

NEW YORK STATE UNIFIED COURT SYSTEM

# DISCRIMINATION CLAIM

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## Policy & Procedure

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**Hon. Janet DiFiore**

Chief Judge of the State of New York

**Hon. Lawrence K. Marks**

Chief Administrative Judge of the State of New York

**Office of Court Administration**

25 Beaver Street, New York, NY 10004

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## INTRODUCTION

It is important to renew and restate our commitment to providing equal employment opportunity for all employees and applicants for employment. It is the policy of the New York State Unified Court System (UCS) to ensure equal employment opportunity without regard to race, color, national origin, religion, creed, sex (including sexual harassment), sexual orientation, age, gender identity or expression, genetic status, marital status, disability, or prior criminal record (in certain circumstances), or other classifications protected by applicable law. The Unified Court System prohibits and will not tolerate any such discrimination or harassment.

This Discrimination Claim Policy and Procedure for the New York State Unified Court System includes both informal and formal procedures for the investigation and resolution of claims of discriminatory treatment. These procedures may be used by judges, non-judicial employees, and candidates for employment.

It is important for individuals to know that they have options available to help address any matter believed to involve illegal discrimination, including sexual harassment. The following pages list resources available, which include: contacting a supervisor/manager, an Anti-Discrimination Panel Member, or an Administrative Judge; or filing a formal complaint with the Office of the Inspector General.

We are firm in our commitment to eliminate bias in the Unified Court System. Each individual has a right to be treated with respect and dignity and to work in a professional atmosphere that promotes equal employment opportunity and prohibits discriminatory practices.

**Hon. Lawrence K. Marks**

Chief Administrative Judge of the State of New York  
2016

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## I. UCS POLICY

It is the policy of the New York State Unified Court System to ensure equal employment opportunity for all employees and applicants for employment, without regard to:

- Race
- Color
- National origin
- Religion
- Sex (including sexual harassment)
- Sexual Orientation
- Age
- Marital Status
- Disability
- Prior Criminal Record (in certain circumstances)
- Genetic Status
- Gender Identity or Expression
- Domestic Violence Status

It is illegal to discriminate in an employment-related matter on the basis of any of the above-mentioned protected classes or categories, or such others as protected by applicable law. Employment-related matters may include recruitment, interviewing, hiring, dismissal, discipline, job assignment, training opportunity, shift assignment, transfer, promotion, demotion, or working conditions.

Harassment on the basis of any of these protected characteristics is also illegal. Harassment is verbal or physical conduct that demeans or shows hostility or aversion toward an individual because of his/her race, color, national origin, religion, creed, sex, sexual orientation, gender identity or expression, age, marital status, domestic violence status, disability. Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening,

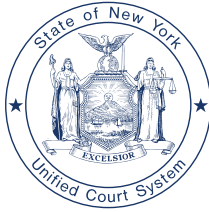
to: epithets, slurs, or negative stereotyping; threatening, intimidating or hostile acts; demeaning jokes and display or circulation in the workplace of written or graphic material that demeans or shows hostility or aversion toward an individual or group. Use of the UCS e-mail system to transmit material that is vulgar, profane, insulting or offensive (including offensive material concerning any of the aforementioned protected characteristics) is also prohibited.<sup>1</sup>

Conduct prohibited by this policy relates to the workplace and to any work-related settings outside the workplace, such as business trips, business meetings, and business-related social events.

The Unified Court System strives to protect all employees and applicants for employment from illegal discrimination and from harassment. Prompt action will be taken to address a complaint of discrimination or harassment. If an investigation determines that illegal discrimination and/or harassment has occurred, disciplinary action may be taken which may include demotion, suspension without pay or termination.

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<sup>1</sup> See also the *"New York State Unified Court System Sexual Harassment Policy and Procedures"* booklet and the *"State of New York Unified Court System Domestic Violence Policy"*.



NEW YORK STATE UNIFIED COURT SYSTEM

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# **Claim of Discriminatory Treatment Form**

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## NEW YORK STATE UNIFIED COURT SYSTEM INSPECTOR GENERAL

Please complete this form to file a claim of discriminatory treatment with the Unified Court System's Inspector General. The Inspector General is committed to preserving your confidentiality. Any individuals contacted by the Inspector General's office will be asked not to disclose the facts or contents of your claim unless disclosure is necessary.

### CLAIM OF DISCRIMINATORY TREATMENT

*Please print or type all information.*

Name: \_\_\_\_\_

Title: \_\_\_\_\_ Work Location: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Work Phone: (    ) \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Home Phone: (    ) \_\_\_\_\_

**1. I believe that I have been treated in a discriminatory manner based on my:**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Race                          | <input type="checkbox"/> Color                    | <input type="checkbox"/> Sex (including Sexual Harassment) |
| <input type="checkbox"/> Age                           | <input type="checkbox"/> Disability               | <input type="checkbox"/> Religion                          |
| <input type="checkbox"/> Marital Status                | <input type="checkbox"/> National Origin          | <input type="checkbox"/> Sexual Orientation                |
| <input type="checkbox"/> Gender Identity or Expression | <input type="checkbox"/> Domestic Violence Status | <input type="checkbox"/> Genetic Status                    |
| <input type="checkbox"/> Other (please specify): _____ |   |  |

**2. I believe that the act or treatment described below is discriminatory:**

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**3. I believe that the following individual(s) has (have) acted in a discriminatory manner:**

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**4. Date of act or treatment (or indicate if ongoing):**

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**5. Witnesses (include names, work locations and telephone numbers):**

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I authorize the New York State Unified Court System's Inspector General to use my name in investigating this claim.

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

Please attach any additional information you may have about the claim and mail this form or a copy of it to:

**OFFICE OF THE INSPECTOR GENERAL**  
 Attention: Managing Inspector General for Bias Matters  
 Office of Court Administration  
 25 Beaver Street, New York, NY 10004

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Please attach any additional information you may have about the claim and mail this form or a copy of it to:

**Office of the Inspector General**

Attention: Managing Inspector General for Bias Matters  
25 Beaver Street, New York, NY 10004

**Office of Court Administration**

25 Beaver Street, New York, NY 10004

(646) 386-3507 or Toll Free (1-877) 2-END-BIAS

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## II. PROCEDURES

The following procedures give employees and applicants for employment in-house methods for resolving claims of discrimination.<sup>2</sup> In addition, there are both federal and state agencies as well as some local agencies that will help to resolve a claim of discrimination.

### A. INFORMAL CLAIM RESOLUTION

If as an employee you believe you have been discriminated against in an employment-related matter, there is an informal process you can use. The informal process was developed to encourage you to discuss the issue and to explore alternative methods for dealing with the situation.

Please be aware that if you avail yourself of either the informal and/or formal procedures, it does not preclude your option of speaking directly with the individual(s) against whom you have an issue. Often using this direct approach will reveal that there has been a genuine misunderstanding or lead to a simple solution to the situation.

#### 1. Supervisor or Higher-Level Manager

If you choose, you may contact your supervisor or a higher-level manager for assistance. Often through the intervention of your supervisor, he/she may be able to informally resolve the problem or provide counseling. Clearly, if the problem involves an individual who is your direct supervisor, you should contact a different supervisor or higher-level manager.

#### 2. Anti-Discrimination Panel Members

The Anti-Discrimination Panels are an informal alternative complaint procedure to address and resolve incidents of discrimination, including sexually harassing behaviors.

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<sup>2</sup> *Claims of discrimination made by employees of the Court of Appeals and the Appellate Divisions are governed by a separate complaint procedure; information may be obtained from the Clerk's Office of each such court.*

Each court and administrative office has trained panel members, which include both judges and nonjudicial personnel, who may offer alternatives for resolution to discriminatory behavior. If you wish, they can also help you resolve the matter by serving as an intermediary with the person who is acting improperly. They provide support, information and options. All discussions are kept as confidential as possible and information is shared only on a need-to-know basis.

Speaking with a member of an Anti-Discrimination Panel does not prevent you from filing a formal claim. Panel members can direct you to the proper channel to file a formal complaint. The Panels are trained and overseen by the Office of Workforce Diversity.

**Contact: Office of Workforce Diversity  
212-428-2540**

### **3. Administrative Office/Administrative Judge**

You may direct a complaint to the Administrative Office/Administrative Judge of the Judicial District in which the act complained of is alleged to have occurred. The Administrative Judge can either resolve the matter informally, or refer the matter to an Anti-Discrimination Panel member or to the Office of the Inspector General.

## **B. FORMAL CLAIM RESOLUTION**

The Office of the Inspector General ("IG") investigates formal claims of work-related bias involving any judge or nonjudicial employee of the Unified Court System. Claims must be filed within one year of the incident.

### **Filing a Claim**

If you wish to file a formal claim, you should complete a Claim of Discriminatory Treatment Form which is attached to this pamphlet. The form should contain as much detailed information as possible and should state the specific relief sought.

The completed form, and any other relevant documents, should be sent to the UCS Office of the Inspector General, Office of Court Administration, 25 Beaver Street, Attention: Managing Inspector General for Bias Matters, New York, New York 10004.

Within two weeks of receiving a claim, the IG's Office will contact you to acknowledge receipt of your claim. Should a formal investigation commence, you will be notified of the name and telephone number of the investigator.

### **IG Investigation**

Serious allegations of bias will be formally investigated by a trained professional in a prompt, thorough and impartial manner. At the outset, you will be interviewed. Subsequently, all witnesses who may have observed the alleged conduct or who may have other relevant knowledge, including those named in your claim form, will be interviewed. The person(s) against whom you filed the complaint will also be interviewed. In addition, all relevant documents relating to the subject matter of the investigation will be examined.

### **Confidentiality**

The investigation will be kept confidential to the fullest extent practicable. The IG's Office is committed to preserving your confidentiality. Anyone contacted by the IG's Office about your claim will be asked not to disclose the fact or the content of your claim, unless disclosure is necessary.

You should be aware, however, that to investigate your claim thoroughly and responsibly, in almost all cases your identity and the nature of your claim will have to be made known to some people outside of the IG's Office, including, in most cases, your supervisor.

### **Findings and Determination**

In most cases, investigations will be completed within 45 days from the filing of the complaint, absent special circumstances. The Inspector General will submit a confidential, final investigative report for review to your Administrative Judge, NYC Surrogate, NYC County Clerk, or OCA Director,

as appropriate, and that person will send a recommended determination to the appropriate Deputy Chief Administrative Judge. Within 30 days of the issuance of the report by the IG's Office, the Deputy Chief Administrative Judge will issue a final determination in consultation with the Administrative Judge, NYC Surrogate, NYC County Clerk, or OCA Director who has the responsibility for its implementation. The determination will state whether the allegations have been substantiated. The determination will include, if appropriate, a remedy, which may include employee re-training, mediation, counseling and/or appropriate disciplinary action. You, as well as the person(s) against whom you filed the complaint, will be notified of the determination in writing.

### **Appeal**

If you are not satisfied with the determination of the Deputy Chief Administrative Judge, you may appeal to the Chief Administrator of the Courts within 30 days of your receipt of the determination. The person(s) against whom you brought the complaint also may appeal within the same timeframe.

The letter of appeal should be sent to the Chief Administrator of the Courts of the New York State Unified Court System, 25 Beaver Street, New York, New York 10004.

The letter should explain as precisely as possible the reasons for disagreement with the determination (which should be attached). Within 30 days of the date the appeal is received, the Chief Administrator (or designee) will issue a final determination, based on a complete review of the evidence. Copies of the determination will be sent to you; your Administrative Judge, NYC Surrogate, NYC County Clerk, or OCA Unit Director; the IG's Office; and the Deputy Chief Administrative Judge. The Chief Administrator's determination may confirm, modify, or reverse the earlier determination.

### **Enforcement**

Your Administrative Judge, NYC Surrogate, NYC County Clerk, or OCA Director has responsibility for enforcing the final determination.

### **Time Limits**

All of the offices involved in the resolution of your claim will try to comply with the stated time limits. However, compliance is not always possible due to, for example, the absence of important witnesses, scheduling conflicts regarding interviews, or the need to complete an unusually complex investigation. Whenever possible, you will be notified about delays.

### **Pursuing Your Claim**

A reasonable amount of time that you spend during your normal work day to pursue your claim may be charged to excused leave, provided you make appropriate arrangements with your supervisor, and subject to the reasonable operating needs of the court. If you have received permission to be away from your job, no leave time will be charged to your leave accruals. The IG's Office will speak to your supervisor on your behalf if you would like help in making these arrangements. If your supervisor is the one against whom the complaint is made, the IG's office will make alternative arrangements to ensure that no leave time will be charged to your leave accruals.

**Contact: Office of the Managing Inspector General  
646-386-3507 or 1-877-2-END-BIAS**

### **III. RETALIATION**

Retaliation against you for reporting acts of discrimination or providing information relevant to a claim of discrimination is in violation of UCS policy, state and federal laws (as well as some local laws). Examples of forms of retaliation may include termination of employment, a demotion with a decrease in wage or salary, a significant loss of benefits, or a transfer.

If you believe that someone has retaliated against you, you may raise the issue with an Anti-Discrimination Panel member or file a separate claim of retaliation with the Office of the Inspector General. A claim of retaliation may be upheld even if the initial claim of discrimination was dismissed.

### **IV. FALSE CLAIMS**

A person who files a false and malicious claim of discrimination (as opposed to a claim which, even if erroneous, was made in good faith) may be subject to disciplinary action.

### **V. FEDERAL, STATE, AND LOCAL HUMAN RIGHTS AGENCIES**

You may file a claim of discriminatory treatment concerning an employment-related matter with an outside agency. However, if you do so while your internal claim is pending, the Inspector General may discontinue the processing of that claim. You should be aware that the time limits for filing claims with outside agencies may be shorter than the time limit for filing a claim with the Inspector General's Office. Be sure to check with the outside agencies for their filing deadlines.

The Equal Employment Opportunity Commission is the federal agency that handles discrimination claims. They can be reached at 1-800-669-4000. The New York State Division of Human Rights is the state agency that handles claims of discrimination and they can be reached at 718-741-8400. Some cities and counties have their own local human rights agencies.