



State of Oregon
DEPARTMENT OF FORESTRY

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Affirmative Action Plan
2013-2015

**"The Oregon Department of Forestry is an Equal Opportunity, Affirmative
Action Employer, committed to workforce diversity."**

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**OREGON DEPARTMENT OF FORESTRY
AFFIRMATIVE ACTION PLAN
2013 – 2015 BIENNIUM**

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INTRODUCTION

The Oregon Department of Forestry (ODF) has developed this Plan to help bring about equal employment opportunities for all persons. The Plan commits the Agency to do more than practice nondiscrimination in employment. It includes a set of goals, policies and actions intended to ensure that women, people of color and people with disabilities are equitably represented in ODF's workforce.

This Plan covers the period from July 1, 2013 through June 30, 2015. The principal objectives of the AA Plan include:

- Reaffirming the Agency's commitment to the State's Policy on Equal Employment Opportunity (nondiscrimination) and the principles of Affirmative Action;
- Indicating how the Plan and Policy will be disseminated both within the organization and externally;
- Assigning various levels of responsibilities to direct, manage and carry out the Agency's Affirmative Action efforts;
- Establishing flexible long-range Affirmative Action goals to correct the underrepresentation of women, people of color and people with disabilities in the Agency's workforce;
- Taking Affirmative Action measures to overcome barriers where shown to exist;
- Identifying ongoing programs and procedures intended to ensure equal employment opportunity and maintain a work environment free of discrimination and harassment;
- Communicating the Agency's policy of providing reasonable accommodations for qualified people with disabilities;
- Monitoring and regularly reporting to management on the implementation of Affirmative Action and progress being achieved regarding employment goal;
- Demonstrating "good faith" efforts of the agency.

Equal Opportunity is defined as the availability of employment and advancement to all persons on the basis of merit, ability and potential. It is a concept which addresses equal opportunity for all persons in the employment process.

Affirmative Action is defined as a method of eliminating the effects of past and present underrepresentation, intended or unintended, that are evident by analysis of present employment patterns, practices or policies.

The “parity” percentages for women, people of color and people with disabilities have been developed by the Governor’s Affirmative Action Office. They are intended to be flexible, long-range targets which in most cases will not be achieved in a single year or even a biennium. What is important is that continued progress be made toward achievement of the goals.

Program areas shall develop more detailed implementation strategies which address issues specific to their organizational units. These strategies are made part of this Plan by reference.

Another important link to implementation is found in the manager’s Performance Plans, providing the basis for annual performance appraisals. Managers will be asked to prepare AA strategy plans which identify the specific activities for which the manager will be held accountable for in the areas of Affirmative Action and Diversity.

ODF’s Plan is intended to create a work environment which will attract and retain employees who represent the broadest possible spectrum of society, which includes, but is not restricted to, women, people of color, and people with disabilities.

ODF will not tolerate discrimination or harassment on the basis of race, color, gender, marital status, religion, national origin, age, mental or physical disability, or any reason prohibited by state or federal statute, nor shall any contractor/vendor for ODF discriminate or harass in the above described manner.

ODF and the Governor of the State of Oregon are dedicated to the belief that the State has a commitment to the right of all persons to work and advance on the basis of merit, ability, and potential. In so doing, the Governor has delegated authority to oversee the implementation of the State Affirmative Action Program to the Director of Affirmative Action. The Governor also charges and holds accountable Agency Directors and Administrators with the responsibility of ensuring that principles of affirmative action are met.

Copies of the AA Plan may be obtained by contacting ODF Human Resources at (503) 945-7200.

I – ABOUT THE OREGON DEPARTMENT OF FORESTRY

In 1911, the Legislature passed Forest Laws that established the Board of Forestry and the Department of Forestry. The Board of Forestry is appointed by the Governor. It meets at least quarterly and is composed of seven members. The State Forester is appointed by the Board of Forestry and serves as secretary to the Board. Functions of the Department are under the direction of the State Forester, Deputy State Forester, Division Chiefs and Area Directors.

The major program activities of the Oregon Department of Forestry include:

Protection from Fire: The Department's largest program is responsible for fire protection on 16 million acres of Oregon forest land. This involves prevention, detection, suppression, smoke and fuels management. This program also includes vigorous fire investigation and cost recovery activities.

Private Forests: The Private Forests Program administers the Oregon Forest Practices Act, provides technical and financial assistance to forest landowners, provides insect and disease surveys and technical assistance statewide; and conducts effectiveness and compliance monitoring.

State Forests Management: Manages 818,800 acres of state-owned forestlands. These lands are actively managed to produce multiple values such as revenue from timber harvests, water quality, and recreational education opportunities.

Urban and Community Forestry: This program involves the planting, care and management of the trees in our communities.

Agency Administration: Agency Administration includes policy direction and management control of Department activities. This involves administrative support services to department programs including agency leadership, interagency coordination, forest resource analysis and policy development, land use planning coordination, information systems support, accounting, payroll, budgeting, purchasing coordination, property management coordination, human resources, safety and training support, public affairs coordination support, quality assurance and staff support for the Board of Forestry.

The Oregon Department of Forestry employs approximately 1,100 permanent and seasonal employees in over 30 locations throughout the state. Headquartered in Salem, our 15-acre campus serves as the administrative headquarters for the Department's Protection from Fire, Private Forests, State Forests Management, Urban and Community Forestry, and Agency Administration Programs. The field function is divided into three areas; each area includes from four to seven districts or associations. The districts are responsible for administering all of the Department programs while the associations are under contract to provide protection from fire only.

A. Mission and Objectives

Mission

To serve the people of Oregon by protecting, managing, and promoting stewardship of Oregon's forests to enhance environmental, economic, and community sustainability.

VISION

These Department vision statements have been revised from past Department strategic plans to be consistent with the current vision statements of the Board of Forestry.¹ It is important that the Board and the Department are working towards the same vision of the future. Together, the Board's and the Department's actions will help create these desired future conditions.

The Department of Forestry will be successful in achieving its mission when Oregon has:

- 1. Healthy forests providing a sustainable flow of environmental, economic, and social outputs and benefits.*
- 2. Public and private landowners willingly making investments to create healthy forests.*
- 3. Statewide forest resource policies that are coordinated among Oregon's natural resource agencies.*
- 4. The Department of Forestry recognized as an agency operating openly and in the public interest.*
- 5. Citizens who understand, accept, and support sustainable forestry and who make informed decisions that contribute to achievement of the vision of the 2003 Forestry Program for Oregon.*
- 6. Adequate funding for the Department of Forestry to efficiently and cost-effectively accomplish the mission and strategies of the Board of Forestry, appropriate use of information technology, business management strategies, and department personnel policies that encourage and recognize employees, allowing them to meet their full potential in providing excellent public service.*

VALUE STATEMENTS

In addition to supporting the Board of Forestry's ten Value Statements listed in the 2003 Forestry Program for Oregon, the Department of Forestry will incorporate the following core values as our employees work together with our stakeholders and customers to achieve our mission and vision.

The Department values:

- Being a leader in professional forestry.*
- Innovation based on sound science.*
- Excellent, efficient, and effective service.*

¹ References to information technology and business management strategies, which do not appear in the *Forestry Program for Oregon*, have been added to statement #6.

- *The involvement and cooperation of all Oregonians.*
- *Honesty and integrity.*
- *Individual initiative, effectiveness, and hard work.*
- *Respectful, strong, cooperative relationships.*

B. Agency Director

Doug Decker, State Forester
Oregon Department of Forestry
2600 State Street, Salem, OR 97310
503-945-7211

C. Governor's Policy Advisor

Richard Whitman, Natural Resources Policy Director (503) 378-5145
Brett Brownscombe, Natural Resources Policy Advisor (503) 373-1680
Governors Natural Resource Office (GNRO)
255 Capital Street NE, Suite 126, Salem, OR 97301

D. Agency Affirmative Action Representative

Krista Fegley
Human Resources Director
2600 State Street, Salem, OR 97310
503-945-7296

E. Agency Diversity or Inclusion Representative

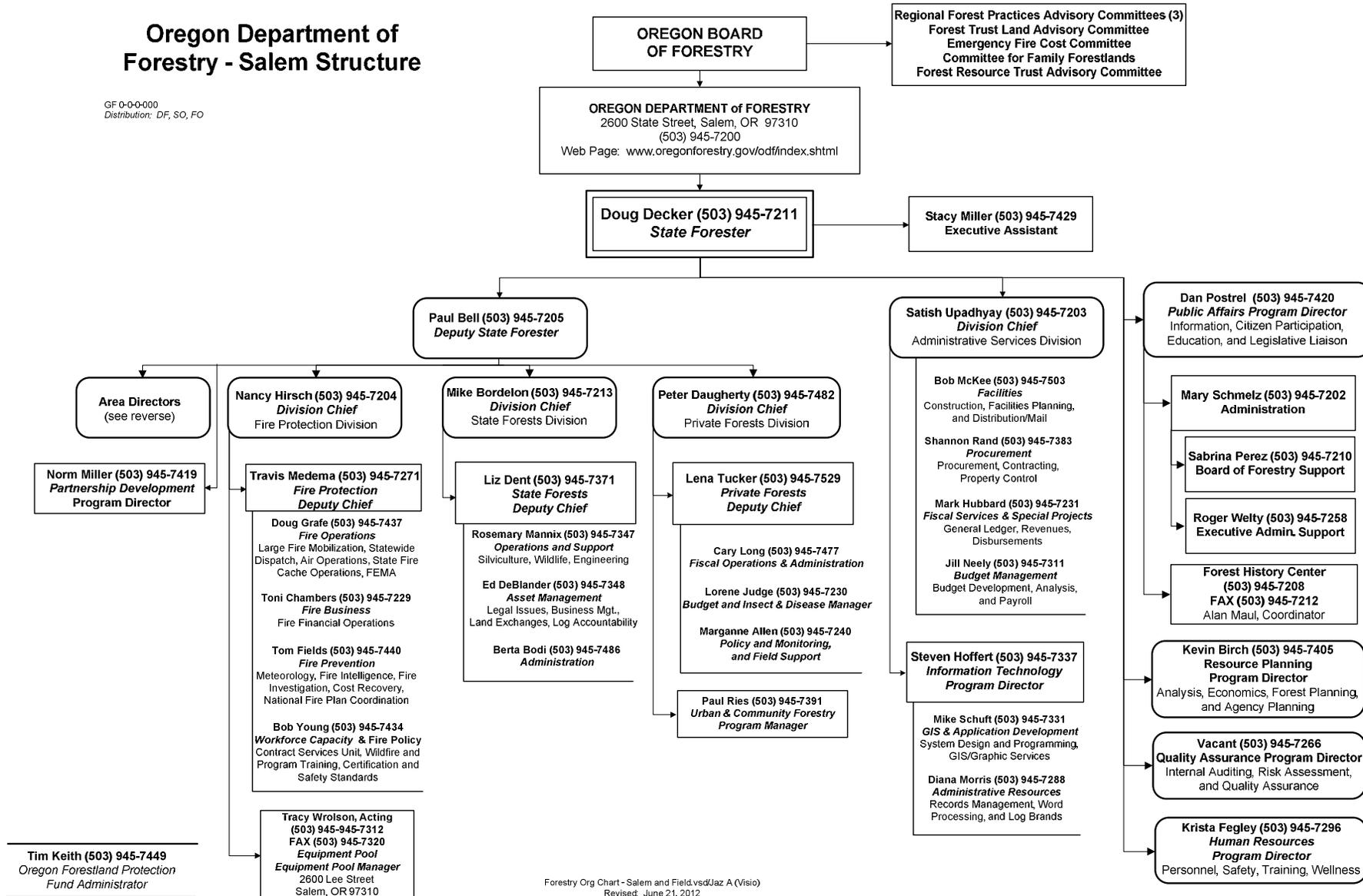
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F. ODF Organization Charts

Oregon Department of Forestry - Salem Structure

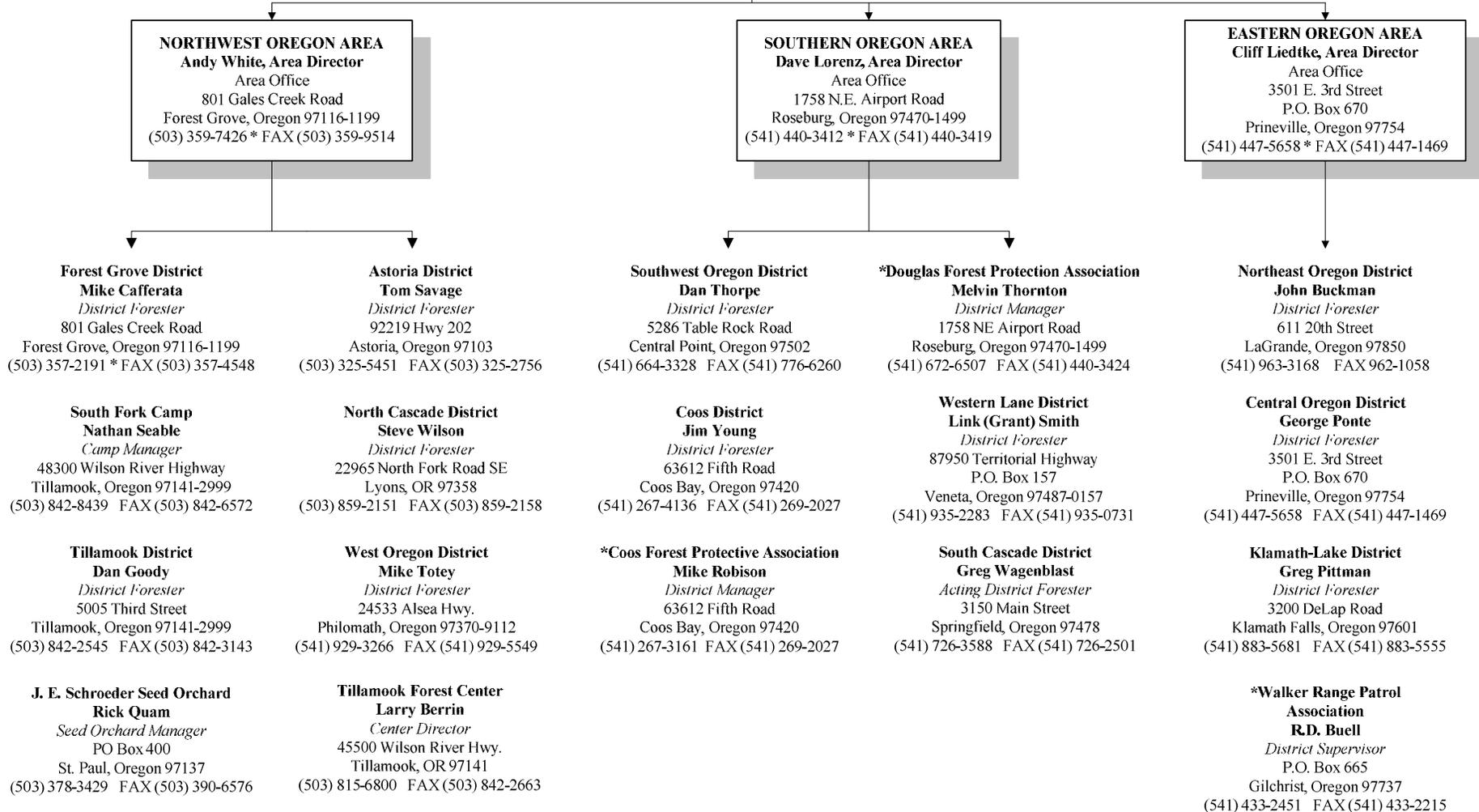
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Distribution: DF, SO, FO



Forestry Org Chart - Salem and Field.vsd/Jaz A (Visio)
Revised: June 21, 2012

Oregon Department of Forestry - Field Structure

**PAUL BELL (503 945-7205)
DEPUTY STATE FORESTER**



* Designated activities in Fire Protection Program

II – AFFIRMATIVE ACTION PLAN

A. Affirmative Action Policy Statement and Equal Employment Opportunity, Affirmative Action and Diversity Directive

OREGON DEPARTMENT OF FORESTRY

General Policy

It is the policy of the Oregon Department of Forestry (ODF) to provide an equal opportunity for employment and advancement regardless of race, color, national origin, gender, age, religion, marital status, sexual orientation, or physical or mental disability, or military status.

The Department's Diversity Action Plan provides the umbrella for: (1) enhancing the department's sensitivity to and understanding of diversity issues within ODF; (2) creating an inclusive work environment that enhances the diversity of our workforce and encourages each employee to reach their full potential; and (3) guiding ODF to become an "Employer of Choice."

To achieve this diversity the Department will carry out an Affirmative Action program which provides procedures for the consideration of protected class candidates in all aspects of human resource management.

It is the policy of the Department to strive to eliminate the effects of past and present discrimination, intended or unintended, which are evident by analysis of present employment patterns and practices.

Recruitment and Selection

It is the policy of the Department that all vacancies in job groups that show an underutilization will be recruited on an open competitive basis. Any departure from this procedure must be approved by the State Forester or the Deputy State Forester. During periods of Department downsizing and restructuring or when ODF specific knowledge and experience is required, methods other than open competitive recruitment may be approved. Recruiting periods will be of sufficient length to adequately allow for proper distribution and response to every recruiting announcement.

Interview and other employee selection panels will be created and utilized to reflect the diversity of the Department's workforce and stakeholder base. Interview panel members can be from outside agency stakeholder and partner groups and from both represented and management service employee groups regardless of the status of the recruited position. When managers create interview panels, consideration will be given to inclusion of protected class employees, field and staff employees, operating and support program employees, and represented and management service employees. For all management service interview and other selection panels, the supervising manager will make a reasonable effort to include at least one protected class employee as a panel member, and at least one field or staff employee is utilized as a panel member opposite to the recruited position, i.e. for a staff position, and that at least one field employee will be utilized as a panel member, if possible, and vice versa. In addition, for management service panels, an effort will be made to include at least one panel member from outside the agency from stakeholder or partner groups. For all position selection processes, interview or other selection panel composition will be approved by the "next in command" supervisor, i.e. the supervisor of the recruiting supervisor. The roster of utilized panel members will be discussed with the Human Resources Section prior to scheduling interviews.

PLEASE POST ON EMPLOYEE BULLETIN BOARDS

The best suited candidate will be selected for each position. Best suited is defined as that individual who meets the minimum qualifications of the position and best serves the need of the Department and public it serves at the time the selection is made. It may not be the person with the highest score, the most experience, or the best education. The decision as to who is the best suited must be made on a position by position basis.

Employee and Stakeholder Protection

It is the policy of the Department that harassment or discrimination of anyone employed by or associated with the Oregon Department of Forestry will not be tolerated. All employees play a vital role in ensuring a discrimination-free work place. In addition, management and executive service personnel at all levels of the organization are responsible to create and maintain a professional work environment that is free from discrimination or harassment of any kind. Employees who feel they have been harassed or discriminated against are encouraged to bring such behavior to the attention of Department management via the complaint and grievance procedures outlined in this plan.

No employee of ODF nor any entity contracting with it may coerce, intimate, threaten, or interfere with any individual who has opposed any act or practice prohibited by the Americans with Disabilities Act (ADA); participated in any investigation, or aided or encouraged others to assert rights granted under the ADA.

Communication

ODF shall maintain a copy of the Affirmative Action Policy on the ODF website for all employees to access. In addition, a copy of the Affirmative Action Plan will be provided to all managers. Managers shall participate and encourage others to participate in the ODF's activities designed to promote affirmative action. As part of their annual performance evaluation, each manager or supervisor shall be evaluated on their effectiveness in promoting the affirmation action goals and objectives for ODF.

Responsibilities

All employees have a responsibility to implement and adhere to this plan within the context of the Department's Working Guidelines. All managers have a responsibility to manage their respective programs, functions and work force in accordance with the principles, policies and procedures of this plan, and will be held accountable for their performance.

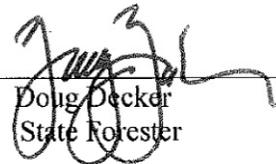
To help ensure organizational success, the Department's Executive Team will make necessary decisions and monitor the accomplishment of this plan on an ongoing basis, and make plan adjustments as necessary.

Term

This Affirmative Action Plan is in effect from July 1, 2013 to June 30, 2015.

Questions

If you have questions or concerns, please contact Krista Fegley, Human Resources Director at (503) 945-7296 for assistance.



Doug Decker
State Forester

DEPARTMENT OF FORESTRY
EQUAL EMPLOYMENT OPPORTUNITY, AFFIRMATIVE ACTION, AND DIVERSITY

PURPOSE: This Directive provides policy direction of the Oregon Department of Forestry's (ODF) commitment to the principles of Equal Employment Opportunity (EEO), Affirmative Action, and Diversity. The Directive provides ODF general standards for implementing equal employment opportunity and affirmative action efforts for its employees and applicants, expectations of maintaining a positive work environment, and managing a diverse workforce. It provides a complaint process for ODF employees and applicants for alleged acts or behavior of unlawful discrimination or harassment. It outlines criteria for evaluation of manager's performance in meeting Equal Employment Opportunity, Affirmative Action, and Diversity Goals.

AUTHORITY: This Directive establishes guidance that is consistent with the following federal and state laws, state policies, and regulations.

- U.S. Equal Employment Opportunity Commission
- ORS 659A.0123 (Unlawful Discrimination in Employment, Public Accommodations)
- ORS 659A.015 (AA reports to include Information on Contracts to Minority Businesses)
- ORS 243.305 (Policy of affirmative action and fair and equal employment opportunities and advancement)
- OAR 105.040.0001 (Equal Employment Opportunity and Affirmative Action)
- Governor's Executive Order No. EO-05-01, Affirmative Action: Review and Renewal
- DAS Policy 50.010.01 (Discrimination and Harassment Free Workplace)
- DAS Policy 50.010.03 (Maintaining a Professional Workplace)
- Collective Bargaining Agreements

DEFINITIONS:

Complainant: A person or persons allegedly subject 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.

Harassment: A form of offensive treatment or behavior which to a reasonable person creates an intimidating, hostile, or abusive work environment. Harassment may include, but is not limited to, verbal harassment, such as racial epithets, ethnic or sexual jokes, inappropriate use of sexually explicit language, demeaning and derogatory comments; physical harassment, such as unwanted touching, physical interference with normal work or movement, or assault; visual or audio harassment, such as derogatory or sexually or racially offensive posters, degrading

songs, cartoons, or drawings in any form, including written, computer generated or telephonic; and sexual harassment.

Higher Standard: Applies to managers and supervisors. Managers and supervisors are responsible for assuring adherence to State and Federal Laws and with statewide policy direction, as such, managers and supervisors are expected to set an example of appropriate behavior. Proactively taking an affirmative posture to create and maintain a discrimination and harassment free workplace.

Protected Class Status 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 (FMLA); a person who uses Military Leave; a person who associates with a person of 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 law.

Protected Class Status 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 (OFLA); marital status; family relationships; sexual orientation; whistleblower; expunged juvenile record; and any other protected class as defined by state law.

Retaliation: Any retaliation against an employee who files a complaint, participates in an investigation, or reports observing discrimination, workplace harassment, or sexual harassment is prohibited and will not be tolerated.

Sexual Harassment: Sexual harassment is unwelcome, unwanted, or offensive sexual advances, requests for sexual favors, or 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 an individual's employment, or is used as a basis for any employment decision (granting leave requests, promotion, favorable performance appraisals, 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.

Unlawful Discrimination: The act or behavior of treating people differently or adversely because of their race, color, national origin, religion, gender, or other factors protected by law.

POLICY: The State of Oregon is committed to achieving a workforce that represents the diversity of the Oregon community and is a leader in providing its citizens fair and equal employment opportunity. ODF's Value Statement and policies articulate the agency's intent and commitment to integrate cultural competency throughout the entire agency and to create a diverse workforce. Selecting, training, supporting, and empowering a diverse workforce is a tangible expression of ODF's mission.

It is the policy of ODF to provide an equal opportunity for employment and advancement regardless of race, religion, national origin, age, gender, marital status, sexual orientation, or physical or mental disability.

ODF's Diversity Action Plan provides the umbrella for (1) exploring diversity issues within ODF; (2) creating an inclusive work environment that encourages each employee to reach his/her full potential; and (3) guiding ODF to become an "Employer of Choice".

To achieve this diversity ODF will carry out an Affirmative Action program which provides procedures for the consideration of protected class candidates in all aspects of human resource management. Accomplishment of the diversity efforts in conjunction with strong recruiting and succession plan efforts will provide the impetus for continued diversification of ODF's workforce.

It is the policy of ODF to strive to eliminate the effects of past and present discrimination, intended or unintended, which are evident by analysis of present employment pattern and practices.

GENERAL STANDARDS:

RESPONSIBILITIES:

- A. Supervisors/Managers and employees will support this policy by the following:
1. All levels of management will actively support and pursue affirmative action recruitment efforts to ensure the organizational growth and entry into the workforce of people of color, women, and people with disabilities.
 2. All aspects of employment including recruitment, hiring, benefits, training, promotions, transfers, and terminations will be made without regard to race, color, religion, ancestry, age, sex, marital status, national origin, sexual orientation, or mental or physical disability.
 3. ODF will develop, distribute, and monitor an Affirmative Action Plan and maintain an auditing and reporting system that will provide necessary statistical data and standardized reports for analysis and that will meet EEO reporting requirements.
 4. ODF shall maintain a copy of the Affirmative Action Policy on the ODF website for all employees to access. In addition, a copy of the Affirmative Action Plan will be provided to all managers.
 5. All offices will ensure ODF's Affirmative Action Statement Notice is posted on employee bulletin boards in all offices. Poster can be found on ODF HR's website: <https://odfnet.odf.state.or.us/HR2/Pages/Home.aspx>

6. All offices will ensure all federal and state required posters (i.e. equal employment opportunity, wage & hour, family medical leave, military leave, injured workers, etc.) are posted on employee bulletin boards. Required posters can be found on Bureau of Labor & Industries (BOLI) website at:
http://www.oregon.gov/BOLI/CRD/C_Postings.shtml
7. Participate and encourage others to participate in ODF's outreach activities designed to promote affirmative action.
8. During annual performance evaluation, each manager or supervisor shall be evaluated on his/her effectiveness in promoting the affirmative action goals and objectives for ODF.
9. Training on affirmative action, nondiscrimination, and a harassment-free workplace will be provided to all employees as part of ongoing employee development and new employee orientation.
10. Harassment in any form including sexual, verbal, or physical harassment or harassment based on race, color, national origin, physical or mental disability, age, religion, sex, sexual orientation, and marital status will not be tolerated.
11. It is the responsibility of each employee to promote a positive, affirming workplace environment free from intimidation, harassment, and discrimination.
12. Any supervisor/manager who witnesses or becomes aware of conduct that could be construed as harassment or discrimination with notify Human Resources and in concert with Human Resources, take immediate and appropriate corrective/remedial action.
13. Absolutely no retaliation or adverse action in any form will be taken against an employee because he/she filed a complaint alleging discrimination or harassment.
14. ODF will establish and maintain a process to review the appeals of individuals who believe they may have been subjected to discrimination or harassment.
15. All contracts between ODF and its contractors will contain a clause of nondiscrimination by which contractors agree to comply with all applicable requirements of Section 504 of the Americans with Disabilities Act.

B. Interviewing Applicants for Employment

1. ODF fulfills the mission of the agency by selecting, training, supporting, and empowering a competent and diverse workforce. It is the responsibility of every Supervisor/Manager to ensure the suitability of applicants before they are hired by ODF.
2. Interview panels should be diverse and contain, at a minimum, one male, one female, and at least one member of color. This will facilitate a broader, more diverse perspective of the applicants, and provide the hiring supervisor/manager with a more comprehensive hiring recommendation.
3. ODF has the burden of proof as to the appropriateness of the selection process.

4. Unequal treatment of candidates during the interviewing process is an example of discrimination.
 - a) All interview questions must be directly related to the position being filled.
 - b) The interviewer must ask each candidate the same questions.

This does not prevent the interviewer from asking follow up questions in response to answers provided by the candidates.
 - c) An interview documentation file should be maintained on every filled position.
 - This becomes extremely critical in the event of an audit or investigation.
 - The file should contain a position description, rating factors, scoring criteria, interview questions, and a copy of the certificate of eligibility as well as the information obtained from the reference checks.

C. Complaint Processes regarding Discrimination or Harassment

1. Informal Complaint Process

An employee may notify Human Resources of an issue or concern regarding discrimination in order to raise awareness or to put ODF on alert without filing a formal complaint requiring an investigation. In these situations:

- a) The employee may ask Human Resources to keep the matter and identity of the employee confidential.

ODF will comply with the request, to the extent possible.
- b) The employee will be asked to sign documentation stating that he/she wishes his/her identity to remain confidential.
- c) The discussion will be documented.
- d) Human Resources will review the information and notify management at a level sufficient to maintain confidentiality of the employee's identity when it is determined that action is necessary to correct the problem or to prevent a reoccurrence in similar situations.
- e) Human Resources will offer suggestions to management on preventable actions such as training and changes in environment.

2. Internal Complaint Process

Any individual who believes he/she has been subjected to unlawful discriminatory actions by ODF may file a complaint within 30 calendar days of the alleged incident.

- a) Represented employees may file a complaint either through the Collective Bargaining Agreement grievance procedure or by using the procedures described below.
- b) Employees may submit a written complaint to Human Resources that explains the basis for the complaint, identifies the alleged discriminating party or parties, the date the discriminatory action(s) occurred, and specifies the relief requested.
- c) Human Resources will review/investigate the complaint and provide the complainant with written notification of the findings within 15 calendar days or upon completion.

- 1) If additional time is needed for investigating the allegations or to issue a report of the findings, the complainant will be notified verbally or in writing of the need for additional time.
- d) If the investigation substantiates the complaint, appropriate corrective action will be initiated, including discipline if warranted.

3. External Complaint Process

A complaint alleging discrimination may be filed at any step in the complaint process with:

- a) Governor's Office of Diversity & Inclusion/Affirmative Action
255 Capitol Street NE, Suite 126
Salem, OR 97331
Phone: (503) 986-6524
Website: www.oregon.gov/gov/goaa
- b) Oregon Bureau of Labor and Industries (BOLI) - Civil Rights Division
State Office Building
800 NE Oregon Street, MS# 32, Suite 1070
Portland, OR 97232
Phone: (503) 731-4874
Fax: (503) 731-4069
- c) U.S. Equal Employment Opportunity Commission (EEOC)
Seattle Field Office EEOC Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, WA 98104
Phone: (206) 220-6883
Website: <http://www.eeocomplaint.com/>
- d) US Department of Justice (ADA complaints only)
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights Section - NYAV
Washington, DC 20530

Retaliation: Any retaliation against an employee who files a complaint, participates in an investigation, or reports observing discrimination, workplace harassment, or sexual harassment is prohibited and will not be tolerated.

D. Diversity

Supervisors/Managers and employees will support this policy by the following:

1. Explore diversity issues within their work environment by seeking understanding and acceptance.
2. Create an inclusive work environment that encourages employees to reach their full potential.

3. Participate and encourage others to participate in Diversity trainings, conferences, and/or cultural events.
4. Participate in outreach activities and promote ODF as the “Employer of Choice”.

E. Criteria for Evaluation of Manager’s Performance in Meeting Affirmative Action and Diversity Goals

All managers and supervisors shall be evaluated on the following:

1. Become familiar with ODF’s Affirmative Action Plan, Diversity Action Plan, and Succession Management Plan.
 - a) Communication content of these plans to all staff.
2. Outreach Efforts
 - a) Regular contact with local groups representing protected classes.
 - b) Affirmation to such groups that ODF is an equal opportunity employer.
 - c) Timely communication through “non-traditional” means (such as “minority interest” organizations and/or publications) that vacancies exist.
 - d) Ensure protected class staff are aware of promotional opportunities as they arise.
3. Selection Procedures
 - a) Composition of interview panels reflect job types (administrative, manager, non-manager, etc.) racial, and gender diversity.
 - b) Review (appropriate for level of supervision) of interview panel questions and selection criteria to remove inadvertent bias.
 - c) Review (appropriate for level of supervision) of minimum qualifications to detect possible artificial barriers to affirmative action goal accomplishment.
4. Development of Staff
 - a) Communication to all staff of written procedure outlining eligibility for developmental experiences, training, and assignments.
 - b) Encouragement of protected class member participation in developmental assignments, training, etc.
 - c) Actual protected class member participation in developmental assignments as a percentage of total participating.
 - d) All employees have an annual individual learning plan that addresses career development opportunities.
5. Work Environment
 - a) Demonstrated efforts to foster workplace atmosphere that welcomes diversity.
 - b) Percentage of employees who have not yet attended diversity training.
 - c) Hours of diversity training provided to staff.

- d) Actions taken to resolve complaints of discrimination.
 - e) Actions taken to resolve disabled access or accommodation issues.
6. Outcomes
- a) Composition of staff compared to long-range affirmative action goals. Special attention should be paid to job groups addressed in the Affirmative Action Plan.
 - b) Progress (appropriate for level of supervision) towards affirmative action goals compared with last review period, or documentation of extenuating circumstances contributing to lack of progress.
 - c) Hires and promotions of targeted protected class members compared with opportunities to fill vacancies. Special attention should be paid to job groups identified in the Affirmative Action Plan.

Directive History

<i>Date</i>	<i>Description</i>
02/12	New Directive

034300 – EEO Affirm Action Diversity.docx/Jaz F (Dir)

B. Agency Diversity and Inclusion Statement

The Oregon Department of Forestry is committed to diversity and inclusion, and strives to achieve and maintain a diverse, well-trained work force. The Department seeks to create an all-inclusive work environment in which all employees assist in achieving diversity and affirmative action goals, all are encouraged to meet their full potential, and all consider Forestry as their “Employer of Choice.” In addition, the Department follows foundational principals called “Working Guidelines,” statements of behavior that provide for improved information flow, and that foster an effective, respectful and trusting work environment.

The Department is committed to pursuing broad applicant pools when filling positions. We fully use technology to reach a broad range of applicants, but also post job vacancies in venues such as community bulletin boards, to ensure the greatest diversity of applicants.

The Department operates under a “shared leadership” model that empowers employee decision-making processes and seeks win-win solutions.

Agency leadership looks toward the future with a full understanding that succession management, inclusion, human potential, and workforce sustainability are keys to our success.

C. Training, Education and Development Plan

1. Staff

Diversity is considered a core theme of all training at ODF. Affirmative Action and Diversity are covered at New Employee Orientation, required for all employees during their first six months to a year of employment and also at Managers Training, required for all new managers. Diversity training is also an important half-day section of our Agency Leadership Program (ALP), delivered once each biennium. Staff is encouraged to attend local Diversity conferences and events.

The Department of Administrative Services (DAS) developed policy and provided training on Discrimination and Harassment-Free Workplace (including Sexual Harassment), Maintaining a Professional Workplace, Workplace effects on Domestic Violence and Sexual Assault & Stalking which the majority of our employees have attended. We have expanded the DAS training and present it to provide a forum intended to generate dialogue on diversity and valuing differences. We strongly emphasize our Working Guidelines through conversations with employees during the recruitment process, at the time of hire, during annual performance reviews, and unit staff meetings to encourage inclusion and improve communications. We have delivered a course entitled Sharpening Your Communication Skills to all employees over the last five years that fosters the acceptance of different styles of communication and skills to be more effective in this area.

Three new agency directives were finalized and adopted this biennium: Equal Employment Opportunity, Affirmative Action and Diversity; Reasonable Accommodation; and Principles of Conduct. The initial training phase has been completed but trainings continue on a regular basis as requested by field offices and programs.

Succession planning in a comprehensive and systematic manner is a high priority at Forestry. It is addressed consistently at all our core training programs, is regularly a part of top management's communication with agency employees, and is an important component of our Empowered Workforce Initiative. Diversity, succession management and retention are key aspects of this effort.

2. Volunteers

All volunteers at the Tillamook Forest Center receive the training mentioned above.

3. Contractors/Vendors

Contracts include standard Federal and State statutes and policies related to Affirmative Action and Discrimination. No formal education or training is provided to vendors.

D. PROGRAMS

The following activities play a major role in moving the agency toward its affirmative action goals as well as building a foundation for future efforts to diversify the work force.

1. Internship Program

ODF's Intern Program focuses on attracting natural resource college students to the Department for employment opportunities. However, due to budget constraints, the majority of this program was suspended at the beginning of 2009 until further notice. The Tillamook Forest Center received separate funding in 2010 from Oregon Parks and Recreation Department to support two intern seasonal positions focusing on Forestry Education and Interpretation, and this funding has continued into 2011 and 2012. We plan to reinstitute the Forestry Internship Program in the future as feasible and as funds are available.

Several Salem program units provide internship opportunities for local college, and graduate level students during the summer months. These internship appointments are not a part of our Forestry Internship Program, however, they provide valuable work experience and exposure to the natural resources/forestry programs.

2. Community Outreach Programs

ODF makes a special effort to attend the Minorities in Agriculture and Natural Resource Related Sciences Conference (MANRRS), a national link to students of color studying various natural resource topics. We plan to attend this conference in the future as feasible and as funds are available.

ODF has increased its efforts to conduct outreach with Oregon's veterans. In 2011, contacts were made at various military installations, including the Portland Air National Guard Base and the Army National Guard Headquarters in Salem. We are attempting to expand these contacts regionally. In 2012, ODF attended the Joint Transition Assistance Program career fair for Oregon Army soldiers returning from Afghanistan deployments. Additionally, ODF has made contact with U.S. Department of Veterans Affairs staff and is currently researching ways to connect ODF with veterans in job retraining programs.

In the past several years recruiters made on-campus visits for job/career fair events at the following colleges/universities:

- Oregon State University
- Mt. Hood Community College
- Chemeketa Community College

While short-term recruiting needs are being addressed through outreach events and the intern program, a longer-term approach for developing future interest in employment is also needed. Exposure to natural resources as a potential career needs to be addressed at the K-12 grades in Oregon. Forestry has developed several options that will increase exposure of urban students to natural resource issues and potentially to natural resource careers.

- Forestry education program in Northwest Oregon that provides teachers with forestry educational material and strategies for the primary grades and middle school levels. The Northwest Education Program Coordinator is currently working with the Tillamook and Portland School Districts to provide Forestry education materials, curriculum, and field experiences to students.
- ODF's Recreation program that provides staff interaction with Off Highway Vehicle (OHV) clubs, scouts, campers, hikers and volunteers. Additionally, ODF recreation sites attract individuals into the outdoors for fun activities exposing them to forestry information provided by ODF staff.
- Collaborate with the Oregon Forest Resources Institute (OFRI). OFRI has funds available to assist with transportation costs for forestry related fieldtrips for students in urban areas. ODF has partnered with OFRI to help distribute free materials developed by OFRI and designed to attract K-12 students to forestry careers.
- Our Tillamook Forest Center provides a perfect setting for field trips, education and exposure of natural resources/forestry to the general public.
- Field offices throughout Oregon conduct fire prevention programs, support outdoor school activities and natural resource curriculums for various grade levels. Smokey Bear visits are included in many of the school presentations.
- ODF is in partnership with Keep Oregon Green Association (KOG). KOG located on the ODF Salem Campus displays the familiar green tree statewide to remind citizens to prevent wildfires on Oregon lands. KOG conducts a wildfire prevention program targeting kids ages 8-12 who discover Oregon's forests, determine the types of human behaviors that cause wildfires, and explore ways in which they can help prevent those wildfires - KOG Ranger program www.kogranger.org.
- Participate statewide in the annual "Take Our Kids to Work Day" by conducting tours of the ODF Salem Campus and field offices and by providing activities for children during the day to expose and educate and promote awareness of forestry/fire/natural resource careers and exploration.
- Forest History Center on ODF's Salem Campus is open on Fridays and Saturdays for tours and visits from school groups and others to learn about Oregon's forest

past.

- Where economical and feasible, the Department participates in the annual Society of American Foresters (SAF) Career Fair. This is the largest Forest Management Career Fair nationwide providing ODF access to the nation's best candidates and attracting interest in Oregon.
- Annually ODF employees from around the state participate in the Oregon State Fair at the ODF State Fair Booth to share about the importance of Oregon's forests and the department's work of forest stewardship.
- Forestry's School-To-Work Coordinator coordinates efforts to provide students with informational interviews, job shadows, and student internships.

ODF's Recruiters and Affirmative Action Officer have developed and continue to make contacts with a wide variety of women, people of color and people with disabilities organizations, community groups, and the educational community. These efforts focus on how to integrate our outreach and educational efforts with the ongoing efforts of these organizations. ODF participates in diversity conference/events as offered and feasible.

Additional Plans for Community Outreach efforts in the 2013-2015 Biennium:

- (a) Continue to serve as business partners with the North Salem and McNary High Schools in the Salem-Keizer School District.
- (b) Encourage District Offices to participate as business partners with their local school districts statewide.
- (c) Continue to build relationships with organizations representing people of color and organizations representing women.
- (d) Continue to contract with Women and Minority owned businesses, registered and unregistered.
- (e) Continue to emphasize the potential of a career in natural resources to our customers, the public, students and School-To-Work counselors. The possibility of a career in Forestry or natural resources is not in many people's mind or visible, and as such it is not considered as an option when exploring college and university programs.
- (f) Continue to work with the School-To-Work Program to provide high school and college students with real work experiences in a Forestry career path.
- (g) Continue to target outreach to recruit women and people of color into the natural resource fields through high schools, colleges, universities, publications, websites, associations, etc.

- (h) Participate in the Salem/Keizer School District's "Expanding Your Horizons". This is a Math and Science Career Expo for girls in 5th through 8th grade.
- (i) Participate in the Salem/Keizer School District's JIFFY (Job Interview Fair for Youth) Program.
- (j) Research ways ODF can partner with Vocational Rehabilitation programs to help injured and disabled workers reenter the workforce.
- (k) Participate in Veteran's job fairs.

3. Diversity Initiative Program

ODF's Diversity initiative is aimed at (a) creating an inclusive work environment, (b) encouraging each employee to reach their full potential and (c) establishing Forestry as the "Employer of Choice". Accomplishment of the diversity efforts in conjunction with a strong recruiting and succession plan efforts will provide the impetus for continued diversification of ODF's workforce. High priority items that were identified and have been implemented to date include:

- (a) Implementation of Covey's 7 Habits Plus training for all agency employees as the ODF corporate culture course.
- (b) Managers discussing, agreeing to and completing Individual Learning Plans for all employees during the annual performance appraisal process.
- (c) Update and maintenance of the Human Resources Webpage.
- (d) Implementation of gender communication training for all agency employees.
- (e) Incorporate the Working Guidelines of the Department into all agency specific training.
- (f) Diversity awareness issues built into the agendas of Forestry Leadership Team (LT) meetings and the Agency Leadership Program (ALP) for discussions.
- (g) All Forestry employees were encouraged to attend half-day agency sponsored diversity forums.
- (h) Three new agency directives were finalized and adopted this biennium: Equal Employment Opportunity, Affirmative Action and Diversity; Reasonable Accommodation; and Principles of Conduct. The initial training phase has been completed but trainings continue on a regular basis as requested by field offices and programs.
- (i) An action plan to address Forestry's "unwritten rules" was completed and included in the new Principles of Conduct directive.
- (j) ODF's Employee recognition Program includes the annual Agency Achievement Award Program. Agency awards include the James E. Brown Leadership Award, Working Guidelines Award, Technical Achievement Award, Team Award, State Forester's Safety/Wellness Award, Workforce Diversity Award and Seasonal Fire Fighter Leadership Award. The

Workforce Diversity Award, added in 2010, recognizes the extent to which an employee models diversity principles, exhibits a proactive attitude and action toward diversity issues in the workplace with their own behaviors, encourages support of diversity and affirmative action goals by fellow employees, attitude and efforts related to diversity have consistently helped to further ODF's vision and programs.

- (k) Forestry's Mentorship Program was included in the new directives and highlighted to encourage participation and remind employees of this growth opportunity.
- (l) SEIU and AEE collective bargaining agreement and Statewide Policy update training is provided for management biennially to provide information on employee/manager benefits rights and benefits, including equal employment opportunity laws and leadership skills.
- (m) With the adoption of new agency directives, (Equal Employment Opportunity, Affirmative Action and Diversity; Reasonable Accommodation; and Principles of Conduct) diversity information and resources on the ODFnet Human Resources webpage has been improved and updated.
- (n) The agency's Professional Standards Workgroup recommendations were implemented with the adoption of the Principles of Conduct directive. Training was conducted on the new directive information, including heightening awareness of professional standards and expectations for all employees in the workplace.
- (o) ODF implemented the Statewide E-Recruit System which has broadened the agency's outreach efforts for employment opportunities and provided system enhancements for supervisors conducting recruitments.

ODF will continue the implementation of other high priority items such as:

- Continue implementation and/or update of the action items in Forestry's Succession Management Plan.
- Expand participation in Forestry's Mentorship Program.
- Expand communication skill training for all employees.
- Continue to implement and provide training for managers in supervision including equal employment opportunity laws, and leadership skills.
- Develop and implement Cross Cultural/Diversity Training for all agency employees.
- Continue to implement and train employees on the agency's Professional Standards Workgroup recommendations including heightening awareness of professional standards and expectations for all employees in the workplace.
- Continue to effectively implement the statewide E-Recruit System which has

broadened the agency's outreach efforts for employment opportunities.

- Continue to provide employees with policy updates and/or trainings annually on Discrimination and Harassment (including Sexual Harassment), Maintaining a Professional Work Place, Workplace effects on Domestic Violence, Sexual Assault & Stalking, etc.
- Continued emphasis on all employees developing an Individual Learning Plan during the annual performance appraisal process.
- Continue to communicate and emphasize Forestry's Working Guidelines at all levels of the organization.

E. Update: Governor's Executive Order 08-18

1. Status of Cultural Competency Assessment/Implementation

ODF has not accomplished this assessment to date. ODF is exploring options to have the consultants that are under contract with DAS outline the assessment process and its cost. A previous Diversity Assessment was conducted by Metropolitan Group in partnership with Portland State University which included focus groups and individual interviews with a random sample of ODF protected class employees. Data from this survey was used to develop and address agency "Unwritten Rules." We have completed an "Unwritten Rules" Assessment with all work units across the state. The Unwritten Rules that were identified provided the foundational data used to target our Diversity Training and other actions.

2. Statewide Exit Interview Survey

ODF invites all departing employees from the agency, verbally or in writing, to complete an ODF Exit Interview Questionnaire that allows the agency to gather feedback regarding their experiences as an employee and review any recommendations they may have for changes or improvements. The responses are reviewed by the Appointing Authority and information is presented to the Executive Team to take suggestions/recommendations into account and make agency improvements if necessary.

In addition, departing employees from the agency are also encouraged to complete the State of Oregon- Statewide Exit Interview Survey. The survey for the period 7/1/10 through 6/30/12 included responses from three employees. The responses were reviewed by the Appointing Authority and will be presented to the Executive Team to take suggestions/recommendations into account and make agency improvements if necessary.

3. Performance Evaluation of All Management Personnel

Affirmative Action and managing for a diverse workplace are a part of ODF manager's duties and responsibilities. During their annual performance appraisal they are evaluated on their efforts and success in promoting these important concepts including the following:

- (a) Creating a working environment which encourages all employees to achieve their full potential. This includes addressing career development opportunities, developing individual learning plans and by reviewing employee training and career plans to determine appropriate developmental assignments.
- (b) Maintaining a professional attitude and an inclusive work environment, free of intimidation, harassment and other forms of discrimination that enhances employee perception of ODF as their "employer of choice".
- (c) Responsibility for achieving the Department's Affirmative Action goals through recruitment, selection and retention of protected class individuals. Promote and support the value the Department places on Equal Employment Opportunity (EEO), Affirmative Action (AA), Diversity and Working Guidelines through individual actions and interactions with employees, applicants, stakeholders, community partners, and landowners.

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

Registered Women and Minority Owned Businesses that ODF contracted with during the 2011-2013 biennium:

- ASI Arden Solutions Inc.
- Azimuth Surveying
- Lara Brothers, Ltd.
- Lucky Duck Printing
- MQ Franco Reforestation
- North Pacific Forestry, Inc.
- Northwest Environmental Consulting Services
- Service America Commercial Services L.L.C.
- Shane R. Thurston
- Steven R Mitchell
- The Wallace Group, Inc.
- Titan-Kelly LLC

In addition, a review of our contract vouchers indicates that ODF is hiring a high percentage of additional minority owned businesses, particularly for fire crews and forest silvicultural work, that are not currently registered under ORS 659A.015.

III – ROLES FOR IMPLEMENTATION OF AFFIRMATIVE ACTION PLAN

A. Responsibilities and Accountabilities

1. State Forester/Leadership Team

State Forester

The State Forester has committed the Department to a policy of Equal Employment Opportunity and Affirmative Action, and maintains an active interest in the attainment of the Department's published Affirmative Action goals and objectives. The State Forester has overall responsibility to:

- (a) Implement the Affirmative Action Plan.
- (b) Monitor progress toward meeting Affirmative Action goals.
- (c) Ensure compliance with all applicable federal and state laws, rules and regulations regarding Equal Employment Opportunity.
- (d) Deal directly with reported actions that are contrary to the policies and procedures outlined in the Affirmative Action Plan.

Leadership Team

The Leadership Team includes the Executive Team, Program Directors, and District Foresters. The Leadership Team, in addition to managers and supervisors are responsible for full implementation of the Affirmative Action Plan within their area of responsibility. Specific responsibilities are to:

- (a) Establish a positive climate for program success within their area of responsibility.
- (b) Review personnel practices and procedures including training programs, hiring and promotion patterns, and work climate to identify possible roadblocks to equal employment opportunity and upward mobility, then take appropriate remedial action.
- (c) Participate in meetings of women's organizations, people of color organizations, people with disabilities, and community service groups, as appropriate.
- (d) Hold regular discussions with managers, supervisors, and employees to be certain that the Affirmative Action Plan is understood and is being implemented as assertively as possible.
- (e) Evaluate manager's and supervisor's performance on the basis of their Affirmative Action efforts and results as outlined in the Goals and Strategies Section (Part V).

2. Managers and Supervisors

Department managers and supervisors have the primary responsibility for the success of the Affirmative Action Plan through their direct supervisory roles. These responsibilities include:

- (a) Becoming thoroughly familiar with the details of the Affirmative Action Plan as they apply to his or her program/section or district/unit and monitor progress of hiring and promotions in relation to Affirmative Action goals.
- (b) Communicate the Affirmative Action Plan by:
 1. Briefing all new employees on the Plan.
 2. Maintaining a copy of the Plan readily available for reference and for employees to read.
- (c) Take steps to become involved in outreach and high school/college programs, such as "Career Days" to introduce potential applicants/students to the field of forestry and the Department to encourage their consideration of ODF or natural resources as a career option.
- (d) Take proactive steps to develop strong, diverse applicant pools for current and future vacancies. Select the best-suited candidates taking Affirmative Action goals into consideration.
- (e) Attend and encourage employees to attend Equal Employment Opportunity/Affirmative Action (EEO/AA) and Diversity training programs and/or conferences.
- (f) Create an inclusive working environment that encourages all employees to reach their full potential. This includes addressing career development opportunities, developing individual learning plans and by reviewing employee training and career plans to determine appropriate developmental assignments.
- (g) Maintain a professional attitude and an inclusive work environment, free of harassment and other forms of discrimination that enhances employee perception of ODF as their "Employer of Choice."
- (h) Promptly elevate informal and formal discrimination and sexual harassment complaints to the Human Resources Director.

3. Affirmative Action Officer

The Human Resources Director is responsible for the coordination of the Affirmative Action Plan and ensuring completeness and operational effectiveness of the program. The Human Resources Director represents the State Forester on all matters relating to Affirmative Action. Specific responsibilities are to:

- (a) Develop the written Affirmative Action Plan.
- (b) Represent the agency at the Governor's Affirmative Action Meetings.

- (c) Publicize its content both internally and externally.
- (d) Assist managers and supervisors in collecting and analyzing employment demographics, identifying problem areas, setting goals and timetables, and developing programs to achieve goals.
- (e) Assist managers and supervisors to identify resources and opportunities to achieve affirmative action goals.
- (f) Periodically review internal policies and procedures to ensure alignment with the Department's EEO/AA policy.
- (g) Maintain statistical information of race, gender, and disabled with respect to personnel actions.
- (h) Establish outreach contacts with women, people of color, people with disabilities, community groups or organizations; and colleges/universities.
- (i) Provide counseling related to informal discrimination complaints.
- (j) Monitor and ensure that internal discrimination complaint procedures are being followed.
- (k) Promptly investigate and attempt to resolve all discrimination and sexual harassment complaints; and report directly to the State Forester all formal complaints.

4. All Employees

Apply the "Working Guidelines" and "Covey's 7 Habits" principles to the working environment as well as support the Department's Affirmative Action Policy, State of Oregon's Discrimination and Harassment and Maintaining a Professional Workplace Policies and other relevant policies.

B. Policy and Plan Dissemination

Internal: All employees will be informed of the Affirmative Action Policy and Plan to ensure their understanding, and gain their acceptance and support for its implementation.

- The policy will be published on the internal website. Copies of the complete Affirmative Action Plan will be distributed to each manager to be accessible to employees.
- Meetings shall be conducted with executive, managerial, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation.
- Policy statements shall include a clear statement of the agency head's commitment to affirmative action and support for the policy and plan. The policy shall be thoroughly discussed in the orientation of employees and internal management training programs.

- Union officials will be informed of the policy and their cooperation will be requested. Non-discrimination clauses should be included in all union agreements, and all contractual provisions will be reviewed to ensure non-discrimination.

External: The Department shall put itself on public record as an affirmative action/equal opportunity employer. Consistent with that posture:

- A copy of the Affirmative Action Plan must be made available to interested members of the public.
- An EEO/AA statement must be included on each job announcement (i.e. “THE OREGON DEPARTMENT OF FORESTRY IS AN EQUAL EMPLOYMENT, AFFIRMATIVE ACTION EMPLOYER COMMITTED TO WORK FORCE DIVERSITY.”)
- All bidders, contractors, subcontractors, and suppliers of materials shall be notified of the ODF's Affirmative Action Policy. Notice shall include a statement that the Department will not knowingly do business with any bidder, contractor, subcontractor, or supplier of materials who discriminates against members of any protected class.
- Except in the case of a bona fide occupational qualification, employment advertising shall omit reference to gender, religion, age, and national origin, and shall clearly convey the commitment of the Department to Equal Opportunity/Affirmative Action.

IV – JULY 1, 2010 – JUNE 30, 2012 ACCOMPLISHMENTS AND PROGRESS MADE OR LOST SINCE PREVIOUS BIENNIUM

A. Accomplishments

During the 2011-2013 biennium, ODF employees have been involved with activities to attract and retain a diverse workforce and have met parity in some Equal Employment Opportunity (EEO) categories.

The total number of ODF employees increased from 1,006 in July 2010, to 1,038 in July 2012. The information in the charts below came from the Affirmative Action Progress Reports provided by the Department of Administrative Services.

ODF has met parity (3.8%) for people of color in the Security Officer (Forest Officers) at 9.4% and Skilled Craft Worker (Automotive Technician 2) categories at 11.11%. There is still work required to reach parity in several of the other categories.

The charts below show the changes in numbers for Women, People of Color, and People with Disabilities between the 2009-2011 and 2011-2013 biennia.

B. Progress made or lost since previous biennium

Workforce Representation

<i>Women</i>					
EEO-4 Category	09-11 Total Employees	09-11 Number Women	11-13 Total Employees	11-13 Number Women	% Change in Number of Women
A. Officials/Administrators	47	11	47	11	0.0%
B. Professionals	330	67	336	75	+11.9%
C. Technicians	42	9	41	5	-44.0%
D. Protective Service Workers	127	10	118	7	-30.0%
F. Administrative Support (Office/Clerical)	125	110	128	109	-1.0%
G. Skilled Craft Workers	20	0	18	0	0.0%
H. Service/Maintenance	315	40	332	45	+12.5%
TOTAL AGENCY	1006	247	1038	252	+2.0%

Women Data Analysis

Reported for the 2009-2011 biennium from July 2010 statistics, women comprised 24.5% of ODF's workforce. Reported for the 2011-2013 biennium using July 2012 statistics, women comprise 24.3% of ODF's workforce. While there was an increase in the number of women from 247 to 252, the ratio of women in ODF's workforce declined by .2%.

The EEO categories where significant decreases occurred over the course of the 2011-2013 biennium were in the following job categories: Technicians and Protective Service Workers. At the same time, there were increases in the following EEO categories: Professionals and Service/Maintenance.

<i>People of Color</i>					
EEO-4 Category	09-11 Total Employees	09-11 Number People of Color	11-13 Total Employees	11-13 Number People of Color	% Change in Number People of Color
A. Officials/Administrators	47	5	47	3	-40.0%
B. Professionals	330	19	336	19	0.0%
C. Technicians	42	2	41	3	+50.0%
D. Protective Service Workers	127	10	118	11	+10.0%
F. Administrative Support (Office/Clerical)	125	4	128	6	+50.0%
G. Skilled Craft Workers	20	2	18	2	0.0%
H. Service/Maintenance	315	15	332	25	+66.6%
TOTAL AGENCY	1006	57	1038	69	+21.0%

People of Color Data Analysis

Reported for the 2009-2011 biennium from July 2010 statistics, employees of color who chose to disclose this voluntary information comprised 5.6% of ODF's workforce.

Reported for the 2011-13 biennium using July 2012 statistics, employees of color who chose to disclose the voluntary information comprised 6.6% of ODF's workforce. There was an increase in the number of employees of color from 57 to 69 and the ratio of employees of color in ODF's workforce increased by 1.0%. The EEO job category where a significant decrease occurred was: Officials/Administrators. At the same time, there were increases in the following EEO categories: Technicians, Protective Service Worker, Administrative Support, and Service Maintenance.

<i>People with Disabilities</i>					
EEO-4 Category	09-11 Total Employees	09-11 Number Employees with Disabilities	11-13 Total Employees	11-13 Number Employees with Disabilities	% Change in Number Employees with Disabilities
A. Officials/Administrators	47	1	47	1	0.0%
B. Professionals	330	8	336	6	-25.0%
C. Technicians	42	3	41	1	-66.6%
D. Protective Service Workers	127	0	118	0	0.0%
F. Administrative Support (Office/Clerical)	125	5	128	4	-20.0%
G. Skilled Craft Workers	20	2	18	2	0.0%
H. Service/Maintenance	315	0	332	0	0.0%
TOTAL AGENCY	1006	19	1038	14	-26.3%

Employees with Disabilities Data Analysis

Reported for the 2009-2011 biennium from July 2010 statistics, employees with disabilities who chose to disclose this voluntary information comprised 1.8% of ODF's workforce. Reported for the 2011-2013 biennium using July 2012 statistics, employees with disabilities who chose to disclose the voluntary information comprised 1.3% of ODF's workforce. There was a decrease in the number of employees with disabilities from 19 to 14 and the ratio of employees with disabilities in ODF's workforce declined by 0.5%.

We believe that there are a higher percentage of employees with disabilities than represented by current data. The records presently do not reflect the agency's formal accommodation of individuals through reasonable accommodation and individuals who have sustained a permanent disability via the workers' compensation process.

During the 2013-2015 biennium, efforts will be focused on attracting and retaining a diverse workforce, including women, people of color, and people with disabilities.

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V – JULY 1, 2012 – JUNE 30, 2015 GOALS AND STRATEGIES

A. Short-Term Goals

In order to focus our effort, short-term goals for 2013-15 have been set for only those job groups for which an analysis was done. These are critical groups and will influence how the entire Department performs.

Middle Management (A01), Upper Management (A02), Natural Resource Professionals (B08):

The Department's goal is to fill positions in the A01, A02 and B08 job groups at the B08 parity percentages for women (25.1%), people of color (7.2%) and people with disabilities (6%).

Security Officer (D01) [Forest Officer/Forest Officer (Entry)]:

The Department's goal for the D01 job group is to first increase the rate of women found in the [Wildland Fire Suppression Specialist, Wildland Fire Suppression Specialist (Entry), and Laborer/Student Worker] feeder classifications to a rate of 25.1%. Second, set the Department goal for the overall Security Officer (D01) job group at which is comparable to the July 2012 Wildland Fire Suppression Specialist classification at 12.8%, which is the highest percentage of women of the three feeder classifications as mentioned above, in the Service Maintenance (H00) job group.

Service Maintenance (H00) (Wildland Fire Suppression Specialists):

The Department's goal for the Service Maintenance (H00) job group is to increase the number of women in the firefighting portion of this job group. Our goal will be to hire women firefighters at the Natural Resource Professionals (B08) parity percentage for women (25.1%).

B. Strategies for achieving goals

Problem Analysis and Action Plan

The most significant problem facing state government and the Department in the achievement of affirmative action goals and plans today is recruitment and retention barriers created by less than adequate compensation plans (particularly for managers) and poor budgetary decisions related to workforce capacity and compensation.

The following job groups represent the most significant areas in need of improvement due to the large number of employees in these job groups. In addition, the Upper Management (A02) group includes the formal leaders of the organization, and the Middle

Management (A01), and Natural Resource Professionals (B08) groups serve as an applicant pool for professional and management positions in the Department.

- Middle Management (A01): (consists of sixteen (16) employees in Principal Executive/Manager A and C, and District Forest Manager positions)

This job group is underutilized in women, people of color and to a lesser extent, people with disabilities.

Discussion: The Principal Executive/Manager A and C, and District Forest Manager positions make up over 34% of the jobs in this group and nearly 80% of these positions require a natural resources background with an emphasis in forestry. The Natural Resource Professionals (B08) group, which is underutilized in people with disabilities, people of color and especially women, is a prime source of candidates for the Middle Management (A01) positions. Since 2010 this job group has increased in the number of women from 13.3% to 16.8%.

These past two years, the overall women representation in the agency was at 247 to 252 or +2.0%. The number of people of color increased from 57 to 69 or +21.0%. While these significant changes have occurred, continued efforts are necessary to retain and recruit to achieve goals.

Action:

1. Continue to identify those positions for which forestry knowledge is not necessary or a minimal requirement and use the open competitive method for recruitment.
 2. Use the open competitive process whenever possible when recruiting for positions that require a forestry background.
 3. Improve Natural Resource Professionals (B08) representation of women and persons of color since this group provides a large percentage of the candidates for the Principal Executive/Manager A and C, and District Forest Manager positions.
- Upper Management (A02): (consists of thirty-one (31) employees in Principal Executive/ Manager D, E, F, G, and H, and Area Forest Manager positions)

This job group is underutilized in people of color, people with disabilities and to a lesser extent, women.

Discussion: This job group represents the Executive Staff, Program Directors, and Area Directors of the Department. Nearly 71% of these positions require at least a natural resource background but not necessarily a forestry background. While some improvement has occurred in this job group over the years, the changes have been small. Since 2010, the percent of women has increased from 28.1% to 32.3%; and the percent of people of color has increased from 9.3% to 9.6%. The number of qualified candidates outside the department is limited for this job group in the natural resource field. The primary reason is that affirmative action candidates with the experience needed for these high-level positions are usually in secure positions with other

agencies/companies and are difficult to recruit. In addition, Middle Management (A01) and Natural Resource Professionals (B08) groups provide many of the qualified candidates, which they are both underutilized.

Action:

1. Continue to identify those positions for which a natural resource background is not necessary and use the open competitive process to recruit.
 2. On an on-going basis, aggressively seek out top-notch protected class managerial candidates both inside and outside of state government, through professional networking.
 3. Use the open competitive process whenever possible when recruiting for natural resource positions.
 4. Improve the representation of women, people of color, and people with disabilities in Middle Management (A01) and Natural Resource Professionals (B08) job categories.
- Natural Resource Professionals (B08): (consists of two hundred sixty-eight (268) employees in Natural Resource Specialist 1, 2, 3, and 4, Wildland Fire Supervisor, Forest Manager 1 and Forest Manager 2 positions)

This job group is underutilized in women, people with disabilities and to a lesser extent, people of color.

Discussion: This is the largest job group in the Department and makes up approximately 25.6% of the permanent workforce. These jobs require forestry experience and/or natural resource degrees with an emphasis in forestry. This is an extremely important job group because it provides the forestry technical know-how of ODF and it is a primary source of qualified candidates for Middle Management (A01) and Upper Management (A02) job groups. Although we are still below our parity goal for women (25.10%), in July 2010, the number of women increased slightly from 15.5% to 15.7%, and in July 2012, the number of women increased slightly from 15.7% to 17.0%. The number of people of color has also increased slightly from 5.6% to 6.6%. While we may be close to parity (7.2%) for people of color, we have an ongoing challenge of working towards parity. The challenge ahead is to continue working towards parity in all classifications in the job group and to prepare employees for promotions to higher positions in the Middle Management (A01) and Upper Management (A02) job categories.

Action:

1. Continue the intern program that employs forestry and natural resource students during the summer as funds are available. Continue to recruit from a number of forestry schools (such as, Oregon State University, Washington State University, University of Montana, University of Idaho, Humboldt State, Northern Arizona University, Chemeketa Community College, and State University of New York). Seek out protected class candidates in hopes of recruiting some of them after they graduate.
 2. Continue to participate in career days and job fairs so that the Department is known as a potential employer.
 3. Participate in the Minorities in Agriculture, Natural Resources, and Related Sciences (MANRRS) Conference to network with universities, career counselors, and minority students when possible.
 4. Continue to broaden outreach efforts by participating in School-to-Work Programs. Evaluate how programs such as the Tillamook Forest Center and the Urban and Community Forestry programs and other natural resource educational programs can assist with outreach efforts.
- Security Officer (D01): [consists of 22 permanent and 95 seasonal (June-October) employees in Forest Officer positions and 1 seasonal employee in a Forest Officer (Entry) position]

This job group is underutilized in women and people with disabilities, however we have reached parity in the category of people of color.

Discussion: Since the majority of the Forest Officers (approximately 81%) are summer seasonals, it is necessary to examine July 2012 data to properly analyze this job group. In June 2006, 9 out of 122 (7.3%) Forest Officers were women, and 9 out of 122 (7.3%) were people of color. In July 2010, 10 out of 127 (7.8%) Forest Officers are women, and 10 out of 127 (7.8%) are people of color. In July 2012, 6 out of 95 (6.3%) Forest Officers are women, and 11 out of 95 (11.5%) are people of color. The representation for women has relatively remained the same. The representation of people of color is above parity (3.8%) at 9.4%.

The women parity figure of 44.2% for this job group is too high for wildland firefighters. A more realistic goal would be 25% as substantiated by the following information:

1. The Natural Resources Professional (B08) and Natural Resources Technical (C08) job groups show women parity at 25.1% and 30.5% respectively. These parity figures represent natural resources within which forestry and wildland firefighting exist as occupations.
2. The Department's firefighter classifications of Wildland Fire Suppression Specialist, Wildland Fire Suppression (Entry), and Laborer/Student Workers are

indicators of what can be achieved in the Forest Officer job group. These classes make up an important part of the applicant pool for the Forest Officer.

In the summer of 2010, the percentage of women in Wildland Fire Suppression Specialist positions were 12.0%, Wildland Fire Suppression Specialist (Entry) 12.8%, and Laborer/Student Workers 0.0%. In the summer of 2012, the percentage of women in Wildland Fire Suppression Specialist positions is 12.8%, Wildland Fire Suppression Specialist (Entry) 11.27%, and Laborer/Student Workers 0.0%. These representations have remained relatively the same.

Action:

1. Review the hiring process for Forest Officers with District Managers to see what is causing the difference in women representation between Forest Officer and feeder classes.
 2. Emphasize the Forest Officer class including the Forest Officer (Entry) level to women at recruiting events.
 3. District outreach events need to ensure that female candidates are aware of seasonal employment opportunities.
 4. Districts need to ensure employees in feeder classes (Wildland Fire Suppression Specialist, Wildland Fire Suppression Specialist (Entry), and Laborer/Student Worker) are prepared for promotion.
- Service Maintenance (H00): (consists of three hundred fifty (350) primarily seasonal employees in the following classifications: Forest Nursery Worker 2 and 3, Wildland Fire Suppression Specialist, Wildland Fire Suppression Specialist (Entry), Laborer/Student Worker, Facility Maintenance Specialist, Grounds Maintenance Worker, Forest Lookout, Equipment Operator , and Supply Specialist 1 and 2 positions).

This job group is underutilized in people of color with 25 out of 350 (7.0%) and women with 45 out of 350 (12.99%). The parity for people of color is 11.60%; and 37.8% for women.

Discussion: This job group is primarily made up of two groups of seasonal employees: the Nursery group (Forest Nursery Worker 2, and 3); and the Firefighting group [Wildland Fire Suppression Specialist, Wildland Fire Suppression Specialist (Entry), Laborer/Student Worker, Forest Lookout]. The makeup of Service Maintenance Worker (H00) changes with the seasons. Fire season generally runs from June to October, compared to the Nursery group which has several seasons throughout the year with the largest number of employees working from August to April. Due to this seasonal variation, the numbers outlined below represent but a snapshot in time.

We will analyze the firefighting portion of this job group since the data indicates women are underutilized and this job group is an important applicant pool for the Forest Officer (D01) job group which is also underutilized.

In the July 2012 data, the percentage of women in Wildland Fire Suppression Specialist positions was 12.8% and Wildland Fire Suppression Specialist (Entry) positions were 11.27%. It is important to note that the Department believes that parity for the firefighting portion of H00 should be lower than 38%. The arguments for a lower parity figure are the same as those outlined in D01. A goal of 25% seems to be more in line with reality.

Action:

1. Review the current underutilization in the Service Maintenance Worker (H00) job group with District Managers. Districts will review their recruiting and retention processes to see if issues need to be addressed that will help increase women and people of color in the applicant pool as well as increase the number of women and people of color hired.
 2. Districts will review local employment data for their respective areas to determine realistic goals for people of color and women in their seasonal firefighting workforce.
- Workers with Disabilities: The Department is underutilized in the people with disabilities category.

Discussion: The statewide goal for workers with disabilities is 6% of the workforce and the Department is currently at 1.3%. Due to the nature of our seasonal workforce (labor intensive), it may be very difficult to achieve the 6%.

Actions:

1. The ADA Coordinator in the Human Resources Section will consult with supervisors when reasonable accommodations are requested and provide advice and guidance.
2. The Human Resources Section will assist supervisors who have employees with disabilities in locating needed assistance and/or training provided by the Vocational Rehabilitation Division, Commission for the Blind, Disabilities Commission and other related agencies and organizations.
3. In circumstances when the Human Resources Section has granted a request for formal accommodations or if the employee sustained a permanent disability via the workers' compensation process, the agency will designate these employees as disabled.

Internal Monitoring and Evaluation

The Oregon Department of Forestry shall monitor its affirmative action program on a continual basis, in preparation for the annual progress reports. Monitoring shall include such items as:

1. Creating a process to gather data (e.g., applicant flow data and hiring stats) and conduct an analysis of Wildland Fire Suppression Specialist, Wildland Fire Suppression Specialist (Entry) and Forest Officers.
2. Creating a process to gather data (e.g., applicant flow data and hiring stats) from Districts for delegated recruitments (Forest Lookouts).
3. Informing top management of problem areas and recommended corrective measures.
4. Consideration of changes in goals and objectives to meet ODF's changing employment needs.
5. A procedure for evaluating each supervisor's progress toward achieving the goals of the ODF's affirmative action plan.
6. Analysis of discrimination complaints.
7. Review of progress on implementation of programs developed to achieve goals.
8. Review composition of interview panel members.
9. Exit interviews will address work climate issues.

Support data shall be compiled and retained by ODF as part of the Affirmative Action Program, to be made available to the Governor's Affirmative Action Office upon request.

Development and Implementation of Programs

In addition to the specific actions identified for each job group, the following represent policies and actions the Department will undertake.

1. All vacancies in job groups that show an underutilization will be recruited on an open competitive basis. Any departure from this procedure must be approved by the State Forester or the Deputy State Forester.

During periods of Department downsizing and restructuring or when ODF specific knowledge and experience is required, methods other than open competitive recruitment may be approved.

2. Recruiting periods will be of a sufficient length to adequately allow for proper distribution and response to every recruiting announcement.
3. Selection is one of the main tools available to overcome the effect of past and present discrimination in the Department. Policy requires that "the best suited person" be selected for each position. For the purposes of this plan, best suited is

- defined as that individual who meets the minimum qualifications of the position and best serves the need of the Department and public it serves at the time the selection is made. It may not be the person with the highest score, the most experience, or the best education. The decision as to who is the best suited must be made on a position by position basis.
4. District Foresters and Program Directors will make every attempt to hire protected class students from forestry and natural resource schools into existing positions for seasonal work. In addition, these managers will make an effort to recruit qualified protected class and people with disabilities when filling permanent vacancies. Districts will develop local contacts with organizations such as tribal or Hispanic groups, especially when recruiting for seasonal positions.
 5. The Department will participate in "Career Days" and "Job Fairs" at schools and community groups. Emphasis will be placed on schools and/or groups with diverse populations.
 6. Actively participate in the statewide School-to-Work initiative by strengthening our official business partnership with the Salem-Keizer School District.
 7. The Department will continue to strive to maintain an Internship Program to enhance our effectiveness in recruiting protected class candidates from forestry and natural resource schools as funding will allow. Students will be hired into summer seasonal positions before they graduate in order to give them the opportunity to work and exposure to the agency. This will hopefully encourage their return after graduation to agency employment and sharing information on the agency to other students.
 8. Increase awareness of employees and managers regarding Affirmative Action goals and diversity issues. Human Resources will present an update biennially on the Affirmative Action Plan, provide periodic updates on Affirmative Action accomplishments, and consult with managers whenever a position is to be filled.
 9. In order to create a work environment that works for all employees and allows them to meet their full potential, the department will utilize the "Working Guidelines" to foster trust and positive work relationships. This includes addressing career development opportunities, developing individual learning plans and by reviewing employee training and career plans to determine appropriate developmental assignments. The department will continue to send employees to our "Covey's Seven Habits" training course which complements the "Working Guidelines."
 10. Government-to-Government State/Tribal relations task force was established to create a network of intergovernmental cooperators to address preservation of Native American archeological and cultural sites throughout Oregon. In addition, in cooperation with the Oregon Department of Parks and Recreation, the task force has developed an archeological and cultural awareness training session for ODF employees with information on the appropriate process to protect Native American sites.

11. The Recruitment Coordinator will attend and participate in the MANRRS (Minorities in Agriculture, Natural Resources and Related Sciences) Conference and Career Fair when possible. The Recruitment Coordinator will serve as liaison to students of color, college recruiters and advisors, and will promote the Department as a viable potential employer.
12. Continue to work proactively on issues of classification and compensation that impact achievement of diversity and affirmative action goals and actions.

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VI – APPENDIX A

A. Agency Policy Documentation

1. ADA and Reasonable Accommodation Policy

(a) Reasonable Accommodation Directive

Human Resources
2/12 – P.N. 1055

DIRECTIVE
0-3-4-400, p. 47

DEPARTMENT OF FORESTRY REASONABLE ACCOMMODATION

POLICY: It is the policy of the Oregon Department of Forestry (ODF) to provide Reasonable Accommodation to employees, applicants, and members of the public who use ODF offices and facilities under the Americans with Disabilities Act (ADA) and Americans with Disabilities Act Amendments Act (ADAA).

AUTHORITY:

- Americans with Disabilities Act (ADA) of 1990
- Americans with Disabilities Act Amendments Act (ADAA) of 2008
- Civil Right Act of 1991
- Rehabilitation Act of 1973
- 42.S.C. Section 12101 et seq.It
- ORS Chapter 240 (State Personnel Relations)
- ORS Chapter 659A (Unlawful Discrimination in Employment, Public Accommodation and Real Property Transactions; Administrative and Civil Enforcement)
- DAS Policy 50.020.10 ADA and Reasonable Accommodation in Employment
- ODF Directive 0-5-1-301 Department Public Records
- ODF Directive 0-5-1-215 Announcing and conducting public meetings

DEFINTIONS:

Individual with a Disability: A person to whom one or more of the following apply: A person with a physical or mental impairment who 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; or a person regarded as having such impairment.

Essential Functions: Basic job duties that an employee must be able to perform, with or without reasonable accommodation. Each job should be carefully examined to determine which functions or tasks are essential to performance.

Reasonable Accommodation: 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.

See State HR Policy 50.020.10 - ADA and Reasonable Accommodation in Employment for additional information.

STANDARDS: The Oregon Department of Forestry (ODF) will actively seek out and encourage people with disabilities to apply for employment positions in the agency.

The rights of people with disabilities are protected under federal and state laws. Reasonable accommodation is a provision required by law. This policy ensures the implementation of Civil Rights Laws which are designed to enhance job opportunities to provide for convenient access to all public facilities, and to prevent discrimination in employment based on disability.

People with disabilities, who either apply for, are currently employed by, or work on contract with this agency, will be provided reasonable accommodation when requested, if such measures are not an undue hardship on ODF.

ODF will comply with the Americans with Disabilities Act (ADA) and Americans with Disabilities Act Amendments Act (ADAA), and in doing so will meet the Act's requirement of providing reasonable accommodation in the following areas:

- Ensure equal opportunity in the application process;
- Provide reasonable accommodation to enable qualified individuals with disabilities to perform the essential functions of a job;
- Provide employees with disabilities the same employment rights and privileges that are enjoyed by employees without disabilities; and
- Provide equal access to ODF's programs and services (employees and public).

Reasonable accommodation is a critical component of the Act's assurance of non-discrimination, and is a means of overcoming barriers that prevent or restrict employment opportunities for otherwise qualified individuals with disabilities.

ODF will post notices containing the provisions of the ADA and ADAA, including the reasonable accommodation obligation.

Under the ADA and ADAA, an accommodation is any change, modification or adjustment of the work environment which enables individuals with disabilities to enjoy equal employment opportunities.

No specific form of accommodation is guaranteed for all individuals with a particular disability or for all individuals in a particular job. The process of identifying whether and to what extent reasonable accommodation is required will be made on a case-by-case basis and will involve an interactive process between both the employer and the person with a disability.

A. Applicants

- An applicant may ask for accommodation in the recruitment and selection process. Only an employee can request accommodation to perform essential functions of a position. Supervisors, upon receiving a request, will contact Human Resources and take the following analytical approach:
 - (a) Analyze the particular job to determine its purpose and essential functions;
 - (b) Consult with the employee to find out the precise job-related limitations imposed by the disability and how those limitations can be overcome;
 - (c) Identify potential accommodations and assess the effectiveness of each in enabling the employee to perform the essential functions of the job, with the employee's assistance;
 - (d) Consider the employee's accommodation preferences and select and implement the accommodation most appropriate for both the employee and employer.
- 2. When a reasonable accommodation is requested by applicant, the supervisor will make every effort to accommodate, but in some cases an in-depth analysis may be required. The reasonable accommodation decisions will be documented.

B. Employees

1. Employees may request specific accommodation or identify specific limitations imposed by a disability. The employee may submit their request to his/her supervisor, ODF's ADA Coordinator, or Human Resources. The employee needs not to mention the ADA or use the phrase like "reasonable accommodation" in their request which can be made orally or in writing.
2. Reasonable Accommodation -- The following criteria will be considered:
 - (a) The person must meet minimum qualifications and pass experience/skills criteria for the position.
 - (b) The person must demonstrate he/she is able to perform the essential functions of the job, with or without accommodations.
 - (c) Medical documentation shall be provided to establish eligibility.
3. ODF's ADA Coordinator will facilitate an interactive process and explore potential accommodations that would address the limitations with the employee and supervisor. This may include identifying a variety of resources from accommodation devices to ergonomic equipment and/or other appropriate sources of technical expertise on job/worksite analysis/modification, adaptive aides and equipment, and other possible accommodations.

C. Confidential Medical Records

1. Disabled applicants and employees are to be treated fairly and with respect.

2. All medical information will be kept confidential and in locked files, separate from employee personnel files.

D. Public Access/Assistance

1. ODF provides the following services upon request; qualified sign language interpreters, readers, writers, large print, Braille or taped material, and/or other appropriate communication access to persons whose disabilities affect their ability to receive or express information through speech or print. Some of the services are covered by Directive 0-5-1-301 DEPARTMENT PUBLIC INFORMATION RECORDS, and Directive 0-5-1-215 ANNOUNCING AND CONDUCTING PUBLIC MEETINGS.
2. All public meetings will be held in accessible locations. Meeting notices and interview notices will contain similar or the following language: "In order to ensure the broadest range of services to individuals with disabilities, we may need lead time to make the necessary arrangements. Persons requiring a sign language interpreter, assistive listening device, large print material, or other accommodations, please call at least two working days (48 hours) in advance: (contact phone number for meeting) VOICE; OR 503-945-7200."

E. Complaint Process

1. ODF has an internal dispute resolution process along with a provision for the timely notification of complainants of their right to seek resolution through appropriate administrative or civil procedures external to ODF. This process applies to applicants and employees wishing to appeal an accommodation decision by ODF.
2. A complaint or concern may be directed to the employee's supervisor, ODF's ADA Coordinator, or Human Resources at 503-945-7200. All complaints will be investigated fully.
3. Complaints may also be made to the following:

Equal Employment Opportunity Commission
Seattle District Office
Federal Office Building
909 1st Avenue, Suite 400
Seattle, WA 98104-1061
Phone: (206) 220-6883 (Voice)
TTY: (206) 220-6882

U.S. Department of Justice
Civil Rights Division Office on the Americans with
Disabilities Act
P.O. Box 66118, Washington, DC 20035-6118
Phone: (800) 514-0301 (Voice)
TTY: (800) 514-0381

Retaliation: Any retaliation against an employee who files a complaint, participates in an investigation, or reports observing discrimination, workplace harassment, or sexual harassment is prohibited and will not be tolerated.

Directive History

<i>Date</i>	<i>Description</i>
02/12	New Directive

034400 - Reasonable Accommodation.docx/Jaz F (Dir)

VI – APPENDIX A

A. Agency Policy Documentation

1. ADA and Reasonable Accommodation Policy

(b) ADA and Reasonable Accommodation in Employment (Statewide Policy No. 50.020.10)



Statewide Policy

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

POLICY STATEMENT:

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

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

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

AUTHORITY:

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

APPLICABILITY:

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

ATTACHMENTS:

ADA Accommodation Tool Kit

DEFINITIONS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

POLICY

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

VI – APPENDIX A

A. Agency Policy Documentation

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



Statewide Policy

SUBJECT: Discrimination and Harassment Free Workplace **NUMBER:** 50.010.01

DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 01/25/08

APPROVED: Signature on file with Human Resource Services Division

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

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

APPLICABILITY: All employees, state temporary employees and volunteers.

ATTACHMENTS: None

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

POLICY

(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 Statewide Policy 50.010.01, Discrimination and Harassment Free Workplace;

(B) be given directions to read the policy;

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

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

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

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

Performance Standard: 100%

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

Performance Standard: 100%

VI – APPENDIX A

A. Agency Policy Documentation

3. Employee and Training Policy

(a) Employee Development and Implementation of Oregon Benchmarks

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 50.045.01 Employee Development and Implementation of Oregon Benchmarks for Workforce Development

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.

Policy: 50.045.01

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Effective: 07/19/95

(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% |

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A. Agency Policy Documentation

3. Employee and Training Policy

(b) Forestry Department Training and Development Directive

Human Resources
9/94 - P.N. 868

DIRECTIVE
0-3-5-000

FORESTRY DEPARTMENT TRAINING AND DEVELOPMENT

PURPOSE. The purpose of this directive is to define the policy, goals, scope, and responsibilities for employee training and development in the Department of Forestry.

GOALS. The goals of the training and development program are:

1. To contribute to the attainment of Forestry Department goals and objectives by providing training and development that will maintain employees at the knowledge and skill level necessary to do their jobs effectively and efficiently.
2. To identify employees who are interested in advancement and prepare them so there will be a good supply of qualified candidates available for promotion as vacancies occur.

POLICY. To achieve these goals it is the policy of the department to provide training and career development opportunities to employees in:

1. The requisite knowledge and skills needed to effectively perform the duties, responsibilities, and tasks of their job assignments including any training required by law, rule, or policy.
2. Areas that will enhance their value to the department either now or in the future.
3. Areas that will prepare them for advancement where appropriate.

AUTHORITY. Oregon Revised Statutes 240.145, 240.250, 240.551, and Department of Administrative Services Personnel Rule 90.000.01 provide agencies and departments with the authority to implement training and development programs.

SCOPE. This directive is to be applied department-wide.

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A. Agency Policy Documentation

4. Veteran's Preference in Employment

105-040-0015

Veteran's Preference in Employment

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 whose discharge date is less than 15 years from the date of State employment application and Disabled Veterans are provided with 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) 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 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) Veteran or a Disabled Veteran applicants 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

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A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(a) Violence-Free Workplace (Statewide Policy No. 50.010.02)



Statewide Policy

SUBJECT: Violence-Free Workplace	NUMBER: 50.010.02
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 6/7/10
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: Oregon state government is committed to a violence-free work environment.

AUTHORITY: ORS 240.306; 240.321; 240.555; 240.560

APPLICABILITY: All employees, subject to ORS 240, State Personnel Relations Law, except where in conflict with a collective bargaining agreement, includes temporary employees and volunteers

ATTACHMENTS:

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

POLICY

- (1) The agency director administers this policy as the agency's Violence-Free Workplace policy.
- (2) This policy prohibits workplace violence which is behavior that to a reasonable person is intimidating, hostile, threatening, violent or abusive. Such behavior may include:
 - (a) Threats and threatening behavior such as physical, verbal, or written acts that express or are reasonably perceived to imply intent to cause physical or psychological harm against a person or persons, or cause damage to property
 - (b) Statements, gestures, or expressions that communicate a direct or indirect threat of physical or psychological harm
 - (c) Violent behavior such as carrying out threats or threatening behavior.
- (3) Refer to agency processes for incidents involving individuals in the care and custody of the agency.
- (4) The agency director, human resource section, or safety section designs a general safety plan for the agency and specific safety plans with at-risk employees to prepare for emergencies. Resources for safety planning and training appear in State HR Policy 50.010.04 Workplace Effects of Domestic Violence, Sexual Assault, and Stalking and the accompanying online Toolkit; and online through the Department of Consumer and Business Services and the Oregon Occupational Safety and Health Administration.
- (5) Employees report immediately any potentially dangerous situations such threats or threatening behavior and other behaviors listed in Section (2), to the agency Director, a supervisor, the agency Human Resource section, or the agency safety section. Employees may make anonymous reports. Supervisors and safety officers notify the agency director or the agency human resource section of any reports they receive from employees.
- (6) The agency director, human resource section, safety section or a designee assesses all reported incidents, investigates when appropriate and responds. The agency follows its safety plan to address

Policy: 50.010.02

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Effective: 6/7/10

immediate threats to agency employees or others. The agency reports threats or assaults that require the immediate attention of law enforcement or security to the appropriate security entity, the police at 9-1-1, or the local law enforcement emergency number where 9-1-1 does not exist. The agency handles reports or incidents involving confidential information appropriately and only discloses the information on a need-to-know basis or when legally required.

- (7) Agency management or law enforcement may direct people who engage in workplace violence (employees, volunteers, customers, vendors, or visitors) to leave the premises if warranted. Criminal penalties, or barring from the workplace may also occur as well as discipline, up to and including dismissal (applies to employees), and termination from appointment (applies to temporary employees and volunteers).
- (8) Retaliating against employees who report or experience workplace violence or who participate in an investigation of workplace violence is prohibited. Any employee found to have engaged in retaliatory action or behavior may be subject to discipline, up to and including dismissal.
- (9) Agencies take the following measures to promote a safe working environment:
 - (a) Conduct reference checks of final candidates to reduce the risk of hiring people with a history of violent behavior. Conduct criminal history background checks when authorized by statute or Executive Order.
 - (b) Train employees and managers to identify and respond to unsafe workplace hazards, employees, or other people in the workplace who exhibit behavior that could be a sign of danger.
 - (c) Conduct periodic inspections of the premises to evaluate and determine vulnerabilities to workplace violence or hazards and take reasonable action to reduce identified risks.

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A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(b) Workplace Violence Directive

Human Resources
09/02 - P.N. 956

DIRECTIVE
0-3-6-011

WORKPLACE VIOLENCE

PURPOSE: The purpose of the Workplace Violence directive is to promote a safe workplace environment and reduce the risk of violence in the workplace for all employees.

POLICY: It is the policy of the Department that no violence of any kind is permitted at any time at any location where the work of the Department is being conducted. This includes but is not limited to any building or property owned, operated, leased, occupied or controlled by ODF, any location or ownership under the Department’s regulation, or any location where an employee is directed to be.

AUTHORITY: State Policy 50.010.02: Violence-Free Workplace; State Policy 50.010.01: Harassment-Free Workplace; Directive 0-3-6-020: Standards for Conducting Inspections on Private Land; Directive 0-3-6-010: Possession of Firearms; SEIU Collective Bargaining Agreement Letter of Agreement 121.00-99-41.

DEFINITIONS:

Workplace: Any location or ownership under the Department’s regulation or any location where an employee is directed to be.

Dangerous situation: Any event where an employee is exposed to behavior that to a reasonable person is intimidating, hostile, threatening, violent, abusive or offensive or acts that express or are reasonably perceived to express intent to cause damage to property.

STANDARDS:

The Department has zero tolerance for behavior that to a reasonable person is intimidating, hostile, threatening, violent, abusive or offensive. Such behavior can include oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical or psychological harm. Also prohibited are acts that express or are reasonably perceived to express intent to cause damage to property. Employees who commit such acts may be removed from the premises and may be subject to disciplinary action, up to and including dismissal, criminal penalties or both.

The Department will respond to workplace violence appropriately where individuals other than employees are concerned. Appropriate actions may include referral to appropriate law enforcement authorities that may result in criminal charges.

WORKPLACE VIOLENCE

STANDARDS: (Cont.)

Any potentially dangerous situations that occur in the workplace must be reported immediately to the supervisor or Human Resources Section. Reports may be made anonymously and all reports will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others on a need-to-know basis. Supervisors shall report incidents to the Human Resources Section.

This policy prohibits retaliation against employees who report or experience workplace violence. Any employee found to have engaged in retaliatory action or behavior will be subject to discipline, up to and including dismissal.

Employees will be provided copies of Local Workplace Violence Prevention Plans that will be located in the required local safety plan and updated annually. Each location should analyze their work environment and, if necessary, incorporate additional training and/or guidance into their plan. Training development for forest inmate crew coordinators will be coordinated with the Department of Corrections in response to the agency's budget note for the 2001-2003 biennium.

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given.

RESPONSIBILITIES:

Managers/Supervisors: Inform all employees of this policy. Investigate reports. Be aware of employee security issues and work with employees to mitigate such issues where possible. Ensure a local prevention plan for workplace violence is developed, placed in the local safety plan, implemented and annually updated. Ensure the contractually required training in workplace violence is offered annually to employees.

Employees: Comply with the policy. Report situations that involve employee security issues.

Safety Coordinator: Assist supervisors by providing suggestions and identifying resources to assist in workplace violence prevention and mitigating dangerous situations. Maintain a library of training materials for use by supervisors, employees and work units.

REVIEW: This directive will be reviewed and updated if necessary every three years from the date it is issued.

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A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(c) Workplace Effects on Domestic Violence, Sexual Assault and Stalking

(Statewide Policy No. 50.010.04)



Statewide Policy

SUBJECT: Workplace Effects of Domestic Violence, Sexual Assault and Stalking	NUMBER: 50.010.04
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 04/09/10
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: Oregon state government promotes early intervention to **prevent** or minimize domestic violence, sexual assault or stalking in the workplace. This policy **supplements** other statewide policies **on** workplace violence and harassment. The existence of a protective order, a criminal proceeding or law enforcement involvement is not necessary to invoke this policy. Domestic violence, sexual assault and stalking are crimes punishable by law.

AUTHORITY: ORS 240.145, 240.555, 240.560, Governor's Executive Order 07-17, **ORS 659A-270 through 290 and OAR 839-005-160 through 0170**

APPLICABILITY: **All employees subject to ORS 240, State Personnel Relations Law, except where in conflict with a collective bargaining agreement**

ATTACHMENTS: None

DEFINITIONS: See State HR Policy 10.000.01 Definitions and OAR 105-010-0000. For the purpose of this policy, the following definitions apply:

- (a) "Domestic **violence**" means coercive behavior by one person in a current or former domestic **relationship**, intimate **relationship**, or dating relationship to gain power and control over **the other** person in that relationship. **Such behavior** may include physical or sexual assault or the threat thereof; sexual, emotional or psychological intimidation; verbal abuse; stalking; or economic control.
- (b) "Sexual **assault**" means rape, unlawful penetration, or any unwanted touching of a sexual or other intimate part of a person or causing such a person to touch a sexual or other intimate part of the perpetrator for the purpose of arousing or gratifying the sexual desire of either person.
- (c) "Stalking" means intentional, knowing or reckless, repeated and unwanted contact with the victim that causes the victim reasonable fear **for his or her** physical safety. **Stalking does not include** written or verbal **communication** unless it conveys: 1) a direct or imminent threat to the personal safety of the victim, or the victim's immediate family or household members and 2) likelihood of unlawful acts.
- (d) "Batterer," "perpetrator" or "abuser" means the **person** who commits or threatens an act of domestic violence, sexual assault or stalking.
- (e) "Victim" means one who **suffers** harm or is made to suffer from acts or threats of domestic violence, sexual assault or stalking.

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- (f) "Protective order" means a valid restraining order, stalking order, no-contact order, or any court order (federal, state, local or tribal) that restrains a person from contact with the protected person.
- (g) "Victim advocacy provider means a private, non-governmental program that offers support, advocacy, safety planning or counseling; crisis centers or women's shelters for victims of domestic violence, rape, sexual assault or stalking.

POLICY

(1) An agency director must administer State HR Policy 50.010.04 as the agency's policy to address the workplace effects of domestic violence, sexual assault and stalking.

(a) **Training**

(A) All executive branch agencies must provide either a hard copy or electronic version of this policy and related agency procedures, including a resource list, to all current and new employees.

(B) Training for managers, supervisors and human resource staff

(i) All current managers, supervisors and human resource staff hired on or before Feb.1, 2008 must complete mandatory training by Dec. 31, 2010. All managers, supervisors and human resource staff must complete mandatory training within two years of appointment. All managers, supervisors and human resource staff must complete refresher training every five years.

(ii) The mandatory training may be conducted on-line or in person by the agency, DAS, a local victim advocacy provider or the Bureau of Labor and Industries (BOLI), and must include the information listed in (1)(a)(C) and the following:

- (a) Responsibilities as an employer
- (b) How to respond when employees self disclose or request referral information
- (c) How to work with a victim advocacy provider to assist identified victims in workplace safety planning
- (d) How domestic violence, sexual assault and stalking affect the workplace, productivity, and safety risks to other on-site staff and visitors.

(C) Training for employees

(i) An agency must provide regular opportunities to all employees to attend voluntary training to learn more about:

- (a) The policy and agency procedures
- (b) The characteristics of domestic violence, sexual assault and stalking presented by a victim advocacy provider

- (v) The Oregon Law Help Web site www.oregonlawhelp.org contains contact information for local legal service offices as well as basic information about protections for gaining employment and housing
- (vi) Perpetrator Information: Contact the EAP service provider as listed above, or go to http://www.co.multnomah.or.us/dchs/dv/dyman_batt.shtml for a list of batterer intervention programs in Multnomah County. These service providers make referrals to local programs.

(c) Confidential Request and Referral

- (A) A manager, supervisor, human resource and safety staff must keep confidential to the fullest extent permitted by law:
 - (i) An employee's request for resource or referral information about domestic violence, sexual assault, stalking, and additional security in the workplace
 - (ii) Witness reports of a threat or incident of domestic violence, sexual assault or stalking
 - (iii) An employee's request for other related assistance from the manager, supervisor, human resource and safety staff
 - (iv) The report that an employee is a victim of domestic violence, sexual assault, or stalking
- (B) If the law or certain circumstances require disclosure of the above in (A)(i)-(iv), the manager, supervisor, human resource or safety staff will give advance notice to the employee whenever possible before making the disclosure.

(d) Employee Safety and Support

- (A) The agency must take appropriate action to keep all staff safe in the workplace if an agency manager, supervisor, human resource or safety staff learn of a threat or possibility of workplace domestic violence, sexual assault or stalking. Refer to policies listed in (1)(a)(C)(i)(f).
- (B) Any employee who witnesses a threat or incident of domestic violence, sexual assault or stalking at the employee's workplace must report it to his or her manager, supervisor, human resource or safety staff immediately.**
- (C) If an employee **who is** a victim of domestic violence, sexual assault or stalking requests additional safety measures, the agency must take additional reasonable safety measures to protect the employee at work or in connection with work as consistent with the agency's operational needs and does not create an undue hardship on the agency. An undue hardship is a significant difficulty and expense to the agency. The agency considers its size and critical needs when it assesses an employee's request for additional safety and support measures.
- (D) Agencies must comply with all protective orders while the employee is in the workplace. If the parties to a civil protection order are employees of the same agency or work for

- (D) **An agency has the** authority to impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, sexual assault, or stalking by an agency employee in off-duty hours, **in certain circumstances**.

- (E) **It is an unlawful employment practice for a covered employer to discharge, expel or otherwise discriminate against any person because the person filed a complaint, testified or assisted in any proceeding in connection with the Oregon Victims of Certain Crimes Victim Leave Act (OVCCLA).**

- (f) **Violations**
 - (A) **The agency may impose disciplinary action up to and including dismissal, against violators of this policy.**

 - (B) **An agency may impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, sexual assault, or stalking by an agency employee in off-duty hours, in certain circumstances.**

 - (C) **An eligible employee claiming a violation of this policy may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries pursuant to ORS 659A.820.**

Performance Measure: Percentage of managers, supervisors and human resource staff **who receive** the required training.

Performance Standard: 100 **percent**

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(d) Maintaining a Professional Workplace (Statewide Policy No. 50.010.03)



Statewide Policy

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

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

AUTHORITY: ORS 240.145 and ORS 240.250

APPLICABILITY: All employees, including state temporary employees

ATTACHMENTS: N/A

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

Agency: Refers to state agencies, boards and commissions

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

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

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

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

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

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

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

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

POLICY

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

(a) **Conduct** Employees at every level of the agency should foster an environment that encourages professionalism and discourages disrespectful behavior. All employees are expected to behave respectfully and professionally and refrain from engaging in inappropriate workplace behavior.

(b) **Addressing Inappropriate Workplace Behavior**

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

(B) If an employee observes or experiences inappropriate workplace behavior and the employee feels comfortable in doing so, they should:

(i) redirect inappropriate conversations or behavior to workplace business; and/or

(ii) tell an offending employee his/her behavior is offensive and ask him/her to stop.

(c) **Reporting Inappropriate Workplace Behavior**

(A) An employee should report inappropriate workplace behavior he/she experiences or observes to his/her immediate supervisor as soon as practicable. If the employee's immediate supervisor is the one engaging in the inappropriate behavior, the employee should report the behavior to upper management, the agency head or Human Resource section, as soon as practicable. The report may be made orally or in writing.

(B) If past practice exists in the agency, an employee who is represented by a labor union may have a union representative present during regular work hours, when reporting inappropriate workplace behavior and through the process set forth in this policy. The union representative must not be a witness or party to the investigation.

(C) Reporting behavior or conduct directed toward an employee because of his/her protected class status is addressed in DAS Statewide Policy 50.010.01, Discrimination and Harassment Free Workplace.

(d) **Responding to a Report of Inappropriate Workplace Behavior** Inappropriate workplace behavior must be addressed and corrected before it becomes pervasive, causes further workplace disruption or lowers employee morale. Unless the agency decides otherwise, the supervisor of the employee allegedly engaging in the inappropriate workplace behavior must investigate the report as soon as possible.

(e) **Consequences**

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

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

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

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(e) Working Guidelines

The Department of Forestry believes the Working Guidelines are statements of behavior which, if mutually accepted, and supported by all employees, will improve the flow of information and create an effective, respectful and trusting work environment:

I Work With Others By:

- Being Polite and Respectful
- Praising and Valuing Others
- Counseling in Private
- Eliminating “Find Fault and Pin Blame”
- Eliminating Derogatory Comments and Put-down Humor
- Recognizing the Strength of the Diversity in Myself and Others
- Being inclusive vs. Exclusive
- Striving for Win/Win Agreements

I Suspend Disbelief, And Encourage Others To Succeed.

I Take Responsibility To:

- Listen Carefully and With an Open Mind
- Be Proactive and Put First Things First
- Check Out Facts and Feelings
- Close the Loop on Ideas or Issues
- Seek Understanding, Acceptance and Support (U.A.S.)
- Be Personally Accountable for My Decisions and Behavior

I Speak For Myself By:

- Avoiding Saying “We” or “You”, When I Mean “I”
- Using “We” by Permission

I Communicate With Others By Focusing On:

- Current Issues, Situations, Tasks and Not on the Person
- Observable Behavior and Events
- Specifics, Not Generalities or Gossip

I Recognize that What I Permit, I Promote.

I Take Responsibility To Express:

- What I See, Feel, Understand, and Believe
- What I Would and Would Not Like To Do
- How What is Happening Affects Me
- How Others Can Help

I Have Fun And Encourage Fun For Others.

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(f) Principles of Conduct Directive

Human Resources
10/11 - P.N. 1048

DIRECTIVE
0-3-4-200, p. 77

PRINCIPLES OF CONDUCT

PURPOSE: As a state agency, Oregon Department of Forestry (ODF), its employees, and volunteers serve as “public officials.” Public service is a public trust, requiring staff to place loyalty to laws and ethical practices above private gain, including being faithful to the principles of the state code of ethics (ORS Chapter 244). This directive is to establish expectations and resources to assist employees, volunteers, and interns in the professional and ethical performance of assigned duties and in the avoidance of conflicts of interest or the appearance of conflicts of interest.

POLICY STATEMENT: It is the policy of ODF that all employees will abide by the expectations established in the ODF Professional Standards document along with the ODF Working Guidelines, Oregon Ethics Laws, and the ODF’s Mission/Vision/Values statements. This policy is in place to ensure that as stewards of the public trust, employees will be held accountable to follow all state laws and policies and create a professional workplace environment to facilitate the ethical and professional accomplishment of ODF’s mission and vision.

Inclusive of this is the expectation that all employees understand their legal responsibility to report any potential or actual conflict of interest with their position to the appropriate appointing authority for review.

AUTHORITY:

ORS Chapter 244 – Government Ethics

ODF Directive 0-3-2-150 Nepotism

ORS 659.340 Miscellaneous Prohibitions Relating to Employment and Discrimination

ORS 244.130 Recording of notice of conflict/effect of failure to disclose conflict

State Policy 50.010.03 Maintaining a Professional Workplace

State Policy 50.010.01 Discrimination and Harassment Free Workplace

Oregon Department of Forestry Safety Manual

SCOPE: This directive is to be applied statewide to all ODF employees, volunteers, and interns.

DEFINITIONS:

Public Official – any person who is serving in a governmental capacity for the State of Oregon or any of its political subdivisions, or any other public body of the state as an officer, employee, agent, or otherwise, and irrespective of whether the person is compensated for such services.

Conflict of Interest – employee participation in an action which could result in a financial benefit or detriment to the public official, a relative or member of the household of that official, or a business with which either are associated.

Unethical Behaviors – not conforming to approved standards of social or professional behavior.

DESCRIPTION: To faithfully serve the public trust, ODF, under the direction of the State Forester and Board of Forestry, expects that employees will act in a professional manner that merits public confidence and respect. This expectation requires all staff to appreciate the relationship between their actions, both on the job, and in their personal life, as it reflects through public opinion to ODF. A single employee's misconduct or ineffective performance can reflect negatively on his/her immediate coworkers, other staff, and government agencies in general, and can interfere with ODF's ability to accomplish its goals. While a diversity of opinion is encouraged in our decision-making process, employees are expected to publicly and internally support decisions made by ODF and the State of Oregon once they are made.

These expectations of conduct are defined within ODF Working Guidelines, Professional Standards, Mission/Vision/Values statements, and the Oregon State Ethics Laws, and are deeply rooted in existing state policy and our Directives. Mastering these principles of professionalism and public service can help position employees for career advancement.

A. ODF PROFESSIONAL STANDARDS: The Professional Standards statement is a companion document to the Working Guidelines and ODF's Mission/Vision/Values that describes the expectations of the State Forester and Board of Forestry for ethical and appropriate professional conduct detailing:

- **An obligation to uphold the public trust** regarding use of state assets, abiding by State Ethics Law, reporting obligations, and adhering to State and Federal law, and ODF policy.
- **Expectations to maintain and promote a professional workplace** through professional and inclusive behaviors, hiring and promotion expectations, respect for individual dignity, and expected dedication to individual competency.

- **The safety of the work environment** providing notice to all employees that they are expected to come to work fit for duty, and promote and follow safe practices.

B. Oregon Department of Forestry WORKING GUIDELINES: ODF has established the Working Guidelines as one of the fundamental orientation documents expressing ODF expectations for both written and verbal communication and interpersonal interactions. The guidelines include specific statements regarding:

- Working with others
- Suspending disbelief and encouraging others to succeed
- Ownership of communication
- Communication focus
- Realization that what is permitted is promoted
- Proper expression of ideas
- Promotion of an enjoyable work environment

C. Oregon Department of Forestry MISSION/VISION/VALUES: Part of our responsibility as public officials with ODF is to facilitate the work and Mission of ODF as determined by the Board of Forestry representing the interests of the State of Oregon. The Vision Statements provide us with goals to measure our success in achieving the Mission. ODF Values set how we as public officials within ODF should interact with the state's interest and stakeholders in achieving ODF's Mission and Vision. All employees are responsible for understanding their role in that Mission. The Mission/Vision/Values document defines these important concepts that pertain to all employees.

D. ETHICS/CONFLICT OF INTEREST: Specific requirements, exceptions, limits, and examples are contained within ORS Chapter 244 Government Ethics, the OGEC Guide for Public Officials, and summarized in the ODF Employee Handbook. Some issues covered are:

- Secondary employment
- Use of state property/time
- Gifts/honoraria
- Financial gain/detriment
- Post-public employment
- Potential versus actual conflicts of interest/disclosure

Conflict of Interest

“Oregon Government Ethics law identifies and defines two types of conflicts of interest. An **actual conflict of interest** is defined in ORS 244.020(1) and a **potential conflict of interest** is defined in ORS 244.020(12). In brief, a public official is met with a conflict of interest when participating in official action which could or would result in a financial benefit or detriment to the public official, a relative of the public official, or a business with which either is associated.”

A public official must announce or disclose the nature of an actual or potential

conflict of interest every time an employee is met with a conflict of interest in the course of his/her duties. In addition, public officials who are appointed, employed, or volunteer must provide a **written notice** to the person who appointed or employed them. For ODF the written notice shall be provided to the District Forester/Program Director and Human Resources as soon as practically possible. The notice must describe the nature of the conflict of interest with which they are met [ORS 244.120(1)(c)]. A Conflict of Interest (COI) Form is available for reporting and available from Human Resources or ODFnet forms. ODF will then record the disclosure of the nature of the conflict of interest in the official records and permanent personnel file. [ORS 244.130(1)]
[ORS 244.130 Recording of notice of conflict/effect of failure to disclose conflict]

IMPLEMENTATION: It is important for ODF to uphold the public trust by expecting professionalism and high ethical standards from its employees. Human Resources will be responsible for implementation of this policy. In order to gain understanding, acceptance, and support in this effort:

- ODF will provide mandatory training to all employees on ethics laws and professional expectations that will include: ethical decision-making tools, ethics laws, reporting instructions, behavioral expectations, and disciplinary consequences of misconduct. Employees will be instructed through training or orientation to review all associated policies and laws.
- Hard copies of the ODF Employee Handbook will be provided to all employees as primary orientation to the agency.
- Verification of these policy reviews will be housed within the employee's permanent personnel file.
- Forms will be provided to facilitate the reporting of Conflicts of Interest (COI).

RESPONSIBILITIES:

A. Executive Team and Leadership Team Members:

- Shall be responsible for ensuring that all personnel are informed of this policy and consequences for disregard of these expectations.

B. Supervisors:

- Should be knowledgeable about and model adherence to the rules, directives, and laws they are working under as public officials.
- Will promote understanding, acceptance, and support of these expectations along with associated state policies and laws by coaching and advising employees on ethical and professional decision-making and the consequences for inappropriate or unprofessional behaviors.

- Should remind employees of the requirements of disclosure when met with Conflicts of Interest in the scope of their duties.
- Will hold employees accountable and consult with Human Resources in maintaining a supervisory record of verbal or written disciplinary actions for employee behaviors that are in disregard of these expectations.

C. Employees:

- ODF expects all employees to act as public officials and be ambassadors of ODF regardless of their position.
- Will make an effort to understand this policy, and conduct ODF's business professionally and ethically.
- Will be expected to follow the reporting requirements described below.

D. Human Resources:

- Will ensure the publication and distribution of this policy and related resources in all available formats.
- Will advise and assist in enforcement of expectations by working with supervisors conducting disciplinary actions and reviewing of performance evaluations.
- Will observe the confidentiality of employee reporting of illegal, unethical, hostile, or unprofessional work behaviors, whenever possible.
- Will provide training or training curriculums and materials that promote policy understanding and provide resources to help ethical decision-making.
- Will conduct a periodic review of orientation materials to ensure consistency of messaging regarding expectations.

REPORTING:

- All employees are encouraged to report unethical or illegal behaviors to their Appointing Authority or Human Resources.
- If met with a potential or actual Conflict of Interest, employees must announce or disclose the nature of the conflict by providing written notice to their appointing authority (form in appendices). ODF will record the disclosure of the nature of the conflict in the public record and disclosure will be announced any occasion the employee participates in a matter that gives rise to the conflict of interest. Disclosure requirements are listed in ORS 244.120.

FAILURE TO COMPLY: Due to the far-reaching implications of unethical behavior and abuse of the public trust, inappropriate actions and failures to follow policy may result in

disciplinary action up to and including dismissal from state service.

In addition, off-duty conduct that does not comply with ODF standards/expectations may also result in disciplinary action when such conduct has a nexus with ODF.

Violations of ethics laws are personal violations where individuals are personally responsible for payment of fines if found guilty by Oregon Government Ethics Commission. This includes failure to report an actual or potential conflict of interest. Ethics violations are not levied against ODF.

REVIEW: The directive will be reviewed and updated by the Human Resources Director as necessary within three (3) years from the date it is issued.

[Applicable Conduct Statements attached as Appendices.]

03xxxx – Principles of Conduct.docx/Jaz F (Dir)

Directive History

<i>Date</i>	<i>Description</i>
1/26/2011	This is a new 180-day directive.
10/17/2011	Moved to permanent status. No revisions were made.

Oregon Department of Forestry

Professional Standards

The Oregon Department of Forestry expects all employees to adhere to and demonstrate the following professional values and standards:

I Will Uphold the Public Trust by:

- Following the ethics and expectations of being a public official in adhering to federal, state, and local laws as well as ODF directives, rules, and values not limited to:
 - Using state assets, state funds, and time in an effective and efficient manner and in compliance with state and federal laws, policies, and bargained contracts;
 - Honestly reporting required or requested information to supervisors and authorized reviewers;
 - Abiding by all aspects of Oregon Government Ethics Law, which contains prohibitions regarding use of your position for personal gain, privilege, or advantage;
 - Understanding the importance of reporting illegal and unethical behavior;
 - Understanding, using, or permitting the use, removal, borrowing, or lending of ODF property for other than official business is not allowed.

I Will Maintain a Professional Workplace by:

- Treating everyone professionally and with respect at all times with behavior that does not disparage, demean, intimidate, or result in the erosion of employee morale;
- Employing and promoting employees by their merit and experience without discrimination, favoritism, or nepotism;
- Following the ODF Working Guidelines, practicing Professional Standards and principles of Shared Leadership;
- Promoting an inclusive and safe work environment where reports of illegal and unethical behavior can be made without fear of reproach or retaliation;
- Respecting the human, civil, and legal rights, and dignity of individuals;
- Maintaining and improving professional competencies, skills, and abilities.

I Will Maintain a Safe Work Environment by:

- Maintaining situational awareness at all times and evaluating risk levels when making decisions;
- Arriving at work fit for duty;
- Speaking up about all safety concerns;
- Promoting and following safe practices and procedures.

Working Guidelines (revised 5/2/00)

The Department of Forestry believes the Working Guidelines are statements of behavior which, if mutually accepted and supported by all employees, will improve the flow of information and create an effective, respectful, and trusting work environment:

I Work With Others By:

- Being Polite and Respectful
- Praising and Valuing Others
- Counseling in Private
- Eliminating “Find Fault and Pin Blame”
- Eliminating Derogatory Comments and Put-down Humor
- Recognizing the Strength of the Diversity in Myself and Others
- Being Inclusive vs. Exclusive
- Striving for Win/Win Agreements

I Suspend Disbelief, And Encourage Others To Succeed.

I Take Responsibility To:

- Listen Carefully and With an Open Mind
- Be Proactive and Put First Things First
- Check Out Facts and Feelings
- Close the Loop on Ideas and Issues
- Seek Understanding, Acceptance, and Support (U.A.S.)
- Be Personally Accountable for My Decisions and Behavior

I Speak For Myself By:

- Avoiding Saying “We” or “You”, When I Mean “I”
- Using “We” by Permission

I Communicate With Others By Focusing On:

- Current Issues, Situations, Tasks and Not on the Person
- Observable Behavior and Events
- Specifics, Not Generalities or Gossip

I Recognize that What I Permit, I Promote.

I Take Responsibility To Express:

- What I See, Feel, Understand, and Believe
- What I Would and Would Not Like To Do
- How What is Happening Affects Me
- How Others Can Help

I Have Fun And Encourage Fun For Others.

Oregon Department of Forestry

Mission Statement

To serve the people of Oregon by protecting, managing, and promoting stewardship of Oregon's forests to enhance environmental, economic, and community sustainability.

Vision

The Oregon Department of Forestry will be successful in achieving its mission when Oregon has:

- Healthy forests providing a sustainable flow of environmental, economic, and social outputs and benefits.
- Public and private landowners willingly making investments to create healthy forests.
- Statewide forest resource policies that are coordinated among Oregon's natural resource agencies.
- The Oregon Department of Forestry recognized as an agency operating openly and in the public interest.
- Citizens who understand, accept, and support sustainable forestry and who make informed decisions that contribute to achievement of the vision of the 2003 Forestry Program for Oregon.
- Adequate funding for the Oregon Department of Forestry to efficiently and cost-effectively accomplish the mission and strategies of the Board of Forestry, appropriate use of information technology, business management strategies, and Department personnel policies that encourage and recognize employees, allowing them to meet their full potential in providing excellent public service.

Values

The Oregon Department of Forestry Values:

- Being a leader in professional forestry.
- Innovation based on sound science.
- Excellent, efficient, and effective service.
- The involvement and cooperation of all Oregonians.
- Honesty and integrity.
- Individual initiative, effectiveness, and hard work.
- Respectful, strong, cooperative relationships.

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

- (g) **Criteria for Evaluation of Manager’s Performance in meeting Affirmative Action and Diversity Goals**

For Purposes of Manager Performance Evaluation

Familiarity with Affirmative Action Plan, Diversity Action Plan, and Succession Management Plan

- Content and frequency of communication to staff.

Outreach Efforts

- Regular contact with local groups representing protected classes.
- Affirmation to such groups that the agency is an equal opportunity employer.
- Timely communication through "non-traditional" means (such as "minority interest" organizations and/or publications) that vacancies exist.
- Ensure protected class staff are aware of promotional opportunities as they arise.

Selection Procedures

- Composition of interview panels reflect job types (administrative, manager, non-manager, etc.), racial, and gender diversity.
- Review (appropriate for level of supervision) of interview panel questions and selection criteria to remove inadvertent bias.
- Review (appropriate for level of supervision) of minimum qualifications to detect possible artificial barriers to affirmative action goal accomplishment.

Development of Staff

- Communication to all staff of written procedure outlining eligibility for developmental experiences, training and assignments.
- Encouragement of protected class member participation in developmental assignments, training, etc.
- Actual protected class member participation in developmental assignments as a percentage of total participating.
- All employees have an annual individual learning plan that addresses career development opportunities.

Work Environment

- Demonstrated efforts to foster workplace atmosphere that welcomes diversity.
- Percentage of employees who have not yet attended Diversity training.
- Hours of diversity training provided to staff.
- Actions taken to resolve complaints of discrimination.
- Actions taken to resolve disabled access or accommodation issues.

Outcomes

- Composition of staff compared to long-range affirmative action goals. Special attention should be paid to job groups addressed in the Affirmative Action Plan.
- Progress (appropriate for level of supervision) towards affirmative action goals compared with last review period, or documentation of extenuating circumstances contributing to lack of progress.

Hires and promotions of targeted protected class members compared with opportunities to fill vacancies. Special attention should be paid to job groups identified in the Affirmative Action Plan.

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(h) Oregon Department of Forestry Diversity Action Plan Revised April 2003

Category: <u>Training</u>				
Issue: Address the recommendations noted in the Diversity Survey				
Success Measure: Each employee is personally and professionally challenged and encouraged to achieve their full potential.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	1a.) Design and implement a management training series on conflict resolution, problem-solving, and interpersonal communication.	1. Develop a package of courses that address communication skill, conflict resolution, and coaching/facilitation skills. Look for ways to practice skills and refresh skills (task forces, videos, short courses, role-plays in safe environment, Bridges course dealing with change).	1. TC, Vendor	In process – Use ILP as base, committee to develop a list of vendors.
		B. Find a periodic publication for managers that highlights communication topics.	B. TC	
		2. New mentoring program needs marketing.	2. H.R., TC, DIVCOM	
H	4a.) Establish uniform relevancy of training plans for ODF employees by reviewing the purpose of individual learning plans (ITP) and clarify whether the primary purpose is career development or skill development.	1. Employee handbook will address the learning plan process for skill and career development.	1. H.R.	In process
		2. Develop a monitoring process that tracks ITP and training received by employee.	H.R., DIVCOM	
		3. Each Program/District should designate a Training Coordinator that would assist employees and managers in developing work unit training needs as well as locate resources to meet those needs.	TC	
M	11b.) Provide culturally specific training for individuals who are interested.	1. Focus on overview of cultures in Oregon employment picture. (i.e. Molalla needs information on Hispanic and Russian cultures or FP relationship with SHPO) ORS statute outlines Gov't to Gov't relationships, ODF Directive 0-0-0-200.	1. H.R., DIVCOM, Woo	In Progress - On Going

		2. Find supplemental material that would further cultural awareness.	2. DIVCOM	
		3. Invite specific groups in to speak with employees.	3. H.R., TC	
		4. Executive Order dealing with state agency relationships with tribes. (Roy Woo has outlined information for specific districts per the Executive Order. District Foresters will use pertinent portions of tribal agreements as a model to further develop relationships with other cultural groups.) Government to Government MOU requires training.	4. Woo, H.R.	Completed - (Ongoing) – Training is being developed
M	11c.) Provide diversity training that focuses on general concepts and tools for all employees.	2. Diversity thread needs to be woven into any/all agency courses, but in particular IPE and any communication courses that are developed.	2. TC, Supv., Bill Hunt, Rick Rogers, Nancy Hirsch	In process – Covey – 7 Habits
	7c.) Institute conflict resolution training.	1. Develop conflict resolution training as a component of a communication skill package for all employees. (See communication package in 1a.)	1. TC, H.R.	
H	12c.) Develop questionnaire for managers to determine priority areas for training and how and where it should be offered.	1. Develop a sequence of communication training, continuous and evolving for everyone, but certainly for managers. Include gender training.	1. TC, H.R.	
H	2a.) Review current training opportunities.	2. Provide follow-up material available in the form of videos, short courses to reinforce skills over time.	2. H.R., TC	In Process
		3. Utilize some sort of feedback mechanism (Covey/Core) from peers and/or direct reports to manager.	3. DIVCOM, H.R., Volunt.	360 feedback - in process
		4. Identify skills managers need at various levels in the organization: developmental opportunities and Learning matrix target the identified experiences and/or training. (See Mg. Matrix in 1a.)	4. HR, DIVCOM LT review at LT meeting	Training matrix completed LT e-mail survey to be completed to develop list of critical experiences for employee development
		5. Emphasize communication skills such as basic communication at work (listening, acceptance, recognition, and respect), conflict resolution, gender/cultural differences, teambuilding, problem solving, coaching, feedback, and facilitation skills.	5. DIVCOM, H.R.	Ongoing - (locating resources)

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: <u>Organization Culture</u> Issue: Address the recommendations noted in the Diversity Survey Success Measure: Achieve awareness of diversity issues and routine inclusion of diversity values in agency actions, products, and discussions.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	3a.) Review employee orientation program for inclusion of the "Working Guidelines."	Develop and implement an employee integration plan as part of the orientation process.	6. H.R., LT	
		Develop a new employee central orientation process, including a new employee tour.	7. H.R.	In Process
L	3b.) Recommendations related to "unwritten rules" will be addressed under 5a.	1. Diversity Committee will develop another survey that attempts to identify unwritten rules. Once data is gathered further analysis and action can be taken.	1. DIVCOM	In Progress 7 sessions
M	7A.) Develop a proactive plan to increase awareness and understanding.	1. Implement the action plan, which addressed the survey recommendations.	1. DIVCOM, LT, H.R.	Ongoing
H	12a.) Clarify managerial and employee responsibilities for insuring harassment free workplace. 11a.) Be alert to potential tension around issues of religious differences and sexual orientation.	1. Lessons learned in this area needs to be produced ASAP.	1. H.R.	Ongoing
		2. Responsibilities of managers and employees in making the workplace free of discrimination and/or harassment must be emphasized by including them in their performance merit ratings. (See #3a)	2. Supv., H.R.	Ongoing
		A. Emphasize working guidelines: "what we permit we promote."	A. All ODF	Ongoing
		B. Awareness of issues and treat others in a valuing manner.	B. All ODF	Ongoing
		C. How to react to harassing behavior.	C. All ODF	Ongoing
D. Sensitivity to those who are harassed.	D. All ODF	Ongoing		
E. Managers are responsible to act.	E. Supv.	Ongoing		
M	12b.) Maintain and develop work climates that support open communication on issues related to diversity.	2. See unwritten rules in #3b.	2. DIVCOM	Ongoing
		3. Implement the Diversity Action Plan. (See #7a)	3. DIVCOM	Ongoing
		4. Broader diversity responsibilities as outlined in previous action plan to all employees (mission/objectives/goals, charter, minutes, training, forums, and performance appraisals).	4. DIVCOM – All ODF	Ongoing
		5. DIVCOM will conduct follow-up surveys or use other monitoring systems to measure accomplishments.	5. DIVCOM.	Ongoing
		6. Human Resources will look for opportunities to consider diversity issues when negotiating contract language or developing human resources policy.	6. H.R.	Ongoing

L	10a.) Data reflects the perception of a hierarchical distribution of support for work done, based on group membership. Further investigation into this trend should be undertaken.	<ol style="list-style-type: none"> 1. Gather additional data to discover how (from whom) folks get their current support to do the job better and to better clarify what is meant by that. 2. Do some more cross-tabulation of existing data. 3. Once issues are defined, then move to create an atmosphere where everybody feels they are being helped. 	1. DIVCOM	
M	Diversify decision-making pools (Women's Discussion Group Recommendation).	<ol style="list-style-type: none"> 1. Develop guidelines for selecting decision-making groups/panels. 2. Guidelines for role of interview panel. 	<ol style="list-style-type: none"> 1. H.R. 2. H.R. 	

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: <u>Complaint Process</u>				
Issue: Address the recommendations noted in the Diversity Survey				
Success Measure: Conduct another diversity survey: indicates all employees are aware of complaint process and issues handled appropriately.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	1c.) Conduct further study of the differences in perspective (ethnic minority & female versus the rest of ODF work force) on the effectiveness of harassment complaint resolution skills and process.	1. Provide managers with "lessons learned" and updates during OPEU contract sessions. Look for additional forums that will provide more timely feedback to the agency. Distribute lessons learned in a timely manner.	1. H.R.	Ongoing
		2. Inform employees about AA plan and complaint processes. Do when addressing #8a (AA myths).	2. Supv., H.R.	
		3. Provide employees with information about AA/Diversity during employee orientation. Employees removed from trial service to exit interview process.	3. Supv., H.R., DIVCOM	Ongoing
H	8c.) Monitor indicators of potential backlash of filing a complaint or bringing up an issue.	1. Monitor complaints, get lessons learned out ASAP. (See #12a.) 2. Perform follow-up diversity survey in approximately 4-5 years. 3. Explore feasibility of peer mediator program.	1. H.R. 2. DIVCOM 3. DIVCOM	Ongoing Targeted for 2003
M	7b.) Develop or strengthen system for monitoring conflict based on cultural differences.	1. Human Resources monitors complaints based on information received from employees, managers, and filed complaints. This is used as feedback in the form of "lessons learned". The method of distribution of lessons learned needs to be as timely as possible. (See #12a.)	1. H.R.	Ongoing
		2. Managers and employees must be made aware of their responsibility to develop and maintain a work environment free of discrimination and/or harassment.	2. Supv., H.R., DIVCOM	Ongoing emphasis
		3. Develop peer mediation program for resolving conflict.		
	1b.) ODF should provide an annual training class on Equal Employment Opportunity (EEO) laws, responsibilities, and liabilities, and on affirmative action laws and responsibilities. This should be required for new supervisors and periodic update should coincide with changes in the law.	1. Identify the most appropriate BOLI courses that address these issues.	1. TC, H.R.	In Process
		2. Find a periodic publication for managers that hi-lights EEO issues.	2. H.R., DIVCOM	In Process
		3. Provide a briefing to managers on the Affirmative Action Plan during the "New Manager Orientation to the Human Resources Section". Provide updates to the AA Plan every 2 years when the plan is revised and distributed to managers.	3. H.R.	Completed - Ongoing
		4. Managers, particularly those that hire frequently should attend DAS's "Encore" and "Selection and Interviewing" courses.	4. DF, Supv.	Available
		5. Human Resources will provide coaching to managers when they are involved in a recruitment by reviewing interview questions, providing do's and don'ts for interviews, answer questions on ADA, etc.	5. H.R.	Ongoing

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: <u>EEO/AA</u>				
Issue: Address the recommendations noted in the Diversity Survey				
Success Measure: Department employees will represent a rich range of backgrounds, educations, cultures, and experiences.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	8a.) Provide training and/or information on the procedures and goal setting process outlined in the ODF Affirmative Action Plan and clarify myths and gossip. 8b.) Clarify myths about ODF workforce demographics.	<ol style="list-style-type: none"> 1. Provide information regarding the issue of AA numbers, goal setting, and the concept of "best suited". This would include POC demographics, gender demographics, classification and level in organization, and hiring statistics. 2. Diversity members present the data at unit sessions. 3. Use various forums and the Affirmative Action Plan on the website to get the information out to area, district, and program personnel. 4. Develop a Question & Answer format. 5. Hire the Best - Always! 	<ol style="list-style-type: none"> 1. H.R. 2. DIVCOM 3. DIVCOM 4. H.R., Supv. 	
M	6b.) Participate in and encourage programs that promote interest in natural resource careers.	<ol style="list-style-type: none"> 1. District/programs become involved with youth: options. <ol style="list-style-type: none"> A. Provide job shadows for high school students. B. Become involved in curriculum development of high school natural resource program. C. Make presentations to junior high and high school about forestry and natural resource careers. D. Provide mentors to students. E. Provide "show me" tours in conjunction with other agencies, industry, SAF, Chamber of Commerce, etc. F. Presentations to youth groups such as YMCA, YWCA, Boys and Girls Club. G. NWOA interpretive/educational efforts will continue to address grade school and middle school students. 2. Districts will continue to be involved with fire prevention presentations and outdoor schools that focus on grade school and middle school students. 	<ol style="list-style-type: none"> A. DF, PD B. DF, PD, All Employees C. All Employees D. All Employees E. DF, PD F. DF, PD G. DF, NWOA 2. DF 	<p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>
M	7d.) Diversify ODF workforce.	<ol style="list-style-type: none"> 1. Continue Affirmative Action efforts outlined in the ODF Affirmative Action Plan. 2. Review and revise advertising/minimum qualifications/recruitment process. 3. Review and revise forester intern program. 	<ol style="list-style-type: none"> 1. DIVCOM, Supv., All 2. H.R. 3. H.R., DF/PD 	<p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>

		4. Continue to review college recruiting efforts that promote NR careers.	4. H.R., DF/PD	Ongoing
M	9a.) Conduct further analysis of the historical and present promotional patterns of people of color at ODF.	1. Gather POC data from the last 3 years. Look at Forest Officer and above applications/recruitments. For the present perspective, have a system in place that monitors POC from the application process. For future perspective projecting trends in work force demographics.	1. DIVCOM, H.R.	Ongoing
M	9b.) Develop a monitoring system to ensure equity and monitor differential treatment in promotional opportunities for POC.	1. Continue to diversify interview panels. (See #9a monitoring). 2. Human Resources continue to review application and selection process.	1. H.R., Supv. 2. H.R.	Ongoing
M	5a.) Further study of the "informal systems" in promotions at ODF, and ensure "glass ceiling" does not exist.	1. Managers shall inform employees how the formal promotion process works, either done during orientation as well as during the annual training plan process when career development is being discussed. Human Resources is available to answer questions that managers cannot address. (See #12e.) 2. Addressing other portions of the survey in (#'s 3b, 4b, and 6a) should help address this issue.	1. Supv., H.R. 2. DIVCOM	Ongoing

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: <u>Hiring and Promotion</u>				
Issue: Address the recommendations noted in the Diversity Survey				
Success Measure: Hire the best and over time our work force will take advantage of the diversity resources our community has to offer.				
Priority	Projects/Actions	Action Items	Responsibility	Status
M	12e.) Clarify the process used for hiring and promotion.	<ol style="list-style-type: none"> 1. Emphasize responsibility of employees for their own career development. 2. Emphasize responsibility of managers to provide career counseling to employees. 3. Managers attend Core and Encore courses along with Selection & Interviewing course through DAS. 4. "Hire the Best - Always!" 	<ol style="list-style-type: none"> 1. ODF employees 2. H.R., Supv. 3. Supv. 4. H.R., Supv. 	<p>Ongoing-ILP Process Available</p> <p>Ongoing</p>
M	6a.) Continue to monitor the hiring process to prevent bias.	<ol style="list-style-type: none"> 1. Human Resources is involved in many of the recruitments. Managers are coached regarding interview questions, ADA, etc. Applicant pools are monitored to ensure disparate treatment does not occur through the testing process. Recruitment specialist selects various interviews to sit in on to observe, provide input, and gather feedback on the hiring process. 2. Managers will attend BOLI training on EEO issues and managers who hire often or large numbers of employees will attend DAS's Encore course titled "Selection and Interviewing" or an equivalent course. 3. Coach non-successful internal candidates so they can work to improve their interview performance. 4. Diversity Committee collect data regarding "good old boy" perception. (See #3b.) 	<ol style="list-style-type: none"> 1. H.R. 2. H.R., Supv. 3. Hiring Supv. 4. DIVCOM 	<p>Ongoing</p> <p>Ongoing - Available</p> <p>Ongoing</p>

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: Employee Recognition
Issue: Address the recommendations noted in the Diversity Survey
Success Measure: Employees are rewarded in a meaningful way for contributions and behaviors that assist the department in accomplishing its mission and aid in making the department the "Employer of Choice".

Priority	Projects/Actions	Action Items	Responsibility	Status
H	Employee recognition and affirmation is an effective tool toward encouraging individuals. It is important to recognize those behaviors that are desirable and of value.	<ol style="list-style-type: none"> 1. Review current employee recognition directive and make recommendations for changes. Take the following into consideration: <ol style="list-style-type: none"> A. Rewards should be attractive, visual, personalized, and specific to the event or situation. Elements should include: <ol style="list-style-type: none"> a. Is the behavior being rewarded of value? b. How do we appropriately reward both longevity of service and quality of contributions? c. What behaviors are being rewarded? d. Recognition must be timely. e. Awards must be appropriate for the effort and meaningful to the receiver. f. Recognize the value of peer recognition. 2. Review service award program, particularly the current practices of waiting 10 years before receiving an award. 3. Explore ways to recognize diversity efforts. 	<ol style="list-style-type: none"> 1. H.R., DIVCOM 2. H.R., DIVCOM 3. H.R. 	<p>Employee Recognition Directive in draft form.</p> <p>Employee Recognition Directive in draft form.</p> <p>Not yet started.</p>

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: Succession Planning (See succession planning committee efforts)				
Issue: Plan for upcoming retirements and subsequent new hires and promotions by developing a plan to pass on corporate history and knowledge to future leaders. Integrate Div Com activities where appropriate.				
Success Measure: The department makes a successful and empowering transition to a new leadership structure.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	Prepare for the onset of a new generation of leaders at ODF in the upcoming years.	<ol style="list-style-type: none"> 1. Transfer operational knowledge and experience. 2. Pass the vision on appropriately. 	<ol style="list-style-type: none"> 1. LT 2. LT 	In process - (ALP & Mentor Program)
M	Develop management and leadership skills in employees.	<ol style="list-style-type: none"> 1. Mentoring between experienced leaders and those who desire to promote to leadership/management. (See #4a on mentoring.) 	<ol style="list-style-type: none"> 1. LT 	Ongoing
H	Prepare the organization for significant changes in climate and culture.	<ol style="list-style-type: none"> 1. Identify cultural aspects and practices that are desirable/undesirable and develop a plan to pass on desirable traits. 2. Develop management/leadership skills/abilities (see #4a, #1a, #12c). 	<ol style="list-style-type: none"> 1. LT 2. LT 	Ongoing Ongoing

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: <u>Customer Service</u>				
Issue: Diversity awareness is an important component to our success in working with our internal and external customers.				
Success Measure: Employees have the tools to serve a diverse customer base and the agency is respected for excellence in customer service.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	Providing quality customer service is a primary objective of the department. Diversity awareness and sensitivity by the agency and employees are important tools for achieving that objective.	<ol style="list-style-type: none"> 1. Develop products and services that address diversity issues (i.e. multilingual materials, ADA standards). <ol style="list-style-type: none"> 1a. Develop translation of documents for fire teams and fire camp. 2. Develop a program that promotes and strives for an Excellence-in-Customer-Service attitude through training, mentoring, etc. 3. Facilitate and monitor customer service behaviors/processes through in program surveys (customer service) encourage inclusion of diversity issues/questions. 4. Involve customers in the development of products/services and in providing feedback on program effectiveness. 5. Participate in community events that further diversity initiative (i.e. volunteer programs, anti-gang programs, schools, local diversity events). 	<ol style="list-style-type: none"> 1. PD, DF 2. PD, DF, H.R., DIVCOM 3. PD, DF 4. PD, DF 5. PD, DF 	

**OREGON DEPARTMENT OF FORESTRY DIVERSITY ACTION PLAN
REVISED APRIL 2003**

Category: <u>Agency Representation and Public Image</u>				
Issue: Employees serve as ambassadors when representing the department.				
Success Measure: The department is represented by a responsible, knowledgeable, and competent work force.				
Priority	Projects/Actions	Action Items	Responsibility	Status
H	To serve as ambassadors for the department, employees must be confident in their knowledge of their role and the department's mission and values.	<ol style="list-style-type: none"> 1. Thorough orientation/training in agency mission and vision. 2. Integrate the Working Guideline principles and Covey's 7 Habits into everyday work life. 3. Provide opportunities for employees to be agency ambassadors at community and outreach events such as career fairs, the state fair, rodeos, and out-reach events. 	<ol style="list-style-type: none"> 1. Supv. 2. Supv. 3. Supv. 	<p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>
H	Training and orientation are important tools for providing the background that makes employee ambassadorship successful.	<ol style="list-style-type: none"> 1. Provide thorough orientation to all jobs. 2. Integrate Covey's 7 Habits and Working Guidelines in day-to-day working relationships and interpersonal issues on the job. 3. Provide meaningful individual evaluations. 4. Provide current position descriptions. 5. Provide Individual Learning Plans. 	<ol style="list-style-type: none"> 1. Supv. 2. Supv. 3. Supv. 4. Supv. 	<p>Ongoing</p> <p>Ongoing</p> <p>In process</p> <p>Ongoing</p>

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(i) State/Tribal Government-to-Government Relations

EXECUTIVE ORDER NO. EO – 96 - 30

STATE/TRIBAL GOVERNMENT-TO-GOVERNMENT RELATIONS

There are nine federally recognized Indian tribal governments located in the State of Oregon. These Indian tribes were in existence prior to the formation of the United States of America, and thus retain a unique legal status. The importance of recognizing the relationship that exists between the tribes and state government can not be underestimated.

As sovereigns the tribes and the State of Oregon must work together to develop mutual respect for the sovereign interests of both parties. The relationships between our governmental structures can only be built through trust and mutual respect.

The purpose of formalizing the government-to-government relationship that exists between Oregon’s Indian tribes and the State is to establish a process which can assist in resolving potential conflicts, maximize key inter-governmental relations and enhance an exchange of ideas and resources for the greater good of all of Oregon’s citizens, whether tribal members or not.

IT IS ORDERED AND DIRECTED:

1. That the Governor’s Legal Counsel, or such other person as the Governor may from time to time designate, shall be accountable to the Governor for the implementation of this Executive Order and be responsible for convening an annual meeting where representatives of the State and the nine federally recognized Oregon tribal governments will work together to achieve mutual goals.
2. That the head of each Cabinet level department who is either appointed by the Governor or who reports to gubernatorial appointees and is made subject to this Order by the Governor (hereinafter “department”) shall be accountable to the Governor’s office for adopting a departmental State/Tribal Government statement that:
 - a. Recognizes that Oregon Indian tribal governments are interested in the development of state policy that affects tribal interests (hereinafter “state policy”) and recognizes the desirability of dialogue between tribal governments and the state, with regard to those state policies;

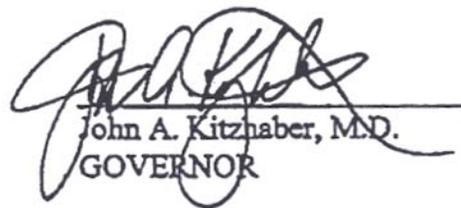
- b. Identifies key personnel of the department as a “key contact[s]” responsible for coordination with tribal governments;
 - c. Establishes a process for the identification of those state policies by designated tribal representatives and key contacts;
 - d. Promotes dialogue between Oregon departments and tribal governments on those state policies; and
 - e. That advances the government-to-government relationship by notifying staff and employees of this Executive Order.
3. Through the process established under this Executive Order, the key contacts and designated tribal representatives shall identify issues of mutual concern arising from state policy. The departments and each tribal government shall make reasonable efforts to design solutions and develop programs to achieve mutual goals in relation to state policy.
4. That each department shall recognize the opportunity to use a number of tools to achieve mutual cooperation including but not limited to use of cooperative agreements with Indian tribal governments as provided for in ORS 190.110 when it is appropriate to do so.
5. That each department shall provide key managers with periodic training which enables them to better recognize Indian issues and to understand and respect the legal status of tribal governments and of American Indians as citizens of Oregon who also have their own unique and distinct culture. It is important as well for the tribes to develop tribal training so its members will better understand the workings and process of state government. it is the hope of the state that these trainings will enable the tribes and the state to learn about each other’s cultures and improve our mutual ability to communicate our interests more clearly. The key contact and designated tribal representatives shall consult on the scope and content of training as well as the coverage of its costs.
6. That the departments shall work cooperatively to accomplish the goals of this order.

It is the hope of the state and the tribes that this executive order will result in improving the quality of communication between our sovereign governments. The tribes and the state recognize that this order cannot and is not intended to create a forum for resolution of all issues between the tribes and the state. Nor is it meant to replace presently existing lines of communications. Both the tribes and the state recognize that issues that are the subject of litigation or that are likely to become the subject of litigation are inappropriate for discussion in this process.

Nothing in this order shall require the state or any of its agencies to violate or ignore any laws, rules, directives or other legal requirements or obligations imposed by state or federal law including but not limited to state Public Records law, Public Meetings laws and provisions of the state Administrative Procedures Act.

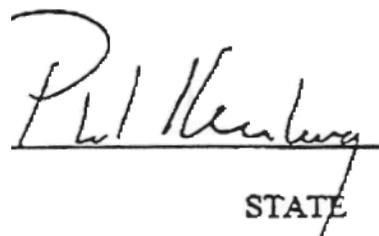
This document has been adopted for the sole purpose of enhancing communication and mutual cooperation between the State of Oregon and the tribal governments and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or responsibility, substantive or procedural, enforceable by a party against the State of Oregon, its agencies or instrumentality's, its officers or employees, its subdivisions or any other persons.

Done at Salem, Oregon this 22nd day of May 1996.



John A. Kitzhaber, M.D.
GOVERNOR

ATTEST:



STATE

Phil Keisling SECRETARY OF STATE

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(j) Memo of Agreement – ODF and State Historic Preservation Office

MEMORANDUM OF AGREEMENT
between
OREGON DEPARTMENT OF FORESTRY
and
STATE HISTORIC PRESERVATION OFFICE

August 5, 2002

The Oregon Department of Forestry (ODF) and the State Historic Preservation Office (SHPO) encourage protection of cultural resource sites during forest activities through enhanced awareness and understanding of ODF employees, forest landowners, and operators of applicable statutes and administrative rules. Cultural resource sites are acknowledged to be finite, irreplaceable, and nonrenewable and are an intrinsic part of the cultural heritage of the people of Oregon. The significance of cultural resource sites to Native Americans is recognized, and government to government relations and agreements require our joint efforts to ensure appropriate protection.

1. Purpose

This agreement defines the roles and responsibilities of each organization in meeting the objectives set forth below. It acknowledges that SHPO has the lead role for the State of Oregon in coordinating cultural resources protection and promotes communication and positive working relations between SHPO and ODF, and with individual tribes in the development and implementation of ODF programs that affect tribes.

2. Objectives

SHPO: It is the objective of SHPO to maintain a comprehensive, statewide survey to identify sites, buildings, structures, and objects that are potentially significant in Oregon history, prehistory, architecture, archaeology, and culture. It is the further objective of SHPO to assist ODF in providing information and education on the economic and social benefits of developing historical and cultural resources.

SHPO was established in 1967 within the Oregon Parks and Recreation Department and is an integral part of national preservation under terms of the National Historic Preservation Act of 1966. The program is mandated by parallel state legislation [ORS 358, ORS 390] and administrative rule [Chapter 736, Division 51, in part].

ODF: It is the objective of ODF to promote agency, landowner, and operator compliance and resource site protection through enhanced awareness and understanding of the statutes and rules under ORS 358.904 to 358.955 and applicable federal law. As a steward of public lands, ODF is directed under ORS 358.910 to preserve and protect objects and sites that are of archaeological significance. The Board of Forestry (BOF) has directed ODF to assist landowners

and operators in complying with archaeological site and object protection laws by sharing relevant site information.

ODF and SHPO: It is the objective of both agencies to: develop and encourage interagency relationships; cooperate in inventory and protection of sites; and encourage tribal interests to work with ODF and forest landowners to develop management plans that protect Native American sites.

3. Legislative Authority

ORS 358.612 states in part: **(1)** “[SHPO] Shall conduct or cause to have conducted a comprehensive, statewide survey to identify districts, sites, buildings, structures and objects that are potentially significant in Oregon history, prehistory, architecture, archaeology and culture. **(3)** Shall maintain a statewide inventory of historic properties. **(9)** Shall provide or assist other appropriate state agencies in providing information and education on the economic and social benefits of developing historical and cultural resources.”

ORS 358.910 (1): “Archaeological sites are acknowledged to be a finite, irreplaceable, and nonrenewable cultural resource, and are an intrinsic part of the cultural heritage of the people of Oregon. As such, archaeological sites and their contents located on public land are under the stewardship of the people of Oregon to be protected and managed in perpetuity, as a Public trust.”

ORS 358.920 (10) (a): “A person may not excavate, injure, destroy or alter an archaeological site or object, or remove an archaeological object located on public or private lands in Oregon unless that activity is authorized by a permit issued under ORS 390.235. **(b)** Collection of an arrowhead from the surface of public or private land is permitted if collection can be accomplished without the use of any tool.”

ORS 527.630 (Oregon Forest Practices Act): (2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies that deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands. **(3)** “. . . (1) It is declared to be in the public interest to coordinate with other state agencies and local governments which are concerned with the forest environment.”

ORS 527.710 (4) SHPO is included in "programs affected by forest operations" requiring consultation before adoption of rules governing forest practices by the Board of Forestry. The Board's duty under Section **(5)** is to “. . . consider and accommodate the rules and programs of other agencies to the extent deemed by the Board to be appropriate and consistent with the purposes of ORS 527.630.”

4. SHPO Roles and Responsibilities:

- 4.1** SHPO encourages forest operators and landowners, including the State, to survey all lands suspected or known to have cultural resource sites in order to minimize discovery or inadvertent disturbance after operations have started. For the purposes of this agreement, survey is defined as the systematic search for cultural resources across the landscape and the recording of surface characteristics of sites and artifacts.
- 4.2** SHPO maintains a comprehensive, statewide inventory of sites, buildings, structures, and objects that are potentially significant in Oregon history, prehistory, architecture, archaeology, and culture.
- 4.3** SHPO provides information and education on the economic and social benefits of developing historical and cultural resources.
- 4.4** SHPO sets standards and provides technical advice on conducting archaeological surveys to cultural resources that are potentially significant.
- 4.5** SHPO sets standards and provides technical advice on collecting and recording appropriate site information.
- 4.6** SHPO, in collaboration with ODF, will develop within two years of the date of this agreement a means for ODF field personnel to assess if known sites are located near a proposed operational area, or if there is a high probability or likelihood of sites existing in the vicinity.
- 4.7** SHPO agrees to develop a suitable short-term solution for sharing information of known sites within one year of the date of this agreement.
- 4.8** Both SHPO and ODF acknowledge that there is a long-term need to convert the present inventory information into a Geographic Information System, and agree to joint development of future biennial budget requests for funding.

5. ODF Roles and Responsibilities

- 5.1 General:** ODF employees work in different capacities with regard to cultural resource site protection. Each role has different statutory requirements and procedures.
 - a.** District Foresters are responsible for periodic review of county comprehensive plans to identify new sites that are inventoried under the Goal 5 requirement of the Statewide Land Use Program that local governments inventory and evaluate significant cultural resources, including sites, structures, objects, and cultural areas. Local governments are to adopt land use programs that will protect cultural sites following the procedures in OAR Chapter 660, Division 16.

- b. District Foresters are responsible for periodic consultation with affected tribal governments to identify their areas of interest and the location of cultural resource sites requiring preservation, if the tribes are willing to share such information. ODF will encourage that each respective tribe share this information with SHPO.
- c. Other interests, such as local pioneer organizations, will be encouraged to subscribe to notifications of Forest Practices operations in their area of interest and to work directly with operating landowners.
- d. ODF personnel, as a part of their normal duties, will provide information to private landowners and operators about statutes, and rules related to archaeological sites. To the extent ODF employees are aware of potential or known archaeological objects and sites, they are responsible for informing private landowners and operators proposing activities that might impact such objects or sites.
- e. ODF personnel shall not report or record archaeological sites on private land. Private landowners may choose to report or record sites on their property and will be encouraged to do so; however, ODF has no authority to require reporting or recording.
- f. ODF acknowledges the sensitivity of information on inventoried archaeological sites and will limit access and use of site information to ODF employees who have been trained on cultural resources and site protection. Site information includes maps and databases in either paper or electronic formats.
- g. ODF will refer requests for site information from landowners, landowner representatives, land managers, operators, or the public to SHPO and the respective tribes.

5.2 Public Land Management: ODF as a public land manager has the responsibility to protect and manage archaeological sites located on State Forests. State Forests are managed under Forest Management Plans developed for different planning regions. The approved Forest Management Plans for these public lands identify strategies for protection of archaeological sites and objects in accordance with ORS 358.910.

- a. The cultural resource strategies recognize that historic sites, relics, and structures are a public resource and provide important clues to the historic use of state forestlands. The cultural resource management program for Oregon's State Forests, to meet both legal protection mandates and internal protection priorities, requires:

1. Inventory and assessment of cultural resource sites and prehistoric and historic cultural resource review which will be updated on a periodic basis. This includes the general landscape level documentation of known and suspected cultural resource sites based on a review of publications, maps, photos, library collections, and information derived from interviews, local folklore, or other oral history sources.
 2. Development of a cultural resource database for tracking and planning purposes, including a system of recording, filing, and retrieving cultural resource site data from Geographic Information System (GIS) overlays and basin-level inventories.
 3. Development of procedures for integrating site protection into forest activity plans by providing practical guidelines for recognizing, assessing, recording, and protecting sites. These procedures will include the specific steps and criteria that will be used to determine when a forest activity or operation will require a survey for archaeological resources to be conducted by a professional archaeologist.
- b. State forests were acquired in different ways. Some state forest parcels were granted to the state by the federal government when Oregon became a state in 1859. These lands are owned by the State Land Board, are known as Common School Lands, and managed by ODF through an agreement with the State Land Board and Division of State Lands. Lands owned by the Board of Forestry consist primarily of lands that were in private ownership in the early 20th century, foreclosed for nonpayment of taxes, and subsequently deeded to the State by individual counties.

5.3 Private and Non-federal Lands: ODF directly administers the Oregon Forest Practices Act on all non-federal forestland; provides technical assistance and administers federal cost-share programs on non-industrial forest ownership; manages wildland fire incidents or other emergency situations; and conducts fire suppression.

- a. When ODF receives a forest practices notification for a proposed operation, administers a federal cost-share, either of which may impact a suspected or known archaeological site, or when a suspected archaeological site is discovered by an ODF employee, ODF will:
 1. Inform the landowner/operator of the archaeological object and site laws (ORS 358, ORS 390) and administrative rules (OAR Chapter 736, Division 51) that protect these sites.

2. Inform the landowner/operator that the county may also have regulations related to these sites and that they should contact the county planning department.
 3. Inform the landowner/operator of the National Historic Preservation Act regulations when federal funds are involved.
- b. When ODF is managing or conducting emergency operations which may also include action on federal lands:
1. Identified archaeological objects or sites will be protected from disturbance to the extent practicable, while providing for human safety and protection of other resources at risk.
 2. The landowner, landowner representative, or land manager will be notified and a protection strategy will be developed based on communication with the landowner or landowner representative.
 3. When archaeological objects or sites are discovered during emergency operations, site assessments and rehabilitation beyond normal fire line rehabilitation for erosion control is the choice and responsibility of the landowner. To the extent practicable, ODF will combine site protection with normal fire line rehabilitation.

6. Training

- 6.1 ODF Employees:** Within one year of the date of this agreement, ODF and SHPO will develop an internal training program and/or participate with other interested state and federal agencies in a cooperative training program to improve the awareness and understanding of ODF personnel. The training program will, at a minimum, include:
- a. Purpose, goal, and importance of archaeological preservation.
 - b. Overview, discussion, and examples of prehistoric and historic sites.
 - c. National Historic Preservation Act.
 - d. Applicable state statutes and administrative rules.
 - e. Role of State Historic Preservation Office.
 - f. Native American perspective.

- g. Status of tribes, rights of members of tribes, and issues of concern to tribes as offered by Department of Administrative Services in consultation with the Commission on Indian Services.
- h. ODF responsibilities, policy, and procedures to follow.
- i. Field exercises in identification of archaeological sites and objects.

6.2 Operator and Landowner Assistance: Within one year of the date of this agreement, SHPO and ODF will develop an informational brochure that outlines the significant federal and state statutes, and provides general guidance for forest landowners and operators to comply with protection and preservation of archaeological sites and objects.

7. Other Considerations

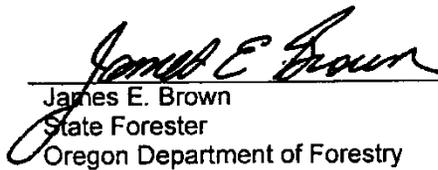
Provisions of this agreement will be jointly reviewed and updated if needed on at least a biennial basis.

Nothing contained herein shall obligate either party for expenditures in excess of funds made available by the governing boards of each agency for activities envisioned by this agreement.

This agreement shall remain valid until modified or cancelled by one or both of the parties, such notice to be in writing.

Organizational contacts for this agreement are the Deputy State Forester, Oregon Department of Forestry, and Deputy State Historic Preservation Officer and Manager, State Historic Preservation Office.

Approved:


 James E. Brown
 State Forester
 Oregon Department of Forestry


 Michael Carrier
 State Historic Preservation Officer
 Oregon Parks & Recreation Department

Date: 6/12/02

Date: 7-1-02

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(k) Definitions

ACCESSIBILITY: The ability of a person with a disability to approach, enter, and use an employer's facilities easily, particularly such areas as its personnel office, work site, programs, services, benefits, privileges, employment, and public areas.

ADVERSE IMPACT: A substantially different rate of selection in hiring, promotion, transfer, training, or other employment decisions, which works to the disadvantage of members of a particular group.

AFFIRMATIVE ACTION: Procedures by which racial/ethnic minorities, women, persons in the protected age category, people with disabilities, and disabled veterans are provided with increased employment opportunities. This will also include programs for monitoring progress and problem identification. It shall not mean any sort of quota system.

AFFIRMATIVE ACTION PLAN: A written document including goals and objectives which delineates the steps ODF will take to provide equal opportunity within its workforce.

AFFIRMATIVE ACTION PROGRAM: A specific results-oriented program, in an affirmative action plan, designed to provide equal opportunity within the workforce.

AGENCY: A state agency, department, commission, or board.

AMERICAN INDIAN OR ALASKAN NATIVE: A person with origins in any of the original peoples of North America through tribal affiliation or community recognition.

APPLICANT: A person applying for employment with an agency or having an application for employment on file with the Dept. of Administrative Services or an agency.

APPLICANT FLOW DATA: A statistical compilation of employment applicants showing the specific numbers of each racial, ethnic, and sex group who applied for each job class (or group of job classes requiring similar qualifications) during a specified time period.

APPLICANT POOL: Total of those persons who have applied for, or have been considered for a particular position.

APPOINTING AUTHORITY: A board, commission, officer, commissioner, person or group of persons having the power to make appointments by virtue of a statute or by lawfully delegated authority.

ASIAN OR PACIFIC ISLANDERS: A person with origins in any of the original peoples of the Far East, Southeast Asia, Hawaiian Native, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, the Philippine Republic, and Samoa.

AVAILABILITY ANALYSIS: The collection, review, and analysis of data reflecting the percentage of protected group members available for employment in the labor market.

AVAILABILITY BASE: The percentage of protected group members who have or who are capable of attaining the requisite skills for entry into a specific job group in a designated recruitment.

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ): A qualification required for performance of a job that limits the opportunity of persons of a particular sex, religion, or national origin to apply for consideration.

BLACK/AFRICAN AMERICAN (NOT OF HISPANIC ORIGIN): A person with origins in any of the black racial groups of Africa who is also not of Hispanic origin.

CAUCASIAN (includes European American and Arab American): A person with origins in any of the original peoples of Europe, North Africa, or the Middle East who is not of Hispanic origin.

COMPLIANCE: Conformity with the requirements set forth in the State of Oregon's Affirmative Action Plan Guidelines, and other State and Federal laws and regulations.

DESIGNEE: An individual at the executive level, reporting directly to the agency head, to whom are designated affirmative action duties.

DISABLED VETERAN: A person entitled to disability compensation under laws administered by the Veterans Administration for disability rated at 30 percent or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

DIVISION: A division is defined for the purposes of the Affirmative Action Plan Guidelines as any facility, region, district, or section appropriate to a given agency structure and/or workforce depiction.

EMPLOYEE: Any person holding a position in state service subject to appointment by an appointing authority.

EQUAL EMPLOYMENT OPPORTUNITY: The opportunity to obtain employment, promotions and other benefits of employment without discrimination because of race, color, religion, sex, marital status, national origin, age, physical, sensory or mental disability, or status as a disabled veteran.

GOAL: A target expressed as both a number and percentage for placing protected group members in a job group for which underutilization exists.

HISPANIC: A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race. Only those persons from Central and South America countries who are of Spanish origin, descent, or culture should be included in this category. Persons from Brazil, Guyana, Surinam, or Trinidad, for example, would be classified according to their race and would not necessarily be included in the Hispanic category. In addition, the category does not include persons from Portugal who should be classified according to race.

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 CLASS: Any position or position class in state service.

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).

JOB GROUP ANALYSIS: The assessment of data on the percentage of protected group members within a job group to determine if underutilization exists.

LABOR MARKET OR LABOR MARKET AREA: A geographical area from which an agency may reasonably expect to recruit employees.

LONG-TERM TIMETABLE: A period of time greater than one year, but not exceeding five years.

MINORITIES: (persons of color) All persons classified Black/African American (not Hispanic origin), Hispanic, Asian, Pacific Islander, American Indian, or Alaskan Native.

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.

PERSONS WITH DISABILITY: An individual with a disability is a person who has: (a) a physical or mental impairment that substantially limits one or more major life activities; (b) has a record of such an impairment; or (c) is regarded as having such an impairment.

POLICY STATEMENT: A written statement, signed by the agency head, declaring and affirming the agency's commitment to equal opportunity and affirmative action.

PROBLEM AREA ANALYSIS: An examination designed to determine deficiencies that must be addressed before full participation of protected group members in the workforce can be assured.

PROTECTED GROUP: Refers to group(s) with respect to race, creed, color, national origin, sex, age, marital status, veteran status, or the presence of any sensory or physical disability.

SHORT-TERM TIMETABLES: A period of one year or less.

TIME TABLE: A period of time in which a goal is to be achieved.

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.

UPWARD MOBILITY: The opportunity to advance to a higher job class.

UTILIZATION ANALYSIS: Protected group availability compared to current workforce for the purpose of determining representation of protected groups.

VIETNAM ERA VETERAN: A person who served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975 and was discharged or released therefrom with other than a dishonorable discharge; or who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975; and who was so discharged or released within 48 months preceding an alleged violation of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the affirmative action clause, or the regulations issued pursuant to the Act.

WORKFORCE ANALYSIS: A comprehensive inventory of all permanent full time employees at a point in time, by race/sex, job classes, and occupational category.

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(1) Program and Action Strategies (Good-Faith Efforts)

For the purpose of this plan, good-faith efforts shall be defined as significant measurable attempts to reach affirmative action goals and to carry out the intent of this plan. Such efforts may be demonstrated in the following manner:

1. Records substantiating that a policy statement committing the agency to equal employment opportunity and affirmative action practices has been issued to the staff.
2. Records substantiating that the agency's affirmative action plan has been made available to all employees.
3. Records substantiating that managers and supervisors within the work unit have received EEO and Diversity training.
4. Records substantiating the provision of reasonable accommodation to disabled persons.
5. Records substantiating that all eligible persons are encouraged to receive training regardless of their protected class.
6. Records substantiating that part-time, training, and seasonal employment opportunities are made available to protected class persons.
7. Records substantiating that the State's EEO/AA policy and related grievance procedure are available to all personnel.
8. Records documenting each organizational unit's progress toward meeting goals to address underutilization.
9. Records documenting exit interviews and non-discriminatory reasons for leaving.
10. Records substantiating actions taken to reduce and/or eliminate illegal discrimination and/or harassment complaints.
11. Records documenting the ethnic/gender composition of interview panels.
12. Records documenting any actions or efforts undertaken to meet the State's affirmative action objectives.

VI – APPENDIX A

A. Agency Policy Documentation

5. Additional Policies in Support of Affirmative Action Plan

(m) Definitions of Federal EEO – 4 Job Categories

E. DEFINITIONS 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, provide specialized consultation. Job titles in this category may include: regional, district or area directors; deputy directors; controllers; examiners; wardens; superintendents; sheriff; police and fire chiefs; inspectors; and kindred workers.
- B. PROFESSIONALS:** Occupations which require specialized and theoretical knowledge usually acquired through college training or work experience and other training which provides comparable knowledge. This category includes: personnel and labor relations workers; social workers; doctors; analysts; accountants; engineers; employment and vocational rehabilitation counselors, teachers or instructors; police and fire captains and lieutenants; 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. This category includes: computer programmers and operators; drafters; surveyors; licensed practical nurses; photographers; radio operators; technical illustrators; highway technicians; science technicians (medical, dental, electronic, physical); assessors; inspectors; police and fire sergeants; and kindred workers.
- D. PROTECTIVE SERVICE WORKERS:** Occupations in which workers are entrusted with public safety, security and protection from destructive forces. This category includes: police patrol officers; firefighters; guards; deputy sheriffs; bailiffs; correctional officers; detectives; marshals; harbor patrol officers; 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 requires less formal training and/or experience than is normally required for professionals or technicians. This category includes: library assistants, research assistants; medical aides; child support workers; police auxiliary workers; welfare service aides; recreation assistants; homemaker aides; home health aides; and kindred workers.

- F. ADMINISTRATIVE SUPPORT:** 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. This category includes: bookkeepers; messengers; office machine operators; clerk typists; stenographers; court transcribers; hearings reporters; statistical clerks; dispatchers; license distributors; payroll clerks; 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 processes involved in the work, which is acquired through on-the-job training and experience, or through apprenticeship or other formal training programs. This category includes: mechanics and repairers; electricians; heavy equipment operators; stationary engineers; skilled machining occupations; carpenters; compositors and typesetters; and kindred workers.
- H. SERVICE AND MAINTENANCE:** Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of 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. This category includes: chauffeurs; laundry and dry cleaning operatives; truck drivers; bus drivers; garage laborers; custodial personnel; gardeners and grounds keepers; refuse collectors; construction workers; and kindred workers.

VII – APPENDIX B

A. Prohibited Employment Policies/Practices

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

[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

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

2. Disability Discrimination, Title I of the Americans with Disability Act of 1990

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

An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.
- A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:
 - Making existing facilities used by employees readily accessible to and usable by people with disabilities.
 - Job restructuring, modifying work schedules, reassignment to a vacant position;
 - Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an “undue hardship” on the operation of the employer’s business. Reasonable accommodations are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities. Accommodations vary depending upon the needs of the individual applicant or employee. Not all people with disabilities (or even all people with the same disability) will require the same accommodation. For example:

- A deaf applicant may need a sign language interpreter during the job interview.
- An employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood sugar and insulin levels.
- A blind employee may need someone to read information posted on a bulletin board.
- An employee with cancer may need leave to have radiation or chemotherapy treatments.

An employer does not have to provide a reasonable accommodation if it imposes an “undue hardship.” Undue hardship is defined as an action requiring significant difficulty or expense

when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

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

An employer generally does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. If an employer believes that a medical condition is causing a performance or conduct problem, it may ask the employee how to solve the problem and if the employee needs a reasonable accommodation. Once a reasonable accommodation is requested, the employer and the individual should discuss the individual's needs and identify the appropriate reasonable accommodation. Where more than one accommodation would work, the employer may choose the one that is less costly or that is easier to provide.

Title I of the ADA also covers:

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

Medical records are confidential. The basic rule is that with limited exceptions, employers must keep confidential any medical information they learn about an applicant or employee. Information can be confidential even if it contains no medical diagnosis or treatment course and even if it is not generated by a health care professional. For example, an employee's request for a reasonable accommodation would be considered medical information subject to the ADA's confidentiality requirements.

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

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

Federal Tax Incentives to Encourage the Employment of People with Disabilities and to Promote the Accessibility of Public Accommodations.

The Internal Revenue Code includes several provisions aimed at making businesses more accessible to people with disabilities. The following provides general – non-legal – information about three of the most significant tax incentives. (Employers should check with their accountants or tax advisors to determine eligibility for these incentives or visit the Internal Revenue Service's website, www.irs.gov, for more information. Similar state and local tax incentives may be available.)

- **Small Business Tax Credit (Internal Revenue Code Section 44: Disabled Access Credit)**
Small businesses with either \$1,000,000 or less in revenue or 30 or fewer full-time employees may take a tax credit of up to \$5,000 annually for the cost of providing reasonable accommodations such as sign language interpreters, readers, materials in alternative format (such as Braille or large print), the purchase of adaptive equipment, the modification of existing equipment, or the removal of architectural barriers.
- **Work Opportunity Tax Credit (Internal Revenue Code Section 51)**
Employers who hire certain targeted low-income groups, including individuals referred from vocational rehabilitation agencies and individuals receiving Supplemental Security Income (SSI) may be eligible for an annual tax credit of up to \$2,400 for each qualifying employee who works at least 400 hours during the tax year. Additionally, a maximum credit of \$1,200 may be available for each qualifying summer youth employee.
- **Architectural/Transportation Tax Deduction (Internal Revenue Code Section 190 Barrier Removal):**
This annual deduction of up to \$15,000 is available to businesses of any size for the costs of removing barriers for people with disabilities, including the following: providing accessible parking spaces, ramps, and curb cuts; providing wheelchair-accessible telephones, water fountains, and restrooms; making walkways at least 48 inches wide; and making entrances accessible.

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.

- [Your Employment Rights as an Individual With a Disability](#)
- [Job Applicants and the ADA](#)
- [Understanding Your Employment Rights Under the ADA: A Guide for Veterans](#)
- [Questions and Answers: Promoting Employment of Individuals with Disabilities in the Federal Workforce](#)
- [The Family and Medical Leave Act, the ADA, and Title VII of the Civil Rights Act of 1964](#)
- [The ADA: A Primer for Small Business](#)
- [Your Responsibilities as an Employer](#)
- [Small Employers and Reasonable Accommodation](#)
- [Work At Home/Telework as a Reasonable Accommodation](#)
- [Applying Performance And Conduct Standards To Employees With Disabilities](#)
- [Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures](#)
- [Veterans and the ADA: A Guide for Employers](#)
- [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)
- [Employer Best Practices for Workers with Caregiving Responsibilities](#)
- [Reasonable Accommodations for Attorneys with Disabilities](#)
- [How to Comply with the Americans with Disabilities Act: A Guide for Restaurants and Other Food Service Employers](#)
- [Final Report on Best Practices For the Employment of People with Disabilities In State Government](#)
- [ABCs of Schedule A Documents](#)

The ADA Amendments Act

- [Final Regulations Implementing the ADAAA](#)
- [Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008](#)
- [Questions and Answers for Small Businesses: The Final Rule Implementing the ADA Amendments Act of 2008](#)
- [Fact Sheet on the EEOC's Final Regulations Implementing the ADAAA](#)

The Questions and Answers Series

- [Health Care Workers and the Americans with Disabilities Act](#)

- [Deafness and Hearing Impairments in the Workplace and the Americans with Disabilities Act](#)
- [Blindness and Vision Impairments in the Workplace and the ADA](#)
- [The Americans with Disabilities Act's Association Provision](#)
- [Diabetes in the Workplace and the ADA](#)
- [Epilepsy in the Workplace and the ADA](#)
- [Persons with Intellectual Disabilities in the Workplace and the ADA](#)
- [Cancer in the Workplace and the ADA](#)

Mediation and the ADA

- [Questions and Answers for Mediation Providers: Mediation and the Americans with Disabilities Act \(ADA\)](#)
- [Questions and Answers for Parties to Mediation: Mediation and the Americans with Disabilities Act \(ADA\)](#)

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

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

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

The law against compensation discrimination includes all payments made to or on behalf employees as remuneration for employment. All forms of compensation are covered, including salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.

Equal Pay Act

The Equal Pay Act requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be substantially equal. It is job content, not job titles, that determines whether jobs are substantially equal. Specifically, the EPA provides that employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment. Each of these factors is summarized below:

Skill

- Measured by factors such as the experience, ability, education, and training required to perform the job. The issue is what skills are required for the job, not what skills the individual employees may have. For example, two bookkeeping jobs could be considered equal under the EPA even if one of the job holders has a master's degree in physics, since that degree would not be required for the job.

Effort

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

Responsibility

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

Working Conditions

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

Establishment

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

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

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

Title VII, ADEA, and ADA

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

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

- An employer pays an employee with a disability less than similarly situated employees without disabilities and the employer's explanation (if any) does not satisfactorily account for the differential.
- An employer sets the compensation for jobs predominately held by, for example, women or African-Americans below that suggested by the employer's job evaluation study, while the pay for jobs predominately held by men or whites is consistent with the level suggested by the job evaluation study.
- An employer maintains a neutral compensation policy or practice that has an adverse impact on employees in a protected class and cannot be justified as job-related and consistent with

business necessity. For example, if an employer provides extra compensation to employees who are the “head of household,” i.e., married with dependents and the primary financial contributor to the household, the practice may have an unlawful disparate impact on women.

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

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

4. Genetic Information Discrimination, Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)

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 employers and other entities covered by Title II (employment agencies, labor organizations and joint labor-management training and apprenticeship programs - referred to as "covered entities") from requesting, requiring or purchasing genetic information, 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 the manifestation of a disease or disorder in an individual’s family members (i.e. 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. Genetic information also includes an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual, and the genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

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 is not relevant to an individual'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 of the workplace, 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 a covered entity 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.
- Family medical history may be acquired as part of the certification process for FMLA leave (or leave under similar state or local laws or pursuant to an employer policy), where an employee is asking for leave to care for a family member with a serious health condition.
- Genetic information may be acquired through commercially and publicly available documents like newspapers, as long as the employer is not searching those sources with the intent of finding genetic information or accessing sources from which they are likely to acquire genetic information (such as websites and on-line discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination).
- Genetic information may be acquired through a genetic monitoring program that monitors the biological effects of toxic substances in the workplace 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 a covered entity to disclose genetic information about applicants, employees or members. Covered entities 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, such as exceptions that provide for the disclosure of relevant genetic information to government officials investigating compliance with Title II of GINA and for disclosures made pursuant to a court order.

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A. Prohibited Employment Policies/Practices

5. National Origin Discrimination, Title VII of the Civil Rights Act of 1964

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>.

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A. Prohibited Employment Policies/Practices

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

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 Pregnancy Discrimination Act (PDA) forbids discrimination based on pregnancy 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 in the same way as it treats any other temporarily disabled employee. For example, the employer may have to provide light duty, alternative assignments, disability leave, or unpaid leave to pregnant employees if it does so for other temporarily disabled employees.

Additionally, impairments resulting from pregnancy (for example, gestational diabetes or preeclampsia, a condition characterized by pregnancy-induced hypertension and protein in the urine) may be disabilities under the Americans with Disabilities Act (ADA). An employer may have to provide a reasonable accommodation (such as leave or modifications that enable an employee to perform her job) for a disability related to pregnancy, absent undue hardship (significant difficulty or expense). The ADA Amendments Act of 2008 makes it much easier to show that a medical condition is a covered disability.

For more information about the ADA, see <http://www.eeoc.gov/laws/types/disability.cfm>.

For information about the ADA Amendments Act, see

http://www.eeoc.gov/laws/types/disability_regulations.cfm.

Pregnancy Discrimination & Harassment

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

Under the PDA, an employer that allows temporarily disabled employees to take disability leave or leave without pay, must allow an employee who is temporarily disabled due to pregnancy to do the same.

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/whd/regs/compliance/whdfs28.htm>.

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. Nursing mothers may also have the right to express milk in the workplace under a provision of the Fair Labor Standards Act enforced by the U.S. Department of Labor's Wage and Hour Division.

See <http://www.dol.gov/whd/regs/compliance/whdfs73.htm>.

For more information about the Family Medical Leave Act or break time for nursing mothers, go to <http://www.dol.gov/whd>, or call 202-693-0051 or 1-866-487-9243 (voice), 202-693-7755 (TTY).

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

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

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).

Facts About Race/Color Discrimination

[Title VII of the Civil Rights Act of 1964](#) protects individuals against employment discrimination on the basis of race and color as well as national origin, sex, or religion.

It is unlawful to discriminate against any employee or applicant for employment because of race or color in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups.

Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude minorities and that are not job related.

Equal employment opportunity cannot be denied because of marriage to or association with an individual of a different race; membership in or association with ethnic based organizations or groups; attendance or participation in schools or places of worship generally associated with certain minority groups; or other cultural practices or characteristics often linked to race or ethnicity, such as cultural dress or manner of speech, as long as the cultural practice or characteristic does not materially interfere with the ability to perform job duties.

Race-Related Characteristics and Conditions

Discrimination on the basis of an immutable characteristic associated with race, such as skin color, hair texture, or certain facial features violates Title VII, even though not all members of the race share the same characteristic.

Title VII also prohibits discrimination on the basis of a condition which predominantly affects one race unless the practice is job related and consistent with business necessity. For example, since sickle cell anemia predominantly occurs in African-Americans, a policy which excludes individuals with sickle cell anemia is discriminatory unless the policy is job related and consistent with business necessity. Similarly, a “no-beard” employment policy may discriminate against African-American men who have a predisposition to pseudofolliculitis barbae (severe shaving bumps) unless the policy is job-related and consistent with business necessity.

Color Discrimination

Even though race and color clearly overlap, they are not synonymous. Thus, color discrimination can occur between persons of different races or ethnicities, or between persons of the same race or ethnicity. Although Title VII does not define “color,” the courts and the Commission read “color” to have its commonly understood meaning – pigmentation, complexion, or skin shade or tone. Thus, color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person. Title VII prohibits race/color discrimination against all persons, including Caucasians.

Although a plaintiff may prove a claim of discrimination through direct or circumstantial evidence, some courts take the position that if a white person relies on circumstantial evidence to establish a reverse discrimination claim, he or she must meet a heightened standard of proof. The

Commission, in contrast, applies the same standard of proof to all race discrimination claims, regardless of the victim's race or the type of evidence used. In either case, the ultimate burden of persuasion remains always on the plaintiff.

Employers should adopt "best practices" to reduce the likelihood of discrimination and to address impediments to equal employment opportunity.

Title VII's protections include:

- **Recruiting, Hiring, and Advancement**

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

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

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

- **Compensation and Other Employment Terms, Conditions, and Privileges**

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

- **Harassment**

Harassment on the basis of race and/or color violates Title VII. Ethnic slurs, racial "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race/color constitutes unlawful harassment if the conduct creates an intimidating, hostile, or offensive working environment, or interferes with the individual's work performance.

- **Retaliation**

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

- **Segregation and Classification of Employees**

Title VII is violated where minority employees are segregated by physically isolating them from other employees or from customer contact. Title VII also prohibits assigning primarily minorities to predominantly minority establishments or geographic areas. It is also illegal to exclude minorities from certain positions or to group or categorize employees or jobs so that certain jobs are generally held by minorities. Title VII also does not permit racially motivated decisions driven by business concerns – for example, concerns about the effect on employee relations, or the negative reaction of clients or customers. Nor may race or color ever be a bona fide occupational qualification under Title VII.

Coding applications/resumes to designate an applicant's race, by either an employer or employment agency, constitutes evidence of discrimination where minorities are excluded from employment or from certain positions. Such discriminatory coding includes the use of facially benign code terms that implicate race, for example, by area codes where many racial minorities may or are presumed to live.

- **Pre-Employment Inquiries and Requirements**

Requesting pre-employment information which discloses or tends to disclose an applicant's race suggests that race will be unlawfully used as a basis for hiring. Solicitation of such pre-employment information is presumed to be used as a basis for making selection decisions. Therefore, if members of minority groups are excluded from employment, the request for such pre-employment information would likely constitute evidence of discrimination.

However, employers may legitimately need information about their employees' or applicants' race for affirmative action purposes and/or to track applicant flow. One way to obtain racial information and simultaneously guard against discriminatory selection is for employers to use "tear-off sheets" for the identification of an applicant's race. After the applicant completes the application and the tear-off portion, the employer separates the tear-off sheet from the application and does not use it in the selection process.

Other pre-employment information requests which disclose or tend to disclose an applicant's race are personal background checks, such as criminal history checks. Title VII does not categorically prohibit employers' use of criminal records as a basis for making employment decisions. Using criminal records as an employment screen may be lawful, legitimate, and even mandated in certain circumstances. However, employers that use criminal records to screen for employment must comply with Title VII's nondiscrimination requirements.

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

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

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 and Segregation

Title VII also prohibits workplace or job segregation based on religion (including religious garb and grooming practices), such as assigning an employee to a non-customer contact position because of actual or feared customer preference.

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.

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A. Prohibited Employment Policies/Practices

9. Retaliation, Agency Affirmative Action Policy

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.

Facts About Retaliation

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

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

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

Adverse Action

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

- employment actions such as termination, refusal to hire, and denial of promotion,
- other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and
- any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

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

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

Of course, employees are not excused from continuing to perform their jobs or follow their company's legitimate workplace rules just because they have filed a complaint with the EEOC or opposed discrimination. For more information about adverse actions, see [EEOC's Compliance Manual Section 8, Chapter II, Part D](#).

Covered Individuals

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

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

Protected Activity

Protected activity includes:

Opposition to a practice believed to be unlawful discrimination

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

Examples of protected opposition include:

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

Examples of activities that are NOT protected opposition include:

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

Participation in an employment discrimination proceeding.

Participation means taking part in an employment discrimination proceeding.

Participation is protected activity even if the proceeding involved claims that ultimately were found to be invalid.

Examples of participation include:

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

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

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

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

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

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.

VII – APPENDIX A

A. Prohibited Employment Policies/Practices

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

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.

Facts About Sexual Harassment

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

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

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

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be unwelcome.

It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available. When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

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

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