

Oregon Department of Community Colleges and Workforce Development (CCWD)

Camille Preus, Commissioner
255 Capitol Street NE
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Salem, OR 97310
503-947-2433

2013-2015 Affirmative Action Diversity & Inclusion Plan



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August 25, 2012

Frank Garcia
Director, Diversity, Inclusion & Affirmative Action
Governor's Affirmative Action Office
155 Cottage Street NE
Salem, OR 97301

Dear Mr. Garcia,

It is the policy of the Department of Community Colleges and Workforce Development (CCWD) to provide a workplace for its employees that is free from discrimination on the basis of race, color, sex, marital status, age, religion, ancestry, national origin, sexual orientation, or mental or physical disability.

The CCWD Affirmative Action Plan is a key component of the department's ongoing diversity development efforts. We continue to engage in numerous and varied activities in support of our affirmative action goals as we strive to become a leader in the area of affirmative action.

Our affirmative action efforts include reaching across traditional boundaries to ensure the entry and growth of people of color, women, and people with disabilities into our workforce. Each and every employee of CCWD is expected to promote a positive, respectful work place and to appreciate and encourage diversity of backgrounds, situations, and perspectives.

We are pleased to present the CCWD Affirmative Action Plan for the 2013-2015 biennium.

If you have any questions about the plan, please contact Todd Nell at (503) 947-2406.

Sincerely,

Camille Preus
Commissioner



Public Service Building

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I. Description of Agency

A. Mission and Objectives

Agency Summary

Postsecondary education and skill development are essential for Oregonians to be sufficiently prepared for the current and future workplace, and to ensure Oregon has a strong and stable economy. It is more critical than ever before for Oregonians to have at least a two-year postsecondary degree or credential. With this in mind, and with the endorsement of leading business interests, legislation was passed in 2011 to focus the State of Oregon on a 40/40/20 goal: 40 percent of Oregon’s adults holding as their highest credential a bachelor’s degree or higher, 40 percent having as their highest credential an associate’s degree or professional certificate, and 100 percent having earned a high school diploma or its equivalent (20% having a high school diploma or its equivalent as their only credential).

There is some debate as to what percentage of the economy requires “middle skill” workers, with education beyond high school. Middle skills credentials include certificates, associate’s degrees, journey cards, and industry recognized credentials, yet are short of a four-year degree. Some national research puts the percentage of required “middle skill” workers as high as 50 percent for a vibrant economy. One thing remains clear: the “middle 40” of 40/40/20 is the heart and soul of Oregon’s economy and community colleges are the primary carriers of that “middle 40.” As such, community colleges are committed to improving student persistence and completion, helping the state move toward the 40/40/20 vision by 2025.

To accomplish this, the department works within two separate and connected universes: education and workforce development. These two universes have great synergy and are leveraged for maximum impact even though the funding streams (general, federal, and other funding) are at times mutually exclusive. Our strategic actions are aligned with the agency mission – to increase skill and knowledge for all Oregonians – and informed by the governor-appointed boards that we serve: the Oregon Education Investment Board, the Higher Education Coordinating Commission, the State Board of Education, and the Oregon Workforce Investment Board. The intersecting strategies of these coordinating/governing boards are expressed in the state’s overarching goals of economic vitality through increased education attainment.

Every education sector – universities, community colleges, student financial aid systems, PreK-12, and teacher licensing – and every participating state and local workforce program and provider plays a critical role in achieving our collective success. A very high percent of workers needed in 2025 are in the workforce today and will be working still in 2025, which illustrates that the 40/40/20 goal cannot be reached through the education pipeline alone. Incumbent worker training, adult literacy programs and other kinds of lifelong learning are necessary to meet our common goal. CCWD has an essential role in accomplishing ‘the middle 40%’ goal and does so through an array of programs and partnership collaborations across education and workforce systems.

Oregon's workforce system serves Oregon workers via helping people update their workplace skills, launching them toward higher wages, and referring them to jobs or educational career paths based on new technologies or innovations. By bringing private industry together into a partnership with public providers, state agencies and educational institutions, Oregon offers a diverse array of workforce services throughout the state. This statewide network of public and private partners and services is collectively referred to as WorkSource Oregon. Customers can access services at WorkSource Oregon Centers, community college campuses, via the Internet, and at many other locations.

The agency's Dislocated Worker Unit is the state's clearinghouse for Worker Adjustment Retraining Notification (WARN) information, and works closely with local program providers to deliver services to workers affected by layoffs and closures. Staff can also provide helpful next-step information for both employers and workers, and this site offers links to other agencies and programs that may be of assistance.

CCWD Mission Statement

The mission of the Department of Community Colleges and Workforce Development is to contribute leadership and resources to increase the skills, knowledge, and career opportunities of Oregonians. CCWD is guided by, and committed to, four agency goals and two primary focus areas. Our work is accomplished through a comprehensive network of education and workforce partners.

Agency Goals

- Oregonians have strong literacy skills
- Oregon's workforce is well-educated and has access to a wide variety of training programs.
- Oregonians have access to excellent, affordable community colleges.
- CCWD delivers high quality customer service.

Intent of the Goals

- Provide leadership in shaping the education programs and workforce services that benefit individuals, businesses and communities in Oregon.
- Ensure a continuum of comprehensive learning opportunities that enable youth and adults to effectively contribute to our global society.
- Broaden sustainable public access to skills, knowledge and career opportunities.
- Foster innovation in instruction, service delivery and information collection and dissemination.
- Meet public stewardship and accountability expectations to federal, state, and local partners.

Our Primary Focus

Education and training for middle skills jobs and credentials, including certificates, associate's degrees, apprenticeship, journey cards, and industry recognized credentials. As primary carriers of the "middle 40", CCWD is focused on improving student persistence and completion to help the state move toward the 40/40/20 vision by 2025.

Key Partnerships

Education partners include the Oregon Education Investment Board, the Higher Education Coordinating Commission, the State Board of Education, the Department of Education, PK-12 schools, community colleges and local college boards, the State Board of Higher Education and the universities.



Workforce partners include the Oregon Employment Department, WorkSource Oregon, state and Local Workforce Investment Boards, labor unions, apprenticeship programs, Oregon Business Development, industry associations/groups, and employers.

Agency Alignment and Responsibility

The agency has a unique role in bridging youth and adult transitions from education, training, and unemployment into the work place. We are responsible for implementing policies and strategies consistent with the Governor's education and workforce priorities and the goals of the State, key partners, and the Commissioner of CCWD to ensure that:

- Oregon has a diverse and dynamic economy that provides jobs and prosperity for all Oregonians. (Economy and Jobs Policy Vision, 10 Year Plan for Oregon Project)
- Oregonians are prepared for lifelong learning, rewarding work, and engaged citizenship, (Education Policy Vision, 10 Year Plan for Oregon Project)

The department's primary responsibilities are to fund and oversee Oregon's 17 community colleges, 18 adult education/literacy programs (including GED), seven Local Workforce Investment Areas, and 36 county-based programs and other partners. Initiatives require alignment of education, workforce, and economic development into a collaborative approach for local implementation.

Governance

CCWD is governed by and/or provides staff resources to the Boards that oversee much of Oregon's education and workforce policy work, the State Board of

Education and the Oregon Workforce Investment Board, as well as, Oregon Education Investment Board and the Higher Education Coordinating Commission. The Oregon State Board of Education (SBE), members appointed by the Governor, works to ensure that Oregon public school students have equal access to high quality educational services that prepare students for their next steps following high school graduation. The SBE sets educational policies and standards for Oregon's 198 school districts, 17 community college districts, and 20 Education Service Districts. The Commissioner is appointed by and is responsible to the SBE.

The Oregon Workforce Investment Board (OWIB), also appointed by the Governor, provides policy advice on workforce matters. The OWIB membership includes leaders from private sector businesses and labor, local governments, and state agencies. The majority of the 25 Board members represent the private sector. The OWIB is the business voice defining a demand-driven statewide public workforce system.

What We Do

CCWD administers a broad array of programs and funds to increase the number of career-ready Oregonians with credentials, certificates, and degrees in occupations that are in local demand. In addition to the administration of programs and funding, the Department is working to integrate information from education and workforce partners to provide research, data, and evaluation for training, employment, and workforce development activities. Examples of these programs and funding sources are:



- Adult Basic Skills (Workforce Investment Act Title II, Adult Education and Family Literacy Act)
- Career Pathways
- Career and Technical Education (CTE) Certified Work Ready Communities (CWRC)
- Community College Support Fund (CCSF)
- General Education Development (GED) Testing
- Oregon Youth Conservation Corps (OYCC)
- Post-Secondary (Carl D. Perkins Vocational and Technical Education Act)
- The National Career Readiness Certificate (NCRC)



- WorkSource Oregon One-Stop Centers' Programs and Services (Workforce Investment Act Title IB, Statewide and Local Workforce Investment Systems: Adult, Youth and Dislocated Worker)

Agency Values

CCWD supports its partnerships with workforce, education and businesses using these values:

- Collaboration:*** Work together to resolve issues to meet state and local needs.
- Access:*** Assure that every Oregonian has access to training, education and learning opportunities.
- Respect:*** Value and seek all perspectives.
- Responsiveness:*** Respond in a timely manner to all partners' needs.
- Effectiveness:*** Develop, allocate and leverage resources and measure outcomes for effective service delivery.
- Support:*** Support local service delivery that contributes to statewide expectations and outcomes.

B. Name of Agency Commissioner/Administrator

Commissioner Camille Preus
255 Capitol Street NE
Public Service Building
Salem, OR 97310
503-947-2433

C. Name of Governor's Policy Advisor for CCWD

Agnes Balassa, Education & Workforce Policy Advisor
503-986-6530, agnes.balassa@state.or.us

D. CCWD's Affirmative Action Representatives

Kyleen Stone, Operations Director
503-947-2436, kyleen.j.stone@state.or.us

Todd Nell, Program Analyst
503-947-2406, todd.nell@state.or.us

E. CCWD's Diversity and Inclusion Officer

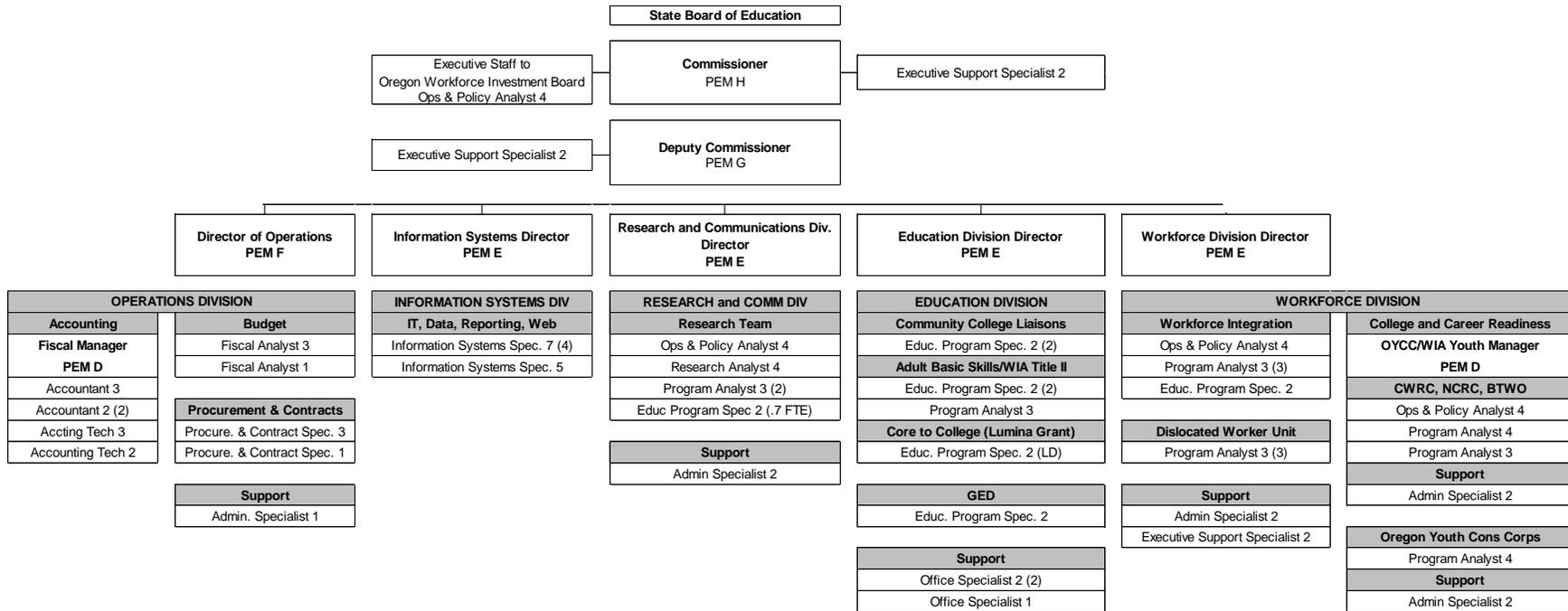
Kyleen Stone, Operations Director
503-947-2436, kyleen.j.stone@state.or.us



Please Note: We do not have dedicated FTE that have “diversity”, “inclusion”, “access”, or “equity” in their working title.

F. Organization Chart

**Department of Community Colleges and Workforce Development
2013-15 Governor's Balanced Budget
59 Positions (58.7 FTE)**



II. Affirmative Action Plan

A. CCWD - Agency Affirmative Action Policy

1. “The Oregon Department of Community Colleges and Workforce Development (CCWD) is committed to establishing and maintaining a diverse workforce, reflective of the diverse population within the State of Oregon. CCWD is committed to an affirmative action program that provides equal opportunities for all persons regardless of race, color, religion, sex, sexual orientation, national origin, marital status, age and disability.
2. It is also the policy of CCWD to provide an environment for each applicant and employee free from sexual harassment, as well as harassment and intimidation on account of an individual’s race, color, religion, gender, sexual orientation, national origin, age, and disability.
3. CCWD’s commitment toward affirmative action and diversity in the workplace is realized through a variety of programs and measures.
 - CCWD is an equal-opportunity employer that is committed to a proactive role in the recruitment and selection process. CCWD will use diverse recruitment strategies to identify and attract candidates, and establish interview panels that represent protected-class groups whenever possible.
 - CCWD is committed to providing broad and culturally enriched training, career growth and developmental opportunities to all employees on an equal basis, enabling them to further advance and promote their knowledge, skills, abilities and their value of diversity.

CCWD will not tolerate discrimination or harassment on the basis of age, color, marital status, mental or physical disability, national origin, race, religion, sex, sexual orientation, or any reason prohibited by state or federal statute. Nor shall CCWD do business with any vendor/provider for the State of Oregon who discriminates or harasses in the above-described manner.

All staff of CCWD shall adhere to the Affirmative Action Policy and Plan. Supervisory and management staff, in particular, shall assure that the intent and the stated requirements are implemented in all employee relationships and personnel practices. In addition, it is the duty of every employee of CCWD to create a job environment atmosphere that is conducive to non-discrimination policies and free of any form of discrimination and harassment. The application of this policy is the individual responsibility of all supervisory staff and each shall be evaluated on his/her performance in achieving this affirmative action policy as well as in other job performance criteria.

The Affirmative Action Plan is posted on the CCWD website, included in the New Employee Handbook and available upon request through the front desk receptionist. The Affirmative Action Policy Statement is posted on the bulletin board where all other required posters are located. Failure to meet our Affirmative Action standards will be subject to disciplinary actions.

All employees shall be advised of the procedure for lodging a discrimination/harassment complaint and all employees with concerns of any kind related to affirmative action shall be encouraged to bring them to the attention of the Operations Director or the DAS Human Services Representative for CCWD.

It is further the policy of CCWD to establish and maintain this program of affirmative action to provide for a method of eliminating any effects of past or present discrimination, intended or unintended, which may be indicated by analysis of present employment patterns, practices or policies.

This revision of the CCWD Affirmative Action Plan becomes effective July 1, 2013 and shall be evaluated annually or as needed when statewide changes occur. The CCWD Affirmative Action Representatives are Kyleen Stone at 503-947-2436 and Todd Nell at (503) 947-2406.



Camille Preus, Commissioner



Affirmative Action Policy Statement for Individuals with Disabilities

CCWD will not discriminate, nor tolerate discrimination, against any applicant or employee because of physical or mental disability in regard to any position for which the known applicant for employment is qualified.

CCWD agrees to use affirmative action to employ, advance in employment, and otherwise treat known qualified individuals with disabilities without regard to their physical or mental disabilities in all human resources selection and decision practices, such as: advertising, benefits, compensation, discipline (including probation, suspension, and/or termination for cause or layoff), employee facilities, performance evaluation, recruitment, social/recreational programs, and training. CCWD will also continue to administer these practices without regard to race, color, religion, gender, sexual orientation, national origin, age or disability.

Additionally, all applicants and employees of CCWD are protected from coercion, intimidation, interference, or discrimination for filing a complaint or assisting in an investigation under this policy.

Affirmative Action Policy for Members Uniform Services (ORS 659A.082)

CCWD will not discriminate or tolerate discrimination, against any employee because they are a member of, apply to be a member of, performs, has performed, applies to perform or has an obligation to perform service in a uniformed service.

Harassment Policy and Complaint Procedure

In addition to the DAS State policy titled Discrimination and Harassment Free Workplace, CCWD also maintains a policy titled *Harassment-Free/Violence-Free Workplace*, Policy Number 586-007.

This policy states that CCWD will provide a work environment free from unlawful discrimination on the basis of race, color, religion, sex, marital status, national origin, disability, age, or any other factor employers are prohibited by law from considering when making employment decisions. This policy applies to all matters relating to hiring, firing, transfer, promotion, benefits, compensation, and other terms and conditions of employment.



It is also the policy of CCWD that all employees, customers, clients, contractors and visitors to the work site enjoy a positive, respectful and productive work environment, free from behavior, actions or language that constitute workplace harassment. Harassment is prohibited, whether between managers and subordinates; or between employees and clients, contractors, the public, or co-workers.

Grievance/Complaint Procedure

For workplace harassment: Any employee who is subject to or is aware of workplace harassment should report that information immediately to agency management. The report may be made orally or in writing to the employee's immediate supervisor or to a higher management staff member if the employee prefers. In the alternative, the report may be given to an assistant commissioner. (Note: Incidents involving violence, threats of violence or other matters deemed substantial by a supervisor shall be reported immediately to an assistant commissioner.) Employees may report to any of the persons listed above and need not observe any particular chain of command. If the complainant desires, an investigation shall be conducted according to the investigation portion of this policy. If an investigation is not requested, the supervisor and employee shall document the incident.

Discrimination Complaints Procedure

Any employee who believes that employment-related discrimination was directed toward him/her by a member or representative of agency management may file a complaint with an assistant commissioner. Please submit complaints in writing except for reasons of disability. The complaint should be filed with the agency within 30 calendar days of the alleged act.

Complaints shall include the name of the complainant, the name of the person(s) 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 relief requested. An investigation shall be conducted according to the investigation section of this policy.

ADA and Reasonable Accommodation in Employment and Workplace

In addition to the DAS State policy titled ADA and Reasonable Accommodation in Employment, CCWD also maintains a policy titled *Reasonable Accommodations for People with Disabilities*, Policy Number 586-016.

This policy states that CCWD will reasonably accommodate qualified individuals with disabilities. In accordance with the Americans with Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.



Reasonable Accommodation

A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

Reasonable accommodation applies to three aspects of employment

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

B. Agency Diversity and Inclusion Statement

CCWD is committed to establishing, monitoring, and maintaining a work environment where all employees are valued, treated fairly, and given opportunities to develop and grow to their full potential. Every employee plays a part in our diverse workforce and inclusive work environment by being respectful and supportive, and by acting with integrity to one another. Each person's skills, talents, knowledge, experiences, and personalities broaden the range of perspectives in and approaches to conducting the work we do at CCWD.

CCWD can best promote excellence by recruiting, retaining, and accommodating a diverse group of staff in an environment of respect that is supportive of their workplace success. This climate of diversity, inclusion and excellence is critical to successfully attaining our mission of contributing leadership and resources to increase the skills, knowledge and career opportunities of Oregonians.



C. Training, Education and Developmental Plan (TEDP)

At CCWD, State Policy 50.045.01, *Employee Development and Implementation of Oregon Benchmarks for Workforce Development*, and CCWD Policy Number: 586-021, *Training*, are both used to promote employee career growth.

CCWD actively works to provide promotional opportunities that either use existing skills in a different setting or support employees in the acquisition of new skills, be it both formal classroom training, job rotations, various work projects or

experiences, and educational or continuing education opportunities. All employees have formal performance evaluations on a yearly basis.

1. Employees

- Affirmative Action Plan including the agency’s AA Statement is posted on the agency website’s home page.
- All staff have access to training opportunities per the agency *Training Policy 586-021*.
- CCWD New Employee Orientation is provided within the first month of employment to new employees as well as assignment of staff to guide them through their first days of employment at the agency and to answer any questions. A copy of the AA Plan is included in the new employee handbook.
- There is an annual presentation and review of Affirmative Action Plan at one of the six annual All-Staff meetings per year. All employees are required to attend the All-Staff meetings and notes of the meeting are posted on the agency’s shared drive for access by all employees.
- CCWD staff present diverse warm up exercises at All-Staff meetings scheduled every two months.
- An abbreviated version of the AA Plan is posted on the employee bulletin board.



2. Volunteers – There are no current volunteers

3. Contractors/Vendors – CCWD does not provide diversity training to vendors currently. CCWD vendors are notified of CCWD’s EEO policy via our federally mandated electronic EEO clause included in our RFP’s and contracts.

4. Trainings - Cultural diversity and preventative trainings:

The Operations Director attends meetings and other trainings pertaining to human resource and diversity. These biennial seminars, trainings and events include:

- Oregon State Personnel Management Association Homepage (OSPMA) meetings/trainings
- Diversity and Inclusion Workgroup
- Weekly debriefs at weekly Management Team Meetings

Oregon’s 17 Community Colleges, 18 Adult basic Skills Programs and seven Local Workforce Partners receive training per college and board policy. EEO trainings are offered and provided by Oregon’s Equal Opportunity Officer from Oregon Employment Department, one of CCWD’s workforce partners.

5. Succession Planning – currently there is no formal succession plan. However, this is an area that CCWD’s Management Team will be focusing on in the coming biennium as a large percentage of the existing management team will be eligible for retirement within the next several years.

D. Programs

1. Internships – While CCWD does not have a formal internship program, we do hire interns when both work and physical space is available. Recently, we had one intern working with the National Career Readiness Certificate team, one high school student worker in the GED team and one Master’s program intern working with the Oregon Youth Conservation Corps. In the past, we have utilized The Performance Intern Program through Portland State University and local high schools to recruit interns. In the future, we hope to utilize other internship programs such as Intern Oregon, sponsored by DAS and various summer internships programs with local high schools. All interns are encouraged to apply for any job openings they may be qualified for as vacancies occur.

2. Community Outreach Program –The agency does not have a formal community outreach program but the agency encourages and supports community involvement. Some of these activities have been:

- Participating in local high school interview and career days
- Teaching and guest speaking at community colleges, universities, and K-12 in classes at Corban University
- Middle school Classroom presentation on natural resource environmental science careers
- Veterans Day presentation to Lincoln City middle school students
- Presentations to Tribal Councils
- Government to Government participation

The department participates in the regularly scheduled Government to Government education cluster meetings and activities. This includes quarterly meetings for the cluster, as well as special informational and educational activities related to postsecondary education and workforce

development. The department provides information to the cluster regarding legislative issues, program elements, and pertinent information regarding community college and workforce system activities. The department also received input from the education cluster for college and career readiness activities and career and technical education program development, as well as participated in strategic plan activities and guidance for identifying American Indian/Alaskan Native students in student information systems.



3. Diversity Awareness Program: Although the agency does not have a formal program, specific on-going activities are a regular part of operations at CCWD. The CCWD Affirmative Action Representative electronically sends out Affirmative Action

announcements on events, trainings and proclamations received from the Governor's Affirmative Action Office and encourage staff participation in various events. Diversity quizzes obtained from monthly Governor's AA Office Workshops have often been used at the bi-monthly, All-Staff meetings as a short training exercise. CCWD job announcements will be sent to the Governor's Affirmative Action Office for additional posting and dissemination.

CCWD also participates in the Art-on-Loan Program operated through the Oregon Youth Authority and maintains an informal bulletin board for postings of proclamations, cultural events and other activities. There are currently no self-evaluations in use for staff although if requested, some would be provided, as would adoptions of policies or practices to accommodate diverse needs of agency staff.

CCWD has incorporated a Diversity section into the curriculum it developed in partnership with the Oregon Employment Department for the statewide Career Development Facilitator (CDF) training for workforce professionals in the state workforce system. The learning objectives of this curriculum includes the following areas of interest:

- Diversity and its developing role in the US workforce.
- New attitudes toward and approaches to managing diversity in the workplace.
- Groups that make up the diverse, American workforce
- Acknowledgement and expression of attitudes toward different populations
- Organizational and individual barriers that may affect career planning and success for individuals from diverse backgrounds
- Demonstration of CDF skills and attitudes needed to assist diverse groups with career development
- Laws that relate to diverse populations

E. Update: Executive Order 08-18

1. Cultural Competency Assessment and Implementation Services

CCWD is committed to the goals of enriching the diversity of the agency and increasing the level of cultural competency, both internally and throughout our customer and partner base. We have not completed the Cultural Competency Assessment at this time due to budget and staff constraints but this is something we may consider in the future.

2. Statewide Exit Interview Survey

CCWD encourages all employees to complete this DAS web-based, exit-interview tool prior to their transfer or departure:

<http://www.surveymonkey.com/s.asp?u=206582533018>

Participation is optional and all responses are anonymous and cannot be traced back to an individual. The CCWD Management Team, including the Commissioner, will review and discuss any results of exit-interview feedback on a quarterly basis. To date, we have not received any feedback from exit interviews from previous staff.

3. Performance Evaluation of all Management Personnel

Manager’s performance is evaluated yearly to assess how well they foster a diverse workforce. Evaluation criteria include:

- Education of the agency workforce on diversity issues (i.e. training and communication).
- Recruitment and selection efforts (recommendations for advertising or marketing open recruitments).
- Retention (what the manager does to identify and ensure employees are provided with appropriate tools for success).

The CCWD Commissioner is evaluated on a yearly basis by the Oregon State Board of Education. This process also includes the above evaluation criteria.

F. Status of Contracts to Minority Businesses (ORS 659A.015)

CCWD provides notice to certified firms for all competitive solicitations through the Oregon Procurement Information Network (ORPIN). Contractors and Vendors are notified of CCWD’s EEO policy via our electronic EEO clause. Below is the list of Women and Minority Owned Businesses that CCWD contracted with during the 2011-2013 biennium including the name of the contract.

Brenda Brecke	NCRC Infrastructure Analysis
MJB Management, LLC	Healthcare Ed Program
Mark Neeley	Auditor Services
DevMecca.com, LLC	Computer Program Development Services
Justin Dillingham	EMT Program Accreditation Reviews
Lynne Hellstern	OPABS Editing & Formatting
Kennedy Consulting LLC	Phase 2 OWIB Strategic Plan Document
Shannon Wilson	Adult Credentialing
Key Links, Inc.	NAM Certification
Nan Poppe	Accelerating Opportunity
Jodi Tanner Tell	Integrated Workforce Plan
Jodi Tanner Tell	Grant Writer for DOL WIF SGA
Kira Higgs Consulting	Adult Credentialing Roll-out
Colleen Chrisinger	WIF SGA Application Evaluation Plan Components
Shannon McFarland	Integrated Leadership Alliance Facilitation
Kira Higgs Consulting	CTE Summer Conference Facilitation
Peg Caliendo	ABE to Credentials Certificate Data Report

III. Roles for Implementation of Affirmative Action Plan

A. Responsibilities and Accountabilities

1. Commissioner and Deputy Commissioner

- Direct and supervise all activities of the Department of Community Colleges and Workforce Development.
- The commissioner reports to the State Board of Education annually and biennially to the Legislative Ways and Means Committee, on the progress and outcomes of the Department's Affirmative Action Plan.
- The Deputy Commissioner directs agency affirmative action functions, ensuring that the agency plan, targets and goals are followed, implemented, and achieved.
- The Deputy Commissioner conducts all final interviews to ensure there is no intended or unintended bias.

2. Managers and Supervisors

- Foster and promote the importance of a diverse workforce free of discrimination and harassment to staff.
- Ensure subordinates receive an orientation on the agency's affirmative action goals and responsibilities and understand their own responsibilities for helping promote diversity and a harassment free work environment.
- Work with CCWD Operations Director, following agency and State of Oregon procedures and rules in filling of employment vacancies.
- Managers are evaluated yearly to assess how well they foster a diverse workforce. Evaluation criteria include:
 - Education of the agency workforce on diversity issues (i.e. training and communication).
 - Recruitment and selection efforts (recommendations for advertising or marketing open recruitments).
 - Retention (what the manager does to identify and ensure employees are provided appropriate tools for success).

3. Affirmative Action Representative (Operations Director)

- Reports directly to both the CCWD Commissioner and Deputy Commissioner.
- This position shares the responsibility of educating outreach, development of hiring criteria, encouraging diversity through human resource activities including recruitment, interviewing, hiring and retention processes.
- This position ensures employees receive and engage in a thorough orientation to CCWD and to state government; this includes review of AA and EEO policy with employees during New Employee Orientation.
- Responsible for scheduling of EEO/AA and ADA trainings for All Staff meetings, report CCWD EEO complaints log and reporting progress or areas needing improvement to management team members.
- Promotes and oversees effective retention practices using the Affirmative Action Plan.

- Investigates and addresses complaints.
- Performs ongoing evaluation of plan and recommends changes to Management Team.
- Evaluated on a yearly basis to assess how well they foster a diverse workforce. Evaluation criteria include:
 - Education of the agency workforce on diversity issues (i.e. training and communication).
 - Recruitment and selection efforts (recommendations for advertising or marketing open recruitments).
 - Retention (what the Affirmative Action Representative does to identify and ensure employees are provided appropriate tools for success).

IV. July 1, 2010 – June 30, 2012

A. Accomplishments

1. **Staff Professional Development Opportunities** - Over the last biennium, from a total of 58 agency employees, app have been promoted up to higher classifications and an approximately twenty employees have taken advantage of agency support for continuing education. Samples of these agency-supported trainings are:

- Marylhurst Servant Leadership Conference
- Becoming an Effective Leader
- Career Development Facilitator
- Advanced Excel
- Intermediate and Advanced Word
- Share Point
- Information Security and Confidentiality
- Datamart, Brio, and Hyperion
- E-Recruiting
- Bachelor of Arts
- MBA
- State Procurement, Contracting, and Department of Justice
- Negotiation Techniques and Strategies
- Executive, Management, and Staff Accounting
- Maintaining a Harassment Free and Professional Workplace



2. **Recruitment:** CCWD has expanded its “diversity network” of contacts and relationships with individuals, organizations and commissions dedicated to the advancement of diverse and minority populations; maintaining direct and regular interaction with these individuals and groups (i.e. OSPMA, AA Workgroup, Statewide Operations Director meetings). Results of this expanded network include:

- Increasing numbers of diverse applicants and candidates for temporary and/or limited-duration positions.

- Opportunities for internships and targeting diverse candidates at Oregon post-secondary institutions, workforce agencies or area high schools (i.e. Promise Internship).
- Opportunities for CCWD management staff to mentor diverse students and adults through area high schools, post-secondary schools, local businesses, Workforce Investment programs, Oregon Youth Conservation Corps and other available statewide resources.
- Distributing announcements to the DAS Diversity Representative, college placement centers, all-staff and WorkSource Oregon Centers.
- Attempts to foster a more diverse workplace through the Affirmative Action Representative consulting with the hiring manager regarding possible placing of job announcements in newspapers throughout the state.

3. Oregon Youth Conservation Corp (OYCC)

OYCC provided funding to the Confederated Tribes of Grand Ronde. 16 youth were hired during the summer of 2011. OYCC is recruiting for tribal representation on the Advisory Committee. OYCC recruits Advisory Committee members from all over the state. The intent is to have a broad representation of members from different geographical areas.



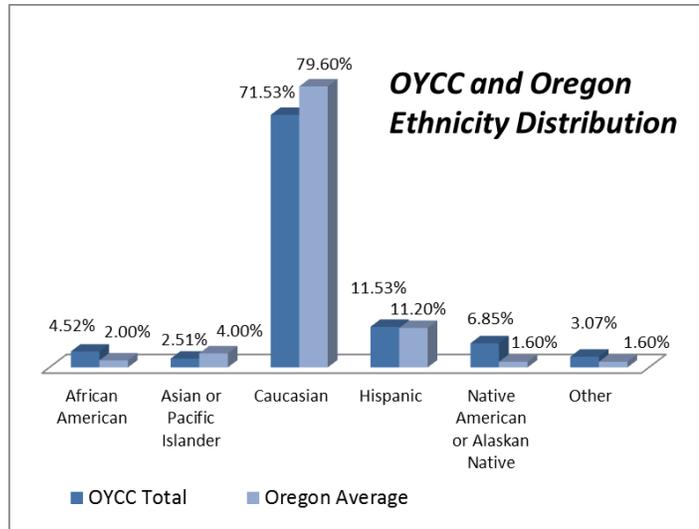
OYCC will be holding the Community Stewardship Corps Crew Leader Training at Mt. Hood Kiwanis Camp in 2013. Mt. Hood Kiwanis Camp gives disabled children and adults the opportunity to participate in things they would otherwise not be able to such as: swimming and ropes course adventures.

OYCC requires that the crew/participants reflect the demographics of their community. OYCC requires that 75% of the participants are considered at-risk by OYCC's definition. In the summer of 2011, 24.09% of youth who participated in the OYCC program have previous or current involvement in the juvenile justice system.



OYCC provides funding to Woape. The vision of Woape is to support young people, families, adults, and communities in developing health and happiness through the discovery of hope. Woape incorporates and supports youth through Native American traditions using cultural teachings.

OYCC added a cultural diversity component to the training piece of their annual Crew Leader/Teacher trainings.



4. Oregon Workforce Investment Board (OWIB)

- All OWIB initiatives include attention to special populations including people with disabilities and people of color.
- OWIB strategic planning included significant statewide public input from communities and programs
- As part of the implementation of the strategic plan, the data underlying performance compacts between Local Workforce Investment Boards and the OWIB will include disability status (to the extent it's collected by each of the participating programs) and can be reported separately.



5. Native American Outreach

Management staff attended the Government to Government Tribal Education Cluster Committee on a regular basis. CCWD, along with state education entities in conjunction with the nine Oregon Tribes, has been involved in various projects and activities during the last two years, which include regularly scheduled meetings.

The activities include maintaining coordination with the Oregon Indian Coalition for Post-Secondary Education and working with OICPSE and other organizations to promote information on financial aid, admission processes and tuition rates. The cluster reviewed the draft of Tribal Expectations for Colleges and provided comments to OICPSE.



The Education Cluster worked with Higher Education and the Chancellor’s office on a policy letter regarding the use of Native Languages in admissions and course credit.

The purpose of this activity is to reach agreement on a statement that can be used with high school students and parents, counselors, teachers and admissions officers and to clarify how the study of Native Languages can be used for college credit.

The department also participates in the annual Native American Higher Education Issues meeting as well as the annual Tribal-State Summit and coordinates activities with the Oregon University System and other post-secondary institutions and is a member of the Native Connect listserv.

7. Additional agency accomplishments

- Intergovernmental agreement between CCWD and OED for Oversight services, in like kind, of EEO investigations if they arise.
- Intergovernmental agreement between CCWD and OED for shared administrative costs of Statewide EEO Representative.
- Sponsoring Take Your Child to Work Day activities to encourage young men and
- Women to explore various career opportunities.

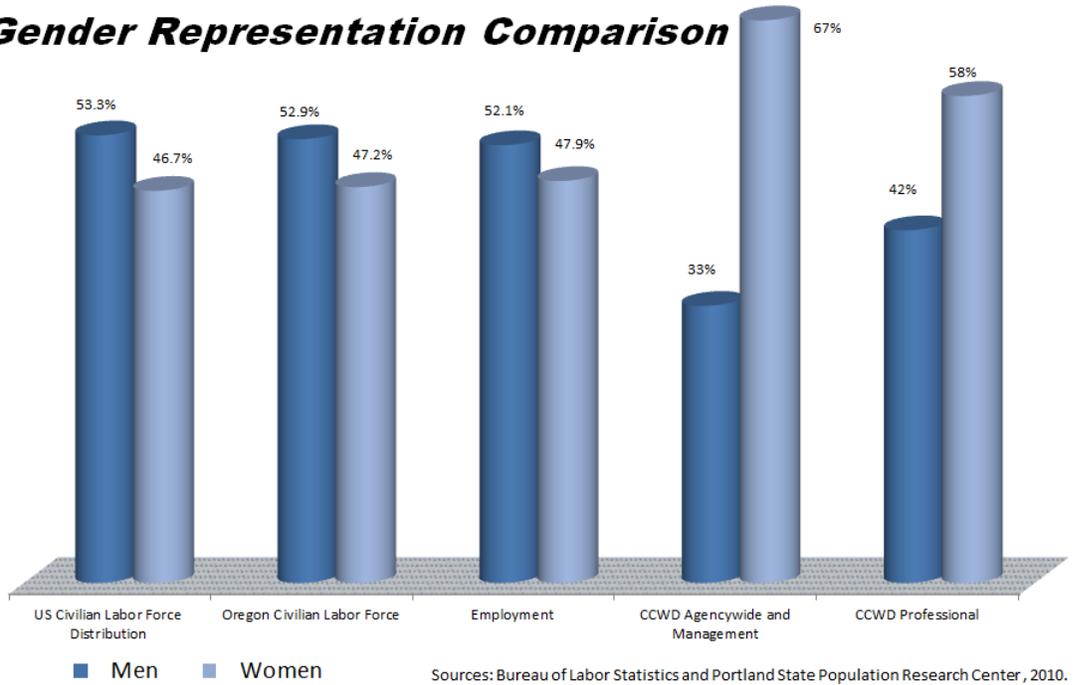


B. Progress Made or Lost Since Previous Biennium

The affirmative action goals for the Department of Community Colleges and Workforce Development are based on an analysis of employment patterns and practices, with particular attention given to representation/under-representation of women, people of color, and people with disabilities. An analysis of summary data provided by the Department of Administrative Services as of June 30, 2012, which weights the job-group parity percentages based on the number of employees within each job group, reveals the following:

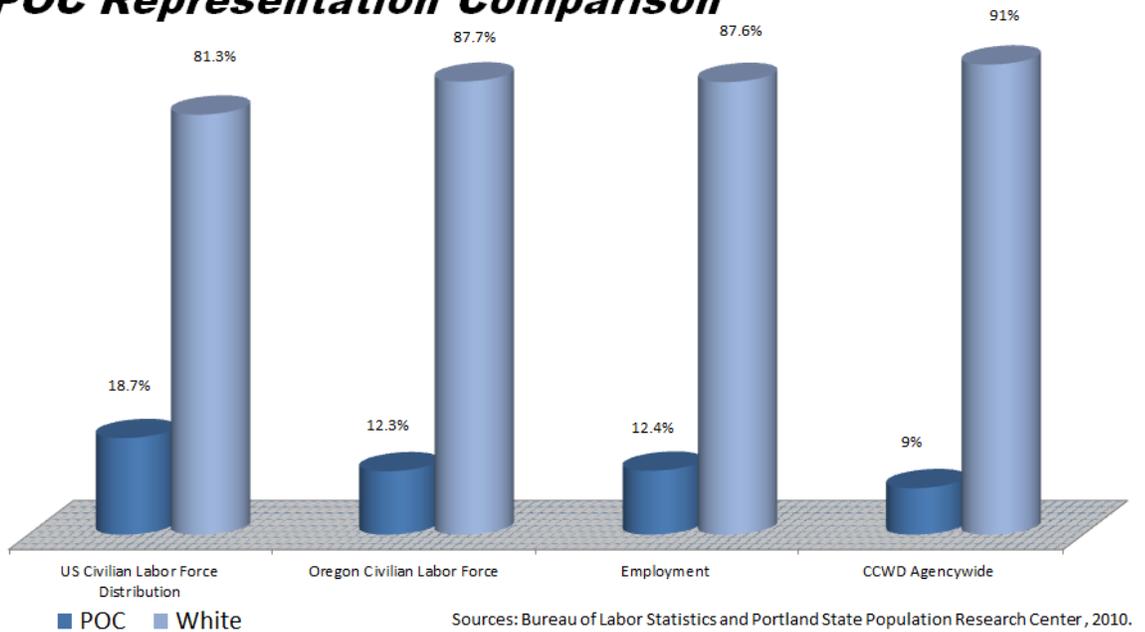
1. The agency wide **Gender Representation** (see graph below) consists of 67% women and 33% men, an increase of five percentage points (+8.1%) for women from the July 2011 baseline. The agency ratio continues to exceed parity in “Management” categories as well with 67% being women and 33% men.
2. Representation in the "Professionals" job group category continues to be an area where improvement is needed. **Gender Representation** at CCWD amongst “Professionals” consists of 58% women and 42% men.

Gender Representation Comparison



- As shown below, the agency’s representation of *People of Color* is at 9%, according to current DAS Human Resources data, holding level from the July 2011 baseline percentage, with one person of color at upper management level. CCWD’s rate indicates that we need to continue to recruit people of color.

POC Representation Comparison



4. *People with Disabilities* is also an area where improvement is warranted as the percentage of employees in this category has decreased since the previous report. Currently, there are no employees formally identified as people with disabilities.

V. July 1, 2012 – June 30, 2015

A. Goals for Affirmative Action Plan/Programs

Key Goals: To increase the knowledge of our agency employees regarding affirmative action, and to increase the diversity of our staff.

B. Strategies for Achieving Those Goals

CCWD is applying active strategies in alignment with ORS 243.305 policy of affirmative action and fair and equal employment opportunities and advancement, CCWD’s collective bargaining agreement and DAS recruitment policies and guidelines. Increasing workplace diversity and awareness efforts will include:

1. Developing volunteer membership for a CCWD Affirmative Action Workgroup, dedicated to the advancement of diversity; recommending improvements in meeting affirmative action goals and better diversity within the agency.

CCWD’s Affirmative Action Workgroup will develop milestones and strategies to move the agency to meet statewide parity in diversity. CCWD’s Workgroup will work toward accountability of advertising and hiring. They will facilitate on-going discussion with managers to develop strategies to prevent harassment and discrimination complaints in the workplace. In addition, they will work with the Management team to provide training to managers to set affirmative action expectations on an agency wide basis.

2. Management staff will review diversity efforts monthly at Management Team meetings. The team will also review quarterly affirmative action reports in this forum. Items regarding diversity will be added to agenda.

3. The Operations Director, in collaboration with the Management Team and the CCWD Affirmative Action Workgroup, will facilitate racial, ethnic, and gender fairness and develop a training plan to educate and encourage diversity among:

Hiring managers:

- To ensure there is no intended or unintended bias imbedded in required qualifications or in application or interview questions.
- To heighten awareness of diversity issues, such as policies against discrimination, barriers in the hiring process, and workplace dynamics, for more effective recruitment, hiring and retention.



- To ensure training in Affirmative Action Plan concepts.
- To ensure that affirmative action and diversity responsibilities are included in the hiring manager's job descriptions.
- So that they apply such philosophies in their day-to-day work; and that management effectiveness in taking affirmative action is included in annual performance appraisals, in compliance with ORS 659.025 (1) *"To achieve the public policy of the State of Oregon for persons in the state to attain employment and advancement without discrimination because of race, religion, color, sex, marital status, national origin, disability or age, every state agency shall be required to include in the evaluation of all management personnel the manager's or supervisor's effectiveness in achieving affirmative action."*

Classified staff:

- To educate and encourage diversity among those who are hired or appointed so they may assist in identifying and removing barriers that hinder or prevent a diverse work environment.
- By assigning a peer mentor;

Affirmative Action Representatives:

- To ensure employees receive and engage in a thorough orientation to CCWD's affirmative action policy, goals and an employee's role in contributing to a diverse workforce free of harassment;
- To require new employees to be an active member of the New Employee Cohort for one year;
- To assign a peer mentor to new employee who will check in regularly and provide needed coaching;
- Through an annual review, revision and adoption of the Plan by the Labor Management Committee and the management team;
- To coordinate annual presentation and review of the plan at:
 - An All-Staff meeting; additionally, CCWD will place a diversity related agenda item at All Staff meetings twice a year.
 - A State Board of Education meeting.
- To encourage all employees to complete the DAS web-based exit interview survey tool prior to their transfer or departure.
- By posting the Affirmative Action Plan on the CCWD website.
- By public announcement of the Plan and its availability on the web, to partners and state agency personnel.
- To ensure that the commissioner will include the biennial affirmative action information as part of the regular Ways and Means presentation to the legislature.

4. Succession Plan – currently there is no formal succession plan. However, this is an area that CCWD’s Management Team will be focusing on in the coming biennium as a large percentage of the existing management team will be eligible for retirement within the next several years.
5. All timelines are as listed in the goals section specified by area of responsibility. The plan will be posted on the CCWD website upon approval of the plan from the Governor’s Diversity, Inclusion & Affirmative Action Office.

VI. Appendix A

A. Agency’s Policy Documentation

In addition to these policies, CCWD places EEO statement on all recruitment announcements and outgoing correspondence.

1. ADA and Reasonable Accommodation Policy (No. 50.020.10)



Statewide Policy

SUBJECT: ADA and Reasonable Accommodation in Employment	NUMBER: 50.020.10
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 6/7/10
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: Oregon state government follows the clear mandate in state law and the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008, to remove barriers that prevent qualified people with disabilities from enjoying the same employment opportunities that are available to people without disabilities.

Oregon state government provides equal access and equal opportunity in employment. Its agencies do not discriminate based on disability. Oregon state government uses only job-related standards, criteria, and methods of administration that are consistent with business necessity. These standards, criteria and methods do not discriminate or perpetuate discrimination based on disability.

According to OAR 105-040-0001 Equal Employment Opportunity and Affirmative Action, Oregon state government takes positive steps to recruit, hire, train, and provide reasonable accommodation to applicants and employees with disabilities.

AUTHORITY: ORS 240.145; 240.240; 240.250; ORS 659A.103 -145; 243.305; 243.315; The Americans with Disabilities Act (ADA) of 1990 as amended by the Americans with Disabilities Act Amendments Act (ADAAA) of 2008; Civil Rights Act of 1991; and 42 U.S.C. §12101 et seq.

APPLICABILITY: This policy applies to all state employees, including state temporary employees, according to provisions of federal and state law.

ATTACHMENTS: ADA Accommodation Tool Kit

DEFINITIONS: See State HR Policy 10.000.01 Definitions and OAR 105-010-0000

The following definitions apply to terms referenced in this policy and its attachments:

Americans with Disabilities Act (ADA) –The ADA is a federal civil rights statute that removes barriers that prevent qualified people with disabilities from enjoying the same employment opportunities available to people without disabilities. References to ADA also refer to amendments to that Act.

Essential Functions – These include, but are not limited to, duties that are necessary because:

- The primary reason the position exists is to perform these duties.
- A limited number of employees are available who can perform these duties.
- The incumbent is hired or retained to perform highly specialized duties.

Individual with a Disability – This term means a person to whom one or more of the following apply:

- A person with a physical or mental impairment that substantially limits one or more of the major life activities of such a person without regard to medications or other assistive measures a person might use to eliminate or reduce the effect of impairment.
- A person with a record of such an impairment
- A person regarded as having such impairment.

Major Life Activities – This term means the basic activities the average person in the general population can perform with little or no difficulty. These including breathing; walking; hearing; thinking; concentrating; seeing; communicating; speaking; reading; learning; eating; self-care; performing manual tasks such as reaching, bending, standing and lifting; sleeping; or working (working in general, not the ability to perform a specific job). The term also includes but not limited to “major bodily functions,” such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Physical or Mental Impairment – This term refers to any of the following:

- Physiological disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more bodily systems, including neurological, musculoskeletal, special sense organs, respiratory, cardiovascular or reproductive
- Mental or psychological disorder including but not limited to mental retardation, organic brain syndrome, emotional or mental illness or specific learning disability
- Disease or condition including orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV disease or alcoholism
- Any other physical or mental impairment listed under the ADA.

Qualified Person – This term means a person who has the personal and professional attributes, including skill, experience, education, physical and mental ability, medical, safety and other requirements to hold the position.

“Qualified person” does not include people who currently engage in illegal use of drugs. A person may qualify, however, if he or she is currently enrolled in or has completed a rehabilitation program, and continues to abstain from illegal use of drugs.

Reasonable Accommodation – This term means change or adjustment to a job or work environment that enables a qualified employee with a disability to perform the essential functions of a job, or enjoy the benefits and privileges of employment equal to those enjoyed by employees who have no disabilities. “Reasonable accommodation” does not include modifications or adjustments that cause an undue hardship to the agency.

“Reasonable accommodation” does not mean providing personal auxiliary aids or services, such as service dogs or hearing aids that person uses both on and off the job.

A reasonable accommodation does not include lowering production standards, promoting or assigning an employee to a higher-paying job, creating a position or reassigning essential functions to another worker.

Undue Hardship – This term means significant difficulty or expense. Whether a particular accommodation imposes undue hardship is determined on a case-by-case basis, with consideration of such factors as the following:

- The nature and cost of the accommodation needed
- The agency's size, employee's official worksite, and financial resources
- The agency's operation, structure, functions, and geographic separateness
- The agency's administrative or fiscal relationship to its facility responding to the accommodation request and to the other state agencies
- The impact of the accommodation on the operation of the agency or its facility.

POLICY

- (1) Each state agency director or authorized designee (agency) administers State HR Policy 50.020.10 as the agency's policy. Compliance with the ADA is mandatory.
 - (a) Each agency identifies an ADA Coordinator for the agency to coordinate ADA accommodation requests and function as an agency resource on ADA matters.
 - (b) Each agency develops and follows its own procedures for receiving, processing and documenting accommodation requests under this policy. The attached tool kit will assist in this process.
- (2) An employee may request an accommodation under this policy by following agency procedures.
- (3) The agency must review and respond in a timely manner to each request for accommodation. The agency must engage in an interactive dialogue with the employee to determine whether the accommodation is necessary and will be effective.
- (4) Each accommodation is unique to the person, the disability and the nature of the job. No specific form of accommodation can guarantee success for all people in any particular job. The agency must give primary consideration to the specific accommodation requested by the employee. Through the interactive process the agency may identify and provide an alternative accommodation.
- (5) The duty to provide reasonable accommodation is ongoing. The agency and the employee must engage in the interactive process again if an accommodation proves ineffective.
- (6) The agency may deny an accommodation if it is not effective, if it will cause undue hardship to the agency, or if the agency identifies imminent physical harm or risk. The undue hardship exception is available only after careful consideration. The agency must consider alternative accommodations, should a requested accommodation pose undue hardship.
- (7) Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested, or was previously accommodated under the ADA.

2. **Discrimination and Harassment Free Workplace (Statewide Policy No. 50.010.01)**



SUBJECT: Discrimination and Harassment Free Workplace	NUMBER: 50.010.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 01/25/08
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: The State of Oregon is committed to a discrimination and harassment free work environment. This policy outlines types of prohibited conduct and procedures for reporting and investigating prohibited conduct.

AUTHORITY: ORS 174.100, 240.086(1); 240.145(3); 240.250; 240.316(4); 240.321; 240.555; 240.560; 659A.029; 659A.030; Title VII; Civil Rights Act of 1964; Executive Order EO-93-05; Rehabilitation Act of 1973; Employment Act of 1967; Americans with Disabilities Act of 1990; and 29 CFR §37.

APPLICABILITY: All employees, state temporary employees and volunteers.

ATTACHMENTS: None

DEFINITIONS: See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

Collective Bargaining Agreement (CBA): A written agreement between the State of Oregon, (Department of Administrative Services) and a labor union. References to CBAs contained in this policy are applicable only to employees covered by a CBA.

Complainant: A person or persons allegedly subjected to discrimination, workplace harassment or sexual harassment.

Contractor: For the purpose of this policy, a contractor is an individual or business with whom the State of Oregon has entered into an agreement or contract to provide goods or services. Qualified rehabilitation facilities who by contract provide temporary workers to state agencies are considered contractors. Contractors are not subject to ORS 240 but must comply with all federal and state laws.

Discrimination: Making employment decisions related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment, based on or because of an employee's protected class status.

Employee: Any person employed by the state in one of the following capacities: management service, unclassified executive service, unclassified or classified unrepresented service, unclassified or classified represented service, or represented or unrepresented temporary service. For the purpose of this policy, this definition includes board and commission members, and individuals who volunteer their services on behalf of state government.

Higher Standard: Applies to managers and supervisors. Proactively taking an affirmative

posture to create and maintain a discrimination and harassment free workplace.

Manager/Supervisor: Those who supervise or have authority or influence to effect employment decisions.

Protected Class Under Federal Law: Race; color; national origin; sex (includes pregnancy-related conditions); religion; age (40 and older); disability; a person who uses leave covered by the Federal Family and Medical Leave Act; a person who uses Military Leave; a person who associates with a protected class; a person who opposes unlawful employment practices, files a complaint or testifies about violations or possible violations; and any other protected class as defined by federal law.

Protected Class Under Oregon State Law: All Federally protected classes, plus: age (18 and older); physical or mental disability; injured worker; a person who uses leave covered by the Oregon Family Leave Act; marital status; family relationship; sexual orientation; whistleblower; expunged juvenile record; and any other protected class as defined by state law.

Sexual Harassment: Sexual harassment is unwelcome, unwanted, or offensive sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, or is used as a basis for any employment decision (granting leave requests, promotion, favorable performance appraisal, etc.); or
- 2) Such conduct is unwelcome, unwanted or offensive and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include but are not limited to: unwelcome, unwanted, or offensive touching or physical contact of a sexual nature, such as, closeness, impeding or blocking movement, assaulting or pinching; gestures; innuendoes; teasing, jokes, and other sexual talk; intimate inquiries; persistent unwanted courting; sexist put-downs or insults; epithets; slurs; or derogatory comments.

Sexual Orientation under Oregon State Law: An individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

Workplace Harassment: Unwelcome, unwanted or offensive conduct based on or because of an employee's protected class status.

Harassment may occur between a manager/supervisor and a subordinate, between employees, and among non-employees who have business contact with employees. A complainant does not have to be the person harassed, but could be a person affected by the offensive conduct.

Examples of harassing behavior include, but are not limited to, derogatory remarks, slurs and jokes about a person's protected class status.

complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

- (f) **Investigation.** The agency, board, or commission Human Resource section, Executive Director, or chair, as applicable, will coordinate and conduct or delegate responsibility for coordinating and conducting an investigation.
 - (A) All complaints will be taken seriously and an investigation will be initiated as quickly as possible.
 - (B) The agency, board or commission may need to take steps to ensure employees are protected from further potential discrimination or harassment.
 - (C) Complaints will be dealt with in a discreet and confidential manner, to the extent possible.
 - (D) All parties are expected to cooperate with the investigation and keep information regarding the investigation confidential.
 - (E) The agency, board or commission will notify the accused and all witnesses that retaliating against a person for making a report of discrimination, workplace harassment or sexual harassment will not be tolerated.
 - (F) The agency, board or commission will notify the complainant and the accused when the investigation is concluded.
 - (G) Immediate and appropriate action will be taken if a complaint is substantiated.
 - (H) The agency, board or commission will inform the complainant if any part of a complaint is substantiated and that action has been taken. The complainant will not be given the specifics of the action.
 - (I) The complainant and the accused will be notified by the agency, board or commission if a complaint is not substantiated.

- (g) **Penalties.** Conduct in violation of this policy will not be tolerated.
 - (A) Employees engaging in conduct in violation of this policy may be subject to disciplinary action up to and including dismissal.
 - (B) State temporary employees and volunteers who engage in conduct in violation of this policy may be subject to termination of their working or volunteer relationship with the agency, board or commission.
 - (C) An agency, board or commission may be liable for discrimination, workplace harassment or sexual harassment if it knows of or should know of conduct in violation of this policy and fails to take prompt, appropriate action.
 - (D) 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 action may be subject to disciplinary action up to and including dismissal.
 - (E) An employee who engages in harassment of other employees while away from the workplace and outside of working hours may be subject to the provisions of this policy if that conduct has a negative impact on the work environment and/or working relationships.
 - (F) If a complaint involves the conduct of a contracted employee or a contractor, the agency, board, or commission Human Resource section, Executive Director, chair, or designee must inform the contractor

complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

- (f) **Investigation.** The agency, board, or commission Human Resource section, Executive Director, or chair, as applicable, will coordinate and conduct or delegate responsibility for coordinating and conducting an investigation.
 - (A) All complaints will be taken seriously and an investigation will be initiated as quickly as possible.
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 - (A) Employees engaging in conduct in violation of this policy may be subject to disciplinary action up to and including dismissal.
 - (B) State temporary employees and volunteers who engage in conduct in violation of this policy may be subject to termination of their working or volunteer relationship with the agency, board or commission.
 - (C) An agency, board or commission may be liable for discrimination, workplace harassment or sexual harassment if it knows of or should know of conduct in violation of this policy and fails to take prompt, appropriate action.
 - (D) 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 action may be subject to disciplinary action up to and including dismissal.
 - (E) An employee who engages in harassment of other employees while away from the workplace and outside of working hours may be subject to the provisions of this policy if that conduct has a negative impact on the work environment and/or working relationships.
 - (F) If a complaint involves the conduct of a contracted employee or a contractor, the agency, board, or commission Human Resource section, Executive Director, chair, or designee must inform the contractor

<u>DAS Statewide Policy</u>	50.010.01
Policy title: Discrimination and Harassment Free Workplace	

of the problem behavior and require prompt, appropriate action.

(G) If a complaint involves the conduct of a client, customer, or visitor, the agency, board or commission should follow its own internal procedures and take prompt, appropriate action.

(h) **Retaliation.** This policy prohibits retaliation against employees who file a complaint, participate in an investigation, or report observing discrimination, workplace harassment or sexual harassment.

(A) Employees who believe they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing discrimination, workplace harassment or sexual harassment, should report this behavior to the employee's supervisor, another manager, the Human Resource section, the Executive Director, or the chair, as applicable. Complaints of retaliation will be investigated promptly.

(B) Employees who violate this policy by retaliating against others may be subject to disciplinary action, up to and including dismissal.

(C) State temporary employees and volunteers who retaliate against others may be subject to termination of their working or volunteer relationship with the agency, board or commission.

(i) **Policy Notification.** All employees including state temporary employees and volunteers shall:

(A) be given a copy or the location of Statewide Policy 50.010.01, Discrimination and Harassment Free Workplace;

(B) be given directions to read the policy;

(C) be provided an opportunity to ask questions and have their questions answered; and

(D) sign an acknowledgement indicating the employee read the policy and had the opportunity to ask questions.

(i) Signed acknowledgements are kept on file at the agency, board or commission.

(1) Performance Measure: Percent of employees informed of Policy 50.010.01, prohibited behavior and reporting procedures.

Performance Standard: 100%

(2) Performance Measure: Percent of complaints where prompt, appropriate action is taken following investigation of a substantiated complaint.

Performance Standard: 100%

3. Employee Training (CCWD Internal Policy No. 586-021)

DEPARTMENT OF COMMUNITY COLLEGES AND WORKFORCE
DEVELOPMENT

INTERNAL POLICIES

Subject: Training

Effective Date: May 10, 2005

Policy Number: 586-021

Approval:

[Signature on file]

Cam Preus, Commissioner

Policy:

It is the policy of CCWD to provide training opportunities for all staff in order to carry out the mission and goals of the agency.

Purpose:

Develop a training policy for CCWD staff members.

Applicability:

This policy applies to all full-time, permanent employees or agents of CCWD.

Clarification:

CCWD has two types of training opportunities—required and optional.

All training must be pre-approved.

Required Training (*Examples: SFMS, BRIO, Visual Studio, MS office, Technical Writing*):

- Training is considered *required* when:
 - Employees are unable to do their jobs without the training; or
 - The agency cannot meet its mission unless the employee receives the training.
- Required training is determined by agency need.
- There is no dollar cap; however, the most cost-effective training must be considered.
- Required training may be requested one of two ways: in writing by an employee or assigned to an employee by a manager.

For *required training requests*, the employee or supervisor must complete the CCWD Training Request Form and obtain his/her supervisor's approval.

Optional Training (*Examples:* College, university, community, agency classes; non-required conferences; professional organization sponsored events):

- Training is considered *optional* when:
 - An employee wants to be better at his/her job;
 - An employee wants to advance in his/her career.
- Optional training is training that is agency-related but is not required.
- The key managers review and approve all optional training requests.
- Appeals can be made to the Labor/Management Committee.
- There is no travel reimbursement for optional training.
- Optional training has a dollar cap and a time cap.

For *optional training requests*, the employee must complete the CCWD Training Request Form and submit it to his/her supervisor.

Budget

CCWD will annually budget money for training. A potential of up to \$1,000 per individual, per program year (PY) may be available for optional training, based on funding. Additional requests for training reimbursement above \$1,000 may be submitted to supervisors. There shall be no carryover of unused funds.

Exceptions:

None

CCWD Training Request Form

(All training requires pre-approval)



Applicant:	Date Requested:
Training Title:	

Required Training

Optional Training

Name of training institution, organization, agency:	
Address:	
Phone:	
Application Deadline:	Training Cost:
Date(s) of Training – From:	To:
Manager Approved:	Date:

If requesting time out of the office, please indicate:

- Duration _____
- Frequency _____
- Total hours _____
- Location _____

Justification:

How is the training agency-related? _____

How is the training related to current job or career goal? _____

How will I bring back what I learned to the agency? _____

How will I use the results of the training in my work? _____

COMPLETION

Training Completed:

Proposed Briefing Schedule:

Employee Signature: _____ Date: _____

Manager Signature: _____ Date: _____

Briefing Completed: _____ Date: _____

4. Veteran's Preference in Employment (Statewide Policy# 105-040-0015)

Applicability: Recruitment and selection processes for all State of Oregon positions in agencies subject to ORS 240, State Personnel Relations Law, including but not limited to promotional opportunities.

(1) Definitions: (See also HRSD Rule 105-010-0000 Definitions Applicable Generally to Personnel Rules and Policies.)

(a) Initial Application Screening: An agency's process of determining whether an applicant meets the minimum and special qualifications for a position. An Initial Application Screening may also include an evaluation of skills or grading of supplemental test questions if required on the recruiting announcement.

(b) Application Examination: The selection process utilized by an agency after Initial Application Screening. This selection process includes, but is not limited to, formal testing or other assessments resulting in a score as well as un-scored examinations such as interviews and reference checks.

(c) Veteran and Disabled Veteran: As defined by ORS 408.225 and 408.235.

(2) Application of preference points upon Initial Application Screening: Qualifying Veterans and Disabled Veterans receive preference points as follows;

(a) Five Veteran's Preference points are added upon Initial Application Screening when an applicant submits as verification of eligibility a copy of the Certificate of Release or Discharge from Active Duty (DD Form 214 or 215), or a letter from the US Department of Veteran's Affairs indicating the applicant receives a non-service connected pension with the State of Oregon Application; or

(b) Ten Disabled Veteran's points are added upon Initial Application Screening when an applicant submits as verification of eligibility a copy of the Certificate of Release or Discharge from Active Duty (DD Form 214 or 215) with the State of Oregon Application. Disabled Veterans must also submit a copy of their Veteran's disability preference letter from the US Department of Veteran Affairs, unless the information is included in the DD Form 214 or 215.

(c) Veteran's and Disabled Veteran's preference points are not added when a Veteran or Disabled Veteran fails to meet the minimum or the special qualifications for a position.

(3) Following an Initial Application Screening the agency generates a list of qualified applicants to consider for Appointment. An Appointing Authority or designee may then:

(a) Determine whether or not to interview all applicants who meet the minimum and special qualifications of the position (including all Veterans and Disabled Veterans); or

(b) Select a group of Veteran and Disabled Veteran applicants who most closely match the agency's purposes in filling the position. This group of applicants may be considered

along with non-veteran applicants who closely match the purposes of the agency in filling the position as determined by:

(A) Scored Application Examinations (including scored interviews): If an agency utilizes, after an Initial Application Screening, a scored Application Examination to determine whom to consider further for Appointment, the agency will add (based on a 100-point scale) five points to a Veteran's score or 10 points to a Disabled Veteran's score or;

(B) Un-scored Application Examinations: Un-scored Application Examinations done by sorting into levels (such as "unsatisfactory," "satisfactory," "excellent") based on desired attributes or other criteria for further consideration will be accomplished by:

(i) Advancing the application of a Veteran one level;

(ii) Advancing an application of a Disabled Veteran two levels.

(4) Preference in un-scored interviews: A Veteran or Disabled Veteran who, in the judgment of the Appointing Authority or designee, meets all or substantially all of the agency's purposes in filling the position will continue to be considered for Appointment.

(5) If a Veteran or Disabled Veteran has been determined to be equal to the top applicant or applicants for a position by the Appointing Authority or designee then the Veteran or Disabled Veteran is ranked more highly than non-veteran applicants and, a Disabled Veteran is ranked more highly than non-veteran and Veteran applicants.

(6) Preference described in Sections 2 through 5 of this rule is not a requirement to appoint a Veteran or Disabled Veteran to a position. An agency may base a decision not to appoint the Veteran or Disabled Veteran solely on the Veteran's or Disabled Veteran's merits or qualifications.

(7) A Veteran or a Disabled Veteran applicant not appointed to a position may request an explanation from the agency. The request must be in writing and be sent within 30 calendar days of the date the Veteran or Disabled Veteran was notified that they were not selected. The agency will respond in writing with the reasons for not appointing the Veteran or Disabled Veteran.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth: ORS 240.145(3) & 240.250

Stats. Implemented: ORS 408.225, 408.230 & 408.235

Hist.: HRSD 3-2007(Temp), f. & cert ef. 9-5-07 thru 3-3-08; HRSD 1-2008, f. 2-27-08, cert. ef. 3-1-08; HRSD 3-2009, f. 12-30-09, cert. ef. 1-1-10

5. Affirmative Action Policy (CCWD Policy #586-025)

Policy:

The Oregon Department of Community Colleges and Workforce Development (CCWD) is committed to the Affirmative Action Commitments and Targets (AACT) plan to: (1) increase racial, ethnic, disabled and gender diversity of department staff; (2) increase awareness and competence of CCWD staff on issues of diversity; (3) develop and implement specific recruitment, selection and retention strategies designed to attract, hire and retain a diverse staff.

Purpose:

CCWD will actively proclaim its commitment to affirmative action by promoting and implementing the AACT plan. Efforts will include:

- Annual review, revision and adoption of the AACT plan by the Labor Management Committee and management team;
- Annual review of the plan at an all-staff meeting;
- Posting the AACT plan on the CCWD Web site;
- An annual presentation or review of the AACT plan by the State Board of Education.

Active Recruitment:

CCWD's personnel director will pursue overt and aggressive recruitment strategies to include:

- The development of a "diversity network" of contacts and relationships with individuals, organizations and commissions dedicated to the advancement of diverse and minority populations;
- Direct and regular interaction with individuals and groups in the "diversity network";
- Active creation of opportunities to engage diverse staff;
- Target diverse candidates for temporary and/or limited duration positions;
- Identify opportunities for internships and target diverse candidates at Oregon institutions of higher education, workforce agencies or area high schools;
- Pursue opportunities for CCWD management staff to mentor diverse students and adults;
- Create a recruitment planning template including an affirmative action checklist, for use by the supervisor and selection committee responsible for filling a position;
- Provide support for supervisors and selection committees through the recruitment and selection processes;
- Distribute announcements to the DAS Diversity Representative, college placement centers and One-Stop Workforce Career Centers;

- Advertise in newspapers statewide and targeted publications serving diverse populations.

Selection Process:

CCWD’s personnel director will assure that supervisors and selection committees will:

- Receive affirmative action training (or materials) appropriate for preparing selection process materials, and interviewing applicants;
- Work to assure there is no unintended bias imbedded in required qualifications or in application or interview questions.

Retention Strategies:

CCWD’s personnel director, in collaboration with the supervisor of the new employee, will:

- Assure employees receive and engage in a thorough orientation to CCWD and to state government;
- Assign a peer mentor;
- Check in regularly and provided needed coaching and/or staff development opportunities.

Applicability:

This policy applies to all recruitment activities of CCWD.

- CCWD’s personnel director will report monthly to the CCWD management team to:
 - Identify specific actions to implement and utilize the AACT Plan;
 - Update the Management Team on status of affirmative action efforts and progress toward the achievement of the goal of a diverse staff.
- CCWD’s personnel director will prepare, for the commissioner and EOC officer, a biennial affirmative action report including:
 - CCWD personnel diversity statistics;
 - Efforts to implement the elements of the AACT plan;
 - Suggested updates to the CCWD AACT plan for the upcoming biennium.
- The commissioner will include the biennial affirmative action report information to the Legislature as part of the regular Ways and Means presentation.

Exceptions: None.

4. **Maintaining a Professional Workplace (Statewide Policy # 50.010.03)**



Statewide Policy

SUBJECT: Maintaining a Professional Workplace	NUMBER:	50.010.03
DIVISION: Human Resource Services Division	EFFECTIVE DATE:	08/27/07
APPROVED: Signature on file with the Human Resource Services Division		

POLICY STATEMENT: It is the policy of the State of Oregon to create and maintain a work environment that is respectful, professional and free from inappropriate workplace behavior.

AUTHORITY: ORS 240.145 and ORS 240.250

APPLICABILITY: All employees, including state temporary employees

ATTACHMENTS: N/A

DEFINITIONS:

See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

Agency: Refers to state agencies, boards and commissions

Professional Workplace Behavior: Supporting the values and mission of the State of Oregon and the agency, building positive relationships with others, communicating in a respectful manner, holding oneself accountable and pursuing change within the system.

Inappropriate Workplace Behavior: Unwelcome or unwanted conduct or behavior that causes a negative impact or disruption to the workplace or the business of the state, or results in the erosion of employee morale and is not associated with an employee's protected class status.

Examples of inappropriate workplace behavior include but are not limited to, comments or behaviors of an individual or group that disparage, demean or show disrespect for another employee, a manager, a subordinate, a customer, a contractor or a visitor in the workplace.

Inappropriate workplace behavior does not include actions of performance management such as supervisor instructions, expectations or feedback, administering of disciplinary actions, or investigatory meetings.

Inappropriate workplace behavior does not include assigned, requested or unsolicited constructive peer feedback on projects or work.

Protected Class Under Federal Law: Race; color; national origin; sex (includes pregnancy-related conditions); religion; age (40 and older); disability; a person who uses leave covered by the Federal Family and Medical Leave Act; a person who uses

Military Leave; a person who associates with a protected class; a person who opposes unlawful employment practices, files a complaint or testifies about violations or possible violations; and any other protected class as defined by federal law.

Protected Class Under Oregon State Law: All Federally protected classes, plus: age (18 and older); physical or mental disability; injured worker; a person who uses leave covered by the Oregon Family Leave Act; marital status; family relationship; sexual orientation; whistleblower; expunged juvenile record; and any other protected class as defined by state law.

POLICY

- (1) It is the policy of the State of Oregon to create and maintain a work environment that is respectful, professional and free from inappropriate workplace behavior.
 - (a) **Conduct** Employees at every level of the agency should foster an environment that encourages professionalism and discourages disrespectful behavior. All employees are expected to behave respectfully and professionally and refrain from engaging in inappropriate workplace behavior.
 - (b) **Addressing Inappropriate Workplace Behavior**
 - (A) Supervisors must address inappropriate behavior that they observe or experience and should do so as close to the time of the occurrence as possible and appropriate.
 - (B) If an employee observes or experiences inappropriate workplace behavior and the employee feels comfortable in doing so, they should:
 - (i) redirect inappropriate conversations or behavior to workplace business; and/or
 - (ii) tell an offending employee his/her behavior is offensive and ask him/her to stop.
 - (c) **Reporting Inappropriate Workplace Behavior**
 - (A) An employee should report inappropriate workplace behavior he/she experiences or observes to his/her immediate supervisor as soon as practicable. If the employee's immediate supervisor is the one engaging in the inappropriate behavior, the employee should report the behavior to upper management, the agency head or Human Resource section, as soon as practicable. The report may be made orally or in writing.
 - (B) If past practice exists in the agency, an employee who is represented by a labor union may have a union representative present during regular work hours, when reporting inappropriate workplace behavior and through the process set forth in this policy. The union representative must not be a witness or party to the investigation.
 - (C) Reporting behavior or conduct directed toward an employee because of his/her protected class status is addressed in DAS Statewide Policy 50.010.01, Discrimination and Harassment Free Workplace.
 - (d) **Responding to a Report of Inappropriate Workplace Behavior** Inappropriate workplace behavior must be addressed and corrected before it becomes pervasive, causes further workplace disruption or lowers employee morale. Unless the agency decides otherwise, the supervisor of the employee allegedly engaging in the inappropriate workplace behavior must investigate the report as soon as possible.

(e) Consequences

(A) Any employee found to have engaged in inappropriate workplace behavior, will be counseled, or, depending on the severity of the behavior, may be subject to discipline, up to and including dismissal.

(B) A supervisor who fails to address inappropriate behavior, will be counseled, or, depending on the severity of the behavior, may be subject to disciplinary action, up to and including dismissal.

(f) Retaliation Retaliating against someone for reporting or addressing inappropriate workplace behavior is prohibited. The agency will investigate reports of retaliation. Any employee found to have engaged in retaliation may be subject to discipline, up to and including dismissal.

VII. Appendix B

A. Federal Policy Documentation

1. Age Discrimination in Employment Act of 1967 (ADEA)

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.

2. Disability Discrimination Title I of the ADA Act of 1990

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 or treating unfairly, 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 or employees about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions with or without an accommodation. 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.

All medical records or any information obtained must be kept confidential. This includes information that may or may not indicate a diagnosis, treatment course or may not have been generated by a health care professional. For example, an employee’s request for a reasonable accommodation would be considered medical information subject to the ADA’s confidentiality requirements.

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.

The law also protects people from discriminating based on their relationship with a person with a disability (even if they do not themselves have a disability). For example, it is illegal to discriminate against an employee because her husband or child has a disability.

It is 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.

3. Equal Pay and Compensation Discrimination Equal Pay Act of 1963, and Title VII of the Civil Rights Act of 1964

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.

Under the EPA, 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 of 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.

4. Genetic Information Nondiscrimination Act of 2008

Genetic Information Discrimination

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits the use of genetic information to discriminate against employees or applicants. The law forbids discrimination under any aspect of employment including hiring, firing, pay, job assignments, promotions, layoffs, training, benefits and/or any other terms/conditions of employment. In addition, the Department of Labor, Health and Human Services strictly restricts the acquisition of genetic information and the disclosure of genetic information.

Definition

Genetic Information includes an individual's genetic test and /or the tests of an individual's family members. It also includes any information about disease, disorder or condition including a family member's known condition. Family medical history is included in the definition of genetic information because it is often misused to determine increased risk of disease, disorder or condition in the future.

Harassment

Under GINA, it is illegal to harass a person based on their genetic information or genetic information of their relative. Harassing actions include offensive or derogatory remarks, which rise to a level to create a hostile work environment. 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.

Retaliation

It is unlawful to retaliate against an employee who has filed a discrimination charge based on genetic information; testified on genetic information; or participated in an investigation, proceeding or litigation based on genetic information. It is also unlawful to

retaliate against an individual for opposing employment practices that discriminate based on genetic information.

Exceptions

There are very limited exceptions to an employer obtaining genetic information that do not violate the GINA as follows:

Inadvertent knowledge of genetic information by overhearing an employee's conversation about a family member's conditions/illnesses.

Obtaining genetic information or family medical history through health services, including wellness programs, that are offered on a voluntary basis.

Information obtained as part of the certification process for FMLA/OFLA leave for the employee's own serious health condition or the serious health condition of the employee's family member.

Gaining knowledge through commercially or publicly available documents like newspapers is permitted, as long as the employer is not searching those resources with the intent of finding genetic information.

Acquisition of genetic information through monitoring programs to test the effects of biological toxic substances in the workplace, where monitoring is required by law or the program is voluntary.

Acquisition of information of employees who engage in DNA testing for law enforcement purposes as a forensic laborer or purposes of human remains identification is permitted, but the information may only be used for analysis of DNA markers for quality control to detect contamination.

Confidentiality

It is unlawful for employers to disclose genetic information about applicants or employees. Employers must keep genetic information confidential and in a file separate from any personnel file. Genetic Information can be kept in the same file as other medical information in compliance with the Americans with Disabilities Act.

5. National Origin Discrimination Title VII of the Civil Rights Act of 1964 and The Immigration Reform and Control Act of 1986

The Immigration Reform and Control Act of 1986 (IRCA)

National Origin Discrimination

Whether an employee or job applicant's ancestry or appearance may possibly be Mexican, Ukrainian, Filipino, Arab, American Indian, or any other nationality, he or she is entitled to the same treatment and 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.”

The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for an employer to discriminate with respect to hiring, firing, recruitment or referral for a fee, based upon an individual’s citizenship or immigration status. Employers may not refuse to accept lawful documentation that establishes the employment eligibility of an employee, or demand additional documentation beyond what is legally required.

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, pay, training, promotions, benefits 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 or results in adverse employment decisions. 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.

It is also unlawful to retaliate against an individual for imposing employment practices that discriminate based on the IRCA's nondiscrimination requirements or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceedings or litigation under the IRCA.

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 legally required work authorization or documentation.

6. Pregnancy Discrimination Title VII of the Civil Rights Act of 1964

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:

Harassment

Prohibits of offensive conduct such as derogatory remarks that create a hostile work environment based on the condition or results in adverse employment decisions.

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.

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 the same options or choices.

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.

In addition, pregnant employees may have additional rights under the Family and Medical Leave Act (FMLA) and/or Oregon Family Medical Leave Act (OFLA).

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.

7. Race/Color Discrimination Title VII of the Civil Rights Act of 1964

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 of 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 of 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.

8. Religious Discrimination Title VII of the Civil Rights Act of 1964

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.

9. Retaliation Title VII of the Civil Agency Affirmative Action Policy

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.

10. Sex-Base Discrimination Title VII of the Civil Rights Act of 1964

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.

11. Sexual Harassment Title VII of the Civil Rights Act of 1964

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.