 dated January 15, 2015	Effective Date <b>June 4, 2024</b>

**I. PURPOSE**

Establish guidelines for reporting, investigating, and resolving employee or applicant discrimination complaints.

**II. POLICY**

The Department shall provide equal employment opportunities to employees and candidates for employment and shall investigate complaints or allegations concerning employment discrimination based on race, sex, sexual orientation, pregnancy, religion, national origin, color, age, or disability; in accordance, with the Civil Rights Act of 1964 (Title VII) and subsequent amendments,, the Age Discrimination in Employment Act (ADEA), the Pregnancy Discrimination Act of 1978, the Genetic Information Nondiscrimination Act of 2008 (GINA), and the Americans with Disabilities Act (ADA).

**III. DEFINITION**

A. Discrimination - Unfair or unequal treatment of an individual or group based on protected class status.

B. Harassment - Unwanted, unwelcome, or uninvited conduct that demeans, threatens, or offends another person based on a protected class. Harassment becomes unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

C. Qualified Applicant or Employee with a disability – A person who satisfies the requisite skill, experience, education, and other job-related requirements of the position and can perform the essential functions of the position in questions, with or without reasonable accommodation.

D. Retaliatory Conduct - Conduct or action designed to serve as retribution against an employee who, in good faith, has reported, participated in the EEO process, or otherwise provided information regarding misconduct against another employee. Such conduct may take many forms, including, but not limited to, bullying; persistent offensive comments, threats, or intimidation; false accusations; isolation; ostracism; posting of secure or personal information on the Internet; or acts that malign or disparage an individual’s reputation.

E. Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical offensive conduct of a sexual nature that explicitly or implicitly affects employment; unreasonably interferes with work performance; or creates an intimidating, hostile, or offensive working environment.

**IV. ACTIONS THAT CONSTITUTE DISCRIMINATION**

A. Denying employment opportunities to a qualified individual because the individual is in a protected class or has a relationship or association with a person in a protected class.

B. Refusing to make reasonable accommodation(s) to the known physical or mental limitations of a qualified applicant or employee with a disability unless the accommodation would pose an undue hardship on the Department.

C. Retaliation against an individual because the individual has opposed an employment practice of the employer or filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing to enforce provisions of the aforementioned Acts.

D. Engaging in conduct such as intimidation, insult, or ridicule, that has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment, on the basis of a protected class.

E. Sexual Harassment:

1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or on the basis of one's sex/gender constitutes sexual harassment when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; and/or

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

2. Creating a hostile work environment based on sex/gender.

## **V. RESPONSIBILITIES**

A. The ultimate responsibility for equal employment within the Department is that of the Superintendent.

B. The EEO Officer (Commander of the Internal Investigation Section) has the responsibility:

1. To ensure that all necessary action is taken by all levels of command to achieve equal employment opportunity;

2. To advise any victim/complainant of the administrative and civil avenues available for pursuing a civil rights complaint; and

3. To ensure compliance with any disciplinary and/or remedial action(s) ordered by the Superintendent.

C. It is the responsibility of each commander and supervisor to provide equal opportunity for all of their personnel with regard to work assignments, training, transfers, advancements, and other terms, conditions, or privileges of employment.

D. Commanders and supervisors must ensure that matters concerning equal employment opportunities that require action beyond normal supervision are properly brought to the attention of the Department's EEO Officer.

## **VI. PROCEDURE**

A. An employee who believes they have been the subject of discriminatory employment practice(s), who chooses to file their complaint with the Department, must follow the procedures below within one (1) year of the alleged discrimination.

B. Department personnel who believe they have been the subject of discriminatory employment practice(s) may exercise either of the following options without having to follow the normal chain of command:

1. Informal Option: An employee who wishes to file an informal complaint shall contact Human Resources for

the appointment of a Department Officer of Equality and Inclusion (OEI).

a. After selecting an OEI, Human Resources shall direct the OEI to report to the Department's EEO Officer, who shall supervise the informal resolution process.

b. The OEI shall contact the employee to setup an appointment for a consultation.

c. The OEI shall screen the complaint to determine if:

i. No discriminatory action has occurred (if appropriate, an OEI may refer the employee to the appropriate grievance process per HRM-018);

ii. Discriminatory action has occurred, and the matter should be a formal EEO complaint (see Procedure 2); or

iii. Discriminatory action has occurred and is eligible to be resolved by the OEI.

d. Informal complaints accepted by the OEI for resolution shall be documented with an in-take form signed by the employee and maintained by the Department's EEO Officer.

e. An employee may elect to remove their complaint from the OEI and file a formal complaint with the Department, Equal Employment Opportunity Commission, or Indiana Civil Rights Commission, at any time prior to resolution by the OEI. However, filing an informal complaint with an OEI does not extend or toll any filing deadlines.

f. The OEI shall attempt to reach a resolution that is acceptable to the employee.

g. If the OEI is unable to resolve the employee's complaint, the OEI may refer the complaint to the Department's EEO Officer for a formal investigation under Procedure 2 below.

2. Formal Option: An employee who wishes to file a formal complaint shall contact the Department's EEO Officer directly, by telephone, in writing, or by email without having to follow the normal chain of command;

a. The EEO Officer shall determine whether the filed complaint has legal standing under applicable civil rights law.

b. If it is determined that the written complaint does not meet EEO complaint guidelines, the complainant shall be informed of any other available options.

c. When a prima facie complaint has been received, a written memorandum, from the EEO Officer, shall be directed to the Superintendent advising of the complaint, the general nature of the complaint, who filed the complaint, and a request to open an internal investigation.

d. Subsequent to review, when appropriate, the Superintendent shall notify the appropriate Primary Staff member or major subordinate commander of the complaint.

e. The utilization of any member of the Department for an EEO internal investigation, not including a member of the Internal Investigations Section, shall be requested, through the Deputy Chief of Staff for Investigations and Intelligence, and coordinated with the appropriate Primary Staff member or major subordinate commander.

f. All interviews of Department members shall be recorded.

g. Interviews shall take place at a location designated by the lead investigator or EEO Officer. The interview shall take place when the Department member is on-duty unless circumstances dictate otherwise. If a

Department member is required to interview during off-duty time, the individual shall be compensated for said time in accordance with Department rules, regulations, and standard operating procedures.

h. If a Department member is required to leave their normal location of permanent or temporarily assignment to report for an interview, the commander of that location/entity shall be promptly notified.

i. All members of the Department who are being interviewed in relation to an EEO administrative investigation shall be informed of the general nature of the investigation. Department personnel may not refuse to answer pertinent questions that are specifically and narrowly related to the complaint in question.

j. A Department member who is the victim in an EEO matter shall be informed of results of the investigation. This shall be done only after the Superintendent has reviewed the investigation and has made a final disposition.

k. All EEO administrative investigations are confidential and Department personnel shall not divulge to any source (except legal counsel) the nature of the investigation. However, this policy shall not restrict the complaining party from discussing the nature of the investigation for the purposes of furthering the investigation; nor, shall this policy restrict an employee from discussing the terms and/or conditions of their employment.

l. All investigations shall be conducted with the utmost cooperation possible with the commander involved and under the authority of the Superintendent.

C. Department members shall not knowingly interfere with or impede cases assigned to other members for EEO investigations.

D. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies, and procedures.