

EEO Complaint Procedures Manual

Directive #5-04
Issued by:

May 5, 2004
Richard J. Williams
Administrative Director

On April 27, 2004 the Supreme Court approved the attached *EEO Complaint Procedures Manual: Reporting and Handling Complaints of Discrimination or Harassment in the Judiciary*. The procedures outlined in the Manual are effective immediately. Please ensure that all Court Executives and supervisory staff in your area of responsibility, including both professional and support staff supervisors, receive a copy of this directive. Vicinage Human Resources Division Managers should also ensure that a copy is provided in the future to each newly appointed Court Executive and supervisor.

In the near future, training programs on this Directive will be conducted for EEO Officers, EEO Regional Investigators, managers and supervisors. In the meantime, questions concerning the Manual or the procedures set forth therein may be directed to Judiciary EEO/AA Chief Bobby Battle at (609) 292-3586.

NEW JERSEY JUDICIARY

DIRECTIVE #5-04



EEO COMPLAINT PROCEDURES MANUAL

**REPORTING AND HANDLING COMPLAINTS OF
DISCRIMINATION OR HARASSMENT IN THE JUDICIARY**

**APPROVED BY THE SUPREME COURT
APRIL 27, 2004**

EEO COMPLAINT PROCEDURES MANUAL
*Reporting and Handling Complaints of Discrimination
or Harassment in the Judiciary*

ABOUT THIS MANUAL

As a matter of longstanding policy, the New Jersey Judiciary prohibits discrimination against employees and members of the public, as well as harassment and the creation of a hostile work environment, based on race, creed, color, national origin, ancestry, sex, age, religion, disability, sexual orientation, and other factors fully described in the Judiciary's *Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination*.

This Manual provides a mechanism for assuring the implementation of the principles of the *Policy Statement*, by investigating complaints of violations of that policy and remedying any violations that may be found to exist.

For whom is this Manual intended? The Complaint Procedures Manual is designed to provide guidance for the Judiciary's appointing authorities, managers, supervisors, legal staff and Human Resources managers, as well as Equal Employment Opportunity (EEO) Regional Investigators, EEO/AA Officers and EEO staff. As a comprehensive reference tool, the Manual is not intended to meet the ordinary needs of individual employees (although there is nothing confidential about the Manual, and employees are welcome to review it if they desire to do so). An abbreviated, plain-language brochure is separately available to provide employees or other interested individuals with an outline of the complaint procedure and guidance on how they can use it.

Against whom may a complaint be filed? This Manual provides procedures for filing complaints against managers, supervisors, employees, and agents of the New Jersey Judiciary (excluding the municipal courts) who are alleged to have violated provisions of the *Policy Statement*. The Manual also provides procedures for filing complaints against judges, although the procedure for investigating and resolving such complaints may differ.

Who may file a complaint? A complaint may be filed by any Judiciary employee, applicant for employment, court user, volunteer, attorney, litigant, witness, vendor, contractor, or other person who comes into contact with the court system who believes that a violation of the *Policy Statement* has occurred.

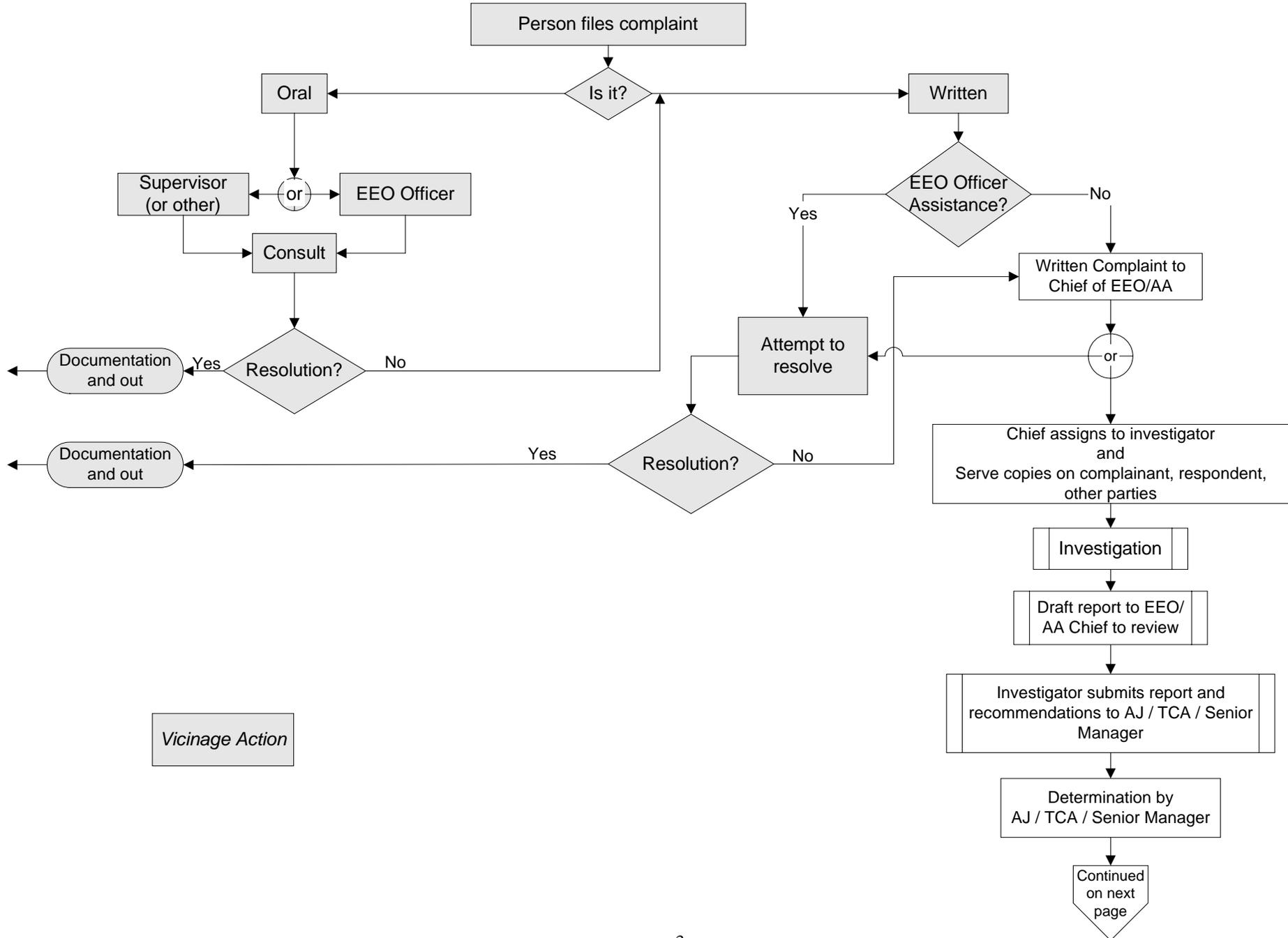
The procedures outlined in this Manual supersede any other EEO/AA complaint procedures that were in use prior to its approval.

FOR FURTHER INFORMATION CONTACT

**Bobby Battle, Chief
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Richard J. Hughes Justice Complex, 3rd Floor
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(609) 292-3586**

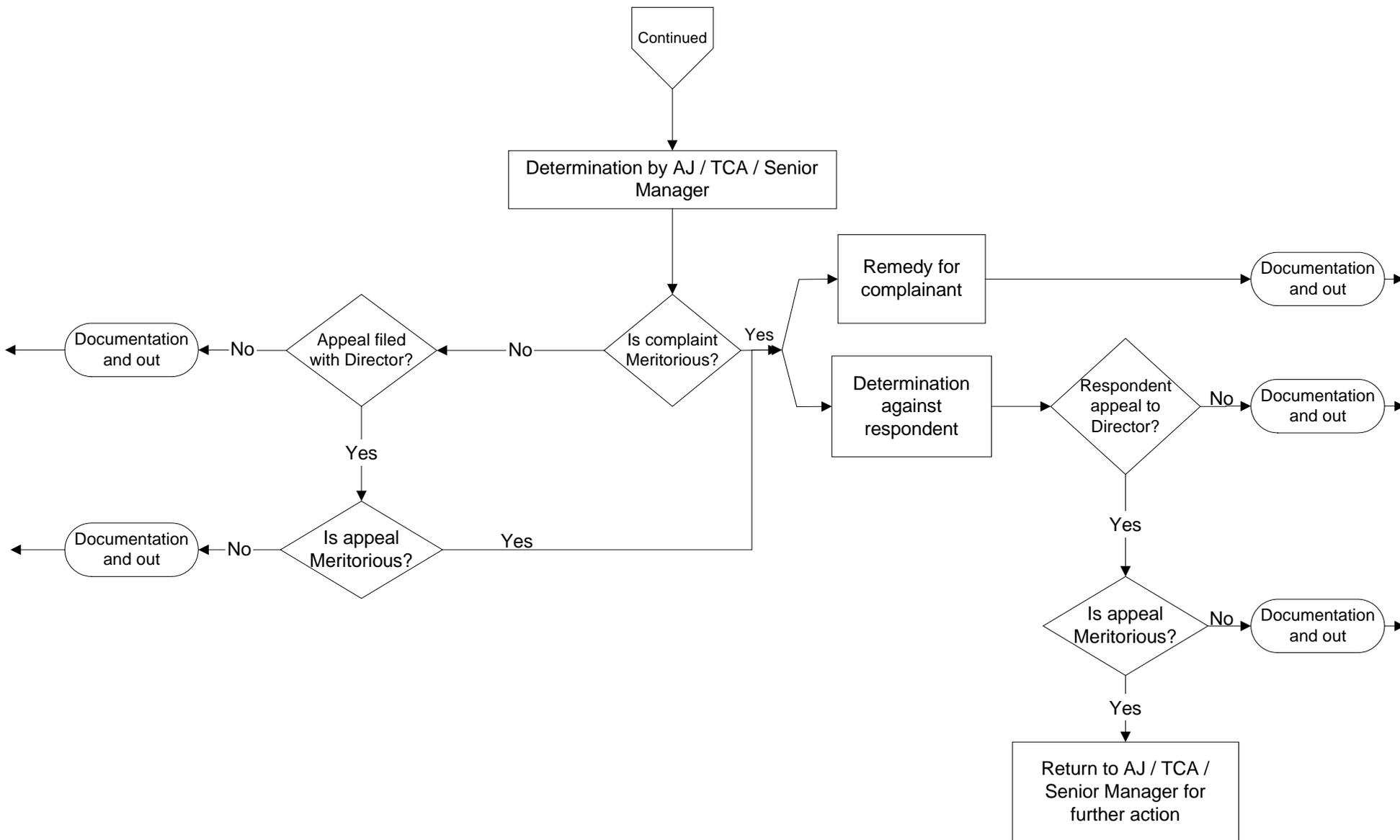
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**EEO Discrimination Complaint Procedures Flow Chart
Part 1 - Complaint to Determination**



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NEW JERSEY JUDICIARY

PROCEDURES FOR REPORTING AND HANDLING COMPLAINTS OF DISCRIMINATION OR HARASSMENT IN THE JUDICIARY¹

I. POLICY

As a matter of longstanding policy, the New Jersey Judiciary prohibits discrimination against employees and members of the public, as well as harassment and the creation of a hostile work environment, based on race, creed, color, national origin, ancestry, sex, age, religion, disability, sexual orientation, and other factors fully described in the Judiciary's *Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination*. The *Policy Statement* also protects employees and members of the public from retaliation for asserting their rights under the policy. The full *Policy Statement* is contained in the *Equal Employment Opportunity/Affirmative Action Master Plan* approved by the Supreme Court in May 2000, as modified on April 27, 2004. It is prominently posted in courthouses and Judiciary workplaces throughout the state, and is attached to this document as Appendix A.

The purpose of the Judiciary complaint and investigation procedure is to remedy promptly the effects of discrimination or harassment that may have occurred, and to prevent the recurrence of improper conduct by any employee or agent of the Judiciary. Managers and supervisors who are informed of or become aware of possible harassment or discrimination must consult with the appropriate EEO/AA Officer and, if warranted, take interim remedial action.

II. TERMS AND DEFINITIONS (as used in this manual):

Administrative Office of the Courts (AOC) – Those areas of the central office under the supervision of the Administrative Director of the Courts, Rule 1:33-3.

Affectional or Sexual Orientation – Male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

Affirmative Action – Any measure undertaken by the Judiciary beyond simple termination of a discriminatory practice to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future.

Age – An individual's age. Under New Jersey law, no one 18 years of age or over may be discriminated against because of age.

Agent -- As used in this Manual, an agent is someone who is authorized to act for or on

¹ These Procedures are intended to provide general guidance for processing discrimination complaints under most circumstances. If circumstances so necessitate, however, the Judiciary may deviate from this policy in the investigation and processing of such complaints.

behalf of the Judiciary, and may include contractors or vendors, depending on the circumstances. The term is to be interpreted in accordance with the laws of the State of New Jersey.

Ancestry – Refers to a person’s ethnic origin or descent, heritage or the place of birth of a person’s parents or ancestors.

Appeal Rights – See Section X, below.

Appointing Authority – The person having formal power of appointment or removal. See N.J.A.C. 4A:1-1.3. For Vicinage employees, the Assignment Judge is the appointing authority. For most positions in the central office, the Administrative Director is the appointing authority.

Atypical hereditary cellular or blood trait – Sickle cell trait, hemoglobin C trait, thalassemia trait, TaySachs trait or cystic fibrosis trait. (See N.J.S.A. 10:5-5 *et seq.*)

Central Office – The offices located in or attached to the Richard J. Hughes Justice Complex in Trenton, including the Administrative Office of the Courts; the offices of the Clerks of the Supreme Court, Appellate Division and Superior Court and the Tax Court Administrator; the dedicated funds offices (Office of Attorney Ethics; Office of Board Counsel, Disciplinary Review Board; Lawyers Fund for Client Protection); and related units.

Color – The color of a person’s skin. Discrimination may occur when individuals, because of the color of their skin, are treated differently from others who are similarly situated.

Complaining Party (Complainant) – A person who files a complaint of discrimination or harassment in violation of the Judiciary’s *Policy Statement*.

Complaint or Charge – An allegation of discrimination or harassment.

Creed – See “Religion.”

Disability – Refers to persons currently or previously suffering from physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean suffering from AIDS or HIV infection.

Discrimination – Any action that unlawfully or unjustly results in differential treatment of persons or groups based on their membership in a protected class as defined in *the Policy Statement* (Appendix A).

Discriminatory Practice – Incidents of discrimination or harassment.

Domestic Partnership Status – Under the Domestic Partnership Act (DPA), N.J.S.A.26:8A-1 et seq., a domestic partnership is formed if the following nine (9) requirements are met. They are: both persons have a common residence and are otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property; both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership; neither person is in a marriage recognized by New Jersey law or a member of another domestic partnership; neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity; both persons are of the same sex except that two persons who are each 62 years of age or older and not of the same sex may establish a domestic relationship if they meet the requirements of the DPA; both persons have chosen to share each other's lives in a committed relationship of mutual caring; both persons are at least 18 years of age; neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current affidavit of domestic partnership, unless a partner died; and both persons have filed an affidavit of domestic partnership with the Commission of Health and Senior Services in accordance with the DPA.

Employee – For purposes of this manual, “employee” means any person employed by the Judicial Branch of New Jersey’s state government, including Justices, judges, executives, managers, supervisors and all other members of the Judiciary workforce, including volunteers.

Equal Employment Opportunity – Includes, but is not limited to, the right of an individual to receive fair and equal treatment in recruitment, selection, hiring, training, promotion, transfer, work environment, layoff, return from layoff, compensation and fringe benefits. The principle of equal opportunity is the underpinning of the Judiciary’s policies, procedures and programs for recruitment, employment, training, promotion, and retention of individuals in the protected categories delineated in the *Policy Statement*.

Equal Employment Opportunity Commission (EEOC) – The federal agency responsible for investigating complaints of discrimination under Title VII of the 1964 Civil Rights Act as amended, Americans with Disabilities Act and the Age Discrimination in Employment Act and other specified federal statutes.

EEO/AA Officer -- For the central office, the official referred to as the EEO/AA Officer is the Chief Judiciary EEO/AA Officer in the Administrative Office of the Courts. For the vicinages, the official referred to as the EEO/AA Officer is the vicinage EEO/AA Officer or designee.

Ethnicity – See “Ancestry.”

Genetic Information – The information about genes, gene products, or inherited characteristics that may derive from a blood relation or a family member.

Harassment – To disturb, annoy or torment another based on one of the categories enumerated in the *Policy Statement*. Offensive remarks or slurs and other verbal or physical conduct relating to an individual’s membership in a protected group constitutes harassment when this conduct (1) has the effect of creating an intimidating, hostile or offensive work environment, (2) has the effect of unreasonably interfering with an individual’s work performance, or (3) otherwise adversely affects an individual’s employment opportunities. Harassment is not covered by this complaint procedure unless it can be shown to be motivated by or related to the complainant’s membership in a protected group.

Hostile Work Environment – A situation in which complained-of conduct is sufficiently severe or pervasive to alter the conditions of employment and create an abusive environment. A hostile environment may be created for an employee even if the harassing conduct was not directed to that employee. That is, if one employee is the target, a hostile environment may nonetheless be created for others who are indirectly exposed. Hostile work environment must be linked to a protected category as set forth in the *Policy Statement*.

Liability for Service in the Armed Forces of the United States – Subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

Marital Status – The legal status being married, single, separated, divorced or widowed.

National Origin/Nationality – The country of an individual’s birth or one’s citizenship.

Protected Categories – The groups protected from employment discrimination or harassment under the *Policy Statement*, specifically, race, creed, color, national origin/nationality, ancestry, sex, age, religion, disability or perceived disability, atypical hereditary cellular or blood trait, marital status, affectional or sexual orientation, genetic information, domestic partnership status, status as a disabled veteran or veteran of the Armed Forces of the United States, or liability for service in the Armed Forces of the United States.

Race -- A common dictionary definition of “race” is “a local geographic or global human population distinguished as a more or less distinct group.” The federal government’s Office of Management and Budget, setting policy for such agencies as the Census Bureau and the Equal Employment Opportunity Commission, notes that “... racial and ethnic categories ... should not be interpreted as being primarily biological or genetic in

reference. Race and ethnicity may be thought of in terms of social and cultural characteristics as well as ancestry." For statistical purposes, the federal government recognizes the following racial categories: American Indian or Alaskan Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White. (Hispanic or Latino is a recognized ethnic -- not racial -- identification.) The federal government also recognizes multi-racial identifications.

Regional EEO/AA Investigator – One of several investigators on the AOC staff who are stationed at locations around the state to conduct investigations into written EEO/AA complaints.

Religion/Creed – All aspects of religious observance, practice and belief or non-belief.

Remedy – Action taken to restore to any individual the rights and privileges he or she would have enjoyed but for the discrimination against him or her, as well as to ensure that no further acts of discrimination occur to that individual or to any similarly situated individual. As used in this Manual, “remedy” does not include discipline or other sanction that the Judiciary may decide to impose upon an employee or agent as a result of any misconduct in which he or she may have engaged.

Respondent – An individual against whom a complaint or allegation of discrimination or harassment has been filed.

Retaliation or Reprisal – An adverse action taken against a person because he/she made an allegation of discrimination/harassment or testified, assisted, or participated in the investigation of a discrimination/harassment complaint.

Senior Manager – Senior managers are responsible for issuing final determinations in response to complaints of discrimination covered by this Manual. For purposes of this policy, in the Vicinages the senior managers are the Assignment Judge and the Trial Court Administrator. In the central office, the term Senior Manager refers to the Deputy Administrative Director, an AOC Director, or the Clerk of the Supreme Court, Appellate Division, or Superior Court, or the Administrator of the Tax Court. For purposes of this policy, the Clerk of the Supreme Court will function as the senior manager for the Office of DRB Counsel, the Office of Attorney Ethics, and the Lawyers Fund for Client Protection.

Sex/Gender Discrimination – Discriminatory conduct which occurred because of the victim’s sex, including hostile work environment and sexual harassment. This means the offensive conduct would not have occurred otherwise but for his or her gender.

Sexual Harassment – Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct based on gender when submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment or when submission to or rejection of such advances is used as the basis for employment decisions, or when such conduct has the purpose or effect of unreasonably interfering

with an individual's work performance or of creating an intimidating, hostile or offensive working environment.

III. RESPONSIBILITY FOR IMPLEMENTATION OF THE POLICY STATEMENT

A. Chief Judiciary Equal Employment Opportunity/Affirmative Action Officer

Under the provisions of the Judiciary's *Equal Employment Opportunity/Affirmative Action Master Plan*, the Chief Judiciary EEO/AA Officer position is established within the Administrative Office of the Courts (AOC) for the purpose of developing, implementing and administering an equal employment opportunity and affirmative action program for all employees and applicants for employment within the Central Office (including the AOC and offices of Clerks of Court) and the Vicinages. The Chief Judiciary EEO/AA Officer ensures compliance with all Judiciary policies, laws and rules relating to equal employment opportunity and affirmative action and is responsible for reviewing all discrimination complaints under the New Jersey Law Against Discrimination (LAD) and other laws applicable to Judiciary employees. The Chief Judiciary EEO/AA Officer fulfills these responsibilities by evaluating trends, monitoring compliance, managing regional EEO/AA investigators, interceding in the complaint and investigation process when necessary, and making recommendations for policy changes.

The Chief Judiciary EEO/AA Officer ensures that the purposes of the Judiciary's policies are implemented by providing policy direction, support and guidance to the Vicinages' EEO/AA Officers.

B. Appointing Authority (Administrative Director and Assignment Judges)

The appointing authority and their designees have an obligation to establish and maintain a workplace environment that is free from discrimination or harassment. Each appointing authority shall:

1. Ensure equal opportunity for all employees and applicants;
2. Implement the *Equal Opportunity/Affirmative Action Master Plan* and *Policy Statement* within his/her area of responsibility;
3. Appoint a qualified EEO/AA Officer to perform the functions specified herein.

C. Managers and Supervisors

Managers and supervisors shall ensure that the Judiciary's EEO/AA *Policy Statement* is implemented and that employees are aware of these policies and procedures.

D. Vicinage EEO/AA Officers and Regional EEO Investigators

The individuals charged with receiving and investigating EEO complaints should be impartial and neutral fact finders specifically trained to receive and investigate allegations of all types of discrimination/harassment in accordance with the procedures outlined herein. They shall:

1. Maintain confidentiality to the greatest extent possible in all cases (see Sections IV.B.3 and XI;
2. Record complaints and maintain the information in a secured, confidential complaint log for reference and tracking purposes;
3. Conduct thorough, fair and expeditious investigations; and prepare written investigative reports containing findings and conclusions. (see Sec VI.A).
4. Recuse themselves from participation in a case when there is a conflict of interest.

IV. EEO COMPLAINT PROCEDURE: REPORTING AND FILING COMPLAINTS²

This procedure provides guidelines for individuals who feel that their rights protected by the *Policy Statement* have been violated. There are a number of different approaches that individuals may take to invoke the protections of the *Policy Statement*.

Complaints may be brought to any manager or supervisor of the Judiciary at any time, orally or in writing, but should be filed as soon as possible after the alleged misconduct. Managers and supervisors who receive such complaints **must** immediately report them to the EEO/AA Officer (see below) and, if warranted, should take interim remedial action. The manager/supervisor's contact with the EEO/AA Officer is an essential step in the process for two reasons. First, the EEO/AA Officer will provide consultation to assure that any response or remedial action taken is suited to the circumstances, assess whether the matter can be handled without a detailed investigation, and ensure that the complaint is resolved as expeditiously as possible. Second, the EEO/AA Officer is responsible for keeping a record of complaints and their disposition. Thus, the response to a complaint brought to a manager/supervisor is to be handled in collaboration with the EEO/AA Officer. In all cases, the manager/supervisor/EEO/AA Officer is to inform the Complainant of the steps that will be taken to address his/her complaint.

While individuals may look to managers/supervisors to address complaints of violations of the *Policy Statement*, they also have a right to contact and/or file a complaint directly with the EEO/AA Officer at any time.

² The procedure described here covers complaints filed within a vicinage or the central office involving only Judiciary staff. Complaints may also be filed against Judiciary vendors, contractors, suppliers, etc. and may involve more than one vicinage or office. Questions concerning such complaints should be discussed with the Chief Judiciary EEO/AA Officer in the AOC, who will provide guidance as to the proper procedure to follow to initiate an investigation.

The same procedure applies in both the vicinages and in the central office. For the central office, the official named below as the EEO/AA Officer refers to the Chief Judiciary EEO/AA Officer in the Administrative Office of the Courts. For the vicinages, the official named below as the EEO/AA Officer means the vicinage EEO/AA Officer or designee, but vicinage complainants may also seek advice or file a complaint directly with the Chief Judiciary EEO/AA Officer.

As noted above, when a Judiciary manager or supervisor becomes aware of alleged discriminatory conduct, he or she must take appropriate action. Judiciary managers/supervisors are expected to be receptive and responsive to all complaints, to cooperate in investigations, and to resolve complaints promptly by remedying the effects of any discrimination, harassment or hostile work environment that may have arisen, and to ensure that the discriminatory conduct is not repeated. The confidentiality requirements of Section XI must be observed by managers and supervisors when acting on EEO matters.

A. Who May File a Complaint

A complaint may be filed by any Judiciary employee, applicant for employment, court user, volunteer, attorney, litigant, witness, vendor, contractor, or other person who comes into contact with the court system who believes that a violation of the *Policy Statement* has occurred.

B. Time for Filing Complaints

1. Complaints may be filed at any time, but it is desirable to file a complaint as soon as possible after the alleged misconduct. The prompt filing of complaints ensures that the investigation can be completed while witnesses' memories are still fresh and that any improper conduct can be promptly and effectively remedied. While there are no hard and fast time limits for filing complaints under this procedure, complainants should be aware that complaints filed under State and Federal statutes do have firm time limits and must be filed within 180 (State) or 300 (Federal) days of the unlawful discrimination (see Section XIII, "Other Complaint Procedures").
2. Depending on the circumstances, the Judiciary may conclude that it is inappropriate to address complaints filed after a period that would prejudice the fairness of the investigation or render any remedy meaningless.

Nevertheless, the Judiciary may consider evidence, regardless of its age, that sheds light on the discriminatory motivation of current conduct.

C. Pre-filing Assistance and Screening

If the complainant is comfortable doing so, he or she is encouraged to inform the person who engaged in allegedly improper conduct either directly or through a third party. He or she is also encouraged to bring the problem to the attention of his or her immediate supervisor, which may have the quickest results.

Complainants are not, however, required to bring a complaint to the manager or supervisor who is the subject of the complaint.

If the complainant chooses not to pursue the problem with his or her manager or supervisor, then he or she should report the problem directly to the EEO/AA Officer either orally or in writing. The EEO/AA Officer will first discuss the matter confidentially and informally with the complainant and discuss his or her options.

The EEO/AA Officer will keep a record of all contacts relating to complaints by completing all of the information required on the attached *Discrimination/Sexual Harassment Contact Reporting Form* (Appendix B). The Vicinage EEO/AA Officer should submit this contact reporting form to the AJ/TCA and Judiciary's Chief Judiciary EEO/AA Officer in the AOC on a quarterly basis.

The EEO/AA Officer will conduct a preliminary inquiry to determine whether the matter is one encompassed by the *Policy Statement*. This preliminary inquiry may take one of several paths.

1. *Matter not covered by Policy Statement.* If the preliminary inquiry discloses that the problem is not covered by the *Policy Statement*, then the EEO/AA Officer may so advise the complainant, who may make a decision not to pursue the matter further. The complainant always retains the option to pursue the matter further by filing a written complaint.
2. *Informal resolution.* The preliminary inquiry may show that there is an opportunity to resolve the complaint informally, and to assure that any necessary and appropriate remedial action is taken immediately. The object should be to provide prompt relief for any meritorious complaint.

In this preliminary stage, the EEO/AA Officer should seek to understand the exact nature of the complaint and explore steps that can be taken by management or by one or both parties to remedy the complaint as expeditiously as possible. Such a resolution may result in the complainant's decision – at his or her sole discretion – not to pursue the matter further. If the complaint raises an issue that may be remedied by some other office in the Judiciary, then the EEO/AA Officer should make an appropriate referral.

3. *Advising Management.* Employees and others should feel free to consult with the EEO/AA Officer with the understanding that the conversation will be held in confidence to the extent appropriate. At the same time, it is

the EEO/AA Officer's responsibility to keep the AJ/TCA or central office senior manager apprised of alleged violations of the *Policy Statement* that come to the EEO/AA Officer's attention through informal as well as formal contacts. Such communication enables managers to take immediate remedial action to ensure that improper behavior does not recur.

NOTE: If a complainant decides not to file a written complaint for any reason, including that the problem has been resolved, then the EEO/AA Officer should ordinarily confirm that fact by writing to the complainant and advise him or her that the EEO/AA Officer is available to assist should the complainant decide to proceed further. If the complainant indicates that he or she does not wish to receive such a written confirmation, the EEO/AA Officer should honor that request and simply note the matter in the log. See paragraph 4 immediately below, however, with respect to the Judiciary's commitment to remedy any discrimination or harassment in the workplace.

4. *Written complaint filed.* If the complaint presents a *prima facie* case that cannot be resolved informally, or if the complainant wishes to pursue the matter for any other reason, then the EEO/AA Officer will provide the complainant with assistance in completing the *Discrimination/Sexual Harassment/Retaliation Complaint Form* (Appendix C).

In every case, the EEO/AA Officer will provide the complainant with full information concerning the complainant's rights under the *Policy Statement*, the right to file a formal complaint, and the right to pursue the complaint with State or Federal civil rights agencies. It should be noted that the Judiciary is committed to the elimination of discrimination, regardless of whether a complaint is filed. Accordingly, even if the complainant does not wish to file a written complaint, the Judiciary will nonetheless investigate all allegations of discrimination or sexual harassment and take steps to remedy any discrimination or sexual harassment that may have occurred.

When necessary, the EEO/AA Officer may file a complaint on his or her own initiative to remedy any discrimination or harassment that has come to light.

D. Preparing and Filing the Complaint

1. The complainant should fill out a *Discrimination/Sexual Harassment/Retaliation Complaint Form* (Appendix C³). As the Complaint form will frame the investigation and guide the further handling of the investigation, the EEO/AA Officer should provide as

³ The complaint form can also be obtained from the EEO/AA Officer or through the Judiciary Infonet (home.aoc.judiciary.state.nj.us/formpage.htm).

much assistance as possible to assure that the complaint is both concise and specific, and provides sufficient information to allow the investigator and parties to know what allegations need to be addressed.

Upon request, the EEO/AA Officer should fill out the complaint form, but must assure that the complainant reads and understands the form before signing it. *Names of witnesses and other supporting evidence should not be identified or described in the Complaint form.*

2. The complaint should include:
 - a. A description of the alleged harassing or discriminatory activity, including dates, times and locations;
 - b. The alleged protected category of the complainant that forms the basis for the complaint;
 - c. The harm sustained as a result of the alleged harassment or discrimination; and
 - d. The specific relief (i.e., corrective action) requested.

NOTE: It is important to distinguish between *the complaint* and *evidence in support of the complaint*. A copy of the complaint will be provided to the individual(s) against whom the complaint is directed (see Section IV.C.3, below). Accordingly, the names of substantiating witnesses and other supporting evidence should not normally be included in the body of the complaint or attached thereto. However the EEO/AA Officer providing pre-filing assistance should obtain from the complainant the names of witnesses and other supporting evidence (such as documents) that should be considered during the investigation but that are not to be disclosed to the other parties to the complaint. These materials shall be treated as confidential and should be separately transmitted to the investigator.

3. The EEO/AA Officer must sign and date the form, and give a copy to the complainant. The EEO/AA Officer may attempt to resolve the complaint informally at the local level. These resolution efforts, as well as the assessment of the complaint, must be completed within 5 working days of receipt of the complaint, unless otherwise authorized by the Chief Judiciary EEO/AA officer or designee.

If the matter cannot be resolved locally within the prescribed 5 days, then the EEO/AA officer will transmit the complaint to the Chief Judiciary EEO/AA officer for processing and assignment to a Regional Investigator, if appropriate.

4. While complainants are encouraged to avail themselves of the assistance of the EEO/AA Officer, the complainant also retains the right to prepare and file a complaint without the assistance of the EEO/AA Officer. If a

complaint is prepared without the assistance of the EEO/AA Officer, and the allegations are lacking in specificity, the EEO/AA Officer should meet with the complainant to obtain specific information and provide assistance in drafting the complaint so that it is sufficiently specific to allow for a proper evaluation and investigation as appropriate.

5. To assure that all allegations are addressed, the formal investigation should begin with the completion of a complaint form. Sometimes, the EEO/AA Officer may receive an oral complaint or a complaint in the form of a letter. The EEO/AA Officer may determine that the allegations received this way warrant a full investigation even if the complainant declines to complete the complaint form. Thus, even in the absence of a completed form, allegations that, if proven, would constitute a serious violation of the *Policy Statement* may have to be investigated to ascertain the facts. In such circumstances, the EEO/AA Officer should complete a complaint form in order to frame the allegations correctly and establish the parameters of the investigation. The EEO/AA Officer should send the completed form to the complainant asking that the complainant review and approve the complaint form. The EEO/AA Officer's letter should also state that if the complainant does not respond, then the EEO/AA Officer will assume that the complaint form accurately reflects the substance of the complaint. The completed form will then be served on the respondent and other necessary parties in the same manner as any other complaint and the form will constitute the basis for the investigation. If the person who initially raised the allegations objects to being named as the complainant, the EEO/AA Officer may sign as the complainant in the case.

E. Complaint Review, Filing and Processing

The Chief Judiciary EEO/AA Officer or his designee will review each complaint to ascertain whether it involves a matter covered by the Judiciary's *Policy Statement*. If necessary, the Chief Judiciary EEO/AA Officer may contact the complainant to clarify the substance of the complaint and seek to have the complaint amended.

1. *Complaint rejected.* If the complaint on its face clearly does not implicate the *Policy Statement*, the employee shall be notified by letter as soon as possible after such determination is made. The determination should include:
 - a. An explanation of the reason for declining to investigate the complaint, e.g., the complaint does not present a claim that is covered by the *Policy Statement*;
 - b. A notification to the complainant of any person or department that might be able to provide assistance; and

- c. The complainant's right to file an appeal of this determination with the Administrative Director.
2. *Acknowledgement of receipt.* If the complaint appears to be covered by the *Policy Statement*, the Chief Judiciary EEO/AA Officer should acknowledge receipt of the complaint in writing. (See Sample Letter at Appendix D-1.) The letter shall include:
 - a. The date on which the complaint was received;
 - b. The basis of the complaint;
 - c. The name of the investigator assigned to the case;
 - d. Notice that retaliation for filing the complaint will not be tolerated;
 - e. The procedure that will be followed in the investigation;
 - f. Notice that a copy of the complaint is being provided to the respondent.
3. *Notification of filing of Complaint.* A copy of the complaint should be sent to the respondent(s) with a notification letter (see Sample at Appendix D-2) containing the same information as the acknowledgement letter described above.

If the written complaint involves a respondent from a Vicinage, a copy of the complaint and notification letter will be sent to the Assignment Judge,⁴ Trial Court Administrator, and local EEO/AA Officer. In the central office, the copy of the notification letter and complaint will be sent to the Administrative Director, Director, Assistant Director and/or appropriate clerk of court in whose area the complaint arose. The notification letter should enclose a copy of the complaint. The parties to a complaint will be notified of the filing of amended complaints in the same manner as the original complaint.

V. EEO COMPLAINT PROCEDURE – INVESTIGATION

A. Scope of Investigation

The scope of the investigation should be limited to the allegations of the complaint and matters relating thereto. In the event the investigation indicates that violations not encompassed by the complaint may have been committed, the Investigator should assist the complainant in filing appropriate amendments or a new complaint. A comprehensive investigation should be sufficient to determine both the validity of the complaint and the scope of any necessary remedy.

⁴ If the complaint is filed against a judge, a copy of the complaint should also be sent to the Administrative Director as well as to the Chief Judiciary EEO/AA Officer.

B. Statements

During the investigation, the Investigator will draft a statement, in the first person, for the review and approval of the complainant, the respondent and each other witness interviewed. The statement should be presented to the witness for signature at the conclusion of the interview or as soon thereafter as practicable. The witness should be given the opportunity to make any necessary changes prior to signing his or her statement, and a copy of the statement should be given to the witness. The statement should include a recitation of the confidentiality and retaliation provisions described in Sections XI and XII, below.

C. Interviewing Complainant

The complainant will generally be the first individual interviewed in the investigation, in order to document the full scope of the complaint. The complainant will be expected to identify all witnesses to the allegedly improper conduct or individuals who may have information bearing on the resolution of the complaint.

During the interview with the complainant, the harm sustained by the complainant and the remedy sought should be ascertained. The investigator should obtain specific facts pertinent to the discrimination claim, including dates, places and witnesses. The complainant's statement should not simply repeat the contents of the complaint, but should be self-contained and provide specific details in support of the complaint.

D. Interviewing Other Witnesses

The investigator will interview any ancillary and corroborating witnesses. Copies of relevant documentary evidence should also be assembled. Supplemental interviews may be necessary if the investigation discloses a matter that was not known at the time of the initial interview. Relevant witnesses named by the complainant and the respondent should normally be interviewed, as well as other employees with knowledge of the events in question. It is the responsibility of the Investigator to take all steps necessary to ascertain the truth of the allegations contained in the complaint. The Investigator should exhaust all lines of pertinent inquiry, whether or not they are within the control of, or are suggested by, the complainant.

E. Interviewing the Respondent

Respondents should be interviewed in the same manner as all other witnesses and given a full opportunity to provide testimony concerning all relevant allegations. The Investigator shall prepare the respondent's statement in the same manner as that of any other witness.

F. Keeping the Parties Advised

During the investigation, the investigator should periodically advise the parties (complainant, respondent, senior manager) as to the progress and timing of the investigation.

VI. EEO COMPLAINT PROCEDURE: FINAL INVESTIGATION REPORT AND FINAL DETERMINATION

A. Final Investigation Report

Within 100 days of the initial filing of the written complaint with the EEO/AA officer, the Investigator shall issue a written report containing findings, conclusions, and recommendations to the Assignment Judge/TCA or to the central office senior manager, as appropriate, for disposition. In the event the complaint is filed against the AJ, TCA or senior manager in the central office, then the report should be submitted for review and action to an individual designated by the Administrative Director for that purpose. In the event more time is needed for the investigation, the Investigator shall provide written notification to the complainant, AJ/TCA or senior manager, and the EEO/AA Officer

At a minimum, the Final Investigation Report will contain the following:

1. A summary of the complaint, including:
 - The date the complaint was filed;
 - The individual with whom the complaint was filed; and
 - A summary of issue(s) raised by complainant.
2. A summary of the investigation:
 - A brief explanation of how the investigation was conducted;
 - A summary of the statements of the complainant, respondent, and other witnesses, noting how they support or contradict an allegation.
3. A summary of the findings, which should include:
 - A summary and analysis of the evidence (documents and statements) relevant to the resolution of the complaint;
 - Determination of credibility in any case where witnesses disagree as to relevant facts; and
 - Findings of fact.
4. An analysis of the allegations and facts, which should contain:

- A determination of whether the allegations were substantiated; and
- A determination of whether the conduct disclosed by the investigation violated the *Policy Statement*.

5. Recommended Findings:

- Based upon the facts and evidence disclosed by the investigation, the Investigator should make recommended findings and conclusions as to the merits of the complaint these recommendations may include a conclusion that the complaint has merit, that the complaint lacks merit, or that the evidence is insufficient to make a finding one way or the other.
- As noted below, the AJ/TCA or senior manager may adopt, reject or modify the Investigator's recommended findings and conclusions.

6. Appendices – all statements, documents and other evidence assembled during the course of the investigation.

B. Final Determination⁵

The Assignment Judge/TCA or central office senior manager or his or her designee shall review the investigation report and supporting documentation to determine if there has been a violation of the *Policy Statement* and to ensure that the findings and recommendations are consistent with the information contained in the investigative material.

1. If the Assignment Judge/TCA or central office senior manager is not satisfied with any portion of the investigation, , he or she may direct that additional investigation be conducted or may modify the recommended findings and conclusions.
2. Within fifteen days of receiving the report, the Assignment Judge/TCA or central office senior manager is responsible for providing written notification *to the complainant and any respondent* as to the final determination on the complaint. A copy of the letter of determination is to be provided to the Administrative Director, Counsel to the Administrative Director, the Chief Judiciary EEO/AA Officer in the AOC, and the Vicinage EEO/AA officer, where applicable.
3. If a violation is found to have occurred, the Assignment Judge or central office senior manager shall determine the appropriate corrective measures and immediately remedy the violation (see Section IX, Remedial Action).

⁵ In the event the complaint is filed against a judge, the final determination will be made by the Administrative Director.

4. A final letter of determination should include the following:
 - A synopsis of the complaint;
 - A statement as to whether the allegations made were substantiated or not.
 - A statement as to whether the substantiated behavior was in violation of the *Policy Statement*;
 - A statement as to the reasons for the disposition of the complaint. The determination shall state the conclusion of the investigation and the material basis for that conclusion with sufficient detail to permit the complainant and the other parties to the complaint to understand the basis for the determination, while protecting the confidentiality of the investigation (see Section XI, Confidentiality).
 - A statement that appropriate action will be taken if applicable; and
 - The parties' right to appeal the decision of the Assignment Judge/TCA or central office senior manager, if applicable. (See Section X).

VII. COMPLAINTS AGAINST JUDGES

The procedures outlined in this Manual may be used or adapted when complaints are filed against judges alleging violations of the Judiciary's *Policy Statement*. When a complaint is filed naming a judge, a copy of the complaint should be transmitted immediately to the Administrative Director of the Courts as well as to the Assignment Judge of the Vicinage where the judge is assigned (or to the Chief Justice, Presiding Judge for Administration of the Appellate Division or the Presiding Judge of the Tax Court, as appropriate).

In the event a complaint is filed by a judge, the complaint should be filed with the Assignment Judge of the Vicinage where the judge is assigned, or with the Chief Justice, Presiding Judge for Administration of the Appellate Division or the Presiding Judge of the Tax Court, as appropriate. If a judge's complaint names the Assignment Judge or the respective presiding judge, then the complaint should be filed with the Administrative Director.

In each case, the Administrative Director will determine whether to refer the complaint for investigation according to these procedures, to refer it to the Advisory Committee on Judicial Conduct (ACJC), to proceed with a combination of these two procedures, or to follow some other appropriate course. It should be remembered in this context that the focus of the EEO/AA complaint and investigation procedure is remedial. This does not in any way diminish the disciplinary authority of the Advisory Committee on Judicial Conduct over any judge in appropriate circumstances.

In all cases involving judges, the Final Determination (Section VI.B) will be issued by

the Administrative Director, whose decision will be final.

VIII. COMPLAINTS INVOLVING MUNICIPAL COURTS

While the Judiciary's *Policy Statement* is applicable throughout the Judiciary, including in the Municipal Courts, the complaint and investigation procedures set forth in this Manual are applicable only to the Superior Court, Tax Court, Appellate Division and Supreme Court and their ancillary units. The responsibility to investigate alleged violations of the *Policy Statement* in the Municipal courts and take appropriate remedial action rests with the municipal officials. Upon request, however, the Administrative Director may make the investigation procedures and staff described in this Manual available to a municipality.

It should be remembered in this context that the focus of the EEO/AA complaint and investigation procedure is remedial. This does not in any way diminish the disciplinary authority of the Advisory Committee on Judicial Conduct over Municipal Court judges in appropriate circumstances.

IX. REMEDIAL ACTION

The Judiciary will undertake appropriate remedial action to correct any instance of discrimination, harassment, or hostile work environment disclosed by the investigation of a complaint filed under this procedure. The primary purpose of remedial action will be to restore to any affected individual the rights and privileges he or she would have enjoyed but for the discrimination against him or her, as well as to ensure that no further acts of discrimination or harassment occur to that employee or to any similarly situated employee. Remedial action may vary widely depending upon the circumstances of the particular case, and may include specific actions relating to the complainant or other affected individuals, including promotion, back pay, rescission of discipline, remediated working conditions, rewriting of performance assessment and career progression documents, reassignment to another supervisor or job duty, an appropriate apology from the individual who engaged in the offending conduct, a written notice to employees assuring them of their rights, etc.

In addition to making the complainant or other affected individuals whole for any losses they may have suffered, management may also take disciplinary or other action with respect to persons found to have violated the *Policy Statement*, in order to ensure that the conduct is not repeated. Such corrective action may include referral to counseling, oral or written reprimand, reassignment, suspension, termination, or other corrective action. It should be noted, however, that the type or amount of discipline imposed on a manager, supervisor or coworker is not a matter to which a complainant is a party. A complainant, and indeed any Judiciary employee, is entitled to a working environment free of improper harassment and discrimination, and it is the sole responsibility of Judiciary management to take whatever steps are necessary to assure that its managers and supervisors conduct themselves appropriately. As a general proposition, disciplinary action is a confidential personnel matter which is inappropriate to disclose to persons other than management

and the individual being disciplined. Thus, the complainant will not ordinarily be informed of disciplinary action that may be taken. The level of discipline imposed on a manager, supervisor, or employee is, moreover, not subject to appeal by the complainant under Section X, below.

Remedial action for non-employees such as vendors may include termination of contracts or other appropriate action. In extreme cases involving criminal conduct, remedial action may include referral to appropriate law enforcement authorities.

X. APPEAL TO THE ADMINISTRATIVE DIRECTOR

If either the complainant or the respondent affected by the determination of the Assignment Judge/TCA or central office senior manager is not satisfied with that determination, he or she may file a written appeal with the Administrative Director within 15 working days after receipt of that determination, with a copy of the appeal filed simultaneously with the Chief Judiciary EEO/AA Officer.

The individual filing the appeal must set forth the reasons for the appeal and any evidence available to support the appeal. Upon receipt of the appeal, the Chief Judiciary EEO/AA Officer will notify all individuals who received the original determination letter of the appeal and the reasons therefor. The Chief Judiciary EEO/AA Officer will then provide the Administrative Director with a copy of the complete investigative file, the Investigator's report, and the determination of the Assignment Judge/TCA or central office senior manager. The Administrative Director will issue a determination as to the merits of the appeal within 30 working days of his receipt of the complete investigative file, with copies to the individuals who received the original determination.

In the event the Administrative Director concludes that additional information is needed to address the appeal, he or she will designate the Chief Judiciary EEO/AA Officer, the EEO/AA Investigator who prepared the original report, or another person to obtain the additional information required.

XI. CONFIDENTIALITY

A. During the Investigation:

All complaints and investigations shall be handled, to the greatest extent possible, in a manner that will protect the privacy interests of those involved and avoid unnecessary disruption in the workplace. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process.

The Investigator will insert the following statement at the beginning of each witness statement:

I have been informed that, in order to protect the privacy interests of complainants, witnesses, respondents, and other parties, the New Jersey Judiciary's investigation of discrimination complaints is confidential. I have been given assurances by the investigator that the Judiciary considers this statement to be confidential, and that this statement will not be disclosed by the Judiciary unless and until it becomes necessary for the Judiciary to do so in a formal proceeding. In order to preserve the integrity of the investigation, I have been directed not to discuss the questions asked by the investigator or the answers I have given with anyone who does not have a need to know.

While the investigation is confidential, during the course of an investigation it may be necessary to discuss the allegations of the complaint with the individual alleged to have engaged in the improper conduct, as well as other persons who may have relevant knowledge. Therefore, it may be necessary to disclose certain information to persons with a legitimate need to know about the matter. All persons interviewed shall be requested not to discuss their testimony with others.

NOTE: This confidentiality provision should not be applied in a manner that impedes prompt action to remedy problems. If, during the investigation, managers or supervisors become aware of unfair, discriminatory or improper behavior or the unfair application of Judiciary policies or procedures, appropriate corrective action should not be delayed.

B. Investigation Report:

The full investigation report, including witness statements and documents, is considered confidential, and as a general rule will not be released to anyone. However, the report, witness names and supporting documentation may be subject to disclosure if required by policy or law when it is requested during a hearing or litigation. For example, an appointing authority may file disciplinary charges against an employee, supervisor or manager after it investigates and determines that the employee engaged in unlawful discrimination or harassment. If a hearing ensues, the disciplined employee, supervisor or manager may seek the appointing authority's internal investigation report, written witness statements and any other information on which management intends to rely at the hearing. In the event that a request is made for such information, the appointing authority may be required to release it. The disciplined employee may request witness names and statements that the appointing authority gathered during the investigation. Similarly, the investigation report may be subject to discovery during formal litigation. In such circumstances, it may not be possible to keep witness names and statements confidential, as the appointing authority may be obligated to provide them to the disciplined employee or other litigant. To protect witnesses, employees and the investigative process, however, no manager or supervisor should release any evidentiary material or report without first consulting with the Counsel to the Administrative Director.

C. Authorization for Release or Disclosure:

Before releasing any information, the Assignment Judge/TCA or central office senior manager should contact Counsel to the Administrative Director at the AOC to review which information and documents may be disclosed and whether any information should be redacted. If the complaint is unsubstantiated or if disciplinary action is not deemed appropriate, the investigation report, including witness names and statements and other relevant documents, shall not be released to anyone.

XII. PROHIBITION AGAINST RETALIATION

Retaliation in any form by anyone who serves in the Judiciary against any person who complains about harassment or discrimination, files a complaint, or who assists in the investigation of such complaints is prohibited. A charge of retaliation may be raised at any stage of the investigation or may form the basis of a new complaint. Retaliation against anyone who avails him or herself of these complaint procedures is prohibited even where the original complaint is found to lack merit. Appropriate action will be taken against individuals who are found to have retaliated against a complainant or against any individual who testifies or otherwise assists in the investigation of a complaint.

XIII. OTHER COMPLAINT PROCEDURES

Complainants may choose to use both the Judiciary complaint procedures and external procedures available under State or Federal law. The time periods within which complaints may be filed with State or Federal civil rights agencies are short (within 180 days for the New Jersey Division on Civil Rights and within a maximum of 300 days under most circumstances for the U.S. Equal Employment Opportunity Commission (EEOC)), and choosing to use the Judiciary complaint procedure does not stop those time periods from running.

XIV. RIGHT TO BE REPRESENTED

While representation is not required, both the complainant and any person against whom a complaint is filed have the right to be represented throughout the process at their own expense by an attorney, union representative (*Weingarten* representative), or another person of their choice. Notwithstanding this option, it is the responsibility of the individual being interviewed to answer any questions posed to him or her throughout the course of an investigation. An employee's failure to cooperate in an investigation may subject the employee to disciplinary action up to and including discharge.

XV. MONITORING

For purposes of closing a case, the Chief Judiciary EEO/AA Officer or designee and the local EEO/AA officer will follow-up with the disposition of the case and any remedial action required. Depending on the circumstances, the EEO/AA Officer may follow-up (monitor) with the parties for a reasonable period of time to ensure compliance with the *Policy Statement* is maintained.

APPENDIX A

**Judiciary Policy Statement on Equal Employment Opportunity, Affirmative
Action and Anti-Discrimination**

Judiciary of the State of New Jersey

Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination

The Chief Justice and Supreme Court of New Jersey declare the following to be the policy of the New Jersey Judiciary in order to ensure equal opportunity for all Judiciary employees and applicants for employment, and in order to ensure that all court users, volunteers, attorneys, litigants, witnesses or others who come into contact with the court system are treated in a non-discriminatory manner with civility, dignity, and respect. All who serve in the Judicial Branch are responsible for implementing this policy.

Policy on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination

The New Jersey Judiciary is committed to the principles of equal employment opportunity and prohibits discrimination in hiring, promotion and terms and conditions of employment on the basis of race, creed, color, national origin/nationality, ancestry, sex, age, religion, disability or perceived disability, atypical hereditary cellular or blood trait, marital status, affectional or sexual orientation, domestic partnership status, genetic information, status as a disabled veteran or veteran of the Armed Forces of the United States, or liability for service in the Armed Forces of the United States.

Overcoming Barriers to Equal Opportunity

The Judiciary will continue to take appropriate action to remove barriers that may prevent minorities and women from full participation in the Judiciary's workforce and full enjoyment of all of the privileges of employment. An important factor in evaluating management performance is compliance with the goals of the Judiciary's Master Plan and the Judiciary's policy of fair employment practices. Management will periodically review Judiciary employment practices in order to ensure that all applicants and employees and, in particular, persons who are members of groups that have been historically disadvantaged because of discrimination are receiving fair and equal consideration for job opportunities. Affirmative efforts to ensure fairness will be undertaken with respect to all employment practices, including but not limited to recruitment, selection, hiring, training, promotions, transfers, discipline, discharge, demotion, layoffs, re-employment after layoff, job assignment, compensation, and fringe benefits.

Policy on Disabilities Affecting Court Users, Job Applicants and Employees

The Judiciary is committed to complying with the New Jersey Law Against Discrimination, and other anti-discrimination statutes applicable to the judiciary, and will not discriminate against any qualified employee or job applicant with respect to any terms, privileges or conditions of employment because of a physical or mental disability. Moreover, the Judiciary will not discharge a worker who develops a disability, including a disease such as cancer or AIDS, so long as that individual remains qualified and able to perform the essential functions of the job with or without reasonable accommodations. The Judiciary will make reasonable accommodations for all court users, employees, and applicants with disabilities, provided that the accommodations neither cause the Judiciary undue hardship, nor present a direct threat to their own health or safety, or the health and safety of others as defined under applicable law. Accommodations shall be requested by the disabled individual. This may be done by contacting the judge or Senior Manager/Supervisor in charge of the operations, services, program or activity. The individual also may contact either the local Access Coordinator or the Administrative Office of the Courts, Chief, Court Access Services at (609) 633-3902 (or (609) 292-3618 for Voice/Telecommunication Device for the Deaf (TDD)) regarding access issues or may contact the Administrator of Employee Relations at (609) 633-6540 (or (609) 292-0234 for TDD users) regarding employment issues.

Policy on Sexual Harassment

In recognition of the dignity and worth of each person who works for the Judiciary or who comes into contact with the courts, the New Jersey Judiciary promulgates this policy on sexual harassment for implementation throughout the court system. Sexual harassment is illegal, an abuse of authority and, if engaged in by a Judiciary employee, will be deemed to constitute misconduct. Sexual harassment undermines the public's confidence in the Judiciary and the integrity of employment relationships, debilitates morale and may be destructive to its victims and their associates. Accordingly, sexual harassment will not be tolerated whether it is practiced by judges, employees or non-employees, against court employees, attorneys, litigants, witnesses or others who come into contact with the court system. Managerial and supervisory personnel are required to ensure adherence to and compliance with this policy and, upon being informed of possible harassment, are required to take appropriate and immediate action in response thereto.

The New Jersey Judiciary has procedures for filing discrimination complaints, including sexual harassment complaints against judges, non-judge Judiciary employees, and non-employees, whether by Judiciary employees, attorneys, litigants, witnesses or others who come into contact with the court system. The Judiciary complaint procedures should be used for filing and addressing discrimination and sexual harassment complaints as noted in the "Filing a Complaint" section below.

Policy Against Discrimination Based on Affectional or Sexual Orientation

The Judiciary is committed to treating all employees and court users equally, with dignity and respect. Discrimination in any form against any individual on account of his or her affectional or sexual orientation is prohibited. Affectional or sexual orientation is defined as male or female heterosexuality, homosexuality, or bisexuality by inclination, practice, identity or expression, having a history thereof, or being perceived, presumed or identified by others as having such an orientation. The Judiciary shall not treat job applicants, employees, or individuals who come into contact with the courts differently because of their actual or perceived affectional or sexual orientation.

Policy on Consensual Dating in the Workplace

Consensual dating relationships between Judiciary employees are generally not the Judiciary's business. However, when the two people currently or previously involved in such relationships work as supervisor and subordinate, the supervisor must promptly inform his or her immediate superior of the personal relationship so that the Judiciary may take action to change the reporting relationship between the individuals. This is necessary in order to eliminate any appearance of, or actual, impropriety in the workplace. For justices, judges and Judiciary employees subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., failure to give proper notice to the supervisor's immediate superior may result in the denial of legal representation and indemnification by the State in the event that a discrimination or sexual harassment lawsuit is filed in connection with the relationship.

Policy on Racial/Ethnic Bias, Harassment, and Hostile Work Environment

The Judiciary prohibits all forms of bias, harassment, and discrimination in all of its operations. This prohibition extends to workforce management, all aspects of employment practices, the processing and adjudication of cases, and all programs, services and activities of the Judiciary. Appropriate actions, up to and including discharge, will be taken against individuals who do not adhere to this policy. Judges, managers, and supervisors are to take all necessary steps to ensure that each employee's work environment is free of unlawful discrimination, including racial, ethnic or sexually-oriented jokes. Harassment, coercion or intimidation of any employee based on that employee's race, creed, color, national origin, age or other unlawful criteria is strictly forbidden.

Dissemination

This Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination will be (1) sent to all New Jersey Judiciary judges and employees, (2) distributed to new employees of the Judiciary, and (3) posted in areas visible to court users, volunteers, and job applicants.

Filing a Complaint

Employees, applicants, clients and users of the courts who have questions, problems or complaints regarding EEO, disability, sexual harassment, racial/ethnic bias, hostile work environment or other categories covered by the anti-discrimination laws may communicate their concerns to the judge or Senior Manager/Supervisor in charge of the court/unit, program, services or activity. If the complainant is dissatisfied with the handling of the matter, or if the complainant prefers, the complainant may contact the local EEO/AA Officer or may pursue his or her complaint according to the New Jersey Judiciary's discrimination and sexual harassment complaint procedures, which can be obtained from the local EEO/AA Officer/Designee and/or Access Coordinator. The Judiciary EEO/AA Unit at the Administrative Office of the Courts in Trenton can be contacted by calling (609) 633-6537 for voice and TDD users. All complaints, inquiries, and investigations shall be handled in a confidential manner to the greatest extent possible. The local EEO/AA Officer can also provide information on other options available for filing complaints under state and federal complaint procedures.

Prohibition Against Retaliation

Retaliation in any form by anyone who serves in the Judicial Branch against any person who complains about discrimination, files a discrimination complaint or who assists in the investigation of such complaints is prohibited. A charge of retaliation may be raised at any step of the complaint procedures or may form the basis of a new complaint. Retaliation may result in legal liability even though the original discrimination complaint was unfounded and dismissed. Appropriate actions, up to and including discharge, will be taken against individuals who are found to have retaliated against a complainant or against any individual who assists in the investigation of a complaint.

APPENDIX B

**Discrimination/Sexual Harassment Contact Reporting Form
(for use by EEO/AA Officers)**

(SAMPLE)

**Administrative Office of the Courts
EEO/AA Office
DISCRIMINATION COMPLAINT CONTACT/TRACKING FORM
(Central Office EEO/AA Unit or Vicinage EEO/AA Office)**

Complaint⁶ Number - C /Contact Number- X	Complainant Name, Organization & Race/Gender	Respondent Name, Organization & Race Gender	Nature of Matter⁷ or Complaint	Basis of Complaint⁸	Contact⁹ Date or Date Filed	Date Completed¹⁰	Results/Action Taken¹¹
C1-03	Maya Drew Vicinage XX Black Female	Joseph Longhe Mgr., Collections White Male	Complainant feels that she was being retaliated against as a result of her participation in a pending EEO/AA investigation involving a complaint filed against Paul Devon, a friend of Respondent	Retaliation	2/3/03 2/20/03	4/26/03	Conclusion – Complainant’s allegations of discrimination were found to be unsubstantiated.
C2-03	Renee Bergen AOC White Female	Carlton Tenett Trainer Black Male	Complainant alleged that Respondent caressed her in an inappropriate sexual manner and made a sexual comment during the caress.	Sexual Harassment	3/01/03	3/01/03	Conclusion – Respondent’s actions and words were unwelcome and inappropriate and in violation of Judiciary’s Sexual Harassment Policy. Action – Respondent was given a written reprimand and assigned to attend sexual harassment prevention training.
X1-03	Judah Levitz Vicinage HH White Male	Intake Only	Complainant feels that he was unfairly disciplined by management because of race.	Race-No complaint filed.	6/13/03	6/13/03	Complainant was not aware of anyone else in the unit being disciplined or who committed a similar infraction, but felt his discipline was unfair. Complainant was advised of his appeal rights and to pursue the appeal through his union.
X2-03	Sabrina West Vicinage XXX Asian Female	Intake Only	Complainant does not agree with management’s decision to have her prepare intake status reports.	Disagreement- No complaint filed.	7/7/03	Pending	Complainant was advised that the matter she was complaining about was a management prerogative and the basis of the complaint was not covered under the Judiciary’s Anti-discrimination Policy.

⁶ Complaint/Contact Number will contain an alphabet prefix to indicate the nature of the contact (“C” for Complainant or “X” for Contact – i.e., seeking advise, to gain an understanding of why he or she was not selected for a position, etc.)

⁷ Nature of Contact or Complaint is a concise statement of the issues being discussed or the nature of the complaint.

⁸ Basis of Complaint is based on complainant’s perception of the reasons for the alleged treatment (i.e. race, gender, color, national origin, sexual harassment, disability, age, religion, etc.).

⁹ Contact Date is the date of the initial discussion of the matter with the EEO/AA Investigator. Date Filed is the date the EEO/AA Office receives the completed Complaint Form from complainants.

¹⁰ Date Completed is the date of closure of the matter being discussed or the completion of the investigation of the matter.

¹¹ Results/Action Taken is a concise statement regarding how the matter was handled, by whom, final disposition and any corrective action taken to make the individual whole and t

APPENDIX C

Discrimination/Sexual Harassment/ Retaliation Complaint Form

JUDICIARY OF THE STATE OF NEW JERSEY
Formal Discrimination / Sexual Harassment / Retaliation
Complaint Form

Date Filed ___ / ___ / ___

Complainant Information

Name	Last Name	First Name	Middle Name
Address	Number and Street	City	State Zip
Phone	Home Phone	Work Phone	
Job Title		Vicinage / Division / AOC	

Complainant Status (Check applicable box)

<input type="checkbox"/> Judicial Employee	<input type="checkbox"/> Volunteer	<input type="checkbox"/> Other
If you checked "other," specify whether: <input type="checkbox"/> Job Applicant <input type="checkbox"/> Probationer <input type="checkbox"/> Vendor <input type="checkbox"/> Other (Litigant, witness, etc.) _____ <div style="text-align: right;">(specify)</div>		

Name and Title of Person(s) You Believe Discriminated Against You:

Name	Job Title	Vicinage / Division / AOC
Name	Job Title	Vicinage / Division / AOC
Name	Job Title	Vicinage / Division / AOC

Basis of Complaint (Check applicable box or boxes)

<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> National Origin/Nationality	<input type="checkbox"/> Ancestry	<input type="checkbox"/> Age	<input type="checkbox"/> Sex/Gender	<input type="checkbox"/> Marital Status
<input type="checkbox"/> Disability / Perceived Disability	<input type="checkbox"/> Atypical Hereditary Cellular or Blood Trait	<input type="checkbox"/> Sexual or Affectional Orientation	<input type="checkbox"/> Veteran Status or Liability for Military Service	<input type="checkbox"/> Religion/Creed		
<input type="checkbox"/> Domestic Partnership Status	<input type="checkbox"/> Use of Genetic Information, including Refusal to Submit to or Provide Results of Genetic Test	<input type="checkbox"/> Sexual Harassment		<input type="checkbox"/> Retaliation		

Description of Complaint - List each incident separately and describe in detail the incident(s) and time and place of occurrence. **NOTE:** A copy of this form will be provided to the person(s) against whom you are filing a complaint. Therefore you should **not** identify witnesses or background evidence on this form. You will be asked to submit that material separately to the investigator who will investigate your complaint.

Description of Incident:	Date of Incident
	Was incident reported to anyone? If yes, who?
	Date Reported

Description of Incident:	Date of Incident
	Was incident reported to anyone? If yes, who?
	Date Reported
Description of Incident:	Date of Incident
	Was incident reported to anyone? If yes, who?
	Date Reported
Description of Incident:	Date of Incident
	Was incident reported to anyone? If yes, who?
	Date Reported

Remedy Sought (Explanation)

(Additional pages may be attached.)

Note: The Complainant has a right to use the external procedures available under state law (Division on Civil Rights) and federal law (Equal Employment Opportunity Commission). Information regarding external procedures is contained in the Policy Statement and on posters located in the Human Resources Office.

_____ Date ____/____/____
Local EEO/AA Officer/Regional Investigator Signature

_____ Date ____/____/____
Complainant's Signature

The completed form is to be given to the local EEO/AA Officer or to the Chief Judiciary EEO/AA officer in the AOC.

APPENDIX D

Sample Letters:

- 1. Acknowledging Receipt of Written Complaint and Assigning Investigator.**
- 2. Informing Respondent of the Filing of a Complaint and Assigning Investigator.**

(Appendix D-1: SAMPLE ACKNOWLEDGMENT LETTER)

[Date]

(Complainant's Name)
(Complainant's Address)

Dear [Mr./Ms. Complainant]:

This is to acknowledge receipt of the discrimination complaint you filed on **[date complaint filed]** with the **[Judiciary EEO/AA Office or Vicinage EEO/AA Officer]**. In the complaint, you alleged that **[[Respondent]** **[discriminated against you on the basis of your (prohibited criterion)]** OR **[engaged in (sexual) (discriminatory) harassment]**.

[Name, address and phone number of the regional investigator] has been assigned to conduct an investigation into the complaint and will contact with you in the near future to obtain your statement concerning your complaint. At the conclusion of the investigation, the investigator will report **[his/her]** findings to the **[TCA or Assignment Judge or Director or Senior Manager designated by the Administrative Director]** who will issue his/her determination regarding this matter.

I want to assure you that your complaint will be thoroughly investigated and considered. Please be advised that the Judiciary's anti-discrimination policy provides that retaliation in any form by anyone who serves in the Judicial Branch against any person who complains about discrimination, files a discrimination complaint or who assists in the investigation of such complaints is prohibited. A copy of your complaint has been provided to the respondent in this matter.

In addition to filing this internal complaint, you have the right to file a complaint with the U.S. Equal Employment Opportunity Commission or the New Jersey Division on Civil Rights.

If you have any questions regarding the procedures or the status of your complaint, you may contact me at (609) 292-3586 or the regional investigator named above or **[name and phone number of the local EEO/AA Officer]**.

Yours truly,

Bobby E. Battle
Chief Judiciary EEO/AA Officer

c: If in a Vicinage:
Assignment Judge
Trial Court Administrator
Local EEO/AA Officer
Regional Investigator

If in the Central Office:
Administrative Director
Director or Clerk of Court
Assistant Director (if applicable)
Regional Investigator

**(Appendix D-2: SAMPLE LETTER INFORMING RESPONDENT
OF THE FILING OF A COMPLAINT)**

(Date)

(Respondent's Name)
(Respondent's Address)

Dear [Mr./Ms. Respondent]:

On [date complaint filed], [Complainant' name and job title], filed a complaint against you with the [Judiciary EEO/AA Office or Vicinage EEO/AA Officer]. [Mr./Ms. (Complainant)] alleged that you [discriminated against him/her on the basis of his/her (prohibited criterion)] OR [engaged in (sexual) (discriminatory) harassment]. The attached completed complaint form contains the specific allegations pertaining to the complaint filed against you by [Mr./ Ms. (Complainant)].

[Name, address and phone number of the regional investigator] has been assigned to conduct an investigation into the complaint and will contact you in due course to obtain your statement concerning the complaint. At the conclusion of the investigation, the investigator will report [his or her] findings to the [TCA or Assignment Judge or Director or Senior Manager designated by the Administrative Director] who will issue his/her determination regarding this matter.

Please be advised that the Judiciary's anti-discrimination policy provides that retaliation in any form by anyone who serves in the Judicial Branch against any person who complains about discrimination, files a discrimination complaint or who assists in the investigation of such complaints is prohibited.

If you have any questions regarding the procedures or the status of the investigation, you may contact me at (609) 292-3586 or the regional investigator named above or [name and phone number of the Local EEO/AA Officer].

Yours truly,

Bobby E. Battle
Chief Judiciary EEO/AA Officer

Attachment

c:	<u>If in a Vicinage:</u> Assignment Judge Trial Court Administrator Local EEO/AA Officer Regional Investigator	<u>If in the Central Office:</u> Administrative Director Director or Clerk of Court Assistant Director (if applicable) Regional Investigator
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