



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

In Reply Refer to:
FWS/DCR

Memorandum

To: Service Directorate

From: **ACTING** Director

Marshall P. Jones Jr. JUL 14 2000

Subject: Equal Opportunity Directive Number 2000-17, "Prohibited Discrimination based on Status as a Parent," and Equal Opportunity Directive Number 2000-18, "Prohibited Discrimination based on Genetic Information"

Attached for your information are copies of the above subject Equal Opportunity Directives issued by the Department. The Directives are based on President Clinton's issuance of amendments to Executive Order 11478, prohibiting discrimination based on an individual's status as a parent, and to Executive Order 13145, amending Title VII of the Civil Rights Act of 1964, prohibiting discrimination against employees based on protected genetic information, or information about a request for or the receipt of genetic services.

As stated in the Department's directives, guidance is expected from the Office of Personnel Management (OPM) on the provision of the Executive Order regarding status as a parent. The Equal Employment Opportunity Commission (EEOC) will be responsible for coordinating Federal policy to ensure compliance with the intent of the Executive Order on genetic information. Upon receipt of OPM's and EEOC's guidance, the Departmental Office for Equal Opportunity will provide additional technical advice and amend the Departmental Manual Chapter, 373 DM 7, accordingly.

In the interim, all EEO posters, EEO Counselor Manuals, notices, vacancy announcements, employee orientation manuals, personnel practices and procedures, etc., should include prohibitions on discrimination based on genetic information and have status as a parent included as not only a prohibited practice but an equal opportunity policy. Diversity and EEO training should include information that will help employees, managers and supervisors understand and meet their responsibilities in these areas.

If you have any questions, please feel free to contact William Carreras, Jr., Chief, Division of Diversity and Civil Rights Programs, at (703) 358-2557.

Attachments



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



30 JUN 2000

EQUAL OPPORTUNITY DIRECTIVE NUMBER 2000-17

TO: Bureau/Office Equal Opportunity Officers

FROM: *for Carolyn M. Burrell*
E. Melodee Stith, Director
Office for Equal Opportunity

SUBJECT: Prohibited Discrimination based on Status as a Parent

On May 2, 2000 President Clinton issued a further amendment to Executive Order 11478 to prohibit discrimination based on an individual's status as a parent. This Order, which is attached for your review and information, provides a uniform policy for application throughout the Federal Government.

"Status as a parent" refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (a) a biological parent;
- (b) an adoptive parent;
- (c) a foster parent;
- (d) a stepparent;
- (e) a custodian of a legal ward;
- (f) in loco parentis over such an individual; or
- (g) actively seeking legal custody or adoption of such an individual.

Please ensure that all EO posters, EEO Counselors Manuals, notices (e.g., vacancy announcements), employee orientation manuals, personnel practices and procedures, etc., have status as a parent included as not only a prohibited practice but an equal opportunity policy. Also, to achieve the goals of the President's policy, it is essential that your Bureau's Diversity Training include a component to help employees, managers and supervisors understand and meet their responsibilities in this area.

The Office of Personnel Management (OPM) will be developing guidance on the provisions of this Order. Upon receipt of OPM's guidance, we will provide additional technical advice and amend the Departmental Manual Chapter, 373 DM 7, accordingly.

Attachment

JUN 30 2000

DISTRIBUTION: Bureau and Office Equal Opportunity Officers

INQUIRIES: Carolyn M. Burrell, Assistant Director
Complaints Processing and Adjudication, 202-208-3442

EXPIRES: When Superseded

EXECUTIVE ORDER

FURTHER AMENDMENT TO EXECUTIVE ORDER 11478,
EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

By the authority vested in me as President by the Constitution and the laws of the United States, and in order to provide for a uniform policy for the Federal Government to prohibit discrimination based on an individual's status as a parent, it is hereby ordered that Executive Order 11478, as amended, is further amended as follows:

Section 1. Amend the first sentence of section 1 by substituting "sexual orientation, or status as a parent." for "or sexual orientation."

Sec. 2. Insert the following new sections 6 and 7 after section 5:

"Sec. 6. 'Status as a parent' refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (a) a biological parent;
- (b) an adoptive parent;
- (c) a foster parent;
- (d) a stepparent;
- (e) a custodian of a legal ward;
- (f) in loco parentis over such an individual; or
- (g) actively seeking legal custody or adoption of such an individual.

"Sec. 7. The Office of Personnel Management shall be authorized to develop guidance on the provisions of this order prohibiting discrimination on the basis of an individual's sexual orientation or status as a parent."

Sec. 3. Amend section 4 by substituting "and appropriate to carry out its responsibilities under this Order." for "appropriate to carry out this Order."

Sec. 4. Renumber current sections 6, 7, and 8 as sections 8, 9, and 10, respectively.

Sec. 5. Add a section 11 to read as follows:

"Sec. 11. This Executive Order does not confer any right or benefit enforceable in law or equity against the United States or its representatives."

WILLIAM J. CLINTON

THE WHITE HOUSE,
May 2, 2000.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



30 JUN 2000

EQUAL OPPORTUNITY DIRECTIVE NUMBER 2000-18

TO: Bureau/Office Equal Opportunity Officers
FROM: *Carolyn M. Burrell*
E. Melodee Stith, Director
Office for Equal Opportunity

SUBJECT: Prohibited Discrimination based on Genetic Information

On February 8, 2000 President Clinton issued Executive Order 13145, amending Title VII of the Civil Rights Act of 1964, as amended. This new Executive Order prohibits discrimination in federal employment covering all qualified persons and, also, prohibits discrimination against employees based on protected genetic information, or information about a request for or the receipt of genetic services.

The term "employee" includes an employee, applicant for employment, or former employee covered by Section 717 of the Civil Rights Act of 1964, as amended. The Executive Order, which is attached for your review and information, defines all requirements proscribed for Federal Departments and Agencies.

Please ensure that all EO Posters, EEO Counselors Manuals, notices (e.g., vacancy announcements), employee orientation manuals, personnel practices and procedures, etc., include prohibitions on discrimination based on genetic information. Also, any Bureau Diversity Training should include information that will help employees, managers and supervisors understand and meet the requirements of this Order.

The Equal Employment Opportunity Commission (EEOC) will be responsible for coordinating Federal policy to ensure compliance with the intent of this Order. Upon receipt of policy guidance from EEOC we will provide additional technical advice and amend the Departmental Manual Chapter, 373 DM 7, accordingly.

Attachment - As Stated

DISTRIBUTION: Bureau and Office Equal Opportunity Officers

INQUIRIES: Carolyn M. Burrell, Assistant Director, Complaints Processing and Adjudication, 202-208-5693

EXPIRES: When Superseded

JUN 30 2000

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 8, 2000

EXECUTIVE ORDER 13145

TO PROHIBIT DISCRIMINATION IN FEDERAL EMPLOYMENT
BASED ON GENETIC INFORMATION

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, it is ordered as follows:

Section 1. Nondiscrimination in Federal Employment on the Basis of Protected Genetic Information.

1-101. It is the policy of the Government of the United States to provide equal employment opportunity in Federal employment for all qualified persons and to prohibit discrimination against employees based on protected genetic information, or information about a request for or the receipt of genetic services. This policy of equal opportunity applies to every aspect of Federal employment.

1-102. The head of each Executive department and agency shall extend the policy set forth in section 1-101 to all its employees covered by section 717 of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16).

1-103. Executive departments and agencies shall carry out the provisions of this order to the extent permitted by law and consistent with their statutory and regulatory authorities, and their enforcement mechanisms. The Equal Employment Opportunity Commission shall be responsible for coordinating the policy of the Government of the United States to prohibit discrimination against employees in Federal employment based on protected genetic information, or information about a request for or the receipt of genetic services.

Sec. 2. Requirements Applicable to Employing Departments and Agencies.

1-201. Definitions.

- (a) The term "employee" shall include an employee, applicant for employment, or former employee covered by section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16).

- (b) Genetic monitoring means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, respond to the effects of, or control adverse environmental exposures in the workplace.
- (c) Genetic services means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic or therapeutic purposes, or for genetic education or counseling.
- (d) Genetic test means the analysis of human DNA, RNA, chromosomes, proteins, or certain metabolites in order to detect disease-related genotypes or mutations. Tests for metabolites fall within the definition of "genetic tests" when an excess or deficiency of the metabolites indicates the presence of a mutation or mutations. The conducting of metabolic tests by a department or agency that are not intended to reveal the presence of a mutation shall not be considered a violation of this order, regardless of the results of the tests. Test results revealing a mutation shall, however, be subject to the provisions of this order.
- (e) Protected genetic information.
- (1) In general, protected genetic information means:
- (A) information about an individual's genetic tests;
 - (B) information about the genetic tests of an individual's family members; or
 - (C) information about the occurrence of a disease, or medical condition or disorder in family members of the individual.
- (2) Information about an individual's current health status (including information about sex, age, physical exams, and chemical, blood, or urine analyses) is not protected genetic information unless it is described in subparagraph (1).

1-202. In discharging their responsibilities under this order, departments and agencies shall implement the following nondiscrimination requirements.

- (a) The employing department or agency shall not discharge, fail or refuse to hire, or otherwise discriminate against any employee

with respect to the compensation, terms, conditions, or privileges of employment of that employee, because of protected genetic information with respect to the employee, or because of information about a request for or the receipt of genetic services by such employee.

- (b) The employing department or agency shall not limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect that employee's status, because of protected genetic information with respect to the employee or because of information about a request for or the receipt of genetic services by such employee.
- (c) The employing department or agency shall not request, require, collect, or purchase protected genetic information with respect to an employee, or information about a request for or the receipt of genetic services by such employee.
- (d) The employing department or agency shall not disclose protected genetic information with respect to an employee, or information about a request for or the receipt of genetic services by an employee except:
 - (1) to the employee who is the subject of the information, at his or her request;
 - (2) to an occupational or other health researcher, if the research conducted complies with the regulations and protections provided for under part 46 of title 45, of the Code of Federal Regulations;
 - (3) if required by a Federal statute, congressional subpoena, or an order issued by a court of competent jurisdiction, except that if the subpoena or court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the subpoena or court order, unless the subpoena or court order also imposes confidentiality requirements; or
 - (4) to executive branch officials investigating compliance with this order, if the information is relevant to the investigation.
- (e) The employing department or agency shall not maintain protected genetic information or information about a request for or the receipt of genetic services in general personnel files; such information shall be treated as confidential medical records and kept separate from personnel files.

Sec. 3. Exceptions.

1-301. The following exceptions shall apply to the nondiscrimination requirements set forth in section 1-202.

- (a) The employing department or agency may request or require information defined in section 1-201(e)(1)(C) with respect to an applicant who has been given a conditional offer of employment or to an employee if:
 - (1) the request or requirement is consistent with the Rehabilitation Act and other applicable law;
 - (2) the information obtained is to be used exclusively to assess whether further medical evaluation is needed to diagnose a current disease, or medical condition or disorder, or under the terms of section 1-301(b) of this order;
 - (3) such current disease, or medical condition or disorder could prevent the applicant or employee from performing the essential functions of the position held or desired; and
 - (4) the information defined in section 1-201(e)(1)(C) of this order will not be disclosed to persons other than medical personnel involved in or responsible for assessing whether further medical evaluation is needed to diagnose a current disease, or medical condition or disorder, or under the terms of section 1-301(b) of this order.
- (b) The employing department or agency may request, collect, or purchase protected genetic information with respect to an employee, or any information about a request for or receipt of genetic services by such employee if:
 - (1) the employee uses genetic or health care services provided by the employer (other than use pursuant to section 1-301(a) of this order);
 - (2) the employee who uses the genetic or health care services has provided prior knowing, voluntary, and written authorization to the employer to collect protected genetic information;
 - (3) the person who performs the genetic or health care services does not disclose protected genetic information to anyone except to the employee who uses the services for treatment of the individual; pursuant to section 1-202(d) of this order; for program evaluation or assessment; for compiling and analyzing information in anticipation of or for use in a civil or criminal legal proceeding; or, for payment or accounting purposes, to verify that the service was performed (but in such cases the genetic information

itself cannot be disclosed);

- (4) such information is not used in violation of sections 1-202(a) or 1-202(b) of this order.
- (c) The employing department or agency may collect protected genetic information with respect to an employee if the requirements of part 46 of title 45 of the Code of Federal Regulations are met.
- (d) Genetic monitoring of biological effects of toxic substances in the workplace shall be permitted if all of the following conditions are met:
 - (1) the employee has provided prior, knowing, voluntary, and written authorization;
 - (2) the employee is notified when the results of the monitoring are available and, at that time, the employer makes any protected genetic information that may have been acquired during the monitoring available to the employee and informs the employee how to obtain such information;
 - (3) the monitoring conforms to any genetic monitoring regulations that may be promulgated by the Secretary of Labor; and
 - (4) the employer, excluding any licensed health care professionals that are involved in the genetic monitoring program, receives results of the monitoring only in aggregate terms that do not disclose the identity of specific employees.
- (e) This order does not limit the statutory authority of a Federal department or agency to:
 - (1) promulgate or enforce workplace safety and health laws and regulations;
 - (2) conduct or sponsor occupational or other health research that is conducted in compliance with regulations at part 46 of title 45, of the Code of Federal Regulations; or
 - (3) collect protected genetic information as a part of a lawful program, the primary purpose of which is to carry out identification purposes.

Sec. 4. Miscellaneous.

1-401. The head of each department and agency shall take appropriate action to disseminate this policy and, to this end, shall designate a high level official responsible for carrying out its

responsibilities under this order.

1-402. Nothing in this order shall be construed to:

- (a) limit the rights or protections of an individual under the Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), the Privacy Act of 1974 (5 U.S.C. 552a), or other applicable law; or
- (b) require specific benefits for an employee or dependent under the Federal Employees Health Benefits Program or similar program.

1-403. This order clarifies and makes uniform Administration policy and does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers or employees, or any other person.

THE WHITE HOUSE,
February 8, 2000.

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