

 PA TURNPIKE COMMISSION POLICY <i>This is a statement of official Pennsylvania Turnpike Policy</i>		NUMBER: 2.23 APPROVAL DATE: 03-19-2019 EFFECTIVE DATE: 04-03-2019 REVISED DATE: 11-02-2020
POLICY SUBJECT: Fair Employment Practices	RESPONSIBLE DEPARTMENT: Human Resources	

A. PURPOSE:

This policy is issued to reaffirm the policies and procedures of the Pennsylvania Turnpike Commission (“Commission”) formerly set forth in Policy Letters 2.02 and 3.03 on the issues of equal employment opportunity and sexual harassment, as well as to inform all personnel of their duties and responsibilities regarding fair employment practices. This policy also creates the Fair Employment Practices Committee (the “FEPC”) as part of the Pennsylvania Turnpike Commission’s (“Commission”) commitment to providing equal opportunity employment for all employees and applicants and to promoting a diverse and discrimination-free workplace.

B. SCOPE:

This policy letter applies to all job applicants and all employees of the Commission, at every level and provides a method of resolving matters when individuals believe there has been discrimination, discriminatory harassment, or discriminatory retaliation within the workplace in the terms and conditions of employment or employment decisions. Such complaints include charges of discrimination or harassment on the basis of race, color, religion, sex, pregnancy, national origin, age, disability, veteran status, or any other class protected by law, in hiring, promotions, compensation, transfers, terminations, terms, conditions or benefits of employment.

C. GENERAL POLICY:

The Commission complies with all federal, state, and local equal employment opportunity laws. In all hiring and employment practices, the Commission makes every effort to ensure that it does not discriminate against employees and applicants. It is the policy of the Commission to provide equal employment opportunity to all qualified persons regardless of race, color, religion, ancestry, union membership, age, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, national origin, political affiliation or support, disability, genetic information, veteran status, or any other class protected by law.

Consistent with this policy, the commitment of the Commission is to:

1. Recruit, hire, train, promote, and compensate persons in all job classifications without regard to race, color, religion, ancestry, union membership, age, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, national

origin, political affiliation or support, disability, genetic information, veteran status, or any other class protected by law.

2. Develop and implement sound administrative policy, which will ensure that management decisions affecting program operations, services provided, and employment practices are consistent with this policy.

3. Ensure that all matters affecting pay, benefits, transfers, Commission sponsored training, education, tuition assistance, social and recreational programs are administered consistently with the scope, purpose and objectives of the Strategic Plan for PTC Diversity & Inclusion.

4. Maintain a work atmosphere that is free from all forms of unlawful discrimination, reprisal, intimidation, harassment, or retaliation.

5. Ensure that reasonable accommodations are provided to qualified employees with disabilities, unless doing so would pose an undue hardship.

The FEPC serves as a central point of contact to evaluate and address concerns raised by job applicants and employees, including complaints of discrimination, harassment, and retaliation. As part of its mission, the FEPC is responsible for conducting, coordinating, and handling internal investigations of employment-related complaints on a consistent basis throughout the Commission.

This Policy does not constitute a contract and does not alter the employment at-will status of any employee. Nothing stated in this Policy shall be construed as impairing or altering the Commission's rights in any way.

D. DEFINITIONS:

1. **Complaint.** Any allegation of suspected illegal or unethical conduct that alleges a violation of the Fair Employment Practices policy, including (a) discrimination, harassment, or hostile work environment that is based upon an actual or perceived protected characteristic, as defined in the Fair Employment Practices policy (e.g., race, sex, age, religion, disability, or national origin); (b) a violation of a federal, state or local labor or employment law or regulation (e.g., wage and hour laws, wage payment laws, the Americans with Disabilities Act, the Family and Medical Leave Act, or the Uniformed Services Employment and Reemployment Rights Act); or (c) retaliation that arises from having raised a concern or having provided information to the Commission relating to a violation of the Fair Employment Practices policy.

2. **Discrimination.** Unequal treatment of an applicant or employee based on the individual's race, color, religion, sex, pregnancy, national origin, age, disability, veteran status, or any other class protected by law.

3. **Discriminatory Harassment.** Behavior that ridicules, denigrates and/or shows hostility toward an individual on the basis of an employee's race, color, religion, sex, pregnancy, national origin, age, disability, veteran status, or any other class protected by law.

4. **Fair Employment Practices Committee.** An impartial committee comprised of five (5) voting members as follows: the Chief Counsel, who will serve as chair of the committee; the Director of Diversity and Inclusion; the Director of Human Resources; the Chief Compliance, Legislative and Cultural Affairs Officer; and a fifth member appointed by the Chief Executive Officer. The Commission's Employment Attorney will act as a non-voting advisory member of the Committee. In no case will a member of the FEPC participate in an investigation where his or her activity is directly under review in connection with the complaint.
5. **Retaliation.** An adverse employment action taken against a job applicant or employee for complaining about discrimination, opposing any discriminatory practice, or participating in investigations of such complaints. Retaliation includes, but is not limited to: harassing behavior, isolation, changing work assignments, making demands that appear work-related but have a retaliatory purpose, or directing, prompting, or encouraging others to commit retaliatory acts.
6. **Sexual Harassment.** Any unwelcome sexual advances, requests for sexual favors, and/or verbal or physical conduct of a sexual nature when:
 - a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
 - b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

E. PROCEDURES:

1. **Filing a Complaint of Discrimination.**
 - a. Job applicants and employees who believe that they have been subjected to Discrimination, Discriminatory Harassment, Sexual Harassment, or Retaliation, may file a Complaint with: (i) their immediate supervisor, or, if the behavior of the employee's supervisor is at issue, the employee is encouraged to bring the matter to the attention of the next higher-level supervisor; (ii) the Office of Diversity and Inclusion; (iii) the Director of Human Resources; (iv) the Chief Compliance, Legislative and Cultural Affairs Officer; or (v) the Chief Counsel.
 - b. There is no requirement that a complaint be in writing or conform to a specific format. However, where a verbal complaint is received, and it is determined by the Commission's EEO Officer that an investigation is warranted, a written complaint, preferably on the Internal Discrimination/Retaliation Complaint Form, should be made. For a copy of the Internal Discrimination/Retaliation Complaint Form, please refer to Enclosure 1 of this Policy Letter.
2. **Timeframe.** All complaints should be filed as promptly as possible but under no circumstances should be filed after 300 calendar days of the alleged act of discrimination. Any such allegations made beyond this time frame will not be accepted or investigated.

3. **Complaint Docketing.** Once a complaint has been received by the FEPC, the Commission's EEO Officer will give the complaint a case number and will create a case file.
4. **Appointment of an FEPC Investigator.**
 - a. Once a case file is created, the Commission's EEO Officer will act as the primary investigator (the "FEPC Investigator"). If necessary, the FEPC Investigator has discretion to assign additional or alternative neutral, independent investigator(s). A FEPC Investigator should have the necessary knowledge and experience to conduct the investigation.
 - b. The FEPC Investigator is tasked with gathering facts and, to the extent possible, establishing what happened. The FEPC Investigator should carefully consider all evidence presented, including both conflicting and corroborating evidence, as well as any evidence offered by the complainant and the subject.
 - c. The FEPC Investigator may conduct his or her investigation jointly with appropriate management personnel; provided, however, that the FEPC Investigator objectively gathers and considers the relevant facts.
 - d. When an investigator believes that he or she may have a potential conflict of interest, he or she must disclose the potential issue to the FEPC, which will evaluate the facts and circumstances and determine whether the matter should be reassigned to another investigator. Mere personal knowledge of certain facts or familiarity with individuals who are or may be the subject of an investigation is ordinarily not sufficient to warrant reassignment. In most circumstances, an investigator has a conflict of interest if he or she (i) is the subject of the investigation; (ii) is a witness to material events related to what is in the complaint; (iii) participated in the decision or decisions at issue in the complaint; (iv) is a person with supervisory authority over a subject of the investigation, or is a person over whom a subject of the investigation has supervisory authority; or (v) otherwise has a conflict of interest with respect to the complainant, witnesses or the subject(s). Even when nothing inappropriate is intended, the appearance of a conflict can have negative effects. An investigator should consider how his or her actions may appear and avoid the perception of a conflict of interest.
5. **Confidentiality.**
 - a. FEPC Investigators must exercise care in maintaining the confidentiality of investigations and take reasonable precautions to protect against the unauthorized access to, use or disclosure of confidential information. Any investigative file should be deemed confidential and appropriate safeguards, including both physical and electronic safeguards, should be used to maintain the confidentiality of the information obtained. The identity of participant(s) in an investigation, and the information provided shall be shared only on a "need-to-know" basis in connection with addressing, investigating and resolving the complaint. Provided, however, nothing in this paragraph shall be interpreted as preventing the FEPC Investigators from discussing ongoing investigations with the FEPC members.

- b. An FEPC Investigator cannot promise an employee that information provided by the employee to the investigator will be kept completely confidential. The investigator may explain to an employee that confidentiality will be maintained during the investigation except to the extent disclosure is necessary for the purpose of investigating or taking appropriate action. For example, information regarding an investigation may need to be shared with others in the Commission and with government agencies. Subject to applicable privacy laws, the confidentiality afforded an investigation is at the Commission's discretion.
 - c. In the event of any inquiry from someone outside the Commission concerning a matter under investigation, the investigator shall not comment on the matter, and shall promptly notify the FEPC Chair.
- 6. **Employee Cooperation Required.** Each employee must cooperate fully and completely with an internal investigation. Failure to cooperate in FEPC investigations can constitute a form of misconduct that may result in discipline.
- 7. **Anti-Retaliation.**
 - a. The Commission strictly prohibits any form of retaliation against an employee who in good faith makes a complaint, raises a concern, provides information or otherwise assists in an investigation or proceeding regarding any conduct that he or she reasonably believes to be in violation of applicable laws, regulations, policies or contracts.
 - b. All employees should feel comfortable speaking up when they see or suspect illegal or unethical conduct, and cooperating with the FEPC in the internal investigation of any matter by providing honest, truthful and complete information without fear of retaliation.
 - c. Any claims of Retaliation for making a good faith complaint to a FEPC Investigator will be addressed in a timely and thorough manner. Even when the FEPC Investigator determines that the underlying concern is unfounded, the mere perception of Retaliation is itself detrimental to the open reporting environment the Commission strives to maintain. Accordingly, if a FEPC Investigator learns that Retaliation may have occurred, or receives a complaint about Retaliation, the matter will be viewed as a new complaint to be investigated.
- 8. **Informal Resolution.** Parties may resolve complaints on an informal basis. Upon receipt of a complaint, prior to implementation of (or at any time during) a formal investigation, the FEPC may explore opportunities for resolution. If a resolution is reached, the EEO Officer should request that the complainant execute an Internal Discrimination/Retaliation Complaint Withdrawal Form. For a copy of the Internal Discrimination/Retaliation Complaint Withdrawal Form, please refer to Enclosure 2 of this Policy Letter.
- 9. **Formal Resolution.** If the complaint cannot be resolved through Informal Resolution, the assigned FEPC Investigator shall follow protocols established by the FEPC for conducting a formal investigation. Upon completing the formal investigation, the FEPC Investigator's proposed formal resolution will be presented to the FEPC for review and approval. Upon

receiving such approval, the FEPC Investigator will notify the Complainant, the person(s) against whom the complaint was made and appropriate management personnel of the FEPC Investigator's formal resolution. The FEPC Investigator will also notify the Complainant and the person(s) against whom the complaint was made of their right to reconsideration of the findings. All such notifications shall be in writing and recorded in the case file.

10. Request for Reconsideration.

- a. When a Complainant or person(s) against whom the complaint was made is not satisfied with the FEPC Investigator's formal resolution, he/she may request a review by the FEPC within 10 business days of notification of the decision.
- b. Reconsideration requests must be in writing, preferably on the standard Internal Discrimination/Retaliation Complaint Reconsideration Form. For a copy of the Internal Discrimination/Retaliation Complaint Reconsideration Form, please refer to Enclosure 3 of this Policy Letter.
- c. Failure to request reconsideration within the allotted time shall result in forfeiture of reconsideration rights; and, the findings and recommendations made by the FEPC will be final.
- d. Should the Complainant opt to file a complaint with an outside agency or court, the complaining party will waive his/her rights to reconsideration under this procedure. Filing of such complaint, with an outside agency or court, would have no effect on any reconsideration requested by other parties.
- e. The FEPC shall review the written request for reconsideration and decide if there are sufficient grounds for further investigation. Generally, a request for reconsideration is only granted if the aggrieved party can show that the decision involved a clearly erroneous interpretation of material fact. The FEPC will conduct any additional fact finding or investigation it deems necessary or will instruct the FEPC Investigator to do so.
- f. The complaining party shall be notified, in writing, of the FEPC's decision within 15 business days of the reconsideration request. The decision reached through the reconsideration process will be final.

11. Withdrawal of Complaint. The complainant may withdraw his/her complaint at any time. Requests for withdrawal of complaints must be submitted in writing to the Commission's EEO Officer on the standard Internal Discrimination Complaint Withdrawal Form (Enclosure 2). The assigned FEPC Investigation Officer will confer with the FEPC and depending upon the allegations and circumstances, the FEPC may continue its investigation. The complaint may also be withdrawn if the complainant files a complaint with an outside agency while an FEPC investigation is ongoing.

ENCLOSURE 1

INTERNAL DISCRIMINATION/RETALIATION COMPLAINT FORM

Docket Number:	Date of Complaint:
Complainant's Name:	
Complainant's Address:	
Complainant's Preferred Contact Method: <input type="checkbox"/> Phone: _____ <input type="checkbox"/> E-mail: _____	Dates of Alleged Discrimination:
Basis of Alleged Discrimination: <input type="checkbox"/> Race <input type="checkbox"/> Religion <input type="checkbox"/> Sex <input type="checkbox"/> Age <input type="checkbox"/> National Origin <input type="checkbox"/> Disability <input type="checkbox"/> Sexual Orientation <input type="checkbox"/> Retaliation <input type="checkbox"/> Ancestry <input type="checkbox"/> Gender Identity or Expression <input type="checkbox"/> Other: _____	Alleged Discriminatory Act: <input type="checkbox"/> Interview <input type="checkbox"/> Discipline <input type="checkbox"/> Hiring/Selection <input type="checkbox"/> Discharge <input type="checkbox"/> Unequal Pay <input type="checkbox"/> Harassment <input type="checkbox"/> Promotion <input type="checkbox"/> Training <input type="checkbox"/> Layoff <input type="checkbox"/> Transfer <input type="checkbox"/> Other: _____
Please Identify the Alleged Offender(s).	

Please Provide Details of the Alleged Discriminatory Act(s). (USE ADDITIONAL PAPER IF NEEDED)

Please Provide Any Documents Which Support the Allegations. Please Describe Attachments.
(USE ADDITIONAL PAPER IF NEEDED).

Please Identify Any Other Internal or External Complaints, Grievances, Lawsuits, etc., Initiated in Relation to This Matter.

Complainant's Signature:

Date:

ENCLOSURE 2

INTERNAL DISCRIMINATION/RETALIATION COMPLAINT WITHDRAWAL FORM

Docket Number:	Date of Complaint:
Complainant's Name:	
Please Indicate Why a Withdrawal of this Complaint is Requested. (USE ADDITIONAL PAPER IF NEEDED).	

Please note that your request for withdrawal of your complaint will be considered. However, depending upon the allegations and circumstances, the Commission may continue with its investigation.

**RETALIATION OF ANY KIND IS PROHIBITED AGAINST PERSONS WHO HAVE FILED
CHARGES, TESTIFIED, ASSISTED, OR PARTICIPATED IN ANY PROCEEDING,
INVESTIGATION OR HEARING REGARDING A COMPLAINT OF DISCRIMINATION**

BY SIGNING BELOW, I HEREBY ACKNOWLEDGE THAT I HAVE NOT BEEN FORCED TO REQUEST THIS WITHDRAWAL.

Complainants Signature: _____

Date: _____

ENCLOSURE 3

INTERNAL DISCRIMINATION/RETALIATION COMPLAINT RECONSIDERATION FORM

Docket Number:	Investigation Notification Date:
Requestor's Name:	Current Commission Employee: <input type="checkbox"/> Yes <input type="checkbox"/> No
Please Indicate Why Reconsideration is Requested in this Case. (USE ADDITIONAL PAPER IF NEEDED).	
Requestor's Signature:	Date: