Oregon State Library

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Affirmative Action Plan
July 1, 2015 – June 30, 2017

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I. DESCRIPTION OF AGENCY

The State Library was established as the Oregon Library Commission in 1905 and today provides information services to over 39,000 state government employees. The State Library also circulates library materials in audio and Braille format to approximately 5,000 print-disabled Oregonians and provides grants and assistance to help develop and improve library services, and to foster greater cooperation among all of Oregon's libraries. Since its founding, the State Library has been governed by an independent Board of Trustees. The present board consists of seven citizens from throughout the state who are appointed by the governor to serve four-year terms. The State Library currently has 39.26 full-time equivalent staff (41 positions) and operates with a biennial budget of $14.1 million.

The **Mission** of the State Library is to:

- Provide quality information services to Oregon state government.
- Provide quality library services to blind and print-disabled Oregonians.
- Provide leadership, grants, and other assistance to improve library service for all Oregonians.

Our Goals:

- Maintain and improve library services to state government; optimize usage and maintain user satisfaction.
- Maintain and improve permanent public access to Oregon state documents and other unique holdings of the State Library.
- Collaborate among State Library divisions and with state agencies and other potential partners for efficient use of resources.
- Provide audio book and Braille services to eligible Oregonians.
- Lead libraries to achieve excellence in services to children and teens.
- Take a leadership role in developing comprehensive statewide library resource sharing services.
- Encourage and assist local communities to develop strong school library services and public library services for unserved and underserved Oregonians.
- Improve internal efficiency and quality.

Government Information & Library Services provides research and reference assistance to state government and to persons on official state business. Specialized collections include federal and state government publications and a comprehensive collection of materials about Oregon. The State Library also provides permanent public access to Oregon state government documents.

Oregon Talking Book and Braille Library is the Oregon Regional Library for the Library of Congress National Library Service for the Blind and Physically Handicapped. Oregonians who are unable to read standard print because of visual or physical disability are eligible for this free library service. Books and magazines are available in audio format and Braille. Reading materials and equipment are mailed to the reader and back to the Library, postage free.

Library Support & Development Services provides planning and assistance for statewide library development by hosting quality websites for public libraries, providing equal access to information resources for K-12 students through the Oregon School Library Information System, collecting and reporting library statistics, and administering state and federal library grant programs. Current library development priorities are improving early literacy service to children in public libraries and facilitating access to library service for all Oregonians.

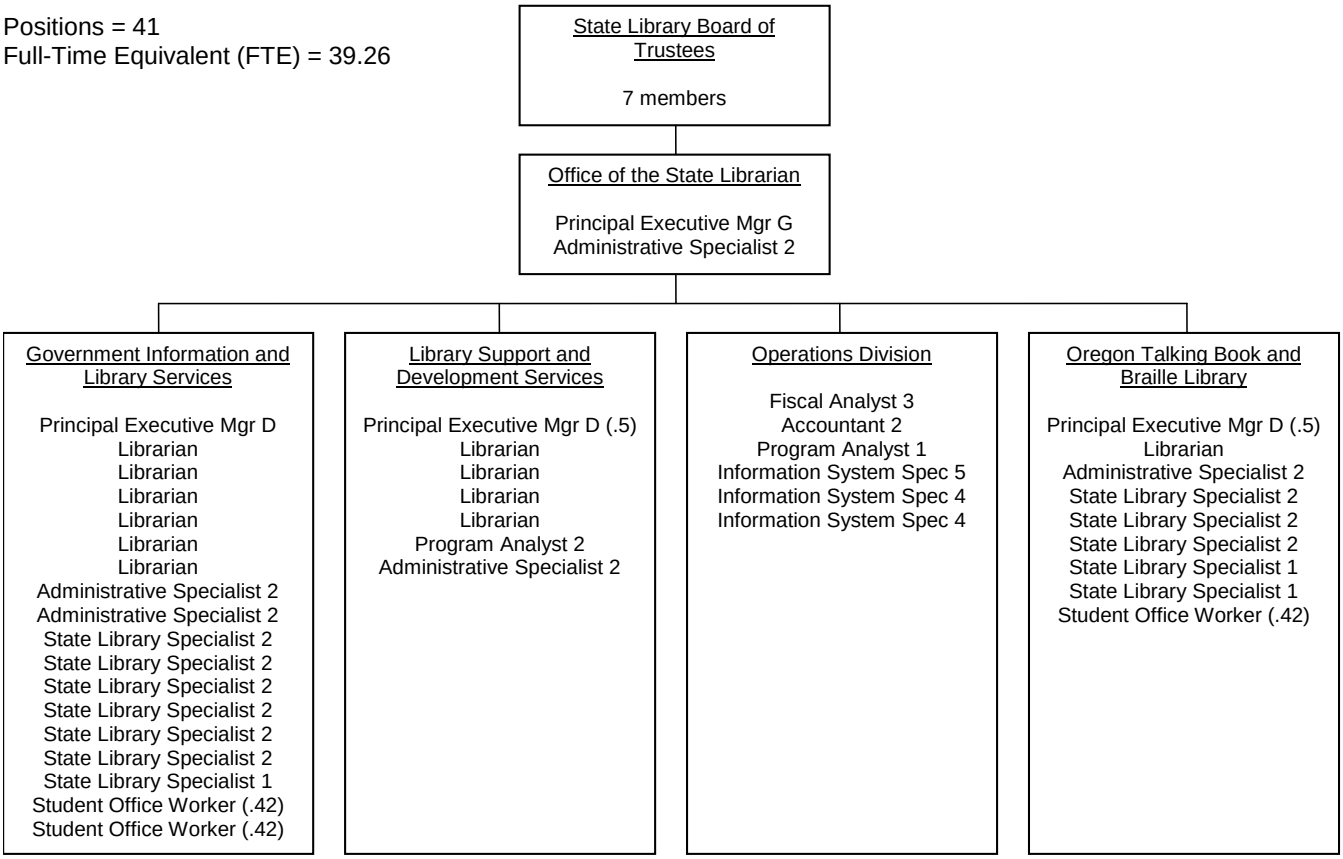
The *Operations Division* provides administration, fiscal management, information technology support, and volunteer program management services for the agency.

The managers are the State Librarian, a Business Manager and two Program Managers.

- Agency Director: MaryKay Dahlgreen (503) 378-4367
- Governor's Policy Advisor: Duke Shepard (503) 378-5540
- Affirmative Action Representative: Vicki Jorgensen (503) 378-2105 or
  Jessica Rondema (503) 378-2464

Oregon State Library (54300)
Organization Chart

Positions = 41
Full-Time Equivalent (FTE) = 39.26



II. AFFIRMATIVE ACTION PLAN

Oregon State Library Policy	
Affirmative Action and Equal Employment Opportunity	
Approved by: Jim Scheppke, State Librarian	Date: 8/1/10

Policy Statement: Oregon State Library (OSL) is committed to achieving equal employment opportunity and affirmative action objectives that will facilitate recruitment, employment and advancement of a diverse workplace. In administering its programs, the Oregon State Library will not discriminate against any person who seeks employment or is a current or potential user of State Library services based on race, color, religion, sex, sexual orientation, national origin, marital status, age, disability or any other protected class as defined by federal and state law.

Authority: ORS 243.305, ORS 659A, OAR 105-040-0001
Executive Orders: 05-01 and 08-18

Applicability: All employees, volunteers, and Oregon State Library Board of Trustees

Attachments: OSL Procedures for Reporting Inappropriate Behavior in the Workplace

Definitions:

Affirmative Action (AA): a method of eliminating the effects of past and present discrimination, intended or unintended, on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, age, disability or any other protected class as defined by federal and state law.

Affirmative Action Plan (AAP): a strategic plan that describes the steps an agency will take to provide equal opportunity within its workforce.

Equal Employment Opportunity (EEO): the opportunity to obtain employment without discrimination based race, color, religion, sex, sexual orientation, national origin, marital status, age, disability or any other protected class as defined by federal and state law.

Equal Employment Opportunity Commission (EEOC): is the federal agency responsible for promoting and enforcing federal equal employment laws that make it illegal to discriminate against a job applicant or employee.

Policy:

The State Library Board of Trustees and management supports the spirit and the letter of equal employment opportunity laws, rules and regulations and affirmative action concepts and the right of all persons to work and advance on the basis of merit, ability, and potential.

As part of their performance evaluation, the State Librarian and managers will be evaluated, in part, on their efforts and accomplishments in promoting the respectful workplace, affirmative

action and equal employment opportunity goals and objectives of the agency. Agency divisions are accountable to promote a respectful workplace, which honors diversity and promotes understanding and success for all employees.

The State Library remains committed to maintaining an organization of inclusion with a positive work environment through on-going and equitable employee and division training and development opportunities.

As an equal opportunity employer, the State Library strives to eliminate the effects of past and present discrimination, intended or unintended, which are evident by analysis of present employment patterns and practices.

The State Library will assertively seek to attract qualified applicants from diverse backgrounds to improve the hiring opportunities of underrepresented persons. The best suited candidate selected for the position is the individual who meets the minimum qualifications of the position and best serves the need of the agency at the time the selection decision is made. It may not be the person with the highest score, the most experience, or the best education.

The State Library will continue its adherence to established nondiscrimination and affirmative action precepts in screening and selecting contractors and appointing advisory committee members.

The State Library will not discriminate or tolerate discrimination, against any employee because they are a member of, apply to be a member of, perform, has performed, applied to perform or have an obligation to perform service in a uniformed service.

An individual, who believes they were denied employment with the State Library based on any of the aforementioned discriminatory factors, may request a review of the decision by contacting the State Library's Affirmative Action Representative at (503) 378-3635.

An employee or volunteer who feels they have been harassed or discriminated against are encouraged to bring such behavior to the attention of agency management or the Affirmative Action Representative as outlined in the Oregon State Library Procedures for Reporting Inappropriate Behavior in the Workplace (Attachment A).

If the concern is not resolved to the satisfaction of the individual, they may contact the Office of Diversity & Inclusion/Affirmative Action, (503) 986-6524, or the Oregon Bureau of Labor and Industries (BOLI) in Salem at (503) 731-4075 ext 1 or in Portland at (971) 673-0761.

The State Library shall maintain a current copy of the Affirmative Action and Equal Employment Opportunity policy and Affirmative Action Plan on its website at: www.oregon.gov/OSL to make it available for staff and volunteers to review, as well as to organizations served by the State Library.

OREGON STATE LIBRARY

PROCEDURES FOR REPORTING INAPPROPRIATE BEHAVIOR IN THE WORKPLACE

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 under the Maintaining a Professional Workplace policy 50.010.03.

The following procedures should be followed by employees and volunteers who wish to bring incidents of alleged inappropriate behavior in the workplace to the attention of State Library management.

- Employees and volunteers are encouraged to bring all incidents of alleged inappropriate behavior in the workplace to the attention of their manager or any Program Manager, the Human Resources Manager, and/or the State Librarian.

- Employees and volunteers should follow the Discrimination and Harassment Free Workplace policy 50.010.01 for reporting alleged discrimination and harassment based on or because of a person's protected class status as defined by state and federal law.

- If the alleged inappropriate behavior does not fall under the Discrimination or Harassment Free Workplace policy, employees and volunteers should follow the procedures listed in Step 1.

- State Library management, employees, and volunteers are prohibited from retaliating against employees or volunteers who bring allegations of inappropriate conduct or cooperate with the investigation of such allegations.

Step 1

- Employees or volunteers may make a verbal or written complaint. Report the complaint to your Program Manager, the Human Resources Manager, the State Librarian or any Program Manager as soon as possible after the incident of alleged inappropriate behavior. Employees may have a union steward accompany them during regular work hours while reporting the complaint.

- Complaints should include the name of the person filing the report, the name of the complainant, the name of the person(s) alleged to have engaged in the inappropriate conduct, a specific and detailed description of the conduct the employee believes is inappropriate, including the date(s) and time(s), and a description of the remedy the employee is seeking, if any.

- If the complaint is assessed to be a discrimination or harassment complaint, the manager will assist the employee in following the appropriate complaint procedures.

- The manager receiving a complaint will immediately contact the Human Resources Manager and/or State Librarian and provide a written report of the complaint. If the alleged behavior creates a safety, security or ethical risk for the agency, staff or volunteers, appropriate action will be taken to ensure the safety and security of the agency and personnel.

Step 2

- In collaboration with the State Librarian, the Program Manager or Human Resources Manager will investigate the alleged inappropriate behavior and report the findings of that investigation to the State Librarian. Investigations will be conducted in accordance with all applicable laws, the collective bargaining agreement, and state policies and procedures. The investigation report will document evidence regarding the alleged conduct, a conclusion regarding the conduct, and will recommend corrective action, if any.

- Management will maintain confidentiality of the person making the report and the behavior reported to the extent possible, as determined by the nature and facts of the case.

- The Program Manager and/or the Human Resources Manager will meet with the reporting employee if requested to engage in a discussion of ways to support the employee in responding to the situation.

- The Human Resources Manager and the State Librarian will ensure that prompt and appropriate corrective action occurs as warranted by the conclusion of the investigation report.

Procedural complaint resources for reporting Discrimination and Harassment include:

- DISCRIMINATION AND HARASSMENT FREE WORKPLACE POLICY:
  - http://www.oregon.gov/DAS/CHRO/docs/advice/p5001001.pdf
- Discrimination complaints may also be made directly to the Governor's Director of Affirmative Action at: (503) 378-3544.
- ADA AND REASONABLE ACCOMODATION IN EMPLOYMENT POLICY:
  - http://www.oregon.gov/DAS/CHRO/docs/advice/p5002010.pdf
- ADA Resource List:
  - http://www.oregon.gov/DAS/CHRO/docs/advice/ada_resource_list_nov_2011.pdf

Other options for filing complaints include:

- Oregon Bureau of Labor and Industries (BOLI) – (503) 378-3292
- Equal Employment Opportunity Commissions (EEOC) - (800) 669-4000
- American with Disabilities Act (ADA) – (800) 514-0301

- DAS/SEIU COLLECTIVE BARGAINING AGREEMENT:
    - ARTICLE 21—Grievance and Arbitration Procedure
    - ARTICLE 22—No Discrimination
        - http://www.oregon.gov/DAS/HR/docs/lr/0911SEIUSpecials.pdf

Nothing in this procedure precludes any person from filing a formal grievance in accordance with the collective bargaining agreement, BOLI, EEOC, U.S. Department of Justice or any other law enforcement agency.

AGENCY DIVERSITY AND INCLUSION STATEMENT

The Oregon State Library provides a leadership culture that fosters and embeds Diversity and Inclusion throughout its operations, both internally with staff and externally with public members, stakeholders and/or partners by increasing diverse and multicultural perspectives, improving business and service delivery outcomes, increasing certified firm contracting inclusion, improving individual and organizational cultural competences, improving organizational accountability, maximizing taxpayer dollars, and improving public confidence and community relations.

TRAINING, EDUCATION AND DEVELOPMENT PLAN

The State Library supports employee training and development priorities that relate directly to its mission and goals and follows the Employee Training and Education policy in connection with the Employee Development and Implementation of Oregon Benchmarks for Workforce Development policy 50.045.01.

The Affirmative Action (AA) Plan is communicated to our staff and volunteers through new employee or volunteer orientation.

1. Employees

   - New State Library employees are required to read and discuss the agency AA Plan and policy; they also receive instruction on complaint procedures and training on the practical application of policy in the workplace.
   - The AA Plan, Affirmative Action and Equal Employment Opportunity (AA/EEO) policy, American's with Disabilities Act (ADA) and Reasonable Accommodation in Employment policy, ADA in Employment Resource Guide, Discrimination and Harassment Free Workplace policy, and the Maintaining a Professional Workplace policy are posted on the State Library's intranet for easy access by library employees.
   - A hard copy of the following policies and procedures are posted on a bulletin board in the Break Room: Discrimination and Harassment Free Workplace policy, Maintaining a Professional Workplace policy, ADA and Reasonable Accommodation in Employment policy, ADA in Employment Resource Guide, Agency poster that contains the Affirmative Action Representative contact information; AA/EEO policy that include the Oregon State Library Reporting Inappropriate Behavior in the Workplace, and the Equal Employment Opportunity is the Law poster.
   - All recruitment announcements and advertisements for State Library positions contain the statement, "The State Library is an equal employment opportunity and affirmative action employer committed to workplace diversity."
   - Program Managers meet with staff annually to discuss accomplishments, division/agency participation activities, and development goals to evaluate employee's performance for the prior year.
   - Program Managers coach staff to ensure each employee identifies three to five educational and development goals for the coming year that include methods for addressing goals as outlined in the employee's performance review form.
   - Each employee is encouraged to accomplish a minimum of 20 hours training per year.
   - The agency recognizes the desirability of promoting career advancement and enrichment for employees and gives first consideration to qualified employees within the agency, as defined in the DAS/SEIU Collective Bargaining Agreement.
   - Employees and managers collaborate to schedule any additional training needs.
   - The State Library also offers agency specific training such as, New Employee Team Training (NETT), Accountability training, EAP in-house sessions, and Cultural Competency and Diversity training.

The mission of the Oregon State Library is carried out by staff members who share the core values of the Library. The six shared values are:

- Accountability and Integrity
- Customer Service

- Open Communication
- Leadership
- Teamwork
- Creativity and Innovation

The State Library commits to recognizing and reinforcing these shared values through its strategic planning, budget, policies, procedures, and performance expectations and evaluations. Staff attends division meetings at least monthly to discuss progress on division-related business.

As an organization, we work together to provide excellent service and create positive workplace within divisions and across the agency. The State Library has formed "Library Council," an advisory group to managers, which is made up of staff, managers, and the State Librarian. Library Council supports the operations of the State Library by promoting communication and coordination among divisions, and serves as a forum for staff concerns and agency-wide issues.

The Library Council meets monthly, sets goals for six agency standing committees, and sponsors the agency's "All Staff Briefings" (quarterly meetings) that are intended for employee recognition and information sharing. A Chair is selected for each standing committee who presents a quarterly committee activity report to Library Council. Standing committees include the following:

- Charitable Activities – plan and organize state sponsored activities (Food Drive)
- Cultural Competency – promote and recommend staff cultural development opportunities
- Green Team – educate, plan, and monitor resource energy conservation
- Safety and Security – recommend safety and security improvement (Safety Drills)
- Wellness – promote and plan health related activities and resources

2. Volunteers

   - All State Library volunteers review and discuss the AA/EEO policy, workplace expectations and complaint procedures as outlined in the Volunteer Handbook as part of their volunteer orientation training.
   - In the spirit of inclusiveness, the Cultural Competency Committee invites volunteers to participate in selected Cultural Competency in-house activities. Events include: Video Viewing and book groups. The Volunteer Program Coordinator notifies volunteers of activities. The Volunteer Program Coordinator, Division Volunteer Coordinator, and Volunteer may discuss options when an event is in conflict with their regular scheduled volunteer service hours.

3. Contracts/Vendors

   - The State Library uses contract service providers infrequently and does not provide Affirmative Action training for those occasional providers.
   - The State Library does not currently provide Affirmative Action training to vendors. Our vendors are primarily regional or national information service companies which provide electronic access to information, but do not directly have contact with Oregon citizens or State employees.

PROGRAMS

1. Internship Program

The State Library provides Internships for students who are enrolled in Library school or a relevant college program, and when the State Library identifies a specific need for a project or task to achieve the mission and goals of the State Library and provide work experience opportunities to grow the library workforce. There are two categories of Interns:

- Unpaid: The Intern is considered a volunteer for the State Library and will receive no pay for the work performed. The State Library will work to fulfill the Library school curriculum requirements for the student to receive course credits.

- Paid: The Intern is paid for the work performed and is hired as a state temporary employee.

The Program Manager follows procedures as outlined in the Internship Program guidelines in Appendix A. The State Library does not automatically offer employment within the agency after the internship is completed. The Library plans to reach out to past interns who may qualify for positions when we have vacancies. We also plan to collect demographic data on our interns to assess our ability to reach a diverse audience.

2. Community Outreach Program

- Government-to-Government Outreach

The State Library works towards implementing initiatives to strengthen our relations with Oregon tribes and to work with them in developing tribal libraries to serve tribal communities. We are committed to helping improve library services for tribal people as communicated in our annual Government to Government report to the Legislative Commission on Indian Services.

Our goal to collaborate with tribal librarians to promote the use of statewide database products in their libraries was successful. We currently have five tribal libraries with accounts with the Statewide Database Licensing program.

Tribal library staff is invited to participate in State Library-sponsored tours, library workshops and training sessions. In April of this year, ten State Library staff visited the Grand Ronde Tribal Library through an event set up by our Cultural Competency Committee. The visit included a tour of the library space, an overview of the services, collections, and community, and a presentation on the history and cultures of the peoples.

3. Diversity Initiative Program

The State Library continues to carefully implement a well-researched cultural competency initiative which was begun in 2003. During 2004, staff were recruited for a task group to help define and support an agency-wide Cultural Competency Initiative (CCI), and all staff were encouraged to participate in cultural education, training and discussion events sponsored by

the library and other state and local agencies. Also, the State Library Board of Trustees agreed to provide support for the CCI.

Throughout 2006 and 2007, the State Library implemented the Cultural Competency Initiative, which resulted in increased learning opportunities for the whole agency. The CCI task force chose to mix mandatory training sessions with a wide range of additional learning opportunities for staff to select from. All staff participates in a variety of learning events, with each event including lively discussions and active participation. The Cultural Competency Initiative has achieved positive outcomes thus far and has become a standing committee of the agency.

Cultural issues as they relate to both services and employee relations are now legitimate topics of planning and discussion. Setting goals and outcomes that relate to equity in services, employment and respectful work environment are a formal part of library conversations, management and planning. Beginning in January 2015, our Cultural Competency Committee will become a cross-division workgroup, giving it more weight and attention than a committee.

We support our Cultural Competency Workgroup, which helps the library focus more effectively on providing and promoting library services to Oregon's diverse population, as well as providing a more welcoming environment for all employees.

All staff members are encouraged to attend additional outside diversity workshops and cultural awareness events.

An assortment of activities provides ways for staff to increase their cultural awareness, foster a learning environment at the State Library around cultural competency, and actively participate in discussions and feedback sessions.

UPDATE: EXECUTIVE ORDER 08-18

1. Cultural Competency Assessment and Implementation Services

The State Library continues to implement our Cultural Competency Initiative in the areas of staff training in diversity, prevention of harassment, promoting cultural competence in the workplace, and outreach to potential library users.

The State Library will be reviewing our need for a Cultural Competency Assessment during the 2015-2017 biennium.

2. State Exit Interview Survey

The State Library has 41 positions (4 management and 37 classified represented).

Effective July 1, 2010, employees departing from the State Library will be encouraged to complete the State on-line Exit Interview survey **only**. We will begin giving this survey to out-going student workers, where there is more turnover. Data will be collected to identify trends and results will be reviewed periodically to assess agency environment improvements.

3. Performance Evaluations of all Management Personnel

The managers consist of the State Librarian/Director (PEMG), Business Manager (FA3), and two Program Managers (PEMD). The State Library Board of Trustees develops the evaluation process for the State Librarian (executive service) position.

In 2008, the managers worked with the Department of Administrative Services, Human Resources Services Division staff, to revise our performance management system for five (5) management service staff. In the past, we have used a "scored numbered" system. Our goal was to revamp the current management performance evaluation process for management staff by the end of the year. The objective was to mirror the performance review process we have in place for classified service staff. The revised resource tools used for the management performance review process includes a flowchart and procedures, performance management form, and an e-survey.

Managers receive feedback annually on their accomplishments and development goals by their divisions, peers, agency committee members, external customers, and the State Librarian in six performance measure areas (results, customer service, team-building, effective communication, strategic thinking and affirmative action.)

In addition to other essential job duties, affirmative action and diversity are key elements of our management positions and are included in each manager's position description. Each manager is evaluated on their role of taking proactive steps to achieve AA/EEO objectives; ensuring staff are knowledgeable about AA/EEO; promoting a discrimination/harassment free workplace; and fostering and promoting a diverse workforce and environment.

The State Librarian meets with the manager to discuss evaluation feedback, expectations, establish a development plan, and provide his comments.

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

The Oregon State Library has awarded five personal services contracts during Fiscal Year 2014. The state library follows Oregon Department of Administration's procurement policy and procedure to ensure that the pool of responders is as varied as possible. Women-and minority-owned businesses are selected when available.

Contracts awarded:

- Tim Barnes $1,000
- Danielle Plumber $1,000
- Barbara Steinburg $350
- Deborah Gitlitz $350
- Coraggio Group $30,000

III. ROLES AND RESPONSIBILITIES FOR IMPLEMENTATION OF AFFIRMATIVE ACTION PLAN

Responsibility and Accountabilities

The *State Library Board of Trustees* provides direction and resources to support the Affirmation Action Plan. The Board is committed to the use of Affirmative Action precepts in

making appointments to the Government Information and Library Services Advisory Council, which advises the staff on the Government Information and Library Services Program; the Oregon Talking Book and Braille Library Advisory Council, which advises the Board on services to Oregonians with print-disabilities; and the Library Services and Technology Act Advisory Council, which advises the Board on the use of federal library development funds. The Board evaluates the State Librarian, in part, on effective implementation of the Affirmative Action Plan, Affirmative Action and Equal Employment Opportunity (AA/EEO) policy, and the ADA and Reasonable Accommodation in Employment policy.

1. Director

The *State Librarian* has overall responsibility for compliance with policy and achievement of the Affirmative Action goals to which the Library is committed, and will provide leadership to managers, monitor progress toward meeting plan goals and objectives, and ensure compliance with applicable federal and state laws, rules, regulations and executive orders. The State Librarian is evaluated based on her effectiveness in achieving affirmative action objectives. The State Librarian participates in quarterly managers discussions of AA/EEO goals and progress, and participates in Cultural Competency activities along with all other staff. In the evaluation of the performance of agency managers, the State Librarian ensures that their work performance reviews will include evaluation of their affirmative action efforts and accomplishments.

2. Managers

Agency Program Managers are accountable to the State Librarian for carrying out the Affirmative Action Plan and are evaluated based on their effectiveness in achieving the agency's affirmative action objectives. They are responsible for:

- Reviewing recruitment practices to ensure processes are inclusive and offer opportunities for transfer and promotion;
- Promoting a diverse and discrimination and harassment free workplace;
- Attending equal opportunity, affirmative action and cultural competency training in order to be informed of current affirmative action laws and issues, and develop knowledge and skill for working with a diverse workforce and public;
- Initiating actions to assist women, people of color, persons with disabilities, and older workers in overcoming impediments to success on the job;
- Encouraging upward mobility among staff by making opportunities available for career development and training, wherever feasible;
- Identifying solutions to overcome barriers to achieving affirmative action goals;
- Applying the precepts of affirmative action in their day-to-day work and in their relations with fellow employees, job applicants, and the general public;
- Maintaining a work environment that is free from harassment and hostility;
- Reporting incidents of alleged discrimination and harassment in compliance with state policy to the Affirmative Action Representative;
- Reporting barriers to affirmative action goals and objectives; and
- Participating in quarterly managers review and discussion of the AA plan goals and progress.

3. Affirmative Action Representative

DAS Enterprise HR and the Executive Assistant are assigned the duties of Affirmative Action Representatives and report directly to the State Librarian. The Affirmative Action Representatives are evaluated based on their effectiveness in achieving the agency's affirmative action objectives. The *Affirmative Action Representatives* are responsible for:

- Disseminating affirmative action information through orientation, training and management consultation;
- Coordinating activities to implement the Affirmative Action Plan;
- Monitoring progress toward affirmative action goals;
- Developing and communicating policies and agency procedures related to AA/EEO;
- Designing performance measures and reporting systems to measure effectiveness of the AA Plan, and reporting progress to the managers on a regular basis;
- Developing or contracting training for staff on AA/EEO issues, workplace harassment and cultural competence;
- Ensuring that agency recruitments are carried out in compliance with AA/EEO goals and assisting managers with efforts to meet affirmative action recruitment and promotion goals;
- Receiving and investigating discrimination complaints in accordance with policies and agency complaint procedures and making recommendations to the State Librarian for appropriate action;
- Ensuring that agency recruitments are free from artificial barriers to employment;
- Attending and participating in the monthly AA Workshop meetings, and
- Participating in quarterly managers review and discussion of the AA plan goals and progress.

Agency Divisions are accountable to Program Managers for carrying out the Affirmative Action Plan. They are responsible for:

- Ensuring division processes and agreements are in compliance with the agency Affirmative Action plan and policy;
- Ensuring volunteers receive orientation and training related to the Affirmative Action plan and procedures for reporting discrimination and harassment concerns or complaints;
- Promoting a respectful workplace that honors diversity and promotes understanding and success for all employees;
- Applying AA/EEO principles during hiring and promotional interviews, and in selecting division members for developmental opportunities; and
- Attending respectful workplace, affirmative action and cultural competency training in order to be informed of current issues and develop knowledge and skill for working in a diverse workplace.

OREGON STATE LIBRARY MANAGEMENT STAFF

State Librarian:	MaryKay Dahlgreen
Program Managers	
Government Information & Library Services:	Margie Harrison
Oregon Talking Book & Braille Library and Library Support & Development Services:	Susan Westin
Business Manager:	Shawn Range

IV. July 1, 2012 – June 30, 2014 Accomplishments and Progress

The State Library's affirmative action plan provides direction for program activities related to: 1) equal employment opportunity, 2) prohibition of illegal discrimination with respect to employment and provision of public services, 3) affirmative action recruiting practices, and 4) developing cultural competence in State Library Staff.

The State Library continues to promote good faith efforts in achieving our Affirmative Action goals to maintain a stable staff of 41 specialized positions.

Accomplishments

1. Maintained our focus on developing a diverse and culturally competent staff.

    - Promoted awareness and respect for the diverse cultures in Oregon through varied communications regarding Black History month, Hispanic Heritage month, Gay and Lesbian Pride month, Women's History month, and Asian Pacific Heritage month.
    - Evaluated managers' performance on Affirmative Action, promoting a diverse workforce and harassment free workplace.
    - Continued implementing Training and Development Plans for employees with an emphasis on cross-training for career opportunities and training for cultural competence.
    - Maintained an average of 20+ hours of training per year for all staff.
    - Notified staff by email of career opportunities from other state agencies.

Progress made or lost since previous biennium

Our total under-representation as of June 30, 2014 was 4.7 below parity, which at this point does not meet our 2013-15 target biennial goal of 3.4. We have continued to achieve parity for women in the professional, and management categories.

The Library has met or exceeded parity goals for women in the Official/Administrator (Upper Management SR31+) category. We have met or exceeded parity goals for people with disabilities in the Administrative Support category.

We are under goal for women in the Professional (Computer Analyst) category, for people of color in the Official/Administrator, Professional, and Administrative Support (Upper Management, Accounting/Finance, Program Coordinator) categories, and for people with disabilities in the Official/Administrator (Upper Management) and the Professional (Computer Analyst, Librarian/Archivist, Accounting/Finance and Program Coordinator) categories.

We continued to work closely with the Governor's Affirmative Action Office and other State agencies to enhance Oregon State government's enterprise ability to recruit and retain qualified women, people of color and persons with disabilities.

OREGON STATE LIBRARY (54300)
AFFIRMATIVE ACTION PROGRESS REPORT for June 30, 2014

STATISTICS - EEO CATEGORY - 6/30/14	TOTL EMP	MEN EMP	MEN %	WOMEN EMP	WOMEN %	WOMEN PARITY	WOMEN GOAL	WOMEN < GOAL	POC EMP	POC %	POC PARITY	POC GOAL	POC < GOAL	PWD EMP	PWD %	PWD PARITY	PWD GOAL	PWD < GOAL
A02 - UPPER MANAGEMENT (SR 31+)	3	0	0.00%	3	100%	37%	1.0		0	0%	12%	0.3	0.3	0	0%	6%	0.1	0.1
A OFFICIAL/ADMINISTRATOR	**3**	**0**	**0.00%**	**3**	**100%**				**0**	**0%**			**0.3**	**0**	**0%**			**0.1**
B10 - PERSONNEL/EMPLOYMENT	0	0	0%	0	100%	58%	0.0		0	0%	12%	0.0		0	0%	6%	0.0	
B12 - COMPUTER ANALYST	2	2	100%	0	0%	32%	0.6	0.6	1	50%	13%	0.3		0	0%	6%	0.1	0.1
B14 - LIBRARIAN/ARCHIVAL SPECIALIST	10	2	20%	8	80%	70%	7.0		2	20%	10%	1.0		0	0%	6%	0.6	0.6
B15 - ACCOUNTING/FINANCE/REVENUE	2	1	50%	1	50%	53%	1.0		0	0%	13%	0.2	0.2	0	0%	6%	0.1	0.1
B16 - PROGRAM COORDINATOR/ANALYST	2	0	0%	2	100%	41%	0.8		0	0%	10%	0.1	0.1	0	0%	6%	0.1	0.1
B PROFESSIONALS TOTAL	**16**	**5**	**37%**	**11**	**63%**			**0.6**	**3**	**19%**			**0.3**	**0**	**0%**			**0.9**
F00 - ADMINISTRATIVE SUPPORT	17	6	35%	11	65%	70%	11.9	0.9	0	0%	10%	1.6	1.6	1	6%	6%	1.0	
F ADMINISTRATIVE SUPPORT TOTAL	**17**	**6**	**35%**	**11**	**65%**			**0.9**	**0**	**0%**			**1.6**	**1**	**6%**			
TOTALS:	**36**	**11**	**31%**	**25**	**69%**			1.5	**3**	**8%**			2.2	**1**	**3%**			1.0

Target: 2013-15 Biennium Goal: 3.4

The Oregon State Library (OSL) will continue to strive to maintain an under-representation of 3.4 for its Affirmative Action biennial goal. We will also continue to pursue recruitment techniques to more effectively reach and attract women, people of color (POC), and persons with disabilities (PWD) to help increase the applicant pool of qualified people. Despite our on-going efforts, the pool of qualified people of color and people with disabilities applying for our positions has remained very small. We have continued to achieve parity for women in the professional and management categories.

		2013-15 Parity Goal Results
AA Report Ending 6/30/2014	**4.7**	Does not meet target 3.4 parity goal
	4.7	Last report 3/31/14
	0.0	Difference from prior report period

	OSL Results	
Target 2009-11 Biennium Goal: 3.4	5	Not met above parity goal
Target 2007-09 Biennium Goal: 4.0	3.4	Met below parity goal

Definitions:

Adverse Impact: a substantially different rate of selection in hiring or other employment decisions, which works to the disadvantage of members of a particular group.

Affirmative Action Plan: a written document including goals and objectives which delineates the steps an agency will take to provide equal opportunity within its workforce.

Goal: a target express as both a number and percentage for placing protected group members in a job group for which underutilization exists.

Job Categories: the eight categories designated by the Equal Employment Opportunity Commission for Affirmative Action reporting to federal agencies: Officials and Administrators, Professionals, Technicians, Protective Service Workers, Paraprofessional, Office and Clerical, Skilled Craft, and Service and Maintenance.

Job Group: one or more job classes having similar job duties, salary range, career ladders, and recruitment area and having enough incumbents to allow for a useful utilization analysis (50 or more).

Parity: a condition where percentage of the representation of a protected group in the workforce, occupational category, job group or class equals the percentage of such persons in the availability base.

Underutilization: a condition where the percentage of representation of a protected group in the workforce, occupational category, job group or job classes is less than the percentage of such persons in the availability base.

V. July 1, 2013 – June 30, 2015 Goals, Strategies and Timelines

Goals for Our Affirmative Action Plan

The State Library is committed to broad representation of the diverse communities of Oregon in our workforce. The library currently employs 69% women (52% state workforce), 8% people of color (14% state workforce) and 3% persons with disabilities (3% state workforce). In a profession which predominantly educates and employs women, it is our goal to continue to identify, recruit and hire qualified underrepresented candidates whenever possible.

The State Library will continue to strive to achieve an under representation of 3.4 for its Affirmative Action 2015-17 biennial goal. Despite our on-going efforts, the pool of qualified people of color applying for our positions remains small. We will continue to pursue recruitment techniques to more effectively reach and attract women, people of color, and persons with disabilities to help increase the applicant pool of qualified people applying for our vacancies. Our primary recruitment targeted goal will be to recruit and hire people of color and people with disabilities in the Professional and Administrative Support categories.

The State Library's six year Affirmative Action plan is to work toward a full representation of women, people of color, and persons with disabilities, and to maintain a workplace that is actively supportive of diversity and respect for both patrons and employees.

Our long term strategies are:

1. To enhance our visibility and contacts with communities of color in Oregon to aid in recruiting.

2. To participate in partnerships to increase interest in library careers and scholarships for students.

3. To maintain our focus on developing a diverse and culturally competent staff.

Strategies and Timelines for achieving our goals:

1. Enhance our visibility and contacts in communities of color in Oregon to aid in recruiting. (July 2015 – June 2017)

    - Participate in partnerships to increase interest in library careers and scholarships for students of color. (July 2015 – June 2017)
    - Announce professional openings to state library agencies in other states to encourage people of color and people with disabilities to apply. (As vacancies occur)
    - Work with the state Governor’s Diversity & Inclusion/Affirmative Action Office and other small state agencies to promote the State of Oregon in general, and the State Library in particular as an employer of choice for job seekers. (July 2013 – June 2015)
    - Send notice of professional openings to national organizations of library professionals. (As vacancies occur)
    - Engage in outreach efforts, via e-mail or other means, to colleges and universities to recruit women, people of color, or persons with disabilities. (As vacancies occur)

- Maintain a school-to-work program to interest a diverse group of middle, secondary and college age students to consider careers in library sciences and government service. (On-going project)

2. Maintain focus on developing a diverse and culturally competent staff:

    - Continue support for the agency-wide cultural competency initiative. (July 2015 - June 2017)
    - Promote and provide training opportunities for State Library staff to develop cultural competence. (Quarterly, July 2015 – June 2017)
    - Promote celebration of events important to diverse cultures throughout the year. (On-going)
    - Increase cultural competency of State Library programs and services through assessment of programs and materials. (2015-2017)
    - Provide Library Services and Technology Act grants to help local libraries fund innovative projects to assess service needs, develop collections and reach out to diverse populations and encourage their use of local library services and interest in library careers. (July 2015 – June 2017)
    - Fund innovative projects to assess needs, develop adaptive technologies, and promote improved library services to people with disabilities. (July 2015 – June 2017)
    - Continue implementing Training and Development Plans for all employees. (On-going)
    - Notify employees of career opportunities in other state agencies. (As vacancies occurs)
    - Counsel employees about career and personal growth opportunities. (On-going)

Our long term goal is to develop an agency that reflects the diversity of Oregon and is competent to carry out our mission by providing leadership and services that support inclusion and culturally competent library service delivery for all of the diverse employees and citizens of the state of Oregon.

VI. APPENDIX A

Agency's Policy Documentation

DEPARTMENT OF ADMINISTRATIVE SERVICES HUMAN RESOURCE SERVICES DIVISION	
ADA AND REASONABLE ACCOMMODATION IN EMPLOYMENT **STATE POLICY 50.020.10**	
Approved: Signature on file with Human Resource Services Division	Effective Date: 6/7/10

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.

DEPARTMENT OF ADMINISTRATIVE SERVICES HUMAN RESOURCE SERVICES DIVISION	
DISCRIMINATION AND HARASSMENT FREE WORKPLACE **STATE POLICY 50.010.01**	
Approved: Signature on file with Human Resource Services Division	Effective Date: 1/25/08

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 that 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.

(1) 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.

(a) Discrimination, Workplace Harassment and Sexual Harassment. The State of Oregon provides a work environment free from unlawful discrimination or workplace harassment based on or because of an employee's protected class status. Additionally, the state of Oregon provides a work environment free from sexual harassment. Employees at every level of the organization, including state temporary employees and volunteers, must conduct themselves in a business-like and professional manner at all times and not engage in any form of discrimination, workplace harassment or sexual harassment.

(b) Higher Standard. Managers/supervisors are held to a higher standard and are expected to take a proactive stance to ensure the integrity of the work environment. Managers/supervisors must exercise reasonable care to prevent and promptly correct any discrimination, workplace harassment or sexual harassment they know about or should know about.

(c) Reporting. Anyone who is subject to or aware of what he or she believes to be discrimination, workplace harassment, or sexual harassment should report that behavior to the employee's immediate supervisor, another manager, or the agency, board, or commission Human Resource section, Executive Director, or chair, as applicable. A report of discrimination, workplace harassment or sexual harassment is considered a complaint. A supervisor or manager receiving a complaint should promptly notify the Human Resource section, Executive Director, or chair, as applicable.
(A) A complaint may be made orally or in writing.
(B) A complaint must be filed within one year of the occurrence.
(C) An oral or written complaint should contain the following:
(i) the name of the person filing the report;
(ii) the name of the complainant;
(iii) the names of all parties involved, including witnesses;
(iv) a specific and detailed description of the conduct or action that the employee believes is discriminatory or harassing;
(v) the date or time period in which the alleged conduct occurred; and
(vi) a description of the remedy the employee desires.

(d) Other Reporting Options. Nothing in this policy prevents any person from filing a formal grievance in accordance with a CBA, or a formal complaint with the Bureau of Labor and Industries (BOLI) or the Equal Employment Opportunity Commission (EEOC) or if applicable, the United States Department of Labor (USDOL) Civil Rights Center. However, some CBAs require an employee to choose between the complaint procedure outlined in the CBA and filing a BOLI or EEOC complaint.

(e) Filing a Report with the USDOL Civil Rights Center. An employee whose position is funded by the Oregon Workforce Investment Act (WIA), such as employees of the Oregon Workforce One-stop System, may file a complaint under the WIA, Methods of Administration (MOA) with the State of Oregon WIA, MOA Equal Opportunity Officer or directly through the USDOL, Civil Rights Center. The 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 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 State 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%

Oregon State Library Policy	
Employee Training and Education	
Approved by: Jim Scheppke, State Librarian	Date: 8/1/10

Policy Statement: It is the policy of the Oregon State Library to support employee training and development priorities that relate directly to the State Library's mission, goals, and vision.

Authority: DAS Policy: Employee Development and Implementation of Oregon Benchmarks for Workforce Development 50.045.01; DAS/SEIU Collective Bargaining Agreement, Article 121.5 (Education, Training, and Development)

Applicability: All State Library employees

Attachments: Agency-Wide Training Plan, Training Request Form

Definitions:

Competency training includes but is not limited to knowledge or skills which help improve performance in one's current job such as software skills, job related technical and analytical skills, equipment use, applicable policies, organizational processes, cultural competence, and customer service skills**.**

Career-related training includes programs which develop readiness to assume new essential job functions or choose among job opportunities within state government.

Division Development training includes topics such as team-building, communication, effective division meetings, facilitation, conflict resolution, performance measurement and problem-solving.

Work Environment-related training includes topics such as employee diversity, safety, organizational values, preventing harassment, and other programs to build understanding of state government or organizational culture and priorities.

Appointing Authority: State Librarian or designee.

Policy:

In order to achieve and maintain a highly effective and efficient organization that delivers quality customer service in a sustainable way, it is the policy of the Oregon State Library that employee training and development will receive the support and resources needed to ensure that each employee receives an effective orientation to their job and continues to receive a minimum of 20 hours of *Competency, Division, Career and Work Environment* related training each year.

The Library remains committed to maintaining an organization with a positive work environment through on-going and equitable employee and division training and development opportunities. The OSL Agency-wide Training Plan (Attachment 1) outlines the priorities, goals and objectives.

Training and Development Priorities:
Specific training and development priorities shall relate directly to the State Library's mission**,** goals, and vision. The training priorities for employees shall encompass competency, work environment-related, division development, and career-related training.

Individual Employee Development Objectives:
The employee and the Program Manager shall annually develop an individual Employee Training and Development Plan. The purpose of the plan will be to ensure continuous improvement in the employee's competence to perform a specific job, state government career, teamwork skills, and contributions to the work environment for the mutual benefit of the employee and State Library.

Responsibilities:

Program Managers: Coach staff to ensure that each employee has an up-to-date Training and Development plan, and that training opportunities are identified to complete that plan. Identify and communicate appropriate training opportunities for division members. Periodically review employee training activities to provide coaching and resources to carry out the development plan.

Human Resources Manager: Provide assessment, planning and direction for agency training efforts. Provide career development counseling to individual employees. Partner with Program Managers, other state agencies and private providers to identify, coordinate or deliver appropriate training opportunities.

Operations Division: Evaluate and report training statistics and outcomes to the managers. Determine funding allocations for the Library's biennial budget to support the training plan. Establish and maintain procedures and systems for documenting, tracking, and reporting employees training.

Library Council: Monitor agency-wide training needs and proposes agency-wide training priorities and objectives, including the development and implementation of general skills training for all staff and new employee basic division training. Improve access to team-building tools and resources, e. g. books, new information, exercises, problem solving, and facilitators and consultants. Monitor division functioning and agency climate through surveys and other tools and use results to make training and division development recommendations.

Division Members: Develop an annual division training plan. Implement individual division member development plans. Monitor division training funds and data enter training hours into the iLearn system.

Approval Criteria for Training and Education request:
Availability of budgeted funds;
Alignment with agency, division and position priorities and goals;
Ability to meet operating requirements while employee attends training;
Positive impact on team development and effectiveness;
Training is needed to improve effectiveness in the employee's present job;
Training is needed because of changes and/or additions to the employees job duties;
Training is part of established career development goals that will benefit the agency.

Training Request Form:
Submit completed registration form or confirmation of enrollment with the OSL Training Request Form (Attachment 2) to the Accountant in LAS for payment. Data enter training hours into the iLearn system.

Training and Education Budget:
Training Funds will be allocated each Biennium between division budgets managed by divisions and Program Managers.

The funds allocated in the training and education budget may be utilized in a variety of ways:

- to enhance on-the-job training
- to purchase training or development materials
- to design, develop and deliver training and development programs
- to send employees to external training or educational courses
- to register for library professional conferences and seminars (i.e., ALA, OLA, and SLA)

Examples of expenses which may be totally or partially allowed in compliance with state accounting rules:

- Registration fees
- Course materials except textbooks
- Salary, transportation, meals, and lodging for course participants. All travel requests are subject to State travel rules and approval by the State Librarian.

Continuing Education:
To supplement on-the-job training and classroom training, employees may request leave and/or funding to attend education courses offered by accredited educational institutions. To be considered for funding, the employee must show that the training will benefit the Library, either through job improvement or career development within the Library or State government.

When an employee requests funding for continuing education a determination will be made by the Program Manager and appointing authority whether the Library will pay any portion of the cost. Major considerations will be the amount of training funds available, the priority of the training need, and the number of people requesting financial assistance. To be eligible for funding for continuing education:

- Employee must be a permanent, regular status employee.
- Employee must obtain prior approval in writing from their Program Manager and the appointing authority.

- Employee must successfully complete the course, as evidence, submit one or more of the following to their Program Manager and to the Accountant:
    - Documentation of a passing grade
    - Certificate of completion
- After completion of an educational course or program for which the State Library has provided any funding, the employee agrees to remain in State service for a period of at least six (6) months.
- Employee shall also agree that in the event he/she does not fulfill the six month commitment, he/she shall reimburse to the State an amount of any reimbursement proportionate to the unfulfilled portion of the commitment.

If one or more of the above criteria are not met, the employee may forfeit reimbursement, or may be required to repay any agency expenditures.

Educational Leave:
Employees may request leave without pay for continuing education. Such leaves may be granted by the Appointing Authority in compliance with the collective bargaining agreement and State policy.

Attachment 1

OSL AGENCY-WIDE TRAINING PLAN

Priorities and Objectives

Our training priorities are:

a. Continue division skills development and training
b. Contribute to achieving a high performance organization
c. Advance professional and technical competencies
d. Support employee's development of workplace and career skills

All of these priorities relate directly to the State Library's mission of providing excellent library services to state government, development of local library services, and service to print-disabled Oregonians.

Training goals:

To accomplish a minimum of 20 hours training per employee per year, with an overall staff average of 45 hours per employee per year.

Objectives:

-Provide two agency-wide training sessions per year

-Continue the emphasis on Division Development progress:
Continue a division training core program for new staff
Provide division training curriculum for continued division/staff development
Provide training in division performance evaluation methods
Assess division development progress
Develop and support in-house division training resources
Support Program Manager advanced training opportunities
Use local resources for division training

-Development of professional and technical competencies:
Provide opportunities for information technology skills training
Encourage and support staff wishing to attend Emporia State University Oregon MLS program
Research and consider Project Management training

-Workplace skills development:
Provide regular First aid/CPR training for staff
Provide training/guidelines in working with volunteers and workers on special programs

-Support agency directed training, workplace or individual employee competency training either due to employee deficiency or agency need

Attachment 2

OSL TRAINING REQUEST FORM

EMPLOYEE NAME: _____ **DIVISION:** _____

NAME OF TRAINING: _____ **LOCATION:** _____

DATES OF TRAINING: _____ **TOTAL TRAINING HOURS:** _____

REASON FOR TRAINING: _____

ESTIMATED EXPENSES

REGISTRATION FEE:	$	
OTHER ESTIMATED COSTS: (explain) **NOTE:** For out of state travel complete the travel estimate form for approval.	$	
	$	
TRANSPORTATION:	❑ Motor Pool ❑ Private Car (complete form to use personal vehicle) ❑ Other _____	

EMPLOYEE SIGNATURE: _____ DATE: _____

PROGRAM MANAGER SIGNATURE: _____ DATE: _____

STEP 1: **On-line Registration**: Register on-line or by email when possible. Print on-line confirmation and attach to this *OSL Training Form*

-OR-

Hard Copy Registration: Complete registration form and attach to this *OSL Training Form*.

STEP 2: Submit completed Registration and OSL Training forms to the Accountant in LAS for payment.

STEP 3: Data entry training and hours into the iLearn system.

(*Updated 8/10)*

DEPARTMENT OF ADMINISTRATIVE SERVICES HUMAN RESOURCE SERVICES DIVISION	
EMPLOYEE DEVELOPMENT AND IMPLEMENTATION OF OREGON BENCHMARKS FOR WORKFORCE DEVLEOPMENT **STATE POLICY 50.045.01**	
Approved: Signature on file with Human Resource Services Division	Effective Date: **07/19/95**

APPLICABILITY: Classified (where not in conflict with the collective bargaining contract), management service, executive service and unclassified unrepresented employees

REFERENCE: ORS 240.145(3)(4); 240.250; Oregon Benchmarks

(1) **Policy:** Oregon state government shall be a leader in achieving or exceeding the Oregon workforce development benchmarks of developing the best trained workforce in the U.S. by the year 2000 and in the world by the year 2010.

(a) For each biennium, an agency head shall develop a written agency training plan to require a minimum of 20 hours of education and training related to work skills and knowledge for at least 50% of their permanent employees in each fiscal year.

(b) Supervisors, in discussion with their employees, shall develop and update annually a written development plan for each employee that provides for the continuous improvement of the employee's job related knowledge and skills.

(c) An agency head shall maintain written documentation of agency workforce development hours and expenditures per instructions from Department of Administrative Services regarding expenditures and account numbers related to training and travel.

(d) When opportunities permit, agencies shall invite other state agencies to fill staff development openings and share training facilities and other employee development resources.

(e) An agency head may provide educational assistance to employees when it directly relates to their job responsibility and can be accommodated within the agency budget:
(A) When an employee is assigned to attend courses, the agency shall reimburse all of the costs of course registration fees, course materials, and necessary travel.
(B) When an employee makes a request to attend a class(s), either during or after working hours, the agency may reimburse all or part of the costs attendant to the class(s).
(C) Educational assistance to employees may include paid leave. Provisions of the paid leave agreement between the agency and the employee shall be documented and maintained in the agency file.

(2) **Policy Clarification:**

(a) The written agency training plan is intended to relate individual employee development plans and agency workforce development priorities to the agency mission.

(b) Training or education related to work skills and knowledge includes formal instructions or a structured learning plan related to:
(A) Employee's competence to perform a specific job,
(B) Employee's state government career, or
(C) Employee's work environment.

(c) Modes of training delivery may be formal education, on the job training, supervised learning activities, and other specific training approved by the employee's supervisor as job related.

(1) **Performance Measure:** Percentage of agency employees who received 20 or more hours of job related training in each fiscal year.

Performance Standard: 50%

(2) **Performance Measure:** A current, completed written agency training plan for each biennium.

Performance Standard: 100%

(3) **Performance Measure:** Percentage of agency employees with current written individual development plans.

Performance Standard: 100%

DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

Statewide Policy

SUBJECT:	**Maintaining a Professional Workplace**	**NUMBER:**	**50.010.03**
DIVISION:	**Chief Human Resource Office**	**EFFECTIVE DATE:**	**11/01/13**
APPROVED:	Michael Gorsh		

POLICY STATEMENT: **It is the policy of Oregon state government that mutual respect between and among managers, employees, temporary employees and volunteers is integral to the efficient conduct of business. All individuals work together 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 temporary employees and volunteers, and others working in the agency**

DEFINITIONS:

Professional Workplace Behavior: Supporting the values and mission of Oregon **state government** 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.[1] **(See State HR Policy 50.010.01 Discrimination and Harassment Free Workplace for guidance on issues involving protected class status.)**

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

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[1] **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.

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.

State HR Policy 10.000.01 Definitions and OAR 105-010-0000

POLICY

(1) Conduct Employees of all service types, temporary employees and volunteers, at every level of the agency (includes boards and commissions) must foster an environment that encourages professionalism and discourages disrespectful behavior. All employees, temporary employees and volunteers must behave respectfully and professionally and refrain from engaging in inappropriate workplace behavior.

(2) Addressing Inappropriate Workplace Behavior

(a) Supervisors must address inappropriate behavior they observe or experience and should do so as close to the time of the occurrence as possible and appropriate.

(b) If an employee**, temporary employee or volunteer** observes or experiences inappropriate workplace behavior and feels comfortable in doing so, he or she should **do one or both of the following**:

(A) Redirect inappropriate conversations or behavior to workplace business

(B) Tell an offending employee**, temporary employee or volunteer** his or her behavior is offensive and ask him or her to stop.

(3) Reporting Inappropriate Workplace Behavior

(a) An employee**, temporary employee or volunteer** should report inappropriate workplace behavior he or she experiences or observes to his or her immediate supervisor as soon as practical. If the employee**, temporary employee or volunteer's** immediate supervisor is the one engaging in the inappropriate behavior, **he or she** should report the behavior to upper management, the agency head or **agency** Human Resource section, as soon as practical. The report may be **verbal** or **written**.

(b) If past practice exists in the agency, an employee 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.

(4) 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 morale. Unless the agency decides otherwise, the supervisor of the **individual** allegedly engaging in inappropriate workplace behavior must **address**[2] the report as soon as possible.

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[2] The agency determines the best method of addressing the report, depending upon the behavior reported or observed, including determining method of follow up if necessary.

(5) **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) An employee in trial service found to have engaged in inappropriate workplace behavior may be removed from trial service.

(c) A temporary employee or volunteer found to have engaged in inappropriate workplace behavior will be counseled or, depending on the severity of the behavior, may have his or her service terminated.

(d) 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.

(6) **Retaliation** Retaliating against someone for reporting or addressing inappropriate workplace behavior is prohibited. **An employee who believes he or she is experiencing retaliation as a result of reporting inappropriate behavior should report this to his or her immediate supervisor as soon as practical**[3]. 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. **An employee in trial service found to have engaged in retaliation may be removed from trial service. A temporary employee or volunteer found to have engaged in retaliation may have his or her service terminated.**

(7) **Policy Notification. All employees including temporary employees and volunteers will:**

(a) Be given a copy or told the location of State HR Policy 50.010.03 Maintaining a Professional Workplace by the agency

(b) Be given directions to read the policy

(c) Be provided an opportunity to ask questions and have their questions answered

(d) Acknowledge he or she read the policy and had the opportunity to ask questions

(A) The agency decides the form of the acknowledgement, such as electronic, signed, or other documented acknowledgment

(B) The agency may create and offer training as it deems necessary.

[3] **If the employee believes his or her immediate supervisor is engaging in retaliation, he or she should report the behavior to the agency human resource office, upper management or the agency head as soon as practical.**

Veteran's Preference in Employment – OAR 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

Other agency documentation in support of our affirmative action plan

OREGON STATE LIBRARY
PROCEDURES FOR REQUESTING ADA REASONABLE ACCOMMODATION

It is the policy of the State of Oregon to follow mandates 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.

The State Library provides equal access and equal opportunity in employment and 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.

An employee may request an accommodation by following the ADA and Reasonable Accommodation in Employment policy 50.020.10: http://www.oregon.gov/DAS/HR/docs/advice/P5002010.pdf and the State Library procedures below.

	Who	Function or Activity
1.	ADA Coordinator	The Human Resources (HR) Manager is the ADA Coordinator for the agency on all ADA matters.
2.	Program Manager and HR Manager	Identifies the essential functions of the position for each position description.
3.	Employee, a family member, or health care provider	May request specific accommodation or identify specific limitations imposed by the disability. Requesting employee submits request to his/her manager or the HR Manager. The requesting employee need not mention the ADA or use phrases like "reasonable accommodation" in their request which can be made orally or in writing.
4.	Program Manager	Contacts the HR Manager upon receiving the initial request for a reasonable accommodation.
5.	Employee, Program Manager, and HR Manager	Through an interactive process, explore potential accommodations that would overcome the limitations. At this stage, the following should occur: a. As appropriate, conduct a job analysis of the particular job involved and determine its physical and cognitive requirements. b. Consult with the requesting employee regarding the precise job-related limitation imposed by the employee's disability and how those limitations could be overcome with a reasonable accommodation. c. The effectiveness of each accommodation is assessed to

		determine if the employee can perform the essential functions of the position. d. The Program Manager confers with the requesting employee, HR Manager, and others, as necessary, to determine whether the accommodation is reasonable or would pose an undue hardship. e. If the accommodation(s) are deemed reasonable, consider the preference of the requesting employee and select and implement the accommodation that is most appropriate for both the employee and the employer. If the disability or need for an accommodation is not obvious, documented or not already known to the Program Manager and HR Manager, it may be necessary for the employee to provide documentation about the disability and/or functional limitations. In this situation, the Agency will request medical documentation, along with a signed “Release of Information” form directly from the requesting employee. If the information submitted does not clearly explain the disability, or the need for the accommodation, the Agency has the right to request supplemental medical information. The Agency also has the right to have the medical information reviewed by a medical expert. A description of the essential functions and working conditions of the job needs to be provided. All medical information will be kept confidential and in locked files, separate from personnel files.
6.	HR Manager	Within thirty (30) days from receipt of request, notifies the employee requesting accommodation of the agency's determination in writing and of the specific accommodations it proposes to make. The Agency is not expected to adhere to this time frame if needed documentation is not provided in a timely manner, if the employee requests alternative accommodations (see Step 7 below), or if other extenuating circumstances arise.
7.	Requesting Employee	Accepts or rejects the proposed accommodation based on its effectiveness, and may propose different accommodation(s). An employee who rejects an effective accommodation and is unable to perform the essential functions of the job may not be qualified for the position.
8.	Program Manager and HR Manager	If alternative accommodations are proposed, refer to Steps 5, 6 and 7, above.
9.	Requesting Employee	If dissatisfied with the Agency’s reasonable accommodation decision, the requesting employee may submit a written complaint.

		The complaint shall be submitted to the HR Manager within 30 days from the date of the alleged violation. Exceptions may be granted in special circumstances. The HR Manager or designee, under the direction of the State Librarian (Appointing Authority), shall promptly investigate any complaint received, and shall send a written response to the complainant within fifteen (15) days following receipt of the complaint. The complainant may be given the opportunity to meet with the HR Manager or designee, whenever feasible in an effort to resolve the complaint. The written complaint and response shall be distributed to the complainant and to any relevant parties to the alleged action(s). The results of this internal review are final. If the complainant is dissatisfied with the decision, they may file a complaint with: a. Governor's Office – Diversity & Inclusion/Affirmative Action 255 Capitol Street, NE, Suite 126 Salem, OR 97301 503-986-6524 b. Oregon Bureau of Labor and Industries 800 NE Oregon St, Suite 1045 Portland, OR 97232 971-673-0761 and/or: c. Equal Employment Opportunity Commission 1801 L Street NW Washington, D.C. 20507 202-663-4900 or 1-800-669-4000 (voice) 202-663-4399 or 1-800-669-6820 (TDD)
	ADA RESOUCE LIST	• ADA Resource List: http://www.oregon.gov/DAS/HR/docs/advice/ADA_Resource_List_Final_060410_.pdf

Oregon State Library	
INTERNSHIP PROGRAM	
Approved by: Managers	Date: 3/31/10

Oregon State Library Statement

The Oregon State Library provides Internships for students that are enrolled in Library school or a relevant college program, and when the State Library identifies a specific need for a project or task to achieve the mission and goals of the State Library and provide work experience opportunities to grow the library workforce.

Definition

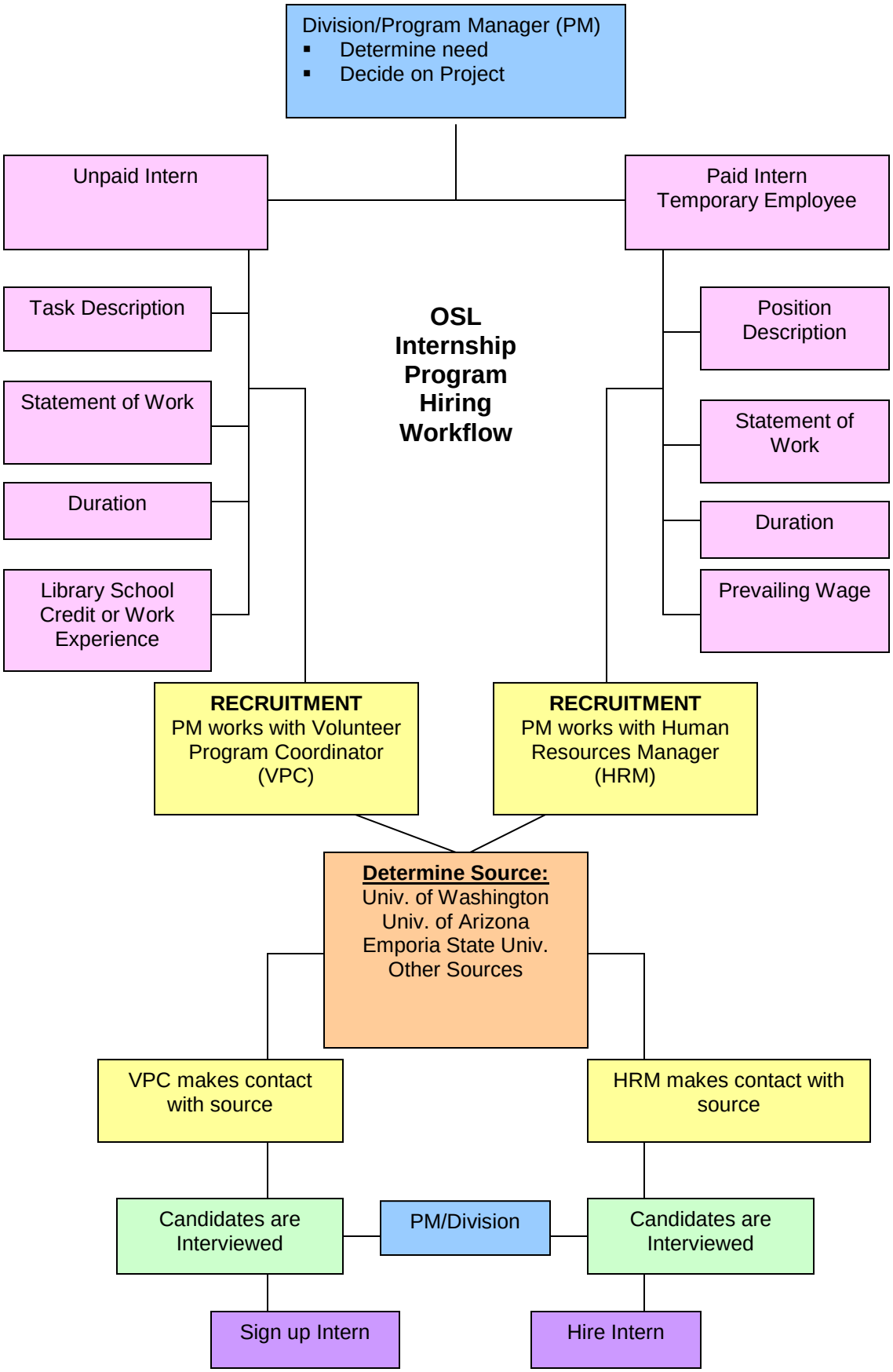
There are two categories of Interns:

- Unpaid: The Intern is considered a volunteer for the State Library and will receive no pay for the work performed. The State Library will work to fulfill the Library school curriculum requirements for the student to receive course credits.

- Paid: The Intern is paid for the work performed and is hired as a state temporary employee.

Process (see diagram – on next page)

- Program Manager works with division to determine need and project
- Determine if Intern is to be paid or unpaid
- Develop Task Description/Position Description
- Develop statement of work
- Determine Duration
- Determine work experience credit/prevailing wage
- Recruitment: PM works with VPC/HRM to determine source for recruitment (see attachments)
- VPC/HRM makes contact with source
- PM/Division interview candidates
- Sign up/Hire Intern


Division/Program Manager (PM)
Determine need
Decide on Project
Unpaid Intern
Paid Intern
Temporary Employee
Task Description
Statement of Work
Duration
Library School Credit or Work Experience
OSL Internship Program Hiring Workflow
Position Description
Statement of Work
Duration
Prevailing Wage
RECRUITMENT
PM works with Volunteer Program Coordinator (VPC)
RECRUITMENT
PM works with Human Resources Manager (HRM)
Determine Source:
Univ. of Washington
Univ. of Arizona
Emporia State Univ.
Other Sources
VPC makes contact with source
HRM makes contact with source
Candidates are Interviewed
PM/Division
Candidates are Interviewed
Sign up Intern
Hire Intern

UNIVERSITY INTERSHIP/PRACTICUM SOURCES

University of Washington
School of Library and Information Management
Contact: Lorraine Bruce, lbruce@uw.edu

1. What are the timelines for the student to do an internship/practicum?

Internships should be built around the university's academic schedule.

2. What kinds of opportunities would you like to see provided for your students?

Becoming a Directed Fieldwork Host Site:

MLIS students have already participated in Directed Fieldwork and gained employment at many local and regional libraries, as well as companies and non-profit organizations in the information field. We invite your organization to consider hosting one or more of our students. If you would like to officially become a host site please fill out the survey at https://catalysttools.washington.edu/survey/mardup/37951. Note that it asks you if you would like to be listed on our website so that students can see your host site as one of the options. Not all host sites are listed here, but those that were willing may be found listed at www.ischool.washington.edu/mlis/fieldwork/hosts.aspx.

To advertise a specific opportunity for a specific quarter, you are encouraged to create an announcement that may be forwarded to MLIS students via their e-mail accounts. Announcements should be sent to mardup@u.washington.edu and should include the following, as appropriate:

- Directed Fieldwork position title
- Required skills and preferred abilities
- Name and location of organization
- Quarter(s) in which the Directed Fieldwork is available
- Description of duties Contact information for supervisor/mentor

Contact: If you have any questions about Directed Fieldwork and/or the MLIS program, or would like to forward announcements, please contact Marie Potter, MLIS Academic Advisor, at 206-616-2544 or mardup@u.washington.edu.

3. Do you have a required work experience program already in place?

Directed Fieldwork:
Directed Fieldwork (DFW) is an academic course designed to provide MLIS students with a structured opportunity to gain practical experience in a library or information science setting. Directed Fieldwork allows students to apply concepts and practices learned in coursework as they assist in professional-level work under the formal guidance from a qualified supervisor/mentor. A credit/no-credit elective course, Directed Fieldwork (LIS 590) typically takes places on a quarterly basis (10-12 weeks) for either 100, 150, or 200 total hours. MLIS students, in collaboration with their supervisor/mentor, must decide which number of credits/hours is appropriate for the particular situation and quarter.

MLIS students who participate in Directed Fieldwork pursue tasks and projects that constitute professional-level (beginning professional level) work. In addition, since fieldwork is meant to be a learning opportunity for students, DFW tasks usually involve skills and knowledge that the student has already begun to develop through coursework but for which the student has not yet developed a high level of expertise. Also, the supervisor/mentor should be more knowledgeable than the student for most of the DFW tasks.

Supervisors/mentors should have a depth of experience and a strong professional identity as an information professional, and should have time to devote to the student. Although the amount of supervision will vary from situation to situation, the students and supervisor/mentor should meet a minimum of once per week to discuss activities, monitor progress, and discuss any challenges of problems. Supervisors/mentors also work with students on learning objectives and provide mid-quarter and final quarter evaluations of the student's performance. Supervisors/mentors should have an MLS/MLIS degree or equivalent.

University of Arizona
Library of Science
Contact: Bryan Heidorn, heidorn@email.arizona.edu

1. What are the timelines for the student to do an internship?

	Application due date for Students	Start date	Finish date
Summer 2014 Session I Session II	May 1	 June 9 July 14	 July 10 Aug. 13
Fall 2014	July 1	Aug. 25	Dec. 18
Spring 2015	Dec. 1	Jan. 14	May 14

2. What kinds of opportunities would you like to see provided for your students?
(Examples):

Laboratory of Anthropology Library (Santa Fe, NM)
The Laboratory of Anthropology Library is a unique research library housing special collections dedicated to the study of Native cultures, as well as anthropological and archaeological research of the Southwest. Intern projects available include cataloging (copy and original) of books, periodicals, pamphlets, and videos; preservation and conservation; processing donations and newly acquired materials; assisting with book sale; shifting/weeding collection; and special events/projects.

Qualifications: Current graduate library science student, completion of cataloging course, familiarity with AACR2 and MARC/OCLC. Knowledge of InMagic, Dewey Decimal, and LOC classification helpful. Will need superhuman patience to tolerate slow computers. Attention to detail, excellent written and verbal communication skills. Ability to work in 3-4 hour shifts, commit to 10-12 hours per week, and periodically move and/or carry 25lbs. $500 stipend upon satisfactory completion.

Smithsonian Institution, Horticultural Services (Washington, DC)
The Horticulture Services Division (HSD) internship program is open to all current undergraduate and graduate students who study library science, museum studies, or related disciplines. Paid and unpaid internships are offered throughout the year in Horticulture which include internships involving the management of two collections: the Archives of American Gardens and HSD's Garden Furnishings and Horticultural Artifact Collection. Additional information about HSD internships can be found at www.gardens.si.edu

Smithsonian Institution, National Portrait Gallery (Washington, DC)
The National Portrait Gallery is seeking applicants for internships. Information on available internship opportunities and the application can be found at
http://www.npg.si.edu/education/intern7.html

a) **Roman Catholic Diocese (Tucson)**
The Roman Catholic Diocese of Tucson is looking for an intern interested in archives and special libraries to work on a project cataloging archival

papers. It is an opportunity to work with documents about the history of Tucson from a unique perspective. The position is unpaid.

b) **Southern Arizona Transportation Museum (Tucson)**
Intern to coordinate team effort to catalog medium-sized collection of railroad-related objects.
Basic duties: Measuring, basic photographing, condition evaluation, basic cleaning, numbering and placement of object in archival box and placement of box on shelving unit. The location is 414 N. Toole Ave., Tucson (north of Congress St. and 5th Ave.).

Research/Publication in the History and Culture of the American Southwest (Tucson)
For a wide range of pursuits, including book projects that bear on the American Southwest, Latin America, and Spain, I am looking for a research assistant who recognizes and can locate, develop, and exploit information and who has the following skills: knows their way around library references and the Internet; knows basic computer skills; well-developed organizational skills; has intuitive understanding of research, especially beyond that which can be accessed through the Internet; working knowledge of Spanish desirable but not required.

Some of the work will be simple tasks such as retrieving books from the library or tracking down a street address. Help organized files at home office 12 blocks north from the University. Interested applicants should familiarize themselves with my work: www.tommillerbooks.com

3. Do you have a required work experience program already in place?

Internship (693)
The purpose of an internship is to provide students with the academic challenge of a field-based project or problem in which they can employ the knowledge and skills acquired during their SIRLS program of study. Internships must be project, or problem-based and emphasize the use of both practical and theoretical knowledge and skills. The internship is a type of **Individual study** for which a student receives credits. Internships may be paid or unpaid; payment makes no difference regarding credits received. An internship may not be undertaken in the same department or unit of an organization in which a student is employed.

Practicum (694)
The purpose of a practicum is to provide students with practical experience in a library or information setting. A practicum is less project-specific than an internship and more like a part-time job. An intern "shadows" a professional librarian or information professional, assisting with normal tasks and functions. The practicum is a type of individual study for which a student receives credits. A practicum may be paid or unpaid; payment makes no difference regarding credits received. A practicum may not be undertaken in the same department or unit of an organization in which a student is employed.

Emporia State University
School of Library and Information Management
Contact: Perri Parise, pparise@emporia.edu

1. What are the timelines for the student to do an internship/practicum?

Internships should be built around the university's academic schedule.

2. What kinds of opportunities would you like to see provided for your students?

We try to customize each experience so that it works best for the student and the host site, so we are not tied to specific beginning and ending dates. The student is expected to work 120 hours for the practicum credit.

We like this to be a "win-win" situation for everyone - - the student gets some professional experience in an area he or she might be interested in pursuing for a career focus, and the host site gets some projects worked on that have perhaps been on the "back burner" due to over-extended staff. We do request that the host site provide an MLS mentor/site supervisor for the student.

We customize the practicum for each student, so there isn't a typical experience we try to provide. Over half of our students usually do not have any library experience, so they welcome the opportunity to have real-world, hands-on projects where they can apply what they are learning in the classroom.

3. Do you have a required work experience program already in place?

Course Outcomes:

- To provide general professional orientation and skill development through a supervised field experience in a library or information agency appropriate for each student. Each student will experience directed practice work and observation in a representative range of functional areas (e.g., reference and information services, information skills instruction, materials selection and acquisitions, management, technology, and technical services).

- To broaden the student's perspective and background for improved assimilation and synthesis of general principles and concepts.

- To acquaint the student with the mission, administrative organization, policies and procedures, resources and services, and clientele of a particular library or information agency.

- To expose the student to working contacts with individual professional librarians; to facilitate the development of professional attitudes, service ethics, and work habits; to acquaint the student with different points of view and a variety of strategies for dealing with information and service needs and managerial problems and issues.

- To provide the student an opportunity for self-reflection and self-evaluation of his or her performance during the field experience.

- To provide the student with the experience of professional evaluation, in terms of general education; professional knowledge and competence; ability to work with others; diligence in the accomplishment of assigned tasks, etc.

DESCRIPTION OF FEDERAL EEO-4 JOB CATEGORIES

a. **Officials and Administrators**: Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, wardens, superintendents, sheriffs, police and fire chiefs and inspectors, examiners (bank, hearing, motor vehicle, warehouse), inspectors (construction, building, safety, rent-and- housing, fire, A.B.C. Board, license, dairy, livestock, transportation), assessors, tax appraisers and investigators, coroners, farm managers, and kindred workers.

b. **Professionals**: Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants, librarians, management analysts, airplane pilots and navigators, surveyors and mapping scientists, and kindred workers.

c. **Technicians**: Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers, drafters, survey and mapping technicians, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences), police and fire sergeants, inspectors (production or processing inspectors, testers and weighers), and kindred workers.

d. **Protective Service Workers**: Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police patrol officers firefighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, game and fish wardens, park rangers (except maintenance), and kindred workers.

e. **Paraprofessionals**: Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers" concept. Included: research assistants, medical aides, child support workers, policy auxiliary welfare service aides, recreation assistants, homemakers aides, home health aides, library assistants and clerks, ambulance drivers and attendants, and kindred workers.

f. **Administrative Support (Including Clerical and Sales)**: Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, clerk-typist, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, telephone operators, legal assistants, sales workers, cashiers, toll collectors, and kindred workers.

g. **Skilled Craft Workers**: Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the process involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairers electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, power plant operators, water and sewage treatment plant operators, and kindred workers.

h. **Service-Maintenance**: Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial employees, gardeners and groundkeepers, refuse collectors, construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/trainees/helpers, and kindred workers.

DESCRIPTION OF STATE OF OREGON EEO JOB CATEGORIES

State of Oregon
EEO Job Catagories

A00	OFFICIAL/ADMINISTRATOR
A01	MIDDLE MANAGEMENT (SR 24-30)
A02	UPPER MANAGEMENT (SR 31+)
B00	PROFESSIONALS
B01	ENGINEER/ARCHITECT
B02	COMMUICATION/EDITOR
B03	TEACHER/EDUCATION
B04	NURSE/HEALTH
B05	PHYSICIAN/DENTIST/VERTERINARN
B06	FOOD SERVICE MANAGER
B07	PURCHASING AGENT/ANALYST
B08	NATURAL RESOURCE
B09	SOCIAL SCIENCE/PLANNER/RESRCHR
B10	PERSONNEL/EMPLOYMENT
B11	INSPECTOR/COMPLIANCE/INVESTGTR
B12	COMPUTER ANALYST
B13	ATTORNEY/HEARINGS OFFICER
B14	LIBRARIAN/ARCHIVAL SPECIALIST
B15	ACCOUNTING/FINANCE/REVENUE
B16	PROGRAM COORDINATOR/ANALYST
B17	SOCIAL SERVICES
B18	LIEUTENANT/CAPTIAN/PILOT
B19	RIGHTOFWAY/TIMBER AUD/APPRAISR
C00	TECHNICIANS
C01	HEALTH
C02	ENGINEERING/CONSTRUCTION
C03	SCIENCE
C04	COMPUTER
C05	AUDIO-VISUAL
C06	REVENUE AGENT/EXAMINER
C07	AGRICULTURE INSPECTOR
C08	NATURAL RESOURCE
C09	ELECTRONICS
C10	WEIGHMASTER

C11	STUDENT PRO/TECH OFFICE SYSTEM
C12	SAFETY INSPECTOR
C13	SERGEANT
C14	DMV REPRESENTATIVE
D00	PROTECTIVE SERVICE WORKERS
D01	SECURITY OFFICER
D02	CORRECTION OFFICER
D03	TROOPER/CORPORAL
D04	INSPECTOR/INVESTIGAION
D04	FIRE PROTECTION SERVICE
E00	PARAPROFESSIONALS
E01	NONSUPERVISORY
E02	SUPERVISORY/COORDINATOR
F00	ADMINISTRATIVE SUPPORT
F01	OFFICE ASSISTANT/SPECIALIST
F02	ACCOUNTING
F03	OFFICE MANAGER/M VEHICLE REP
F04	ADM SPECIALST/SUPPRT SVC SUPV
F05	OTHER SUPPORT SPECIALIST
G00	SKILLED CRAFT WORKER
G01	HIGHWAY MAINTENANCE
G03	TRADES/MAINTENANCE REPAIR
G04	PRINTING
G05	MECHANIC/BOILER OPERATOR
G06	TRADES
G07	SKILLED CRAFTS
G08	SKILLED CRAFTS (SR 18+)
G09	MANARTSINST/HAIRDRSSR/FARMFOR
G10	SHIPS POSITION (SR 15+)
H00	SERVICE MAINTENANCE WORKER
H01	SERVICE/MAINTENANCE
H02	SERVICE/MAINTENANCE
O00	UNASSIGNED
Y00	DISABLED

Employee Questionnaire for Self-Identification of Race/Ethnicity

Anti-Discrimination Notice.
It is an unlawful employment practice for an employer to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to that individual's terms and conditions of employment, because of such individual's race, color, religion, sex, or national origin.

The state as your employer is subject to certain nondiscrimination and affirmative action recordkeeping and reporting requirements which require the state to invite employees to voluntarily self-identify their race/ethnicity. Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. The information obtained will be kept confidential and may only be used in accordance with the provisions of applicable federal laws, executive orders, and regulations, including those which require the information to be summarized and reported to the Federal Government for civil rights enforcement purposes.

If you choose not to self-identify your race/ethnicity at this time, the federal government requires the state to determine this information by visual survey and/or other available information.

For civil rights monitoring and enforcement purposes only, all race/ethnicity information will be collected and reported in the five categories identified below. The definitions for each category have been established by the federal government. If you choose to voluntarily self-identify, you may mark only one of the boxes presented below.

Invitation to Self-Identify

What is your race/ethnicity? Please mark the **one box** that describes the race/ethnicity category with which you primarily identify:

- ❑ (A) Asian or Pacific Islander: Persons having origins in any of the peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.
- ❑ (B) African American (not of Hispanic origin): Person having origins in any of the black ethnic groups.
- ❑ (H) Hispanic: Persons having origins in any of the Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Cultures, regardless of ethnicity.
- ❑ (I) Native American or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.
- ❑ (W) Caucasian (not of Hispanic origin): Persons having origins in any of the original peoples of Europe, North Africa or the Middle East.

Gender:
- ❑ Male
- ❑ Female

Name:_____

EIN(Your Employee Identification Number can be found on your paycheck stub) :_____

For agency HR use only:
❑ AV (Asian or Pac. Islander –Visual assessment) ❑ BV (African American – Visual assessment) ❑ HV (Hispanic – Visual assessment) ❑ IV (Native Amer. or Alaskan Native – Visual assessment) ❑ WV (Caucasian – Visual assessment)

VII. Appendix B

AGE DISCRIMINATION

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

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. If the information is needed for a lawful purpose, it can be obtained after the employee is hired.

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 might 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 no less than the cost of providing benefits to younger workers.

Employers are permitted to coordinate retiree health benefit plans with eligibility for Medicare or a comparable state-sponsored health benefit.

Waivers of ADEA Rights

An employer may ask an employee to waive his/her rights or claims under the ADEA. Such waivers are common in settling ADEA discrimination claims or in connection with exit incentive or other employment termination programs. 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:

- be in writing and be understandable;
- specifically refer to ADEA rights or claims;
- not waive rights or claims that may arise in the future;
- be in exchange for valuable consideration in addition to anything of value to which the individual already is entitled;
- advise the individual in writing to consult an attorney before signing the waiver; and
- 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 or other employment termination program, the minimum requirements for a valid waiver are more extensive. *See* Understanding Waivers of Discrimination Claims in Employee Severance Agreements" at http://www.eeoc.gov/policy/docs/qanda_severance-agreements.html

DISABILITY DISCRIMINATION

Disability discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act, as amended, or the Rehabilitation Act, as amended, treats a qualified individual with a disability who is an employee or applicant unfavorably because she has a disability.

Disability discrimination also occurs when a covered employer or other entity treats an applicant or employee less favorably because she has a history of a disability (such as cancer that is controlled or in remission) or because she is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if she does not have such an impairment).

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer ("undue hardship").
The law also protects people from discrimination 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 has a disability.

Note: Federal employees and applicants are covered by the Rehabilitation Act of 1973, instead of the Americans with Disabilities Act. The protections are mostly the same.

Disability Discrimination & Work Situations
The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Disability Discrimination & Harassment

It is illegal to harass an applicant or employee because he has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).

Harassment can include, for example, offensive remarks about a person's disability. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Disability Discrimination & Reasonable Accommodation

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer.

A reasonable accommodation is any change in the work environment (or in the way things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.

Reasonable accommodation might include, for example, making the workplace accessible for wheelchair users or providing a reader or interpreter for someone who is blind or hearing impaired.

While the federal anti-discrimination laws don't require an employer to accommodate an employee who must care for a disabled family member, the Family and Medical Leave Act (FMLA) may require an employer to take such steps. The Department of Labor enforces the FMLA. For more information, call: 1-866-487-9243.

Disability Discrimination & Reasonable Accommodation & Undue Hardship

An employer doesn't have to provide an accommodation if doing so would cause undue hardship to the employer.

Undue hardship means that the accommodation would be too difficult or too expensive to provide, in light of the employer's size, financial resources, and the needs of the business. An employer may not refuse to provide an accommodation just because it involves some cost. An

employer does not have to provide the exact accommodation the employee or job applicant wants. If more than one accommodation works, the employer may choose which one to provide.

Definition Of Disability

Not everyone with a medical condition is protected by the law. In order to be protected, a person must be qualified for the job and have a disability as defined by the law.
A person can show that he or she has a disability in one of three ways:

- A person may be disabled if he or she has a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing, or learning).

- A person may be disabled if he or she has a history of a disability (such as cancer that is in remission).

- A person may be disabled if he is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).

Disability & Medical Exams During Employment Application & Interview Stage

The law places strict limits on employers when it comes to asking job applicants to answer medical questions, take a medical exam, or identify a disability.

For example, an employer may not ask a job applicant to answer medical questions or take a medical exam before extending a job offer. An employer also may not ask job applicants if they have a disability (or about the nature of an obvious disability). An employer may ask job applicants whether they can perform the job and how they would perform the job, with or without a reasonable accommodation.

Disability & Medical Exams After A Job Offer For Employment

After a job is offered to an applicant, the law allows an employer to condition the job offer on the applicant answering certain medical questions or successfully passing a medical exam, but only if all new employees in the same type of job have to answer the questions or take the exam.

Disability & Medical Exams For Persons Who Have Started Working As Employees

Once a person is hired and has started work, an employer generally can only ask medical questions or require a medical exam if the employer needs medical documentation to support an employee's request for an accommodation or if the employer believes that an employee is not able to perform a job successfully or safely because of a medical condition.
The law also requires that employers keep all medical records and information confidential and in separate medical files.

Available Resources

In addition to a variety of formal guidance documents, EEOC has developed a wide range of fact sheets, question & answer documents, and other publications to help employees and employers understand the complex issues surrounding disability discrimination.
For more information visit http://www.eeoc.gov/

THE EQUAL PAY ACT OF 1963

EDITOR'S NOTE: The following is the text of the Equal Pay Act of 1963 (Pub. L. 88-38) (EPA), as amended, as it appears in volume 29 of the United States Code, at section 206(d). The EPA, which is part of the Fair Labor Standards Act of 1938, as amended (FLSA), and which is administered and enforced by the EEOC, prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort and responsibility under similar working conditions. Cross references to the EPA as enacted appear in italics following the section heading. Additional provisions of the Equal Pay Act of 1963, as amended, are included as they appear in volume 29 of the United States Code.

MINIMUM WAGE

SEC. 206. *[Section 6]*
(d) Prohibition of sex discrimination
(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.
(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.
(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this chapter.
(4) As used in this subsection, the term “labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

ADDITIONAL PROVISIONS OF EQUAL PAY ACT OF 1963

An Act

To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Equal Pay Act of 1963."

DECLARATION OF PURPOSE

Not Reprinted in U.S. Code *[Section 2]*
(a) The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex-
(1) depresses wages and living standards for employees necessary for their health and efficiency;
(2) prevents the maximum utilization of the available labor resources;
(3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;
(4) burdens commerce and the free flow of goods in commerce; and
(5) constitutes an unfair method of competition.

(b) It is hereby declared to be the policy of this Act, through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.

[Section 3 of the Equal Pay Act of 1963 amends section 6 of the Fair Labor Standards Act by adding a new subsection (d). The amendment is incorporated in the revised text of the Fair Labor Standards Act.]

EFFECTIVE DATE

Not Reprinted in U.S. Code *[Section 4]*
The amendments made by this Act shall take effect upon the expiration of one year from the date of its enactment: Provided, That in the case of employees covered by a bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act entered into by a labor organization (as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938, as amended) [subsection (d)(4) of this section], the amendments made by this Act shall take effect upon the termination of such collective bargaining agreement or upon the expiration of two years from the date of enactment of this Act, whichever shall first occur.

Approved June 10, 1963, 12 m.

[In the following excerpts from the Fair Labor Standards Act of 1938, as amended, authority given to the Secretary of Labor is exercised by the Equal Employment Opportunity Commission for purposes of enforcing the Equal Pay Act of 1963.]

ATTENDANCE OF WITNESSES

SEC. 209 *[Section 9]*
For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 49 and 50 of title 15 *[Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., 1934 edition)]* (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Administrator, the Secretary of Labor, and the industry committees.

COLLECTION OF DATA

SEC. 211 *[Section 11]*
(a) Investigations and inspections
The Administrator or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this chapter, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this chapter, or which may aid in the enforcement of the provisions of this chapter. Except as provided in section 212 *[section 12]* of this title and in subsection (b) of this section, the Administrator shall utilize the bureaus and divisions of the Department of Labor for all the investigations and inspections necessary under this section. Except as provided in section 212 *[section 12] of this title*, the Administrator shall bring all actions under section 217 *[section 17]* of this title to restrain violations of this chapter.

(b) State and local agencies and employees
With the consent and cooperation of State agencies charged with the administration of State labor laws, the Administrator and the Secretary of Labor may, for the purpose of carrying out their respective functions and duties under this chapter, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Records
Every employer subject to any provision of this chapter or of any order issued under this chapter shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Administrator as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this chapter or the regulations or orders thereunder. The employer of an employee who performs substitute work described in section 207(p)(3) *[section 7(p)(3)]* of this title may not be required under this subsection to keep a record of the hours of the substitute work.

(d) Homework regulations
The Administrator is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this chapter, and all existing regulations or orders of the Administrator relating to industrial homework are continued in full force and effect.

EXEMPTIONS

SEC. 213 *[Section 13]*
(a) Minimum wage and maximum hour requirements
The provisions of sections 206 *[section 6]* (except subsection (d) in the case of paragraph (1) of this subsection) and section 207 *[section 7]* of this title shall not apply with respect to-
(1) any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such

terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of subchapter II of chapter 5 of Title 5 *[the Administrative Procedure Act]*, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

(2) *[Repealed]*

[Note: Section 13(a)(2) (relating to employees employed by a retail or service establishment) was repealed by Pub. L. 101-157, section 3(c)(1), November 17, 1989.]

(3) any employee employed by an establishment which is an amusement or recreational establishment, organized camp, or religious or non-profit educational conference center, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 per centum of its average receipts for the other six months of such year, except that the exemption from sections 206 and 207 *[sections 6 and 7]* of this title provided by this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than, in the case of the exemption from section 206 *[section 6]* of this title, a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture; or

(4) *[Repealed]*

[Note: Section 13(a)(4) (relating to employees employed by an establishment which qualified as an exempt retail establishment) was repealed by Pub. L. 101-157, Section 3(c)(1), November 17, 1989.]

(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or (E) if such employee is principally engaged in the range production of livestock; or

(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary issued under section 214 *[section 14]* of this title; or

(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto; or
(9) *[Repealed]*
[Note: Section 13(a)(9) (relating to motion picture theater employees) was repealed by section 23 of the Fair Labor Standards Amendments of 1974. The 1974 amendments created an exemption for such employees from the overtime provisions only in section 13(b)27.]
(10) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or
(11) *[Repealed]*
[Note: Section 13(a)(11) (relating to telegraph agency employees) was repealed by section 10 of the Fair Labor Standards Amendments of 1974. The 1974 amendments created an exemption from the overtime provisions only in section 13(b)(23), which was repealed effective May 1, 1976.]
(12) any employee employed as a seaman on a vessel other than an American vessel; or
(13) *[Repealed]*
[Note: Section 13(a)(13) (relating to small logging crews) was repealed by section 23 of the Fair Labor Standards Amendments of 1974. The 1974 amendments created an exemption for such employees from the overtime provisions only in section 13(b)(28).]
(14) *[Repealed]*
[Note: Section 13(a)(14) (relating to employees employed in growing and harvesting of shade grown tobacco) was repealed by section 9 of the Fair Labor Standards Amendments of 1974. The 1974 amendments created an exemption for certain tobacco producing employees from the overtime provisions only in section 13(b)(22). The section 13(b)(22) exemption was repealed, effective January 1, 1978, by section 5 of the Fair Labor Standards Amendments of 1977.]
(15) any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and delimited by regulations of the Secretary); or
(16) a criminal investigator who is paid availability pay under section 5545a of Title 5 *[Law Enforcement Availability Pay Act of 1994]*; or
(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—
(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;
(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or
(D) a combination of duties described in subparagraphs (A), (B), and (C) the performance of which requires the same level of skills, and
who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than $27.63 an hour.

(g) Certain employment in retail or service establishments, agriculture
The exemption from section 206 *[section 6]* of this title provided by paragraph (6) of subsection (a) of this section shall not apply with respect to any employee employed by an establishment
(1) which controls, is controlled by, or is under common control with, another establishment the

activities of which are not related for a common business purpose to, but materially support the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $10,000,000 (exclusive of excise taxes at the retail level which are separately stated).

PROHIBITED ACTS

SEC. 215 *[Section 15]*
(a) After the expiration of one hundred and twenty days from June 25, 1938 *[the date of enactment of this Act]*, it shall be unlawful for any person-
(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 206 *[section 6]* or section 207 *[section 7]* of this title, or in violation of any regulation or order of the Secretary issued under section 214 *[section 14]* of this title, except that no provision of this chapter shall impose any liability upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this chapter shall excuse any common carrier from its obligation to accept any goods for transportation; and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of this chapter, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;
(2) to violate any of the provisions of section 206 *[section 6]* or section 207 *[section 7]* of this title, or any of the provisions of any regulation or order of the Secretary issued under section 214 *[section 14]* of this title;
(3) to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee;
(4) to violate any of the provisions of section 212 *[section 12]* of this title;
(5) to violate any of the provisions of section 211(c) *[section 11(c)]* of this title, or any regulation or order made or continued in effect under the provisions of section 211(d) *[section 11(d)]* of this title, or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record to be false in a material respect.

(b) For the purposes of subsection (a)(1) of this section proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.

PENALTIES

SEC. 216 *[Section 16]*
(a) Fines and imprisonment

Any person who willfully violates any of the provisions of section 215 *[section 15]* of this title shall upon conviction thereof be subject to a fine of not more than $10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Damages; right of action; attorney's fees and costs; termination of right of action
Any employer who violates the provisions of section 206 *[section 6]* or section 207 *[section 7]* of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Any employer who violates the provisions of section 215(a)(3) *[section 15(a)(3)]* of this title shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 215(a)(3) *[section 15(a)(3)]* of this title, including without limitation employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages. An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 217 *[section 17]* of this title in which (1) restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 206 *[section 6]* or section 207 *[section 7]* of this title by an employer liable therefore[*sic*] under the provisions of this subsection or (2) legal or equitable relief is sought as a result of alleged violations of section 215(a)(3) *[section 15(a)(3)]* of this title.

(c) Payment of wages and compensation; waiver of claims; actions by the Secretary; limitation of actions

The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 206 *[section 6]* or section 207 *[section 7]* of this title, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) of this section to bring an action by or on behalf of any employee to recover the liability specified in the first sentence of such subsection and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 206 and 207 *[sections 6 and 7]* of this title or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provisions of subsection (b) of this section,

unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary of Labor on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary of Labor under this subsection for the purposes of the statutes of limitations provided in section 255(a) of this title *[section 6(a) of the Portal-to-Portal Act of 1947]*, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) Savings provisions
In any action or proceeding commenced prior to, on, or after August 8, 1956 *[the date of enactment of this subsection]*, no employer shall be subject to any liability or punishment under this chapter or the Portal-to-Portal Act of 1947 [29 U.S.C. 251 et seq.] on account of his failure to comply with any provision or provisions of this chapter or such Act (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 213(f) *[section 13(f)]* of this title is applicable, (2) with respect to work performed in Guam, the Canal Zone or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 206(a)(3) *[section 6(a)(3)]* of this title at any time prior to the establishment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

(e)(1)(A) Any person who violates the provisions of sections 212 or 213(c) *[sections 12 or 13(c)]* of this title, relating to child labor, or any regulation issued pursuant to such sections, shall be subject to a civil penalty of not to exceed—
(i) $11,000 for each employee who was the subject of such a violation; or
(ii) $50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is a repeated or willful violation.
(B) For purposes of subparagraph (A), the term “serious injury” means—
(i) permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);
(ii) permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or
(iii) permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.
(2) Any person who repeatedly or willfully violates section 206 or 207 *[section 6 or 7]*, relating to wages, shall be subject to a civil penalty not to exceed $1,100 for each such violation.
(3) In determining the amount of any penalty under this subsection, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be-
(A) deducted from any sums owing by the United States to the person charged;
(B) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

(C) ordered by the court, in an action brought for a violation of section 215(a)(4) *[section 15(a)(4)]* of this title or a repeated or willful violation of section 215(a)(2) *[section 15(a)(2)]* of this title, to be paid to the Secretary.
(4) Any administrative determination by the Secretary of the amount of any penalty under this subsection shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of Title 5 *[Administrative Procedure Act]*, and regulations to be promulgated by the Secretary.
(5) Except for civil penalties collected for violations of section 212 *[section 12]* of this title, sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provision of section 9a of Title 29 *[An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof and for other purposes]*. Civil penalties collected for violations of section 212 *[section 12]* of this title shall be deposited in the general fund of the Treasury.

INJUNCTION PROCEEDINGS

SEC. 217 *[Section 17]*
The districts courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 215 *[section 15]* of this title, including in the case of violations of section 215(a)(2) of this title the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this chapter (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 255 of this title *[section 6 of the Portal-to-Portal Act of 1947]*.

RELATION TO OTHER LAWS

SEC. 218 *[Section 18]*
(a) No provision of this chapter or of any order thereunder shall
excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this chapter or a maximum work week lower than the maximum workweek established under this chapter, and no provision of this chapter relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this chapter. No provision of this chapter shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this chapter, or justify any employer in increasing hours of employment maintained by him which are shorter than the maximum hours applicable under this chapter.

SEPARABILITY OF PROVISIONS

SEC. 219 *[Section 19]*
If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Approved June 25, 1938.

[In the following excerpts from the Portal-to-Portal Act of 1947, the authority given to the Secretary of Labor is exercised by the Equal Employment Opportunity Commission for purposes of enforcing the Equal Pay Act of 1963.]

PART IV - MISCELLANEOUS

STATUTE OF LIMITATIONS

SEC. 255 *[Section 6]*
Any action commenced on or after May 14, 1947 *[the date of the enactment of this Act]*, to enforce any cause of action for unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, [29 U.S.C. 201 et seq.], the Walsh-Healey Act [41 U.S.C. 35 et seq.], or the Bacon-Davis Act [40 U.S.C. 276a et seq.]-

(a) if the cause of action accrues on or after May 14, 1947 *[the date of the enactment of this Act]*-may be commenced within two years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after the cause of action accrued, except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued;

DETERMINATION OF COMMENCEMENT OF FUTURE ACTIONS

SEC. 256 *[Section 7]*
In determining when an action is commenced for the purposes of section 255 *[section 6]* of this title, an action commenced on or after May 14, 1947 *[the date of the enactment of this Act]* under the Fair Labor Standards Act of 1938, as amended, [29 U.S.C. 201 et seq.], the Walsh-Healey Act [41 U.S.C. 35 et seq.], or the Bacon-Davis Act [40 U.S.C. 276a et seq.], shall be considered to be commenced on the date when the complaint is filed; except that in the case of a collective or class action instituted under the Fair Labor Standards Act of 1938, as amended, or the Bacon-Davis Act, it shall be considered to be commenced in the case of any individual claimant—

(a) on the date when the complaint is filed, if he is specifically named as a party plaintiff in the complaint and his written consent to become a party plaintiff is filed on such date in the court in which the action is brought; or

(b) if such written consent was not so filed or if his name did not so appear—on the subsequent date on which such written consent is filed in the court in which the action was commenced.

RELIANCE IN FUTURE ON ADMINISTRATIVE RULINGS, ETC.

SEC. 259 *[Section 10]*
(a) In any action or proceeding based on any act or omission on or after May 14, 1947 *[the date of the enactment of this Act]*, no employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, [29 U.S.C. 201 et

seq.], the Walsh-Healey Act [41 U.S.C. 35 et seq.], or the Bacon-Davis Act [40 U.S.C. 276a et seq.], if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval, or interpretation, of the agency of the United States specified in subsection (b) of this section, or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) The agency referred to in subsection (a) shall be-
(1) in the case of the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.]- the Administrator of the Wage and Hour Division of the Department of Labor;

LIQUIDATED DAMAGES

SEC. 260 *[Section 11]*
In any action commenced prior to or on or after May 14, 1947 *[the date of the enactment of this Act]* to recover unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he had reasonable grounds for believing that his act or omission was not a violation of the Fair Labor Standards Act of 1938, as amended *[29 U.S.C. 201 et seq.]*,the court may, in its sound discretion, award no liquidated damages or award any amount thereof not to exceed the amount specified in section 216 *[section 16]* of this title.

DEFINITIONS

SEC. 262 *[Section 13]*
(a) When the terms "employer", "employee", and "wage" are used in this chapter in relation to the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], they shall have the same meaning as when used in such Act of 1938.

SEPARABILITY

Not Reprinted in U.S. Code *[Section 14]*

If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SHORT TITLE

Not Reprinted in U.S. Code *[Section 15]*
This Act may be cited as the ‘Portal-to-Portal Act of 1947.’
Approved May 14, 1947.

GENETIC INFORMATION DISCRIMINATION

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits genetic information discrimination in employment, took effect on November 21, 2009.
Under Title II of GINA, it is illegal to discriminate against employees or applicants because of genetic information. Title II of GINA prohibits the use of genetic information in making employment decisions, restricts acquisition of genetic information by employers and other entities covered by Title II, and strictly limits the disclosure of genetic information.
The EEOC enforces Title II of GINA (dealing with genetic discrimination in employment). The Departments of Labor, Health and Human Services and the Treasury have responsibility for issuing regulations for Title I of GINA, which addresses the use of genetic information in health insurance.

Definition of “Genetic Information”

Genetic information includes information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as information about any disease, disorder, or condition of an individual’s family members (i.e. an individual’s family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.

Discrimination Because of Genetic Information

The law forbids discrimination on the basis of genetic information when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, or any other term or condition of employment. *An employer may never use genetic information to make an employment decision because genetic information doesn’t tell the employer anything about someone’s current ability to work.*

Harassment Because of Genetic Information

Under GINA, it is also illegal to harass a person because of his or her genetic information. Harassment can include, for example, making offensive or derogatory remarks about an applicant or employee’s genetic information, or about the genetic information of a relative of the applicant or employee. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so severe or pervasive that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee, such as a client or customer.

Retaliation

Under GINA, it is illegal to fire, demote, harass, or otherwise “retaliate” against an applicant or employee for filing a charge of discrimination, participating in a discrimination proceeding (such as a discrimination investigation or lawsuit), or otherwise opposing discrimination.

Rules Against Acquiring Genetic Information

It will usually be unlawful for an employer to get genetic information. There are six narrow exceptions to this prohibition:

- Inadvertent acquisitions of genetic information do not violate GINA, such as in situations where a manager or supervisor overhears someone talking about a family member's illness.
- Genetic information (such as family medical history) may be obtained as part of health or genetic services, including wellness programs, offered by the employer on a voluntary basis, if certain specific requirements are met.
- Genetic information may be acquired as part of the certification process for FMLA leave (or leave under similar state or local laws), where an employee is asking for leave to care for a family member with a serious health condition.
- Acquisition through commercially and publicly available documents like newspapers is permitted, as long as the employer is not searching those sources with the intent of finding genetic information.
- Acquisition through a genetic monitoring program that monitors the biological effects of toxic substances in the workplace is permitted where the monitoring is required by law or, under carefully defined conditions, where the program is voluntary.
- Acquisition of genetic information of employees by employers who engage in DNA testing for law enforcement purposes as a forensic lab or for purposes of human remains identification is permitted, but the genetic information may only be used for analysis of DNA markers for quality control to detect sample contamination.

Confidentiality of Genetic Information

It is also unlawful for an employer to disclose genetic information about applicants or employees. Employers must keep genetic information confidential and in a separate medical file. (Genetic information may be kept in the same file as other medical information in compliance with the Americans with Disabilities Act.) There are limited exceptions to this non-disclosure rule.

NATIONAL ORIGIN DISCRIMINATION

National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).

National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same national origin.

National Origin Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

National Origin & Harassment

It is unlawful to harass a person because of his or her national origin. Harassment can include, for example, offensive or derogatory remarks about a person's national origin, accent or ethnicity. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

National Origin & Employment Policies/Practices

The law makes it illegal for an employer or other covered entity to use an employment policy or practice that applies to everyone, regardless of national origin, if it has a negative impact on people of a certain national origin and is not job-related or necessary to the operation of the business.

An employer can only require an employee to speak fluent English if fluency in English is necessary to perform the job effectively. An "English-only rule", which requires employees to speak only English on the job, is only allowed if it is needed to ensure the safe or efficient operation of the employer's business and is put in place for nondiscriminatory reasons.

An employer may not base an employment decision on an employee's foreign accent, unless the accent seriously interferes with the employee's job performance.

Citizenship Discrimination & Workplace Laws

The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for an employer to discriminate with respect to hiring, firing, or recruitment or referral for a fee, based upon an individual's citizenship or immigration status. The law prohibits employers from hiring only U.S. citizens or lawful permanent residents unless required to do so by law, regulation or government contract. 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, when verifying employment eligibility (i.e., completing the Department of Homeland Security (DHS) Form I-9), based on the employee's national origin or citizenship status. It is the employee's choice which of the acceptable Form I-9 documents to show to verify employment eligibility.

IRCA also prohibits retaliation against individuals for asserting their rights under the Act, or for filing a charge or assisting in an investigation or proceeding under IRCA.

IRCA's nondiscrimination requirements are enforced by the Department of Justice's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division. OSC may be reached at:

- 1-800-255-7688 (voice for employees/applicants),
- 1-800-237-2515 (TTY for employees/applicants),
- 1-800-255-8155 (voice for employers), or
- 1-800-362-2735 (TTY for employers), or

- http://www.usdoj.gov/crt/osc.

PREGNANCY DISCRIMINATION

Pregnancy discrimination involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Pregnancy Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.

Pregnancy Discrimination & Temporary Disability

If a woman is temporarily unable to perform her job due to a medical condition related to pregnancy or childbirth, the employer or other covered entity must treat her the same as any other temporarily disabled employee. For example, the employer may have to provide modified tasks, alternative assignments, disability leave or unpaid leave.

Pregnancy Discrimination & Harassment

It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Pregnancy & Workplace Laws

Pregnant employees may have additional rights under the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. For more information on FMLA, contact the nearest office of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division can be reached at: 202-693-0051 (voice), 202-693-7755 (TTY), or at http://www.dol.gov/WHD/

Pregnancy, Maternity & Parental Leave

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

If an employer provides personal leave for other reasons, e.g., to take courses or other training, then the employer must grant personal leave for care of a new child.
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 ability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

Further, under the Family and Medical Leave Act (FMLA) of 1993, a new parent (including foster and adoptive parents) may be eligible for 12 weeks of leave (unpaid or paid if the employee has earned or accrued it) that may be used for care of the new child. To be eligible, the employee must have worked for the employer for 12 months prior to taking the leave and the employer must have a specified number of employees.
(See http://www.dol.gov/compliance/laws/comp-fmla.htm)

RACE/COLOR DISCRIMINATION

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color or because of a person's connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain color.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same race or color.

Race/Color Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Race/Color Discrimination & Harassment

It is unlawful to harass a person because of that person's race or color.
Harassment can include, for example, racial slurs, offensive or derogatory remarks about a person's race or color, or the display of racially-offensive symbols. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Race/Color Discrimination & Employment Policies/Practices

An employment policy or practice that applies to everyone, regardless of race or color, can be illegal if it has a negative impact on the employment of people of a particular race or color and is not job-related and necessary to the operation of the business. For example, a “no-beard” employment policy that applies to all workers without regard to race may still be unlawful if it is not job-related and has a negative impact on the employment of African-American men (who have a predisposition to a skin condition that causes severe shaving bumps).

RELIGIOUS DISCRIMINATION

Religious discrimination involves treating a person (an applicant or employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs.

Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group.

Religious Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Religious Discrimination & Harassment

It is illegal to harass a person because of his or her religion.

Harassment can include, for example, offensive remarks about a person’s religious beliefs or practices. Although the law doesn’t prohibit simple teasing, offhand comments, or isolated incidents that aren’t very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Religious Discrimination & Reasonable Accommodation

The law requires an employer or other covered entity to reasonably accommodate an employee’s religious beliefs or practices, unless doing so would cause more than a minimal burden on the operations of the employer's business. This means an employer may be required to make reasonable adjustments to the work environment that will allow an employee to practice his or her religion.

Examples of some common religious accommodations include flexible scheduling, voluntary shift substitutions or swaps, job reassignments, and modifications to workplace policies or practices.

Religious Accommodation/Dress & Grooming Policies

Unless it would be an undue hardship on the employer's operation of its business, an employer must reasonably accommodate an employee's religious beliefs or practices. This applies not only to schedule changes or leave for religious observances, but also to such things as dress or grooming practices that an employee has for religious reasons. These might include, for example, wearing particular head coverings or other religious dress (such as a Jewish yarmulke or a Muslim headscarf), or wearing certain hairstyles or facial hair (such as Rastafarian dreadlocks or Sikh uncut hair and beard). It also includes an employee's observance of a religious prohibition against wearing certain garments (such as pants or miniskirts).

When an employee or applicant needs a dress or grooming accommodation for religious reasons, he should notify the employer that he needs such an accommodation for religious reasons. If the employer reasonably needs more information, the employer and the employee should engage in an interactive process to discuss the request. If it would not pose an undue hardship, the employer must grant the accommodation.

Religious Discrimination & Reasonable Accommodation & Undue Hardship

An employer does not have to accommodate an employee’s religious beliefs or practices if doing so would cause undue hardship to the employer. An accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their share of potentially hazardous or burdensome work.

Religious Discrimination And Employment Policies/Practices

An employee cannot be forced to participate (or not participate) in a religious activity as a condition of employment.

RETALIATION

All of the laws we enforce make it illegal to fire, demote, harass, or otherwise “retaliate” against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).

For example, it is illegal for an employer to refuse to promote an employee because she filed a charge of discrimination with the EEOC, even if EEOC later determined no discrimination occurred.

Retaliation & Work Situations

The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

SEX-BASED DISCRIMINATION

Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex.

Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex.

Sex Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Sex Discrimination Harassment

It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Sex Discrimination & Employment Policies/Practices

An employment policy or practice that applies to everyone, regardless of sex, can be illegal if it has a negative impact on the employment of people of a certain sex and is not job-related or necessary to the operation of the business.

SEXUAL HARASSMENT

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.