

From: [Simpson, Greg](#)
To: [Webster, Brent](#)
Subject: RE: Request for formal complaint policy and form
Date: Monday, October 12, 2020 11:51:52 AM

We have an investigations policy and I've pasted it below, but it doesn't dictate how investigations will/must be conducted, so the process is flexible and is based on best practices according to the situation.

Investigations
Revised: 05/01/2018

The Office of the Attorney General (OAG) may need to conduct internal investigations or cooperate with external investigations regarding matters such as:

Harassment, including sexual harassment;
Violence or threats in the workplace;
Fraud, waste, or abuse of authority; or
Unacceptable conduct.

Investigations under this policy include official inquiries from Executive Administration, division/regional management, the Formal Complaint Officer, Ethics Advisor, or Director of Human Resources. Investigations and official inquiries may require searches, as allowed by the workplace privacy policy.

All OAG employees must cooperate with such investigations and may be required to give oral or written statements. Failure to cooperate or and providing false or misleading information amounts to misconduct and may lead to disciplinary action, up to and including involuntary separation.

Division management must not direct an employee to leave the workplace without approval under the Leave During Agency Investigation policy or Suspension Without Pay policy. Directing an employee to leave the workplace without obtaining approval may amount to abuse of supervisor authority and unacceptable conduct.

Information arising from an investigation or official inquiry shall be shared only on a need-to-know basis or as otherwise required by law or as necessary to further the purpose of the investigation or official inquiry.

An employee who feels that he/she has been subjected to retaliation as a result of being involved in an investigation should follow the retaliation policy.

This policy does not supersede any specific policies and procedures concerning the administration and operations of OAG peace officers or divisions that engage or may engage in investigative work.

If an investigation or official inquiry confirms a violation of policy or law, disciplinary action may follow, including Suspension Without Pay or Involuntary Separation.

-----Original Message-----

From: Webster, Brent <Brent.Webster@oag.texas.gov>
Sent: Monday, October 12, 2020 11:47 AM
To: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

And anything on investigative process or is that flexible?

-----Original Message-----

From: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Sent: Monday, October 12, 2020 11:46 AM
To: Webster, Brent <Brent.Webster@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

Sure, here's the policy:

Leave During Agency Investigation
Revised: 09/01/2019

As part of an investigation or official inquiry, the Office of the Attorney General (OAG), in accordance with Section 661.923 of the Texas Government Code, may grant paid leave to an employee who is:

the subject of an investigation being conducted by the OAG; a victim of an act or event that is the subject of an investigation conducted by the OAG; or a witness to an act or event that is the subject of an investigation conducted by the OAG.

A Request for Investigation Leave must be completed and submitted electronically by division management or the Human Resources Division (HRD) to the agency's administrative head or designee, who shall decide whether to grant leave under this policy. If granted, HRD shall enter the approved amount of Investigation Leave into the electronic leave system for the identified employee.

-----Original Message-----

From: Webster, Brent <Brent.Webster@oag.texas.gov>
Sent: Monday, October 12, 2020 11:43 AM
To: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

Can I get the admin leave process too?

-----Original Message-----

From: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Sent: Monday, October 12, 2020 11:42 AM
To: Webster, Brent <Brent.Webster@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

They're separate processes.

-----Original Message-----

From: Webster, Brent <Brent.Webster@oag.texas.gov>
Sent: Monday, October 12, 2020 11:39 AM
To: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

How does this interact/coincide with administrative leave? Or are they separate processes?

-----Original Message-----

From: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Sent: Monday, October 12, 2020 11:36 AM
To: Webster, Brent <Brent.Webster@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

Brent,

The agency has a formal complaints policy that allows employees a process to go through to try resolve a workplace dispute. Karen Hattaway is the formal complaints officer and she works in General Counsel and she looks into complaints and provides determinations. I've pasted the policy below. Holler at me if you'd like to discuss.

Formal Complaints
Revised: 09/01/2018

The Office of the Attorney General (OAG) recognizes that certain types of employment-related matters may need to be resolved through a formal process. As part of the OAG's efforts to resolve such concerns, the agency provides a formal complaint process as set forth in this policy.

Complaints about harassment, including sexual harassment, must be directed to the Director of Human Resources or to HR-Help@oag.texas.gov. Reports of fraud, waste, or abuse must be made pursuant to the Fraud, Waste, and Abuse Prevention Program.

Formal Complaint Procedure

To make a formal complaint, the complainant must complete the OAG Formal Complaint form and submit the form to the Formal Complaint Officer at FormalComplaint@oag.texas.gov.

A formal complaint must be received by the Formal Complaint Officer no later than sixty (60) calendar days following the action, event, or incident that is the subject of the complaint.

Prior to submitting a formal complaint, an employee is strongly encouraged to make a reasonable effort to resolve workplace concerns by:

discussing such matters with his/her immediate supervisor or manager, division/regional management, and, when appropriate, the person(s) involved in the matter, or contacting the Employee Ombudsman, who acts as a neutral third party and can effectively help resolve problems current employees encounter in the workplace.

Upon receipt of a formal complaint, the Formal Complaint Officer shall promptly acknowledge receipt to the complainant. If the formal complaint is not timely, the Formal Complaint Officer shall inform the complainant that the complaint will not be considered. If the formal complaint is timely, the Formal Complaint Officer may take the following actions to address the matters identified in the formal complaint:

Discuss the formal complaint with the complainant; Request additional information and/or relevant documents; Contact division/regional management; Contact other current employees or former employees; Confer with the Employee Ombudsman and/or appropriate Human Resources staff; Request a written response from division/regional management; Review Master Personnel Files and other relevant employee files and documents; Refer the matter to the Director of Human Resources or other appropriate agency personnel; Involve appropriate personnel, including a Co-Formal Complaint Officer, to assist with the complaint process; and/or Take other steps to attempt to resolve the matter.

Within sixty (60) calendar days following receipt of a formal complaint, the Formal Complaint Officer must provide a written determination regarding the complaint to the complainant and division/regional management.

Requests for Review

If the complainant and/or division/regional management is not satisfied with the Formal Complaint Officer's written determination, the complainant and/or division/regional management may make a written request to the appropriate Executive Deputy for a review of the determination. Such a review must be requested within seven (7) calendar days of the Formal Complaint Officer's written determination.

The request must be addressed to the appropriate Executive Deputy with a copy to the Formal Complaint Officer and must include the following:

a copy of the original formal complaint; a copy of the Formal Complaint Officer's written determination; and a concise statement as to why the Formal Complaint Officer's determination is unsatisfactory.

If the Executive Deputy modifies the determination, the Executive Deputy must provide a copy of the modified determination to the complainant, division/regional management, and the Formal Complaint Officer. The Executive Deputy has fourteen (14) calendar days from the date of a timely request for a review to:

modify the determination; or

provide written notice of an extension to the complainant, division/regional management, and the Formal Complaint Officer.

If neither of these actions occurs within the above-identified timeframe, the request shall be considered denied and the determination by the Formal Complaint Officer shall be considered final. Unless the complaint involves an actual loss in pay, the agency's review of the complaint is complete at this point.

Complaints Involving Actual Loss in Pay

For complaints involving an actual loss in pay (e.g., demotion, suspension without pay), the complainant and/or division/regional management may request a review of the Executive Deputy's decision by the First Assistant Attorney General or designee. The request must be made in writing to the First Assistant Attorney General or designee within seven (7) calendar days of the Executive Deputy's decision or within twenty-one (21) calendar days from the date of the request for review by the Executive Deputy.

The request must be addressed to the First Assistant Attorney General, with a copy to the Executive Deputy and to the Formal Complaint Officer, and must include the following:

a copy of the original formal complaint; a copy of the Formal Complaint Officer's determination; a copy of the Executive Deputy's decision or a statement that the Executive Deputy made no decision; and a concise statement as to why the previous determination and/or decision is unsatisfactory.

The First Assistant Attorney General or designee shall advise the complainant, division/regional management, the Executive Deputy, and the Formal Complaint Officer of the final decision.

The First Assistant Attorney General has fourteen (14) calendar days from the date of a timely request for a review to:

modify the determination and/or decision; or provide written notice of an extension to the complainant, division/regional management, the Formal Complaint Officer, and the Executive Deputy.

If neither of these actions occurs within the above-identified timeframe, the request shall be considered denied and the decision by the Executive Deputy or, if applicable, the determination by the Formal Complaint Officer shall be considered final. At this point, the agency's review of the complaint is complete.

Clarifications

A complainant waives the right to privacy and confidentiality regarding all materials, documentation, and communications relevant to the complaint unless disclosure is prohibited by law or other requirement.

Engaging in the formal complaint process must not interfere with an employee's performance or productivity.

Neither this policy nor these complaint procedures constitute an employment agreement. Furthermore, nothing in this policy or these complaint procedures alters an employee's at-will employment status.

An employee's filing of a formal complaint does not prevent or delay the OAG from taking appropriate corrective or disciplinary actions for performance or conduct deficiencies.

If an employee believes that he/she has been subjected to a materially adverse action after filling a formal complaint, he/she should follow the Retaliation policy.

-----Original Message-----

From: Webster, Brent <Brent.Webster@oag.texas.gov>
Sent: Monday, October 12, 2020 11:17 AM
To: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Subject: RE: Request for formal complaint policy and form

Greg,

Can you advise me of the process that we are supposed to follow in situations like this? Who is Karen Hattaway?

Thank you,
Brent

-----Original Message-----

From: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Sent: Monday, October 12, 2020 10:00 AM
To: Webster, Brent <Brent.Webster@oag.texas.gov>
Subject: FW: Request for formal complaint policy and form

Brent, please see below that I received this morning. I've let Lauren know and she said it doesn't need to be treated as a PIC request.

OK with you for me to respond with a copy of the formal complaint policy, a blank complaint form, and Karen Hattaway's contact info?

Thanks!

-----Original Message-----

From: Mark Penley <jmarkpenley@yahoo.com>
Sent: Monday, October 12, 2020 9:33 AM
To: Simpson, Greg <Greg.Simpson@oag.texas.gov>
Cc: Mase, Lacey <Lacey.Mase@oag.texas.gov>
Subject: Request for formal complaint policy and form

Greg:

I request that you send me the OAG policy regarding the filing of a formal complaint, as well as the policy governing investigative leave. Also, please provide the formal complaint form and the email address of the person to whom I should submit the completed form. I intend to file a formal complaint due to the fact that I have been placed on investigative leave in retaliation for the fact that I made a whistleblower complaint regarding the Attorney General. If I do not hear back from you by 1 PM today, I will put my complaint in an email to you, and ask that you forward it to the proper person to investigate it.

I am using my personal email account to make this request, as my agency email account has been disabled since Friday, October 2. Otherwise, I would not use my personal email account to communicate regarding official business.

Thank you,

Mark Penley
Deputy Attorney General for Criminal Justice Sent from my iPad