

COMPLAINT PROCESS

The Illinois Department of Transportation (IDOT) affirms its commitment to a policy of Equal Employment Opportunity (EEO) through the implementation of a Complaint Investigation Process (CIP) to promote the internal resolution of all applicant and employee complaints of alleged discrimination. It is the belief of IDOT that the establishment of this CIP shall provide an internal avenue of redress to resolve complaints of alleged civil rights violations while informing applicants and employees of their right to file a complaint externally.

To that end, supervisors and managers are responsible for immediately reporting complaints of civil rights violations within their organizational level to the Bureau of Civil Rights (BCR). BCR shall advise and support management by investigating the complaints, documenting the facts, presenting the findings, and making recommendations to resolve the dispute. Allegations of inappropriate behavior that do not constitute civil rights violations will be referred to Bureau of Investigations and Compliance, the Ethics Officer, Labor Relations, or Department management as appropriate.

BCR encourages all employees to report any potential civil rights violations they witness or experience.

REQUIREMENTS FOR REPORTING SEXUAL HARASSMENT

[Executive Order 2018-02](#) – Illinois Governor’s Executive Order Strengthening the State’s Ethics Laws and Compliance added additional requirements for investigating complaints of sexual harassment. The order requires the following:

- All Supervisors and EEO/Affirmative Action (AA) Officers must immediately report all allegations of sexual harassment received, directly or indirectly, to the Ethics Officer. Within IDOT, it is permissible for reports to be made directly to the Bureau of Civil Rights (BCR). Notification to the Ethics Officer will be ensured by BCR for complaints which are classified as Sexual Harassment.
- The Ethics Officer must ensure an initial review of each allegation of sexual harassment is completed within ten (10) business days of receipt the allegation.
- The Ethics Officer must ensure IDOT completes its investigation and makes any referrals for management action or disciplinary proceedings within thirty (30) days of receipt of the allegation.
- The Ethics Officer must notify the Chief Compliance Officer of all sexual harassment allegations reported to the Ethics Officer, Supervisors, or EEO/AA Officers within IDOT, and any related findings and remedial or disciplinary measures recommended or taken.
- All communications or reports shared with the Chief Compliance Office regarding sexual harassment allegations and investigations shall remain confidential between the parties directly involved unless otherwise required by law.

EMPLOYEE CONDUCT AND CIVIL RIGHTS VIOLATIONS

All employees will follow IDOT policies and procedures as stated in the Personnel Policy Manual (PPM) when allegations of civil rights violations occur, the relevant sections are provided below, verbatim:

10-3 GUIDELINES

C. Civil Rights Violations. An employee shall not engage in actions which constitute a violation of federal and state laws and Executive Orders. Examples of conduct which could constitute such violations are: sexual harassment, racial harassment, sexually or racially offensive remarks/materials, discrimination on the basis of an individual's race, color, national origin, religion, age, sex, marital status, disability, unfavorable discharge from military service or any other non-merit factor. See also Chapter 2: Equal Employment Opportunity/Affirmative Action for further information.

17-3 GUIDELINES

E. Civil Rights Violations. Disciplinary action involving matters which represent a potential violation of the [Illinois Human Rights Act](#) or federal [Civil Rights Act](#) shall be treated as follows:

- 1. Any office/division/bureau which receives a complaint against an employee alleging an act which constitutes a potential violation of the Illinois Human Rights Act or federal Civil Rights Act (e.g., racial or sexual harassment) shall immediately report such matter to the Bureau of Civil Rights. Employees may file a complaint directly with the Bureau of Civil Rights.*
- 2. The Bureau of Civil Rights shall investigate the matter and report its investigation to the Civil Rights Committee.*
- 3. Employees shall be allowed scheduled time of a reasonable duration during working hours to present their complaints, with no deduction of pay or benefit time. Such time shall not interfere with the operations of the department.*
- 4. The Civil Rights Committee shall consist of the following voting members: the Secretary or their designee, the Chief Counsel or their designee, Director of Finance & Administration or their designee, and the Bureau Chief of Civil Rights.*
- 5. The committee shall review all information concerning the alleged violation, including, but not limited to the investigative reports prepared by the Bureau of Civil Rights and shall have the authority to interview witnesses and discuss the matter with the employee's supervisor(s).*
- 6. Subsequent to review, the committee shall make the following recommendations to the Secretary:*
 - a) whether the employee has committed a violation of department policy, and,*
 - b) if such a violation has occurred, the level of discipline to be imposed.*

7. *The Secretary may concur with recommendation of committee, change the discipline to be imposed, or return the matter to the committee for further review.*

8. *Once the Secretary has set the discipline to be imposed, the Director of Finance & Administration in conjunction with the bureau where the complaint originated shall act on that discipline.*

9. *An employee who is disciplined pursuant to a recommendation by the committee shall retain all grievance rights set forth in this chapter or the employee's applicable collective bargaining agreement.*

INTERNAL COMPLAINTS

Any person alleging to be aggrieved by a discriminatory practice may complete IDOT's [Civil Rights Discrimination Complaint Form BCR 2545](#) and forward it to BCR. Employees are encouraged to complete the internal complaint form electronically and return the form along with any documents substantiating the allegations to DOT.CivilRights@illinois.gov within 300 days of the alleged discriminatory or harassing incident. Complaints may be made anonymously by contacting BCR directly by phone at 217-782-2762.

When BCR receives a complaint, it is logged into the BCR case tracking system. An investigation file is established, and the matter is assigned to a staff investigator. Within two working days after receipt of the complaint, notification of receipt is forwarded to the Complainant. The Complainant will be notified if additional information/documentation is necessary. To preserve confidentiality and minimize incidents of retaliation, management will only be notified of the existence of a complaint when it becomes necessary to obtain documentation or for assistance if required.

Investigation

Bureau of Civil Rights investigations are confidential. Participants are not to disclose any information discussed during investigation interviews. Violations of confidentiality are taken seriously. Anyone found to be in violation may be subject to discipline up to and including discharge.

Management is asked to respond to the allegations of the complaint within ten working days of receipt. The response shall entail the verification of information with the immediate supervisor, collection of all documentation related to the complaint and additional information deemed necessary.

As for sexual harassment complaints, the investigation requirements of Executive Order 2018-02 and investigation procedures outlined in IDOT's Personnel Policies Manual will be followed and accelerated.

The following may occur at any time during the course of the investigation:

- The Complainant may withdraw or amend all or a portion of the complaint during the investigation. Items may be added to the complaint if they are written within 300 days of the alleged infraction.

- Allegations may be added by Investigators if additional civil rights violations are revealed during the course of the investigation.
- Other incidents of misconduct that do not constitute civil rights violations may be referred out to the appropriate entity for investigation and/or resolution.
- The complaint may be dismissed after the investigation has concluded if a preponderance of the evidence indicates that there is no merit to the complaint, or if the issue is not a civil rights issue.

Counseling

Counseling is an integral component of the investigation process. Both the Complainant and the Respondent may be involved. Management may also be counseled as to the handling of complaints and/or actions taken. Contacting the assigned investigator is appropriate for inquiring about the status of the investigation. Details about investigations are not disclosed.

Conciliation

The BCR shall conduct and coordinate conciliation efforts by conferring with the appropriate parties to secure a reasonable settlement. A conciliation conference may be convened where all parties may attend or may be represented to propose, discuss, and agree to a resolution of the complaint. Information communicated during conciliation conference is to remain confidential between the parties involved and should not be disclosed to any person not directly involved in the process. Successful conciliation resolves the dispute and closes the complaint.

Investigation Findings

All documentation will be compiled and presented to the CRC along with recommendations from the BCCR. The BCCR will contact the Complainant by letter with the decision of the CRC. Information provided will not include information about discipline recommended or imposed, nor any other administrative or employment action taken against another employee. This includes any Complainant, Respondent, or witness involved in an investigation.

The use of this internal CIP does not preclude the employee from filing a complaint directly with the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) within 300 days of the alleged violation, or any other appropriate government agency. The filing of any complaint of alleged discrimination may not be used as a basis for future retaliation adversely affecting the employment or rights of the employee.

EXTERNAL COMPLAINTS

An external charge is one that is filed with Illinois Department of Human Rights (IDHR), the Equal Employment Opportunity Commission (EEOC), or any other appropriate government agency. A person who feels they have suffered direct harm from an alleged discriminatory conduct or practice may file a charge with an external agency.

Procedure

All written complaints received from IDHR or the EEOC will be logged into the BCR tracking

system before they can be processed. Once they are logged in, a file is established, and it is assigned to a staff investigator. If the allegations are related to Sexual Harassment, the Ethics Officer will be notified. Within two working days after the receipt of the complaint, notification of receipt and request for management's response is forwarded to the Administrative Office serving the location where the alleged violation occurred, the Director of the Office/Division, and the appropriate Bureau Chief or Regional Engineer. If the complaint names an individual as the alleged offending individual, they are notified. If the complaint indicates Complainant is represented by legal counsel, no discussion of the complaint may be engaged in with Complainant directly by any employee or representative of IDOT.

Investigation

Management is asked to respond to the allegations of the complaint within ten working days of receipt. The response shall require the verification of information with the immediate supervisor(s) and collection of all documentation related to the complaint. Management shall not conduct and investigation, but must provide relevant information already known.

The response received from management is reviewed and analyzed for its thoroughness. Additional information such as evaluations, time sheets, and discipline documentation may be required. Meetings may be scheduled with management, Complainant, and witnesses to obtain all related facts. If it is determined by BCR that an internal investigation is required, the investigation procedures previously outlined will be followed.

Conciliation

The BCR may conduct and coordinate efforts by conferring with parties to secure a settlement. A conciliation conference may be convened which all parties may attend in person, by telephone or video conference, or by a representative to propose, discuss, and agree to a resolution of the complaint. If conciliation is successful, a formal Settlement Agreement is drafted, signed by all appropriate individuals, and the investigating agency is notified. A Withdrawal Form shall be signed by the Complainant with the investigating agency and a copy provided to IDOT before any terms will be fulfilled. Successful conciliation resolves the complaint and closes the Charge. Following closure, the investigating agency will forward a Notice of Dismissal to both Complainant and Respondent. If the complaint cannot be satisfactorily resolved, the complaint will follow the normal process required by IDHR or the EEOC.

Response to IDHR or the EEOC

IDHR requires IDOT to respond to the Charge of Discrimination with a Verified Response to each of the allegations within 60 days of the date the charge was received by IDOT. The Verified Response includes a statement that is notarized certifying the information provided. IDHR also requires a Questionnaire Response containing a Position Statement. The response from management, results from any previous internal investigation, and other information and documentation will be used to draft these responses.

Correspondence is then forwarded to the investigating agency, which includes all relevant documents. The Complainant receives a copy of the verified response only. IDHR does not require Respondents to provide Complainants with the Questionnaire Response or Position Statement. The investigation process can be continued after the Position Statement has been submitted to the investigating agency to effect conciliation.

The EEOC requires the department to respond to a Charge within 30 days of the date the Charge was perfected with a position statement. EEOC does not require IDOT provide any responsive documents to the Complainant.

Fact-Finding Conference

Both parties to a complaint of discrimination may be required to attend a Fact-Finding Conference, which is most often a telephone conference conducted by an IDHR Investigator. The Complainant and representatives of the Respondent answer questions so the Investigator can determine if there was a violation of the Illinois Human Rights Act. Attendees will include individuals cited in the alleged violation, management with direct knowledge, personnel from BCR assigned to investigate the complaint, the BCCR, and Complainant and their legal representative. The EEOC does not require a Fact-Finding Conference.

Determination

IDHR has 365 days to conduct its investigation. If IDHR determines that there is no substantial evidence and dismisses the charge, the Complainant may request a review of the finding from the Illinois Human Rights Commission. This request must be made within 90 days after receipt of the Director of IDHR's notice.

If IDHR determines that there is substantial evidence, the Complainant has the right to either commence a civil action in the appropriate state circuit court or request IDHR file a complaint with the Illinois Human Rights Commission on their behalf.

If the EEOC is not able to determine that the law was violated, the Complainant will receive a Notice-of-Rights-to-Sue. This notice gives the Complainant permission to file a lawsuit in a court of law within 90 days of receiving the Notice.

If the EEOC determines that the law may have been violated, they will try to reach a voluntary settlement with the employer. If EEOC cannot reach a settlement, Complainant's case will be referred to their legal staff (or the Department of Justice in certain cases), who will decide whether the Agency should file a lawsuit. If EEOC decides not to file a lawsuit, they will issue a Notice-of-Rights-to-Sue.

Mediation

Both IDHR and EEOC offer mediation programs. The mediation programs are free, fast, and provide an opportunity for both parties to present their side of the issue to a neutral Mediator. Mediators do not decide who is right or wrong, but they are skilled at suggesting ways to solve problems and disagreements.

If management within the Office/Bureau that the Charge of Discrimination was filed against agrees to mediation, the Office of Chief Counsel (OCC) will be notified. Once the Chief Counsel has granted approval, the investigating agency will be notified.

The mediation program is designed to settle the dispute immediately without deciding the merits of the charge. Successful mediation results in settlement and closure of the complaint. If the mediation is not successful, the complaint will continue to be processed and investigated by IDHR or the EEOC.

CONTACTS

The addresses and telephone numbers of IDOT's BCR, IDHR, and the EEOC are as follows:

**Illinois Department of Transportation
Bureau of Civil Rights**

2300 Dirksen Parkway, Room 317
Springfield, Illinois 62764
Phone (217) 782-2762
TTY (217) 524-4875
Email: DOT.CivilRights@Illinois.gov

Equal Employment Opportunity Commission (EEOC)

JCK Federal Building
230 S. Dearborn Street, Suite 1866
Chicago, Illinois 60661
Phone (312) 872-9777
TTY (866) 740-3953
ASL Video (844) 234-5122

Robert A. Young Federal Building
1222 Spruce Street, Room 8-100
St. Louis, Missouri 63103
Phone (314) 798-1960
TTY (800) 669-6820
ASL Video (844) 234-5122

To file with the EEOC, the complaint must be filed within 300 days from the date of harm.

Illinois Department of Human Rights

524 South 2nd Street,
Suite 300
Springfield, Illinois 62701
Phone (217) 785-5100
TTY (866) 740-3953

555 West Monroe Street,
7th Floor
Chicago, Illinois 60661
Phone (312) 814-6200
TTY (866) 740-3953

To file with IDHR, the complaint must be filed withing 300 days from the date of the harm.

State of Illinois Sexual Harassment and Discrimination Helpline:

Helpline: 1-877-236-7703 (Monday – Friday; 8:30 am to 5:00 pm)

Website: www.illinois.gov/sexualharassment

This program is administered by IDHR.