

Oregon Mortuary & Cemetery Board

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Affirmative Action Plan 2009 – 2011 Biennium

**OREGON MORTURARY & CEMETERY BOARD
AFFRIMATIVE ACTION PLAN
2009-2011 BIENNIUM**

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September 8, 2008

I am pleased to submit this updated Affirmative Action Plan for the Oregon Mortuary and Cemetery Board. I am new to the agency as of July 31st, and am excited to be able to not only review the plan and results from last year, but to establish the goals for the next biennium.

I appreciate any and all feedback, in the interest of constantly improving the plan, as well as in support of ongoing open dialog on between staff, staff and board, and with our broader stakeholders on these key topics.

If you have any questions, please let me know.

Thanks.

Michelle Gaines
Executive Director

II. AGENCY DESCRIPTION

The Board was created to carry out the purposes and enforce the provisions of Oregon Revised Statutes (ORS) Chapter 692 and is composed of eleven members appointed by the Governor: two funeral service practitioners, one embalmer, three cemetery representatives, one crematory representative and four public members.

The Board licenses individual death care professionals and the facilities where they work.

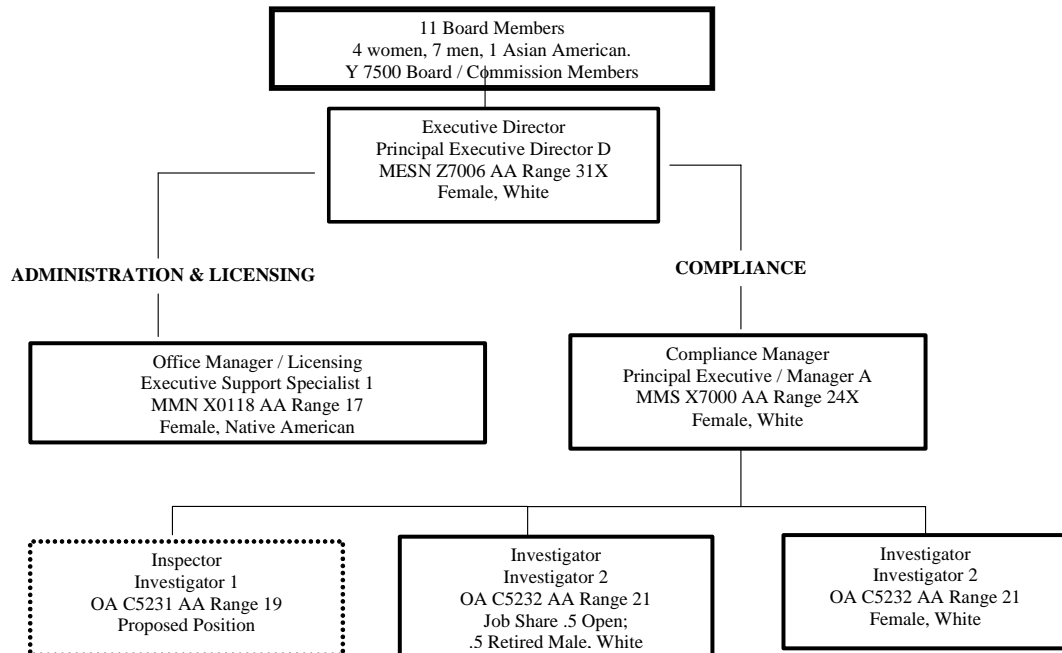
The Board's programs affect those who have suffered a loss, those who make final arrangements and those who provide death care goods and services. It is the Board's responsibility to license and regulate the practice of individuals and facilities engaged in the care, preparation, processing, transportation and final disposition of human remains. The Board's licensees include funeral service practitioners, embalmers, apprentices, interns, preneed sales people, funeral establishments, immediate disposition companies, cemeteries and crematories.

The Board is self-supporting and derives its financing from licensing, examination, and death certificate filing fees.

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Oregon Mortuary and Cemetery Board Organizational Chart 2009 - 2011



III. A . AFFIRMATIVE ACTION PLAN

Mortuary and Cemetery Board Policies and Procedures	
AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY	
Approved by: Mortuary and Cemetery Board	Date: January 1, 2007

APPLICABILITY:

This policy applies to all Mortuary and Cemetery Board employees, volunteers, proctors, constituents, and Board Members. This policy applies to all matters relating to hiring, firing, transfer, promotion, benefits, compensation, and other terms and conditions of employment, as well as delivery of the Mortuary and Cemetery Board services.

POLICY:

The Mortuary and Cemetery Board is committed to achieving equal employment opportunity and affirmative action objectives that will facilitate recruitment, employment and advancement of a diverse workforce, including minorities, women, and disabled persons. In administering the Mortuary and Cemetery Board programs, Mortuary and Cemetery Board employees, volunteers, contractors, Board Members and proctors will not discriminate against any person who is a current or potential user of Mortuary and Cemetery Board services on the basis of race, color, ancestry, national origin, age, marital status, sexual orientation, political or religious affiliation, physical or mental disability. The Board will also continue its adherence to established nondiscrimination and affirmative action precepts in screening and selecting and appointing Board members.

The Mortuary and Cemetery Board will assertively seek to attract qualified applicants from diverse backgrounds, including minorities, women, and disabled persons, and will take active steps to facilitate their retention and advancement on the basis of merit, ability, and potential.

All employees of the Mortuary and Cemetery Board are expected to adhere to the equal employment opportunity laws, rules and regulations and affirmative action concepts. All managers will be evaluated, in part, on their efforts and accomplishments in promoting the respectful workplace, affirmative action and equal employment opportunity goals and objectives of the agency.

The Mortuary and Cemetery Board shall maintain a current copy of the Affirmative Action and Equal Employment Opportunity policy and plan on the Mortuary and Cemetery Board web site and make it available for review by all Board employees, volunteers, contractors, Board Members and proctors as well as to organizations served by the Mortuary and Cemetery Board. Proctors' and vendors' performance on affirmative action and non-discrimination will be considered when selecting business partners and suppliers.

B. STATUS OF CONTRACTS TO MINORITY BUSINESSES (ORS 659A.015)

The Board did not award any construction, service, or personal service contracts to minority businesses during the 2007-2009 biennium. The Board posts all competitive contracts on the state's ORPIN system to ensure that the pool of responders is as varied as possible and all qualified responders are given fair and equal consideration.

C. TRAINING, EDUCATION AND DEVELOPMENT PLAN AND SCHEDULE OF STAFF, VOLUNTEERS, PROVIDERS, VENDORS.

The Affirmative Action plan is communicated to our staff, volunteers, Board Members and the public through a variety of methods.

1. Staff:

It is the policy of the Board to provide resources for employees to encourage their career development in state services, as is reasonably practicable to do. To accomplish this mission, the Board may provide opportunities for training to employees for developing proficiency, enhancing skills and encouraging development in areas for potential advancement. Staff shall be eligible for mandated and required training and these suggestions are frequently discussed during performance reviews to meet individual goals for upcoming year. Suggested training opportunities will be considered by management for approval.

- a. Increase staff and board member knowledge and awareness of affirmative action through review and discussion of the Affirmative Action Plan.
- b. Train and inform managers and employees as to their rights and responsibilities under the Board's Affirmative Action policy.

• Make the complete Affirmative Action Plan available and accessible to all board members, employees, and contractors.

• New Board employees are required to read and discuss the agency Affirmative Action Policy and to ask questions to clearly understand the agency's Affirmative Action Policy as well as receive instruction on complaint procedures and training on the practical application of policy in the workplace. The agency has a policy manual which clearly identifies its Affirmative Action Policy and this information is discussed with staff and it is also shared with board members who are held to the same standard.

All recruitment announcements and advertisements for Mortuary and Cemetery Board positions contain the statement, "The Mortuary and Cemetery Board is an Equal Opportunity, Affirmative Action employer.

Minorities, women and persons with disabilities are encouraged to apply."

2. Volunteers:

• All Board volunteers will review and discuss the Affirmative Action Policy and complaint procedures. They work closely with staff and are instructed on the workplace expectations, what the agencies goals and mission are and what the appropriate conduct should be while interacting with licensees and the consumers.

3. Providers & Vendors:

• The Board uses direct contract service providers infrequently and does not provide Affirmative Action training for those providers.

4. Training Plan and Schedule:

- Due to small staff size, most agency training is handled via group discussion topics in staff meetings. Employees are also afforded the opportunity to attend relevant training offered through other agencies.

D. Status of Cultural Competency Assessment/Implementation:

Given its small staff the Board has not requested or received a Cultural Competency Assessment in the 2007-09 biennium.

The Oregon Mortuary Board will review the two statewide contracts available for the assessment of cultural competency and implementation.

In the meantime, the Oregon Mortuary Board is committed taking steps to establish and embrace relationship with people representing different cultures.

- a) Increase knowledge of the characteristics, shared experiences, and common beliefs shared by people of different cultures, and disseminate that within the group or community.
- b) Foster respect for diverse ways of doing things.
- c) Work together with people of other cultures in community to reach common goals.
- d) Identify the benefits of multiple perspectives in achieving a group of the community's vision and seek out potential productive partnerships with those who have such perspectives
- e) Finally, acknowledge that each person is unique and they bring a unique set of beliefs and experiences. Consequently, identifying the many cultures that each person belongs within results in a complex and rich set of perspectives and histories. In promoting cultural competence, we are embracing.
- f) The difference in people.
- g) Respect for all and their individual dignity.

IV. ROLES FOR IMPLEMENTATION OF AFFIRMATIVE ACTION PLAN

A. Responsibility and Accountabilities for Implementation of the Plan

The Oregon State *Mortuary and Cemetery Board* consists of 11 members. They provide direction and resources to support the Affirmation Action Plan. The Board evaluates the Executive Director, in part, on effective implementation of the Affirmative Action Policy, Equal Employment Opportunity Policy, ADA Policy and Affirmative Action Plan.

1. The *Executive Director* has overall responsibility for compliance with policy and achievement of the Affirmative Action goals to which the Mortuary and Cemetery Board is committed, and will provide leadership, monitor progress toward meeting goals and objectives of the "Affirmative Action Plan" and ensure compliance with applicable federal and state laws, rules, regulations and executive orders. In the evaluation of the employee's performance the Executive Director shall ensure that their work performance reviews will include evaluation of their affirmative action efforts and accomplishments. The *Executive Director* is assigned the duties of Affirmative Action Representative and works directly with the Human Resources Consultant of the Human Resources Services Division with the Department of Administrative Services. The Human Resources Consultant reports directly to the Executive Director.

2. *Agency Managers* – Aside from the Executive Director, there is only one other manager supervising staff. The Manager and Director meet to discuss staffing and training topics, and to ensure that the manager incorporates measures and plans into any direct staff discussions and documentation.

3. *Affirmative Action Representative*
 - Disseminating affirmative action information through orientation, training and management consultation;
 - Coordinating activities to implement the Affirmative Action Plan;
 - Monitoring progress toward affirmative action goals;
 - Developing and communicating agency-wide policies and procedures related to AA/EEO;
 - Designing performance measures and reporting systems to measure effectiveness of the Plan, and reporting progress to the Board on a regular basis;
 - Identify opportunities for mentoring, training and developmental assignments to assist qualified minorities, women and disabled persons to increase their job skills and advance their careers;
 - Developing or contracting for training for staff on AA/EEO issues, workplace harassment and cultural competence;
 - Assuring that agency recruitments are carried out in compliance with AA and EEO goals, and assisting with efforts to meet affirmative action recruitment and promotion goals;
 - Receiving and investigating discrimination complaints in accordance with the complaint procedures and making recommendations to the for appropriate action;
 - Assuring that agency recruitments are free from artificial barriers to employment and advancement of minority, women, disabled, and older applicants.

V. 2007-2009 Accomplishments

In the 2007-09 biennium, the Board is pursuing the following goals and strategies:
(*status through August 2008 is included in this report*)

1. Maintain the Board's commitment to affirmative action through the continued development and adherence to its Affirmative Action Plan.

Strategy

- Evaluate and revise policies and procedures as needed to promote the Board's commitment to affirmative action and equal employment opportunity.
- Assertively recruit qualified persons with disabilities, minorities, women, and other protected classes for position/volunteer vacancies.

Actions Taken

- *Investigator position II was converted to a job share to allow advancement opportunity for female employee within agency, as well as continuing employment opportunity for retired employee.*
- *Executive Director position became open and was advertised via the diversity mailing list, and all advertisements included appropriate affirmative action language. The recruitment resulted in the final selection of a female candidate.*
- *Agency staff and board members worked closely with the Governor's office to ensure consideration of affirmative action goals in review and selection of open board member appointments.*

2. Continue dialogue among staff and board members to foster understanding and support for the Board's commitment to affirmative action.

Strategy

- Increase staff and board member knowledge and awareness of affirmative action through review and discussion of the Affirmative Action Plan.
- Train and inform managers and employees as to their rights and responsibilities under the Board's Affirmative Action policy.
- Make the complete Affirmative Action Plan available and accessible to all board members, employees, and contractors.
- Increase the knowledge and skills of employees and managers to create a welcoming environment for, and work effectively with, coworkers and patrons with diverse backgrounds or disabilities through training and employee development activities.

Actions Taken

- *The affirmative action plan is available to all staff via a shared drive.*
- *The plan was included in board packets.*
- *Communications from the affirmative action office were forwarded to staff and discussed in staff meetings as appropriate.*

3. Support and promote diversity within the Board.

Strategy

- Increase awareness within the Board to promote affirmative action and equal employment opportunities.
- Engage in outreach efforts to recruit persons with disabilities, minorities, women, and other protected classes.
- Promote celebration of events important to diverse cultures throughout the year.

Actions Taken

- *Affirmative action was discussed in detail and strategies for increasing opportunities were explored as part of the recruitment of the new executive director.*

4. Improve recruitment methods in order to increase ethnic diversity among staff and Board members.

Strategy

- Apply recruitment methods that include outreach to sources representing persons with disabilities, minorities, women, and other protected classes.
- Insure that advertisements and employment/volunteer recruitment announcements contain the statement "Equal Opportunity/Affirmative Action Employer".
- Recommend qualified women, minority, and disabled candidates to the Governor's Office for board member vacancies.
- Provide career development and training opportunities which support the career advancement and success of our diverse workforce through personal planning and mentoring.
- Will work with higher education and local ethnic groups.
- Send job announcements to the Governor's Affirmative Action Office for distribution.
- Continue to use job fairs and trade shows to promote job opportunities within our agency.

Actions Taken

- *As noted under above goals.*

5. Retention and Promotion

Strategy

- To provide resources for employees to encourage their career development in state services. The Board will provide opportunities for training to employees for developing proficiency, enhancing skills and encouraging development in areas for potential advancement. Staff shall be eligible for mandated and required training and these suggestions are frequently discussed during performance reviews to meet individual goals for upcoming year. Suggested training opportunities will be considered by management for approval.

Actions Taken

- *Although training and development plans are not used, opportunities were presented to all staff and discussed via staff meetings and individual review discussions.*

6. Increase knowledge and skills of the Board's management staff in applying Affirmative Action and EEO principles and in promoting a diverse workforce environment.

Strategy

- Ensure that the Executive Director understands the Board's affirmative action goals and responsibilities and assert their role in achieving these goals.
- Support managers' attendance at equal opportunity, affirmative action, and other diversity-related activities or training activities.
- Maintain management performance appraisal reviews used to evaluate managers on their effectiveness in achieving affirmative action objectives.

Actions Taken

- *The Executive Director worked with the HR Consultant to discuss content of trainings attended by Consultant.*
- *Executive Director and Manager reviewed AA Plan during recruitments.*

V. 2009 2011 GOALS

Note: Some goals may be completed before start of biennium.

1. Objective: Ensure relevancy, accuracy, availability, understanding of, and achievement of Oregon Mortuary and Cemetery Board (OMCB) Affirmative Action Plan by staff, board members, and agency stakeholders.

Specific Goals (to be completed by end of biennium)

- Ensure new Executive Director (ED) receives all requisite training and materials via the affirmative action office in order to execute the roles and responsibilities assigned within the plan.
 - The ED will work with HR Consultant to review green bar report for OMCB and develop specific targets given agency size and current composition.
 - The ED will survey staff, board members and select stakeholders to identify familiarity with--and understanding of--current AAP. These results will be used to evaluate current plan, and make changes to the plan as appropriate is support of the goal. Select stakeholders will include review of plan by Affirmative Action Office representative.
 - The ED will report progress toward goals to the board as a discussion item in general session at least once per year. A regular board meeting will be identified and scheduled for this reporting (eg, at the March board meeting).
 - Specific staff meetings will be scheduled at least quarterly for the purpose of discussing the plan and/or content from trainings or other materials that staff members have attended. Meeting objectives will include an ongoing agenda item to discuss as a team any differences being perceived between plan and practice, and how any learnings (workshops, etc) can be best applied to both plan and practice, as appropriate.
 - Assess OMCB physical work environment, standard equipment and practices for equal access. Identify potential barriers, and develop strategies and objectives for addressing barriers.
 - The affirmative action plan—or at least key components--will be made available on the OMCB website.
 - Actively engage in outreach efforts to recruit qualified persons with disabilities, minorities, women, and other protected classes.
2. Objective: Demonstrate the value of diversity in both action and communication.

Specific Goals (to be completed by end of biennium)

- Promote celebration of events important to diverse cultures throughout the year both at a staff operational level, as well as recognized in board meetings in general session.
- Schedule at least one training for board and staff members focused on identifying and valuing the many facets of diversity (eg, cultural, ethnic, learning style, etc).
- Schedule at least one meeting with board members and stakeholders that explores access and diversity within the industries and services regulated by the board, as well as in the overall population served by those industries.

VI. APPENDIX A

Policies and Procedures	
ADA AND REASONABLE ACCOMODATION	
Approved by: Mortuary and Cemetery Board	Date: January 1, 2007

APPLICABILITY:

This policy covers all aspects of employment including recruitments, new hires, current employees, promotion, retention of employees with acquired disabilities, as well as agency supported training, information exchange, or social activities.

DEFINITION:

Reasonable Accommodation is "any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has the same rights and privileges in employment as non-disabled employees."

POLICY:

The Agency shall comply fully with provisions of Sec. 504 Rehabilitation Act 1973, Public Law 93-112 as amended, Americans with Disabilities Act Public Law 101-336, and Oregon Revised Statutes 659.425 and implementing regulations.

The Agency shall utilize established procedures to review requests for accommodation and to apply the reasonability standards as set forth in the Americans with Disabilities Act 1990, ORS 659.430, and regulations adopted thereunto.

The Agency shall post in a designated area a notice of the right to request and receive reasonable accommodation. Upon request the Agency shall make available any such posting in alternate format.

For persons whose disabilities affect their ability to receive or express information through speech or print, the Agency shall make available upon request within a reasonable time: qualified sign language interpreters, readers, writers, large print, Braille or taped material, and/or other appropriate accommodation.

The Agency shall make available to all staff information and training on reasonable accommodation for people with disabilities.

The Agency shall use the ADA Grievance Procedures established by the Executive Director to address complaints regarding implementation of the reasonable accommodation policy. The Executive Director shall make available upon request full and complete information relating to external complaint procedures including, but not limited to, appeals to the Equal Employment Opportunity Commission, Oregon Bureau of Labor Civil Rights Division, and other responsible agencies.

The Agency shall maintain a resource list to obtain appropriate technical assistance from the Commission for the Blind, the Division of Vocational Rehabilitation, Oregon Disabilities Commission, federal offices for civil rights and/or other appropriate sources of technical expertise on job/worksite analysis/modification, vocational assessment, adaptive aids and equipment, and other possible accommodations.

Procedures to Request Accommodation

An employee may request reasonable accommodation through the Executive Director. The Director will make immediate contact with the Human Resource Consultant at Human Resource Services Division. The employee should be treated as if he/she is a bona fide disabled person until a determination is made based on ADA criteria. An informal meeting shall be held with the employee within 2 working days when possible to discuss the nature of the barrier and options for accommodation.

Upon request by a qualified employee with a disability, the Executive Director and Human Resource Consultant will:

1. Review the particular job involved, its purpose, and essential functions;
2. Consult with the employee with a disability to ascertain the precise job-related limitations imposed by the employee's disability and how those limitations could be overcome with a reasonable accommodation;
3. Assess the need for medical verification of a qualifying condition and work with the employee to obtain that verification if needed;
4. In consultation with the employee, identify potential accommodations and assess the effectiveness each would have in enabling the employee to perform the essential functions of the position; and
5. Consider the preference of the employee and select and implement the accommodation that is most appropriate for both the employee and employer.

The Executive Director will make the final decision for granting reasonable accommodation based on the facts of each case. If neither the employee nor Executive Director can readily identify the appropriate accommodation the Board may consult the public and private resources that can provide assistance without cost. If the individual does not request an accommodation, the Board is not obligated to provide one.

The disabled employee requiring the accommodation must be otherwise qualified, and the disability must be known to the Board. In addition, the Board is not required to make an accommodation if it would impose an "undue hardship" on the operation of the Board. "Undue hardship" is defined as "an action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the .

If more than one of these accommodations will enable the employee to perform the essential functions or if the employee would prefer to provide their own accommodation, the preference of the employee with a disability should be given primary consideration. However, the Board has the ultimate discretion to choose between effective accommodations, and may choose the less expensive accommodation or the accommodation that is easier for it to provide. The employee's willingness to provide their own accommodation does not relieve the Board of the duty to provide

the accommodation should the employee for any reason be unable or unwilling to continue to provide the accommodation.

In the event that a member of the general public (patron) requests a reasonable accommodation, the requests would be processed in the same manner. The exception would be an accommodation needed for the building itself; those requests have to be given by the Board, Executive Director to Department of Administrative Services, Facilities Division. Existing facilities must have the barriers to access for people with disabilities removed when such removal is easily achievable. If not, an alternative method must be provided.

A qualified individual with a disability is not required to accept an accommodation, aid, service, opportunity or benefit which such qualified individual chooses not to accept. However, if such individual rejects a reasonable accommodation, aid, service, opportunity or benefit that is necessary to enable the individual to perform the essential functions of the position held or desired, and cannot, as a result of that rejection, perform the essential functions of the position, the individual will not be considered a qualified individual with a disability.

ADA GRIEVANCE PROCEDURES

People with disabilities may file an action when they feel they have been discriminated against under the provisions of Title II of the ADA, Public Law 101-336, Oregon Revised Statutes, and laws or regulations. A complaint should be filed as soon as possible, but no later than 45 days after the alleged violation with the Executive Director, Board Chair or the Human Resource Consultant. The will provide a written determination as to the validity of the complaint and a description of the resolution, if any, to the complainant no later than 45 calendar days after a complaint is filed.

Other options are available for filing complaints under Title II of the ADA. The Executive Director or Human Resource Consultant are available to meet and discuss these options with you. Other options for filing ADA complaints include:

- Oregon Bureau of Labor and Industries, www.boli.state.or.us, (503) 378-3292
- Civil Rights Division, U.S. Dept. of Justice, P.O. Box 66118, Washington, D.C. 20530
- Equal Employment Opportunity Commission, 1801 L St. NW #9024, Washington, D.C. 20507.

Complaints may also be sent to agencies designated to process complaints under the regulations or to agencies that provide Federal financial assistance to the program in question.

Complaints have to be filed with these agencies within 180 days from the date of the alleged violation, although there may be exceptions if a good reason can be established.

To file a complaint for yourself or for another person, send a letter including the following information:

- Your name, address, phone number or message phone.
- The nature of your disability. You may be asked to provide further medical documentation.
- If a disabled veteran, you will need documentation from VA or military service showing your disability.
- Name and address of the agency discriminating against you.
- The nature of the discriminatory action.
- The date (s) the discriminatory action occurred.
- Any additional background information useful in evaluating the complaint.

- How you have been harmed by the discriminatory action.
- Description of any efforts already made to resolve the complaint.
- Name and address of the person to be contacted for further information.
- Copies of relevant correspondence or papers.
- Your signature.

If the complaint is filed within the Mortuary and Cemetery Board, the Executive Director and Human Resource Consultant will investigate all complaints and will meet to discuss the situation. The Human Resource Consultant will then make a recommendation to the Executive Director for approval. The Executive Director will send a letter to the complainant with the response. If the complaint is filed outside of the Mortuary and Cemetery Board, the procedures of the agency receiving the complaint will be followed.

Policies and Procedures

NON-DISCRIMINATION AND WORKPLACE HARASSMENT POLICY

Approved by: Mortuary and Cemetery Board

Date: January 1, 2007

AUTHORITY: ORS 240.086(1); 240.145(3); 240.250; 240.316(4); 240.321; 240.555; 240.560; 659.030(1); Title VII, Civil Rights Act of 1964; Executive Order EO-93-05

APPLICABILITY: This policy applies to all employees, volunteers, contractors, visitors and Board Members of the Mortuary and Cemetery Board.

DEFINITIONS:

Discrimination – an act based on race, color, gender, sexual orientation, national origin, religion, age, marital status, physical or mental disability or other reason prohibited by law or statute which has the effect of denying an otherwise qualified person a beneficial opportunity or service.

Harassment – A form of offensive treatment or behavior which to a reasonable person creates an intimidating, hostile, or abusive work environment. Harassment may include, but is not limited to, verbal harassment such as racial epithets, ethnic or sexual jokes, and derogatory comments; physical harassment, such as unwanted touching, physical interference with normal work or movement, or assault; visual or audio harassment, such as derogatory or sexually or racially offensive posters, degrading songs, cartoons or drawings in any form, including written, computer generated or telephonic; and sexual harassment.

Sexual Harassment - Any sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of and individual's employment;
- b. Submission to, or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance of creating an intimidating, hostile, or offensive working environment.

POLICY:

It is the policy of the Board that all employees, customers, clients, volunteers, contractors, and visitors who come in contact with the will enjoy a positive, respectful, and productive library and work environment, free from behavior, actions, or language that constitute discrimination or workplace harassment.

Harassment or discrimination of any nature – whether because of race, color, national origin, physical or mental disability, age, religion, sex, sexual orientation, marital status, or any other reason prohibited by law, union contract or policy of the State or Federal government – is illegal and unacceptable conduct and will not be tolerated. It is the policy of the Board to maintain a workplace environment free of discrimination or harassment. All employees, volunteers,

contractors or Board Members of the Board have the responsibility to conduct themselves in a business-like manner in accordance with this policy and to refrain from discrimination and harassment.

The Board encourages employees to take action if they are experiencing unwelcome behavior. Employees have the right, and also are encouraged, to communicate such concerns in the manner they feel is most safe, including, but not limited to, advising the offending person about their behavior. Managers are expected to be alert to activity in the workplace which may constitute harassment and have a duty to initiate immediate and appropriate action when they witness or become aware of interactions which may be construed as harassment. Individuals may also file a complaint with the Oregon Bureau of Labor and Industries, Civil Rights Division, the Equal Employment Opportunity Commission, Seattle District Office, or file a grievance in accordance with a collective bargaining agreement.

This policy prohibits retaliation against employees who bring allegations of conduct in violation of this policy or assist in investigating charges, or who report harassing behavior directed at persons other than the employee. This policy also prohibits retaliation against employees who complain that they are the victims of employment related discrimination.

A substantiated incident of harassment, discrimination, or retaliation for reporting such behavior, or cooperating in an investigation, shall result in corrective action which may include disciplinary action, up to and including dismissal of the employee, termination of volunteer status or termination of a contract.

The Executive Director and Board Members shall enforce this policy by maintaining a current copy of the policy and procedures on the Mortuary and Cemetery Board web site for review by all employees, volunteers and contractors. All new employees, volunteers will be required to review the policy and sign an acknowledgement that they have read and are willing to comply with the policy. The policy acknowledgement form will be retained by the personnel office.

PROCEDURES FOR REPORTS OR COMPLAINTS TO MORTUARY AND CEMETARY BOARD MANAGEMENT CONCERNING HARASSMENT OR DISCRIMINATION IN THE WORKPLACE

The following procedures shall be followed by staff members and volunteers who wish to bring incidents of alleged harassment or discrimination to the attention of Board management. All references to staff members apply equally to volunteers.

Step 1

Staff members are encouraged to bring any incidents of alleged harassment or discrimination to the attention of the Executive Director, the Human Resource Consultant (Personnel Manager), the Board Chair. Staff members may make an oral complaint or written complaint.

Complaints should include the name of the complainant, the name of the persons alleged to have engaged in the prohibited conduct, a specific and detailed description of the conduct that the employee believes is discriminatory, and a description of the remedy the employee is seeking, if any.

The manager will immediately contact the Human Resource Consultant (Personnel Manager) to report the complaint.

Step 2

In collaboration with the Human Resource Consultant (Personnel Manager) will pursue one of the following courses of action (A or B) depending upon the severity of the alleged incident, and upon whether the staff member bringing the incident to management attention decides to file a formal complaint with the agency concerning the incident or not.

- A. If the staff member is the recipient of the unwanted behavior and does not wish to file a formal complaint with the agency concerning the incident in question, but merely wishes to raise awareness or alert attention to a perceived problem:
 - 1. Management will maintain confidentiality of the staff member making the report and the incident reported to the extent possible, as determined on a case by case basis;
 - 2. The discussion will be documented in a report to the Human Resource Consultant (Personnel Manager);
 - 3. The staff person will be asked to sign the documentation.
 - 4. The manager and/or Human Resource Consultant (Personnel Manager) will meet with the employee to discuss alternatives for responding to their concerns. This could include coaching, referral or moving forward with an investigation.
 - 5. The Human Resource Consultant (Personnel Manager) will work with management to ensure that immediate and appropriate corrective action occurs, as warranted by the incident reported.

- B. If the staff member wishes to file a formal complaint with the agency concerning the incident:
 - 1. The Executive Director and/or the Human Resource Consultant (Personnel Manager) will review the complaint procedure with the staff member;
 - 2. The staff member will provide the Human Resource Consultant (Personnel Manager) and/or the Executive Director a signed complaint;
 - 3. The persons involved in the incident will be notified and an investigation of the complaint will be initiated by the Human Resource Consultant (Personnel Manager);
 - 4. Investigations and corrective or disciplinary action will be conducted in accordance with all applicable laws, collective bargaining agreements and State of Oregon policies and procedures;
 - 5. The investigation will determine whether the alleged conduct occurred and will recommend an appropriate type and level of corrective action, if any;
 - 6. The complainant and alleged perpetrator will received a response in writing within 30 days of receipt of the complaint.
 - 7. Sensitivity to confidentiality concerns will be maintained, but confidentiality for any of the parties involved cannot be guaranteed.

Nothing in this process precludes any person from filing a formal grievance in accordance with a collective bargaining agreement, the Bureau of Labor and Industries, or the Equal Employment Opportunity Commission.

VII. APPENDIX B

Age Discrimination

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA.

The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and labor organizations, as well as to the federal government. ADEA protections include:

Apprenticeship Programs

It is generally unlawful for apprenticeship programs, including joint labor-management apprenticeship programs, to discriminate on the basis of an individual's age. Age limitations in apprenticeship programs are valid only if they fall within certain specific exceptions under the ADEA or if the EEOC grants a specific exemption.

Job Notices and Advertisements

The ADEA generally makes it unlawful to include age preferences, limitations, or specifications in job notices or advertisements. A job notice or advertisement may specify an age limit only in the rare circumstances where age is shown to be a "bona fide occupational qualification" (BFOQ) reasonably necessary to the normal operation of the business.

Pre-Employment Inquiries

The ADEA does not specifically prohibit an employer from asking an applicant's age or date of birth. However, because such inquiries may deter older workers from applying for employment or may otherwise indicate possible intent to discriminate based on age, requests for age information will be closely scrutinized to make sure that the inquiry was made for a lawful purpose, rather than for a purpose prohibited by the ADEA.

Benefits

The Older Workers Benefit Protection Act of 1990 (OWBPA) amended the ADEA to specifically prohibit employers from denying benefits to older employees. Congress recognized that the cost of providing certain benefits to older workers is greater than the cost of providing those same benefits to younger workers, and that those greater costs would create a disincentive to hire older workers. Therefore, in limited circumstances, an employer may be permitted to reduce benefits based on age, as long as the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers.

Waivers of ADEA Rights

An employer may ask an employee to waive his/her rights or claims under the ADEA either in the settlement of an ADEA administrative or court claim or in connection with an exit incentive program or other employment termination program. However, the ADEA, as amended by OWBPA, sets out specific minimum standards that must be met in order for a waiver to be considered knowing and voluntary and, therefore, valid. Among other requirements, a valid ADEA waiver must:

1. be in writing and be understandable;
2. specifically refer to ADEA rights or claims;

3. not waive rights or claims that may arise in the future;
4. be in exchange for valuable consideration;
5. advise the individual in writing to consult an attorney before signing the waiver; and
6. provide the individual at least 21 days to consider the agreement and at least seven days to revoke the agreement after signing it.

If an employer requests an ADEA waiver in connection with an exit incentive program or other employment termination program, the minimum requirements for a valid waiver are more extensive.

Statistics

In Fiscal Year 2005, EEOC received 16,585 charges of age discrimination. EEOC resolved 14,076 age discrimination charges in FY 2005 and recovered \$77.7 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Charge Statistics: Age Discrimination

Disability Discrimination

Title I of the Americans with Disabilities Act of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations. The ADA's nondiscrimination standards also apply to federal sector employees under section 501 of the Rehabilitation Act, as amended, and its implementing rules.

An individual with a disability is a person who:

Has a physical or mental impairment that substantially limits one or more major life activities;

Has a record of such an impairment; or

Is regarded as having such an impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:

Making existing facilities used by employees readily accessible to and usable by persons with disabilities.

Job restructuring, modifying work schedules, reassignment to a vacant position;

Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

An employer is not required to lower quality or production standards to make an accommodation; nor is an employer obligated to provide personal use items such as glasses or hearing aids.

Title I of the ADA also covers:

Medical Examinations and Inquiries

Employers may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in similar jobs. Medical examinations of employees must be job related and consistent with the employer's business needs.

Drug and Alcohol Abuse

Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA when an employer acts on the basis of such use. Tests for illegal drugs are not subject to the ADA's restrictions on medical examinations. Employers may hold illegal drug users and alcoholics to the same performance standards as other employees.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on disability or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADA.

Statistics

In Fiscal Year 2005, EEOC received 14,893 charges of disability discrimination. EEOC resolved 15,357 disability discrimination charges in FY 2005 and recovered \$44.8 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Americans With Disabilities Act Charges

Equal Pay and Compensation Discrimination

The right of employees to be free from discrimination in their compensation is protected under several federal laws, including the following enforced by the U.S. Equal Employment Opportunity Commission (EEOC): the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and Title I of the Americans with Disabilities Act of 1990.

The Equal Pay Act requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be substantially equal. It is job content, not job titles, that determines whether jobs are substantially equal. Specifically, the EPA provides:

Employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment. Each of these factors is summarized below:

Skill - Measured by factors such as the experience, ability, education, and training required to perform the job. The key issue is what skills are required for the job, not what skills the individual employees may have. For example, two bookkeeping jobs could be considered equal under the EPA

even if one of the job holders has a master's degree in physics, since that degree would not be required for the job.

Effort - The amount of physical or mental exertion needed to perform the job. For example, suppose that men and women work side by side on a line assembling machine parts. The person at the end of the line must also lift the assembled product as he or she completes the work and place it on a board. That job requires more effort than the other assembly line jobs if the extra effort of lifting the assembled product off the line is substantial and is a regular part of the job. As a result, it would not be a violation to pay that person more, regardless of whether the job is held by a man or a woman.

Responsibility - The degree of accountability required in performing the job. For example, a salesperson who is delegated the duty of determining whether to accept customers' personal checks has more responsibility than other salespeople. On the other hand, a minor difference in responsibility, such as turning out the lights at the end of the day, would not justify a pay differential.

Working Conditions - This encompasses two factors: (1) physical surroundings like temperature, fumes, and ventilation; and (2) hazards.

Establishment - The prohibition against compensation discrimination under the EPA applies only to jobs within an establishment. An establishment is a distinct physical place of business rather than an entire business or enterprise consisting of several places of business. However, in some circumstances, physically separate places of business should be treated as one establishment. For example, if a central administrative unit hires employees, sets their compensation, and assigns them to work locations, the separate work sites can be considered part of one establishment.

Pay differentials are permitted when they are based on seniority, merit, quantity or quality of production, or a factor other than sex. These are known as "affirmative defenses" and it is the employer's burden to prove that they apply.

In correcting a pay differential, no employee's pay may be reduced. Instead, the pay of the lower paid employee(s) must be increased.

Title VII, ADEA, and ADA

Title VII, the ADEA, and the ADA prohibit compensation discrimination on the basis of race, color, religion, sex, national origin, age, or disability. Unlike the EPA, there is no requirement under Title VII, the ADEA, or the ADA that the claimant's job be substantially equal to that of a higher paid person outside the claimant's protected class, nor do these statutes require the claimant to work in the same establishment as a comparator.

Compensation discrimination under Title VII, the ADEA, or the ADA can occur in a variety of forms. For example:

An employer pays an employee with a disability less than similarly situated employees without disabilities and the employer's explanation (if any) does not satisfactorily account for the differential.

A discriminatory compensation system has been discontinued but still has lingering discriminatory effects on present salaries. For example, if an employer has a compensation policy or practice that pays Hispanics lower salaries than other employees, the employer must not only adopt a new non-discriminatory compensation policy, it also must affirmatively eradicate salary disparities that began prior to the adoption of the new policy and make the victims whole.

An employer sets the compensation for jobs predominately held by, for example, women or African-Americans below that suggested by the employer's job evaluation study, while the pay for jobs predominately held by men or whites is consistent with the level suggested by the job evaluation

study.

An employer maintains a neutral compensation policy or practice that has an adverse impact on employees in a protected class and cannot be justified as job-related and consistent with business necessity. For example, if an employer provides extra compensation to employees who are the "head of household," i.e., married with dependents and the primary financial contributor to the household, the practice may have an unlawful disparate impact on women.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on compensation or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII, ADEA, ADA or the Equal Pay Act.

Statistics

In Fiscal Year 2005, EEOC received 970 charges of compensation discrimination. EEOC resolved 889 compensation discrimination charges in FY 2005 and recovered \$3.1 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

[Charge Statistics: Equal Pay Act](#)

Other Resources

Here are some links to other sources of information about compensation discrimination. Please be aware that, consistent with the EEOC's general [disclaimer](#) statement, the EEOC does not control or guarantee the accuracy or completeness of this outside information, and references to the sites below are not intended to reflect their importance or an endorsement of any views expressed or products or services offered.

Department of Labor's Office of Federal Contract Compliance Programs

- [Equal Pay and the Department of Labor](#)
- [Best Compensation Practices](#)
- [Analyzing Compensation Data: A Guide to Three Approaches](#)

Department of Labor's Women's Bureau

- [Ten Steps to An Equal Pay Self-Audit for Employers](#)
- [Working Women's Equal Pay Checklist](#)
- [Women's Bureau Fair Pay Clearinghouse](#)

[Department of Labor's Wage and Hour Division](#)

[Employment Litigation Section of the Civil Rights Division of the Department of Justice](#)

National Origin Discrimination

Whether an employee or job applicant's ancestry is Mexican, Ukrainian, Filipino, Arab, American Indian, or any other nationality, he or she is entitled to the same employment opportunities as anyone else. EEOC

enforces the federal prohibition against national origin discrimination in employment under Title VII of the Civil Rights Act of 1964, which covers employers with fifteen (15) or more employees.

"With American society growing increasingly diverse, protection against national origin discrimination is vital to the right of workers to compete for jobs on a level playing field," said EEOC Chair Cari M. Dominguez, [announcing the issuance of recent guidance](#) on national origin discrimination. "Immigrants have long been an asset to the American workforce. This is more true than ever in today's increasingly global economy. Recent world events, including the events of September 11, 2001, only add to the need for employers to be vigilant in ensuring a workplace free from discrimination."

About National Origin Discrimination

National origin discrimination means treating someone less favorably because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality. Examples of violations covered under Title VII include:

Employment Decisions

Title VII prohibits any employment decision, including recruitment, hiring, and firing or layoffs, based on national origin.

Harassment

Title VII prohibits offensive conduct, such as ethnic slurs, that creates a hostile work environment based on national origin. Employers are required to take appropriate steps to prevent and correct unlawful harassment. Likewise, employees are responsible for reporting harassment at an early stage to prevent its escalation.

Language

- Accent discrimination
An employer may not base a decision on an employee's foreign accent unless the accent materially interferes with job performance.
- English fluency
A fluency requirement is only permissible if required for the effective performance of the position for which it is imposed.
- English-only rules
English-only rules must be adopted for nondiscriminatory reasons. An English-only rule may be used if it is needed to promote the safe or efficient operation of the employer's business.

Coverage of foreign nationals

Title VII and the other antidiscrimination laws prohibit discrimination against individuals employed in the United States, regardless of citizenship. However, relief may be limited if an individual does not have work authorization.

Statistics

In Fiscal Year 2005, EEOC received 8,035 charges of national origin discrimination. Including charges from previous years, 8,319 charges were resolved, and monetary benefits for charging parties totaled \$19.4 million (not including monetary benefits obtained through litigation).

Pregnancy Discrimination

The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII, which covers employers with 15 or more employees, including state and local governments. Title VII also applies to employment agencies and to labor organizations, as well as to the federal government. Women who are pregnant or affected by related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

Title VII's pregnancy-related protections include:

Hiring

An employer cannot refuse to hire a pregnant woman because of her pregnancy, because of a pregnancy-related condition or because of the prejudices of co-workers, clients, or customers.

Pregnancy and Maternity Leave

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other temporarily disabled employee. For example, if the employer allows temporarily disabled employees to modify tasks, perform alternative assignments or take disability leave or leave without pay, the employer also must allow an employee who is temporarily disabled due to pregnancy to do the same.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer also may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.

Health Insurance

Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Health insurance for expenses arising from abortion is not required, except where the life of the mother is endangered.

Pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable-and-customary-charge basis.

The amounts payable by the insurance provider can be limited only to the same extent as amounts payable for other conditions. No additional, increased, or larger deductible can be imposed.

Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

Fringe Benefits

Pregnancy-related benefits cannot be limited to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions.

If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions.

Employees with pregnancy-related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on pregnancy or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Statistics

In Fiscal Year 2005, EEOC received 4,449 charges of pregnancy-based discrimination. EEOC resolved 4,321 pregnancy discrimination charges in FY 2005 and recovered \$11.6 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Race/Color Discrimination

Title VII of the Civil Rights Act of 1964 protects individuals against employment discrimination on the bases of race and color, as well as national origin, sex, and religion. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Equal employment opportunity cannot be denied any person because of his/her racial group or perceived racial group, his/her race-linked characteristics (e.g., hair texture, color, facial features), or because of his/her marriage to or association with someone of a particular race or color. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. Title VII's prohibitions apply regardless of whether the discrimination is directed at Whites, Blacks, Asians, Latinos, Arabs, Native Americans, Native Hawaiians and Pacific Islanders, multi-racial individuals, or persons of any other race, color, or ethnicity.

It is unlawful to discriminate against any individual in regard to recruiting, hiring and promotion, transfer, work assignments, performance measurements, the work environment, job training, discipline and discharge, wages and benefits, or any other term, condition, or privilege of employment. Title VII prohibits not only intentional discrimination, but also neutral job policies that disproportionately affect persons of a certain race or color and that are not related to the job and the needs of the business. Employers should adopt "best practices" to reduce the likelihood of discrimination and to address impediments to equal employment opportunity.

Title VII's protections include:

Recruiting, Hiring, and Advancement

Job requirements must be uniformly and consistently applied to persons of all races and colors. Even if a job requirement is applied consistently, if it is not important for job performance or business

needs, the requirement may be found unlawful if it excludes persons of a certain racial group or color significantly more than others. Examples of potentially unlawful practices include: (1) soliciting applications only from sources in which all or most potential workers are of the same race or color; (2) requiring applicants to have a certain educational background that is not important for job performance or business needs; (3) testing applicants for knowledge, skills or abilities that are not important for job performance or business needs.

Employers may legitimately need information about their employees or applicants race for affirmative action purposes and/or to track applicant flow. One way to obtain racial information and simultaneously guard against discriminatory selection is for employers to use separate forms or otherwise keep the information about an applicant's race separate from the application. In that way, the employer can capture the information it needs but ensure that it is not used in the selection decision.

Unless the information is for such a legitimate purpose, pre-employment questions about race can suggest that race will be used as a basis for making selection decisions. If the information is used in the selection decision and members of particular racial groups are excluded from employment, the inquiries can constitute evidence of discrimination.

Harassment/Hostile Work Environment

Title VII prohibits offensive conduct, such as racial or ethnic slurs, racial "jokes," derogatory comments, or other verbal or physical conduct based on an individual's race/color. The conduct has to be unwelcome and offensive, and has to be severe or pervasive. Employers are required to take appropriate steps to prevent and correct unlawful harassment. Likewise, employees are responsible for reporting harassment at an early stage to prevent its escalation.

Compensation and Other Employment Terms, Conditions, and Privileges

Title VII prohibits discrimination in compensation and other terms, conditions, and privileges of employment. Thus, race or color discrimination may not be the basis for differences in pay or benefits, work assignments, performance evaluations, training, discipline or discharge, or any other area of employment.

Segregation and Classification of Employees

Title VII is violated where employees who belong to a protected group are segregated by physically isolating them from other employees or from customer contact. In addition, employers may not assign employees according to race or color. For example, Title VII prohibits assigning primarily African-Americans to predominantly African-American establishments or geographic areas. It is also illegal to exclude members of one group from particular positions or to group or categorize employees or jobs so that certain jobs are generally held by members of a certain protected group. Coding applications/resumes to designate an applicant's race, by either an employer or employment agency, constitutes evidence of discrimination where people of a certain race or color are excluded from employment or from certain positions.

Retaliation

Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in an agency proceeding.

Statistics

In fiscal year 2005, EEOC received 26,740 charges of race discrimination. EEOC resolved 27,411 race charges in FY 2005, and recovered \$76.5 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Religious Discrimination

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Title VII covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Under Title VII:

Employers may not treat employees or applicants more or less favorably because of their religious beliefs or practices - except to the extent a religious accommodation is warranted. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices.

Employees cannot be forced to participate -- or not participate -- in a religious activity as a condition of employment.

Employers must reasonably accommodate employees' sincerely held religious practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his religion. An employer might accommodate an employee's religious beliefs or practices by allowing: flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers, modification of grooming requirements and other workplace practices, policies and/or procedures.

An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employers' legitimate business interests. An employer can show undue hardship if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.

Employers must permit employees to engage in religious expression, unless the religious expression would impose an undue hardship on the employer. Generally, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency.

Employers must take steps to prevent religious harassment of their employees. An employer can reduce the chance that employees will engage unlawful religious harassment by implementing an anti-harassment policy and having an effective procedure for reporting, investigating and correcting harassing conduct.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on religion or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Statistics

In Fiscal Year 2005, EEOC received 2,340 charges of religious discrimination. EEOC resolved 2,352 religious discrimination charges and recovered \$6.1 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Retaliation

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between men and women performing substantially equal work, also prohibit retaliation against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

In addition to the protections against retaliation that are included in all of the laws enforced by EEOC, the Americans with Disabilities Act (ADA) also protects individuals from coercion, intimidation, threat, harassment, or interference in their exercise of their own rights or their encouragement of someone else's exercise of rights granted by the ADA.

There are three main terms that are used to describe retaliation. Retaliation occurs when an employer, employment agency, or labor organization takes an **adverse action** against a **covered individual** because he or she engaged in a **protected activity**. These three terms are described below.

Adverse Action

An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discrimination proceeding. Examples of adverse actions include:

employment actions such as termination, refusal to hire, and denial of promotion,

other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and

any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history.

Even if the prior protected activity alleged wrongdoing by a different employer, retaliatory adverse actions are unlawful. For example, it is unlawful for a worker's current employer to retaliate against him for pursuing an EEO charge against a former employer.

Of course, employees are not excused from continuing to perform their jobs or follow their company's legitimate workplace rules just because they have filed a complaint with the EEOC or opposed discrimination.

For more information about adverse actions, see [EEOC's Compliance Manual Section 8, Chapter II, Part D.](#)

Covered Individuals

Covered individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, or disability. Individuals who have a close association with someone who has engaged in such protected activity also are covered individuals. For example, it is illegal to terminate an employee because his spouse participated in employment discrimination litigation.

Individuals who have brought attention to violations of law other than employment discrimination are NOT covered individuals for purposes of anti-discrimination retaliation laws. For example, "whistleblowers" who raise ethical, financial, or other concerns unrelated to employment discrimination are not protected by the EEOC enforced laws.

Protected Activity

Protected activity includes:

Opposition to a practice believed to be unlawful discrimination

Opposition is informing an employer that you believe that he/she is engaging in prohibited discrimination. Opposition is protected from retaliation as long as it is based on a reasonable, good-faith belief that the complained of practice violates anti-discrimination law; and the manner of the opposition is reasonable.

Examples of protected opposition include:

- Complaining to anyone about alleged discrimination against oneself or others;
- Threatening to file a charge of discrimination;
- Picketing in opposition to discrimination; or
- Refusing to obey an order reasonably believed to be discriminatory.

Examples of activities that are NOT protected opposition include:

- Actions that interfere with job performance so as to render the employee ineffective; or
- Unlawful activities such as acts or threats of violence.

Participation in an employment discrimination proceeding.

Participation means taking part in an employment discrimination proceeding. Participation is protected activity even if the proceeding involved claims that ultimately were found to be invalid. Examples of participation include:

- Filing a charge of employment discrimination;
- Cooperating with an internal investigation of alleged discriminatory practices; or
- Serving as a witness in an EEO investigation or litigation.

A protected activity can also include requesting a reasonable accommodation based on religion or disability.

For more information about Protected Activities, see EEOC's Compliance Manual, Section 8, [Chapter II, Part B - Opposition](#) and [Part C - Participation](#).

Statistics

In Fiscal Year 2004, EEOC received 22,740 charges of retaliation discrimination based on all statutes enforced by EEOC. The EEOC resolved 24,751 retaliation charges in 2004, more than were filed during the course of the Fiscal Year, and recovered more than \$90 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Sex-Based Discrimination

Title VII of the Civil Rights Act of 1964 protects individuals against employment discrimination on the basis of sex as well as race, color, national origin, and religion. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

It is unlawful to discriminate against any employee or applicant for employment because of his/her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis of sex. Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude individuals on the basis of sex and that are not job related.

Title VII's prohibitions against sex-based discrimination also cover:

Sexual Harassment

This includes practices ranging from direct requests for sexual favors to workplace conditions that create a hostile environment for persons of either gender, including same sex harassment.

Pregnancy Based Discrimination

Title VII was amended by the Pregnancy Discrimination Act, which prohibits discrimination on the basis of pregnancy, childbirth and related medical conditions.

The Equal Pay Act of 1963 requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be substantially equal. Title VII also prohibits compensation discrimination on the basis of sex. Unlike the Equal Pay Act, however, Title VII does not require that the claimant's job be substantially equal to that of a higher paid person of the opposite sex or require the claimant to work in the same establishment.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Statistics

In Fiscal Year 2005, EEOC received 23,094 charges of sex-based discrimination. EEOC resolved 23,743 sex discrimination charges in FY 2005 and recovered \$91.3 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Sexual Harassment

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.

The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

The harasser's conduct must be unwelcome.

It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Statistics

In Fiscal Year 2005, EEOC received 12,679 charges of sexual harassment. 14.3% of those charges were filed by males. EEOC resolved 12,859 sexual harassment charges in FY 2004 and recovered \$47.9 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

[Charge Statistics: Sexual Harassment](#)

[Trends in Harassment Charges Filed With The EEOC During the 1980s and 1990s](#)