



Oregon Medical Board

Affirmative Action Plan
2009 – 2011 Biennium

OREGON MEDICAL BOARD

AFFIRMATIVE ACTION PLAN

2009-2011 BIENNIUM

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II. DESCRIPTION OF AGENCY

The mission: of the Oregon Medical Board is to protect the health, safety, and well being of Oregon citizens by regulating the practice of medicine in a manner that promotes quality care.

The Oregon Medical Board administers ORS Chapter 677 and OAR Chapter 847 to license, to investigate charges against, and to discipline, medical and osteopathic physicians (MDs and DOs), doctors of podiatry (DPMs), acupuncturists, and physician assistants (PAs).

The Board is a regulatory agency created to protect the health, safety, and welfare of the people of Oregon from the practice of medicine by unauthorized or unqualified persons and from unprofessional conduct by persons licensed to practice medicine, and to promote medical excellence in Oregon. As the agency regulating medical practice statewide, the Board also develops and enforces most of the state laws, rules, and policies under which its licensees practice. There are approximately 17,000 licensees under the jurisdiction of the Board.

The current Executive Director of the Oregon Medical Board is:

Ms. Kathleen Haley
1500 SW 1st Ave Suite 620
Portland OR 97201-5847
Phone number 971-673-2681

The Governor's Policy Advisor for the Oregon Medical Board is:

Ms. Claudia Black
Phone number 503-378-6549

The Affirmative Action Representative for the Oregon Medical Board is:

Ms. Debbie West
Phone number 971-673-2697.

A current organizational chart for the Oregon Medical Board follows this page.

III. AFFIRMATIVE ACTION PLAN

A. Agency Affirmative Action Policy

Introduction

The purpose of this plan is to update and maintain the previously initiated affirmative action program for the Oregon Medical Board, in keeping with the directive of the Governor, state and federal laws and regulations, executive orders of the President of the United States of America concerning affirmative action, discrimination/non-discrimination guidelines appropriate under the Civil Rights Acts, equal employment opportunity (EEO) policies, and the Americans with Disabilities Act by which our good faith efforts must be directed.

Policy Statement

The Oregon Medical Board will not tolerate discrimination or harassment on the basis of age, color, marital status, mental or physical disability, national origin, race, religion, sex, sexual orientation, or any reason prohibited by state or federal statute. Nor shall the Board do business with any vendor/provider for the state of Oregon who discriminates or harasses in the above-described manner. All personnel actions of the Oregon Medical Board, and all licensing actions and disciplinary actions concerning licensees, shall be administered according to this policy.

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

All employees shall be advised of the procedure for lodging a discrimination/ harassment complaint, and all employees with concerns of any kind related to affirmative action shall be encouraged to bring them to the attention of the Executive Director or the Human Resources Manager.

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

Duration of Plan

This revision of the Board's Affirmative Action Plan is effective July 1, 2009 and shall be evaluated annually or as needed when statewide changes occur. The Board's Affirmative Action Representative is Debbie West, 971-673-2697.

B. Status of contracts to Minority Businesses (ORS 659A.015)

The Oregon Medical Board does not have any contracts that exceed \$5,000 with minority businesses. The majority of our contracts are with subject matter experts that are called upon for single-need issues.

C. Training, Education and Development Plan and Schedule of:

1. Staff

- a. Train and inform managers, supervisors, and employees at New Employee Orientation as to their rights and responsibilities under the Board's affirmative action plan and other Board policies to eliminate discrimination or harassment on the basis of age, color, marital status, mental or physical disability, national origin, race, religion, sex, sexual orientation, or any reason prohibited by state or federal statute.
- b. Managers and employees will attend annual training in the areas of AA/EEO, Valuing Diversity and Harassment. Training may be in the form of guest speakers during monthly staff meetings, formal classes presented by DAS, and/or one-on-one discussions.
- c. 32% of the Oregon Medical Board's workforce is eligible to retire within the next five years. To develop our employees skills and give them opportunities to grow within the organization, the Oregon Medical Board will:
 - Provide assistance in identifying career paths;
 - Encourage employees to seek career development and job rotation opportunities;
 - Identify mentors and coaches and promote their use;
 - Link capable employees up with staff members who may be considering retirement; and
 - Groom top performers for advanced levels of leadership within the organization by giving them exposure to political processes, providing management-level training, and encouraging job shadow activities.

2. Board Members

- a. Provide new Board Members with a copy of the Affirmative Action Plan or direct them to the Board's website where the Plan is available for public viewing.
- b. Invite them to participate in the Board's cultural diversity training sessions.

3. Providers

The Oregon Medical Board does not have any Providers.

4. Vendors

When contracts are established or renewed, the Oregon Medical Board provides vendors with a copy of the Affirmative Action Plan or directs them to the Board's website where the Plan is available for public viewing.

D. Status of Cultural Competency Assessment/Implementation

As part of the Oregon Medical Board's 2009-2011 Affirmative Action Plan, the agency will research the costs and timelines required to complete an assessment of its cultural competence. This assessment will help determine where OMB's culture lies in the spectrum from culturally unaware to culturally competent. A culturally competent organization is able to use the policies, people and resources it has to systematically anticipate, recognize and respond to varying expectations of customers and employees. A culturally competent organization values individuals for their differences instead of expecting individuals to adapt to the organizations culture. The OMB, its employees and customers will immediately benefit from their movement along the spectrum towards cultural competence.

If budget and time allows, the Oregon Medical Board will complete the assessment and then develop a plan to enhance its cultural competence. Implementation of the plan will result in:

- People of diverse backgrounds and experience effectively working together;
- People understanding and appreciating one another's differences; and
- People effectively communicating with and being respectful of those differences.

The plan will focus on:

- Greater awareness among the members of OMB's workforce;
- Changes to policies and procedures that will enhance effective communication and utilize differing strengths;
- Identifying training events that all employees will enjoy and participate in;
- The design and implementation of more effective interventions within a diverse or specific cultural community; and
- An increased respect for and understanding of diverse cultures within the workforce and a decrease in intolerant practices by staff members.

The Oregon Medical Board will benefit from this plan by:

- Utilizing unique strengths and perspectives to solve problems and enrich the work environment;
- Creating a climate of cultural awareness and a welcoming environment that honors diversity;
- Making a stronger and more cohesive workforce rallied together by a common goal of success;

- Increasing ownership of decisions when they are made by a process supported by a diverse workforce;
- Having a greater understanding of the world in which we work and the customers we serve; and
- Preventing and overcoming misunderstandings, lost opportunities and conflict.

E. Programs

The Oregon Medical Board uses a number of approaches in bringing new people into the work force, creating opportunities for existing employees, and promoting an environment that is welcoming, tolerant and supportive. Some of the programs and activities are:

- Using the Intern Oregon Program when special projects surface to teach young people about the mission of the Oregon Medical Board and show them possible employment opportunities;
- Making presentations to community organizations such as health care groups and higher educational facilities about the work of the OMB which in turn creates interest in our jobs;
- Encouraging existing employees to learn new skills and apply them for career advancement opportunities both within the OMB and the State;
- Drawing upon different sources to advertise our recruitments such as job fairs, minority and community organizations, etc.
- Promoting a respectful workplace by offering training on diversity awareness, improving communications, conflict management, and an open atmosphere to talk about problems and ideas;
- Creating a welcoming environment by fostering an acceptance of people's differences and treating everyone with respect and professionalism whether they are staff or customer;
- Posting notices and forwarding e-mails that talk about cultural activities and other information that supports diversity and tolerance; and
- Displaying the agency's commitment to the Affirmative Action Plan by publicizing it on their website for everyone to read.

IV. Roles for Implementation of Affirmative Action Plan

F. Responsibilities and Accountabilities

1. Director

1. Foster and promote to employees the importance of a diverse and discrimination and harassment free workplace.
2. Meet annually, or more often as needed, with the Board's Human Resource Manager to review equal employment opportunities, affirmative action and diverse work environment progress and problems. Approve strategies for meeting goals.
3. Annual performance reviews will include ratings on the Director's support and effectiveness of the agency's Affirmative Action Plan.
4. Managers will be responsible for participating in and promoting affirmative action activities and for communicating this same responsibility to their subordinate supervisors. The effectiveness of managers and supervisors in promoting the affirmative action activities, goals and objectives for OMB will be included in their annual performance appraisals. ORS 659.025(1) states:

"To achieve the public policy of the State of Oregon for persons in the state to attain employment and advancement without discrimination because of race, religion, color, sex, marital status, national origin, handicap or age, every state agency shall be required to include in the evaluation of all management personnel the manager's or supervisor's effectiveness in achieving affirmative action objectives as a key consideration of the manager's or supervisor's performance.

Executive Assistant to Director

Include articles in the OMB newsletter that express the Director's commitment to promoting a diverse workforce and environment. Articles relating to equal employment opportunity, affirmative action, the ongoing development of a diverse workforce, and the efforts and progress made toward meeting the Board's goals in these areas are some examples. Make certain articles about employees and clients are non-discriminatory in their portrayal of employees' gender, ethnic heritage, disability, or other non job-related characteristics.

2. Managers and Supervisors

1. Foster and promote to employees the importance of a diverse and discrimination and harassment free workplace. Look for ways to increase the skills of current employees using mentoring, job rotations and formal training to prepare them for higher level positions within the organization.
2. Managers and supervisors will receive an orientation on the Board's affirmative action goals and responsibilities and understand their own responsibilities for helping promote the affirmative action goals and objectives in the division/section.
3. Subordinate supervisors will be evaluated on their effectiveness in carrying out the responsibilities they have for participating in and promoting affirmative action activities.

In undertaking these evaluations, managers will consider how well the supervisor fosters and promotes a diverse workforce, how well s/he promotes the affirmative action goals and objectives, and that his/her staff are knowledgeable about OMB policies and procedures that encourage a welcoming environment.

4. Inform applicants for vacant positions that the Board is an equal employment employer committed to workforce diversity. Have a copy of the Board's Affirmative Action Plan available for applicants to review on request.
5. Work with the Human Resources Section to utilize State of Oregon procedures and rules in filling vacancies.
6. Attend equal opportunity, affirmative action and other diversity-related training in order to be informed of current issues.
7. Display the Board's Affirmative Action Policy Statement and have available a hard copy of the Affirmative Action Plan at each office location. An electronic copy of the Board's Affirmative Action Policy Statement will also be maintained on the OMB website.
8. Act in a timely manner if they become aware of any Board employee engaging in any type of harassment.
9. Periodically report to employees on the Board's progress in attaining its' affirmative action goals and on other affirmative action matters.

3. Affirmative Action Officer/ Human Resources Manager and/or Designee

1. Work with the Executive Director, managers and supervisors to promote a diverse workforce environment and help attain the AA goals of the Board. Encourage the retention of existing employees and create new learning opportunities for them.
2. Use a variety of recruiting sources such as minority and women-specific web sites, community agencies and schools. Emphasize the Board's support of equal employment opportunity, affirmative action and the benefits of a diverse workforce.
3. Place the "An Equal Opportunity/ Affirmative Action Employer" statement on every announcement and in every advertisement.
4. Provide upward mobility opportunities through cross-training, job rotations and job shadowing. Inform all employees of career development opportunities and explain any options employees may have for meeting the minimum requirements for promotional job classifications through education and/or experience. Assist employees in the application process for state jobs and how interview skills can be improved.
5. Train managers to have diverse interview panels including, when possible, one member who works outside the hiring section/division and one member from a protected class.
6. Have hard copies and/or electronic copies of the Board's Affirmative Action Policy Statement and Plan available for review by all managers, supervisors and employees. Make hard or electronic copies available to applicants for employment on request. Recommend changes to the Plan and update it as required. Compile statistics and keep management informed of the Board's AA status during management meetings.
7. Solicit comments from managers requesting how Human Resources can assist them in promoting affirmative action activities and how best to create a more diverse workforce.
8. Discuss the State of Oregon/Board Affirmative Action Plan and Policy in New Employee Orientation. Make the orientation as welcoming as possible. Include in the discussion:
 - a. Our expectations surrounding a respectful workplace and talk about what that means to the agency as well as the employee.
 - b. Our commitment to supporting the personal and professional growth of our employees.

- c. Our encouragement to contribute and participate in agency activities that will assist the agency in meeting its objectives.
 - d. And our doors are always open for questions and concerns.
9. Train and inform managers, supervisors and employees at New Employee Orientation as to their rights and responsibilities under the Board's affirmative action policy and other Board policies to eliminate any harassment based on race, sex, age, religion, sexual orientation, or disability.
 10. Respond to and investigate complaints. Enforce policies and procedures.
 11. Review all exit interviews. If it appears that discrimination or harassment was a factor in employee separation, conduct an investigation and take appropriate action.
 12. Evaluate revised and new policies for possible adverse impact on the Board's commitment to affirmative action and equal employment opportunities.
 13. Serve as a liaison between the Board, the state and federal agencies that protect civil rights.
 14. Performance accountability in the areas of Affirmation Action and Diversity will be reviewed on annual evaluations.

V. 2007 – 2009

A. *Accomplishments*

1. Eleven recruitments were performed over the course of the 2007-09 biennium. Each one was conducted in a way that would provide the most diverse candidate pool possible. Every candidate that met the qualifications and rated highest on the scoring criteria was offered an interview. Interviews were conducted by panels that consisted of men, women, people of color, co-workers and customers. The eleven new employees consisted of eleven women, two of which were people of color.
2. The Oregon Medical Board needed to cut its budget by 2% this biennium. Part of the reduction was met by limiting advertising costs for recruitments. To create the largest and most diverse pool possible, the OMB posted all positions as open competitive. They were placed in as many free places as possible - the state's job page, higher education facilities, OMB's website, job fairs and special interest organizations.
3. To make prospective employees feel welcome at the Oregon Medical Board, emphasis was placed on creating a comfortable interview atmosphere. Name plates were placed in front of the interview team, water, paper and pencils were available, plenty of time was given to the candidate for organizing their thoughts, etc. Existing employees were given respectful workplace training and support for this type of environment is exemplified by the management team.
4. As is normal for the OMB, cross-training and career developmental opportunities are encouraged. The small size of our agency requires that more than one person knows a job, so it is fairly easy to promote these opportunities. They are offered to all employees equally.
5. It was difficult to develop fancy recruitment strategies without a budget, but the OMB did pretty well using the available free resources. After all, the eleven recruitments resulted in protected class appointments.
6. This was addressed in #4.
7. Due to budget limitations, the OMB did not sponsor outreach events that targeted people of color, disabled individuals or women.
8. The OMB did hire an intern from the Promise Program the summer of 2007. She performed a special project for the Investigations Section that identified the types of medical practice violations that occurred and what the resulting corrective actions were.
9. This was addressed in #2.

B. Progress made or lost since previous biennium

The Oregon Medical Board has 66 positions - 37 regular and 29 Board Members. Since July 1, 2007 the OMB lost 11 employees due to separation. During that same time the OMB hired 11 new employees. The turnover and its' effect on protected classes can be summarized as follows:

Category	2005-2007	2007-current	Explanation
People of Color	0 lost 2 gained	1 lost 2 gained	Active support for a more diverse workforce
Women	3 lost 7 gained	7 lost 9 gained	The majority of candidates for our vacant positions were female.
Disabled	0 lost 0 gained	0 lost 0 gained	No candidates disclosed they were disabled.

VI. 2009-2011

A. Goals

The Affirmative Action goals of the Oregon Medical Board for the 2009-2011 biennium are:

1. The HR Manager, supported by the Director, will continue to educate and guide managers in creating applicant pools and interviewing processes that are welcoming to all people, and helping them understand the benefits of a diverse workforce. This will be accomplished by the HR Manager actively participating in all recruitment and selection activities and including AA performance measures on annual evaluations.
2. The HR Manager will utilize creative means that are free or low cost to advertise vacancies to people of color, disabled individuals and women. These may include attendance at job fairs, community and specialized organizations, various web sites, and using the services of the Governor's Affirmative Action Office. Underfills will be offered to increase current employee growth options.
3. All managers will support activities that develop a work environment that is attractive to a diverse pool of applicants, retains employees, and is accepting and respectful of employees' differences. A welcoming environment will be created a number of ways - by sharing e-mail activity notices from the Governor's Affirmative Action Office, posting posters and flyers in the break room, encouraging employees to share their thoughts and ideas, responding to issues quickly and efficiently, etc. Respectful workplace behaviors will be expected and enforced. Expectations will be presented using formal training, written policies and procedures, and/or one-on-one counseling.

4. Managers will continue to offer and encourage career development, mentorship and training opportunities for all employees particularly those of color, employees with disabilities and female employees to prepare them for advancement. Managers will also utilize employee retention ideas that include offering flexible schedules, having open door policies, listening respectfully and responding quickly to problems.
5. The Director will encourage managers to participate in the "Intern Oregon" program and sponsor at least one intern from a protected class to work at the Oregon Medical Board in the summers of 2009 and 2010. This will increase the diversity of the OMB team and bring a fresh perspective to the way we conduct business at the Board.

B. Strategies and time lines for implementation

June 2009	The Director will present the 2009-2011 Affirmative Action Plan to all employees during the monthly staff meeting and via e-mail to all Board Members.
June 2009	The HR Manager will request project information from managers and work to sponsor at least one "Intern Oregon" student.
Winter 2009	The HR Manager will identify a trainer that will conduct all-employee training on Respectful Workplace and Valuing Diversity. The trainer may be from the DAS Training unit, someone recommended by the Governor's Affirmative Action Office or another outside source.
Spring 2010	The HR Manager will update the Board and managers on OMB's affirmative action and recruitment statistics.
June 2010	The HR Manager will request project information from managers and work to sponsor at least one "Intern Oregon" student.
Winter 2010	The HR Manager will identify a trainer that will conduct all-employee training on another suitable diversity topic. Sources may be the training unit of DAS, the Governor's Affirmative Action Office or other contacts.
Ongoing -	The HR Manager will post recruitments on a wide variety of diversity websites, attend job fairs and actively search for minority and disabled applicants using the AA Plan as a guide, and will support the growth of current employees.
Ongoing -	All staff will continue to identify career development, cross-training and rotation opportunities that will provide advancement in support of its Business Continuity Plan.

VII. Appendix A

A. Agency's Policy Documentation

1) ADA & Reasonable Accommodation Policy:

Oregon Medical Board	
TITLE/SUBJECT:	Reasonable Accommodation
NUMBER:	847-201-003
SUPERCEDES:	n/a
REFERENCE:	Rehabilitation Act of 1973; Civil Rights Act of 1991; ORS 182.100; 243.305; 243.315; 659.025; 240.379; 659.400, 405, 425; 433.045, 447.233; DAS Affirmative Action Plan; The Americans with Disabilities Act (ADA) of 1990 and public sector provisions (Title II) in 1992; and FED. 42 U.S.C. §12101 <i>et seq</i>
APPLICATION:	All persons with disabilities including members of the public, job applicants and current employees.
INTERPRETATION RESPONSIBILITY:	Business and HR Managers
EFFECTIVE DATE:	June 1, 2008
REVISED:	n/a

POLICY APPROVED BY: _____
Kathleen Haley, Executive Director

PURPOSE/POLICY: The Oregon Medical Board is committed to ensuring provisions are made for reasonable accommodations of both employees and the public, including recruitment, hiring, promotion and retention of employees with disabilities. This includes access to Agency sponsored training, information exchange, and social activities. These policies, procedures, and guidelines establish a collaborative process by which OMB provides reasonable accommodation for people with disabilities.

ATTACHMENTS:

- A. Procedures
- B. Authorization for Release of Medical Records Form
- C. Medical Verification of Employee's Request for ADA Reasonable Accommodation Form

DEFINITIONS:

Accessible: Easy to approach, enter, operate, participate in, and/or use safely and with dignity by a person with a disability (i.e., site, facility, work environment, service, or program).

Affirmative Action: Positive action to accomplish programs designed to increase the employment opportunities of certain groups.

Americans with Disabilities Act (ADA): A comprehensive Civil Rights law requiring employers to provide accommodations for qualified individuals with disabilities who are employees or applicants for employment.

ADA Coordinator: The ADA Coordinator is available for consultation. This person will coordinate the Department's efforts regarding reasonable accommodation; maintain a resource list of agencies and organizations whose primary focus or clientele are persons with disabilities; and maintain records of reasonable accommodations, including financial aspects.

Architectural Barriers: Physical elements of a facility which impede access by people with disabilities. Examples include unpaved exterior ground surfaces, steps, curbs, doorknobs and operating controls, deep-pile carpeting, and location of temporary or movable structures such as equipment and display racks.

Auxiliary Aids and Services: Devices or services that accommodate a functional limitation of a person with a communication disability. Examples are qualified interpreters and communication devices for persons who are deaf or hard of hearing; qualified readers, taped texts, Braille, or other devices for persons with visual impairments.

Confidential Medical Records: Employee medical records (i.e., doctor releases, accommodation requests) are maintained in Personnel in separate and locked files.

Essential Functions: Necessary duties because the primary reason the position exists is to perform these duties; necessary because of the limited number of employees available who can perform these duties; and/or the duties are highly specialized so the incumbent is hired for his/her expertise/ability to perform the particular duties.

Major Life Activity: Basic activities the average person in the general population can perform with little or no difficulty including breathing; walking; hearing; seeing; speaking; learning; self-care; performing manual tasks such as reaching, standing and lifting; sleeping; or working (working in general, not the ability to perform a specific job).

Mental Impairment: Any mental or psychological disorder or characteristics, such as mental retardation, head injury, emotional/mental illness, or learning disability.

Mitigating Measures: Medications and assistive devices an individual uses to eliminate or reduce the effects of impairment. Examples include medication for conditions such as epilepsy or hypertension; insulin used to control diabetes; prosthetic devices; walkers, canes, crutches; and hearing aids.

Person with a Disability: A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

Physical Impairment: Any physiological disorder, disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, sense organs, respiratory, speech, cardiovascular, digestive, skin or endocrine.

Qualified Person with a Disability: A person with a disability who can meet the skills, experience, and other requirements; and, with or without reasonable accommodation, can perform the essential functions of a job.

Readily Achievable: Easily accomplishable and able to be carried out without much difficulty or expense. Factors to be considered include nature and cost of the action, overall financial resources and the effect on expenses and resources, legitimate safety requirements and impact on the operation of a site.

Reasonable Accommodation:

A. Employment:

- a) Modifications to the job application process to enable a qualified applicant with a disability to apply and be considered for a position.
- b) Modification to the work environment, or the manner or circumstances under which a job is performed to enable a qualified person with a disability to perform the essential functions of the job.
- c) Modifications that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by the other similarly situated employees without disabilities. These may include making facilities readily accessible; job restructuring; modifying work schedules; acquiring equipment or devices; adjusting or modifying examinations, training materials or policies; using qualified readers, interpreters or other assistants; or other similar actions.

B. Services:

Modifications to agency facilities, processes, materials, and procedures to enable an individual with a disability to fully participate in activities and to receive the services and benefits of the agency.

Title V of the Rehabilitation Act of 1973: Title of the law, which prohibits discrimination on the basis of a disability by the federal government, by federal contractors, by recipients of federal financial assistance, and by federally conducted programs and activities.

Undue Hardship: Significant difficulty, expense, or impact on the Agency when considered in light of factors set forth in this policy and as defined by the ADA.

GUIDELINES:

A. The Oregon Medical Board (OMB) shall make reasonable accommodations for participating members of the public, a job applicant, or OMB employee, unless to do so would create an undue hardship on the Agency or if it places the person with a disability and/or others at imminent physical harm or risk. The ADA requires the OMB to accommodate a person with a disability only to the extent the disability is known. The burden is on the person with a disability to let the Board know an accommodation is needed. The Board will make every effort to provide appropriate and necessary accommodations to ensure that individuals with disabilities will have equal opportunities to participate in activities and to receive the services of the Board.

B. The Oregon Medical Board is committed to employ and advance employment-qualified individuals with disabilities. Individuals with disabilities are held to the same reasonable attendance and performance standards as other workers.

Under the ADA, it first must be determined whether a person's disability is an impairment of a permanent or long-term nature and severely restricts the individual from doing activities of central importance to most people's daily lives. This standard includes consideration of the condition's impact beyond its effect on work-specific manual tasks and if there are any mitigating measures the person uses to eliminate or reduce the effects of the impairment. A medical diagnosis of a condition, standing alone, is insufficient to extend coverage under the Act.

Requests for accommodation will be reviewed on a case-by-case basis and each request will receive a response. The process to determine appropriate and feasible accommodation will be conducted in a mutually interactive dialogue. An accommodation is unique to the individual, their disability, and the nature of their job. While the Agency will give primary consideration to any specific accommodation requested, it may offer an alternative accommodation. No specific form of accommodation is guaranteed for all individuals with a particular disability or for all individuals in a particular job. Individual programs will be responsible for the cost of an accommodation.

A surcharge will not be imposed on an individual requesting an accommodation or any group of individuals with disabilities to cover the costs of accommodation. The ADA does not require OMB to lower production standards, promote or assign an employee to a higher paying job, create a position, or relocate essential functions to another worker as an accommodation.

C. Accommodations with auxiliary aids and/or services that are of a personal nature, such as service dogs or hearing aids, which are used both on and off the job, are not the employer's responsibility.

D. Individuals who are enrolled or who have completed drug rehabilitation programs and continue to abstain from using illegal drugs are protected by the ADA. However, current users of illegal drugs are not protected.

E. The Oregon Medical Board will use technical assistance available through agencies and networks specializing in issues involving persons with disabilities. This assistance may include information on technology, worksite analysis or modification, and vocational assessment.

F. The Oregon Medical Board will not knowingly do business with any bidder, contractor, subcontractor, or supplier of materials who discriminates against individuals with disabilities.

G. The Oregon Medical Board will have an agreement with the leasing company for all office spaces, including any common areas in the building to be used by the Board, to comply with all applicable regulatory and building codes requirements for occupancy by the Board, and meet the requirements of the ADA for accessibility in accordance with the standards provided in the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG). At a minimum the office spaces, including the common areas, have:

- 1.** An accessible entrance and an accessible route to those areas in which the principal activities of the Board as a state agency will be conducted
- 2.** Accessible restroom facilities
- 3.** Accessible parking for the disabled in compliances with Oregon Revised Statutes (ORS) 447.233, if parking is provided under the lease.

2) Discrimination and Harassment Free Workplace Policy:

All state agencies are required to use DAS's Statewide Policy 50.010.01. Please refer to it as well as the following internal procedures:

Oregon Medical Board Procedures	
TITLE/SUBJECT:	Professional & Harassment-Free Workplace Procedures
NUMBER:	847-201-006
SUPERCEDES:	n/a
REFERENCE:	Statewide Policy 50.010.01, Discrimination & Harassment-Free Workplace Statewide Policy 50.010.03, Maintaining a Professional Workplace
APPLICATION:	All OMB Employees
INTERPRETATION RESPONSIBILITY:	Business and HR Managers
EFFECTIVE DATE:	June 1, 2008
REVISED:	n/a

Procedures for implementing statewide policies on maintaining a professional, discrimination and harassment-free workplace:

Current Employees:

Step 1	HR Manager	Ensure all employees receive, read and understand the two policies referred to in this procedure. Ensure the employee signs an acknowledgement form which will be maintained in their personnel file.
Step 1	Employee	Reports incident(s) to his/her supervisor, any manager or the HR Manager. It may be in oral or written form and contain details such as: <ul style="list-style-type: none"> • Names; • Witnesses; • Specific description of the conduct or action s/he believes it discriminatory or harassing; • Date(s) and time(s); and • A suggested remedy.
Step 2	Manager	Immediately informs the Executive Director and the HR Manager or designee.
Step 3	OMB/HR Managers	Jointly determines what action shall be taken. It may include, but is not limited to: <ul style="list-style-type: none"> • Recording the complaint in writing; • Informing the alleged harasser about the complaint; • Investigating the complaint;

		<ul style="list-style-type: none">• Determining whether the alleged conduct occurred, whether it was a violation of policy, and the appropriate type and level of corrective action, if any;• Implementing corrective action pursuant to the collective bargaining agreement and/or state policy as appropriate; and• Responding to complainant and alleged harasser in writing.
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3) **Employee and Training Policy:**

Oregon Medical Board Policy	
TITLE/SUBJECT:	Employee Development
NUMBER:	847-201-004
SUPERCEDES:	n/a
REFERENCE:	State Policy 50.045.01 SEIU/OPEU Article 121.5O,W
APPLICATION:	All OMB Employees
INTERPRETATION RESPONSIBILITY:	Business and HR Managers
EFFECTIVE DATE:	June 1, 2008
REVISED:	n/a

POLICY APPROVED BY: _____
Kathleen Haley, Executive Director

PURPOSE/POLICY:

Provide resources and learning opportunities for Oregon Medical Board employees to perform the duties of their current position and to encourage their career development in state service. In accordance with the Oregon Benchmarks and State Policy, it is the goal of the Oregon Medical Board to provide all employees with at least 20 hours of training related to work skills and knowledge each fiscal year.

DEFINITIONS:

Training related to work skills – includes formal instruction that relates to an employee’s competence to perform their specific job, an employee’s work environment, or an employee’s state government career. It may also include both in-agency and cross-agency job rotations and developmentals.

Job required training – provides knowledge or skills specific to an employee’s current job. It is needed for the successful performance of that job. Examples include technical knowledge, use of equipment, software applications, organizational skills and interpersonal skills.

Job related training – provides knowledge or skills an employee needs to meet agency or state performance expectations. Examples include understanding the agency or state mission and values, policies and procedures, customer service standards, safe work practices, valuing diversity and preventing harassment.

RESPONSIBILITIES:

Manager

1. Asses the training needs of their employees on an on-going basis.
2. Develop and implement individual employee development plans that enable employees to successfully perform their jobs and contribute to the achievement of the Board's mission and goals.
3. Job required and job related training shall be conducted without loss of pay to the employee and the employee shall be paid for the time as time worked.
4. Encourage employees to research training opportunities for consideration.

HR Manager

1. Schedule and provide agency-wide training programs that meet common needs.
2. Provide communication about internal and external training programs, services, resources and opportunities.
3. Track in-agency training completed by employees.
4. Support managers and employees in the goal of 100% participation in at least 20 hours of training each year.

Employees

1. Identify and research training opportunities that are job required or job related. Share information with manager.
2. Complete and submit a Career Development Request form, which can be found on the S drive, Public Information, Forms.

4) Veteran's Preference in Employment Statewide Policy:

DEPARTMENT OF ADMINISTRATIVE SERVICES, HUMAN RESOURCE SERVICES DIVISION

DIVISION 40

FILLING POSITIONS

105-040-0015

Veteran's Preference in Employment

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

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

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

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

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

(2) Application of preference points upon Initial Application Screening: Qualifying Veterans whose discharge date is less than 15 years from the date of State employment application and Disabled Veterans are provided with preference points as follows;

(a) Five Veteran's Preference points are added upon Initial Application Screening when an applicant submits as verification of eligibility a copy of the Certificate of Release or Discharge from Active Duty (DD Form 214 or 215) with the State of Oregon Application; or

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth: ORS 240.145(3), 240.250

Stats. Implemented: ORS 408.225, 408.230, 408.235

VIII. Appendix B

A. *Age Discrimination in Employment Act of 1967 (ADEA)*

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

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

The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and labor organizations, as well as to the federal government. ADEA protections include:

Apprenticeship Programs

It is generally unlawful for apprenticeship programs, including joint labor-management apprenticeship programs, to discriminate on the basis of an individual's age. Age limitations in apprenticeship programs are valid only if they fall within certain specific exceptions under the ADEA or if the EEOC grants a specific exemption.

Job Notices and Advertisements

The ADEA generally makes it unlawful to include age preferences, limitations, or specifications in job notices or advertisements. A job notice or advertisement may specify an age limit only in the rare circumstances where age is shown to be a "bona fide occupational qualification" (BFOQ) reasonably necessary to the normal operation of the business.

Pre-Employment Inquiries

The ADEA does not specifically prohibit an employer from asking an applicant's age or date of birth. However, because such inquiries may deter older workers from applying for employment or may otherwise indicate possible intent to discriminate based on age, requests for age information will be closely scrutinized to make sure that the inquiry was made for a lawful purpose, rather than for a purpose prohibited by the ADEA.

Benefits

The Older Workers Benefit Protection Act of 1990 (OWBPA) amended the ADEA to specifically prohibit employers from denying benefits to older employees. Congress recognized that the cost of providing certain benefits to older workers is greater than the cost of providing those same benefits to younger workers, and that those greater costs would create a disincentive to hire older workers. Therefore, in limited circumstances, an employer may be permitted to reduce benefits based on age, as long as the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers.

Waivers of ADEA Rights

An employer may ask an employee to waive his/her rights or claims under the ADEA either in the settlement of an ADEA administrative or court claim or in connection with an exit incentive program or other employment termination program. However, the ADEA, as amended by OWBPA, sets out specific minimum standards that must be met in order for a waiver to be considered knowing and voluntary and, therefore, valid. Among other requirements, a valid ADEA waiver must:

1. be in writing and be understandable;
2. specifically refer to ADEA rights or claims;
3. not waive rights or claims that may arise in the future;
4. be in exchange for valuable consideration;
5. advise the individual in writing to consult an attorney before signing the waiver; and
6. provide the individual at least 21 days to consider the agreement and at least seven days to revoke the agreement after signing it.

If an employer requests an ADEA waiver in connection with an exit incentive program or other employment termination program, the minimum requirements for a valid waiver are more extensive.

B. Disability Discrimination Title I of the Americans with Disability Act of 1990

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

An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, reassignment to a vacant position;
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

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

Title I of the ADA also covers:

Medical Examinations and Inquiries

Employers may not ask job applicants 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.

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.

C. 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 (EEOC): the [Equal Pay Act of 1963](#), [Title VII of the Civil Rights Act of 1964](#), the [Age Discrimination in Employment Act of 1967](#), and [Title I of the Americans with Disabilities Act of 1990](#).

The Equal Pay Act requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be substantially equal. It is job content, not job titles, that determines whether jobs are substantially equal. Specifically, the EPA provides:

Employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment. Each of these factors is summarized below:

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

Effort - The amount of physical or mental exertion needed to perform the job. For example, suppose that men and women work side by side on a line assembling machine parts. The person at the end of the line must also lift the assembled product as he or she completes the work and place it on a board. That job requires more effort than the other assembly line jobs if the extra effort of lifting the assembled product 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. However, in some circumstances, physically separate places of business should be treated as one establishment. For example, if a central administrative unit hires employees, sets their compensation, and assigns them to work locations, the separate work sites can be considered part of one establishment.

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

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

Title VII, ADEA, and ADA

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

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

An employer pays an employee with a disability less than similarly situated employees without disabilities and the employer's explanation (if any) does not satisfactorily account for the differential.

A discriminatory compensation system has been discontinued but still has lingering discriminatory effects on present salaries. For example, if an employer has a compensation policy or practice that pays Hispanics lower salaries than other employees, the employer must not only adopt a new non-discriminatory compensation policy, it also must affirmatively eradicate salary disparities that began prior to the adoption of the new policy and make the victims whole.

An employer sets the compensation for jobs predominately held by, for example, women or African-Americans below that suggested by the employer's job evaluation study, while the pay for jobs predominately held by men or whites is consistent with the level suggested by the job evaluation study.

An employer maintains a neutral compensation policy or practice that has an adverse impact on employees in a protected class and cannot be justified as job-related and consistent with business necessity. For example, if an employer provides extra compensation to employees who are the "head of household," i.e., married with dependents and the primary financial contributor to the household, the practice may have an unlawful disparate impact on women.

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

Other Resources

Here are some links to other sources of information about compensation discrimination. Please be aware that, consistent with the EEOC's general [disclaimer](#) statement, the EEOC does not control or guarantee the accuracy or completeness of this outside information, and references to the sites below are not intended to reflect their importance or an endorsement of any views expressed or products or services offered.

Department of Labor's Office of Federal Contract Compliance Programs

- [Equal Pay and the Department of Labor](#)
- [Best Compensation Practices](#)
- [Analyzing Compensation Data: A Guide to Three Approaches](#)

Department of Labor's Women's Bureau

- [Ten Steps to An Equal Pay Self-Audit for Employers](#)
- [Working Women's Equal Pay Checklist](#)
- [Women's Bureau Fair Pay Clearinghouse](#)
- [Department of Labor's Wage and Hour Division](#)
- [Employment Litigation Section of the Civil Rights Division of the Department of Justice](#)

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

Whether an employee or job applicant's ancestry is Mexican, Ukrainian, Filipino, Arab, American Indian, or any other nationality, he or she is entitled to the same employment opportunities as anyone else. EEOC enforces the federal prohibition against national origin discrimination in employment under Title VII of the Civil Rights Act of 1964, which covers employers with fifteen (15) or more employees.

"With American society growing increasingly diverse, protection against national origin discrimination is vital to the right of workers to compete for jobs on a level playing field," said EEOC Chair Cari M. Dominguez, [announcing the issuance of recent guidance](#) on national origin discrimination. "Immigrants have long been an asset to the American workforce. This is more true than ever in today's increasingly global economy. Recent world events, including the events of September 11, 2001, only add to the need for employers to be vigilant in ensuring a workplace free from discrimination."

About National Origin Discrimination

National origin discrimination means treating someone less favorably because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality. Examples of violations covered under Title VII include:

[Employment Decisions](#)

Title VII prohibits any employment decision, including recruitment, hiring, and firing or layoffs, based on national origin.

[Harassment](#)

Title VII prohibits offensive conduct, such as ethnic slurs, that creates a hostile work environment based on national origin. Employers are required to take appropriate steps to prevent and correct unlawful harassment. Likewise, employees are responsible for reporting harassment at an early stage to prevent its escalation.

[Language](#)

- [Accent discrimination](#)
An employer may not base a decision on an employee's foreign accent unless the accent materially interferes with job performance.
- [English fluency](#)
A fluency requirement is only permissible if required for the effective performance of the position for which it is imposed.
- [English-only rules](#)
English-only rules must be adopted for nondiscriminatory reasons. An English-only rule may be used if it is needed to promote the safe or efficient operation of the employer's business.

[Coverage of foreign nationals](#)

Title VII and the other antidiscrimination laws prohibit discrimination against individuals employed in the United States, regardless of citizenship. However, relief may be limited if an individual does not have work authorization.

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

The Pregnancy Discrimination Act is an amendment to [Title VII of the Civil Rights Act of 1964](#). Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII, which covers employers with 15 or more employees, including state and local governments. Title VII also applies to employment agencies and to labor organizations, as well as to the federal government. Women who are pregnant or affected by related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

Title VII's pregnancy-related protections include:

Hiring

An employer cannot refuse to hire a pregnant woman because of her pregnancy, because of a pregnancy-related condition or because of the prejudices of co-workers, clients, or customers.

Pregnancy and Maternity Leave

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

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

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer also may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.

Health Insurance

Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Health insurance for expenses arising from abortion is not required, except where the life of the mother is endangered.

Pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable-and-customary-charge basis.

The amounts payable by the insurance provider can be limited only to the same extent as amounts payable for other conditions. No additional, increased, or larger deductible can be imposed.

Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

Fringe Benefits

Pregnancy-related benefits cannot be limited to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions.

If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions.

Employees with pregnancy-related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.

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

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

Title VII of the Civil Rights Act of 1964 protects individuals against employment discrimination on the bases of race and color, as well as national origin, sex, and religion. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Equal employment opportunity cannot be denied any person because of his/her racial group or perceived racial group, his/her race-linked characteristics (e.g., hair texture, color, facial features), or because of his/her marriage to or association with someone of a particular race or color. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. Title VII's prohibitions apply regardless of whether the discrimination is directed at Whites, Blacks, Asians, Latinos, Arabs, Native Americans, Native Hawaiians and Pacific Islanders, multi-racial individuals, or persons of any other race, color, or ethnicity.

It is unlawful to discriminate against any individual in regard to recruiting, hiring and promotion, transfer, work assignments, performance measurements, the work environment, job training, discipline and discharge, wages and benefits, or any other term, condition, or privilege of employment. Title VII prohibits not only intentional discrimination, but also neutral job policies that disproportionately affect persons of a certain race or color and that are not related to the job and the needs of the business. Employers should adopt "best practices" to reduce the likelihood of discrimination and to address impediments to equal employment opportunity.

Title VII's protections include:

Recruiting, Hiring, and Advancement

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

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

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

Harassment/Hostile Work Environment

Title VII prohibits offensive conduct, such as racial or ethnic slurs, racial "jokes," derogatory comments, or other verbal or physical conduct based on an individual's race/color. The conduct has to

be unwelcome and offensive, and has to be severe or pervasive. Employers are required to take appropriate steps to prevent and correct unlawful harassment. Likewise, employees are responsible for reporting harassment at an early stage to prevent its escalation.

Compensation and Other Employment Terms, Conditions, and Privileges

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

Segregation and Classification of Employees

Title VII is violated where employees who belong to a protected group are segregated by physically isolating them from other employees or from customer contact. In addition, employers may not assign employees according to race or color. For example, Title VII prohibits assigning primarily African-Americans to predominantly African-American establishments or geographic areas. It is also illegal to exclude members of one group from particular positions or to group or categorize employees or jobs so that certain jobs are generally held by members of a certain protected group. Coding applications/resumes to designate an applicant's race, by either an employer or employment agency, constitutes evidence of discrimination where people of a certain race or color are excluded from employment or from certain positions.

Retaliation

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

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

[Title VII of the Civil Rights Act of 1964](#) prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Title VII covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Under Title VII:

Employers may not treat employees or applicants more or less favorably because of their religious beliefs or practices - except to the extent a religious accommodation is warranted. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices.

Employees cannot be forced to participate -- or not participate -- in a religious activity as a condition of employment.

Employers must reasonably accommodate employees' sincerely held religious practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his religion. An employer might accommodate an employee's religious beliefs or practices by allowing: flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers, modification of grooming requirements and other workplace practices, policies and/or procedures.

An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employers' legitimate business interests. An employer can show undue hardship if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.

Employers must permit employees to engage in religious expression, unless the religious expression would impose an undue hardship on the employer. Generally, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency.

Employers must take steps to prevent religious harassment of their employees. An employer can reduce the chance that employees will engage unlawful religious harassment by implementing an anti-harassment policy and having an effective procedure for reporting, investigating and correcting harassing conduct.

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

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

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](#).

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

[Title VII of the Civil Rights Act of 1964](#) protects individuals against employment discrimination on the basis of sex as well as race, color, national origin, and religion. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

It is unlawful to discriminate against any employee or applicant for employment because of his/her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis of sex. Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude individuals on the basis of sex and that are not job related.

Title VII's prohibitions against sex-based discrimination also cover:

Sexual Harassment

This includes practices ranging from direct requests for sexual favors to workplace conditions that create a hostile environment for persons of either gender, including same sex harassment.

Pregnancy Based Discrimination

Title VII was amended by the Pregnancy Discrimination Act, which prohibits discrimination on the basis of pregnancy, childbirth and related medical conditions.

The [Equal Pay Act of 1963](#) requires that [men and women be given equal pay for equal work](#) in the same establishment. The jobs need not be identical, but they must be substantially equal. Title VII also prohibits compensation discrimination on the basis of sex. Unlike the Equal Pay Act, however, Title VII does not require that the claimant's job be substantially equal to that of a higher paid person of the opposite sex or require the claimant to work in the same establishment.

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

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

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

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

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

The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.

The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

The harasser's conduct must be unwelcome.

It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

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

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

[Charge Statistics: Sexual Harassment](#)

[Trends in Harassment Charges Filed With The EEOC During the 1980s and 1990s](#)