

EQUAL EMPLOYMENT OPPORTUNITY

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I. BACKGROUND

The authority for implementing the Equal Employment Opportunity Program is found in Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA) of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act (ADA) of 1990, the Rehabilitation Act of 1973, Section 504, and Title 29 Code of Federal Regulations (CFR) Section 1614.

II. POLICY

It is CDC^[2] policy to provide equal employment opportunities to all persons. This policy rests on the philosophy that there will be no discrimination because of race, color, religion, sex, national origin, age, disability, or sexual orientation in any aspect of a person's employment or eligibility for employment. Further, this policy will be carried out through a plan of action designed to foster equal employment opportunity and to identify and eliminate any vestige of discrimination that may still exist.

It is also CDC policy to prohibit sexual harassment as outlined in the merit system principles of the Civil Service Reform Act of 1978, and specifically prohibited by Title VII of the Civil Rights Act of 1964.

Equal Employment Opportunity policy is reflected in the Affirmative Employment Program. More importantly, this policy is firmly supported by Agency managers. The specific objectives, goals, and action plans for achieving this policy will be contained in an Affirmative Employment Program which will be reviewed, evaluated and revised as indicated in the Program.

In accordance with Departmental policy, all supervisors will have a performance element in their work plans covering equal employment opportunity. Specifically, they will be rated based on their support and implementation of non-discriminatory practices in the

areas of merit promotion, recruitment, hiring, employee recognition/awards, career development/training, and full utilization of employees' skills.

It is CDC policy that we have an environment that values the contributions of each individual and a work force that reflects the populations we serve. Managing diversity means building an inclusive work environment where all employees can contribute to their fullest potential. This policy is firmly supported by Agency managers.

III. DEFINITIONS OF DISCRIMINATORY FACTORS

Race: Discrimination occurs when persons are treated differently than others due to membership in a particular group or because of unalterable characteristics, such as physical features indigenous to their race.

Color: Discrimination occurs when persons are treated differently than others because of their skin pigmentation.

Religion: Discrimination occurs in the presence of an employment policy or rule that requires a person to either violate a fundamental precept of his or her religion or lose an employment opportunity. Religion is not limited to traditional denominations. Atheists are protected because of their sincere lack of religious beliefs. An employer is required to make reasonable accommodation to the religious needs of employees and applicants unless doing so would create an undue hardship.

Sex: Discrimination occurs when men and women who are similarly situated are treated differently, or an organization's policy has a disproportionate adverse impact on a person based on gender. Employees or applicants cannot be excluded from employment because of pregnancy, childbirth, or related medical conditions.

National Origin: Discrimination occurs based on an individual's or their ancestor's place of origin, or because of an individual's physical, cultural, or linguistic characteristics. This may also include discrimination because of marriage to or association with persons of a specific national origin.

Age: Discrimination occurs in the federal sector, when an individual 40 years of age or older is treated unfavorably, or is adversely impacted by terms and conditions of employment, and there is no job-related justification.

Physical or Mental Disability: Discrimination occurs when a disabled person (defined as one who has a physical or mental impairment which substantially limits one or more of the major life activities; has a record of such impairment; or is regarded as having such impairment) is denied employment or the opportunity for employment because of his/her disability.

Disparate Treatment: This occurs when there is evidence of people being treated differently, less favorably or unequally, and a legitimate non-discriminatory reason cannot be found.

Disparate Impact: This occurs when there is a practice, policy, requirement, or system that is applied the same and appears to treat everyone alike, but has the effect of disadvantaging a particular group, and there is no job-related justification.

Sexual Harassment: This occurs in the presence of deliberate and repeated requests for sexual favors and other unwelcome verbal or physical conduct of a sexual nature when they are made explicitly or implicitly a condition of employment; or when submission to or rejection of them affects employment decisions (e.g., promotions, work assignments, or they unreasonably interfere with a person's work performance, or create an intimidating, hostile, or offensive work environment.

Sexual Orientation: Allegations of discrimination based on sexual orientation are covered by Department of Health and Human Services (HHS) policy. The allegations are not covered by Title VII of the Civil Rights Act of 1964. The Departmental prohibition on discrimination based on sexual orientation applies to Commissioned Corps as well as Civil Service personnel.

IV. RESPONSIBILITIES

A. Agency Director

The Director is responsible for the overall implementation of the Equal Employment Opportunity Program and, specifically, for:

- Providing personal leadership in establishing, maintaining, and carrying out a continuing program designed to promote equal opportunity in every aspect of the Agency's personnel policies and practices.
- Conducting a continuing campaign to eradicate from the Agency's personnel policies, practices, and working conditions every form of prejudice or discrimination based upon race, color, religion, sex, national origin, age, disability or sexual orientation.
- Allocating sufficient human and financial resources to carry out a positive, imaginative, and continuing Equal Employment Opportunity Program.
- Identifying persons responsible for actions to be taken to attain goals.

B. Centers/Institute/Offices Directors and Field Managers

Each Director is generally responsible for the implementation of the Equal Employment Opportunity Program, within the overall Agency policies, in his/her respective organization and, specifically, for:

- Providing personal leadership in maintaining and carrying out a positive, continuing program designed to promote equal opportunity and conducting a continuing campaign to eradicate every form of prejudice or discrimination based upon race, color, religion, sex, national origin, age, disability or sexual orientation from his or her organization.
- Encouraging his/her supervisors and employees to submit suggestions and comments on the Equal Employment Opportunity Program.
- Each Field Manager is responsible for taking positive action to maintain contacts with community leaders, organizations, colleges, universities, and newspapers,

informing them of the equal employment opportunities at his/her respective field office.

C. Human Resources Director

The Director, Atlanta Human Resources Center (AHRC), is responsible for providing leadership in developing and maintaining personnel policies, programs, and procedures which will promote continuing affirmative action to assure equal opportunity in the recruitment, selection, placement, and training of CDC employees within the framework of the United States Office of Personnel Management (USOPM) Merit System.

Additional responsibilities include:

- Providing positive assistance and guidance to the Agency's Director, Deputy Directors, Office of Dispute Resolution and Equal Employment Opportunity (ODREEO), EEO Specialists, and other CDC officials to assure the effective implementation of the personnel policies, programs, and procedures on equal opportunity.
- Maintaining on a current basis, in cooperation with the Director, ODREEO, the Agency's personnel issuance covering equal employment opportunity.
- Communicating the Agency's employment needs and equal employment opportunity policies to sources of qualified minority-group applicants and women along with other recruitment sources, and soliciting their recruitment assistance on a continuing basis.
- Participating with other local installations, schools, universities, and other public and private groups in the community in cooperative action to improve employment opportunities and community conditions that affect employability.

D. Director, Office of Dispute Resolution and Equal Employment Opportunity (OEEO)

The Director, ODREEO, is responsible for identifying current problem areas and establishing individual goals with respect to each problem area. Additional responsibilities include:

- Communicating the Agency's Equal Employment Opportunity Program to all employees, including an annual reminder of the EEO policy.
- Providing employees copies of policies and procedures governing the Equal Employment Opportunity Program.
- Providing guidance to EEO Specialists, EEO counselors, EEO Investigators, EEO Advisory Committee members and other Special Emphasis groups, and maintaining close liaison with them to keep them aware of problems which may be developing.
- Providing procedures for recording and evaluating the results of equal employment opportunity efforts.
- Preparing annual evaluative information and reports on accomplishments and problems for the Agency Director.
- Arranging for investigations of complaints based on discrimination.
- Serving as a participating member of promotion panels or committees to evaluate qualifications for promotion.

- Notifying the Director, AHRC of any changes in persons serving as counselors or committee members.
- Appointing a member of the ODREEO staff to serve on the EEO Advisory Committee.
- Exercises administrative and operational oversight, and provides administrative and logistical support to the Equal Employment Opportunity Advisory Committee.

E. Equal Employment Opportunity Advisory Committee

The Equal Employment Opportunity Advisory Committee (EEOAC) is an official CDC Workgroup. Its role is to assist and advise the Agency Director on matters of Equal Employment Opportunity. It will be convened at least quarterly by the ODREEO, or may be convened at any time by the Council Chair to review EEO policies and progress in carrying out these policies, and to formulate recommendations regarding new policy. The committee is comprised of the ODREEO staff, one primary and one alternative representative from each CC/CO, center³¹ or staff office.

F. Equal Employment Opportunity Counselors

Each Counselor is responsible for attempting to achieve resolution of the complaints. The counselor will conduct whatever inquiry or investigation he/she considers necessary and counsel the complainant concerning the merit of the matter. If the matter is resolved satisfactorily to the complainant, the counselor shall submit a written report to the Director, ODREEO, giving the name of the complainant, the nature of the complaint, and a summary of action taken. If the matter is not satisfactorily adjusted, the counselor must furnish the Director, ODREEO a status report of the case prior to informing the complainant of the final disposition and, if appropriate, what action he/she is entitled to take next. Special training and other preparation will be given counselors to assist them in carrying out their responsibilities. They must work closely with ODREEO in reaching their goals of true equal employment opportunity in CDC, keeping the Director, ODREEO fully apprised of problem areas and of their activities to resolve these problems.

G. Supervisors

Each supervisor is responsible for keeping informed of equal employment opportunity policies, plans, programs and personally supporting them. Additional responsibilities include:

- Being constantly mindful of his/her responsibilities in providing equal opportunity for all his/her subordinates and all applicants, and conscientiously discharging these responsibilities.
- Creating a climate in the work group so that employees will accept each other with courtesy, consideration, and fairness.
- Maintaining cooperation with the ODREEO, EEO Counselors and Investigators.
- Making sure that all employees under his/her supervision find him/her willing to discuss any practice or occurrence which they consider discriminatory and to furnish help and information on any practice or occurrence which they consider discriminatory.

- Evaluating the entrance level of each position under his/her supervision to determine if bona fide qualification requirements exist.
- Encouraging employees with potential to seek additional training opportunities.
- Counseling with employees to improve utilization of their skills and provide guidance on their development and promotional opportunities.

H. Employees

Each employee is responsible for giving all work associates full respect and consideration without regard to race, color, religion, sex, national origin, age, disability or sexual orientation and:

- Providing equal treatment of, and service to, all persons with whom he/she comes in contact.
- Providing assistance to supervisors in carrying out their responsibilities in the Equal Employment Opportunity Program.

I. Labor Organizations

Labor organizations which have been accorded recognition within CDC are encouraged to cooperate actively with the ODREEO and other officials, and to exercise a positive role in assisting the Agency to carry out regulations under the EEO Program.

J. Discrimination Complaints

Persons who feel they have not been afforded the full consideration of the equal employment policy may seek resolution of their complaint through procedures summarized in Exhibit 1. Exhibit 2 is a graphic flow chart of the EEO Complaints Process.

V. REFERENCES

- A. Equal Employment Opportunity Office Home Page
- B. Equal Pay Act of 1963, 29 U.S.C. Section 206(d)
- C. Title VII, Civil Rights Act of 1964, 42 U.S.C. Section 2000e
- D. Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621
- E. Rehabilitation Act of 1973, 29 U.S.C. Sections 501 and 505
- F. Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101
- G. Federal Sector Equal Employment Opportunity, 29 C.F.R. Part 1614
- H. Merit System Principles, 5 U.S.C. Section 2301
- I. Human Resources Assessment Program, HHS Instruction 273-1, dated August 14, 1996
- J. Policy Statement on Prohibition of Sexual Harassment, Director, CDC and Administrator, ATSDR dated November 1, 2006
- K. Equal Employment Opportunity Policy Statement, Director, CDC and Administrator, ATSDR dated November 1, 2006
- L. CDC/ATSDR Affirmative Employment Plan (AEP), FY 2000
- M. Employee Performance Management System: Performance Appraisal
- N. Policy Statement on Employment and Accommodations of Persons with Disabilities, Director, CDC and Administrator, ATSDR dated November 1, 2006

- O.** Policy for Processing Requests for Reasonable Accommodation
- P.** Policy Statement on Reprisal, Director, CDC and Administrator, ATSDR dated November 1, 2006
- Q.** Alternative Dispute Resolution (ADR) Home Page

^[1] Updated reference section (J, K, N) to reflect most recent policy statements by CDC Director, Dr. Julie Gerberding. Also added reference P on Reprisal and Reference Q, ADR home pages.

^[2] References to CDC also apply to ATSDR.

^[3] Center refers to CDC's national centers, institute, the National Immunization Program, the Office of Genomics and Disease Prevention, and the Agency for Toxic Substances and Disease Registry.

⁴ Supersedes Personnel Guide For Supervisors, Chapter IV-Conditions of Employment, CDC Guide 9-1-Equal Opportunity, dated 4/3/74

⁵ Office name changed to Office of Dispute Resolution and Equal Employment Opportunity 8/24/2006; Policy Statements on Equal Employment Opportunity, Employment and Accommodations of Persons with Disabilities, Reprisal, and Prohibition of Sexual Harassment revised 11/1/2006.

⁶ Updated Section IV.D. to reflect Director, ODREEO responsibility for the Equal Employment Opportunity Advisory Committee and Section IV.E. to reflect responsibilities of the Equal Employment Opportunity Advisory Committee.

CDC DISCRIMINATION COMPLAINT PROCEDURE

Persons who feel that they have been discriminated against based on race, color, religion, sex, national origin, age, disability or sexual orientation, MUST contact the OEEEO at (404)687-6678 within 45 calendar days of the date of the matter or incident of alleged discrimination. At this time, the informal counseling period begins and you will be assigned an EEO counselor.

The counselor has 30 calendar days to make the necessary inquiries into the allegations of discrimination in order to attempt resolution of the complaint.

The informal counseling period may be extended up to 90 calendar days if you elect to use the Alternate Dispute Resolution (ADR) process.

If the matter is not resolved during the informal process, you will receive a final counseling report along with the Notice of Right to File a Formal Discrimination complaint within 15 calendar days of receipt of the Notice.

The Agency has 180 calendar days from the date of filing to conduct an investigation and develop an investigative summary.

You will receive a Report of Investigation and an Investigative Summary 180 calendar days from the date you file a formal complaint.

The OEEEO will notify you within 30 calendar days of the receipt of the investigative file of your option to request either a hearing before an administrative judge or a final decision from the Agency.

The Agency will issue a final decision within 60 calendar days or the administrative judge will give a decision within 180 calendar days.

The Agency has 40 calendar days to issue a final order. If the agency does not issue a final order within 40 days of receipt of the administrative judge's decision, then the decision of the administrative judge shall become the final action of the Agency.

You have the right to appeal to the EEOC within 30 calendar days of receipt of the final agency action or if applicable, to appeal to the Merit System Protection Board (MSPB) within 30 calendar days of receipt of the final agency action.

You have the right to file a civil action in an appropriate U.S. District Court within 90 days of receipt of the final action, if no appeal has been filed; after 180 days from the date of filing if no final action has been taken; within 90 days of receipt of the EEOC's final decision on appeal; or after 180 days from the date of filing an appeal with the EEOC if there has been no final decision by the EEOC.

NOTE: Class complaints, Commissioned Corps complaints and Sexual Orientation complaints are processed under different procedures.

OVERVIEW OF EEO COMPLAINTS PROCESS

(Revised As Of 11/9/99)

