

## DC OFFICE OF HUMAN RIGHTS

---

Mónica Palacio, Director

# Standard Operating Procedures

# Table of Contents

## **I. Introduction**

- About the Office of Human Rights
- About the Commission on Human Rights
- About this Manual

## **II. Chapter One: Personnel Policies**

- Time and Attendance
- Alternative Work Schedule Program
- Office Decorum
- Individual Area of Responsibility
- Customer Service Procedures
- General Correspondence
- Ethical Behavior
- New Employee Orientation
- Program and Individual Performance
- End of Employment

## **III. Chapter Two: General Office Policies and Procedures**

- Supplies, Materials and Work Orders
  - Ordering Supplies
  - Office Work Orders
- Local and Out-of-City Travel
- Press and Other Inquiries
- Maintenance of OHR's Website
- IT Service Policy
- Policies and Procedures for OHR Contracts and Procurements
- Notary Policy
- FOIA Requests

## **IV. Chapter Three: Case Management Procedures for Discrimination Charges (Employment, Public Accommodations, Educational Institutions)**

- OHR Databases
- Intake
- Online Questionnaires
- Intake Interview Procedures
- Processing a Charge
- Compliance and Enforcement of Settlement Agreements
- Walk-in Clients
- EEOC Referrals
- Administration of Cases
- Case Investigation Procedures

- Responsibilities of the Legal Division
- Conciliation
- Case Management and Productivity
- Confidentiality and File Security
- Order of Case Investigations

## **V. Chapter Four: Case Management Procedures for Housing Discrimination Charges**

- Fair Housing Investigations
- Walk-in Clients
- HUD Referrals
- Housing Case Assignment Procedures
- Unsuccessful Mediation Attempts
- Successful Mediation Attempts
- Investigative Procedures for Fact-Finding Conferences
- Coordination of Fact-Finding Conferences
- Determination of Probable Cause Findings
- Conciliation Procedures and Guidelines
- Case Determinations
- Training Requirements

## **VI. Chapter Five: Case Management Procedures for Language Access Complaints**

- Intake Interview Procedures
- Processing of a Complaint
- Determination and Findings

## **VII. Chapter Six: Accommodations Available to OHR Customers**

- Procedures for Documenting Accommodation Requests
- Assistance for LEP/NEP Customers
- Services for the Deaf/Hard-of-Hearing Communities and Visually Impaired Communities

## **VIII. Attachments**

- Policies
  1. OHR EEO Policy
  2. Alternative Work Schedule Program
  3. DC Internet Use Policy
  4. DC Email Use Policy
  5. OHR Family and Medical Leave Act (FMLA) Policy
  6. OHR Policy for Agency Noncompliance with Pre-complaint and Formal Complaint Processes (For DC government Cases)
  7. OHR Government and Personal Vehicle Operators Accountability Policy
  8. OHR Evacuation Plan
  9. OHR Leave Policies
  10. OHR Dress Code Policy
  11. OHR File Room and Supply Policy

12. Request for Use of Citywide Conference Room
13. Office of the Attorney General Ethics FAQs

- Forms

1. Travel Justification Form
2. Travel Authorization Form
3. Travel Expense Form
4. Travel Exemption Request Form
5. OHR Interpreter Request Form
6. OHR Interpreter's Oath
7. OHR Waiver (Interpreter Services)
8. Office of Disability Rights Sign Language Interpreter Request Form
9. Department of Real Estate Services Facilities Request Form
10. Vehicle Operator's Acknowledgment Form
11. Motor Vehicle Accident Claims Form

- Sample Documents

## **I. Introduction**

### **About the Office of Human Rights**

The DC Office of Human Rights (OHR) is an agency of the District of Columbia government established to eradicate discrimination, increase equal opportunity and protect human rights for persons who live, visit or conduct business in the city. OHR enforces the DC Human Rights Act of 1977 (DCHRA), as amended, and other laws and policies on nondiscrimination through the investigation and issuing of administrative determinations on claims of discrimination. Through its Mediation Program, OHR utilizes alternative dispute resolution processes to resolve cases that are filed with the agency before a full investigation commences. OHR is also charged with the enforcement of the DC Language Access Act of 2004 (LAA) to ensure equal access to District government services for individuals with limited or no-English proficiency (LEP/NEP) who seek and require services and involvement with city agencies, departments and programs. OHR monitors compliance with the LAA and investigates allegations of non-compliance with the Act by DC government agencies.

As a 706 status agency with the US Equal Employment Opportunity Commission (EEOC), OHR has a work-share agreement with EEOC and is committed to the enforcement of laws filed on the bases of Title VII of the 1964 Civil Rights Act, as amended, the Age Discrimination and Employment Act of 1967 (ADEA), and the Americans with Disabilities Act of 1990 (ADA). OHR is also a Fair Housing Substantially Equivalent agency approved by the US Department of Housing and Community Development (HUD). As such, OHR has a work-share agreement with HUD and is committed to the enforcement of laws filed on the basis of Title VIII of the Fair Housing Act of 1968, as amended.

OHR is also an advocate for the practice of good human relations and mutual understanding among the various racial, ethnic, cultural and religious groups in the District of Columbia. In this role, it provides outreach and education to District government agencies, businesses, and communities throughout the District; human resource development training to government agencies and private sector entities for establishing environments free of discrimination; and investigates complaints and conditions that cause community tension and conflict leading to breaches of the peace.

### **About the Commission on Human Rights**

The DC Commission on Human Rights (Commission) adjudicates private sector complaints that have been certified to it by OHR after receiving a “probable cause” determination. An administrative, trial-type hearing is conducted either before an Administrative Law Judge (ALJ) or a panel of Commissioners. Upon a finding of discrimination, the Commission may issue injunctive relief and award damages including front and back pay, compensatory damages, civil penalties, and attorney’s fees. Appeals of all Commission decisions may be brought before the DC Court of Appeals.

## About this Manual

This Standard Operation Procedures (SOP) Manual applies to employees of OHR and the Commission. This Manual is intended to achieve consistency and compliance with fundamental norms under which employees must perform their duties and responsibilities, and will be referenced in cases of performance reviews and program evaluation. It is a living document, thus policies and procedures are subject to change. Similarly, additional policies may be developed and issued relevant to the agency's goals and/or Mayoral requirements. In this event all employees will be notified accordingly. This Manual is not intended to supersede preexisting rules and regulations subject to the operations of the Government of the District of Columbia as stipulated in the District's Personnel Manual (DPM) issued by the DC Department of Human Resources (DCHR), DC Municipal Regulations (DCMR) and any other applicable local or federal laws.

## II. Chapter One: Personnel Policies

### Time and Attendance

- A. OHR's hours of operation are from 8:30 a.m. to 5:00 p.m., Monday through Friday. Divisions, programs, or units may require their staff to abide by a tour of duty that reports earlier than 8:30 a.m. or extends later than 5:00 p.m. if their programmatic responsibilities warrant an earlier arrival or later departure time. Similarly, staff may request of their Supervisor a tour of duty that reports earlier or later than 8:30 a.m.
- B. Any employee, late or calling out, must contact his/her Supervisor directly and leave a message if the Supervisor is unavailable. In that event, the employee must call and leave a message for the HR Advisor and/or Timekeeper for the agency. Employees should contact their immediate Supervisor (or Timekeeper if Supervisor is unavailable) to report deviations from their tour of duty no later than 15 minutes prior to their scheduled arrival time.
- C. In accordance with the District Personnel Manual (DPM) and the agency's Collective Bargaining Agreement (CBA), frequent tardiness of any type (arrival to work, lunch, and break) is subject to disciplinary action.
- D. Employees are granted one (1) hour for lunch in accordance with accepted office practices. Investigators' lunch breaks must end by 2:00 p.m. unless prior approval is granted by employees' Supervisors or agency Director. As an alternative, an employee could be granted one (1) 30-minute lunch break and two (2) 15-minute breaks.
- E. Employees must notify their Supervisor when they take their lunch and two (2) 15-minute breaks.
- F. Employees seeking to leave the office for the remainder of the business day must receive approval from their Supervisor in advance by submitting a leave slip to their Supervisor.
- G. Employees must submit a leave slip at least five (5) business days in advance prior to taking planned annual and/or planned sick leave. (If the 5<sup>th</sup> day falls on a weekend, the employee is to submit it on the next business day.) In the event of unexpected illness or documented emergency amounting to three (3) days or greater, the employee must provide a leave slip supported by appropriate documentation.
- H. Staff on field assignments shall plan in advance their field duties and receive approval from their Supervisor. Employees shall contact the agency twice during the day for telephone messages and further instructions, and must return all voicemail messages and emails within 24 hours or the next business day.
- I. It is imperative that employees' immediate Supervisors know how they can be contacted at all times.
- J. Compensatory ("comp") Time and Exempt Time Off ("exempt time") will only be awarded when pre-approved by a Supervisor. Comp Time and Exempt Time should be repaid no longer than 30 business days after accrued. After 30 business days, both Comp and Exempt Time accrued will expire. Supervisors shall effectively manage Comp Time accruals for each subordinate to avoid disruption of operations and compliance with District policy.

- K. **Participation in Outreach activities and OHR sponsored Events:** It is OHR policy to allow employees to participate in various outreach events, as well as attend OHR sponsored events. OHR's Public Affairs Specialist will coordinate the agency's outreach events, as well as organize OHR sponsored events. Employees must obtain permission in advance from a Supervisor to attend any outreach activity or participate in OHR sponsored events. Comp Time for participating in outreach events will be awarded when pre-approved by a Supervisor. Comp Time is not available for attending OHR sponsored events.
- L. An employee who is exempt from the Fair Labor Standards Act (FLSA) will be granted **Exempt Time** and an FLSA non-exempt employee can receive FLSA **Comp Time** for the hours of outreach activities or training that she/he performed.
- M. **Time Approval, Time Keeping and Time Recording:** OHR no longer has an assigned time keeper. OHR's Executive Assistant, however, has the supporting role of reminding staff of the timely submission of electronic timesheets through PeopleSoft and review and approvals by Supervisors.
- N. Employees must sign in when they arrive to work and sign out when they complete their tour of duty at all times. The sign-in log is located at the reception desk. Employees must accurately report their sign in and out times. If a Supervisor is aware that an employee will not be in the office on a given day, the Supervisor will make a note the day of by the employee's name on the sign-in log.
- O. Electronic time sheets and leave slips must be entered by employees without exception and reviewed and approved by Supervisors. Supervisors will not approve requested leave if employees do not provide requisite leave slips for that reporting period. Failure to produce the necessary documentation will be subject to disciplinary action. It is the responsibility of Supervisors to ensure an efficient time and attendance review and approval process.
- P. All OHR employees must abide by and comply with the PeopleSoft electronic time recording policy according to DCHR guidelines. PeopleSoft can be accessed from a District government computer at <https://pshcm.dc.gov/psp/hcmprd/?cmd=login>. Training of the electronic time recording system will be provided to new staff by the Executive Assistant or agency Human Resources (HR) Advisor. It is each employee's responsibility to accurately enter their time electronically. If absent from the office, an employee may enter his/her time remotely into PeopleSoft by accessing <https://ess.dc.gov>.
- Q. Employees who are unaware of the amount of their accrued annual or sick leave should consult PeopleSoft prior to requesting time off, unless in cases of an emergency or unexpected circumstances. OHR's Executive Assistant or HR Advisor may provide this information to OHR staff in certain cases where the information is unavailable to neither employee nor Supervisor.
- R. Prior to utilizing Advanced Leave (AL) or Leave Without Pay (LWOP), an employee must utilize their accumulated sick or annual leave. Notwithstanding the requirements of the DC Family and Medical Leave Act (FMLA), sick time will not be substituted for annual leave. AL and LWOP must be approved by the employee's Supervisor and this approval is subject to management discretion and District policy. (See OHR's Advance Leave Policy in **Attachment 9** of this SOP.)
- S. In accordance with District policy and upon approval from the Director of OHR, the agency's Supervisors will issue Leave Restriction. Leave Restriction may be instituted against an employee if it is determined that the employee has serious time or attendance issues. If after the Leave Restriction is lifted the



employee continues to have time and attendance issues, the employee will be subject to further disciplinary action, up to and including termination.

- T. The Director or his/her designee is responsible to approve employees' payable time.
- U. In order to maintain confidentiality and protection of personnel information only the Director, HR Advisor, and a Director's designee are to have access to the administrative functions of PeopleSoft.

## Alternative Work Schedule Program

OHR reinstates the Alternative Work Schedule Program ("AWS Program") that permits employees to meet their obligation of working 80 hours per pay period in a manner other than the traditional eight (8) hour per day schedule, subject to the needs of the Office and certain practical and policy limitations. Also, the Program permits all OHR staff to participate in one (1) of two (2) permissible Alternative Work Schedules, *i.e.*, a Flexible Work Schedule and a Flexiplace Work Arrangement. With this revised AWS Program, OHR hopes to continue attracting and retaining a high-quality workforce by allowing its staff greater flexibility during their work weeks. (See OHR's Alternative Work Schedule Program in **Attachment 2** of this SOP.)

## Office Decorum

- A. Communication and music within the office must be such that it does not distract or interfere with the work of other staff and clients. If the employee works out of an open workspace (e.g., cubicle), he/she must utilize headphones when listening to music.
- B. Interoffice and interdepartmental socialization via office telephone, personal cell phones or personal visitors during office hours should be kept at an absolute minimum.
- C. Employees are expected to conduct themselves in a professional manner at all times.
- D. OHR's dress code policy is consistent with the expectations of our Mayor and allows us to present an appropriate, professional image within and outside the government as we handle the city's human rights matters. Dress should be neat, clean and conform to normal office professionalism. (See Dress Code Policy in **Attachment 10** of this SOP.)
- E. Business attire is required for all staff during Intake days, mediations, conciliations, in-house or outside training, out-of-city or local conferences, or any type of meeting with non-OHR personnel. Employees are allowed to wear jeans on Fridays unless they have scheduled appointments. If an employee wears jeans on Friday, the jeans must be without holes or tears.
- F. Offices are required to be orderly and clean. Offices should be free of clutter, dirty dishes and dirty clothes, and should maintain all case files and paper work in a secure location (*i.e.*, locked file cabinets) and in proper order.

- G. The break room/kitchen should remain clean at all times. Conference rooms should be kept clean and chairs should be placed in order at the conclusion of every meeting. Food is strictly prohibited in both conference rooms. Exceptions may be granted only by the Director.
- H. It is required that OHR and Commission staff inform the Administrative Officer and Receptionist of the need for carpet vacuuming and cleaning of any common space when needed. The Administrative Officer and Receptionist should coordinate the appropriate method to immediately contact building cleaning personnel.
- I. Doors to employees' offices should remain open unless they are interviewing a client, conducting a meeting with non-OHR personnel or handling confidential matters (e.g., mediation cases, conference calls, personnel issues).
- J. When conducting site visits, attending meetings, or representing the agency at an event, employees should dress and act professionally at all times.

## **Individual Area of Responsibility**

- A. Staff shall be expected to perform the duties assigned in their Position Description, including other duties as assigned.
- B. All job responsibilities and amendments thereto will be made with the approval of the Director and in conjunction with the agency's Collective Bargaining Agreement.
- C. From time to time staff will be requested to temporarily perform duties of an employee on leave or away from the work area. This may be affected at the discretion of the Supervisor and/or Director.
- D. At the election of the Director, staff may be reassigned to other duties and those may supersede their regular tasks.
- E. Employees shall willingly perform their duties, as well as learn the overall functions of the agency and assist whenever required to assure the continuous and effective operation of the office. Except as required by regulations, no employee shall withhold information relative to his or her job function from another employee.

## **Customer Service Procedures**

- A. All OHR and Commission employees are to abide by the District's Customer Service Standards and Guidelines as established by the Executive Office of the Mayor (EOM) for telephone, voicemail, correspondence, and face-to-face communication. EOM Standards and Guidelines can be found at [http://dc.gov/mayor/customer\\_service/index.shtm](http://dc.gov/mayor/customer_service/index.shtm).
- B. All employees must read and understand the DC Customer Service Standards and Guidelines within 10 days of employment. Individual compliance is part of every employee's performance evaluation.

- C. The Receptionist will take all incoming calls and direct calls to the appropriate staff. In the absence of Front Desk Support personnel, staff from each division may be assigned to fill in as needed.
- D. Coordination is necessary between the agency's Receptionist and Commission staff to ensure that calls are routed appropriately between OHR and Commission, and vice versa.
- E. The following format is to be used by employees when answering all OHR calls:
- "Good morning / afternoon, DC Office/Commission on Human Rights, this is Ms. / Mr. Doe, how may I assist you?"
- F. If and when an OHR employee receives a call in a language other than English and is unable to communicate in the caller's language, the employee will immediately utilize OHR's telephonic interpretation service to assist the caller by doing the following:
1. Use **Conference Hold** to place the non-English speaker on hold.
  2. Dial **1-800-367-9559**
  3. Enter OHR's six-digit **client ID number**.
  4. Press "**1**" for *Spanish* or "**2**" for *all other languages*. If the employee does not know the caller's language, press "**0**" or stay on the line for assistance.
  5. Enter OHR's **access code**.
  6. **Brief the Interpreter:** The employee should introduce him or herself, summarize what it is he/she wishes to accomplish and provide any special instructions to the interpreter prior to adding the caller to the line.
  7. **Add the non-English speaker** to the line.
- \*When placing a call to a non-English speaker, begin at Step2.*
- G. All OHR employees shall follow appropriate customer service standards when assisting limited and non-English speaking callers. If an appointment is scheduled and a request for an interpreter and/or translations services is made by the customer, please follow the outlined procedures in Chapter Six of this Manual.
- H. It is the responsibility of the Receptionist and Agency's Telephone Coordinator (ATC) to ensure that the agency's TTY number works at all times. Appropriate training of the TTY machine will be made available to all OHR employees by the ATC.
- I. In no event shall a caller be kept on "HOLD" for more than 30 seconds without checking back with the caller. If the requested staff member is unavailable, a message should be taken to avoid the caller experiencing prolonged waiting period.
- J. Personal telephone calls should be kept to a minimum. OHR internal and external customers take precedence over personal telephone calls, unless the personal call involves an emergency situation. Otherwise, employees should use their two (2) daily 15-minute breaks to make and return personal telephone calls.
- K. While attending a client in the office, calls and other distractions are to be curtailed. Except in dire emergencies, telephone callers will be asked to either call back or leave a message.

- L. Telephone voicemail greetings should be established according to DC Customer Service Standards. OHR bilingual public contact personnel should record appropriate voicemail greetings in English and their second language.
- M. All telephone calls and emails must be returned within 24 hours or the next business day.
- N. Employees are to document telephone calls received from or made to Respondents and Complainants in the form of a Memorandum or Call Log to include the date, time, name of the person calling, contact telephone number, and the purpose of the telephone call.

## General Correspondence

- A. All OHR and Commission employees are to abide by the District's email and internet access and use policies as established by the District's Office of the Chief Technology Officer (OCTO). Said policies can be found in **Attachments 3 and 4** of this SOP or at <http://www.octo.dc.gov/octo/cwp/view,a,1302,q,579820,octoNav,|32782|.asp>.
- B. All employees must read and understand the District's email and internet access and use policies within 10 days of employment. Individual compliance is part of every employee's performance evaluation.
- C. All emails must include the staff's signature, including name, title, business address, telephone number, business mobile number (if applicable), fax number, OHR's website address, and agency's mission statement. In addition, a "Statement of Confidentiality" shall be included as standard language in each employee's email. The Statement of Confidentiality should read as follows:
  - *This email and any files transmitted with it could contain confidential information and are intended solely for the use of the individual or entity to whom they are addressed. If you are not the named addressee, you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this message in error and delete this message from your system. If you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.*
- D. Electronic mail shall be checked hourly.
- E. "Out of office" email messages should be established according to DC Customer Service Standards. OHR bilingual public contact personnel should record appropriate "out of office" messages in English and their second language.
- F. Employees should take care to ensure that they are responding to the appropriate party when sending out general correspondence.
- G. OHR and the Commission **will no longer** mail documents via "certified mail" with the *only* exception being Letters of Introduction sent to Respondents in private sector cases. When sending correspondence via certified mail the receipt shall be filled out completely and attached to the

document. (Blank receipts are not acceptable.) Investigators shall attach returned receipts for these letters to the appropriate case file.

- H. All correspondence to Complainants will be sent via regular mail. Examples of regular first class mail correspondence include, but are not limited to, Letters of Introduction to Complainants and Respondents in public sector cases, Mediation Letters, Rebuttal Requests, Requests for Witnesses, Orders to Produce, Letters of Determination (LODs), Reconsideration Decisions, and documents transmitted by Commission staff.
- I. Electronic correspondence (i.e., email) to Respondents should be used in lieu of regular mail whenever possible. Email correspondence should apply, for example, when communicating with Respondents or Respondents' attorneys. If email correspondence is used, Investigators must implement a control mechanism to demonstrate transmittal and receipt of documents. This mechanism may include folders in MS Outlook to save all email correspondence to Respondents, as well as delivery confirmation and return receipts. Hard copy folders are still required.
- J. On newly docketed cases Investigators should request Respondents' and Complainants' email addresses. Both parties should be asked if they prefer to correspond via this method of communication over receipt of regular U.S. mail correspondence.
- K. **Electronic Document Correspondence / DC government Cases:** Effective immediately, correspondence addressed to Respondents for all types of cases against DC government will be made electronically. This includes employment, public accommodation, education, and Language Access cases. This process is being put in place as a preamble to what will be OHR's E-filing system. Documents that would be otherwise mailed to Respondent DC agencies will be sent **via email**. This includes Letters of Introduction and all other subsequent documents. Investigators must implement a control mechanism to demonstrate transmittal and receipt of documents. (Please refer to paragraph "I" of General Correspondence.)
- L. Correspondence leaving the office will be typed in accordance with accepted DC government procedures. (Block style; Times New Roman; Font 12)
- M. Correspondence leaving the office shall bear the agency's approved letterhead format without exception. OHR's Executive Assistant is responsible to provide agency staff with the approved letterhead format.
- N. Employees are to utilize OHR materials and templates (letterhead, envelopes, fax cover sheets, labels) for correspondence as appropriate. These materials are located on the agency's shared "I" drive in the OHR Communication Materials folder.
- O. All correspondence must be proofread and corrected with respect to spelling and grammar. Proficient and professional writing skills are vital for this office and employees will be evaluated accordingly.
- P. All correspondence should be checked for enclosures.
- Q. All written correspondence, including correspondence received in a non-English language, from Complainants and Respondents shall be responded to in writing within 48 hours. In the event that the office receives correspondence in a non-English language, the correspondence shall be immediately

forwarded to OHR's Language Access Director or his/her designee who will arrange to have the correspondence and OHR's response translated into the language of the customer.

- R. All outgoing mail should be placed in the designated mail tray at the front desk for pick-up by courier.

## Ethical Behavior

- A. The OHR Ethics Officer is the agency's General Counsel. He/she shall review all matters involving ethical behavior including, but not limited to, conflicts of interest and impropriety. The Officer is also responsible for reviewing and collecting financial disclosure information with the exception of documentation for the Office of Campaign Finance. If an employee would like to discuss an ethical issue, please contact the Ethics Officer directly. Finally, all outside employment must be disclosed to the Ethics Officer.
- B. Personal relationships with Complainants and Respondents during the pendency of investigations are strongly discouraged. A determination will be made if recusal is necessary.
- C. In accordance with the District's Ethics Policies and the District Personnel Manual (DPM), employees are prohibited from accepting gifts, money, and meals from Complainants, Complainants' Representatives, Respondents or Respondents' Representatives.
- D. All OHR and Commission employees are to abide by the District's Ethical and Conduct Standards established and enforced by the DC Office of the Attorney General (OAG). Guidelines for Ethical Conduct can be found at [www.oag.dc.gov](http://www.oag.dc.gov) or in Chapter 18 of the DPM. All staff are required to read such guidelines within one (1) month after initiating employment at OHR. Ethical FAQs are also included as **Attachment 14** to this Manual.

## New Employee Orientation

- A. OHR will conduct new employee orientation using this Manual as a reference in addition to the required orientation for new employees conducted by DCHR. The orientation will cover general OHR functions, legal jurisdiction, and other OHR requirements. This orientation will be coordinated by the agency's Human Resources (HR) Advisor in collaboration with OHR's General Counsel and other agency Managers and Supervisors.
- B. Managers and Supervisors are responsible to provide a program-specific orientation, including job expectations and program/individual goals, deliverables and performance measures.

## Program and Individual Performance

- A. In order to fulfill the mission and goals of OHR, the program performance is evaluated by the Director on a monthly, quarterly, and annual basis according to key performance indicators (KPIs), CapStat requirements, Director's contract, Director's annual priorities and special initiatives, and/or any other

guidelines set forth by the Mayor of the District of Columbia and according to the laws and regulations subject to OHR's functions.

- B. All employees are evaluated on an annual basis according to the guidelines of the ePerformance system. During the rating period, all employees should review their performance plans periodically to ensure accomplishment of all predetermined goals.
- C. Supervisors and/or Program Directors/Coordinators must submit, at a minimum, quarterly reports to the Director on the progress made on: 1) Agency KPIs; 2) Agency Initiatives per the DC CapStat/Performance Management program; and 3) Individual SMART Goals (i.e., Specific, Measurable, Attainable, Realistic, and Time-related goals that are established annually by the OHR Director) per the ePerformance Plan.
- D. Supervisors under the Management Supervisory Service (MSS) must attend all required trainings as designated by DCHR.
- E. Letters of Admonition (LOAs), Letters of Warning (LOWs) and Performance Improvement Plans (PIPs) are recommended for unsatisfactory performance and/or conduct. LOAs, LOWs and PIPs can be recommended by Supervisors at times other than the annual performance review. PIPs will detail the areas of deficiency, the timeframe allowed for improvement, and the steps for the employee to take before any further disciplinary action(s) is imposed. The Director decides the timeframe offered to the employee as stipulated in the PIP to remedy the situation. However, the last date that a PIP can be issued is June 30<sup>th</sup> of any given year. If the employee fails to correct the deficiency(ies) indicated, the Supervisor will make the recommendation to the Director for further disciplinary action, up to an including termination.
- F. Termination of an employee will be decided only by the OHR Director.

## End of Employment

- A. When terminating their employment with OHR, employees are responsible for the following:
  - 1. Providing, when possible, at least two (2) weeks notice and a letter of resignation;
  - 2. Submitting their password to their computer and telephone;
  - 3. Returning all office keys, such as master keys, keys to their file cabinet and office door;
  - 4. Returning DC government ID; and
  - 5. Providing written case file summary for each case, if applicable.
- B. Referenced items shall be submitted to the employee's immediate Supervisor or designee in the Supervisor's absence.

### III. Chapter Two: General Office Policies

#### Supplies, Materials and Work Orders

It is the policy of OHR to conserve paper and eventually become a paperless office through the use of electronic communication and the management of office documents. The Office does not tolerate the use and misuse of non-recyclable and non-renewable resources.

- **Ordering Supplies**

- A. By the 15<sup>th</sup> day of every other month, employees must submit to OHR's Program Assistant a list of supplies needed to conduct their assigned duties. Upon authorization of the agency's Executive Assistant and Director, Program Support Staff/Administrative Assistants will work with OHR's purchase cardholder to order supplies.
- B. When ordering supplies, staff shall not include onerous and unnecessary supplies.
- C. Business cards are an allowable purchase and such order should be coordinated with the agency's purchase cardholder. Business cards should display the District's flag, OHR logo, website, and all other pertinent employee contact information.
- D. Supplies must be ordered from a certified Local Small Development Business Enterprise (LSDBE) vendor.
- E. Program Support Staff/Administrative Assistants and Administrative Officer are responsible to verify orders when received and provide purchase cardholder with receiving slips, a total count of items, and total amount of the order. When discrepancies are found between receiving items and items on the original order, the Administrative Officer must work with the Executive Assistant to correct the problem with the vendor by reimbursing OHR immediately.
- F. Program Support Staff/Administrative Assistants are responsible to keep supplies and the supply storage room orderly and clean at all times.
- G. The policy for ordering supplies will apply with printer cartridges and toners not included under contract.
- H. Failure to comply with this policy will be subject to disciplinary action.

- **Office Work Orders**

- I. The Administrative Officer should be notified of any deficiency in the performance of fax machines, printers and copiers. The Administrative Officer will work with respective contractors to correct the problem expeditiously.
- J. The Administrative Officer and ATC should be notified of any deficiency in the performance of agency telephones, mobile phones, and personal digital assistants (PDAs). The ATC will work with respective contractor to correct the problem expeditiously. New orders for land phones and mobile phones/PDAs should be made to the Director through the ATC.



- K. All requests for computers and computing equipment should be made to the Director through the Administrative Officer. The Director reserves the right to order equipment after consultation with and assessment from OCTO.
- L. Request for photocopies at the reception desk by customers should be kept at a minimum. The copying of documents larger than five (5) pages should be the responsibility of parties or customers.

## Local and Out-of-City Travel

- A. Unless an unforeseen emergency arises, reimbursement for parking and cab fares are not permitted. But for foreseeable occurrences, the employee may request in advance from their Supervisor reimbursement; then, the Director may consider the request, which includes the availability of alternative forms of transportation including metro and government vehicles. .
- B. Staff are provided with Metro fare cards to attend business-related meetings, outreach activities, forums, training, conferences, and other events and activities pertaining to OHR functions. The Director or his/her designee will be responsible to manage the distribution of fare cards.
- C. A Metro card log will be established to include the following information: a “running count” of the cards, the time each card is retrieved, and the name of the employee who received the card.
- D. Metro fare cards shall not be used for transportation from and to employees’ homes or for any personal transportation. Failure to comply with this policy will be subject to disciplinary action.
- E. Conferences and trainings outside the District of Columbia are approved by the Director per Supervisors’ request. OHR management encourages and promotes quality training when available in order to advance employees’ skills and qualifications, thus making the agency’s work more accurate and productive.
- F. Supervisors whose staff are traveling to conferences and trainings are required to become familiar with the rules and guidelines of the DC Travel Card program. All expenditures while on travel must be made according to the DC Travel Card program. Charges for transportation and lodging will be made without exception through OHR’s Travel Card, unless suspended, in which case such expenditures will be appropriately reimbursed to the employee upon his/her return. For additional information, employees can visit <http://wiki.in.dc.gov/index.php/P-CARD>.
- G. Employees must utilize the appropriate travel related forms when requesting: travel approval, advances, reimbursements, or exemptions. All travel related forms can be found in the Attachments Section of this Manual.
  - Travel Justification Form: Employees must obtain a signed Travel Justification Form from their Approving Official (i.e., Supervisor, Administrative Officer or Director depending on the circumstance) before completing the transaction on their Purchase Card. Travel advances and reimbursements will not be approved without a completed Travel Justification Form.

- Travel Authorization Form: The Travel Authorization Form is required when a traveler requires a travel advance or pre-payment of travel-related funds. This can only be approved after the cardholder obtains a signed Travel Justification Form.
  - Travel Expense Form: The Travel Expense Form is required when a traveler requests a travel reimbursement. This form must be submitted within 10 days of return from travel. All necessary documentation, including a completed Travel Justification Form and receipts must be submitted with this form.
  - Travel Exemption Request Form: The Travel Exemption Request Form is required when travel-related expenses are greater than the per diem allowance set forth by the Federal Government General Services Administration (GSA), when an employee is unable to obtain lower rates for early conference registration, or another item that requires exemption (if requested by the Designated Billing Officer). The Travel Exemption Request Form must be submitted with requested advances/reimbursements.
- H. In the event that a cardholder pays for lodging and/or travel services that a non-cardholder will use in the absence of the cardholder, the cardholder must submit a Credit Card Authorization form to the vendor (typically hotel) in question. The cardholder should obtain the Credit Card Authorization Form through the hotel and **MUST** personally complete and fax the completed form to the vendor.
- I. **Staff traveling can request advance payments for meals** through the agency's Executive Assistant. Per diem rates are set according to Government Services Acquisition (GSA) and can be accessed at [www.gsa.gov](http://www.gsa.gov). In the absence of advance per diem allowances, staff will be reimbursed upon their return by presenting receipts of allowable expenses (e.g., taxi cabs, meals and non-alcoholic beverages).
- J. Staff traveling are required to keep all receipts and turn them in upon his/her return if necessary.

## Press and Other Inquiries

It is the responsibility of OHR's Public Affairs Specialist to disseminate information about OHR – its mission and services — to the general public and other government agencies, as well as to respond to press inquiries. Employees must refer all press inquiries, as well as inquiries from community groups and government agencies, including the Executive Office of the Mayor, to OHR's Public Affairs Specialist. Under no circumstances should employees respond to any press inquiries or make any statements to the press under their own volition.

## Maintenance of OHR's Web Site

It is the responsibility of OHR's Public Affairs Specialist to update and maintain, with the assistance of OCTO, the agency's internet and intranet sites with relevant information about programs, activities and accomplishments. OHR staff shall direct any request for updates on the site, as well as provide any information to be included on the websites, to OHR's Public Affairs Specialist.

## Policies and Procedures for OHR Contracts and Procurement

### A. The Contracting Officer's Technical Representative (COTR)

The Contracting Officer's Technical Representative (COTR) is typically the Administrative Officer of OHR who works with a designated Contracting Officer(s) at the DC Office of Contracting and Procurement (OCP) to procure goods and/or services for OHR. The COTR functions as the "eyes and ears" of the Contracting Officer.

The COTR has the following responsibilities:

- Assists in statement of work (SOW) preparation;
- Provides Independent Government Estimates (IGEs) for desired supplies and services;
- Drafts technical Evaluation Plans;
- Assists in evaluating technical proposals;
- Determines degree of contractor risk in proposed procurement;
- Creates and maintains a COTR file for documentation;
- Directly interfaces with the contractor;
- Monitors, inspects, and accepts work performed under contract.

### B. OHR Contracts and Procurements

OHR is required to comply with the DC Procurement Practices Act of 1985, Chapter 18, Sections 1800-1803 regarding small purchases and other simplified purchase procedures.

- Non-Competitive Small Purchases

#### (a) Section 1801.1: Procurements for \$10,000 or less

A Contracting Officer may make a procurement of \$10,000 or less without obtaining competitive quotations if it is in the best interest of the District government considering the price and other factors (including the administrative cost of the purchase). A Contracting Officer shall distribute non-Competitive small purchases equitably among suppliers; however, placing a repeat order with same supplier(s) is not allowed.

- Competitive Small Purchases:

#### (b) Section 1802.1: Procurements greater than \$10,000 and less than \$25,000

For procurement of goods and services in an amount greater than \$10,000 or less than \$25,000, the Contracting Officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased.

#### (c) Section 1802.: Procurements greater than \$25,000 but less than \$100,000

For procurement of goods and services in an amount greater than \$25,000 and less than \$100,000, the Contracting Officer shall obtain at least three (3) written quotations from vendors for the goods and services to be purchased.

### C. Request for Quotes (RFQ)

An RFQ is used for purchases under the small purchase threshold. When OHR provides specifications of what they need and the available budget for what they need, OCP contacts vendors to provide a price proposal for the specifications laid out in the SOW submitted by the agency. This process is to ensure that OHR has an open bid that allows the District to take full advantage of the competitive marketplace and thereby receive best value for taxpayer dollars. In accordance with Contracting Policies, OHR may select a vendor as their preferred vendor based on previous performance, known expertise, and recommendation by a Manager, the COTR or Director. However the Contracting Officer is authorized to make the final decision in awarding the contract.

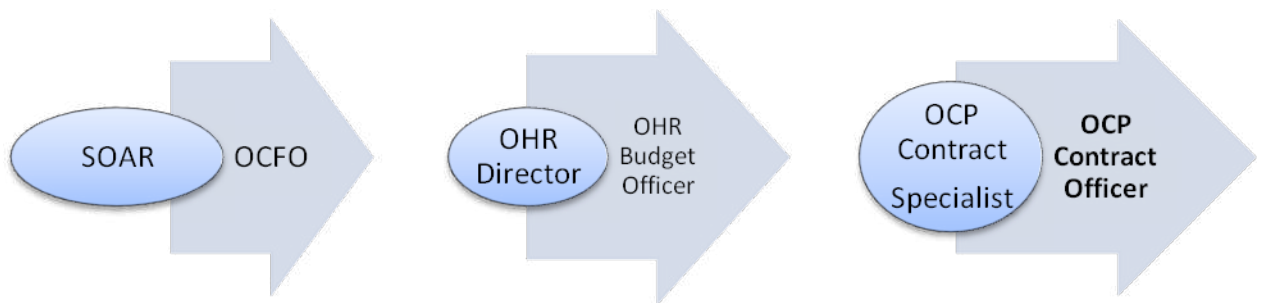
### D. OHR Procurement Responsibility

#### Identify a need for Procurement

- The respective Program Manager or Administrative Officer identifies a need to procure goods and/or services (e.g., Training, Outreach, Temporary Staff, etc.);
- The Manager discusses the need/proposal with OHR Director during weekly meetings. OHR Director may approve or disapprove the proposal;
- When he/she approves, the Director and the Administrative Officer will identify funding in OHR's budget;
- The Manager will draft the SOW detailing what kind of goods or services are required, when the goods or services should be delivered or processed, and how it should be delivered (Sample Template for SOWs can be found on OCP's intranet site at [www.ocp.in.dc.gov](http://www.ocp.in.dc.gov) or OHR may contact its COTR for guidance);
- The Administrative Officer/COTR will meet with the Program Manager or the responsible party to discuss the SOW;
- The Administrative Officer will review the SOW with the Manager and the Manager will email the final version of the SOW to the Administrative Officer/COTR.

#### Submit a Requisition

- The Administrative Officer/COTR submits a requisition in the Procurement Automated Support System (PASS) with the SOW attached and the need by date indicated;
- The requisition goes through an approval flow through the District's System of Account Reporting (SOAR), the Office of the Chief Financial Officer (OCFO), OHR Director, OHR Budget Officer, OCP Contract Officer, and OCP Contract Specialist for careful review and approval or denial.



- The Administrative Officer/COTR monitors the approval flow in PASS to ensure that the assigned individuals approve the requisition on time. The COTR is required to answer questions or resolve any issues that the designated approvers may have. The COTR must also assist in resolving PASS technical issues pertaining to the requisition;
- The COTR must notify PASS in the event that any of the approvers is on leave and have PASS re-assign the requisition to the next person in the chain of command;
- Usually a requisition is expected to be fully approved within 7-12 business days;
- A Purchase Order (PO) is generated in PASS after a requisition is approved by the final person on the approval flow (i.e., the Contracting Officer).

#### **E. When a Requisition is Denied**

When a requisition is denied by someone on the approval flow, he/she leaves a comment in PASS to notify the COTR to resolve the issue and re-submit the requisition.

#### **F. Purchase Order (PO)**

- The Administrative Officer/COTR sends a copy of the PO via email to the Program Manager. The PO is a legal agreement that formally authorizes an agency to receive goods and/or services from a vendor;
- The Administrative Officer/COTR, in collaboration with the Program Manager, are responsible for ensuring that the vendor provides services in accordance with the requirements of the SOW and the PO;
- When the Administrative Officer/COTR receives an invoice from a vendor it must be carefully reviewed by the Manager and the Administrative Officer;
- After careful review of the invoice, the Program Manager signs for approval for payment, followed by Administrative Officer and the OHR Director;
- OHR Director will not approve any invoice unless all required signatures are on the invoice;
- On the other hand, if there are inconsistencies with the invoice, the vendor will be contacted immediately by the COTR or the Manager to rectify the problem.

#### **G. Payment of Invoices from Vendors**

The District of Columbia is required by the Quick Payment Act of 2009 to pay bills within 30 business days. All payments for goods and services must be initiated through the use of payment vouchers. The process begins with the receipts of the vendor's invoices, payment requests and other required supporting documents (i.e., purchase order and receiving report). The preparation of the payment voucher includes the following essential steps:

- Make sure all goods and services were ordered by an authorized official, evidenced by a purchase order (written contract), or in compliance with the CFO Order (authorization of Direct Voucher);
- Goods or services ordered have been delivered and accepted, evidenced by receiving and inspection of reports; and
- Possession of the original invoice.

## H. Payment Process

- After invoices are fully approved internally, the Administrative Officer or the COTR receives the invoice(s) in PASS and submits a copy of each of the invoices to the Accounts Payable Technician at the Office of Chief Financial Officer (OCFO);
- The invoices are carefully reviewed by the Manager of Accounts Payable for his/her approval;
- After the Manager's approval, the Accounts Payable Technician processes the Invoice in SOAR for payment;
- A few days after an invoice is put in SOAR, it generates a check mailing date and a check number for each of the invoices;
- The COTR is required to check in SOAR to ensure that all invoices submitted are processed for payment, as well as answer questions, concerns, and issues pertaining to payment of invoices;
- By law, vendors are required to be paid within 30 business days after an invoice has been submitted to OHR.

## I. OHR Annual Routine Procurements

Every year OHR procures some goods and services to support its operations. These goods and services include, but are not limited to, the following:

- Translation and Interpretation
- Courier services
- Equipment Maintenance
- Court Reporting
- Independent Court Reporter
- Copying and Printing
- Legal Research
- Fair Housing Testing Services
- Public Accommodation Testing Services
- Advertisement and Outreach

Managers are required to submit a revised SOW to the COTR/Administrative Officer by **September 10<sup>th</sup> of every year**. The COTR or Administrative Officer will be responsible to draft the SOW for general services including: Courier, Equipment Maintenance, Court Reporting, Legal Research, and Printing/Duplication. Managers are responsible to submit the SOW for Translation, Interpretation, Testing, and Advertisement/Outreach. The Administrative Officer in collaboration with Program Managers may modify the previous fiscal year's SOW. The Administrative Officer and Program Managers are required to keep a copy of previous fiscal year's SOW on file.

Prior to submitting a routine requisition, the OHR Director and the Administrative Officer forecast how much budget should be allocated to each of the requisitions. The criteria for budget forecast are based on the previous years' expenditures and the needs of the Agency. OHR Director may contact Program Managers for their input during the forecasting exercise. However, the OHR Director has exclusive budget allocation authority.

## **J. Purchase Card Procurement**

The DC Purchase Card Program (P-Card Program) provides District agencies with a fast and efficient procurement vehicle for small purchases valued at \$2,500 or less. The P-Card provides an alternate method of procurement that reduces the processing cost and delivery time for small dollar purchases. There are no fees or costs involved in P-Card usage and it is available to all District government agencies. The P-Card eliminates the delivery wait time and overhead costs associated with creating a purchase order. In addition, vendors are paid more quickly, management receives documentation and reports to monitor the use of District funds, and the District receives a rebate on all purchases.

The OHR Director makes the decision regarding how much money is allocated to OHR's Purchase Card each year. Primarily, the credit card is used for the procurement of office supplies and travel related expenses. However, under certain circumstance the card can be used to procure other goods or services.

## **K. The Procedure for a P-Card Transaction**

Prior to committing to a service agreement with a vendor that does not have an established Purchase Order (PO), the Program Manager, in collaboration with the COTR or Administrative Officer, must take the following steps:

- Identify the need and possible vendor;
- Submit a written request to the OHR Director via email regarding the proposed need. The request should detail the nature of the purchase, the amount of the purchase, and the proposed vendor if known;
- Upon review, the OHR Director will contact the COTR and or the Credit Card holder to determine whether a PO should be established or if the purchase should be placed on the credit card;
- The OHR Director may approve or deny the request, based on the availability of funding on the Credit Card;
- If the request is approved, the Manager will provide the signed approval document to the credit card holder and COTR;
- If a vendor has not been identified, the Manager must obtain three (3) quotes from preferred vendors;
- The COTR will contact OCP or DSLBD to find out the certification and eligibility status of the vendor;
- If the vendor is not LSDBE-certified, the Manager must provide written justification of why an LSDBE-certified vendor was not selected;
- The selected vendor will be contacted to submit a price proposal for the goods and or services;
- Upon receipt of service, the Manager will submit a copy of the invoice to the cardholder. The invoice should be signed by the Manager and the OHR Director;
- The use of PayPal is strictly prohibited.

## **L. OHR Contractors**

In accordance with the Small Local and Disadvantaged Business Enterprise Development Act of 2005, OHR, like any government agency, including an agency that contracts or procures through OCP, must exercise its contracting and procurement authority so as to meet, on an annual basis, the goal of procuring and contracting 50% of the dollar volume of its goods and services, including construction goods and services, to Small Business Enterprises. Consequently, OHR procurement contracts are largely

awarded to Local and Small Businesses in the District. Quarterly compliance reports are submitted to the Department of Small and Local Business Development (DSLBD) who monitors and ensures that OHR meets the 50% quota by the end of each fiscal year.

In the event that OHR is unable to use Small Local Businesses for certain goods and services, the OHR Director submits an exemption memo to the Director of DSLBD who may approve or disapprove OHR's request based on the requirements for exemption. Contractors who work for OHR are certified with the DSLBD and/or the Supply Schedule. For more information on how contractors are certified please contact DSLBD at (202) 727-3900 or go to [www.dslbd.dc.gov](http://www.dslbd.dc.gov) and click on "Business Certification."

#### **M. Contractor Responsibilities and Rights**

The Standard Contract Provisions that refers to **Contractor Responsibilities and Rights** are incorporated into the PO issued to contractors by OCP. Additional contract provisions can also be found on OCP's website as follows:

- Step one: Log on to [www.ocp.dc.gov](http://www.ocp.dc.gov);
- Step two: Select the link for "Solicitation Attachments;"
- Step three: Click on "Standard Contract Provisions."

#### **N. Evaluation of Contractors**

At the end of a contract, Managers, in collaboration with the COTR, may complete and submit a Contractor Evaluation form to the Contracting Officer who issued the contract. Although agencies are not under any obligation to submit Contractor Evaluation forms, it helps OCP in the vendor selection process. Contractor Evaluation forms can be downloaded from OCP's website as follows:

- Step one: Log on to [www.ocp.dc.gov](http://www.ocp.dc.gov);
- Step two: Select the link for "Solicitation Attachments;"
- Step three: Click on "Past Performance Evaluation Form."

#### **O. Default of Contracts**

Managers are required to consult with the OHR Administrative Officer or COTR regarding contractor issues, concerns or questions. The Administrative Officer will try to resolve the issue. When the issue pertains to a legal matter, the Administrative Officer will discuss with OHR's General Counsel to resolve the issue. Managers will be required to provide documentation or any information to support the allegation. In the event that the contractor has issues and concerns against OHR, whoever is notified first by the contractor must consult with the Administrative Officer who will in turn discuss with the General Counsel.

#### **P. Emergency**

In case of an emergency and the COTR or Legal Counsel are unavailable, please contact OCP's main number at (202) 727-0252 and request to speak to the Vendor Relations Officer.



## Notary Policy

In accordance with the DC Office of Notary Commissions and Authentications (ONCA), for each document that requires notarization the OHR Notary must:

### A. Witness Signatures

- Review a valid form of identification for the person whose document is being notarized, and the notary must witness the person sign the document;
- Date, sign and apply the notary seal to the document;
- Stamp or write the expiration date of his/her commission on the document;
- Record the notarization in his/her record book.

### B. Administer Affirmations

- An **affirmation** is a spoken, solemn promise on one's personal honor, with no reference to a Supreme Being that is made before a Notary: "I solemnly affirm that the statements in this document are true to the best of my knowledge and belief."

### C. Maintain a Notary Log

A Notary is required to keep a record of all official acts that he/she performs. If a Notary's service is ever questioned, ONCA may ask the Notary to submit his/her logbook. If ONCA requests a Notary's logbook and finds that he/she has not been keeping it up-to-date, the Notary's commission could be revoked. The logbook must include all of the following for each transaction:

1. The name and address of each person for whom the Notary has notarized a document;
2. The date he/she appeared before the Notary;
3. The type of identification presented to the Notary;
4. The type of document involved;
5. The fee charged (Government employees are NOT permitted to charge a fee and therefore must indicate that it has been waived);
6. The signatures of all those who signed the document.

### D. Compliance

The OHR Notary must comply with the following:

- "Notaries Public" – Title 1, Chapter 12 of the DC Code and Municipal Regulations:  
[http://os.dc.gov/os/frames.asp?doc=/os/lib/os/services/notary/dc\\_code\\_and\\_dcmr.pdf](http://os.dc.gov/os/frames.asp?doc=/os/lib/os/services/notary/dc_code_and_dcmr.pdf)
- District of Columbia Notary Public Handbook:  
[http://os.dc.gov/os/frames.asp?doc=/os/lib/os/services/notary/dcnotaryhandbook2008\\_final.pdf](http://os.dc.gov/os/frames.asp?doc=/os/lib/os/services/notary/dcnotaryhandbook2008_final.pdf)

### E. Prohibited Acts

- A Notary must not notarize any document that he/she created, including Charges of Discrimination. The document must be notarized by someone other than the creator of the document.
- A Notary must not notarize any document that he/she did not witness being signed.
- A Notary must not notarize any document that is not an official government document.

## FOIA Requests

### OHR Procedures for Handling Requests under the Freedom of Information Act (FOIA)

- A. Immediately upon receiving a request for documents or information, the date the request is received is logged in by the FOIA Officer. A response is due to the requestor 15 business days after the request is received by the FOIA Officer.
- B. If and when it becomes apparent that a longer time is needed to produce the documents or information, an extension of time must be invoked by notifying the requestor.
- C. An adequate search must be conducted of all possible places the documents or information may be found.
- D. If it is known that the information or documents are not located within the possession of OHR, but at some other location, the requestor must be referred to the place where the information or documents are thought to be located. OHR is not required to contact the other location, unless OHR has stored the documents at another facility.
- E. A requestor may either inspect the documents at OHR or may request a copy of the documents or information.
- F. When producing the requested documents, the requestor must be advised if any responsive records are withheld or redacted. A FOIA exemption must be cited for information withheld and an explanation given for how the exemption applies.
- G. If the requestor deems the response from OHR to be a wrongful denial of the request, the requestor may appeal the denial to the Mayor or file for a judicial review in DC Superior Court.
- H. All requests from the media should be forwarded to the Public Affairs Specialist.
  - **Fees**
- I. A fee of \$.25 per page is charged for copies released to the requestor; inspection of documents is free. Payment of fees for copies of documents must be made by check or money order made out to the DC Treasurer and submitted to OHR.
- J. Charges assessed to OHR for retrieval of documents from archives may be passed on to the requestor.
- K. Fees may be waived as long as the decision to waive is not arbitrary.

- **Recordkeeping by FOIA Officer**

- L. All FOIA requests are recorded noting the name of the requestor, description of the request, the date received, the date due, the date files were requested by the FOIA Officer, and the date the request was produced to the requestor.
- M. For each FOIA request, the recordkeeping must indicate whether the request was granted, denied, referred or partially granted and denied.
- N. An annual report must be compiled each fiscal year (October 1-September 30) with the above information and submitted to the DC Council through the District of Columbia FOIA Officer by December 31.

## Chapter Three: Case Management Procedures for Discrimination Charges (Employment, Public Accommodations, Educational Institutions)

### A. OHR Databases

OHR has established databases in Quickbase – an online data processing program powered by OCTO—in order to collect and maintain information pertaining to OHR cases and inquiries which may be accessed at <https://octo.quickbase.com/>. The OHR Complaint Database has replaced the Docket Book formerly used to record basic information about docketed complaints.

- a. **Logging In:** OHR employees can access Quickbase by using their DC.gov email address as a User Name and the password they use to log in to DC government computers. An example is below. If an employee cannot access the database, he/she should contact the database system administrator at [Mullane.Ahern@dc.gov](mailto:Mullane.Ahern@dc.gov) in order to correct the problem.

User Name: [John.Doe@dc.gov](mailto:John.Doe@dc.gov)  
Password: OHRPassword

- b. **Intake:** When a complaint is docketed during Intake, the Investigator should log in to the database and click the link to “Add Complaint,” and complete the requested fields (names, dates, languages, etc.). The Investigator docketing the case should record the bases and issues of the complaint. If the Investigator is notified that a party requires an accommodation, details about the accommodation request should be recorded as well. For more information, see the *OHR Reasonable Accommodation Policy and Procedure* located on Page 59.
- c. **Investigation:** When a case is assigned for investigation, the Investigator should log in to the database and record that he/she is assigned to the case. The Investigator should also record the date on which the case is forwarded to the Mediation Unit. If and when the Investigator receives updated contact information for parties or their representatives, that information should be added to the database and communicated to the Mediation Unit. Investigators may record any notes pertinent to the case in Quickbase, and are especially encouraged to do so if knowledge of that information may be useful to other OHR employees.
- d. **Mediation:** When a case is scheduled for mediation, the person scheduling the mediation should log in to Quickbase and record the date scheduled. When parties confirm attendance, this information may be recorded as well. The Mediation Unit should also record whether the case settles, or if mediation fails to reach an agreement. The Mediation Unit may record any notes pertinent to the case in Quickbase so long as those notes do not violate the firewall between the Mediation and Investigation Units.
- e. **Case Closures:** If and when an OHR employee is notified of a closure, he/she should document the type of closure in Quickbase when the final closure letter is sent to the parties. Types of closures may include: Withdrawal; Administrative Closure; Administrative Dismissal; Settlement; Probable Cause finding; No Probable Cause finding; Non-Compliance (Language Access); and Agency in Compliance (Language Access). The closure date should be documented in this section. Notes may be recorded in this section as well.

- f. **Compliance Issues:** If and when an OHR employee encounters a compliance issue with a Respondent during the investigation or in mediation, he/she should document the nature and date(s) of the issue in Quickbase. Examples of compliance issues may include (but are not limited to) sending Orders to Produce for investigations, or repeated cancelations/rescheduling of mediation dates. Once the issue is documented in Quickbase, a notification will be automatically sent to the OHR Compliance Officer. If Respondent is a DC government agency, the Compliance Officer will promptly address the issue with the Agency Head, EEO Officer, and General Counsel.

## B. Intake

Investigators are assigned to Intake twenty percent (20%) of their work time. Intake shall be on a rotating basis completed by way of scheduled appointments and walk-ins. To begin the Intake process, the Complainant must schedule an office interview. During the office interview the duty Intake Officer will elicit from Complainant all pertinent information with regard to the alleged discriminatory act(s) under the DC Human Rights Act of 1977, as amended (HRA) or unlawful acts under DCFMLA, Parental Leave Act, and the DC Language Access Act of 2004. In addition, Complainant shall be required to cooperate with OHR's limited investigation in accordance with §710.2 a-d of Chapter 7, Title IV DCMR.

**Intake shall be conducted in a professional manner and shall always have the customer in mind. This means that duty Intake Officers should explain as necessary and detail as possible the purpose of Intake, the functions of the office, and the steps and expectations from all parties (Complainants, Respondents, and OHR) involved in the investigative process.**

**CUSTOMER SURVEYS:** The Intake Supervisor will implement a customer satisfaction survey for all Intake appointments. The surveys will be disseminated on a year round basis and are optional for customers to complete. The survey will reveal accuracy and quality of the Intake process, including but not limited to, the knowledge gained by the customer during Intake regarding OHR's investigative procedures, OHR jurisdiction, discrimination bases, and the concept of a *prima facie* case.

## C. Online Questionnaires

In order to provide expeditious service, facilitate convenience to customers, and make better use of today's technology, OHR has implemented online tools to collect information from customers about allegations of discrimination violations. These online questionnaires located at OHR's website ([www.ohr.dc.gov](http://www.ohr.dc.gov)) are not intended to be official complaint forms, but rather a summary of basic information that can help OHR make an informative decision about proceeding with an Intake appointment. **Please note: For statute of limitations purposes, the submission of the questionnaire will constitute the date of filing.**

All inquiries made through OHR online questionnaires must be answered by the Intake Supervisor, corresponding Program Manager, or their designees, within 24 hours or the next business day.

## D. Intake Interview Procedures

- a. The duty Intake Officer shall explain the role of OHR, the applicable discrimination laws and protected categories. Inform Complainant of the complaint process and investigative

procedures, noting the burdens of proof necessary to prove discriminatory conduct. In addition, the duty Intake Officer shall:

1. Assure that if Complainant is represented by Counsel, Counsel should be present or submit a letter authorizing the Intake Interview to proceed without his/her presence. Counsel can only advise Complainant; Complainant is required to answer the Intake questions directly. If a Complainant is represented by a non-attorney personal representative, the Complainant must sign OHR's Complainant's Acknowledgement of Representation Form.
  2. Explain the remedies available through OHR and ascertain the remedies desired by the Complainant. Have Complainant list any expenses (for example: loss of wages, sick leave, annual leave, health benefits and any other normal or usual benefits lost during the alleged violation including expenses associated for seeking other employment) and submit relevant material supporting expenses incurred, medical documentation (if, for example, the claim involves FMLA or medical issues), and/or loss of benefits to OHR within five (5) calendar days.
  3. Inform Complainant of the mandatory Mediation process and that the case is simultaneously assigned to the Investigation Unit for limited investigation (i.e., request for Position Statement from Respondent, Rebuttals, and Documents).
  4. Inform Complainant that should Mediation fail, the case will proceed to full investigation (i.e., Interrogatories, Affidavits, Witness Interviews).
  5. Inform Complainant that the case will be cross-filed with the EEOC if the jurisdictional guidelines warrant.
  6. Ask Complainant his/her preference in terms of receiving written correspondence from our office via email or hardcopy. If Complainant agrees to receive documents via email in lieu of hardcopies, he/she must agree to do so in writing.
- b. Determine if a basis of discrimination is present. **Note: If an individual states that he/she was either terminated or denied employment in a District of Columbia position because of the results of a criminal background check, ask the individual to provide a copy of his/her notification letter then provide the copy to the Intake Supervisor. The Intake Supervisor will enter it into Quickbase and it will be sent to the Commission. The Commission will handle the appeal of the case.**
- c. If jurisdiction or the merits of complaint are questionable, refer to a Supervisor. If a Supervisor is unavailable, refer to the Legal Division.
- d. Gather information pertaining to the charge, including, but not limited to, information and specifics of the allegation(s), date and time, location, person taking the action, witnesses, what witnesses can attest to, and copies of documents in Complainant's possession at the time of filing. (Complainant's documents should be identified and labeled.)

- e. Intake Officers shall provide a written memorandum to the Intake Supervisor explaining the reason for concluding that a case should be **administratively dismissed**. The memorandum may be forwarded to the Legal Division for confirmation after which a letter of Administrative Dismissal is signed by the OHR Director and sent to Complainant within 10 calendar days.

f. **Administrative Dismissals.**

The reasons for administrative dismissals include:

- i. **Dismissal for Lack of Jurisdiction.** In general, the OHR may not have jurisdiction over the complaint for many reasons, including, but not limited to:

Lack of Jurisdiction over the Respondent:

- If Respondent is a Federal entity, Complainant must go to EEOC or court
- Washington Metropolitan Transit Authority (WMATA) falls under Federal jurisdiction
- Complaints made against individual Police Officers must be filed with the Police Complaint Board at the Office of Police Complaints
- Respondent is not the employer-Complainant is a contractor (certain exceptions may apply)
- Complaints from Prisoners/Inmates are referred to the US Bureau of Prisons
- Complaints Against the DC Bar are handled by the DC Court of Appeals
- OHR has no jurisdiction over complaints made against the DC and Federal Court Systems

Lack of Jurisdiction over Subject Matter:

- Complainant does not state a claim under the HRA
- The matter involves a Fair Labor issue (such complaints may fall under the Fair Labor Standards Act, which are processed at the US Department of Labor) or a statute OHR does not have jurisdiction over

- ii. Complainant is absent and has failed to contact or cannot be contacted by the Office.
- iii. **Self-defeating charges.** These are charges in which Complainant provides information that negates an inference of disparate treatment due to a protected basis. For example, a Puerto Rican male alleging national origin discrimination in promotion asserts that although the individual who received the promotion was Puerto Rican, he believes he was more deserving of the promotion.
- iv. Charges with no supporting direct or circumstantial evidence of discrimination. Complainant is **in a position to know** and has no specific examples of disparate treatment, or the comparator is not similarly situated.
- v. Charges in which the Complainant files repeated claims against the same or numerous Respondents over a short period of time.

- vi. Charges in which the employment action complained of causes no real harm (e.g., being given the task that charging party does not like but that is within the scope of his/her duties and is not significantly more work than his/her colleagues).
- vii. Charges filed where Respondent is in bankruptcy, dissolved, or otherwise unable to provide any relief.
- viii. Charges filed more than 365 calendar days after the date of violation (DOV) and there are no allegations of harassment or continuing violations. When a Complainant files a charge more than 365 calendar days from the DOV, absent equitable considerations, such charge is untimely for purposes of preserving private suit rights. Complainant shall be informed that if he/she chooses to file, the charge will be dismissed. Complainants shall also be informed of the timeliness problem if they want to consider pursuing their private suit rights.
- ix. It is not mandatory to conduct a mediation before dismissing a charge for one of the above reasons.

#### E. Processing a Charge

- a. Accepting the Complainant's allegations as true, if such allegations meet the jurisdictional requirements and establish a *prima facie* case, the Investigator must formalize the complaint and perform the following tasks:
  - 1. Enter all of the necessary case information into the database. **Note: The Docket Date for all cases is the date when the charge form is officially signed and dated by Complainant. No Docket Number will be assigned to a case until the charge form is officially signed by Complainant; however, Investigators are responsible for entering all intake data into Quickbase prior.**
  - 2. Input the complaint information into the EEOC Integrated Mission System (IMS) if an employment discrimination complaint (for both HRA and Title VII cases).
  - 3. Ensure that the Charge of Discrimination Forms (5 copies) and the OHR Affidavit are signed and notarized.
  - 4. For allegations of sexual harassment, District government employees do not have to file an internal EEO complaint prior to filing with OHR.
  - 5. Determine if case meets the jurisdictional requirement for dual-filing with EEOC (300 day statute of limitation).
  - 6. Generate all Intake Forms (212, 131A) and return them with the Mediation package to the Intake Supervisor. Intake Supervisor assigns the case to an Investigator within five (5) calendar days of the case being docketed. **100% of**
  - 7. **cases must be assigned within 5 days of being docketed.**



b. If Complainant is a **DC government employee**:

1. Make sure the allegation occurred within 180 calendar days; allegations of sexual harassment have a one (1) year statute of limitation.
2. Complainant filed an internal complaint with his/her agency EEO Counselor or EEO Officer. (Note: For allegations of sexual harassment, Complainant does not have to file an internal complaint prior to filing with the OHR.)
3. Complainant has an Exit Letter from the EEO Counselor and the case is filed in OHR within the 15 calendar day guideline.
4. If Complainant provides documentation that EEO Counseling began 60 calendar days prior, and she/he has not received an Exit Letter, Complainant has the right to file with OHR. The Intake Officer should notify the OHR Compliance Officer, who will call the EEO Counselor or Officer in question. Complainant should not be refused an intake appointment based on an EEO Counselor's failure to provide sufficient counseling services. (See Policy for Agency Non-Compliance in **Attachment 6** of this SOP.

c. After the complaint has been notarized, Complainant has signed all necessary documents and the case is docketed, the Investigator will perform the following tasks: **(Note: Investigators will assign separate Docket Numbers to each individual Respondent named in the case when more than one Respondent is named. This does not apply to Housing or Language Access cases.)**

1. Verbally notify Respondent of charge during the Intake process and inquire as to the number of persons currently employed by Respondent at the time of the alleged incident. Request and verify the contact information of Respondent's representative who has decision-making authority.
  - aa. Explain function of OHR.
  - bb. Explain the allegation(s) made against them.
  - cc. Inform Respondent that he/she will receive a written Notice of Charge, request for Position Statement and Request for Information.
  - dd. Obtain name(s) to which company personnel inquiries should be directed, as well as of the agent capable of making settlement decisions during mediation that has power to agree to resolutions and is able to set up on-site investigations.

- d. Within five (5) business days of assignment and docketing, the Investigator shall serve upon Respondent and Complainant a copy of the complaint. (See OHR's General Correspondence Policy in Chapter One of this Manual.) To accomplish this task, the Investigator shall perform the following:
1. Shall verify Respondent's contact information.
  2. Send Introduction Letters to Complainant and Respondent.
  3. Submit the EEOC Form 212 Packet for dual-filing with EEOC.
  4. Submit the Mediation Packet to the Intake Supervisor within 24 hours of case assignment. The Mediation packet shall not include extensive information other than the Mediation Record, Mediation Confidentiality Notice, and Settlement Agreement if applicable.
  5. Serve upon Respondent a Request for Production of Documents, OHR's first set of Interrogatories and Request for Position Statement.
    - Position statements and other requested documents shall be submitted to OHR within 20 business days of receipt of the request.
    - At the request of Respondent, an additional four (4) business day extension shall be allowed to permit the Respondent to be in compliance. All requests for extensions shall be in writing. Faxed requests and emails are acceptable.
- e. Within five (5) calendar days of complaint being docketed, the Intake Supervisor will send to the Mediation Supervisor the Mediation Packet for scheduling of mediation. An email confirming this transaction must be forwarded to the Mediation Supervisor by the Intake Supervisor.
- f. Within 15 calendar days of docketing, the Mediation Supervisor shall schedule a mediation conference with all necessary parties.
- g. All Mediations will commence promptly at the designated time. If either party report more than 30 minutes late, the Mediation will be rescheduled.
- h. **Mediation Proceeding and Decision:** The Mediation Program Manager shall appoint a time and place for the mediation and issue written notice to the parties to be served by regular U. S. mail or electronic mail. The mediator shall issue, upon the conclusion of the mediation, a document representing the Agreement between parties, if so warranted and acquired. Any and all Agreements shall comply with the standard requirements set forth by the Mediation Manager and OHR Director. All Agreements shall include language which makes the Agreement an enforceable Order of OHR and shall be signed and approved by the OHR Director with the exception of Agreements formalized outside of OHR's jurisdiction. All Agreements shall be reviewed by the Mediation Manager before submission to the OHR

Director for signature. All mediation settlement agreements shall be kept in a section of the Investigative file and marked as confidential.

- i. If mediation fails, the Mediation Staff Assistant will update the Docket Book in Quickbase within 48 hours of the mediation session. The Mediation unit is strictly prohibited from sharing any details from the actual mediation sessions with any OHR employee other than the OHR Director and Legal Division. Intake and Investigations are strictly prohibited from inquiring about information of any mediation. Disciplinary action will apply to this policy.
- j. If mediation fails, OHR shall immediately continue the full investigation. It shall include, but not be limited to, onsite visits, interviews of witnesses and inspections of records. Mediation shall continue to be optional to both parties throughout the complaint process.
- k. If mediation is successful, a Settlement Agreement and an enforceable Order of OHR shall be drafted and signed by all Parties, including the OHR Director. The case is then administratively closed by OHR. For DC government cases, closure letters/Orders upon settlement shall be served to the agency head as well as to other pertinent parties.
- l. If mediation is successful, the Mediation Administrative Assistant will give the Intake Supervisor a copy of the Administrative Closure Letter and Settlement Agreement signed by the OHR Director. **The mediation file (i.e., settlement agreement, final order and closure letter) must be included in the investigative file** after five (5) calendar days of the agreement and closure letter being signed by all parties and OHR Director with the exception of confidential notes taken during mediation by the assigned mediator.

#### F. Compliance and Enforcement of Settlement Agreements

- a. In the event there is a breach of a Settlement Agreement, the following procedure will be executed by the party alleging the breach:
  - 1. The party will make a formal request for review of the alleged breach to the OHR Director within 30 calendar days of the alleged violation. If the matter involves a public sector case, the OHR Compliance Officer will contact all parties concerned to insure that settlement stipulations are clear to all parties and compliance of the agreement is attained. If the matter involves a private sector case, the Mediation Manager will do the same.
  - 2. When necessary, the Compliance Officer will conduct an investigation into the allegation of non-compliance and report the finding to the OHR Director, as will the Mediation Manager.
  - 3. A complaint by either party alleging the terms of a Settlement Agreement (i.e., mediation or conciliation) are not being complied with shall be submitted in writing to the OHR Director for review.
  - 4. Upon receipt of a charge of noncompliance with the Agreement, the OHR Director shall notify the party being charged with noncompliance and permit the party an opportunity to respond to the charge.

5. The OHR Director will make the final determination on the enforcement of the Agreement in accordance with OHR's jurisdiction. If the OHR determines that the parties are in compliance with the Agreement, the parties shall be notified and the complaint of noncompliance shall be dismissed.
6. If a party is in noncompliance with the Agreement, the offending party shall be notified and given five (5) business days to comply after receipt of notice from OHR. If the party fails to comply within the given time, the Agreement shall be forwarded to the Office of the Attorney General (OAG) for enforcement.

#### **G. Walk-in Clients**

- a. All Complainants that do not have a scheduled Intake appointment are considered walk-ins.
- b. Walk-ins should be accepted at a minimum. Most walk-ins should be provided an appointment for the next available date. The Receptionist will maintain an appointment log.
- c. At the discretion of the Intake Supervisor, some walk-ins may be seen the same day.
- d. Inform the walk-in that OHR allows the scheduled Intake appointment a grace period of 15 minutes to show up for their appointment.
- e. If after the 15 minute grace period the scheduled Intake does not show, the Intake Officer may see the walk-in upon Supervisor's approval.

#### **H. EEOC Referrals**

- a. When cases are transferred from the Equal Employment Opportunity Commission (EEOC) to OHR for Investigation, the following steps should be taken:
  1. Case is assigned a docket number by the Intake Supervisor.
  2. Intake Supervisor will enter a transfer code in the Charge Data System.
  3. EEOC accepts the transfer code.
  4. Intake Supervisor assigns the case to an Investigator.
  5. Investigator sends Introduction Letters to Complainant and Respondent advising of case transfer, case assignment, Request for Position Statement (if needed) Documents, Interrogatories.
  6. Investigator gives Mediation Packet to Intake Supervisor.
  7. Intake Supervisor submits packet to Mediation Program Manager for Mediation scheduling.

## I. Administration of Cases

- a. Case assignment procedure:
  - 1. If the Complaint form is not properly processed, it will be returned to the Investigator for completion. The completed Complaint Form shall be returned the same day that it was received.
  - 2. Additional request for information from Respondent shall be responded to within seven (7) business days.
  - 3. Extensions for a position statement will not be granted pending the outcome of mediation.
  - 4. If Respondent requests an extension, due to an emergency situation, a brief extension of four (4) business days may be granted. Generally extensions will not be granted without a discussion and the approval of a Supervisor or OHR Director.
- b. Information relative to planning and operations of OHR shall be treated in a confidential manner.
- c. **Case Files:** All case files shall be secured in file cabinets. At the end of the Investigator's tour of duty or while they are away from their office, individual office doors shall be closed and secured. The Administrative Assistant assigned to the Intake and Investigations division will serve as the main filing clerk and be responsible for the proper filing of all cases. He/she will ensure that confidentiality and integrity of case files is secured. Upon implementation of a modern filing system for OHR in 2008, the Administrative Assistant is responsible for being trained and to train others to ensure that the system is properly managed, secured, and organized at all times.
- d. **Archiving:** In coordination with the Administrative Officer, the Administrative Assistant/Clerk and his/her Supervisor is responsible for assessing, at least once per year, the proper disposition of case files to the District's Archives, and for coordinating with the Department of Real Estate Services (DRES) the efficient preparation, packaging and disposal of such files according to DC policy.
- e. **Electronic documentation:** In order to become a modern and more cost efficient organization, electronic documentation from Investigators and parties during the course of any OHR investigation is encouraged. However, staff is responsible for organizing electronic documentation in a way that ensures efficiency and security. Hard copies should be placed in file.
- f. Maintain regular contact with the parties to a complaint. Staff is required to respond to phone inquiries from any pertinent party requesting the status on an investigation within 24 hours or the next business day and within 48 hours for written inquiries.

## J. Case Investigation Procedures

- a. Investigators must review all documents that were submitted with the case and organize the case file utilizing the new tab system.

### b. Organization of Case Files

Case files will be organized in **five (5) sections only**. Sections will be identified by different colored paper or numeric tabs instead of the yellow A-Z tabs the Office currently uses. The sections shall be:

1. EEOC documents (when applicable);
2. Complainant's information (e.g., charge form, rebuttal, information from witnesses, etc.);
3. Respondent's information (e.g., position statement, policies, etc.);
4. Legal documents (e.g., LOD, reconsideration letter); and
5. Investigator's notes (e.g., anything else the investigation needs to include outside of the other four sections).

**Note: Continue to utilize the current tabs until they are no longer available. However, organize your folders using five (5) tabs per case.**

The mediation folder shall still be placed separately within the case file. The "LOD ready sheet" and "investigative plan" (when applicable) shall still be placed in front of all sections listed above.

- c. Investigators must also determine whether or not Respondent addressed each particular listed on the Charge Form.
- d. When the Investigator determines that Respondent failed to answer each particular on the Charge Form, the Investigator must send Respondent follow-up Interrogatories and include other relevant information that is required to ensure a complete investigation.
- e. If a Respondent fails to respond to each particular listed on the Charge Form, the Investigator must follow the following steps: 1) telephone the Respondent to determine whether or not the appropriate party received the Charge Form and its intention to submit a Position Statement; 2) If Respondent requests an extension, the case file must be documented with a letter or email from Respondent acknowledging that the extension was granted; 3) If Respondent fails to provide a Position Statement by the granted extension date, an Order to Produce should be completed and mailed to the Respondent within two (2) business days; 4) If it is a case filed against a DC government Agency, the Order should also be sent to the Agency Director, General Counsel assigned to the Agency, and the EEO Officer. See Policy for Agency for Non-Compliance in **Attachment 6** of this SOP.
- g. Analyze the Charge Form and information provided in the case file.
- h. Develop an Investigation Plan in accordance with established investigative techniques focusing on the following:

1. Basis(es) and issues of the allegation;
  2. Facts needed to establish a *prima-facie* case;
  3. Review the law and applicable legal theories to determine the elements for *prima-facie* as it relates to your basis(es) and issues; and
  4. Compare and analyze the issues presented and the investigative facts with the burden of establishing a *prima-facie* case.
- i. Complainant's bases and issues listed in the Charge Form must be included in the Investigative Plan.
  - j. Promptly submit an Investigative Plan to your Supervisor in accordance within 15 calendar days of receiving a case.
  - k. Rely on the Investigative Plan throughout the course of the investigation, making modifications where necessary and as needed.
  - l. Record all findings in the appropriate column of the Investigative Plan for further examination, expansion of investigative areas and as a base when drawing a conclusion.
  - m. If the case has been reassigned, send a Re-assignment Letter to Respondent and Respondent's Representative on the same day that the case is assigned.
  - n. Determine which facts are pertinent to the disposition of the case (i.e., untimely issues etc.). If in doubt, the Investigator should seek further guidance from his/her Supervisor.
  - o. Continuously analyze case information:
    1. Analyze information submitted by the Complainant.
    2. Analyze information submitted by the Respondent. If an Order was sent to Respondent via email, the information will be incorporated into the investigative report unless it is received after the issuance of the LOD. Investigators shall consult with their Supervisor if they encounter exceptional circumstances.
    3. The Investigator shall place the late submission in the case file and complete the case accordingly.
    4. Summarize Respondent's Position Statement (or scan it if feasible) and mail the Summary via certified mail to Complainant's Representative providing that there is one on record with the OHR. If the Position Statement is scanned, the Investigator must review the scanning copy for accuracy and redact the names and other confidential information. The deadline for Rebuttal submissions is seven (7) business days upon receipt of the Summary. Insert rebuttal

information in case file. (Note: Complainant must be provided with the opportunity to rebut Respondent's assertions.) However, Complainant is not required to rebut Respondent's assertions.

- p. All correspondence shall be attached to the case file at all times. Certified Receipt Cards (completed) that were returned from the post office shall also be attached to the case file.
- q. Prepare relevant questions for witnesses for interview purposes. (Note: Respondent has the right to have its Counsel or Human Resources Representative present when current or former Supervisory/Management employees are being interviewed. The only exception is if Respondent provides a written Waiver Letter to the OHR Investigator.)
- r. Non-Management employees may be interviewed without Counsel or Human Resources Representative present unless the employees request to have Counsel or Human Resources Representative present. RESPONDENT'S COUNSEL AND HUMAN RESOURCES REPRESENTATIVE DO NOT RESERVE THE RIGHT TO BE PRESENT DURING NON-MANAGEMENT EMPLOYEE INTERVIEWS.
- s. Do not ask Complainant or Respondent to provide affidavits from Complainant's witnesses.
- t. All witnesses should be contacted within 60 calendar days of receipt of the case. If an Investigator cannot reach witnesses by telephone, send a Certified Witness Contact Letter to the witnesses' last known addresses. If an Investigator does not have the witnesses' contact information, he/she should request the information from Respondent. If the witness is not a current employee, the Investigator should ask Respondent to submit the last known address and telephone number to OHR. Note: Identify witnesses in accordance with basis. For example: Complainant filed a complaint on the basis of sex (Male). Identify witnesses' sex when you conduct the interview.
- u. Investigators shall ensure that a case has had at least one (1) mediation attempt prior to proceeding with the full investigation. Investigators shall also ensure that a case has been mediated prior to submitting the case to their Supervisor for investigation closure.
- v. Investigators must check the status of mediations through the OHR Shared "I" drive and submit such status to their Supervisor.
- w. Any delays in the investigation or mediation processes should be reported to the OHR Director by the corresponding Supervisors of Investigations and Mediation.
- x. Continuously analyze case information for the next stage of investigation:
  - 1. Analyze information submitted by Complainant. Do not keep original documents. Return originals to Complainant after copying.
  - 2. Analyze information submitted by Respondent.
  - 3. Analyze Complainant's Rebuttal. Contact relevant witnesses Complainant may have identified in his/her Rebuttal.



4. Make sure that all Witness Statements and interviews were followed up by phone or in person to verify facts.
5. Analyze documents that were submitted by Respondent.
6. If Complainant submitted the same document, compare the Documents. If there is a discrepancy between the Documents, investigate the discrepancy between the Documents. Use a footnote in your Draft Letter of Determination (LOD) to clarify the discrepancy. Additionally, document your case file. Respondent must provide copies of actual Documents to support their position. Respondent may submit a Matrix Chart; however, it must attach a copy of actual documents that were used to compile the data for the Matrix Chart.
7. Review the statutory provisions germane to the specific allegation(s), and legal guidelines surrounding same to ensure collection of relevant and essential information and evidence.
8. To remain on course during the investigation, the Investigator shall always go back to the Complaint Form and review the specifics of Complainant's allegations, then utilize investigative techniques in re-analyzing the Investigative Plan from its preliminary to current stage. If an Investigator has a question, he/she may seek the immediate input of a Supervisor. In the absence of Supervisory personnel, the Investigator shall consult with OHR's General Counsel or Legal Division personnel.
9. If during the investigation the need for an amendment to the complaint is recognized, Complainant should be advised of his/her right to amend the complaint (only Complainant may amend the original complaint on file). If the investigation is completed or nearly completed the amendment will be treated as a new complaint with a new docket number.
10. If a violation of discrimination is readily apparent and is not the basis of the Complainant's charge, the OHR may amend the complaint *sua sponte*, but the parties must be notified of such an amendment to obtain a proper response. In such instances, the Investigator should notify his/her Supervisor of the same and have the relevant circumstances reviewed by Supervisory personnel prior to review by the OHR Director.
11. At the conclusion of the investigation, the Investigator shall prepare a Summary of Findings. This summary shall include the following:
  - The issues presented;
  - A statement of OHR's jurisdiction;
  - Findings of fact;

- A standard of review;
- A recommendation for finding of probable cause or no probable cause.

12. Case findings/facts shall be in a report format in chronological order containing the following:

- Area of law addressed (optional);
- Statutory authority of OHR to address alleged acts of discrimination;
- Jurisdiction (personal and subject matter);
- Basis(es) of discrimination and allegations of same;
- Complainant's allegations separated by issues and basis(es);
- Respondent's position separated by issues and basis(es);
- Complainant's Rebuttal separated by issues and basis(es);
- Evidentiary Findings inclusive of, but not limited to:
  - a) Written policies, practices, procedures, etc.
  - b) Formal and informal applications of policies.
  - c) Documented findings to include relevant information from personnel files for similarly situated employees and other comparable information (if applicable).
  - d) All other relevant documents, such as sign-in logs, reports of investigation etc.
  - e) Witness statements and interviews.
  - f) Relevant evidentiary findings that are unknown in general, but are uncovered during the course of the investigative process and material to the allegations raised by Complainant or that support Respondent's position of same.
  - g) The draft of the Letter of Determination (LOD) shall contain the proper addresses and be copied to the appropriate parties.

y. Investigators shall return the case file with all documents attached to their Supervisor for review.

- z. LOD ready checklist is required from each Investigator for every case.
- aa. If a case is rejected by the assigned Supervisor, reasons for said actions will be discussed and documented on the Draft Letter of Determination or on an attachment to the LOD. The specific reasons for the rejection may be applicable to the standard of review, allocation of burdens and corrective measures necessary to meet thorough investigation standards and procedures.
- bb. After review by the Supervisor, the entire investigative file along with the draft LOD shall be forwarded to the General Counsel within the Legal Division. The General Counsel shall then review the entire investigative file for legal sufficiency and draft a LOD consistent with applicable law as it relates to the facts of the case. The General Counsel shall submit the proposed LOD to the OHR Director for review.
- cc. After the OHR Director has signed off on the final LOD, the Investigative Supervisor will log out the case findings and give the final LOD to the Administrative Assistant for mailing to the appropriate parties via electronic and/or regular mail.
- dd. The Administrative Assistant will give copies of the LOD, Complaint Form and Form 212 (EEOC Cases) to the Intake Supervisor. After the foregoing, the Administrative Assistant will file the case file in the file room.

**K. Responsibilities of the Legal Division**

- a. After the Investigative Supervisor furnishes the case file and Findings of Fact to the General Counsel or Agency Counsel/Assistant Attorney General, the Legal Division performs an analysis of statutory provisions, applicable laws, court cases, guidelines and policies specific to burdens of proof of discrimination.
- b. If the Legal Division determines that the case warrants further investigation, it will contact the respective Investigative Supervisor verbally and in writing regarding the issues that need further investigation. The case file is then returned to the Investigation Unit for further investigation.
- c. The General Counsel then drafts a final LOD for the OHR's Director review, approval, and issuance.

- **Jurisdictional Questions and Motions to Dismiss**

- d. If General Counsel or Agency Counsel receives a jurisdictional inquiry during Intake, the attorney may deliver a verbal response. In response, the Investigative Supervisor may deliver the legal opinion to the Investigator or if the Investigator inquires directly (after consulting with his/her supervisor), the Legal Division may furnish a response. If the question comes after the completion of the Intake, the Investigative Supervisor may draft an Administrative Dismissal, outlining the reasons for lack of jurisdiction.
- e. If Respondent questions the jurisdiction of the complaint during the investigation, the Investigator will notify Respondent in writing that they must draft and file a Motion to Dismiss

giving the legal reasons for dismissal. The Complainant must have 10 business days to file an opposition, unless an extension is given.

- f. After the Respondent files a Motion to Dismiss (MTD), mediation shall cease until the OHR Director issues an opinion. The Mediation Supervisor shall recommence mediation within five (5) business days of the Director's decision.

- **Reconsiderations**

- g. After a "No Probable Cause" or "Probable Cause" finding, Complainant and Respondent have the right to request a reconsideration by the OHR Director. The parties must file a reconsideration within 30 calendar days of receipt of OHR's LOD in order for the request to be timely.
- h. The Mediation Unit will be notified within five (5) business days from receipt of the reconsideration and conciliation will be scheduled within five (5) business days thereafter for both private and public sector cases.
- i. Requests for reconsideration regarding complaints filed against the District of Columbia by an employee must be filed within 15 calendar days of receipt of the LOD.
- j. Complainant may request reconsideration of the determination based upon:
  - 1. **New evidence.** Newly discovered evidence is evidence that:
    - (a) Is competent, relevant, and material;
    - (b) Was not reasonably discoverable prior to issuance of the final decision by the OHR Director because such evidence was either unknown to the Complainant while his/her claim was pending, or otherwise unobtainable; and
    - (c) Would alter the ultimate outcome in the case, if credited.
  - 2. **Misapplication of the law;** or
  - 3. **Misstatement of the facts.** Misstatements of material facts must be based upon more than a mere dispute of fact. Material facts in a case are facts upon which the outcome of the case depends.
- k. If the request for reconsideration is untimely or is not based on one (1) or more of the aforementioned grounds, the request for reconsideration shall be denied. Therefore, if the Investigator or Receptionist receives a call from a Complainant requesting an appeal of his/her decision, the receiver of the call may relay the following:
  - 1. Parties must request a reconsideration in writing within 30 calendar days from when Complainant's LOD is dated. Direct Complainant to review the section labeled, "Reconsideration."

2. Complainant has 15 calendar days to file for reconsideration if he/she is a DC government employee.
3. Inform Complainant to address the reconsideration to the OHR Director.
4. Inform the caller that there is not a particular form or format for the reconsideration. They must simply address the issue of whether there is new evidence, a misapplication of the law or a misstatement of facts.

- **Communications with the Parties**

- l. As noted earlier in this Manual, the Investigator and all employees must be very careful in their conversations with parties.
- m. Never inform or promise the parties about the likely outcome of the case (i.e., “Your case looks like it will definitely be probable cause.”)
- n. The Legal Division is precluded from engaging in conversations with the parties for a number of reasons:
  1. As a decision-maker, conversations with either party (outside the presence of the other party) during the investigation is considered *ex parte* and is prohibited by the Ethical Rules and Rules of Professional Responsibility.
  2. Conversations may be misinterpreted or misconstrued; therefore, all requests or questions should be put in writing.
- o. Any questions regarding appeals in the Superior Court of the District of Columbia should be referred to the Clerk of the Court.
- p. In general, there are a few exceptions to the rules regarding communication with the Legal Division:
  1. The individuals do not have an active case with the Office;
  2. The question is a procedural one regarding reconsideration or FOIA;
  3. The question is a general one concerning the HRA or FMLA.
- q. As a general rule, before forwarding any call, please check with the Legal Division to determine if they can speak with the party.

#### **L. Conciliation**

- a. If “probable cause” is found and the OHR Director has issued the LOD to all parties, the parties shall be given notice of an opportunity to settle the complaint through Conciliation.

- b. The Conciliation conference shall be scheduled for the purpose of discussing all relief available under HRA and DCMR.
- c. During the Conciliation conference and period of conciliation in its entirety, discussions on the merits of the complaint shall not be entertained.
- d. If Conciliation is successful, a written Conciliation Agreement shall be prepared by and executed between the parties, subject to the approval of the OHR Director.
- e. The Conciliation Settlement Agreement shall not constitute an admission by Respondent of any violation of the law, federal or local. The Conciliation Agreement may require Respondent to refrain from committing specified discriminatory practices in the future, and within the judgment of the Office, to take affirmative action and interject remedies when applicable.
- f. If during Conciliation efforts, Respondent offers a remedy that would place Complainant in the same position that Complainant would have been in had the alleged discriminatory practice not occurred and Complainant refuses to accept the offer, and if the OHR Director determines that the offered remedy would make complainant whole, the Director may order complaint to be dismissed.
- g. The period of Conciliation shall extend for 30 business days from receipt of the notice inviting the parties to conciliate the complaint.
- h. Conciliation shall be considered to have failed if during the 30-day Conciliation period Respondent refuses to participate in Conciliation or if Respondent's offer of a remedy is such that will not make Complainant whole and Complainant refuses to accept such an offer.
- i. A complaint by either party alleging that the terms of a Conciliation Agreement are not being complied with shall be referred to the OHR Compliance Officer for investigation. Once investigated, the matter will be submitted to the Director for review.
- j. If Conciliation efforts fail with respect to a private sector case, the OHR Director shall certify, in writing, the complaint to the DC Commission on Human Rights with written notice to the parties that Conciliation efforts were not successful. If Conciliation efforts fail with respect to a public sector case, the case may go before an independent hearing examiner or undergo a summary determination by the OHR Director.
- k. If conciliation fails for DC cases, Complainant may elect a hearing or summary determination.
- l. If a request for Reconsideration has been submitted by the parties during the Conciliation time period, efforts to conciliate will cease. If the OHR Director determines, after further investigation, that a prior dismissal should be reversed, the Director shall find "probable cause" to credit the complaint, and the parties shall be served with a detailed, written basis for the reversal and afforded an opportunity to conciliate. Conciliation efforts will be rescheduled within five (5) business days.

#### **M. Case Management and Productivity**

- a. Employees are required to submit six (6) cases by the fifth (5<sup>th</sup>) of the month. One (1) case can be a mediation settlement with substantial work (i.e., completed investigation plan; request for rebuttals, and interviews).
- b. Case quotas are evaluated monthly by the OHR Director and Investigative Supervisor. However, overall production is determined on a six (6) month rolling basis by the Supervisor and OHR Director. The complexity of cases may warrant more flexibility when reviewing this requirement.
- c. An Investigator may receive credit for a case (after a review of the case file and a discussion with their Supervisor) if he/she has completed a substantial amount (i.e., completed investigative plan; request for rebuttals, and interviews) of work on a case that was mediated and settled or processed as an additional Administrative Closure.
- d. If a case is returned for additional work, the case must be resubmitted to the assigned Supervisor within 30 calendar days in order to receive case credit.
- e. Investigators should notify their Supervisor by no later than the 25<sup>th</sup> day of each month if they are having difficulty meeting their monthly case quota. Additionally, the Investigator must have a plan to substitute another case if they are having difficulty securing all necessary information that is needed to close cases in order to meet their monthly case closures.
- f. Cases should be completed on a weekly basis and submitted to the Supervisor on a weekly basis. Investigators should not wait until the end of the month to submit cases that they have investigated.
- g. A case must be thoroughly investigated and the draft LOD proof read prior to submitting the case to the Supervisor.

#### **N. Confidentiality and File Security (General Policy)**

- a. Complainant's files may be included in OHR's jointly shared filing system and it shall be a matter of policy that any information pertaining to these files remains confidential.
- b. No information regarding the file of a Complainant shall be given over the telephone or by any other method unless authorized by the OHR Director.
- c. Information regarding the investigation (e.g., witness statements) shall not be provided during the investigation process to either party. After a case is closed, Complainant or Respondent may request information through the Freedom of Information Act (FOIA). If a case is open, Complainant or Respondent may be advised that the case is in the investigation process or has been forwarded to the Investigator's Supervisor for review.
- d. Representatives of parties who have cases before the Commission may review case
- e. investigation files if they submit a written request and it is approved by the OHR Director.

#### **O. Order of Case Investigations**

- a. Generally, OHR investigates cases in the order that they are filed.
- b. Investigators will investigate the oldest case in their inventory unless otherwise directed by their Supervisor or OHR Director to deviate from the aforementioned order.
- c. If an Investigator has a situation or circumstance that deems that a case be investigated out of the prescribed order, the Investigator should discuss the situation with his/her Supervisor.
- d. Cases in which time is a factor will be expedited as approved by the OHR Director.



## Chapter Four: Case Management Procedures for Housing Discrimination Charges

### A. Fair Housing Investigations

- a. OHR's investigative requirements for Fair Housing investigations are governed by Federal guidelines (Title VIII of the Civil Rights Act of 1968, i.e., the Fair Housing Act). Under the Fair Housing Assistance Program (FHAP) approved by the US Department of Housing and Urban Development (HUD), OHR is required to comply with similar investigative requirements and procedures as outlined in Chapter Three of this Manual. The following procedures apply with respect to documenting a Complainant's initial contact. For cases initially filed with a FHAP agency, the agency must complete the following:
  1. Maintain records of Complainants' initial contact with the FHAP agency, including records of all telephone, email, letters, and in-person contacts;
  2. Place the original record of Complainant's initial contact, or a copy of that record, in the case file under the Complainant's evidence section of the file, consistent with the requirements of Chapter 10 of the Title VIII Manual;
  3. Ensure that the Initial Contact Date field in TEAPOTS reflects the earliest date of contact referenced in the case file.

### B. Walk-in Clients

- a. Complainant completes a Fair Housing questionnaire, which can also be located online at OHR's website: [www.ohr.dc.gov](http://www.ohr.dc.gov). The questionnaire is time and date stamped by the Receptionist and given to the Investigative Supervisor for review.
- b. An Intake interview is scheduled by the Receptionist. If jurisdiction or the merits of the complaint are questionable it should be referred to the Investigative Supervisor.
- c. An Investigator conducts the Intake interview, generates the complaint to be signed and notarized, and a docket number is obtained from Quickbase after the Supervisor's review and signature of Complainant is obtained.
  - i. If there are Federal violations cited, the complaint is cross-filed with HUD. In this event, the following must take place:
    1. HUD 903 Form is completed and signed;
    2. Transfer letter is generated to send to HUD for cross-filing. All cross-filings must be completed in five (5) calendar days.
    3. Case is entered into TEAPOTS (HUD's complaint processing system) and IMS.
  - ii. If complaint is filed based on local protections, the following must take place:

1. Complaint is generated;
  2. Case is logged into Quickbase and IMS.
- iii. If it is determined at Intake that testing should be conducted:
1. Investigator should meet with the Investigative Supervisor to formulate a profile;
  2. The Investigative Supervisor or designee will contact a Fair Housing agency to conduct the test;
  3. OHR or contractor will conduct the test within 24-48 hours of notification.
  4. Results will be submitted to the Investigative Supervisor and Legal Division for analysis.
  5. Testing questionnaire should be completed in the TEAPOTS system.
- d. Investigator sends notification letter to parties, request for information, documents and position statement within three (3) calendar days.

#### **C. HUD Referrals**

- a. Transfer documents from HUD (includes copy of the complaint, and transfer letter) should be generated from TEAPOTS.
- b. Transfer letter is signed and dated by the Investigative Supervisor and returned to HUD (copy is maintained for in-house file).
- c. Case is accepted into TEAPOTS and assigned an OHR docket number; copy of complaint is generated and mailed to all parties by OHR within three (3) calendar days.
- d. Investigator schedules an interview with Complainant.

#### **D. Housing Case Assignment Procedures**

The same basic case assignment procedures are implemented for Fair Housing cases as those dealing with other charges of discrimination as detailed in Chapter Three of this Manual with the following additions:

- a. Investigative Supervisor assigns the case to an Investigator. The case also must be assigned to the Investigator in TEAPOTS. All non-complex cases should be completed within 90 days (see HUD complaint processing performance measures).

- b. Maintain regular contact with the parties to a complaint - do not allow more than 20 calendar days to pass without some form of contact with the parties to let them know what is going on with respect to their case.
- c. 100 day letter must be mailed to Complainant and Respondent if the complaint is not investigated within 100 calendar days.
- d. **Mediation for Housing cases shall be scheduled within 20 calendar days of receipt by the Mediation unit.** If a scheduling problem persists with a Housing mediation, the Mediation Supervisor is authorized to reschedule another scheduled mediation session in lieu of the Housing mediation. Parties have 20 calendar days at the onset to resolve the matter in mediation. If mediation is unsuccessful, a full investigation must commence on the 30<sup>th</sup> day.

#### **E. Unsuccessful Mediation Attempts**

- a. All mediation efforts should be well documented in the Final Investigation Report (FIR). Documentation showing failed mediation efforts must include:
  - 1. A copy of the correspondence or other documentation that reports on the failed mediation attempt(s) including pertinent dates. This information must be entered into TEAPOTS.
  - 2. If a settlement was reached, the resolution (monetary amount, housing, etc.) must be entered into TEAPOTS.

#### **F. Successful Mediation Attempts (HUD Prescribed Guidelines)**

- a. The settlement agreement must meet the following requirements:
  - 1. The agreement must be in writing with clearly defined terms and conditions. It must be signed by the Complainant, Respondent, and the State or local agency representative authorized to enter into such agreements;
  - 2. It must include terms which remedy the unlawful discrimination identified in the complaint and provide relief or compensation for Complainant;
  - 3. It must contain provisions to adequately vindicate the public interest and prohibit recurring future discriminatory housing practices by Respondent;
  - 4. It must specifically state that the agreement constitutes closure of the complaint filed with HUD and the State or local agency;
  - 5. It must contain a provision stating that the agreement shall be made public unless Complainant and Respondent otherwise agree, and the authorized representative of the agency determines that disclosure is not required to further the purposes of the State or local agency.

## **G. Investigative Procedures for Fact-Finding Conferences**

- a. The Supervisor must approve all cases designated for a Fact-Finding Conference.
- b. The Investigator will send scheduling letters to Complainant and Respondent with the date specified for the Fact-Finding Conference. Include any requests for documentary evidence and/or logistical arrangements. The notice shall invite the parties to identify additional individuals whom they believe may serve as witnesses.
- c. The Investigator will include a copy of the complaint with the scheduling letter to Respondent.
- d. Respondent may have no more than 20 business days after receipt of the data request to submit the requested information. However, in all instances, the requested information shall be submitted to OHR five (5) business days before the scheduled Fact-Finding Conference.
- e. Upon receipt of the Request for Information (RFI) from Respondent, Investigator will summarize the position statement and send a copy to Complainant prior to the conference. Investigator will inform Complainant to submit a copy of rebuttal to OHR prior to or during the conference.
- f. Prior to the conference the Investigator will also gather other documents known to be necessary or germane to the matter(s).

## **H. Coordination for Fact-Finding Conferences**

- a. Obtain and confirm a conference room prior to scheduling the conference. (See DRES Facilities Request Form in the Appendix of this Manual.)
- b. Schedule and confirm that a designated mediator is available during the Fact-Finding Conference.
- c. A record of the Fact-Finding Conference shall be made either by a staff note-taker and/or through the use of other recording devices. The tape and/or notes will be retained with the investigative file. The transcription of the tape and/or notes will also be utilized to provide the information for a decision and/or Letter of Determination.
- d. The following information will be gathered during the conference:
  1. Sworn testimony from Complainant and Respondent;
  2. Complainant's and Respondent's viewpoint;
  3. Documents necessary to support Respondent's viewpoint and Complainant's rebuttal.
  4. When witnesses cannot attend the Fact-Finding Conference, the Investigator may supplement the investigative file with their testimony through notarized Affidavits.

- e. Upon completion of the Fact-Finding Conference, the Investigator shall, within 30 calendar days write a final report of all findings of fact to date. A summary of the fact finding conference should also be entered into TEAPOTS.
- f. At the end of each investigation, the Investigator shall prepare a Final Investigative Report (FIR). The FIR shall contain:
  - 1. The names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses who request anonymity;
  - 2. A summary and the dates of correspondence and other contacts with the aggrieved person(s) and the respondent(s);
  - 3. A summary description identifying other pertinent records examined;
  - 4. A summary of statements by witnesses, if applicable; and/or
  - 5. Interrogatories and answers provided, if applicable.
- g. When the investigation for a HUD dual-filed complaint is completed, all documentation as required in the HUD cooperative agreement shall be forwarded to the appropriate HUD Government Technical Representative (GTR) within 14 calendar days.
- h. The GTR will review the case file. At a minimum the case file must include the following **(Note: the GTR may waive the requirement to have the following documentation submitted in hard copy format if TEAPOTS is fully and appropriately used)**:
  - 1. The Final Investigative Report;
  - 2. The Evidentiary Section;
  - 3. A log/control sheet; and
  - 4. Working papers.

**I. Determination of Probable Cause Findings**

- a. The Investigative Supervisor will collaborate with the Mediation Supervisor regarding conciliation.
- b. Election notice must be sent to both parties if conciliation fails.

#### **J. Conciliation Procedures and Guidelines**

- a. After a determination of “probable cause” is found, the Administrative Assistant submits the file to the Mediation Supervisor for conciliation scheduling.
- b. If the case is settled, the Mediation Unit obtains a Settlement Agreement along with an enforceable Order of OHR signed by the OHR Director and all parties. Upon obtaining all required signatures, the case shall be administratively closed.
- c. If the parties decline conciliation or if efforts to conciliate fail, the case shall be certified to the Commission on Human Rights for a hearing.

#### **K. Case Determinations**

- a. Please refer to Section J in Chapter Three of this Manual, “Responsibilities of the Legal Division,” for further information on how to process determinations for Housing cases.

#### **L. Training Requirement**

- a. All Investigators must attend and pass the five (5) week course offered by the HUD National Fair Housing Training Academy (NFHTA) prior to investigating Fair Housing cases.

## Chapter Five: Case Management Procedures for Language Access Complaints

Under the DC Language Access Act of 2004 (LAA), OHR is required to comply with similar investigative requirements and procedures as outlined in Chapter Three of this Manual. The LAA is a **compliance law** that requires District government agencies to provide greater access and participation in public services, programs and activities to limited and non-English proficient (LEP/NEP) individuals who seek to access and participate in said programs, services and activities offered by the District. By filing a Language Access complaint, any person or organization may request an inquiry into individual or systemic noncompliance with the Act.

The following procedures apply with respect to processing a Language Access complaint.

### A. Intake Interview Procedures

- a. Assure that if Complainant is represented by Counsel, Counsel should be present or submit a letter authorizing the Intake Interview to proceed without his/her presence. Counsel can only advise Complainant; Complainant is required to answer the Intake questions directly. If Complainant is represented by a non-attorney personal representative, the Complainant must sign OHR's Complainant's Acknowledgement of Representation Form.
- b. Explain the role of OHR, the applicable provisions of the LAA, the complaint process, the investigative procedure, and determination of compliance. The duty Intake Officer will emphasize the difference between a Language Access complaint of noncompliance and a discrimination complaint filed under the HRA. The LAA is a compliance law and does **not** allow for private cause of action.
- c. There are no restrictions on who can file a Language Access complaint. For example, the aggrieved person may file; his/her representative may file; a witness to the alleged act of noncompliance may file; or an organization may file.
- d. Complainant will be apprised of his/her right to file a discrimination complaint should Complainant feel that the alleged act of noncompliance with the LAA had a discriminatory basis; however, he/she must schedule a separate intake appointment to do so.
- e. Inform Complainant that mediation is not required for Language Access complaints. However, mediation is available as an alternative to immediate investigation. In order to enter into mediation, both parties must willingly agree to undergo this process.
- f. If both parties willingly agree to mediate and the complaint is resolved in mediation, a Resolution will be drafted which shall include language that makes it an enforceable Order of OHR and shall be signed and approved by the OHR Director. The case is then administratively closed by OHR.
- g. In the event mediation is successful, the Mediation Administrative Assistant will give the Intake Supervisor a copy of the Administrative Closure Letter and Resolution signed by the OHR Director. **The mediation file (i.e., settlement agreement, final order and closure letter) must be included in the investigative file** after five (5) calendar days of the resolution and closure letter being signed by all parties with the exception of confidential notes taken during mediation by the assigned mediator.

- h. If mediation fails, the Mediation Supervisor will provide a report to the Intake Supervisor indicating so within 48 hours of the mediation session. The Mediation unit is strictly prohibited from sharing any details from the actual mediation sessions with any OHR employee other than the OHR Director and Legal Division. Intake, Investigations and the Language Access Program are strictly prohibited from inquiring about information of any mediation. Disciplinary action will apply to this policy.
- i. If mediation fails, OHR shall immediately continue the full investigation. It shall include, but not be limited to, onsite visits, interviews of witnesses and inspections of records. Mediation shall continue to be optional to both parties throughout the complaint process.
- j. The Language Access Director shall facilitate the resolution of the complaint if possible. If immediate resolution is not possible or if Complainant does not his/her complaint mediated, investigation will immediately follow the filing of such complaints.
- k. Inform Complainant that once a complaint is assigned to an Investigator and if either party opts to not pursue mediation, the Investigator will immediately commence a full investigation (e.g., Interrogatories, Affidavits, Onsite Investigations, Witness Interviews).
- l. Determine if a basis for noncompliance is present, as well as a legitimate claim.
- m. If jurisdiction or merits of complaint are questionable, refer to a Supervisor. If a Supervisor is unavailable, refer to the Legal Division.
- n. Gather information pertaining to the complaint, including, but not limited to, information and specifics of the allegation(s), date and time, location, person taking the action, witnesses, what witnesses can attest to, and copies of documents in Complainant's possession at the time of filing. (Complainant's documents should be identified and labeled.)
- o. Intake Officers shall provide a written memorandum to the Intake Supervisor explaining the reason for concluding that a case should be **administratively dismissed**. The memorandum may be forwarded to the Legal Division for confirmation after which a letter of Administrative Dismissal is signed by the OHR Director and sent to Complainant within **three (3) business days** from the time of intake. (**Note:** Administrative Dismissals for Language Access complaints cite **different statutory requirements** from those cited in Administrative Dismissals for discrimination charges. Please ensure that regulations from DCMR Title IV, **Chapter 12** are being used.)
- p. **Administrative Dismissals**

Reasons for administrative dismissals include:

- i. **Dismissal for Lack of Jurisdiction.** In general, the OHR may not have jurisdiction over the complaint for many reasons, including, but not limited to:

Lack of Jurisdiction over Respondent



- No jurisdiction over Federal government entities. If Complainant raises a Language Access complaint against a Federal entity, he/she shall be referred to the US Department of Justice (DOJ) to file a Title VI complaint. The contact information for DOJ is:

Coordination and Review Section– NWB  
 Civil Rights Division  
 U.S. Department of Justice  
 950 Pennsylvania Ave., N.W.  
 Washington, D.C. 20530  
 (202) 307-2222 (voice);  
 (202) 307-2678 (TDD)  
[www.usdoj.gov/crt/cor/complaint](http://www.usdoj.gov/crt/cor/complaint)

- No jurisdiction over other entities (public or private) outside of the District of Columbia government unless it is an entity that operates in Washington, DC to provide public services on behalf of the District government with the use of local funds.
- No jurisdiction over non-District government agencies or entities that do not receive funds from the District government to provide a public service.

#### Lack of Jurisdiction Over Subject Matter:

- Complainant does not state a claim under the LAA.
- Complainant is absent and has failed to contact or cannot be contacted by the Office.
  - Complaint is filed past the statutory timeframe of 365 calendar days since the alleged act of noncompliance took place.
  - Complainant requests in writing to withdraw his/her complaint from the Office.
- A Complainant may request that a complaint previously closed for administrative reasons or voluntarily withdrawn be reopened, provided that Complainant submits a written request within 30 calendar days of receipt of the Order dismissing a complaint and stating specifically the reasons why the complaint should be reopened.
  - The Language Access Director (LAD) may reopen the case for good reason or in the interest of justice, provided that no determination has previously been made on the merits of the claim. This decision shall be served on all parties to the complaint.

## B. Processing a Complaint

- Accepting Complainant's allegations as true and OHR has jurisdiction to investigate the complaint, the Investigator must formalize the complaint and perform the following tasks:

1. Enter all of the necessary case information into the Quickbase. **(Note: The Docket Date for all cases is the date when the charge form is officially signed and dated by Complainant. No Docket Number will be assigned to a case until the complaint form is officially signed by Complainant; however, Investigators are responsible for entering all intake data into Quickbase prior.)**
  2. Input the complaint information into the EEOC Integrated Mission System (IMS). The “area” for a Language Access complaint that is to be entered into IMS is “language” and the “issues” are entered as “other.”
  3. Draft a copy of the complaint using the Language Access Public Complaint template. This template can be found on OHR’s shared network or “I” drive. The complaint must then be translated into the non-English language of the Complainant if he/she indicates a preference to communicate in a language other than English.
  4. Ensure that the complaint form is signed and notarized by Complainant (both English and translated versions must be signed, dated and notarized).
  5. Ensure Complainant signs the Complainant Affidavit for Language Access Complaints.
- s. After the complaint has been notarized, Complainant has signed all necessary documents and has left OHR, the Investigator will perform the following tasks (Note: Separate docket numbers **will not** be assigned to each individual Respondent named in the case if more than one.):
1. Forward the complaint form and other Intake documents to the Intake Supervisor at the end of the Intake day for case docketing and assignment.
  2. Intake supervisor assigns the case to an Investigator within five (5) calendar days of the case being docketed.
  3. Within five (5) business days of assignment and docketing (or as soon as the complaint has been translated by way of Complainant’s request), the Investigator shall serve (by certified mail) upon the Respondent and the Complainant (if Complainant is not represented by Counsel) a copy of the complaint. To accomplish this task, the Investigator shall perform the following:
    - Send Introduction Letters specific to Language Access complaints to Complainant and Respondent (different from those sent for discrimination charges).
    - i. Introduction Letter to the parties must be in the language they are able to communicate in. A copy of the English and translated version will go in the file.

- ii. Investigators are to carbon copy (“cc”) the agency General Counsel and the agency Language Access Coordinator (when applicable).
  - Serve upon Respondent a Request for Production of Documents, OHR’s first set of Interrogatories and Request for Position Statement and other requested documents. Said documents shall be submitted to OHR within 20 business days of receipt.
  - If a Complainant files a Language Access complaint against a non-DC government agency that is located in DC (i.e., a local clinic, legal service provider, etc.), the Investigator will serve the complaint and will provide Respondent with the opportunity to state whether or not it has a fiscal relationship with DC government. If so, the Office would then add the funding source (i.e., the District government agency) as a Respondent.
  - Complainant is provided the opportunity to submit a rebuttal to Respondent’s position statement. Submission of a rebuttal is due to OHR within seven (7) business days of receipt of the request from the Investigator.
  - At the request of either party, an additional four (4) business day extension shall be allowed to permit Complainant and/or Respondent to be in compliance. All requests for extension shall be in writing. Faxed requests and emails are acceptable.
- t. After the completion of the investigation, the results shall be submitted to the LA Director.

### **C. Determination and Findings**

- a. Upon receipt of a Final Investigative Report (FIR) from the Investigator and review by the LAD and Legal Division, the OHR Director shall determine whether Respondent is in compliance with the LAA. (Note: The FIR contains additional sections to those found within a LOD. Similarly, the case law differs for FIRs in Language Access cases.)
- b. The City Administrator shall be copied on the determination and a copy will be mailed to both parties and the Office of the City Administrator (OCA).
- c. If there is a finding of noncompliance with the LAA, the OHR Director shall issue corrective actions containing terms and conditions to Respondent to provide the services in question within a reasonable timeframe to Complainant and other LEP/NEP individuals. If Respondent does not provide the services required by the corrective actions within the designated timeframe, Respondent’s actions will be reported to the OCA for further action.
- d. If the OHR Director determines that no violation against the LAA has taken place, a letter shall be issued to the parties dismissing the complaint.
- e. Language Access complaints are to be processed within six (6) months of the date of docketing.



## Chapter Six: Accommodations Available to OHR Customers

### A. Procedure for Documenting Accommodation Requests

- a. **Docketed Complaints:** For each docketed complaint, the Intake Officer shall document any and all requests for reasonable accommodations in OHR's Complaint Database (online Docket Book). This shall entail a written description of the constituent's request in the field for "Accommodations Needed." Records shall be kept for requests made by the constituent, and any instance in which it becomes apparent that constituent needs an accommodation. For each case in which an accommodation is requested, a notification is automatically sent to OHR's ADA Coordinator through the Complaint Database.
- b. **Pre-Docketed and Non-Docketed Complaints:** OHR shall maintain updated records of each and every request for an accommodation that is received, including for pre-docketed and non-docketed complaints. This includes, but is not limited to, constituents who request an accommodation before or during an intake appointment, and constituents who come to or call OHR and request or otherwise display a need for an accommodation. Records of such accommodation requests shall be added to the OHR Complaint Database in the "Accommodation Records" section. The record shall include the following information:
  1. Person's Name;
  2. Date;
  3. Nature of Visit;
  4. Description of the Accommodation;
  5. Name of the OHR employee documenting the record; and
  6. Any additional information deemed relevant by the OHR employee.
- c. Records shall be kept for requests made by constituents, and any instance in which it becomes apparent that a constituent needs an accommodation. For each accommodation record added, a notification is automatically sent to OHR's ADA Coordinator through the Complaint Database.

### B. Assistance for Limited and Non-English Proficient (LEP/NEP) Customers

- a. A LEP individual is an individual who does not speak English as his/her primary language and who has limited ability to read, speak, write or understand the English language; a NEP individual is an individual who cannot speak or understand the English language at any level. LEP/NEP customers may require OHR resources in order to communicate with the Office.
- b. OHR shall open two (2) purchase orders at the beginning of each fiscal year based on specific qualifications outlined in a statement of work for the following:
  1. Qualified contract interpreters for OHR proceedings and/or public events; and
  2. Written translation of OHR documents and/or outside correspondence to and from English and the target non-English language by qualified and professional translators.

- c. **Interpretation:** Interpreters are to be contacted upon request and need. Usually, interpreters are used for intake, mediation, conciliation, hearings, and public events. As soon as a LEP/NEP individual indicates to OHR that he/she requires interpreter assistance, OHR is to immediately do the following:
1. Log the accommodation request into Quickbase.
  2. Complete a "Request for Interpreter" form (see Appendix) and submit it to OHR's Language Access Director (LAD) or designee **72 hours** prior to the needed date/time for the interpretation session by way of email. The LAD or designee will submit a request with OHR's approved interpretation vendor and notify the requestor with a confirmation from the vendor.
  3. OHR's interpreter cancellation policy presently stands at **48 hours** notice prior to the scheduled date. If the cancellation occurs in less than 48 hours, OHR is charged for the service. However, Complainants are **not** to be told that OHR will cancel an interpreter if they do not show up on their scheduled date. The OHR requestor will follow through with his/her due diligence to contact the respective party the day prior to when the interpreter is needed to confirm the party's attendance.
  4. Should a LEP/NEP customer make the informed decision of waiving his/her rights to interpretation services offered by OHR, OHR must have the customer sign a written waiver acknowledging this decision. This waiver is only enforceable for the circumstance at hand, meaning the customer can return to OHR for additional service(s) and request and receive an interpreter through OHR. Children are **not** to be used as interpreters.
  5. All interpreters are to review, sign, and submit OHR's **Interpreter Oath** (see Appendix) prior to engaging in any interpretation service. This Oath must be submitted to the LAD or designee upon completion of the interpretation session. This oath is meant to ensure at a professional level that OHR is working with a qualified/professional interpreter and that the interpreter is aware that OHR is serious about the services it provides to its LEP/NEP customers.
  6. The LAD will maintain a log of all interpreter requests made, including cancellations. This log is located on the OHR shared "I" drive in the "LANGUAGE ACCESS" folder.
  7. The OHR requestor shall forward all complaints made against the contractor (if any) to the LAD's attention who will discuss with OHR's Administrative Officer.
- d. **Translation:** Translations are to be contracted upon request and need. (Legally, OHR is required to translate vital documents into a non-English language that constitutes 3% or 500 individuals of the population served or encountered, or likely to be served or encountered by OHR.) Usually, translations are requested for intake, mediation, investigations, conciliation, hearings, and public events. As soon as a LEP/NEP individual indicates to OHR that he/she requires written language assistance in his/her language, OHR is to immediately do the following:

1. Log the accommodation request into Quickbase.
2. Determine the Language(s) needed for Translation. If the language can not be determined from a piece of correspondence received at the Office, forward the document to OHR's LAD or designee. The LAD or designee will forward it to OHR's translation vendor who will determine the language for OHR.
3. Review and revise the English text.
  - aa. Ensure that the text is written in "plain language."
  - bb. Avoid culture-bound clichés.
  - cc. Is the English text meeting the purpose of the document?
4. Ensure that graphics (if applicable) are appropriate to the LEP/NEP communities that comprise the audience.
  - aa. Graphics should be culturally sensitive and appropriate to the target audience.
5. "Finalize" the English version of the document before having the document translated.
  - aa. DO NOT send a draft in progress. Only finalized versions are to be forwarded for translation.
  - bb. Ensure that all desktop publishing (DTP) has been completed.
6. Forward document in its original format to LAD or designee who will forward it to the vendor.
  - aa. Avoid forwarding PDF documents to a translation vendor. PDFs cannot be reformatted or revised as a document. This may cost the agency more money in the case of outreach material or documents requiring DTP as it will require the vendor to recreate a document (i.e., fonts, text, graphics, etc.).
7. Review the "final" translation product prior to printing/disseminating/posting.
  - aa. "Vet" the translation with community members and/or bilingual staff prior to approving the final version by the translator. OHR is the client so the vendor must provide an output based on the OHR's needs, specifications, and satisfaction.
8. Should a LEP/NEP customer make the informed decision of waiving his/her rights to interpretation services offered by OHR, OHR must have the customer sign a written waiver acknowledging this decision. This waiver is only enforceable for the circumstance

at hand, meaning the customer can return to OHR for additional service(s) and request and receive translated material through OHR.

9. The LAD will maintain a log of all translation requests made. This log is located on the OHR shared "I" drive in the "LANGUAGE ACCESS" folder.

10. The OHR requestor shall forward all complaints made against the contractor (if any) to the LAD's attention who will discuss with OHR's Administrative Officer.

e. **Telephonic Interpretation Service:** OHR shall maintain an open account with Language Line Services (or designated telephonic interpretation vendor for the District government) each fiscal year for the purpose of providing immediate over-the-phone interpretation services in over 100 languages to OHR's LEP/NEP customers. (Refer to Section F within "Customer Service Procedures" found in Chapter One of this Manual.)

1. Usage and Maintenance of Language Line Services (LLS)

- ii. LLS is appropriate to use when OHR staff members do not speak the language of the individual who is seeking an immediate service from OHR (e.g., to respond to a question, to follow up with questions, etc.).
- iii. LLS should not be used during mediation, intakes, or during any comprehensive administrative procedure, such as a Fact-Finding procedure or a hearing before the Commission of Human Rights unless absolutely necessary. If witness interviews are to be conducted over the phone, then LLS would be appropriate to use during those circumstances.
- iv. The LAD or designee shall be responsible for coordinating training of all OHR staff on the usage of Language Line Services. Refresher training shall occur once each fiscal year and mandatory training will occur with all new employees during new employee orientation. Additional training may occur upon request.
- v. OHR's Agency Telecommunications Coordinator (ATC) will monitor the cost and usage of LLS.

**C. Services for the Deaf/Hard-of-Hearing Communities and Visually Impaired Communities**

- a. Sign Language Interpreters are to be secured upon request and need. Usually, interpreters are used for intake, mediation, conciliation, hearings, and public events. Procedures for requesting Sign Language interpretation services are as follow:
  - 1. Log the accommodation request into Quickbase.
  - 2. Inform the OHR Administrative Officer or designee of the need.
  - 3. The OHR Administrative Officer or designee will complete the Sign Language Interpreter Request Form available from the DC Office of Disability Rights



(ODR) at [www.odr.dc.gov](http://www.odr.dc.gov). **Requests must be made five (5) days in advance of the event.**

4. Upon request and approval by ODR, ODR will provide assistance to District agencies in identifying appropriate interpreting services needed by their customers. ODR **does not** provide interpreter services for DC government employees.
  5. Submit the form to the Office of Disability Rights.
    - **E-mail (preferred):** [ODR@dc.gov](mailto:ODR@dc.gov)
    - Fax: 202-727-9484
    - Mail: 441 4<sup>th</sup> St., NW, Suite 729N, Washington, DC 20001
  6. Contact ODR with questions.
    - Main number: 202-724-5055
  7. ODR will contact the agency for additional information if needed and arrange for the interpreters.
  8. ODR will approve or deny the request and notify the agency. If the request is denied, the agency will notify the client.
  9. ODR will submit evaluations to the Agency and the Client upon the conclusion of the service.
  10. ODR will pay the interpreters (unless agency payment is arranged). If the **agency** cancels the event or meeting with less than three (3) calendar days notice, the agency may be required to reimburse ODR for all or part of the cost of the interpreter. If the **client** cancels the meeting or event, ODR will pay the cost of the interpreter.
- b. Braille translations are to be secured upon request and need. Usually, translations are used for intake, mediation, conciliation, hearings, and public events. Procedures for requesting Braille translation services are as follow:
- Log the accommodation request into Quickbase (if for a complaint proceeding).
  - Inform the OHR Administrative Officer or designee of the need.
  - The OHR Administrative Officer or designee will procure the service from a qualified vendor.