

CITY OF NIAGARA FALLS
COMPLAINT PROCESS & PROCEDURES

Section 178.05 OVERVIEW

(a) Any City officer or employee is encouraged to report an incident of suspected discrimination, harassment, or retaliation as soon as possible to either a department head, the City Administrator, the Director of Personnel, the EEO Officer for Compliance and Workforce Diversity, or to the Discrimination/Harassment Committee, which shall consist of a minimum of three (3) members: The Corporation Counsel or his/her designee; the Director of Personnel or his/her designee; the EEO Officer for Compliance and Workforce Diversity or his/her designee; and any additional member(s) designated by the Mayor and/or City Administrator.

(b) Should an officer or employee believe that he or she has been discriminated against or harassed and would like guidance as to how to file a complaint, that individual should review the City's discrimination and harassment complaint procedure or contact the EEO Officer for Compliance and Workforce Diversity or any member of the Discrimination/Harassment Committee.

(c) Should an individual file a complaint, the procedures set forth below must be followed, including filing a complaint within 180 calendar days of the alleged conduct. The procedures describe the steps to be taken when an employee has filed a complaint, detail the responsibilities of all involved parties, and provide the time frames for actions to be taken.

(d) All complaints will be handled in a timely and confidential manner. In no event will information concerning a complaint be released by the City to any third party or to anyone within City government who is not directly involved with or in the investigation. Confidentiality will be maintained throughout the investigatory process. All complainants, respondents and witnesses in an investigation shall be informed of this confidentiality policy. A breach of this confidentiality policy will result in disciplinary action.

(e) The investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegations will be examined individually, with a review of the nature of the behavior and the context in which the incident or incidents occurred.

(f) An individual who believes that he or she has been unjustly charged with illegal discrimination or harassment in violation of this policy will be afforded every opportunity to offer and present information in defense of the complaint. Any information will be confidential.

(g) All employees are required to cooperate fully with any investigation of alleged violations of this Policy or the law. Any employee who fails to cooperate with an investigation, obstructs an investigation, or interferes with the administration of any remedial or disciplinary action taken as a result of such investigation is subject to discipline.

(h) A person who participates in this procedure may do so without fear of retaliation. Retaliation against anyone who has filed a complaint under this policy or cooperates with an

investigation is prohibited and may be a violation of federal or state law. Any such retaliation will result in disciplinary action by the City.

(i) A person who is found to have committed an act of illegal discrimination, harassment, or retaliation or otherwise to have violated this Policy will be subject to disciplinary action in accordance with the provisions of a negotiated labor agreement or State law, as may be appropriate.

(j) Nothing in this policy, including the complaint procedures, shall in any way limit an individual's existing right to file a complaint with the Niagara Falls Human Rights Commission, the New York State Division of Human Rights, the United States Equal Employment Opportunity Commission, or any other government agency, or to take any legal action which he or she may deem advisable. However, filing a complaint with the City or reporting allegations of discrimination, harassment, or retaliation to the City shall not toll any filing requirements set forth by these agencies or otherwise required by law.

Section 178.06 PROCEDURES FOR REPORTING A DISCRIMINATION OR HARASSMENT COMPLAINT

(a) GENERAL PROCESS

(1) If an employee feels that he or she is a victim of discrimination or harassment, the employee, hereafter referred to as the complainant, may meet with his or her department head to discuss an allegation of illegal discrimination or harassment or may file a complaint directly with the EEO Officer for Compliance and Workforce Diversity or the Discrimination/Harassment Committee.

(2) Any written complaint must contain information about the alleged discrimination or harassment such as the name, address, phone number of complainant, date and description of the incident(s), and should be filed on a “Complaint of Discrimination or Harassment” form. This form is available from the City and attached to this Policy.

(3) The written complaint should be submitted as soon as possible but no later than 180 calendar days after the alleged violation to:

EEO Officer for Compliance and Workforce Diversity
Room 16, City Hall
745 Main Street
Niagara Falls, NY 14302-0069
(716) 286-4395

(4) Anonymous complaints will be accepted and investigated to the extent possible. Employees, however, must be aware that a complainant’s decision not to provide his or her identity may limit the ability to conduct a thorough investigation.

(5) The complainant may withdraw his or her complaint at any time by filing a “Withdrawal of Discrimination or Harassment Complaint” notice in writing. This form is available from the City and attached to this Policy.

(b) PROCESSING COMPLAINTS

(1) If an employee brings his or her complaint to a department head, the department head may seek initially to resolve and rectify the matter but shall also report the allegations to the EEO Officer for Compliance and Workforce Diversity. A department head shall have five (5) business days to try to resolve the allegations by (a) gathering and assessing the facts deemed necessary to resolve it; (b) interviewing the person alleged to have committed the discrimination or harassment, hereafter referred to as the respondent, and the complainant separately; and (c) using whatever other methods are deemed necessary or appropriate to attempt to resolve the complaint.

(2) Within five (5) business days from the date of the complaint, a department head must forward to the EEO Officer for Compliance and Workforce Diversity in writing the complaint or allegations and any resolution. If no resolution is reached within five (5) business

days, the department head must refer the case and any information gathered to the EEO Officer for Compliance and Workforce Diversity for further investigation.

(3) Regardless of whether the complaint is written or verbal, the department head will prepare a statement outlining the complaint and any resolution reached. If a resolution is reached, all parties must sign the statement prepared by the department head which shall be sent to the EEO Officer for Compliance and Workforce Diversity. The case will be considered closed subject to an independent review by the EEO Officer for Compliance and Workforce Diversity, who may re-open the case in his or her discretion if he or she deems warranted.

(4) If a complaint is filed directly with the Discrimination/Harassment Committee or the EEO Officer for Compliance and Workforce Diversity, or is not resolved at the department level within the specified time frame, the Committee will investigate the complaint. Specifically, the Committee shall interview the complainant, call witnesses to appear before the Committee, and review any other evidence the Committee feels credible and probative of the allegations. Notice of the complaint must be given to the respondent, who shall also be afforded an opportunity to appear before the Committee, with or without counsel, if he or she so desires. Barring extraordinary circumstances, the Committee will have fifteen (15) business days to investigate the complaint and an additional fifteen (15) business days to render a recommended determination and any proposed remedial action, where appropriate.

(5) Written notice of the Committee's recommendations will be given to both the complainant and the respondent, and filed with the EEO Officer for Compliance and Workforce Diversity.

(6) All complaints involving harassment, discrimination, and retaliation will be independently reviewed by the EEO Officer for Compliance and Workforce Diversity, who will make a final recommendation to the Mayor or his/her designee for approval.