Appendix

A

Agency Policy Documentation

Letters from the Director

Equal Employment Opportunity and Affirmative Action Policy

Americans with Disabilities Act (ADA) and Reasonable Accommodation

Diverse Workforce Policy

Discrimination and Harassment – Free Workplace Policy

Federal and State Affirmative Action Citations

Oregon
Theodore R. Kulongoski, Governor

Department of Transportation
Office of the Director
355 Capitol St. NE, Room 135
Salem, OR 97301

DATE: January 3, 2006

TO: All ODOT Employees and Job Applicants

FROM: Matthew L. Garrett, Acting Director

SUBJECT: Equal Employment Opportunity / Affirmative Action

As Acting Director of the Oregon Department of Transportation, I reaffirm my commitment to achieve a diverse workforce through equal employment opportunity (EEO) and affirmative action.

All employees and job applicants will receive fair consideration and respectful treatment in hiring and all employment actions without regard to race, color, religion, gender, age, national origin, disability, or sexual orientation.

It is the responsibility of each employee to contribute to a respectful work environment, free of discrimination and harassment. I expect managers to lead proactively and by example in promoting these areas. All managers will be evaluated on their diversity, EEO, and affirmative action efforts in their annual performance appraisals.

Our commitment to EEO and affirmative action extends to ODOT's public contracting practices as allowed by public contracting statutes and rules. ODOT may engage in public contracting practices designed to promote affirmative action goals, policies or programs for disadvantaged or minority groups; to ensure equal opportunity in employment and business for person otherwise disadvantaged by reason of race, color, religion, gender, national origin, age, or physical or mental disability.

Any employee or job applicant who believes that he/she has been the subject of discrimination and/or harassment has the right to file a complaint with:

ODOT EEO - Affirmative Action Officer & ADA Coordinator
1158 Chemeketa Street NE
Salem, OR 97301
Telephone: 1-877-EEO-ODOT (336-6368)
Oregon Telecommunications Relay Service: 7-1-1
E-Mail: odoteeo@odot.state.or.us

PLEASE POST ON OFFICE BULLETIN BOARDS

(This memorandum is available in alternate format on request.)

Oregon
Theodore R. Kulongoski, Governor

Department of Transportation
Office of the Director
355 Capitol Street NE
Salem, OR 97301-3871
Telephone (503) 986-3452

DATE: September 25, 2006

TO: All ODOT Employees

FROM: Matthew L. Garrett, Director

SUBJECT: Reasonable Accommodation Policy

It is the policy of the Oregon Department of Transportation to provide reasonable accommodation to any qualified employee, applicant for employment, volunteer, contractor, or member of the public under the Americans with Disabilities Act of 1990.

Reasonable accommodation will be made on a case-by-case basis for qualified individuals with known physical or mental impairments. It is the responsibility of the individual with a disability to request an accommodation.

Examples of accommodations under the ADA included: use of sign language interpreters, adjusting testing and interview procedures, making publications available in alternative formats such as large print or audio tape, providing assistive listening devices, modifying work schedules or assignments, modifications of equipment, making facilities and offices accessible, reassigning jobs and modifying policies or procedures.

Information on specific procedures for requesting accommodations, management training on the ADA, technical assistance available through the Oregon Disabilities Commission, Job Accommodation Network, etc., may be found in the Department's Section 504/ADA Plan. Copies may be obtained through the Office of Human Resources.

To request an employment or workplace accommodation, or for any other type of accommodation (program accessibility) contact at ODOT Human Resources at (503) 986-3700.

Disputes relating to requests for accommodation shall be resolved in accordance with the Department's discrimination complaint procedures.

PLEASE POST ON EMPLOYEE BULLETIN BOARDS

Oregon Department of Transportation **POLICY**	NUMBER PER 01-04	SUPERSEDES NEW
	EFFECTIVE DATE 03/01/06	PAGE NUMBER 01 OF 03
	VALIDATION DATE	
	REFERENCE Executive Order 05-01	
SUBJECT **EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION**	APPROVED SIGNATURE Mike Marsh	

PURPOSE

The purpose of this policy is to outline the standards regarding Equal Employment Opportunity (EEO) and Affirmative Action (AA) for the Oregon Department of Transportation (Department).

BACKGROUND

The Department consists of people with diverse backgrounds including different cultures, beliefs, and life experiences;

The Department is committed to the right of all persons to work and advance on the basis of merit, ability, and potential;

Affirmative Action is a valuable tool that may enable the Department to mitigate the effects of past and present discrimination, intended or unintended, on the basis of race, religion, national origin, age, sex, marital status, or disabilities; and

The Department, by and through its Divisions, Branches, and Regions, values the principles of equal employment opportunities, affirmative action, and diversity.

POLICY

The Department by and through its Division, Regions, and Branches shall value the principles of equal employment opportunities, affirmative action, and diversity.

The Department by and through its Division, Regions, and Branches shall proactively lead on issues of equality and diversity, and on the promotion of Equal Employment Opportunity and Affirmative Action.

All employees and job applicants shall receive fair consideration and respectful treatment in hiring and all employment actions without regard to race, color, religion, gender, age, national origin, disability, or sexual orientation.

The Department shall engage in public contracting practices designed to promote affirmative action goals, policies, or programs for disadvantaged or minority groups to ensure equal opportunity in employment and business for people otherwise disadvantaged by reason of race, color, religion, gender, national origin, age, or physical or mental disability.

GUIDELINES

RESPONSIBILITY	ACTION
Department Director and Affirmative Action Officer	Review and discuss the affirmative action plan and affirmative action goals for the Department to identify resources for improving, if needed, the hiring and developmental opportunities of underrepresented persons.
EEO/Affirmative Action Officer	Coordinate with ODOT's Labor Relations and Training group in the development and presentation of training designed to improve the skills and competency necessary to effectively manage affirmative action, equal employment opportunity, effective human resource management, and diversity issues. The Affirmative Action Officer shall also, through a working relationship with the Governor's Office for Affirmative Action, identify internal or external training resources which address the following objectives: • The creation of a climate of increased cultural awareness; • An ability to appropriately identify and respond to cultural and language barriers; • A common understanding of how all members of the organization should be valued and respected; • Promotion of managerial skills among diverse populations of employees; • An understanding of the roles of employers and employees in creating a welcoming environment; and • The improvement of employee morale. In partnership with Human Resources, the EEO/Affirmative Action Officer shall insure that all executive and management service employees have appropriate affirmative action and diversity responsibilities included in their position descriptions and annual performance evaluations.

All Managers	Value the principles of equal employment opportunities, affirmative action, and diversity. Proactively lead on issues of equality and diversity and on the promotion of EEO/AA. Include affirmative action and diversity elements in executive and management service performance evaluations. Evaluate subordinate managers on their diversity and EEO efforts in their annual performance appraisals.
All Employees and Job Applicants	Contribute to a respectful work environment, free of discrimination and harassment. Contact ODOT's EEO/Affirmative Action Officer (also serving as the agency's and ADA (Americans with Disabilities Act) Coordinator related to concerns of discrimination, harassment, or public access and accommodation. **Contact information for ODOT's EEO/Affirmative Action Officer / ADA Public Access Coordinator** Phone: 503-986-3222, Toll-free phone: 877- EEO-ODOT Oregon telecommunications relay service: 711 Toll-Free TTY 800-993-8898 E-Mail: odoteeo@odot.state.or.us FAX: 503-986-3328 **Contact information for ODOT's Chief Human Resource Officer** Phone: 503-986-4057, Toll-free phone: 866-6-ODOT-HR Oregon telecommunications relay service: 711 TTY: 503-986-3854 E-Mail: askhr@odot.state.or.us FAX: 503-986-3862

Oregon Department of Transportation **POLICY**	NUMBER PER 01-05	SUPERSEDES NEW
	EFFECTIVE DATE 03/01/06	PAGE NUMBER 01 OF 02
	VALIDATION DATE	
	REFERENCE Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; 49 CFR 27.13; Section 504/ADA Plan; Oregon Disabilities Commission; Job Accommodation Network	
SUBJECT **AMERICANS WITH DISABILITIES ACT (ADA) AND REASONABLE ACCOMMODATION**	APPROVED SIGNATURE Mike Marsh	

PURPOSE

The purpose of this policy is to outline the standards regarding Americans with Disabilities Act (ADA) and Reasonable Accommodation Policy for Oregon Department of Transportation (Department).

POLICY

The Department shall ensure no qualified individual with a disability shall solely on the basis of his or her disability be excluded from participation under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990. The Department further assures that every effort shall be made to provide non-discrimination in all of its programs and activities regardless of the funding source, including but not limited to those funded by:

- Motor Carrier Safety Assistance Program
- National Highway Traffic Safety Administration
- Federal Transit Administration
- Federal Railroad Administration
- Federal Highway Administration
- State funds

In the event the Department distributes federal funds to governmental entities, the Department shall ensure Section 504/ADA provisions are written into all agreements and shall monitor these agreements for compliance.

It is the policy of the Department to provide reasonable accommodation to any qualified employee, applicant for employment, volunteer, contractor, or member of the public under the Americans with Disabilities Act of 1990 unless the accommodation would impose an undue hardship.

Reasonable accommodation applies to three aspects of employment:

- To assure equal opportunity in the employment process;
- To enable a qualified individual with a disability to perform the essential functions of a job; and
- To enable an employee with a disability to enjoy equal benefits and privileges of employment.

Examples of reasonable accommodations under the ADA include:

- Use of sign language interpreters
- Adjusting testing and interview procedures
- Making publications available in alternative formats such as large print or audio tape
- Providing assistive listening devices
- Modifying work schedules or assignments
- Modifications of equipment
- Making facilities and offices accessible
- Reassigning jobs
- Modifying policies or procedures

For additional information on this policy or to discuss concerns, individuals should contact:

Department's EEO/Affirmative Action Officer
Phone: 503-986-3700, Toll-Free TTY: 800-993-8898, Toll-free phone 877-EEO-ODOT.

ODOT's Chief Human Resource Officer
Phone: 503-986-4057, Toll-free phone: 866-6-ODOT-HR.

GUIDELINES

RESPONSIBILITY	ACTION
Human Resources	Provide employment or workplace accommodation (program accessibility) when requested.
	Provide information upon request regarding Section 504/ADA Plan.
	Monitor all Section 504/ADA activities.
Human Resources EO Affirmative Action Officer	Monitor agreements with governmental entities that receive federal funds to ensure Section 504/ADA provisions are included.
Individual with Disability	Request any required employment or workplace accommodation (program accessibility).
	Request information regarding Section 504/ADA Plan.
	Follow discrimination complaint procedures if requested employment or workplace accommodation not provided.

Oregon Department of Transportation **POLICY**	NUMBER PER 09-04-01	SUPERSEDES 01/17/01
	EFFECTIVE DATE 05/23/05	PAGE NUMBER 01 OF 2
	VALIDATION DATE	
	REFERENCE a) President's Initiative: One America b) Federal Highway Administration: 23 CFR, PT. 230, Subpart C c) US Department of Transportation: Part 21 d) Oregon Revised Statutes: Affirmative Action Policy, 243.305 and 659.025 e) Governor's Executive Order 05-01 f) ODOT's Affirmative Action Plan g) ODOT's Affirmative Action/EEO Policy Letter h) Reasonable Accommodation Policy i) Discrimination and Harassment-Free Workplace Policy, PER 19-01-02	
SUBJECT **DIVERSE WORKFORCE POLICY**	APPROVED SIGNATURE Mike Marsh	

PURPOSE

To implement a systematic strategy that integrates the promotion and management of workforce diversity and affirmative action into every facet of the Oregon Department of Transportation's (ODOT's) business.

POLICY

As a fundamental business strategy, and as organizational policy, ODOT commits itself to deliberately achieve and maintain a diverse workforce that collectively values and benefits from respecting its diverse population, and promotes a culture of inclusiveness in all things and in all matters.

BACKGROUND

ODOT has long recognized the need to eliminate the effects of past and present societal discrimination based on race, religion, national origin, age, gender, marital status, disabilities, or other areas necessitated by law. The increasing diversity of Oregon's population demands that we renew and extend these efforts in order to maintain our organizational effectiveness and contribution to a high quality of life for all of our citizens.

In addition to ODOT's recognition that positively managing diversity has an essential business benefit, ODOT is required to comply with a variety of federal, state and organizational laws and policies, as referenced above. Compliance is essential to continued qualification for federal financial assistance.

DEFINITIONS

For purposes of this policy, "workforce diversity" is defined as a situation in an organization wherein a mosaic of people bring a variety of backgrounds, styles, perspectives, values, and beliefs as assets to the groups and organizations with which they interact.

IMPLEMENTATION STRATEGY

ODOT intends to institute this policy through the creativity and initiative of its managers using two significant tools: The ODOT Diversity Council and the Equal Employment Opportunity and Affirmative Action Plans. These are fully described below:

ODOT Diversity Council: A diverse group of ODOT employees representing management, labor, ethnic, gender, generational, and disabled perspectives that serves as a communications forum, a liaison regarding diversity issues between the various divisions and the executive management staff, a policy research and development resource, and as a focal point for on-going information and education on the diversity activities, challenges, developments, and successes within ODOT. A representative from the ODOT Executive Team will chair the council.

Equal Employment Opportunity (EEO) and Affirmative Action (AA) Plan: ODOT's *Equal Employment Opportunity and Affirmative Action Plan* includes background material, statistical information relative to divisional diversity, requirements, and guidance for developing division and section plans. Goals developed from the plan will be included in manager's annual performance plans and evaluated in his/her performance appraisal.

RESPONSIBILITY	ACTION
Division Heads	Support the goals and efforts identified in the EEO and AA Plan. The diverse workforce implementation goals will be included in performance plans to be reviewed and updated annually.
Division Head Direct Reports	Support the goals and efforts identified in the EEO and AA Plan. Diverse workforce implementation goals will be included in performance plans to be reviewed and updated annually. Through their leadership and direct supervisory role, managers have primary responsibility for the success of the EEO and AA Plans.
Diversity Council	Guide the organization to accomplish the Diverse Workforce Policy. Details of council operation can be found in the ODOT Diversity Council Charter.
Human Resources	Working in cooperation with the Governor's Office for Affirmative Action and the ODOT Office of Civil Rights, ODOT Human Resources function as the primary technical resource to ODOT managers and employees to accomplish the Diverse Workforce Policy. The Affirmative Action Officer will revise and update ODOT's EEO and AA Plans as necessary.

Attachment 1: Diversity Council Charter

The Oregon Department of Transportation

Diversity Council Charter

DIVERSITY DEFINED

From the basic policy:

> *Diversity is a situation in an organization wherein a mosaic of people bring a variety of backgrounds, styles, perspectives, values, and beliefs as assets to the groups and organizations with which they interact.*

BACKGROUND

The Oregon Department of Transportation Diversity Council (Council) was established by the Director in 1999. This Charter contains the purpose, principles, goals, basic structure, and operating procedures that will guide the Council's activities.

DIVERSITY COUNCIL PURPOSE

Working in conjunction with the *Affirmative Action Plan* and the *Diverse Workforce Policy* (PER 09-04-01), the Council's purpose is to promote an understanding and appreciation of workforce diversity within ODOT and to reinforce behaviors that reflect a strong organizational value in establishing and maintaining a climate of diversity throughout ODOT and in the communities we serve.

The Council is composed of ODOT employees who represent a cross-section of the agency. The Council advocates, promotes, communicates and reinforces ODOT's diversity efforts and overall workforce development pursuant to the Diversity Council Charter and operates with the full and visible support of ODOT's Executive Staff. External and community resources may often be used to assist the Council.

STANDING GOALS

The goals of this council are to:

- help create and promote structures, activities, and support systems that will provide ODOT employees with both a clear understanding of diversity and incentives to continuously seek and maintain that diversity;
- achieve a common understanding within the Department of the meaning of diversity and its practical definition in the work place;
- ensure that effective communication occurs among employees and supervisors about diversity within ODOT;
- develop strategies to promote trust & respect among all ODOT employees; and
- partner with other internal and external organizations on workforce development that supports diversity.

Expected benefits of achieving these goals include:

- increased productivity from a more motivated and focused workforce;
- effective recruitment, development and retention of employees;
- employees who feel valued for their contributions;
- exceptional quality of interpersonal and intergroup communication;
- an enhanced positive working environment leading to overall organizational success; and
- an organization that reflects the population of Oregon and the customers we serve.

AUTHORITY

The Council will serve in an advisory capacity to the Executive Staff and make recommendations for action to improve or further the Department's diversity goals. The Council is expected to be proactive in this role.

- **ODOT Director and Executive Staff** will set and monitor the overall organizational agenda of the Diversity Council and act on its recommendations.
- **Senior staff** (Office of Civil Rights Manager and Employment Program Manager) will serve as advisors to the Diversity Council and provide technical support and leadership.

SCOPE OF ACTIVITIES

The focus of the Council is on policy analysis, development and critique, and to serve as a communications liaison within and between ODOT's divisions. The following activities are representative of the range of initiatives the Council might engage in. This list is for illustration purposes and is not intended to be all-inclusive.

Policy Development
OBJECTIVES: To ensure Department policies, procedures and plans are current and in alignment with the Department's direction:

- review and provide advice on the Diversity Council Charter;
- review and provide advice on the ODOT Equal Employment Opportunity/Affirmative Action Plan(s);
- review and provide advice on the ODOT Diverse Workforce Policy; and
- review and provide advice on the Department's progress on workforce development goals.

Communication and Marketing
OBJECTIVES: In cooperation with the Communications Division, work to ensure that diversity values, benefits, results and opportunities are communicated effectively throughout the Department:

- partner with the ODOT Human Resources Branch and ODOT Office of Civil Rights, other state agencies, community groups, and other workforce development organizations;
- identify actions that can be taken: Diversity Council Column in *Inside ODOT*, posting of diversity declarations to *Inside ODOT*; and
- marketing of Department supported diversity events.

Training and Education
OBJECTIVES: Ensure the availability and accessibility of diversity resources in support of training and education:

- identify actions that foster recognition and understanding of ODOT's definition of diversity;
- conduct research and ensure adequate resources for the Diversity Library;
- conduct research on work environment issues and identify training and education needs; and
- provide input and recommend actions to improve Department progress on workforce development goals.

Workforce Development
OBJECTIVES: To foster the recruitment and retention of a diverse workforce:

- obtain statistical information from Human Resources Branch on recruitment, promotion, retention/turnover; and
- recommend strategies for improvement.

MEMBERSHIP and ROLES

Diversity Council: The Council's membership will consist of one representative from each Division except that DMV and Highway will have two representatives each; taken as a whole, the Council will represent a cross-section of ODOT employees. Members are appointed by the Division Administrator. The membership structure includes one individual from each division (except as noted): Executive Staff (serves as Chair and Executive Sponsor); Central Services; Communications/Director's Office; DMV (1 Headquarters; 1 Field); Highway (2; at least 1 from a Region); Motor Carrier Transportation; Public Transit; Rail; Transportation Development; and Transportation Safety.

Process for Council member and alternate member selection:

- direct appointment by Division Administrator.

Requirements for Council members:

- able to fully perform the duties and responsibilities required by the Council;
- commitment to advance diversity within the organization;
- reflective of communities/groups we serve;
- leadership and communication skills;
- creativity;
- open-mindedness; and
- energy and enthusiasm.

Diversity Council members are expected to review the following:

- ODOT's Affirmative Action Plan;
- each member's Division Affirmative Action Plan;
- Diverse Workforce Policy;
- ODOT diversity video; and
- Diversity Council Charter.

Council member duties and responsibilities:
Council members function as a two-way conduit of information with a firm understanding of the Department's definition of diversity.

Requirements of Council members:

- commit to time required for meetings and other associated work;
- receive information and distribute it to their respective Division Management Teams;
- distribute minutes to their Division Management Teams;
- report the status of Council activities to their Division Management Teams;
- provide information to requestors;
- facilitate questions or other needs from their Division to the Council; and
- make presentations to their Division Management Team and other groups within the member's Division at the direction of the Division Manager

Council Roles:
Chair: The Diversity Council Chair must be a member of Executive Staff. The Chair functions as both a representative of the Executive Staff and the primary liaison to the Executive Staff. The Chair leads work plan development, approval of the work plan by the Executive Staff and implementation. The Chair establishes meeting schedules, develops agenda, reviews and approves agenda items and minutes prior to distribution.

Vice Chair: The Vice Chair is normally the agency's Chief Human Resource Officer (CHRO) and assists the Chair in developing the agenda and work plan, provides assistance to the Chair as requested, and leads meetings in the absence of the Chair. The CHRO maintains an Equal Opportunity Employment work atmosphere at ODOT and is a key signatory on the agency's Affirmative Action Plan.

Members: Members will normally serve on the Council for a period of two years. Member replacements should be staggered for continuity purposes. Members will attend and actively participate in all meetings, or ensure that an alternate member attends. All alternate members will have the same voting and discussion rights as primary members when serving as a primary member.

Technical Advisors: Human Resource/Recruitment and Selection and Office of Civil Rights staff serve as technical advisors to the Council. Their roles are defined as follows:

Human Resources:

- provide program continuity, record keeping and administrative support to Council Chair and Council;
- coordinate with ODOT Public Affairs to publish diversity recognition events/months, and statewide Diversity Council information notices (as directed by Chair and Council);
- report to Council on progress made on employment goals, e.g., recruitment, retention, promotion, and special emphasis programs;
- provide technical consultation on Title VII (Civil Rights Act), ADA, and other employment related laws and policies to Council; and
- assist in development, planning, and identification of resources for diversity initiatives.

Office of Civil Rights:

- provide technical consultation on Title VI (Civil Rights Act), Disadvantage Business Enterprise (DBE), external Equal Employment Opportunity (EEO) and other state/federal civil rights programs to Council; and
- assist in development planning, and identification of resources for diversity initiatives.

OPERATING PRINCIPLES

Communication: Two-way communication flows are represented in the diagram entitled Structure of the Diversity Council. Information flows to and from Executive Staff and the Council. Council members represent their Divisions and are responsible to communicate Council information to their Division Management Teams. In support of Council activities, the Division Management Teams will share information to their Section Managers.

Decision Making: The decision-making process will be achieved by consensus. Decisions that impact fiscal, staffing, policy, or organizational change will be made in the form of recommendations to Executive Staff or the appropriate governing body.

Workplan: The Council will devise and continuously maintain a workplan that will guide its activities. This workplan should draw its content from issues raised by the basic policy, issues raised by Executive Staff, Civil Rights, Human Resources and other workforce development sources clearly related to diversity. The following framework will be used where appropriate, to structure particular workplan items:

- Policy Development
- Communication and Marketing
- Training and Education
- Workforce Development

Meetings: Meetings will normally be conducted at least quarterly.

"Off-line" work: Members can anticipate some "off-line" work to prepare for meetings and research issues.

Subcommittees: As issues are brought before the Council, members can anticipate formation of subcommittees.

Agenda: Prepared in advance by the Chair.

Administrative/Technical Support Staff: Human Resources Branch will provide administrative/technical support to the Council (agenda, minutes, handouts, research, etc.).

Oregon Department of Transportation **POLICY**	NUMBER PER 19-01-02	SUPERSEDES 01/22/04
	EFFECTIVE DATE 05/23/05	PAGE NUMBER 01 OF 5
	VALIDATION DATE	
	REFERENCE Title VII of the Civil Rights of 1964; ORS 659.030; DAS Policy 50.010.01	
SUBJECT **DISCRIMINATION AND HARASSMENT-FREE WORKPLACE POLICY**	APPROVED SIGNATURE Mike Marsh	

PURPOSE

The purpose of this policy is to reaffirm ODOT's policy prohibiting all forms of discrimination and harassment, to clarify conduct that constitutes discrimination and harassment, and to provide an effective complaint procedure for employees who believe they have been victims of, or have observed, such conduct. This policy is intended to protect all agency employees, customers or clients of the agency, contractors, and visitors to the work site.

POLICY

ALL employees are responsible for complying with ODOT's Discrimination and Harassment-Free Workplace Policy.

Discrimination: It is the policy of ODOT to provide a work environment free from discrimination on the basis of race, color, religion, sex, marital status, national origin, disability, age, union membership and activity, or other factors prohibited by law. This policy applies to all matters relating to hiring, firing, transfer, promotion, benefits, compensation, and other terms and conditions of employment.

Workplace Harassment: It is the policy of ODOT that all employees, customers, clients, contractors, and visitors to the worksite enjoy a positive, respectful and productive work environment, free from behavior, actions, or language constituting workplace harassment. Employees at all levels of the organization are expected to conduct themselves in a business-like and professional manner at all times, and refrain from sexual and other forms of harassment.

Consequences: Engaging in discrimination or harassment in any form is considered unacceptable conduct and will not be tolerated. Any employee found to have engaged in discrimination or harassment will be subject to disciplinary action up to and including dismissal. Managers and supervisors who know, or should know, of conduct in violation of this policy, and who fail to report such behavior, or fail to take prompt, appropriate, corrective action, are subject to disciplinary action up to and including dismissal.

GUIDELINES

Discrimination: Discrimination is defined as "making a difference in treatment on the basis of other than personal merit." Simply said, it means treating people differently. Discrimination is unlawful when carried out because of an individual's race, color, gender, or other characteristic protected by law and can include any aspect of employment, including:

- Hiring, firing
- Transfer, promotion, layoff, recall
- Recruitment
- Use of company facilities
- Pay, retirement plans, disability leave
- Compensation, assignment, classification
- Job advertisements
- Testing
- Training and apprenticeship programs
- Other terms and conditions of employment

Discriminatory practices can also include but are not limited to:

- Harassment on the basis of race, color, religion, sex, marital status, national origin, disability, age, or union membership and activity.

- Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices.

- An employment decision based on stereotypes or assumptions about the abilities, traits or performance of individuals of a certain race, color, religion, sex, marital status, national origin, disability, age, or union membership and activity.

- Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability.

Harassment: Harassment is a repeated form of treatment or behavior, which, to a reasonable person, creates an intimidating, hostile, or offensive work environment. It may be sexual, racial, based on national origin, age, disability, religion or other factors protected by law. It may also encompass other forms of hostile, intimidating, disrespectful, humiliating, or offensive behavior, which are not necessarily unlawful discrimination, but are nonetheless prohibited by this Policy.

1. Sexual harassment is a form of workplace harassment and is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical behavior of a sexual nature when:

    - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or is used as a basis for employment decisions such as granting a leave request, promotion, favorable performance appraisal, etc.

    - Such conduct is unwelcome and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

2. Unlawful harassment may consist of verbal or physical behavior which relates to an individual's sex, race, color, national origin, religion, age, and/or disability when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

3. Behavior prohibited by this policy (although not necessarily illegal) can include visual, verbal, or physical behavior which, to a reasonable person, is offensive; and/or bullying, intimidating, hostile, or disrespectful behavior, *even if the behavior is unrelated to a legally-protected status*.

4. Behavior that is appropriate in a social setting may not be appropriate in the workplace. The following are examples of prohibited behavior. It should be understood that the examples are not meant to be all-inclusive and even one instance of such conduct, while not necessarily illegal, may constitute harassment.

   - Unwelcome touching of a personal nature, which can encompass leaning over, cornering or pinching another person.

   - Display of explicit or offensive calendars, posters, pictures, drawings, or cartoons which reflect disparagingly upon a class of persons or a particular person.

   - Sexual innuendoes, teasing, and other sexual talk such as jokes, personal inquiries, persistent unwanted courting, and sexist put-downs.

   - Slurs and jokes about a class of persons, such as persons who are disabled, homosexual, or belong to a racial minority.

   - Derogatory remarks about an individual’s sex, national origin, race, language, religion, sexual orientation, or accent.

   - Loud, angry outbursts, or profanity which upsets others directly or indirectly.

   - Derogatory, disparaging, offensive, humiliating, disrespectful, or obscene comments, even if unrelated to a person's race, color, sex, national origin, religion, age, disability, or sexual orientation.

   - Knowingly, intentionally, and/or maliciously subjecting an employee, customer, client, contractor, or visitor in the workplace to ridicule, mockery, humiliation, or embarrassment.

NON-RETALIATION

This policy prohibits retaliation against employees, customers, clients, contractors, or visitors, who bring charges of conduct in violation of this policy, who assist in investigating charges, or who report harassing behavior directed at persons other than the employee. Any employee, regardless of stature, found to have engaged in retaliatory action or behavior will be subject to discipline up to and including dismissal.

PROCEDURE FOR REVIEWING COMPLAINTS

The purpose of this procedure is to provide a system for employees, customers, clients, contractors, or visitors who bring charges of conduct in violation of this policy. Conflict is unfortunately inevitable and is an occasional outcome of human interactions. While there can be positive outcomes of conflict, destructive conflict wastes energy, destroys otherwise productive relationships, and decreases the level of productivity and morale. This procedure is intended to provide informal, impartial, and confidential steps toward conflict resolution. Procedures for the resolution of complaints should be thorough yet expeditious.

Definitions: For purposes of this procedure, the following definitions will apply:

- Complainant: Person who is filing a complaint.
- Offender: Person against whom the complaint is being filed.

Responsibility	Action
Complainant: Employee	1. Address the complaint with the offender and request that the behavior stop, or if the behavior does not stop, immediately; 2. Report the complaint to your immediate supervisor or the next higher level supervisor if your immediate supervisor is the reason for the complaint. *Note: If you are uncomfortable speaking directly to the offender about the behavior, you are not required to speak to the offender first. You should report the complaint to your immediate supervisor or next higher level supervisor for action.* **Not Resolved** 3. File a complaint with the Region/Division Human Resource Manager or the Employee Civil Rights Officer. *Note: In the case of unlawful conduct, you may also have the right to file a complaint with the appropriate state or federal agency under the applicable law.*
Complainant: Customer, Client, Contractor, or Visitor	Report the incident to ODOT's Citizen Representative located in the Director's Office.

Supervisor	1. Listen to and document the incident or complaint as soon as possible following the report. 2. If present when behavior is being displayed, inform the offending individual of the behavior and direct it to stop. 3. Advise offender of his or her obligation to not retaliate against the complainant and report the incident to the Region/Division Human Resource Manager and/or the Employee Civil Rights Officer for appropriate action steps. 4. On the advice of HR, take immediate, appropriate, corrective action if ensuing investigation supports a finding in violation of this policy. 5. Consider issues related to re-entry to the work site. 6. Continue to monitor the work environment for any inappropriate or illegal behavior.
Region/Division Human Resource Manager	1. Provide guidance to supervisor/manager. *(Where appropriate, may include mediation as an alternative form of dispute resolution.)* 2. Investigate complaint. 3. If complaint is verified by investigative findings, make a recommendation to the manager to take appropriate, corrective action. 4. Assist supervisor/manager in resolving re-entry to the worksite issues by identifying climate, communication, training issues, and developing preventative measures.

Notes

- *Individuals reporting discrimination, harassment, or retaliation should be aware that management may decide it is necessary to take action to address conduct without advance notification to the complaintant occurring. This decision will be discussed with the individual. The best course of action, in any case, will depend on many factors and, therefore, the process will remain flexible.*
- *The employer will do its best to protect the privacy and dignity of all parties.*
- *To protect confidentiality of all parties, a complainant and/or witnesses to a violation of policy might not be told what specific action, if any, was taken in response to the complaint. Barring additional proceedings requiring mandatory disclosures, complainant will typically only be informed that appropriate action was taken, or that there was no finding in violation of this policy.*
- *For represented employees, applicable collective bargaining agreements also contain procedures through which complaints of this nature may be addressed.*

Federal and State Affirmative Action Citations

Presidential Executive Order 11246 (as amended) and 11478

Code of Federal Regulations Title 23 (Highways)

Code of Federal Regulations Title 41 (Contracts)

Code of Federal Regulations Title 46 (Shipping)

Code of Federal Regulations Title 49 (Transportation)

Title VI and VII of the Civil Rights Act of 1964 (as amended)\

Section 504 of the Rehabilitation Act of 1973 (as amended)

The Vietnam – Era Veterans Readjustment Act of 1974 (as amended)

Title I of the Americans with Disabilities Act of 1990

Oregon Revised Statutes 279.053 and 659.025

State of Oregon Governor's Affirmative Action Executive Order 05-01