

11—68.6(19B) Discrimination complaints, including disability-related and sexual harassment complaints. The director shall have the authority to investigate practices prohibited under the “Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy for Executive Branch Employees” and the “Policy Prohibiting Sexual Harassment for Executive Branch Employees,” adopted in accordance with Iowa Code section 19B.12. The director shall investigate any complaint pertaining to the policies specified in this rule unless directed by the governor to be investigated by another agency or entity.

68.6(1) Confidentiality. Complaints and records related to complaints, regardless of where the records are located, are confidential. These confidential records include, but are not limited to, all information gathered in the course of an investigation and investigative reports. Confidential records shall not be released unless ordered by a court of competent jurisdiction. This rule does not supersede the remedies provided under Iowa Code chapter 216.

68.6(2) General procedures.

a. Any person who feels that he or she has been subjected to, or who witnesses or has knowledge of, a violation of the “Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy for Executive Branch Employees” or the “Policy Prohibiting Sexual Harassment for Executive Branch Employees” is encouraged to make a complaint pursuant to the complaint procedure outlined in the respective policies.

b. An agency shall immediately report all complaints pertaining to the “Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy for Executive Branch Employees” or the “Policy Prohibiting Sexual Harassment for Executive Branch Employees” to the department.

68.6(3) Sexual harassment complaint procedures. All employees shall have access to internal grievance procedures as authorized by Iowa Code section 19B.12 for reporting complaints of sexual harassment as set forth in the “Policy Prohibiting Sexual Harassment for Executive Branch Employees.”

a. Any employee who believes that he or she has been subjected to, or who witnesses or has knowledge of, a violation of the “Policy Prohibiting Sexual Harassment for Executive Branch Employees” is encouraged to bring a complaint to:

- (1) The employee’s immediate supervisor;
- (2) The next higher supervisor; or
- (3) The agency director or the employee identified by the agency to receive complaints of sexual harassment.

b. A complaint, including those concerning senior agency officials or agency directors, may be made directly to the department or the office of the governor without reporting the matter internally to the agency.

68.6(4) Complaint investigation procedures. The department shall investigate all complaints arising under the “Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy for Executive Branch Employees” and the “Policy Prohibiting Sexual Harassment for Executive Branch Employees” unless directed by the governor to be investigated by another agency or entity. All executive branch employees must cooperate fully with any investigation and may be subject to discipline up to and including termination of employment for failure to cooperate with an investigation. The department shall submit findings for an investigation conducted under this rule to the applicable agency or the office of the governor.

a. A complaint may be submitted on the form prescribed by the department or through other means, either orally or in writing. The complaint should at least contain the following:

- (1) The name and contact information of the person submitting the complaint;
- (2) The name(s) and contact information, if known, of the alleged harasser;
- (3) A statement of the allegations, including dates, if known, constituting the alleged discriminatory or harassing conduct; and
- (4) Any witnesses or persons to whom the allegations were reported.

b. Upon receipt or referral of a complaint, the department shall acknowledge the receipt of the complaint to the person submitting the complaint within five business days of receipt.

c. The investigation shall be initiated within ten days of the receipt of the complaint.

d. The investigation shall be completed within 30 days of the receipt of the complaint unless good cause can be shown that additional time is required. Reasons for additional time to complete the

investigation beyond 30 days shall be documented in the investigation file. Extensions beyond 60 days must have prior approval by the director.

e. The investigation report shall include at least the following:

- (1) Background of the complaint;
- (2) Allegations;
- (3) Persons interviewed;
- (4) Analysis and findings; and
- (5) Conclusion.

f. Upon completion of the investigation, written correspondence regarding the conclusion of the investigation shall be sent to all parties interviewed during the course of the investigation.

68.6(5) *Retaliation prohibited.* Any form of retaliation against an employee for resisting discriminatory or harassing behavior, reporting a complaint of discriminatory or harassing behavior, assisting a complainant who reports discriminatory or harassing behavior, or who cooperates in an investigation regarding discriminatory or harassing behavior is prohibited. Executive branch employees who engage in retaliatory behavior shall be subject to discipline up to and including termination of employment. An employee who experiences retaliation prohibited under this subrule may report the retaliation through any of the avenues identified in this rule.

[ARC 4121C, IAB 11/21/18, effective 10/25/18; ARC 4244C, IAB 1/16/19, effective 2/20/19]