BOLI

Bureau of Labor and Industries

Affirmative Action Plan
2013 - 2015 Biennium

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BUREAU OF LABOR AND INDUSTRIES
AFFIRMATIVE ACTION PLAN
2013 - 2015 BIENNIUM

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Bureau of Labor and Industries

I. Agency Description

The Bureau of Labor and Industries (BOLI) was created by the 1903 Oregon Legislature. The first Labor Commissioner, O.P. Hoff, was also the Bureau's first and only employee. Mr. Hoff was responsible for enforcing child labor laws, the 10-hour working day for women, and the factory inspection law.

Today, the Bureau's Civil Rights Division, Wage and Hour Division, Apprenticeship and Training Division, Hearings Unit, and the Technical Assistance for Employers Unit serve employees and employers in a variety of ways. The Bureau has 100 employees located in offices in Portland, Salem, Eugene, Bend, Medford and Pendleton.

Civil Rights Division (CRD) protects all Oregonians from unlawful discrimination, investigating allegations of civil rights violations in workplaces, career schools, housing and public accommodations.

Wage and Hour Division serves Oregon wage earners by enforcing laws covering state minimum wage and overtime requirements, working conditions, child labor, farm and forest labor contracting, and wage collection. The division also regulates the payment of prevailing wage rates required to be paid to construction workers on public works projects.

Apprenticeship and Training Division (ATD) is occupational skill training that combines on-the-job experience with classroom instruction. A partnership of employers, workers, the State of Oregon, and schools and community colleges; apprenticeship trains workers to meet industry standards for a given occupation. The Apprenticeship and Training Council sets policy for apprenticeship and training and registers individual programs.

Hearings Unit conducts administrative law proceedings for all bureau programs where divisions' actions are contested. The Hearings Unit handles over 200 contested cases each year through the administrative law process.

Technical Assistance for Employers Program (TA Program) provides employers with a telephone information line, informational pamphlets and materials, and seminars and workshops to keep the business community informed about employment law compliance issues. The TA Program answers over 25,000 email and phone inquires from employers each year, conducts over 200 seminars annually, maintains a website for employers with quick access to basic employment law information and frequently asked questions, and produces several employment law resource manuals.

The Bureau's Mission

The mission of BOLI is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

The four principle duties of BOLI are to:

1) Protect the rights of workers and citizens to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations.

2) Encourage and enforce compliance with state laws relating to wages, hours, terms and conditions of employment.

3) Educate and train employers to understand and comply with both wage and hour and civil rights law.

4) Promote the development of a highly skilled, competitive workforce in Oregon through the apprenticeship program and through partnerships with government, labor, business, and educational institutions.

The Bureau's Vision

A strong and growing Oregon economy that reflects the values of fairness, equality, and opportunity.

Agency Commissioner

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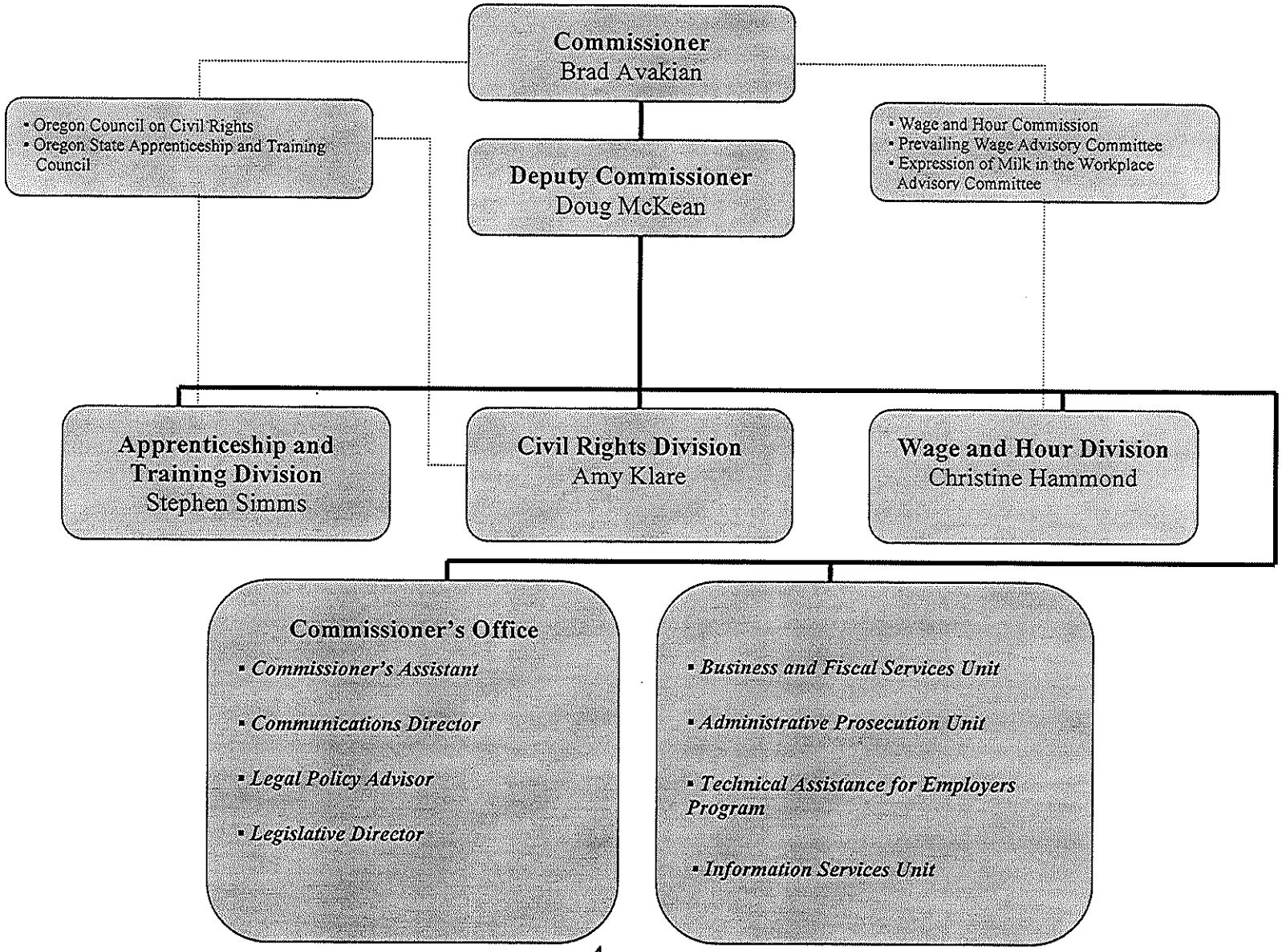
Organizational Chart

BUREAU OF LABOR AND INDUSTRIES



II. Affirmative Action Plan

Affirmative Action and Diversity and Inclusion Policy Statement

The Oregon Bureau of Labor and Industries (BOLI) remains fully committed to providing individuals with fair and equal employment opportunity and equal access to its programs and services. The Bureau enforces a zero-tolerance policy against any form of discrimination or harassment and has adopted an Affirmative Action Plan as one method of helping to eliminate discrimination on the basis of race, color, religion, sex, national origin, physical or mental disability, age, marital status, sexual orientation, gender identity trans-gender status, or political belief.

In cases where practices or procedures operate to the disadvantage of protected classes, the Bureau will take steps to correct them so that equal opportunity exists for all, whether in employment, promotion, or terms and conditions of employment. Employees have the right to file a formal complaint of alleged discrimination and/or harassment as outlined in the Affirmative Action Plan, with his/her supervisor, the Affirmative Action Representatives, or the Commissioner's office.

The Bureau recognizes a diverse workforce is crucial to serve Oregonians. In matters of recruitment, hiring, and promotion, the Bureau will reach out to the broadest possible labor market. Applications will be judged solely on the basis of job-related characteristics. Job requirements and tests will be job-related and will not have adverse impact upon protected classes. Bureau managers and supervisors who have hiring responsibilities will be instructed and trained in interviewing techniques so that only job-related questions will be asked and job-related characteristics will be used to rate a candidate for a job.

In addition to proactive recruiting efforts, the work environment is an important part in maintaining a diverse workforce. All Bureau managers and supervisors will be accountable for creating and promoting a work environment that is free from any kind of hostility or unwelcome behavior. It is the responsibility of all Bureau managers and supervisors to monitor their work environments to ensure that they are free from harassing types of behaviors. Such behaviors will not be condoned. It is not acceptable to participate in such behaviors and it is not acceptable for any manager to remain silent about them.

It is the responsibility of every employee of the Bureau to create and maintain an atmosphere that fosters the spirit of this Affirmative Action policy. This policy will be distributed to all employees, posted on the BOLI website, posted in public areas in each bureau office and break areas, and included in each new employee packet. Managers and supervisors will actively participate in affirmative action, recruitment, selection and all other employment processes, and will become familiar with their role in achieving the goals and objectives of the Affirmative Action Plan.

Implementation of this plan is the responsibility of Brad Avakian, Commissioner, and the Affirmative Action Representatives, available at 971-673-0785 or 503-947-7296.

Brad Avakian, Commissioner
Bureau of Labor and Industries

Training, Education and Developmental Plan

1. Employees

   The Bureau of Labor and Industries is committed to the principle that training and development of employees are integral components of work performance, and are inherently tied to our mission, vision, principles, strategic planning, work force planning and the provision of quality services to Oregonians. Training and development are focused on helping employees achieve proficiency in their current positions as well as obtain proficiencies that complement bureau goals. All BOLI training supports honoring and respecting the differences inherent to a multi-cultural, multi-generational, and multi-able work force.

   A BOLI training committee made up of management and staff will discuss training needs and develop a biannual training plan. Training sessions completed in the past include: Needs of Returning Veterans, Intergenerational Workplace, Statewide Diversity Conference, and Conflict in the Workplace. In addition to formal training classes, information will be disseminated to employees through the use of guest speakers or presentations based upon materials received from the Governor's Diversity and Inclusion office.

   Orientation to all new employees, managers and supervisors includes a discussion of the Bureau's Affirmative Action Plan accomplishments and goals and other policies to eliminate discrimination or harassment of any employee regardless of protected class or any reason prohibited by state and federal statute. The content of the new employee orientation will be reviewed by the training committee and updated as necessary.

   Meetings with employees are another way training and pertinent information is disseminated. The Bureau holds weekly Executive Management Team meetings and all-staff meetings biannually. Individual divisions within the Bureau hold monthly and quarterly meetings.

2. Volunteers

   The Bureau will provide any volunteers with the training needed to effectively perform the duties. In addition, policies that apply to employees, such as Discrimination and Harassment Free Workplace, Maintaining a Professional Workplace, and the BOLI Affirmative Action Plan will be given to the volunteer by the responsible manager who will communicate the rights, responsibilities, expectations, and duties of the volunteer in the workplace.

3. Contractors/Vendors

   All contractors and vendors are required to understand and adhere to all relevant agency policies. This includes the Bureau's Affirmative Action Plan, and DAS policy 50.010.01 Discrimination and Harassment Free Workplace.

4. Board/Committee Members

   Any new committee, commission or board members will receive a copy of the Affirmative Action Policy Statement, DAS policy 50.010.01, Discrimination and Harassment Free Workplace and DAS policy 50.010.03, Maintaining a Professional Workplace.

Programs

1. Internship Program

   BOLI provided 24 internship opportunities from July 2010 – June 2012 that included assignments with most sections of the agency. Students were sponsored from Willamette Law School, University of Oregon, PCC Paralegal Program and the PCC Office Skills ESL Program. It is anticipated that opportunities for internships will be made available during the 2013-2015 biennium. When an inquiry for an internship is received from a college or a student, BOLI will make every effort to find the best position to offer a quality learning experience.

2. Community Outreach

   The Commissioner regularly speaks to groups about BOLI activities, current issues and policies. He regularly attends meetings of the Joint Advocacy Commissions (Commission for Women, Commission on Black Affairs, Commission on Hispanic Affairs, and Commission on Asian and Pacific Islanders), Urban League, Oregon Tradeswomen, Beaverton Human Rights Commission and others. We have also conducted and participated in public forums to educate workers on BOLI services and their employment rights. These forums were organized by the Wage Theft Coalition, NW Workers Justice Project and PCUN (Oregon's Farmworker Union). In addition, each year the Technical Assistance unit offers public seminars across the state and responds to thousands of questions sent in by phone or e-mail.

3. Diversity Awareness

   The Bureau's discrimination and harassment presentations and training sessions around the state creates much interest in working for the Bureau. Diversity outreach efforts include:

   - Employees working with our interns who come from all ethnic and racial backgrounds and countries including Japan, China, Iraq, France and Mexico.
   - Posting the notices, announcements and proclamations supporting cultural diversity in the Portland Office Building.
   - Training all staff and reinforcing an environment of respect and professionalism with all staff and customers.

Update: Executive Order 08-18

1. Cultural Competency Assessment

   As part of the training strategies for the 2013-2015 biennium, BOLI will be exploring options regarding cultural competency assessments and training directed at addressing the results of the assessment. All training for our employees will continue to focus on effective communication and being respectful of people from diverse backgrounds and various social and economic backgrounds. This focus assists our employees in not only relating well with co-workers, but the Oregonians we serve.

2. Statewide Exit Interview Survey

   The Bureau feels it is important to receive information from departing employees, and invites and encourages departing employees, including temporary employees, to complete an exit interview prior to their departure. If an employee would like a face-to-face meeting to express concerns or accomplishments, a meeting will be scheduled. Information is shared regularly with the division administrators and Commissioner.

3. Performance Evaluations for All Management Personnel

   The Bureau includes in the annual performance evaluation of all management personnel an assessment of the manager's or supervisor's effectiveness in achieving the bureau's affirmative action objectives. In addition to recruitment and interviewing practices, a manager will be reviewed on their respect for the diversity of opinions, ideas, life-experiences, and cultural differences, all of which contribute to a welcoming workplace.

Status of Contracts to Minority-Owned Business

BOLI currently has nine contracts and one personal service contract valued at $1,258,377. Five of the nine contracts are minority contracts, worth $519,282. Two of the five contracts are with OMWESB certified firms, with a value of $434,839. Three other contracts are from companies owned by a Woman, Confederated Tribes of Grande Ronde, and African Americans. These three contracts are worth $84,443.

III. Roles for Implementation of Affirmative Action Plan

Responsibility for achieving the Affirmative Action goals for the 2013-2015 biennium is shared by all managers and employees at BOLI. The following individuals will provide the leadership for BOLI to have a workforce rich in diversity and free of discrimination.

Commissioner and Deputy Commissioner

- Foster and promote to all employees and managers the importance of a diverse and discrimination and harassment free workplace.
- Ensure division administrators understand their role and responsibility to promote affirmative action activities and a welcoming environment.
- Direct division administrators that annual performance reviews for subordinate managers include ratings on the manager's support and effectiveness of the Bureau's Affirmative Action Plan goals.
- Participate in, and encourage the participation of subordinate mangers in events supporting multicultural education and celebration.
- Meet with Affirmative Action Representatives to review workforce representation statistics and work environment progress and issues. Approve planned strategies for meeting goals.

Administrators and Managers

- Foster and promote to subordinate managers and employees the importance of a diverse and discrimination and harassment free workplace.
- Ensure all subordinate managers receive an orientation on the Bureau's affirmative action goals and responsibilities, and understand their own role and responsibility for insuring the Bureau meets the goals and objectives.
- Inform employees of the goals and objectives for the BOLI Affirmative Action Plan.
- Display the Bureau's Affirmative Action Policy Statement in prominent areas across the offices.
- Attend, and encourage staff to attend, diversity-related activities and training. Share information received with managers and staff who were unable to attend.
- Follow the procedures outlined in DAS 50.010.01, Discrimination and Harassment Free workplace, and contact DCBS Employee Services, if manager/supervisor becomes aware of a department employee engaging in any type of harassment or discriminatory behavior.
- Work with DCBS Employee Services to utilize State of Oregon procedures and rules in filling vacancies.

Affirmative Action Representatives and/or Designee

- Foster and promote to managers/supervisors and employees the importance of a diverse and discrimination and harassment free workplace.
- Work with Bureau managers and supervisors to make sure they understand their responsibility for promoting a diverse and inclusive and welcoming workforce environment, and attaining the affirmative action goals.
- Present quarterly workforce representation report to Bureau management.
- Ensure recruitments include outreach to minority and women-specific web sites, community agencies and organizations for the recruitment of people of color, persons with disabilities, veterans, and women. Discuss with hiring manager the advertising strategies to attract a diverse pool of candidates.
- Train managers in interviewing skills, including having diverse interview panels, developing job-related interview questions, and applying veterans preference.
- Attend, and encourage staff to attend, diversity-related activities and training. Share information received with managers and staff who were unable to attend.
- Discuss the BOLI Affirmative Action Plan and Policy Statement at new employee orientation.
- Ensure the BOLI Affirmative Action Plan and Policy Statement is maintained on the BOLI web site and is accessible by all employees.
- Attend and support statewide meetings with the Governor's Diversity and Inclusion Office and other agency representatives.

IV. July 1, 2010 to June 30, 2012 Accomplishments and Progress

The mission and vision of BOLI supports the affirmative action efforts of the State of Oregon by promoting the development of a highly skilled, competitive workforce in Oregon; protecting the rights of the workers and others to equal, nondiscriminatory treatment; encouraging and enforcing compliance with state laws relating to wages, hours, terms and conditions of employment; and advocating policies that balance the demands of the workplace with the protections of workers and their families.

Accomplishments and Progress

Some of the accomplishments and progress toward our goals during the July 2010 – June 2012 period include:

- Continued strong executive and management commitment to providing excellent civil rights training, consultation and regulation services to all Oregonians.
- Successful recruiting efforts and hiring of diverse populations.
- Sponsoring interns from different ethnic and racial backgrounds and countries including China, Japan, Iraq, Mexico, France, Guatemala and Korea.
- Increasing the number of female and people of color participants in the apprenticeship programs.

BOLI has continued its efforts to improve workplace diversity. As of June 30, 2010, the Bureau had 116 employees and board members. On June 30, 2012, the statistics show a total employee count of 100. The percent of workforce for people of color, people with disabilities and women follows.

BOLI Workforce Representation
as of June 30, 2012

Group	Actual Number for Group	Percent of Group
People of Color	24	24%
Women	61	61%
People with Disabilities	14	14%

We are proud of our efforts, however, more work needs to be done to meet parity in middle and upper management categories for people of color. A more detailed workforce representation report is shown on the next page.

The Bureau maintains a low turnover of employees, however, approximately 40% of the current workforce is eligible to retire before 2015. As recruitments are conducted to fill these vacancies, our managers will continue to hire the best and increase our diverse workforce.

Workforce Representation Report
Oregon Bureau of Labor and Industries

Updated 9/6/12

Affirmative Action Analysis as of June 30, 2012

EEO Categories		WOMEN (W)				PEOPLE OF COLOR (P)				Total Hires for Qtr.	Protected Class Hires** (Last Three Months)		
	Total Emp	Actual	FTE*	Parity	FTE*	Actual	FTE*	Parity	FTE*		W	P	D
A01) Middle Management	8	5	62.5%	43.0%	3.4	1	12.5%	13.6%	1.1	0			
A02) Upper Management	11	6	54.5%	36.6%	4.0	1	9.1%	12.2%	1.3	0			
B02) Communication/Editor	1	0	0.0%	41.7%	0.4	0	0.0%	9.0%	0.1	1			
B10) Personnel/Employment	13	5	38.5%	57.6%	7.5	1	7.7%	11.6%	1.5	0			
B11) Inspector/Compliance/Investgtr	33	19	57.6%	48.1%	15.9	13	39.4%	10.7%	3.5	0			
B12) Computer Analyst	1	0	0.0%	32.4%	0.3	0	0.0%	13.0%	0.1	0			
B13) Attorney/Hearings Officer	1	0	0.0%	30.6%	0.3	0	0.0%	7.9%	0.1	1			
B15) Accounting/Finance/Revenue	1	0	0.0%	53.0%	0.5	0	0.0%	13.0%	0.1	0			
B16) Program Coordinator/Analyst	2	1	50.0%	41.1%	0.8	0	0.0%	9.5%	0.2	0			
C04) Computer	1	1	100.0%	36.0%	0.4	0	0.0%	12.7%	0.1	0			
F00) Administrative Support	28	24	85.7%	70.3%	19.7	8	28.6%	9.7%	2.7	2	2		
	100	61				24				4	2	0	0

Affirmative Action Statistics are voluntary and may not accurately reflect the actual diversity of the agency.

* May be duplication in counts of individuals within the W, P and D categories

People with Disabilities			
Total Agency	Parity	Total Group	Group %
100	6%	14	14.00%

V. 2013-2015 Goals and Strategies

BOLI has a diverse workforce that represents their customers. We will continue to pursue goals that help us increase our representation of People of Color, People with Disabilities, Veterans and Women within the BOLI workforce. The new benchmark will be the workforce representation statistics achieved in June 2012.

One of the four BOLI principle duties is protecting the rights of workers to non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces. We still have work to do within BOLI, therefore, we will continue the efforts toward building a work environment that is respectful and accepting of employees' differences, making it attractive not only to our current employees, but to a diverse pool of applicants as well.

Goals

In the 2013- 2015 biennium, BOLI will pursue the following goals:

1. Ensure all managers and employees receive training to help achieve and maintain a respectful work environment.
2. Support an inclusive, welcoming environment that is accepting and respectful of others differences and recognizes the value of each individual's unique contribution.
3. Recognize and celebrate the diversity of our workforce by creating, displaying and publicizing visual presentations for employees to view that highlight the contributions of our diverse workforce.
4. Distribute all job announcements to a list of diverse organizations and individuals to ensure that a diverse audience is encouraged to apply for our job openings.
5. Continue to provide outreach to people of color, people with disabilities, veterans and women.

Strategies

To accomplish the above goals, BOLI plans the following actions and strategies for 2013-2015:

- Educating BOLI Managers and Employees. BOLI managers will participate in several courses including Being an Effective Team Member, Dealing with Conflict in the Workplace, Veterans Hiring Preference, and Documentation and Discipline.

  BOLI employees will participate in several courses including Being an Effective Team Member and Dealing with Conflict in the Workplace.

Additional training for both managers and employees will help BOLI achieve and maintain a welcoming environment that is inclusive, accepting and respectful of other's differences and recognizes the value of each individual's unique contribution. A welcoming environment is also important in attracting a diverse pool of applicants.

- Displays and Events. BOLI will post information about diversity-related topics including posters, proclamations, pictures and articles on the internet and employee bulletin board.

- Creative Recruitment Strategies. All vacant positions will be sent to diverse organizations, such as NAACP, Hispanic Services Roundtable, Partners in Diversity, Oregon Association of Minority Entrepreneurs, Oregon Native American Chamber, Oregon Advocacy Commission and the Governor's Diversity and Inclusion Office for posting or sharing with their members.

- Networking. There are free networking events such as "Say Hey" in Portland and "Networkin' It" in Salem that will be attended by the affirmative action representatives. Attending the Statewide D&I meetings is a great opportunity to meet other HR professionals to share accomplishments and gain new ideas to use at BOLI.

BOLI will continue its efforts to maintain a diverse workforce, representing the diversity of the Oregonians we serve. We remain committed to reaching and surpassing our goal of people of color, people with disabilities and women in our workforce. Through the leadership of our Commissioner, Deputy Commissioner, and BOLI management team, it is expected that each employee of the Bureau will treat all customers, vendors, the public, and other employees with respect and provide the best customer service possible.

Section VI

Appendix A

DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

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.

DAS DEPARTMENT OF ADMINISTRATIVE SERVICES
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.

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(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%

DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

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.

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 and Disabled Veterans receive preference points as follows;

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

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

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

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

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

(b) Select a group of Veteran and Disabled Veteran applicants who most closely match the agency's purposes in filling the position. This group of applicants may be considered along with non-veteran applicants who closely match the purposes of the agency in filling the position as determined by:

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

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

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

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

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

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

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

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

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

Stat. Auth: ORS 240.145(3) & 240.250
Stats. Implemented: ORS 408.225, 408.230 & 408.235
Hist.: HRSD 3-2007(Temp), f. & cert ef. 9-5-07 thru 3-3-08; HRSD 1-2008, f. 2-27-08, cert. ef. 3-1-08; HRSD 3-2009, f. 12-30-09, cert. ef. 1-1-10

Section VII

Appendix B

The Age Discrimination in Employment Act of 1967

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*

Title I of the Americans with Disabilities Act of 1990 (ADA)

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

An individual with a disability is a person who:

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

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. 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)

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.

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.

National Origin Discrimination

National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).
National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

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

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

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

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

National Origin & Employment Policies/Practices
The law makes it illegal for an employer or other covered entity to use an employment policy or practice that applies to everyone, regardless of national origin, if it has a negative impact on people of a certain national origin and is not job-related or necessary to the operation of the business.
An employer can only require an employee to speak fluent English if fluency in English is necessary to perform the job effectively. An "English-only rule", which requires employees to speak only English on the job, is only allowed if it is needed to ensure the safe or efficient operation of the employer's business and is put in place for nondiscriminatory reasons.
An employer may not base an employment decision on an employee's foreign accent, unless the accent seriously interferes with the employee's job performance.

Citizenship Discrimination & Workplace Laws
The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for an employer to discriminate with respect to hiring, firing, or recruitment or referral for a fee, based upon an individual's citizenship or immigration status. The law prohibits employers from hiring only U.S. citizens or lawful permanent residents unless required to do so by law, regulation or government

contract. Employers may not refuse to accept lawful documentation that establishes the employment eligibility of an employee, or demand additional documentation beyond what is legally required, when verifying employment eligibility (i.e., completing the Department of Homeland Security (DHS) Form I-9), based on the employee's national origin or citizenship status. It is the employee's choice which of the acceptable Form I-9 documents to show to verify employment eligibility.

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

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

1-800-255-7688 (voice for employees/applicants),
1-800-237-2515 (TTY for employees/applicants),
1-800-255-8155 (voice for employers), or
1-800-362-2735 (TTY for employers), or
http://www.usdoj.gov/crt/osc.

Pregnancy Discrimination

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

Pregnancy Discrimination & Work Situations
The 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).

Race/Color Discrimination

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

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

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

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

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

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

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.

Religious Discrimination

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

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

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

Religious Discrimination & Harassment
It is illegal to harass a person because of his or her religion.

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

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

Religious Discrimination 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.

Retaliation

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

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

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

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.

Sex-Based Discrimination

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

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

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

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

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

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

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

Source: U.S. Equal Employment Opportunity Commission (EEOC)
http://www.eeoc.gov/laws/types/sex.cfm

Sexual Harassment

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

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

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

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

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.

Source: U.S. Equal Employment Opportunity Commission (EEOC)
http://www.eeoc.gov/laws/types/sexual harassment.cfm ; http://www.eeoc.gov/eeoc/publications/fs-sex.cfm

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.

A Summary of Protected Classifications

FEDERAL LAW	OREGON LAW
TITLE VII OF CIVIL RIGHTS ACT OF 1964 Federal laws apply when an employer has 15 or more employees (except where noted) **Race** **Color** **National Origin** **Sex** (includes pregnancy-related conditions) **Religion** **Retaliation** **Association with Protected Class** **Genetic Information** (under Genetic Information Nondiscrimination Act)	OREGON REVISED STATUTES CHAPTER 659A State laws apply when an employer has 1 or more employees (except where noted) **Race** **Color** **National Origin** **Sex** (includes pregnancy-related conditions) **Religion** **Retaliation** **Association with Protected Class** **Prohibition on Genetic Screening and Brain-wave Testing**
AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 **Age** (40 and older in companies with 20+ employees)	OREGON REVISED STATUTES CHAPTER 659A **Age** (18 and older)
Uniformed Services Employment and Reemployment Rights Act of 1994 and the Vietnam Era Veterans Readjustment Assistance Act of 1974 (all employers) **Veteran Status** **Leave to Serve in the Military** **Veterans Preference in Hiring and Promotion** (Public Employers)	Members of the Uniformed Services (ORS 659A.082) Taking leave to Serve in State-organized Militia (ORS 399.065) **Veteran Status** **Leave to Serve in State-organized Militia** **Veterans' Preference in Hiring and Promotion** (Public Employers)
AMERICANS WITH DISABILITIES ACT OF 1990 **Physical or Mental Disability**	OREGON REVISED STATUTES CHAPTER 659A **Physical or Mental Disability** (in companies with 6+ employees)
Family and Medical Leave Act of 1993 (in companies with 50+ employees) **Protected leave for:** • **Serious health condition of employee (including pregnancy-related conditions)** • **Serious health condition of employee's family Member (includes spouse, parent, biological or adopted or foster child)** • **Parental leave for birth or placement of newborn, adopted or newly-placed foster child** **Leave by Spouse, Son, Daughter or Parent of a Covered Military Service Member** on active duty or call to active duty status for a qualifying exigency **Leave by Parent, Spouse or Child of Next of Kin** to care for a seriously ill or injured service member or veteran (26 weeks)	Oregon Family Leave Act (in companies with 25+ employees) **Protected leave for:** • **Serious health condition of employee (including pregnancy-related conditions)** • **Serious health condition of employee's family Member (includes spouse, parent, biological or adopted or foster child, parent-in-law, grandparent, grandchild, same-sex domestic partner and parent or child of same-sex domestic partner)** • **Parental leave for birth or placement of newborn, adopted or newly-placed foster child** • **Non-serious health condition of a child requiring home care** **Leave by Spouse or Same-sex Domestic Partner of Member of the Armed Forces** prior to or during leave from deployment (under the Oregon Military Family Leave Act, ORS 659A.090 to 659A.099 in companies with 25+ employees)

ADDITIONAL CLASSES PROTECTED BY OREGON LAW
OREGON REVISED STATUTES CHAPTER 659A (Except where noted, laws apply when an employer has 1 or more employees)
Access to Employer-owned Housing
Credit Records or Credit History
Injured Workers (in companies with 6+ employees)
Lawful Use of Tobacco Products on off-duty hours
Leave to Donate Bone Marrow
Leave to Serve in the State Legislature (ORS 171.120-125)
Limits on Breathalyzer and Blood Alcohol Testing Expunged Juvenile Record
Marital Status
Medical Release as a Condition of Continued Employment
Opposition to Health or Safety Conditions (ORS 654.062(5)(a))
Prohibition on Employer Requiring Medical Release unless Employer pays out-of-pocket costs (ORS 659A.306)
Prohibition on Polygraph Exams
Family Relationship
Right to File a Lawsuit, Testify in Criminal or Civil Proceedings or Report Criminal Activities
Right to Report Health Care Violations
Right to Testify at Employment Division Hearings
Right to Testify Before the State Legislature
Sexual Orientation and Gender Identity
Victims of Domestic Violence, Sexual Assault, Stalking or Harassment, Including Leave Provisions

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