

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE**  
**PD-31 (rev. 7), “DISCRIMINATION IN THE WORKPLACE”**  
**NOVEMBER 1, 2014**  
**TABLE OF CONTENTS**

<b><u>SECTION</u></b>	<b><u>PAGE NUMBER</u></b>
<b><u>AUTHORITY</u></b> .....	1
<b><u>APPLICABILITY</u></b> .....	1
<b><u>EMPLOYMENT AT WILL CLAUSE</u></b> .....	1
<b><u>POLICY STATEMENT</u></b> .....	1
<b><u>DEFINITIONS</u></b> .....	2
<b><u>DISCUSSION</u></b>	
I. Discrimination and Other Complaint Processes .....	4
II. Prohibition on Retaliation and Providing False Information .....	4
A. Prohibition on Retaliation .....	4
B. Prohibition on Providing False Information .....	5
III. Dissemination .....	5
IV. Training.....	5
<b><u>PROCEDURES</u></b>	
I. Reporting Allegations .....	5
A. Employee or Other Individual Responsibilities.....	6
1. Prompt Reporting.....	6
2. Criminal Charges .....	7
3. Signed Written Complaint .....	7
B. Supervisor, Warden, or Department Head Responsibilities .....	7
II. Responding to Allegations.....	9
A. Intake Officer Responsibilities .....	9
B. Warden or Department Head Responsibilities Relating to Interim Remedial Actions .....	10
C. Investigation.....	10
1. General Provisions .....	10
2. Investigation Process .....	10
D. Notification of Further Action .....	11

E. Follow-Up.....11

F. Dispute Resolution.....12

III. External Complaints or Court Actions.....12

A. Closing of Internal EEO Complaint.....13

B. Complainant’s Participation in External Mediation .....13

    1. Time Reporting .....13

    2. State Travel and Per Diem .....13

    3. Former Employees .....13

C. Participation in Judicial Proceeding.....14

D. Follow-Up Internal EEO Investigation.....14

Attachment A: PERS 497, EEO Complaint Form (11/14)

Attachment B: PERS 408, Notification of EEO Investigation and Interim Remedial Actions  
(11/14)

Attachment C: PERS 325-EEO, EEO Prehearing Investigation Report (11/14)



TEXAS DEPARTMENT  
OF  
CRIMINAL JUSTICE

**NUMBER:** PD-31 (rev. 7)  
**DATE:** November 1, 2014  
**PAGE:** 1 of 19  
**SUPERSEDES:** PD-31 (rev. 6)  
January 1, 2010

## EXECUTIVE DIRECTIVE

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**SUBJECT:** DISCRIMINATION IN THE WORKPLACE

**AUTHORITY:** Tex. Gov't Code § 493.007; Title VII, *Civil Rights Act of 1964*, as amended, 42 USC § 2000e – e-17; *Americans with Disabilities Act*, as amended, 42 USC §§ 12101-12213; *Equal Pay Act of 1963*, 29 USC § 206; *Age Discrimination in Employment Act of 1967* (ADEA), as amended, 29 USC § 621; Tex. Lab. Code §§ 21.001-.556, 301.151-.156

**APPLICABILITY:** Texas Department of Criminal Justice (TDCJ)

**EMPLOYMENT AT WILL CLAUSE:**

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

**POLICY:**

The TDCJ has zero tolerance for all forms of discrimination based on race, color, religion, sex (gender), national origin, age, disability, or genetic information. Retaliation for opposing or reporting discrimination, or for associating with someone who has opposed or reported discrimination, is prohibited. Employees shall follow the guidelines within this directive for the reporting of such discrimination in the workplace to ensure prompt remedial action, and to help maintain a work environment free from illegal employment discrimination. Allegations of conduct prohibited by this directive shall be investigated by Employee Relations, Human Resources Division.

An employee who violates the provisions of this directive shall be subject to disciplinary action, up to and including dismissal, in accordance with PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees.”

**DEFINITIONS:**

“Complainant,” for the purpose of this directive, is an employee or other individual bringing forth allegations of prohibited conduct.

“Discrimination” is unequal treatment of persons based on sex (gender), including sexual harassment, race, color, religion, national origin, age (40 or above), disability, or genetic information. Discrimination by employers falls into four general areas: (1) hiring and firing, such as failing, refusing to hire, or discharging; (2) employment conditions, such as compensation, terms, conditions, or privileges; (3) segregation and classification, such as limiting, segregating, or classifying employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as an employee; and (4) training programs, such as unequal access to training that may affect an individual’s ability to promote.

“Employee,” for the purpose of this directive, is any person employed by the TDCJ on a full-time, part-time, or temporary basis.

“Equal Employment Opportunity Commission” (EEOC) is the federal agency which enforces federal laws prohibiting discrimination in employment or retaliation. The EEOC is separate from the TDCJ’s Employee Relations.

“Equal Employment Opportunity Designated Agency Official” (EEO-DAO) is a TDCJ employee designated by the executive director to: (1) conduct disciplinary hearings for EEO rule violations; (2) represent the TDCJ during dismissal mediation for an EEO dismissal recommendation; (3) respond to grievances regarding EEO disciplines; or (4) approve a dismissal resulting from an EEO dismissal recommendation.

“Equal Employment Opportunity (EEO) Rule Violation,” for the purpose of this directive, is a violation of one of the following TDCJ Employee General Rules of Conduct, as published and described in PD-22, Attachment A, Listing of Employee General Rules of Conduct and Disciplinary Violations: (a) Rule Number 14b, Use of Offensive Words or Actions – Protected Class; (b) Rule Number 21, Discrimination or Harassment Against Persons of a Protected Class or Retaliation; (c) Rule Number 32, Destroying Evidence or Giving False Testimony or Information, when related to an EEO issue; (d) Rule Number 44, Tampering with a Witness, when related to an EEO issue; (e) Rule Number 50, Discourteous Conduct of a Sexual Nature; (f) Rule Number 53, Failure to Report Alleged Acts of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation; or is an EEO violation in accordance with PD-33, “Trainee Management.”

“Harassment,” for the purpose of this directive, is the act of systematic or continued unwanted and annoying actions, including threats and demands, directed toward an employee or other individual because of race, color, religion, sex (gender), including sexual harassment, national origin, age (40 or above), disability, or genetic information that creates a hostile work environment for the person to whom such actions are directed.

“Hostile Work Environment,” for the purpose of this directive, is offensive behavior based on sex (gender), race, color, religion, national origin, age (40 or above), disability, or genetic information that is severe or pervasive enough to alter employment conditions. All the circumstances must be judged, including the frequency of the conduct, the severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it unreasonably interferes with an employee’s work performance.

“Other Individual,” for the purpose of this directive, includes, but is not limited to, a contract employee, applicant, employee of a vendor, or a volunteer. The definition does not include an individual under the supervision or custody of the TDCJ.

“Pre-Service Training Academy” includes academies for the Correctional Institutions Division’s Pre-Service Training Academy (PSTA), Parole Division’s Parole Officer Training Academy (POTA), and Office of the Inspector General’s Training Academy (OIGTA).

“Reprimanding Authority,” for the purpose of this directive, is a TDCJ official designated to perform certain duties relating to the employee disciplinary process, including pre-service academy rule violations.

“Respondent,” for the purpose of this directive, is an employee accused of committing an act prohibited by this directive.

“Retaliation,” for the purpose of this directive, is any action that may deter a reasonable person from filing a complaint, participating in a proceeding regarding, or otherwise opposing, an alleged EEO rule violation, or from associating with an applicant, employee, or other individual who is engaged in a protected activity.

“Supervisor” is an employee whose job duties include, expressly or implicitly: (1) directing the job performance of an employee or group of employees; (2) ensuring TDCJ policies are carried out; and (3) ensuring all applicable state and federal employment-related laws are observed.

“Texas Workforce Commission, Civil Rights Division” (TWC-CRD) is the state agency charged with: (1) enforcement of state laws prohibiting discrimination in employment or retaliation; and (2) investigating alleged violations of such laws.

“Trainee” is an employee attending a pre-service training academy.

## **DISCUSSION:**

### I. Discrimination and Other Complaint Processes

- A. An employee who believes they have been subjected to discrimination or offensive conduct based on race, color, sex (gender), religion, national origin, age, disability, or genetic information, or retaliation as defined by this directive, and who wishes to file a complaint with the TDCJ should pursue such a complaint in accordance with the procedures within this directive.
- B. If an employee believes they have been sexually harassed or subjected to discourteous conduct of a sexual nature, and the employee wishes to file a complaint with the TDCJ, the employee should pursue such a complaint in accordance with the procedures within PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature."
- C. If an employee wishes to file a complaint related to a non-EEO employment-related matter such as wages, hours, or similar matters, the employee may submit a grievance in accordance with PD-30, "Employee Grievance Procedures."
- D. The TDCJ encourages an employee to contact TDCJ Employee Relations Intake if the employee has questions or concerns regarding whether the employee should submit an EEO complaint or a grievance.

The contact information for after-hours reporting may be obtained through the sources listed in Procedures Section I.A.1.d of this directive.

### II. Prohibitions on Retaliation and Providing False Information

In addition to prohibiting discrimination based on race, color, sex (gender), religion, national origin, age, disability, or genetic information, the TDCJ also prohibits retaliation and providing false information.

#### A. Prohibition on Retaliation

- 1. The TDCJ prohibits retaliation.

Some examples of adverse actions that may be considered by the TDCJ to be retaliation include, but are not limited to:

- a. Inappropriately disciplining an employee;
- b. Inappropriately changing an employee's work assignment;
- c. Inappropriately refusing to cooperate or discuss work-related matters with an employee;

- d. Providing ratings on an employee's performance evaluation that are below the employee's actual job performance; or
- e. Intimidating an employee.

All employees should be aware that the term "retaliation" has a legal meaning and some of the foregoing examples may not constitute legally actionable retaliation. Nevertheless, the TDCJ retains the right to discipline employees for acts the TDCJ defines as retaliation, regardless of whether such acts would constitute legally actionable retaliation.

- 2. Retaliation against individuals other than employees for engaging in protected activities may be a violation of PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

#### B. Prohibition on Providing False Information

The TDCJ also prohibits employees from providing false information in any report, investigation, or hearing. Filing a complaint under this directive that the employee knows is unjustified is a violation of PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

### III. Dissemination

Every employee is responsible for becoming familiar with the provisions of this directive so that each employee can assist in ensuring the TDCJ's work environment is free of discrimination and retaliation. To assist employees in becoming familiar with the procedures of this directive, a copy of this directive shall be provided to each newly-hired or rehired employee as part of the employee's Direct Hire Packet. All newly-hired or rehired employees shall be required to initial a receipt indicating they received a copy of this directive. In addition, this directive shall be published in the TDCJ *Personnel Manual*, which is available on the TDCJ mainframe report system known as INFOPAC, on the TDCJ website at <http://www.tdcj.texas.gov/>, and from the employee's human resources representative.

### IV. Training

All employees shall receive training regarding the provisions of this directive in accordance with PD-97, "Training and Staff Development."

## **PROCEDURES:**

### I. Reporting Allegations

Wardens, department heads, supervisors, and other employees shall follow the procedures of this directive when reporting allegations of discrimination or retaliation.

Through adherence to these procedures, the TDCJ strives to take prompt remedial action in response to such reports before the alleged conduct creates a hostile work environment. The TDCJ shall protect the confidentiality of the parties involved to the extent possible.

A. Employee or Other Individual Responsibilities

1. Prompt Reporting

The most effective means of eliminating employment discrimination is the prompt reporting of such matters by employees or other individuals who have been subjected to, made aware of, or have witnessed prohibited conduct. Therefore, the TDCJ strongly encourages those persons who believe they have been subjected to, made aware of, or have witnessed conduct prohibited by this directive to immediately report the allegation directly to one or more of the following, not necessarily in the order listed:

- a. The employee's immediate supervisor, warden, or department head
- b. The employee's second level supervisor or higher authority, if the person complained of is the employee's immediate supervisor or in the employee's chain of supervision
- c. The TDCJ executive director
- d. TDCJ Employee Relations Intake

During normal business hours, 8 a.m. - 5 p.m., Monday through Friday, TDCJ employees may contact Employee Relations Intake, Human Resources Division. During hours other than normal business hours, TDCJ employees may call the after-hours phone number.

The phone number for Employee Relations Intake and the cell phone number for after-hours reporting may be obtained through the following sources:

- (1) The unit or department human resources representative
- (2) The warden or department head
- (3) INFOPAC Report HR/PO/02, listed at the end of PD-31 within the report

(4) The notice posted in the common-use area at each unit or department

(5) The TDCJ website at  
<http://www.tdcj.texas.gov/divisions/hr/hr-home/eo-intake.html>

e. The EEOC

The deadline to file a complaint with the EEOC is 300 calendar days from the last date the alleged conduct took place.

f. The TWC-CRD

The deadline to file a complaint with the TWC-CRD is 180 calendar days from the last date the alleged conduct took place.

## 2. Criminal Charges

An employee or other individual may contact the Office of the Inspector General (OIG) if the allegation involves a potentially criminal act. The OIG may conduct a criminal investigation simultaneously with the Human Resources Division's EEO investigation.

## 3. Signed Written Complaint

Although an employee's or other individual's initial report of an allegation may be verbal, the complainant is required to submit a signed written complaint in order for the complaint to be processed by the TDCJ. The complainant is encouraged to complete the PERS 497, EEO Complaint Form (Attachment A) when submitting an EEO-related complaint in accordance with this directive; however, a signed, written EEO-related complaint shall not be rejected if it is submitted via another format.

The signed written complaint may identify only one respondent. If the complainant is reporting alleged violations of this directive committed by more than one respondent, the complainant shall submit separate signed written complaints identifying each respondent's alleged conduct.

Any questions concerning the reporting of an allegation may be directed to Employee Relations Intake.

## B. Supervisor, Warden, or Department Head Responsibilities

1. Employee Relations Intake shall be contacted via telephone, fax, or email no later than 72 hours of a supervisor witnessing conduct or becoming

aware of any alleged conduct that may be prohibited by this directive. Employee Relations Intake shall be contacted regardless of whether the individual objects to the alleged conduct or even if it appears that the alleged conduct may not rise to the level of an EEO rule violation.

2. The supervisor, warden, or department head may call the after-hours phone number during hours other than normal business hours to report an allegation that may be prohibited by this directive.

The contact information for after-hours reporting may be obtained through the sources listed in Procedures Section I.A.1.d of this directive.

3. If a supervisor who witnessed conduct or became aware of alleged conduct that may be prohibited by this directive reports the allegation through the supervisor's chain-of-command to a designated higher level of authority, such as a warden or department head, the designated higher level of authority shall contact Employee Relations Intake within 72 hours of becoming aware of the alleged behavior. The higher level of authority shall provide each supervisor in the chain-of-command who has knowledge of the allegation with written verification, such as an inter-office communication (IOC) or email, of the date and time that Employee Relations Intake was contacted. If the supervisor who witnessed or became aware of the alleged conduct does not receive such written verification within 72 hours of the event, the supervisor shall immediately contact Employee Relations Intake.
4. The supervisor, warden, or department head shall provide the following information, if available, to Employee Relations Intake:
  - a. Specific nature of the complaint or description of the witnessed or alleged conduct;
  - b. Names and titles of parties involved; and
  - c. Date and time the supervisor, warden, or department head witnessed the conduct or became aware of the alleged conduct and the date(s) the alleged conduct occurred.
5. A supervisor, warden, or department head shall contact Employee Relations Intake even if an individual making or reporting the allegation requests that the matter be kept confidential and no action be taken. If the individual refuses to provide information without assurance of no action being taken, the supervisor, warden or department head shall:
  - a. Advise the individual that TDCJ policy requires the supervisor, warden or department head to take action;

- b. Refer the individual to Employee Relations Intake; and
- c. Inform the intake officer of the referral when reporting the incident.

If a supervisor, warden or department head fails to take action in response to an allegation, the supervisor, warden or department head shall be subject to disciplinary action.

## II. Responding to Allegations

### A. Intake Officer Responsibilities

- 1. Upon notification of an allegation of conduct that may be prohibited by this directive, an intake officer shall take the following actions:
  - a. Advise the complainant how to obtain a PERS 497. If the notification was in a format other than a PERS 497, the intake officer shall encourage the complainant to complete the form.
  - b. Process a signed written complaint in accordance with the procedures outlined in this directive. If the complaint was submitted as a grievance, the intake officer shall close the grievance prior to processing the complaint as an EEO complaint.
  - c. Ensure the complainant has been notified of the following:
    - (1) The complainant's right to file with the EEOC and TWC-CRD; and
    - (2) The complainant's option to contact the OIG if the complainant elects to pursue criminal charges.
  - d. The intake officer shall consult with the supervisor, warden, or department head on any remedial action to be taken.
- 2. When referring a complaint for EEO investigation, the intake officer shall consult with the warden or department head to determine whether interim remedial action shall be taken and the nature of any such action, and the issuance of the PERS 408, Notification of EEO Investigation and Interim Remedial Actions (Attachment B).

B. Warden or Department Head Responsibilities Relating to Interim Remedial Actions

After consulting with the intake officer, the warden, department head, or designee shall meet separately with the complainant and respondent, provide each with a separate PERS 408, and distribute as indicated on the form.

C. Investigation

1. General Provisions

- a. All EEO investigations shall be conducted discreetly and fairly to all parties involved.
- b. The EEO investigation shall be conducted in a timely and thorough manner.
- c. An EEO investigation shall be completed when it contains valid claims of a possible violation of EEO policy, even if the complainant withdraws the complaint.
- d. The manager of Employee Relations shall direct that an EEO investigation be conducted as warranted.

2. Investigation Process

- a. The EEO investigator shall:
  - (1) Complete Sections I and III of the PERS 325-EEO, EEO Prehearing Investigation Report (Attachment C);
  - (2) Interview all relevant parties.
  - (3) Gather related documentation as needed; and
  - (4) Upon completion of the investigation, forward for review to the Employee Relations section director or designee.
- b. The Employee Relations section director or designee shall:
  - (1) Review the investigation and, if necessary, revise the EEO Prehearing Investigative Findings;
  - (2) Complete Section IV of the PERS 325-EEO; and

- (3) Submit the investigation to the manager of Employee Relations or designee.

c. The manager of Employee Relations or designee shall:

- (1) Review the investigation and, if necessary, revise the EEO Prehearing Investigative Findings;
- (2) Complete Section V of the PERS 325-EEO; and
- (3) If appropriate, forward to the Office of the General Counsel (OGC) to review the manager of Employee Relations' action.

D. Notification of Further Action

1. If the investigation is forwarded to an EEO-DAO or pre-service training academy director or designee for review of an alleged EEO rule violation, the manager of Employee Relations or designee shall ensure written notification is provided to the complainant advising the investigation has been forwarded for review. The notification shall identify the name and title of the reprimanding authority. The notification shall not identify any other information relating to the investigation.
2. If the investigation is forwarded to a reprimanding authority or pre-service training academy director or designee for review of an alleged rule violation other than an EEO rule violation or is not forwarded to the reprimanding authority, the manager of Employee Relations or designee shall ensure the findings are disclosed in writing only to the following:
  - a. The respondent's warden, department head, regional director, any other manager, or pre-service training academy director or designee, as appropriate;
  - b. The executive director, deputy executive director, the appropriate division director, and, if applicable, the appropriate division deputy director;
  - c. The complainant; and
  - d. The respondent.

E. Follow-Up

If the investigation is forwarded to an EEO-DAO or pre-service training academy director or designee for review of an alleged EEO rule violation, the manager of

Employee Relations or designee shall monitor the review to ensure documentation is received relating to the outcome of the review, such as a determination that no employee hearing was held, an employee hearing was held but no discipline imposed, an employee hearing was held and disciplinary action imposed, or imposition of pre-service training academy rules. Upon receipt of this documentation, the manager of Employee Relations shall ensure the following are notified of the outcome of the reprimanding authority's review:

1. The respondent's warden, department head, regional director, any other manager, or pre-service training academy director or designee, as appropriate;
2. The executive director, deputy executive director, the appropriate division director, and, if applicable, the appropriate division deputy director;
3. The complainant; and
4. The respondent.

F. Dispute Resolution

A warden or department head may contact Employee Relations Intake and request that the complainant and respondent participate in the dispute resolution process in accordance with PD-35, "Independent Dismissal Mediation and Dispute Resolution," when an EEO investigation has been completed and:

1. The manager of Employee Relations or designee has determined the investigation shall not be forwarded to a reprimanding authority; or
2. The manager of Employee Relations or designee has determined the investigation shall be forwarded to the reprimanding authority, and a final decision relating to disciplinary action has been made.

Participation in a dispute resolution session shall not be in lieu of appropriate disciplinary action.

III. External Complaints or Court Actions

The following procedures shall apply when an employee files a complaint with the EEOC or TWC-CRD, or files an action in a court of competent jurisdiction alleging discrimination in employment or retaliation.

A. Closing of Internal EEO Complaint

Upon receiving notice of such an external complaint or court action, Employee Relations Intake shall determine whether there is an internal complaint filed by the same employee. Employee Relations shall close the internal complaint when:

1. The internal complaint and external complaint or court action are based on the same or similar allegations; and
2. The internal EEO investigation has not been completed.

B. Complainant's Participation in External Mediation

1. Time Reporting

If the complainant is on the TDCJ payroll at the time of the external mediation, the complainant's appearance at the mediation shall be considered official business and on paid time. The complainant shall provide sufficient advance notice of the scheduled mediation to the complainant's supervisor in order to allow management to ensure adequate staffing.

- a. The time that may be reported as time worked shall be limited to:
  - (1) The time that an employee is required to be available at the mediation; and
  - (2) The time required for the employee to travel to and from the location of the mediation in accordance with state travel regulations and TDCJ policies.
- b. Time for an employee to observe another employee's mediation shall not be reported as time worked.

2. State Travel and Per Diem

The complainant shall be reimbursed for any reasonable and necessary expenses in connection with such attendance in accordance with state travel regulations and TDCJ policies.

3. Former Employees

A former employee who attends an external mediation conducted by the EEOC or TWC-CRD shall not receive travel expenses or per diem for the purpose of participating in external mediation.

C. Participation in Judicial Proceeding

When participating in a judicial proceeding relating to alleged discrimination in employment or retaliation, time reporting, and state per diem reimbursement shall be in accordance with PD-57, "Employee Appearances in Judicial or Legislative Proceedings or for Jury Service."

D. Follow-Up Internal EEO Investigation

Human Resources, and the OGC when warranted, shall determine on a case-by-case basis whether to complete an internal EEO investigation when:

1. A complaint filed with the EEOC or TWC-CRD has not been the subject of a completed internal EEO investigation; and
2. The complaint filed with the EEOC or TWC-CRD results in:
  - a. A mediated settlement agreement; or
  - b. Other conclusion.

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Brad Livingston  
Executive Director

Texas Department of Criminal Justice  
EEO COMPLAINT FORM

**Complainant Information (Person Complaining)**

Name: \_\_\_\_\_ SSN: \_\_\_\_\_  
Last First MI

Title: \_\_\_\_\_ Unit or Dept: \_\_\_\_\_

Work Shift: \_\_\_\_\_ Schedule Card: \_\_\_\_\_

Home Mailing Address: \_\_\_\_\_ Home or Cell Phone #: \_\_\_\_\_  
Street Address (Area Code)

\_\_\_\_\_  
City State Zip

Name of Warden or Department Head: \_\_\_\_\_

**Respondent Information (Person Complained Against)**

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Unit or Dept: \_\_\_\_\_

**Date(s) of Discriminatory Event:** Earliest: \_\_\_\_\_ Latest: \_\_\_\_\_

**Are you complaining about:**

(Check)

Slurs or Hostile Epithets?  Yes  No If yes, explain: \_\_\_\_\_

Color Discrimination?  Yes  No If yes, identify your color: \_\_\_\_\_

Race Discrimination?  Yes  No If yes, identify your race: \_\_\_\_\_

National Origin Discrimination?  Yes  No If yes, identify your national origin: \_\_\_\_\_

Gender Discrimination?  Yes  No If yes, identify your sex:  Male  Female

Discourteous Conduct of a Sexual Nature?  Yes  No If yes, identify your sex:  Male  Female

Sexual Harassment?  Yes  No If yes, identify your sex:  Male  Female

Age Discrimination?  Yes  No If yes, identify your date of birth: \_\_\_\_\_

Disability Discrimination?  Yes  No If yes, identify your disability: \_\_\_\_\_

EEO Retaliation?  Yes  No If yes, retaliation for what EEO activities? \_\_\_\_\_

Genetic Information?  Yes  No If yes, specify: \_\_\_\_\_

Religion?  Yes  No If yes, identify your religious belief: \_\_\_\_\_

Other?  Yes  No If yes, specify: \_\_\_\_\_

**STATEMENT**

(Attach additional pages as needed. Number, sign, and date each additional page.)

1. Include specific details such as “who, what, when, and where” for each alleged event of your complaint.

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2. List name(s) of all known witnesses and provide, in your own words, a summary of what the witness(es) may testify about the alleged event.

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3. List name(s) of all individuals to whom you reported the alleged event and the date(s) you reported the alleged event.

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**The foregoing statement contains all of my complaint(s), all names of witnesses, and all names of individuals to whom I reported the alleged event. This complaint includes this two-page form and \_\_\_\_\_ additional pages attached, numbered, signed, and dated. I understand that in addition to any action the TDCJ may take in this matter, I may have filing rights with the Texas Workforce Commission, Civil Rights Division (TWC-CRD) and the U.S. Equal Employment Opportunity Commission (EEOC). I also understand that I may contact the Office of the Inspector General (OIG) if I elect to pursue criminal charges relating to this complaint.**

Complainant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

MM/DD/YYYY

**Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Tex. Gov't Code §§ 552.021 and 552.023, to receive and review the collected information. Under Tex. Gov't Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.**

Texas Department of Criminal Justice  
NOTIFICATION OF EEO INVESTIGATION AND INTERIM REMEDIAL ACTIONS

TO: \_\_\_\_\_ MONTH/DAY OF BIRTH: \_\_\_\_\_  
Print Name: Last First MI MM/DD

PAYROLL JOB TITLE: \_\_\_\_\_ UNIT or DEPT: \_\_\_\_\_

A complaint has been filed with the TDCJ's Employee Relations Intake relating to (check one):

- Sexual harassment or discourteous conduct of a sexual nature.
- Slurs and hostile epithets.
- Discrimination based on race, sex, color, national origin, religion, age, disability, or genetic information.
- Failure to report: (1) an alleged act of discrimination or harassment; (2) discourteous conduct of a sexual nature; or (3) retaliation.
- Retaliation for filing a charge of, participating in a proceeding regarding, or otherwise opposing what would constitute, an EEO rule violation, or for associating with an individual who does so.
- Other, for example, tampering with a witness.

This complaint identifies you as the (check one):

- Complainant
- Respondent (Complainant's Name: \_\_\_\_\_)

An investigation regarding the complaint shall be conducted by the EEO investigators. In order to protect the integrity of the investigation, you are hereby ordered to not discuss any aspect of the allegations with any employee except representatives from Employee Relations conducting the investigation until the fact-finding inquiry is complete. The interim remedial actions indicated below are being implemented. These interim remedial actions do not in any way suggest that the respondent is guilty of the allegation(s). Interim remedial actions are designed to protect both the complainant and the respondent during the investigation.

1. TDCJ officials, in consultation with Employee Relations, have determined it is in the best interest of the TDCJ and all parties (check one):

- to separate the complainant and the respondent within their work location.  
If the separation includes a change to the complainant's shift, work assignment, or location, provide justification specifying extraordinary reasons for such action. The change and justification are to be approved by the manager of Employee Relations prior to providing this form to the complainant or respondent.
- not** to separate the complainant and the respondent within their work location; line of supervision **shall be** changed.
- not** to separate the complainant and the respondent within their work location, line of supervision **shall not be** changed. Reason for not separating the parties or changing line of supervision: \_\_\_\_\_
- to take the following interim remedial action: \_\_\_\_\_

2. You are hereby ordered to limit communications with the other party (complainant or respondent) to necessary job-related communications until the fact-finding inquiry is complete.

You (complainant or respondent) are advised that retaliation, intimidation, or tampering with a witness is prohibited by TDCJ policy, shall not be tolerated, and may result in disciplinary action up to and including dismissal in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees." Complainants and respondents are advised that failure to comply with the interim remedial actions shall be considered a violation of Rule Number 13, Failure to Obey a Proper Order from an Authority.

EMPLOYEE SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_ WARDEN or DEPT HEAD SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Tex. Gov't Code §§ 552.021 and 552.023, to receive and review the collected information. Under Tex. Gov't Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

Distribution:  
Mail original to Employee Relations, HR Division  
Copy - Employee (Note: The complainant may not receive a copy of the respondent's notification or vice versa.)  
Copy - Employee's Unit or Department Human Resources EEO File  
PERS 408 (11/14)



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**III. EEO Prehearing Investigative Findings: See attached.**

**EEO Case Number:** \_\_\_\_\_

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**IV. Section Director, Employee Relations or Designee Review**

Based on the information available, the facts  do  do not support that a rule violation may have occurred.

**Recommended violation: PD-** \_\_\_\_\_ **Rule(s) #** \_\_\_\_\_

**Comments:**

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**Name (printed)**

**Signature**

**Date**

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**V. Prehearing Investigator (Manager, Employee Relations or Designee) Action:** There is sufficient information for the following:

**Rule violation may have occurred:**

Proceed to EEO-DAO reprimanding authority for alleged EEO rule violation

Alleged rule violation number(s): \_\_\_\_\_

Proceed to reprimanding authority for alleged rule violation that is not an EEO rule violation

Alleged rule violation number(s): \_\_\_\_\_

Other, such as respondent's employment separation (Attach explanation)

**Comments:** \_\_\_\_\_

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**No rule violation identified:**

No Action Taken

Other, such as dispute resolution or training (Attach explanation of action taken)

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**Name (printed)**

**Signature**

**Date**

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**VI. Reprimanding Authority's Action:**

Proceed to employee hearing. Alleged rule violation number(s): \_\_\_\_\_

No employee hearing and no action taken

No employee hearing and other action taken, such as separation from a training academy or letter of instruction. (Attach explanation of action taken.)

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**Reprimanding Authority's Name and Title (printed)**

**Signature**

**Date**

If this report is forwarded to a reprimanding authority for an alleged EEO rule violation or other alleged rule violation, this report serves as the prehearing investigation required by PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees." Another prehearing investigation shall not be conducted.