



## **Internal Complaint Process**

**(HC38)**

### **POLICY STATEMENT**

The New Orleans Regional Transit Authority (RTA) is an Equal Employment Opportunity (EEO) employer committed to equal employment opportunity, and maintains and values diversity in an environment where all employees and applicants are free from discrimination, harassment, and retaliation.

RTA's internal complaint procedure was established to promptly investigate and resolve allegations of discrimination, harassment, or retaliation; and to provide a mechanism through which it can identify, respond to, prevent, and eliminate incidents of discrimination, harassment, and retaliation.

### **PURPOSE**

This policy establishes procedures for filing, investigating and resolving internal complaints of discrimination, harassment, and retaliation.

### **APPLICATION**

This policy applies to all RTA employees.

### **ADOPTED BY:**

The RTA Board of Commissioners on 02/23/2021, Resolution 21-007

### **APPROVED BY:**

A handwritten signature in blue ink, appearing to read "Alex Z. Wiggins", is written over a horizontal line.

Alex Z. Wiggins  
Chief Executive Officer

Effective Date: 2/23/2021  
Date of Last Review: 2/23/2021

## **1.0 GENERAL**

RTA prohibits discrimination and harassment in violation of RTA policy on the basis of race, color, religious creed, national origin, sex, age (40 and over), physical disability (including HIV and AIDS), ancestry, mental disability, medical conditions (including cancer), marital status, sexual orientation, gender, gender identity, gender expression, military and veteran status, genetic information or any other basis protected by federal or state statutes, including the Family and Medical Leave Act (FMLA), the Pregnancy Discrimination Act (PDA), and related statutes; and prohibits retaliation in response to a discrimination or harassment complaint.

RTA's Human Capital Department handles Civil Rights and Equal Employment Opportunity Unit matters and investigates allegations of discrimination, harassment, and retaliation. All complaints will be investigated in a fair, consistent and timely manner.

## **2.0 PROCEDURES**

Any employee or applicant believing he/she has been discriminated against or harassed in violation of the Discrimination, Harassment and Retaliation (HC21) policy may file a complaint with the Human Capital Department as soon as possible of the alleged discrimination or harassment. Similarly, any employee or applicant believing he/she has been retaliated against for engaging in a protected activity may file a complaint with the Human Capital Department as soon as possible of the alleged retaliation.

### **2.1 Complaint Process**

Any employee or applicant believing he/she has been discriminated against, harassed, or retaliated against, should notify the Chief Human Resources Officer, Human Capital as soon as possible. After being notified of a complaint, an appointment will be scheduled between the employee and an EEO Coordinator within 48 hours.

The employee or applicant who lodged the complaint (complainant) will complete a Discrimination, Harassment or Retaliation Complaint Form (Attachment 1). He/she may file a formal, written complaint with the Human Capital Department, or work with the EEO Coordinator to provide the information necessary to begin an investigation. The complainant may also pursue external options and go directly to entities, such as the State of Louisiana Commission on Human Rights (LCHR), United States Equal Employment Opportunity Commission (EEOC), Federal Transit Administration (FTA), and Department of Transportation (DOT).

A formal complaint should include the following:

- complainant's name, and personal and work contact information;
- a detailed description of the alleged discrimination, harassment, or retaliation, including date(s) and time(s) the action(s) occurred;
- identification of any witnesses who saw, heard, or otherwise have knowledge of the alleged discrimination, harassment, or retaliation; and

- information supporting the allegation(s).

A complainant may submit additional information at any time during the investigation process.

## **2.2 Subsequent Complaints and Amended Charges**

A complainant may submit additional Discrimination, Harassment, or Retaliation Complaint Forms (Attachment 1) for any subsequent complaint(s) or amended charge(s). Amended charges can also be submitted by email or other written format. The Chief Human Resources Officer will review each subsequent complaint or amendment, and determine whether it should be incorporated into the original complaint, or processed as a separate complaint.

## **2.3 Investigation Process**

The EEO investigation process includes:

- notifying the complainant to acknowledge acceptance of the complaint, and providing the assigned case investigator's name;
- notifying the person accused of discrimination, harassment, or retaliation (respondent), providing him/her with an opportunity to respond to the allegation(s);
- notifying the respondent's department head that the EEO Unit will be investigating the complaint; and
- interviewing witnesses and reviewing relevant documentation, so the EEO Investigator can research facts alleged in the complaint.

In some cases, the nature of the allegation may warrant the complainant and the respondent to be separated during the course of the investigation. **Under these circumstances, it is the respondent that is transferred or put on leave pending the outcome of the investigation. Any allegation brought before a Director or above will be addressed by a third party investigator.**

**An experienced, neutral outside investigator should be brought in when:**

- **Allegations involve as either complaining party or target of the investigation a member of the HR Department or upper management (supervisor, director, deputy director, deputy chief, chief executive officer or a member of the board).**
- **Accusations have been made public or widely known within the agency.**
- **The situation is highly confidential or sensitive.**

- **There are allegations of criminal behavior and cooperation with law enforcement is necessary.**
- **There are reasons to question whether the in-house team is sufficiently experienced or will be viewed as unbiased and objective.**

The EEO Investigator prepares a report of the investigation findings that includes a recommendation regarding a resolution to the complaint. The Chief Human Resources Officer reviews the EEO Investigator's report and recommendation. After final review, closing letters are sent to the complainant, respondent, and the respondent's direct supervisor. For substantiated findings, closing letters will also be sent to the respondent's department head and applicable member of the CEO's Executive Leadership Team. The Human Capital unit retains copies.

In cases where there is sufficient evidence to substantiate the complainant's allegations, the department Chief will consult with the Chief Human Resources Officer, who will offer advice or recommend appropriate disciplinary action to be administered. The department Chief must provide the Chief Human Resources Officer with a written confirmation of discipline, no later than ten days after the disciplinary action has been taken. If disciplinary action warrants a transfer, it is the *respondent* who is transferred, not the complainant. The complainant may be transferred *only* if he/she requests to be transferred.

An "unsubstantiated" finding will be recorded if the investigation fails to find sufficient evidence to support the complainant's allegation(s). After a final "unsubstantiated" finding review by the Chief Human Resources Officer, the complainant and respondent are notified. If the complainant accepts the findings, the matter is closed. The complainant may appeal the "unsubstantiated" finding within 20 business days of the closing letter's date. The respondent may appeal a "substantiated" finding within 10 business days of the closing letter's date. The appeal should be made to the Chief Human Resources Officer. The Chief's decision will be final.

At any time during the complaint process, the complainant should promptly notify the Chief Human Resources Officer in writing if he/she:

- decides to withdraw the complaint;
- files a lawsuit against RTA or its employees; or
- changes an address, telephone number, or other contact information.

If at any time during the course of the investigation, a complainant fails to respond to communications from the Human Capital Department after two written requests, the investigation may be completed without further input from the complainant.

All RTA employees are required to participate with the EEO investigative process. Failure to do so where there are no mitigating factors may result in discipline.

Regardless of the outcome of the complaint, the complainant has a right to consult or file a complaint with the State of Louisiana Commission on Human Rights (LCHR), the United States Equal Employment Opportunity Commission (EEOC), the Federal Transit Administration (FTA), and the Department of Transportation (DOT). If an employee or applicant files a complaint with an outside agency, a formal conciliation conference may be scheduled with the Human Capital Department and the outside agency.

## **2.4 Retaliation**

RTA prohibits retaliation, ~~as defined in the Discrimination, Harassment and Retaliation (HC21) policy~~, against any complainant(s) or other person who provides information during the investigation. Any employee or applicant who believes he/she has been retaliated against should immediately contact the Chief Human Resources Officer.

Any RTA employee who retaliates against anyone involved in an EEO matter will be subject to disciplinary action (see the **Progressive** Discipline (HC25) policy), up to and including termination.

## **2.5 Confidentiality**

RTA will make every possible effort to assure the confidentiality of complaints made under this policy. However, complete confidentiality cannot be guaranteed, due to the need to fully investigate the complaint and duty to take effective, remedial action. RTA will not disclose a completed investigation report, except as it deems necessary to support a disciplinary action; take remedial action; defend itself in adversarial proceedings; or comply with the law or a court order.

## **2.6 False Allegations and Statements**

RTA considers false allegations of discrimination or harassment to be a violation of policy, and an abuse of state and federal law. Where there is clear evidence that a complainant has made false allegations of discrimination, harassment, or retaliation; or a complainant or respondent has made false statements to the EEO Investigator, disciplinary action, up to and including termination will follow.

## **2.7 Non-Jurisdictional Complaints**

If a complaint is determined to be non-jurisdictional under EEO criteria, the Human Capital Department will refer the complaint to the appropriate entity within RTA. The Human Capital Department is also available to provide conciliation between the employee and management.

## **2.8 Informal Resolutions**

In some instances, EEO complaints can be addressed and resolved in an informal manner, as it can be counterproductive to implement a formal investigation. For

informal resolutions that result in a summary report and/or have a substantiated finding, the Human Capital Department will vet the report through the Department Chief. Once reviewed and approved, applicable managers and members of the CEO's Executive Leadership Team will be notified of the findings of the case and will be included in discussions regarding outcomes.

### **3.0 DEFINITION OF TERMS**

**Business Day** – Any day RTA is open for business, excluding Saturdays, Sundays and Holidays

**Complaint** – Written document that states incident(s) of alleged discrimination, harassment, or retaliation, what term or condition of employment was affected, and who is believed to have engaged in discrimination or harassment in violation of RTA's EEO policies

**Complainant** – Party who filed the complaint

**False Allegations/Statements** – Any intentional misrepresentation or omission of relevant information pertaining to the complaint and investigation by the complainant, respondent, or witnesses.

**Information** – Any and all tangible or electronically stored data or documents

**Respondent** – Party or parties named in the complaint that complainant believes engaged in discrimination or harassment or retaliation in violation of RTA's EEO policies

**"Substantiated" Finding** – Sufficient evidence found to support the complainant's allegation(s)

**"Unsubstantiated" Finding** – Insufficient evidence found to support the complainant's allegation(s)

### **4.0 RESPONSIBILITIES**

**Managers and Supervisors** have an affirmative duty to:

- refer employees or applicants to the Chief Human Resources Officer if an employee or applicant alleges he/she has been a victim of discrimination, harassment, or retaliation;
- contact the Chief Human Resources Officer to investigate any discrimination, harassment, or retaliation complaint as soon as it is received;
- contact the Chief Human Resources Officer when the manager or supervisor observes behavior that appears to be in violation of RTA's EEO policies;
- document relevant discussions regarding an incident or complaint and forward original documents to the Chief Human Resources Officer for complaint file; and
- contact the Chief Human Resources Officer with any questions concerning harassment, discrimination, or retaliation.

**Human Capital, Civil Rights and Equal Employment Opportunity (EEO)** designs, develops, implements and monitors RTA's EEO policies and procedures; investigates complaints of employment discrimination, harassment, and retaliation; and recommends remedies if violations of EEO policies are found.

**Complainant** cooperates with the Human Capital Department during all stages of the internal complaint process.

**Respondent** cooperates with the Human Capital Department during all stages of the internal complaint process.

## **5.0 FLOWCHART**

N/A

## **6.0 REFERENCES**

- State of Louisiana Commission on Human Rights (LCHR)
- Title VII of the Civil Rights Act of 1964
- Employee Code of Conduct
- ~~Discrimination, Harassment and Retaliation (HC21)~~
- **Progressive** Discipline (HC25)

## **7.0 ATTACHMENTS**

1. ~~Discrimination, Harassment, or Retaliation~~ **Internal Complaint Process** Form

## **8.0 PROCEDURE HISTORY**

12/15/2020 Interim Board approval granted  
12/11/2020 Interim Executive Committee approval granted  
2/4/2021 Final Executive Committee approval granted  
2/23/2021 Final Board approval granted

## **9.0 SPONSOR DEPARTMENT**

Human Capital