

Oregon Department of Environmental Quality  
Agency Request Budget 2009-11

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# INFORMATION TECHNOLOGY PROJECTS IN 2009-11

(THAT EQUAL OR EXCEED \$150,000)

Agency Name:	DEPARTMENT OF ENVIRONMENTAL QUALITY		
Project Name:	AUTOMATED COMPLIANCE & ENFORCEMENT SYSTEM (TENTATIVE PROJECT NAME)		
Mandated Project?	Yes or <u>No</u>		By: Legislature, Federal Gov, Other (identify it) N/A
Base Budget or POP?	Base		Which agency or state plans or goals does it align with and/or support? DEQ's Strategic Directions - Deliver excellence

**Project Description:**  
 The primary goals of Automate Compliance & Enforcement System(a tentative project name - ACES) are:

- To be able to answer the key questions DEQ is asked about compliance and enforcement progress and status.
- To have an agency-wide set of core compliance data that is centrally available and able to be linked to both the complaints and the enforcement databases.
- To minimize duplication of data entry.
- To provide program implementation tools for regional staff (e.g., automatic letter templates, with site specific information filled in)

The target audiences and stake holders of this system is:

- Primarily designed for use by the Inspectors
- Support staff may do some data entry
- Managers can use to manage personal and staff workload
- Numerous other customers both internal and external to agency

Cost Summary							
Estimated cost by fund:	General Fund	Lottery Funds	Other Funds	Non-Limited	Federal Funds	Non-Limited	Total Funds
	\$200,000	\$	\$	\$	\$	\$	\$200,000

Estimated Cost by category:	Personal Services	Services & Supplies	Capital Outlay	Special Payments	Debt Service
	\$100,000	\$100,000 (contract)	\$	\$	\$

Expected Start Date:	Sep. 1, 2009 (contingent upon release date of multi-state application)
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Positions: Internal/ Contractor	Contractor
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Expected Completion Date:	June 30, 2010
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FTE:	
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## INFORMATION TECHNOLOGY PROJECTS IN 2009-11

(THAT EQUAL OR EXCEED \$150,000)

Agency Name:	DEPARTMENT OF ENVIRONMENTAL QUALITY		
Project Name:	WESTERN CLIMATE INITIATIVE CAP AND TRADE SYSTEM		
Mandated Project?	Yes or No Yes	By: Legislature, Federal Gov, Other (identify it) Governor	Governor Kulongoski joined the Western Climate Initiative (WCI), which is developing a regional cap and trade program to reduce GHG emissions.
Base Budget or POP?	POP	Which agency or state plans or goals does it align with and/or support?	DEQ Strategic Direction- Promote Sustainable Practices by reducing global warming
State Data Center Impact	Yes or No Unknown but probably No		

Project Description: In February 2007, Oregon helped form the Western Climate Initiative (WCI) of which seven western states (Arizona, California, New Mexico, Oregon, Utah, Montana and Washington) and three Canadian provinces (British Columbia, Quebec, and Manitoba) are now partners. The WCI established a long-term commitment to significantly reduce regional greenhouse gas (GHG) emissions thus lowering the risk of dangerous threats to the climate. As part of this commitment, members of the WCI partnership have established a western regional GHG reduction goal and are designing a multi-sector market-based mechanism (a load-based cap-and-trade program) to help reach this goal. The WCI plans to build a computer system to manage the multi-state cap and trade program. The system will track the allocation and trading of allowances among partner jurisdictions.

Cost Summary							
Total estimated cost by fund (09-11):	General Fund	Lottery Funds	Other Funds	Non-Limited	Federal Funds	Non-Limited	Total Funds
	\$	\$	\$200,000	\$	\$	\$	\$200,000
Total estimated cost by fund (all biennia):	\$	\$	\$200,000	\$	\$	\$	\$200,000
Estimated Cost by category (09-11):	Personal Services	Services & Supplies	Capital Outlay	Special Payments	Debt Service		
	\$	\$200,000 Contract	\$	\$	\$		
Estimated Cost by category (all biennia):	\$	\$200,000	\$	\$	\$		

State Data Center Cost Estimate (09-11):	
Expected Start Date:	July 2009 (Contingent on WCI system development)
Expected Completion Date:	June 2011

Positions:	
Internal	
Contractor	WCI
FTE:	

## INFORMATION TECHNOLOGY PROJECTS IN 2009-11

(THAT EQUAL OR EXCEED \$150,000)

Agency Name:	DEPARTMENT OF ENVIRONMENTAL QUALITY		
Project Name:	E-PERMIT		
Mandated Project?	Yes or <u>No</u>		By: Legislature, Federal Gov, Other (identify it) N/A
Base Budget or POP?	POP/Base		Which agency or state plans or goals does it align with and/or support? DEQ's Strategic Directions - Deliver excellence

### Project Description:

The expectations of the public are for more interactive applications. They are accustomed to shopping online, which is fueling the demand for completing transactions with the DEQ online. DEQ proposes to develop some online permitting and licensing applications, which would allow a regulated entity to complete or submit an application online, pay fees associated with the application, receive some timely verification of its acceptance, and in some cases the permit or license would be available to print.

This request supports Executive Order 03-01 on Regulatory Streamlining. In essence, this Executive Order states "All state agencies that regulate business activities in Oregon shall make regulatory streamlining a priority". DEQ intends to streamline processes and reduce regulatory burden without compromising standards. Planned approaches include:

- Timely, understandable and fair permit and approval processes
- Eliminate unnecessary paperwork, reporting or review processes
- "User-friendly" processes, which make effective use of technology for doing business with government

DEQ would seek to develop e-permitting applications for high volume permits and annual permit fees. Functionality could include collecting application data online, where it would be placed in a "staging" table until it could be reviewed and "accepted" (written to program application data tables). Applicants may be able to check the status of their application/permit. Examples of candidate applications include:

- Gasoline Tanker Truck permits (1,600 annually)
- Asbestos Abatement permits (2,500+ annually)
- E-Waste - registration and fee collection for entities selling electronic goods.(180 annually)
- SDS - Licenses for Pumpers, Installers, Pumper/Installers (3 License Types, 941 licenses)
- WSC - Certification for Collection and Treatment Operators (10 License Types, 2100 invoices)
- USTLic - Supervisor Licenses (6 License Types, 565 licenses)
- USTLic - Service Provider Licenses (3 License Types, 224 licenses)

If this policy option package is not approved, DEQ will have very limited ability to pursue this initiative. The regulated community would continue to interact with DEQ via USPS or making a special trip during business hours to a DEQ office to obtain a permit or license.

## INFORMATION TECHNOLOGY PROJECTS IN 2009-11

Cost Summary							
Estimated cost by fund:	General Fund	Lottery Funds	Other Funds	Non-Limited	Federal Funds	Non-Limited	Total Funds
	\$200,000	\$	\$	\$	\$	\$	\$200,000

Estimated Cost by category:	Personal Services	Services & Supplies	Capital Outlay	Special Payments	Debt Service
	\$150,000	\$50,000 (contract)	\$	\$	\$

Expected Start Date:	August 1, 2009 (contingent upon release date of multi-state application)
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Positions: Internal/ Contractor	Contractor
FTE:	

Expected Completion Date:	March 30, 2010
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## INFORMATION TECHNOLOGY PROJECTS IN 2009-11

(THAT EQUAL OR EXCEED \$150,000)

Agency Name:	DEPARTMENT OF ENVIRONMENTAL QUALITY		
Project Name:	QTIME		
Mandated Project?	Yes or <u>No</u>		By: Legislature, Federal Gov, Other (identify it) N/A
Base Budget or POP?	Base budget		Which agency or state plans or goals does it align with and/or support? DEQ's Strategic Directions - Deliver excellence

**Project Description:**

QTime is the DEQ's agency-wide time accounting system. When fully implemented, all DEQ employees will enter time in this single system. QTime was built by a team of DEQ staff, and was specifically designed to meet unique DEQ requirements. Last update to the system was done in March, 2005. The QTime brings two-fold benefits: first, QTime provides an easy way for employees to record their time; and second, QTime provides the ability gather more meaningful information about how resources are used. This latter benefit is especially helpful since DEQ is obligated to effectively use resources and to answer to all Oregonians about those uses.

DEQ performs many different kinds of work, and, consequently, has many various funding sources. QTime was designed to gather individual program information A program(a funding source) has been established a set of time-centers for gathering information so a program may need to track its own time in more categories than it did before. Tracking additional time centers is not a result of QTime but because DEQ managers need this program information. QTime is the tool for collecting those.

The project was divided into phases due to the urgent need for management information. The phases are as follows:

- During the first phase, time distribution information is collected for management purposes. The three-part form used for the OSPS is still required and is attached to the automated time distribution sheet. This phase being implemented now.
- The second phase involves development of data analysis tools and reports for management.
- In the third phase, the three-part OSPS form is eliminated, and timesheets are electronically submitted. Most DEQ employees look forward to this timesheet simplification.

Since the successful implementation of the first phase development, it stopped continuing the next two phases. Since then, many patch works have been done to the original development and newer technologies were introduced to DEQ. Encompassing the existing system features and completing more automation phases of the original intention of this project, Q time needs to be upgraded and complete the final stages of the original plan.

Cost Summary	General Fund	Lottery Funds	Other Funds	Non-Limited	Federal Funds	Non-Limited	Total Funds
Estimated cost by fund:	\$200,000	\$	\$	\$	\$	\$	\$200,000

## INFORMATION TECHNOLOGY PROJECTS IN 2009-11

Estimated Cost by category:	Personal Services	Services & Supplies	Capital Outlay	Special Payments	Debt Service
	\$	\$200,000 (contract)	\$	\$	\$

Expected Start Date:	August 1, 2009 (contingent upon release date of multi-state application)
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Positions: Internal/ Contractor	Contractor
FTE:	

Expected Completion Date:	January 30, 2010
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## SPECIAL REPORT: FACILITIES

### Update on Possible Vehicle Inspection Station Relocations

DEQ considered moving two vehicle inspection stations during the 2007-2009 biennium but has decided to continue operations in the current locations.

The queuing area for the Northeast Portland station is smaller than other stations and in the past, lines of vehicles waiting for inspection extended onto the city street causing traffic problems. DEQ and DMV were considering a joint facility to replace the Northeast Portland station, but different office schedules, services, and differing needs for lease durations, made the concept less attractive than originally anticipated. DEQ has since shifted to faster, more efficient testing options anyway, so waiting lines have subsided and a station move is not necessary at this time. DEQ will continue to monitor queuing at this station and may consider a move if vehicle population increase results in street traffic problems again. Should that occur, DEQ will again consider a joint facility with DMV in case conditions between the agencies are more similar at that time.

DEQ also had concerns about electrical arcing and nuisance shocks at the Sherwood inspection station because of Bonneville Power Administration (BPA) power transmission lines running across and adjacent to the station. BPA measured electric and magnetic field strength in multiple locations at the station and found all measurements below the Oregon limits for this type of operation. Based on these testing results, DEQ will continue operations at the current Sherwood site and regularly monitor the situation to ensure employee and customer safety.

## **SPECIAL REPORT: SUMMARY OF RECENT DEQ AUDIT RESULTS**

The audits completed in the last two years by the Secretary of State included annual statewide financial audits for the years ended June 30, 2006 and June 30, 2007, an audit of the Capitalization Grants for the Clean Water State Revolving Fund for the year ended June 30, 2006, and an audit of Measure 66 expenditures for the 2005-2007 biennium.

The auditors found that all Measure 66 funds were expended in compliance with applicable laws and regulations and that expenditures were classified and reported appropriately.

The financial statement audits resulted in all audited accounts being certified for both years. No major findings and no reportable conditions were identified.

The audit of the Clean Water State Revolving Fund resulted in the determination that corrective action was required in the areas of timely loan repayments and public notice documentation. Both areas have been successfully addressed.

### **FY08 Annual Internal Audit Report**

In FY08, Management Services Division briefed the Executive Management Team on the internal auditing requirements in Oregon Revised Statute 125-700-0010 to 125-700-0060. The Department of Environmental Quality established an eight-member Internal Audit Advisory Committee that includes: an Environmental Quality Commission member; the Deputy Director; two Division Administrators, one each from the region and headquarters; the Management Services Division Administrator; and a facilitator.

The committee adopted a Charter and designed the scope of work for the FY09 Internal Audit Plan. The committee elected to meet the Division 700 requirement to establish an internal audit function using a DAS-approved contractor for the FY09 audit cycle. According to DAS advice, DEQ may continue to use DAS-approved contractors or hire a Chief Audit Executive to meet the internal audit function in any future audit cycle.

## **DEQ SUSTAINABILITY PLAN PROGRESS STATEMENT**

### **SEPTEMBER 2008**

DEQ is operating under its 2004 Sustainability Plan. DEQ plans to update its Sustainability Plan this fall. DEQ is considering using The Natural Step Framework for creating a holistic and systematic process for incorporating sustainability concepts into our internal and external operations.

This progress statement will focus on the following four key sustainability goals identified in the 2004 plan:

- Promote internal actions to foster sustainability
- Encourage broader reuse of wastewater
- Promote clean diesel engines and fuels
- Protect public health from mercury and other toxic chemicals

#### **Goal 1: Promote internal actions to foster sustainability:**

The Department is committed to improving resource efficiency and using the most environmentally sound resources. Since the last progress statement, we began purchasing 100% recycled, dioxin free paper. In 2007, 32% of the paper we used was from 100% recycled, dioxin free paper.

In the 2004 DEQ sustainability plan, goals pertaining to paper usage, vehicle miles traveled, and miles traveled by alternative vehicles were established.

In the 2006 sustainability progress statement, it was reported that from 2004 baseline data, DEQ had:

- Reduced paper use by 13% per employee (based on total reams purchased. The established goal was 10%).
- Reduced total vehicle miles traveled by 2% per employee (The established goal was 5%).
- Increased the use of hybrid and alternative fuel vehicles by 193% (The established goal was 50%).

Current data has recently been attained for these goals which allow for comparisons to the 2006 data.

- After a decrease in 2007, paper use has increased in 2008. Current accounting shows purchases of 12.78 reams/staff, as compared to 11.28 in 2006.

## **DEQ SUSTAINABILITY PLAN PROGRESS STATEMENT**

### **SEPTEMBER 2008**

- Vehicle miles traveled were reported at 2211/staff in 2006, and dropped to 2100/staff in 2007. 2008 showed even greater improvement as vehicle miles per staff dropped to 2025 miles/staff. This represents an 8% decrease since 2006.
- Alternative vehicle miles in 2006 totaled 212,441 miles, and increased to 287,404 in 2007. In 2008, miles logged by the hybrids and vehicles running on compressed natural gas totaled 424,243 miles.

#### **Goal 2: Encourage Broader Reuse of Wastewater:**

Pursuant to Senate Bill 820 passed by the 2003 Legislature, DEQ completed a report to the 2005 Legislature containing recommendations for policies and procedures to improve incentives for water reuse and eliminate barriers to reuse, while protecting public health and the environment. In March 2005, the Governor signed Executive Order 05-04 declaring water reuse as a state priority and directed applicable state agencies to review agency policies and rules, as they are revised, to remove impediments to reuse. As water quality standards tighten for discharges to surface waters and the need for water increases with a growing population in Oregon, DEQ expects more facilities to actively pursue recycled water use of highly treated effluent.

In 2006 and 2007 DEQ worked with the Water Reuse Task Force, representing various stakeholders who had interest on the use of this type of water, to revise DEQ's administrative rules (OAR 340-055) on recycled water use. The Environmental Quality Commission adopted revised rules in April 2008 that provide for opportunities to use recycled water. DEQ is currently working with state agencies to address implementation issues through an Internal Management Directive that will be completed in April 2009.

#### **Goal 3: Promote clean diesel engines and fuels:**

The 2007 Assembly adopted legislation that provides a framework and funding to help local governments, businesses and private organizations reduce diesel exhaust. DEQ recently completed the implementation rules and the program is up and running. Grants and tax credits are available to reimburse the eligible cost of retrofitting, repowering or scrapping older diesel engines.

The legislation also directed the Environmental Quality Commission (EQC) to establish a goal to reduce excess lifetime risk of cancer due to exposure to diesel engine emissions to no more than one case per million individuals by 2017. The goal must include a target to substantially reduce the risk to school children from diesel engine emission produced by Oregon school

## **DEQ SUSTAINABILITY PLAN PROGRESS STATEMENT**

**SEPTEMBER 2008**

buses by the end of 2013. To date, 25 school districts have installed exhaust controls and more projects are in the works. DEQ was recently awarded an EPA Clean School Bus grant to retrofit school buses in the North Coast and Oakridge areas.

With federal grant funding DEQ partnered with a Columbia River tugboat company to replace a 30-year old engine that used to pollute black exhaust. With additional grant funding, DEQ is moving forward on the Clean Diesel Zone for Hospitals project, involving a joint partnership with Portland area hospitals, vendors and suppliers to reduce patient and community exposure to diesel exhaust. EPA provided grant funding to DEQ for a Clean Fleet recognition program. Fleets will be recognized for implementation of emission reduction strategies that include fuel conservation, cleaner fuels (biodiesel, liquefied natural gas (LNG), compressed natural gas (CNG) and propane), and exhaust controls.

### **Goal 4: Protect public health from mercury and other toxic chemicals:**

DEQ continues to partner with other organizations to remove mercury from the environment. DEQ has worked with PGE and the Product Stewardship Institute for the recovery of mercury thermostats, with the National Vehicle Mercury Switch Recovery Program for collection and recycling of mercury switches, and with the Oregon Dental Association and the Oregon Association of Clean Water Agencies for mercury dental waste collection. Through Household Hazardous Waste events, DEQ collects mercury-containing products and wastes from small businesses and homeowners.

There are numerous other DEQ programs that address toxics besides mercury:

- DEQ's implementation of the Toxics Use and Hazardous Waste Reduction Act has involved nearly 600 businesses, with 375 reporting so far to have reduced the generation of millions of pounds of chemical wastes.
- DEQ has worked with auto body shops to reduce toxic air emissions including greenhouse gases, hazardous wastes, and toxic water discharges.
- To reduce disposal of toxics related to electronics, such as beryllium, cadmium, lead, and brominated flamed retardants, DEQ has implemented the Oregon Electronics Recycling Program for the collection and recycling of televisions, computers, and computer monitors.

## **DEQ SUSTAINABILITY PLAN PROGRESS STATEMENT**

**SEPTEMBER 2008**

- During 2007 and 2008, DEQ worked with the Oregon Association of Clean Water Agencies, the pharmaceutical industry, local governments, and others on planning for a take-back program to help keep unused pharmaceuticals out of our waterways and reduce the risk of harm from poisonings, abuse, thefts, and accidental deaths.
- In 2006 and 2007, DEQ also funded 6 agricultural pesticide collection events, recovering over 92,000 pounds of chemicals.
- DEQ began a partnership with the U.S. EPA National Partnership Environmental Priorities program focusing on the reduction of 31 priority chemicals in Oregon.

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

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# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

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# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## Description of the Department of Environmental Quality

DEQ is responsible for protecting and enhancing Oregon's water and air quality, for cleaning up spills and releases of hazardous materials, and for managing the proper disposal of hazardous and solid wastes.

DEQ staff use a combination of technical assistance, inspections and permitting to help public and private facilities and citizens understand and comply with state and federal environmental regulations.

The DEQ staff consists of scientists, engineers, technicians, administrators, and environmental specialists. Headquartered in Portland, the agency operates regional administrative offices in Eugene, Pendleton, and Portland and field offices in Bend, Coos Bay, Grants Pass, Hermiston, Medford, Roseburg, Salem, and The Dalles. DEQ also operates a modern pollution-control laboratory in Portland and Vehicle Inspection Stations in Clackamas, Jackson, Multnomah, and Washington Counties.

## Responsibilities

In addition to local programs, the [Environmental Protection Agency](#) (EPA) has delegated authority to DEQ to operate federal environmental programs within the state such as the Federal Clean Air, Clean Water, and Resource Conservation and Recovery Acts. DEQ relies on several advisory committees of citizens and government officials to help guide its decision-making.

DEQ's director has the authority to issue civil penalties (fines) for violation of pollution laws and standards.

## History

Oregon's history of environmental regulation dates back to 1939, with the formation of the Oregon State Sanitary Authority. A division within the State Board of Health, the Authority was formed in response to outraged citizens who supported with 76.7 percent of the vote an initiative petition on the November 8, 1938 ballot known as the "Water Purification and Prevention of Pollution Bill". The bill made it state policy to preserve Oregon's waters from pollution. In 1969, the Oregon Legislature formed an independent state agency as a successor to the Authority, calling it the Department of Environmental Quality. In June 2008, the Environmental Quality Commission appointed Dick Pedersen DEQ's tenth director, and in 2009, DEQ will celebrate its fortieth anniversary as the state's environmental leader.

**Agency Mission:** Our mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, water, and land.

**Agency Vision:** Our vision is to work cooperatively with all Oregonians for a healthy, sustainable environment.

**Agency Values:** The Department has adopted *eight* values to guide the work we do, including:

- **Environmental Results**—We focus on the environmental outcome. We integrate pollution prevention across all media, balance resources among compliance, technical assistance, and education, and focus resources and problem-solving on specific geographic areas.
- **Public Service**—We establish and implement environmental policy through public forums and open participation, seek public involvement, and implement responsible business practices which are timely, transparent, and equitable.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

- **Partnership**—Within our agency, among agencies, and with other public jurisdictions, the private sector, and our community, we foster trust, teamwork, collaboration, and equity in our efforts to create a healthy environment for all Oregonians.
- **Excellence and Integrity**—We are proud to provide services in a manner that demonstrates the importance of our mission. We make decisions based on facts and science. Excellence, leadership, integrity, responsible innovation, and continuous improvement are our standards.
- **Employee Growth**—We are committed to providing the tools, resources, and experiences necessary to help employees develop new skills and to enhance their capabilities and quality of work life.
- **Diversity**—In a state with a growing global role, a varied constituency, and increasingly complex challenges, we value the dignity of all people and strive for a diverse workplace that develops equitable, integrative solutions.
- **Health, Safety and Wellness**—We maintain a healthy and safe work environment and implement the best work practices possible for preventing work-related illnesses and injuries.
- **Economic growth through quality environment**—The better we make Oregon’s quality of life via a healthy environment, the greater our ability to attract healthy economic growth in the state.

### Agency Representatives

Dick Pedersen, Director  
Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland, Oregon 97204-1390  
503-229-5300

Mike Carrier, Policy Advisor to the Governor  
Governor Kulongoski’s Office  
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503-378-3111

Sidney E. Moore, Jr., Affirmative Action Representative  
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Portland, Oregon 97204-1390  
503-229-6723

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

State of Oregon  
Department of Environmental Quality

## EQUAL EMPLOYMENT OPPORTUNITY and AFFIRMATIVE ACTION POLICY STATEMENT

The Department of Environmental Quality (DEQ) is strongly committed to a policy and practice of Equal Employment Opportunity, i.e., a policy of non-discrimination at all levels and in all aspects of the Agency's operations. From recruitment to termination, DEQ respects its applicants and employees and does not discriminate based on race, religion, national origin, age, gender, sexual orientation, marital status, disability, veterans status, or any other factor not related to job performance.

A policy of equal employment opportunity will not necessarily result in a workforce that includes appropriate representation of women, minorities, and people with disabilities in all job classifications. Affirmative Action provides active, assertive, and positive steps for eliminating the intended or unintended effects of past and present discrimination in the workplace. Because DEQ believes diversity makes good business sense, its Affirmative Action Plan identifies goals that will help develop and maintain a workforce that reflects the demographics of Oregon; encourages career development and employee advancement; and provides employees with the tools necessary to serve a more diverse customer base. DEQ will not knowingly conduct business with any bidder, contractor, subcontractor, or supplier of materials who discriminates against members of any protected class.

DEQ is strongly committed to Oregon's public policy that "all branches of State government shall be leaders" in the area of affirmative action.<sup>1</sup> DEQ managers are directly responsible for the success of affirmative action programs within the Agency, and are expected to actively support recruitment and career development programs to achieve these goals.

Implementation of the Affirmative Action Plan is the responsibility of the Director, Dick Pedersen, the Affirmative Action Representative, Sid Moore, and each one of DEQ managers. Each DEQ employee is expected to promote a work climate reflecting respect, care, and concern for every individual. Each employee is responsible for creating and maintaining a harassment-free environment. Managers and employees are expected to work together to eliminate and prevent any such discrimination. Individuals who believe they might have been discriminated against in any way may file a complaint with the Director, Human Resource Manager, or any of the other offices or agencies referred to in DEQ's Affirmative Action Plan. All complaints will be taken seriously. Investigations will be conducted by the appropriate manager and/or Human Resources representative, and corrective action will be taken when appropriate.

Support for diversity and non-discrimination are contained in the position descriptions of all the agency's managers, and are considered in reviewing manager performance. Increases in discrimination or harassment complaints will be addressed through the performance management process.

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<sup>1</sup> Oregon Revised Statutes 243.305

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

Copies of DEQ's Affirmative Action Plan are available on demand in the Human Resources office, the Office of the Director, and with each division administrator in the agency. A link to the plan is posted on the agency's internal and external web pages, on AFSCME's public bulletin board, located in the cafeteria at headquarters, and in a central and public location in each of the regional offices.

The DEQ Affirmative Action Plan has been developed to ensure implementation of Agency policy, and becomes effective July 1, 2009.

*Dick Pedersen, Director*

### **STATUS OF CONTRACTS TO MINORITY OWNED BUSINESSES (ORS 659A.015)**

During the first half of the 2007-2009 biennium, DEQ has contracted with three firms certified by Oregon's Office of Minority, Women, and Emerging Small Business. DEQ complies with ORS 200.035 in providing notice of solicitations to the Governor's Advocate for Minority, Women and Emerging Small Businesses (MWESB). DAS Statewide Policy #107-009-030 provides guidance on how to provide this Notice through the Oregon Procurement Information Network (ORPIN). DEQ's "normal practice" (as defined by the DAS policy) is to notify all Providers in the global market via ORPIN of all DEQ solicitations, including the MWESBs.

In an effort to promote participation by MWESBs, DEQ also includes the following clause in all DEQ solicitations:

Pursuant to Oregon Revised Statute (ORS) Chapter 200, and as a matter of commitment, the DEQ encourages the participation of minority, women, and emerging small business enterprises in all contracting opportunities. The DEQ also encourages joint ventures or subcontracting with minority, women, and emerging small business enterprises. All businesses seeking contracting opportunities as a minority, women, or emerging small business must be certified by the Office of Minority, Women and Emerging Small Business (OMWESB). More information may be found at: <http://egov.oregon.gov/DCBS/OMWESB/index.shtml>.

During the remainder of the biennium, DEQ will also participate in outreach efforts by the Governor' Office of the Advocate for MWESBs by sending representatives to the Governor's Marketplace, a forum designed to assist MWESBs in state procurements.

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## TRAINING, EDUCATION AND DEVELOPMENT PLAN AND SCHEDULE

### STAFF

DEQ provides opportunities for education/training for employees to perform their current jobs, and to prepare them for additional responsibilities. Agency management meets at least once per month, and discusses policies such as this and other policies related to affirmative action and diversity.

Job-related education is paid from program funds at 100% of the cost of work-related classes/workshops, including fees and books. Educational materials purchased in conjunction with classes and workshops are considered the property of the Agency. Attendance at a job-related class/workshop is on paid time.

All new managers will complete the appropriate Department of Administrative Services (DAS) **Management Development Series** course within six (6) months of hire.

If a **certification or license** is required for a position, DEQ pays for certification or license fee as well as the study course to prepare for the exam. Time spent outside regular working hours in training or study courses required for certification is on the employee's own time (OAR 839-020-0044(7)).

**Public Employee's Retirement System (PERS)** sponsored retirement and investment seminars are paid from program funds at 100% of the cost of the seminar. These seminars will be on paid time if during the employee's regular work hours. If the seminar takes place outside the regular working hours, it is on the employee's own time.

Career development education is reimbursed from program funds. Prior authorization for a course and an approved Career Plan on file in Human Resources are required for reimbursement of career development education. Up to 75 active participants may participate in this Program at a given time. Attendance at training for career development education is on the employee's own time.

Employees at salary range 20 and above are reimbursed at 50% of the cost of tuition and fees related to career development classes; employees at salary range 19 or below are reimbursed at 75% of the cost of tuition and fees related to these classes. These rates are pro-rated for part-time staff. Reimbursement is not to exceed \$1000 in the twelve month period beginning with the first reimbursement payment. Funds are available to each staff member for a period of up to three consecutive years; however, leftover funds may not be carried over from year to year. Employees must submit documentation of a score indicative of a passing grade ("pass" or "C" or better) in order to be eligible for reimbursement. If the class is credit/no credit the employee must receive credit status. The cost of books is not reimbursable unless the program manager agrees at the time of enrollment to purchase and retain the books as Agency property.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

There may be times when, for reasons such as budget constraints, workload, or other operational reasons, a manager may deny an education/training request. The reasons for denial should be in writing to the employee with a copy forwarded to Human Resources.

Education/training is available to employees without regard to race, color, religion, gender, national origin, age, sexual orientation or mental or physical disability.

### VOLUNTEERS

DEQ will provide opportunities for education/training for volunteers to perform their current assignments, and to prepare them for additional responsibilities. This process will include meeting with volunteers during their training periods to discuss their opportunities and obligations with regard to affirmative action.

As with employees, education and training are available without regard to race, color, religion, gender, national origin, age, sexual orientation or mental or physical disability.

### PROVIDERS AND VENDORS

DEQ requires all service providers and vendors to adhere to all relevant agency policies, including those governing affirmative action and equal opportunity. The Affirmative Action Plan is made available to vendors and service providers, and DEQ will include a review of its affirmative action and non-discrimination policies at the inception and renewal of all contracts with service providers and vendors, and on at least an annual basis thereafter.

As with employees and volunteers, education and training are available to service providers and vendors, as appropriate, without regard to race, color, religion, gender, national origin, age, sexual orientation or mental or physical disability.

### **STATUS OF CULTURAL COMPETENCY ASSESSMENT/IMPLEMENTATION**

As part of DEQ's 2009-2011 Affirmative Action Plan, the Agency will complete an assessment of its cultural competence, a project originally scheduled for the 2007-2009 plan year. This assessment will help determine whether agency culture can be considered culturally unaware, culturally competent, or something in between. In becoming a more culturally competent organization, DEQ will be better able to use the policies, people and resources it has to anticipate, recognize and respond to varying expectations of customers and employees. As an increasingly culturally competent organization, DEQ will continue to value individuals for their contributions to a culturally diverse workplace.

Based on the completed assessment and using all available State resources—including Statewide Cultural Competency Assessment and Implementation Services—the Agency will develop a plan to enhance its cultural competence. This effort will involve the training of agency

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

leadership, managers, and staff in cultural competence and will include affirmative action and equal opportunity standards in manager performance appraisals. The agency hopes these plans for enhancement of DEQ's cultural competence will result in:

- The working together of those of diverse backgrounds and experience.
- An understanding and appreciation of the differences among people.
- People effectively communicating with and being respectful of those with differing cultural backgrounds.

The plans for enhancing DEQ's cultural competence will focus on:

- Greater cultural awareness among the members of DEQ's workforce;
- Changes to policy and practices to enhance effective communication and utilize differing strengths;
- The design and implementation of more effective interventions within a diverse or specific cultural community;
- An increased respect for and understanding of diverse cultures within the workforce and a decrease in discriminatory or and disrespectful practices by members of the workforce.

From the assessment and implementation of plans to enhance DEQ's cultural competence, DEQ will benefit from:

- Utilizing the unique strengths and perspectives of DEQ's work force to solve problems and enrich the work environment;
- A stronger, more cohesive workforce;
- A decision making process led and supported by a diverse workforce, resulting in increased ownership and support of the decisions.
- A greater understanding of the world in which we work and the customers we serve.
- An ability to prevent and overcome misunderstandings, lost opportunities and conflict.

### **2007 - 2009 PROGRAMS**

#### Internships

DEQ's Internship program is designed to meet the agency's goals by providing program managers with talented students or recent graduates who engage in research, perform analysis, and contribute to the agency's infrastructure for a limited period of time, usually during the summer months. In turn, the agency provides interns with useful experience by asking managers to assign interns meaningful work, place them on a team with which they can identify and be involved, and expose them to senior management on a regular basis. Adherence to these guidelines helps interns identify their place in the agency and how their work contributes to accomplishing its goals.

Though there is no guarantee that every intern's experience will be directly related to his or her career goals, every effort is made on the part of the agency to match students and recent graduates with work appropriate to their academic discipline and their career interests. DEQ accomplishes this through the competitive selection process it uses to select interns.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

Managers are encouraged to be clear with interns about job prospects, bringing to their attention any permanent positions within the agency that seem to fit the intern's skills and abilities. Managers are expected to give a realistic impression both about the intern's prospects for immediately moving into a permanent position, and regarding the types of positions for which the intern is best suited.

### Community Outreach

DEQ conducts community outreach through a number of programs throughout the agency. For purposes of recruitment and retention, the Human Resources section sends representatives to career fairs, seminars, and networking events where the agency may connect with community members. In addition, the agency has a representative engaged in outreach with local tribes. The agency will continue to engage in these community outreach activities during the 2009-2011 biennium.

### DIVERSITY OUTREACH

The Affirmative Action Representative currently serves as the agency's Diversity Outreach Coordinator and oversees the agency's Program on Diversity Initiatives. The Diversity Outreach Coordinator works with Administrators and Managers, and is responsible for the dissemination of affirmative action information, coordinating affirmative action-related activities, monitoring the progress of the program, and reporting periodically to Agency Management and the Director on the status of the program. The Affirmative Action Representative also provides training support for the Affirmative Action Plan's goals and objectives.

The Affirmative Action Representative will continue to alert DEQ employees to diversity-related recognition activities, proclamations, and events. DEQ will implement a training module covering a variety of topics, including managing diverse work forces, proper preparation for and administration of the Americans with Disabilities Act, and on the ways in which the agency intends recruit a diverse workforce that is reflective of general population. Training for managers is currently scheduled on a bi-monthly basis, with the interim months reserved for staff training sessions.

DEQ's Training and Development Coordinator continues the process of revamping DEQ's New Employee Orientation program, which the agency will use more effectively in the coming years. The New Employee Orientation will help new employees feel welcome while also allowing them an opportunity to learn their rights and responsibilities with regard to expanding the agency's diversity efforts.

### **Roles for Implementation of Affirmative Action Plan**

DEQ's predecessor agency, the Oregon State Sanitary Authority, was established in 1939 by an initiative petition passed by the voters of Oregon. DEQ operates under the authority of the Environmental Quality Commission (EQC). Statutory authorization for the EQC and DEQ may be found in ORS 468.010 and 468.030, respectively. The Department consists of the five-member EQC, a Director, and eight Divisions with a total requested budget of approximately \$366 million, of which \$236 million is for Agency operations, subject to approval by the 2009 legislature. The Agency

# DEQ AFFIRMATIVE ACTION PLAN

## 2009-2011

currently has 797 full-time equivalent employee positions, with the possibility of an increase to 879 in the Agency Request budget for 2009-11. The Department has a strategic plan to achieve the mission, vision, and values of the Agency.

### RESPONSIBILITY FOR IMPLEMENTATION

The success of the Affirmative Action Plan depends upon the commitment and leadership of DEQ employees at all levels. Each of the members of the agency's leadership as outlined in this section, is responsible for contributing to the a welcoming environment for all employees.

#### THE DIRECTOR

The Director of DEQ strongly commits the Department to a policy of equal employment opportunity and affirmative action and demonstrates an active interest in the attainment of affirmative action goals and objectives. The Director provides leadership to agency management and staff, and has the overall responsibility to:

- Communicate and implement the Affirmative Action Plan and Policy Statement.
- Review with each division administrator his or her affirmative action efforts and his/her ability to manage a diverse workforce.
- Monitor progress toward meeting the goals and objectives for representation of minorities, women, and people with disabilities set forth in the Affirmative Action Plan.
- The Director will meet with the Affirmative Action Representative on at least a quarterly basis to discuss strategies and progress toward the agency's affirmative action goals.
- The Director or a designee will attend new employee orientation activities on at least a quarterly basis to inform new employees of the agency's commitment to affirmative action and their role in it.
- As a member of the Agency's management team, the Director's responsibility for the agency's affirmative action and diversity goals will be one of the

#### HUMAN RESOURCES MANAGER

The Human Resources Manager has responsibility for administration of the Department's Equal Employment Policy and Affirmative Action Plan. The Human Resources Manager has responsibility to:

- Assure appropriate action is taken by all levels of Agency management to achieve the Department's equal employment opportunity and affirmative action objectives.
- Ensure compliance with all applicable federal and state laws, rules, and regulations.
- Assure all investigations are completed promptly and attempt to resolve all discrimination and harassment complaints.
- Provide assistance to managers in the implementation of the Affirmative Action Plan.

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## AFFIRMATIVE ACTION REPRESENTATIVE

The Affirmative Action Representative is responsible for the dissemination of affirmative action information, coordinating affirmative action-related activities, monitoring the progress of the program, and reporting periodically to Agency Management and the Director on the status of the program. This position also provides training support to the Affirmative Action Plan's goals and objectives. Responsibilities will include, but are not limited to:

- Compile, review, and revise the Department's Affirmative Action Plan and submit to the Governor's Office.
- Develop policies and procedures related to affirmative action and equal employment opportunities.
- Develop communications to assure that affirmative action goals are understood by all staff and are brought to the attention of groups or organizations representing minorities, women, and people with disabilities.
- Identify problem areas in practices and procedures and assist in finding solutions to those problems.
- Design and implement audit and reporting systems that will measure effectiveness of the Department's Affirmative Action Program; indicate the need for remedial action; and determine the degree to which the Department's goals and objectives have been achieved.
- Serve as the Department representative with organizations and community action groups whose members or clients tend to be people of color, people with disabilities, or women.
- Foster employee and manager participation in job fairs and career days that have an emphasis on opportunities for women, minorities, and people with disabilities.
- Keep management informed of the latest law and rule changes in the EEO/AA area.
- Initiate programs to recruit, appoint, and retain qualified women, minorities, and people with disabilities. In conjunction with other HR analysts, develop hiring criteria designed to expand and diversify hiring pools.
- In conjunction with other Human Resources Analysts, maintain and update an affirmative action mailing list for recruitment announcements.
- Ensure Department training opportunities are offered without discrimination because of race, religion, national origin, age, gender, sexual orientation, marital status, or disability.
- Provide employee counseling related to informal discrimination complaints.
- Establish and maintain a process to track training received by employees.
- Support career counseling for all employees.
- Periodically check to assure facilities and Department activities are barrier-free.
- Schedule training for all employees that fosters workplace diversity (to include affirmative action and equal employment opportunity).
- Provide managers with skills to manage a diverse workforce effectively.
- In conjunction with the Human Resources Section, investigate or otherwise resolve complaints of discrimination and harassment.

In addition, the Affirmative Action Representative will meet with the agency director on at least a quarterly basis to discuss the progress of the agency's affirmative action efforts, and to further develop and refine DEQ's strategies for effectively implementing the Affirmative Action Plan based on changing conditions. The Affirmative Action Representative contributes to the creation of a welcoming environment for current

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

employees by participating in and overseeing programs and processes that prevent disrespectful treatment, and that give employees outlets to ensure that any such treatment will be taken seriously.

DEQ's Communications Credo and Respectful workplace policies are in place in order to ensure that all employees have the advantage of a welcoming work environment. The Affirmative Action Representative, along with Human Resources staff and managers at all organizational levels, is responsible for enforcing these policies.

The writing and management of the Affirmative Action Plan is part of the Affirmative Action Representative's position description, and will be one criterion upon which the Affirmative Action Representative's performance is evaluated.

### DIVISION AND REGIONAL ADMINISTRATORS

Division and Regional Administrators are accountable to the Director and Deputy Director. These individuals are responsible for communicating and implementing the Agency's Affirmative Action Plan within their respective divisions or regions. The duties of each Administrator are to:

- Actively promote a positive climate concerning affirmative action and workforce diversity.
- Maintain a work environment free from harassment of any kind, and discuss the work climate with management staff and employees to be certain DEQ's policies are understood and implemented.
- Periodically review the training programs and hiring and promotion patterns within the Division/Section to remove any roadblocks in the attainment of the Plan's goals and objectives.
- Ensure that managers receive training in affirmative action and workforce diversity concepts and apply such philosophies in their day-to-day work.
- Discuss the managers' affirmative action efforts and results, and their ability to manage a diverse workforce in conjunction with their other managerial responsibilities.
- Include affirmative action and diversity concepts on staff meeting agendas; and assure the Affirmative Action Plan is understood and being implemented as assertively as possible.

### MANAGERS

Managers are accountable to their Administrators. These individuals are responsible for communicating and implementing the Agency's Affirmative Action Plan to employees within their respective programs, sections, or stations. The following responsibilities are assigned to managers:

- As part of the New Employee Orientation, review DEQ's Affirmative Action Policy Statement and the employee responsibilities for supporting and promoting it with all new employees.
- Regularly discuss the Affirmative Action Plan with employees to be certain all components are understood and implemented.
- Provide assistance in the identification of problem areas and establish program objectives to meet affirmative action goals.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

- Attend equal employment opportunity, affirmative action, and workforce diversity training and apply such training in day-to-day management to achieve EEO/AA related objectives.
- Ensure Department training opportunities are offered to employees without discrimination because of race, religion, national origin, age, gender, sexual orientation, marital status, veteran status, or disability.
- Ensure all meetings sponsored by DEQ occur in barrier-free facilities.
- Maintain a work environment free from harassment of any kind, and report incidents of harassment to the Human Resources Manager.
- Work with the Human Resources Analysts to locate and recruit qualified women, minority and disabled candidates for vacant positions.
- Encourage upward mobility for employees by becoming familiar with the career development opportunities at DEQ, by evaluating positions for restructuring, and by reviewing employee training and career plans to determine appropriate developmental assignments.
- Become involved in local school programs, such as "career days," environmental assemblies, or internships, to introduce students to the field of environmental sciences. Indicate the Department's interest in protected-class students to guidance counselors and school coordinators.
- Discuss with his/her Division Administrator his/her own affirmative action efforts and results and his/her demonstrated ability to manage a diverse workforce in conjunction with other managerial responsibilities.

### **2007-2009 Accomplishments**

- The Human Resources Section collaborated with diversity coordinators and other human resources personnel in other state agencies to share resources including training, policies, and recruitment.
- The Human Resources Section continued its professional relationships with agencies, organizations, and individuals representing women, people of color and people with disabilities, such as Oregon Hispanic Council for Hispanic Advancement, Portland International Community School, Workforce Network, and the Oregon Business Leadership Network.
- DEQ utilized the services of qualified rehabilitation facilities, including Galt, Goodwill Temporary, and St. Vincent's Services.
- DEQ awarded several internships during the summers of 2007 and 2008, both through the State's Internship program and through DEQ's relationships with local colleges and universities including Portland State University.
- DEQ continued to expand its database of colleges, organizations, and professionals and will continue to increase the focus for job announcements to target audiences.
- Key staff members screened Lee Mun Wah's Stirfry series film Last Chance for Eden, for inclusion in the agency's diversity efforts. Plans are to show the film and include a facilitated discussion immediately following. Staff and managers will be encouraged to attend these Seminars and Workshops.
- Provided training opportunities to increase staff's effectiveness working with various multicultural groups such as brown bag discussions, related workshops, educational tools and games.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

- The Human Resources Section received a Training and Development Specialist position in the 2007-2009 Policy Option Package. DEQ has hired an employee to fill the position, charged with modernizing and updating the agency's New Employee Orientation training and expanding the list of diversity-related training opportunities available at DEQ.
- In September 2008, Human Resources staff attended Career Fair Oregon, and will continue to attend other public and private sector job fairs in order to identify well-qualified job and internship candidates, along with interested students, for potential employment with DEQ.
- DEQ provided training opportunities such as brown-bag discussions and related workshops, educational tools, and games to increase staff's effectiveness working with various multicultural groups. The agency offered showings of Lee Mun Wah's Color of Fear, followed by a facilitated discussion.
- Over the plan period to date, DEQ increased the number of women in the agency, while the number of people of color was unchanged, and the number of employees with disabilities decreased. While the agency has, at the midpoint of the biennium, fallen short of some of its diversity goals, the overall progress is encouraging.
- Increased access to agency-sponsored training through more aggressive use of the agency's mentoring and performance evaluation processes.

During the 2007-2009 biennium to date, 24 women have been promoted, along with 5 minorities, and 1 person with a disability.

DEQ hired approximately 75 new employees during the first 100 days of the new biennium. During this time, the agency employed strategies designed to contribute to a diverse workforce, such as placing advertisements directly with colleges and universities at which students could earn degrees related to the subject matter involved with the work DEQ needed accomplished. DEQ also increased the number of national trade publications it used for advertising in order to increase recruiting efficiency. DEQ intends to retain the majority of these employees through its training series, much of which will be focused on improving management engagement with staff. In summer 2008, DEQ's director issued a directive that management engage in fewer statewide Program Management Team meetings, in response to employee poll results indicating that managers were not available enough to their employees.

DEQ has identified the presence of members of four distinct generations within its workforce: the so-called "Silent Generation"; the "Baby Boomers"; "Generation X"; and "Generation Y" (or the "Millennials"). Members of the Silent Generation and the Baby Boomers are at or near retirement age, and the agency continues to promote members of these groups and to utilize what tends to be the large amount of institutional knowledge possessed by members of these groups. These strategies help retain members of these generations, in turn allowing the agency to gather and document institutional knowledge to be passed on to members of Generations X and Y. Failure to account for the differences among members of different generations will likely result in employees with considerable institutional memory departing DEQ early before the agency has been able to memorialize such memory for use by the agency after the employee has retired.

The retention strategies for members of Generations X and Y are somewhat different from those of the Silent and Baby Boomer generations. Most notably, trends indicate that members of these newer generations are less likely to work long-term with one employer and will seek and expect to find employers that allow flexibility in work schedules, dress codes, and freedom to pursue outside interests. The agency, through its new training and development plan, intends to integrate training about managing members of different generations into its manager training sessions. Among notable challenges to the agency is the degree of scheduling flexibility traditionally allowed by State service jobs. On the

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

other hand, mentoring efforts aimed at putting Generation X and Millennial employees into position to be promoted within the agency should counteract some of the inflexibility inherent to State service. In addition, DEQ will have an advantage with some segments of the market, since many potential employees, particularly Millennials, identify with the agency's mission.

Many of the positions representing promotional opportunities for current employees have been recruited for through the open competitive recruitment process in order to attract the most diverse applicant pools possible. Managers are encouraged, nevertheless, to consider internal applicants for promotional opportunities, and internal applicants who are unsuccessful in applying for promotion are routinely offered feedback regarding how to improve their performance. Job announcements are sent agency-wide in order to ensure that current employees have equal access to job postings. In addition, increased emphasis on and participation in mentoring programs by DEQ management will contribute to the success rate of those employees seeking promotion when the opportunities present themselves.

### **2009 - 2011 GOALS**

There is a continuing need to increase the number and quality of applicants who are women, people of color, or persons with disabilities. This increase may be brought about by an expanded outreach effort to recruit and educate such applicants for career opportunities at DEQ.

In order to provide the optimum affirmative action and equal employment opportunity activities, the Human Resources section will continue to carefully allocate its limited resources. In addition, manager, supervisor, and professional staff participation must continue to increase. This will continue to be accomplished in part through the development of the Human Resources section's recruitment plan.

The following tables summarize agency goals by EEO-4 Job Category. For definitions of Equal Employment Opportunity (EEO) categories see Appendix A.

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### STAFF

Target: All Employees

Goal: Ensure employees are engaged in maintaining a diverse workplace

Planned Action	Target Date
Provide employees a copy of the current Affirmative Action Policy Statement during new employee orientation. Post a copy of DEQ's Affirmative Action Policy Statement and Affirmative Action Plan on DEQ's intranet site.	Ongoing
Progress toward affirmative action goals will be made part of evaluation of management and supervisory personnel.	Ongoing
Provide prompt investigation of discrimination and harassment complaints and take appropriate action in a timely manner.	Ongoing
Distribute monthly diversity events information to all staff and update the intranet diversity section with a summary of the observances for the month. Include a calendar on the intranet page.	Ongoing
Hold diversity events such as a Diversity Month, and diversity potlucks to raise staff's cultural awareness.	Ongoing
Maintain the resources in the Diversity Center on DEQ's intranet.	Ongoing
Provide training opportunities to increase staff's effectiveness while working with various multicultural groups such as brown bag discussions, related workshops, educational tools and games. Continue to offer showings of educational videos such as <u>Color of Fear</u> , followed by a facilitated dialogue.	Ongoing
Continue to develop closer and more meaningful relationships with colleges and universities and local ethnic groups in order to increase awareness of DEQ and State service positions among recent graduates.	Ongoing
Monitor opportunities for and promote people of color, people with disabilities, and women within the agency.	Ongoing
Use strategies gathered from AAEO workshops to streamline job announcements placed online to make the application process less cumbersome.	Ongoing
Send all job announcements to the Governor's Office of Affirmative Action for dissemination.	Ongoing
Continue to develop a comprehensive retention strategy.	Ongoing
Affirmative Action Representative or designee will continue to attend monthly Affirmative Action Workgroup meetings.	Ongoing
Revise the Career Development Education Tuition Reimbursement Plan. Increase reimbursement funds from \$1000 to \$2500 in a twelve-month period and revise the start of the year to make it coincide with the first reimbursement payment. Reimbursement is not to exceed \$2500. Employees at salary range 25 or below are reimbursed at 75% of the cost of tuition and fees related to relevant courses, an amount that is pro-rated for part-time employees. Changes made are to aid in advancing the employee's career within DEQ or state service and reflect the increase in tuition fees.	2009

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### PEOPLE OF COLOR

Data collected from 2007-2009 statistical data.

Total Employees @ DEQ	People of Color @ DEQ	Group Parity %	Group Goal	Need to Hire to Meet Goal	Target Date
722	66	9.1%	15.3	15.3	7/1/2011
EEO-Categories		DEQ Employee in Group		DEQ People of Color	
<b>A. Officials/Administrators</b>					
A01 Middle Management (SR 24-30)		11		0	
A02 Upper Management (SR 31+)		56		2	
<b>B. Professionals</b>					
B01 Environmental Engineers		31		4	
B02 Communications		6		0	
B07 Purchasing Agent/Analyst		5		0	
B08 Natural Resources		343		17	
B10 Personnel		8		1	
B12 Computer Analyst		45		12	
B15 Accounting/Finance/Revenue		16		2	
B16 Program Coordinator/Analyst		25		2	
<b>C. Technicians</b>					
C03 Science		6		1	
C04 Computers		4		0	
C05 Audio-visual		1		0	
<b>F. Administrative Support</b>					
F00 Office Assistant/Specialist		89		12	
<b>G. Skilled Craft Workers</b>					
G03 Trades/Maintenance Repair		0		0	
<b>H. Service Maintenance</b>					
H00 Vehicle Emissions Tech		74		13	

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### WOMEN

\* Data collected from 2007-2009 statistical data.

Total Employees @ DEQ	People of Color @ DEQ	Group Parity %	Group Goal	Need to Hire to Meet Goal	Target Date
722	313	43.3%	18	18	7/1/2011
EEO-Categories		DEQ Employee in Group		DEQ Women	
<b>A. Officials/Administrators</b>					
A01 Middle Management (SR 24-30)		11		3	
A02 Upper Management (SR 31+)		56		18	
<b>B. Professionals</b>					
B01 Environmental Engineers		31		4	
B02 Communications		6		3	
B07 Purchasing Agent/Analyst		5		4	
B08 Natural Resources		343		135	
B10 Personnel		8		5	
B12 Computer Analyst		45		10	
B15 Accounting/Finance/Revenue		16		9	
B16 Program Coordinator/Analyst		25		15	
<b>C. Technicians</b>					
C03 Science		6		0	
C04 Computers		4		3	
C05 Audio-visual		1		1	
<b>F. Administrative Support</b>					
F00 Office Assistant/Specialist		89		78	
<b>G. Skilled Craft Workers</b>					
G03 Trades/Maintenance Repair		2		0	
<b>H. Service Maintenance</b>					
H00 Vehicle Emissions Tech		74		25	

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### PEOPLE WITH DISABILITIES

\* Data collected from 2007-2009 statistical data.

Total Employees @ DEQ	People of Color @ DEQ	Group Parity %	Group Goal	Need to Hire to Meet Goal	Target Date
722	27	3.7%	42.6	20.3	7/1/2011
EEO-Categories		DEQ Employee in Group		DEQ People w/Disabilities	
<b>A. Officials/Administrators</b>					
A01 Middle Management SR 24-30		11		0	
A02 Upper Management SR 31+		56		1	
<b>B. Professionals</b>					
B01 Environmental Engineers		31		0	
B02 Communications		6		0	
B07 Purchasing Agent/Analyst		5		0	
B08 Natural Resources		343		11	
B10 Personnel		8		0	
B12 Computer Analyst		45		2	
B15 Accounting/Finance/Revenue		16		0	
B16 Program Coordinator/Analyst		25		1	
<b>C. Technicians</b>					
C03 Science		6		0	
C04 Computers		4		0	
C05 Audio-visual		1		0	
<b>F. Administrative Support</b>					
F00 Office Assistant/Specialist		89		10	
<b>G. Skilled Craft Workers</b>					
G03 Trades/Maintenance Repair		2		0	
<b>H. Service Maintenance</b>					
H00 Vehicle Emissions Tech		74		2	

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## STRATEGIES AND TIMELINE FOR IMPLEMENTATION

### DEQ Recruitment Policy 40.020:

- A) In accordance with state policy, applicants for any position will be chosen from the following lists, listed in the order of consideration:
- 1) Injured Worker
  - 2) DEQ Layoff
  - 3) Statewide Reemployment Layoff
  - 4) Agency Transfer
- B) The sequence for consideration of other lists is optional. These other lists include:
- a) Agency Promotion
  - b) Statewide Promotion
  - c) Statewide Transfer
  - d) Open Competitive
- C) Job announcements will be posted for a minimum of five (5) days and will be distributed widely throughout the Agency. All DEQ candidates meeting the minimum qualifications of a vacant position will be interviewed for the position for which they have applied.
- D) Oral interviews will be held and applicant references checked before a hiring decision is made. Upon selection of a candidate for a position, managers will announce the selection to all DEQ employees.

### **Guidelines:**

Managers must first balance the task to be completed against current employee developmental opportunities. Consideration must be given each time to the employee's view: "Is this a potential developmental opportunity?" Managers must consider developmental opportunities before hiring a temporary employee. Please see DEQ Policy 40.040 on Alternative Methods of Filling Positions.

Post-selection interviews may be offered to the unsuccessful DEQ candidates. These interviews include the basis for not being selected, areas to improve, and identification of training and/or continuing education needs.

The following tables summarize agency target, goal, and planned action for People of Color, Women and People with Disabilities, respectively.

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## PEOPLE OF COLOR

Target: People of Color

Goal: Achieve a MINORITY WORKFORCE representation at DEQ to reach parity with the civilian workforce.

Planned Action	Target Date
Review job classifications and identify opportunities to establish more entry-level positions in the professional categories.	Ongoing
Actively recruit and interview people of color for the upper and middle managerial, and natural resource positions through effective networking, classified advertising, websites, and trade publications.	Ongoing
Actively encourage employees to refer applicants.	Ongoing
Encourage employees to participate in networking activities including career day and related activities sponsored by schools and community organizations.	Ongoing
Continue to participate in internship programs that recruit people of color, i.e., Promise, In-roads.	Ongoing
Participate in job fairs, career fairs and other related activities to increase outreach, such as the Minority in Agriculture, Natural Resources and Related Sciences (MANRRS) Career Fair.	Ongoing
Establish and maintain professional relationships with college multicultural programs, and advocacy commissions and organizations whose members or clients tend to be people of color.	Ongoing
Promote participation in the mentorship and career development programs at DEQ.	Ongoing
Diversify interview panels.	Ongoing
Develop recruiting materials to attract a diverse workforce.	Ongoing
Explore job rotation as a way to assist people of color in entering permanent positions. Provide necessary training in order to increase the likelihood of success.	Ongoing
Explore temporary job rotation as a method of assisting people of color in gaining experience necessary for promotion. Provide training for employees embarking on these opportunities in order to prepare for their new role.	Ongoing
Identify and establish a link with a college that focuses on the sciences and has a large minority population.	2009
"Adopt" a classroom, science lab, or related special activity at a local school with a large minority population.	Biannually
Develop student trainee work-study programs, and other special employment programs to introduce people of color to DEQ.	2009

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### WOMEN

Target: Women

Goal: Achieve FEMALE REPRESENTATION in all categories at DEQ to reach parity with the civilian work force.

Planned Action	Target Date
Review job classifications and identify opportunities to establish more entry-level positions in the professional categories.	Ongoing
Actively recruit female candidates for middle managerial, engineering, science, vehicle emission technician positions through targeted classified advertising, websites, and trade publications.	Ongoing
Participate in job fairs, career fairs, and other related activities to increase outreach.	Ongoing
Encourage employees to participate in networking activities, including career day and related activities sponsored by schools and community organizations.	Ongoing
Promote participation in the mentorship and career development programs at DEQ.	Ongoing
Diversify interview panels.	Ongoing
Develop recruiting materials to attract a diverse workforce.	Ongoing
Explore job rotation as a way to assist women in entering permanent positions. Provide necessary training in order to increase the likelihood of success.	Ongoing
Explore temporary job rotation as a method of assisting women in gaining experience necessary for promotion. Provide training for employees embarking on these opportunities in order to prepare for their new role.	Ongoing
Develop student trainee work-study programs and other special employment programs to introduce women to DEQ.	2009

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## PEOPLE WITH DISABILITIES

Target: People with Disabilities

Goal: Achieve representation of PERSONS WITH DISABILITIES at DEQ to reach parity with the civilian workforce.

Planned Action	Target Date
Review job classifications and identify opportunities to establish more entry-level positions in the professional categories.	Ongoing
Actively recruit and interview people with disabilities for all positions, particularly in the management, Professional, and Vehicle Emission Technician positions through effective networking, classified advertising, websites, and trade publications.	Ongoing
Establish and maintain professional relationships with agencies and organizations whose members or clients are primarily people with disabilities.	Ongoing
Participate in job fairs, career fairs, and other related activities to increase outreach.	Ongoing
Use a qualified rehabilitation facility for temporary services. This will provide work experience for people with disabilities, and may increase the number of people with disabilities in our applicant pool.	Ongoing
Encourage employees to participate in networking activities, including career day and related activities sponsored by schools and community organizations.	Ongoing
Promote participation in the mentorship and career development programs at DEQ.	Ongoing
Ensure that all DEQ facilities are accessible and ADA compliant.	Ongoing
Explore temporary job rotation as a way to assist employees with disabilities in entering permanent promotional positions. Provide necessary training in order to increase the likelihood of success.	Ongoing
Explore job rotation as a method of assisting employees with disabilities in gaining experience necessary for promotion. Provide training for employees embarking on these opportunities in order to prepare for their new role	Ongoing
Diversify interview panels.	Ongoing
Develop recruiting materials to attract a diverse workforce.	Ongoing
Develop student trainee work-study programs, and other special employment programs to introduce people with disabilities to DEQ.	2009

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### PROGRESS MADE OR LOST SINCE PREVIOUS BIENNIUM

DEQ employs fewer people of color and women overall than it would expect, all things being equal. Though there are individual job groups in which DEQ employs as many or more people from one of these categories as would otherwise have been expected. More specifically:

- In the “Officials and Administrators” job groups, African-Americans, Hispanics, Native Americans and women appear in significantly lower numbers than the demographics would have suggested.
- The “Professionals” job groups contain fewer women, African-Americans, Hispanics, Asian/Pacific Islanders, and Native Americans than the demographics would otherwise have suggested.
- The “Technicians” job groups also have fewer women, African-Americans, Hispanics, Asian/Pacific Islanders, and Native Americans than the demographics would otherwise have indicated.
- The “Administrative Support” groups have fewer Hispanics and Native Americans than would otherwise be expected, but DEQ is meeting its goals for all the other protected classes—including women—in this category.
- No significant discrepancy between availability and utilization of people of color and women exists in the “Skilled Craft Worker” job group.
- In the “Service Maintenance Worker” category, the agency has fewer employees than would otherwise have been expected in only two categories: women and Hispanics.

### PEOPLE OF COLOR

In September 2006, the number of people of color in the agency was 66, the same as on June 30, 2008.

	June 1997 (historical)	June 1999 (historical)	June 2001	June 2003	March 2005	September 2006	June 2008
<b>Total People of Color</b>	<b>54</b>	<b>59</b>	<b>63</b>	<b>76</b>	<b>76</b>	<b>66</b>	<b>66</b>
African American	DNA	18	17	14	13	11	14
Asian/Pacific Islander	DNA	18	27	34	35	30	33
Hispanic American	DNA	17	14	17	19	17	14
Native American	DNA	6	5	11	9	8	5
Officials/Administrators	2	3	2	3	3	38	2
Professionals	25	34	40	42	39	10	38
Technicians	1	1	0	0	1	1	1
Administrative Support	DNA	DNA	DNA	DNA	DNA	DNA	0
Skilled Craft Workers	DNA	DNA	DNA	DNA	DNA	DNA	0
Service Maintenance Workers	7	6	6	18	19	17	13
Oregon Statewide Labor Force	DNA	DNA	DNA	DNA	DNA	4379	DNA
Total Employees @ DEQ	727	712	758	797	776	744	722

DNA = Data Not Available

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

### WOMEN

The number of women in the agency increased from 301 in September 2006 to 313 in June 2008.

	June 1997 (historical)	June 1999 (historical)	June 2001	June 2003	March 2005	September 2006	June 2008
<b>Total Women</b>	<b>249</b>	<b>268</b>	<b>303</b>	<b>318</b>	<b>313</b>	<b>301</b>	<b>313</b>
Officials/Administrators	21	24	28	29	33	23	21
Professionals	128	142	165	162	162	239	185
Technicians	1	1	0	1	2	0	4
Administrative Support	DNA	DNA	DNA	DNA	DNA	DNA	78
Skilled Craft Workers	DNA	DNA	DNA	DNA	DNA	DNA	0
Service Maintenance Workers	10	11	14	37	29	39	25
Oregon Statewide Labor Force	DNA	DNA	DNA	DNA	DNA	19,691	DNA
<b>Total Employees @ DEQ</b>	<b>727</b>	<b>712</b>	<b>758</b>	<b>797</b>	<b>776</b>	<b>744</b>	<b>722</b>

DNA=Data Not Available

### PEOPLE WITH DISABILITIES

The number of employees self-identifying as people with disabilities in the agency decreased from 34 in September 2006 to 27 in June 2008.

	June 1997 (historical)	June 1999 (historical)	June 2001	June 2003	March 2005	September 2006	June 2008
<b>Total People with Disabilities</b>	<b>27</b>	<b>24</b>	<b>22</b>	<b>43</b>	<b>37</b>	<b>34</b>	<b>27</b>
Officials/Administrators	DNA	0	0	3	4	4	1
Professionals	DNA	11	8	18	14	19	14
Technicians	DNA	0	0	0	0	0	0
Administrative Support	DNA	DNA	DNA	DNA	DNA	DNA	10
Skilled Craft Workers	DNA	DNA	DNA	DNA	DNA	DNA	0
Service Maintenance Workers	DNA	1	1	5	4	11	2
Oregon Statewide Labor Force	DNA	DNA	DNA	DNA	DNA	1248	DNA
<b>Total Employees @ DEQ</b>	<b>727</b>	<b>712</b>	<b>758</b>	<b>797</b>	<b>776</b>	<b>744</b>	<b>722</b>

DNA=Data Not Available

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

Appendix A

## AGENCY'S POLICY DOCUMENTATION

DEPARTMENT OF ENVIRONMENTAL QUALITY	POLICY NUMBER: 40.000
POLICIES AND PROCEDURES	EFFECTIVE DATE:
	PAGE 1 OF 2
SUBJECT: EEO AND AFFIRMATIVE ACTION	APPROVAL:

**Intent:**

To provide DEQ's policy on Equal Employment Opportunity and Affirmative Action.

**Definitions:**

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

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

**Authority:**

HRSD 105-40-001; ORS 240.145(3), 240.250, 240.306(1)(2), 243.305, 243.315, 659.030; Age Discrimination in Employment Act of 1967; Rehabilitation Act of 1973; Title VII, Civil Rights Act of 1964 as amended; and Americans with Disabilities Act of 1990.

**APPLICABILITY:**

Classified represented, management and executive service, temporary, contract employees.

**Policy:**

DEQ is committed to achieving a workforce that represents the diversity of the Oregon community and to provide citizens with fair and equal employment opportunity.

DEQ will not tolerate discrimination or harassment on the basis of race, color, sex, marital status, religion, national origin, age, mental or physical disability, political affiliation, sexual orientation, or other non-job related factors, nor will the Agency allow these factors to influence any employment practices. See attached Affirmative Action Policy Statement.

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## Guidelines:

DEQ will insure employment practices are consistent with the state's Affirmative Action Plan and state and federal laws to promote good faith efforts to achieve established affirmative action goals, and to take active steps to develop diverse applicant pools.

In accordance with the state's Affirmative Action Plan, DEQ will develop and implement an Agency Plan.

Any persons who believe they have been subjected to discrimination in violation of this policy should file a complaint with the Affirmative Action Officer within 30 days of the alleged act or upon knowledge of the occurrence.

## Responsibilities:

All employees shall be informed of this policy to ensure their cooperation in its implementation. The policy shall be discussed in the orientation of new employees.

All managers and supervisors shall be familiar with DEQ's Affirmative Action Plan, and shall be aware of the needs of their work units to meet the Plan's goals.

The Agency's Affirmative Action Officer will be responsible for compiling the necessary information to develop the Agency Affirmative Action Plan. The Officer will also be responsible for monitoring and ensuring compliance under the Plan.

## Policy Clarification:

"Employment practices" include, but are not limited to: hiring, promotion, demotion, transfer, termination, layoff, training, compensation, benefits, and performance evaluations.

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

<b>DEPARTMENT OF ENVIRONMENTAL QUALITY</b>  <b>POLICIES, PROCEDURES AND GUIDELINES</b>	<b>POLICY NUMBER:</b> 40.005
	<b>EFFECTIVE DATE:</b> AUGUST 1, 1997 REVISED JANUARY 2, 2002
	<b>PAGE 1 OF 14</b>
<b>SUBJECT: REASONABLE ACCOMMODATION FOR PEOPLE WITH DISABILITIES</b>	<b>APPROVAL:</b> HOLLY SCHROEDER, ACTING MSD ADMINISTRATOR

**INTENT:**

The Department of Environmental Quality (DEQ) 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 DEQ provides reasonable accommodation for people with disabilities.

**AUTHORITY:**

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; DEQ 40.000; DEQ 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 *et seq.*

**APPLICABILITY:**

All persons with disabilities including members of the public, job applicants and current employees.

**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. The Americans with Disabilities Act does not mandate affirmative action for persons with disabilities, but does require that covered entities ensure nondiscrimination. Title 4, Section 503 of the Rehabilitation Act requires affirmative action be taken in employment considerations of persons with disabilities by federal contractors.
Americans with	A comprehensive Civil Rights law requiring employers to provide accommodations for qualified individuals with

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Disabilities Act (ADA)	disabilities who are employees or applicants for employment. The reasonable accommodation obligation also extends to the benefits and privileges of employment, such as employer-sponsored training, services, and social functions. The ADA also prohibits discrimination against individuals with disabilities to state and local government services, public accommodations, transportation, and telecommunication. The law was enacted in July 1990. The public sector employment provisions (Title II) became effective on January 26, 1992.
ADA Coordinator	The Diversity Outreach Coordinator has been designated the ADA Coordinator for the Agency. The ADA Coordinator is available for consultation. This person will also coordinate the Department's efforts regarding reasonable accommodation; maintain a resource list of agencies and organizations whose primary focus or clientele is persons with disabilities; and maintain a database of all details 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, door knobs 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 Human Resources 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.
Long-Term	A condition or impairment lasting for more than six months; or the severity of the condition or impairment is such to impose a severe test of bodily or spiritual strength, i.e., cancer that has been treated and is in remission.
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 an impairment. Examples include medication for conditions such as epilepsy or hypertension; insulin used to control diabetes; prosthetic

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	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. A temporary condition may be a disability where it is significant enough to substantially limit a major life activity.
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, impact on the operation of a site, and, if applicable, overall financial resources, size, and type of operation of any parent corporation or entity.
Reasonable Accommodation	<p><u>Employment</u>—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.</p> <p><u>Services</u>—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.</p>
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.

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### POLICY:

The Department shall make reasonable accommodations for participating members of the public, a job applicant, or DEQ 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 DEQ 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 Department know an accommodation is needed. The Department 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 Department.

DEQ is committed to employ and advance in 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 an 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 DEQ 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.

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.

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

DEQ 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.

DEQ will not knowingly do business with any bidder, contractor, subcontractor, or supplier of materials who discriminates against individuals with disabilities.

DEQ will have an agreement with the lessor for all office spaces, including any common areas in the building to be used by DEQ, to comply with all applicable regulatory and building codes requirements for occupancy by DEQ, 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 DEQ as a

# DEQ AFFIRMATIVE ACTION PLAN

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state agency will be conducted; 2) accessible restroom facilities; and 3) accessible parking for the disabled in compliances with Oregon Revised Statutes (ORS) 447.233, if parking is provided under the lease.

### GUIDELINES FOR SCHEDULING PUBLIC MEETINGS OR PROVIDING MATERIALS TO THE PUBLIC:

#### When scheduling a public meeting:

Meeting facilities should have the following characteristics whenever possible:

- Free of loud noises (from airplanes, trains, and cars), and without noisy fans running during the meetings;
- A clear line of vision for those with hearing impairments and carpets with good acoustic qualities;
- Wheelchair accessible with integrated spaces so wheelchair users are not segregated.

#### Communications to the Public

##### Printed Material:

- Font - use a san serif font (without "feet") such as Arial, MS Sans Serif or Verdana; use a 12 pt font whenever possible but do not use below a 10 pt. When using a serif font ("with feet") such as Times Roman, a 12 pt is preferred.
- E-mail address - when a contact person is listed with a phone number, include an e-mail address as well.
- Alternative format - Provide a document on tape or in large print if requested (see Resource List at the end of this document for agencies that provide this service).
- Standard Language at the end of documents - If special physical, language, or other accommodations are needed for this meeting, please advise (*name of individual, phone, e-mail*) as soon as possible but at least 48 hours in advance of the meeting.

##### Web Design:

- Build Web pages to comply with the Web content accessibility guidelines put forth by the World Wide Web Consortium ([www.w3.org](http://www.w3.org)) to comply with the ADA and Section 508 of the Rehabilitation Act.

##### Sign Language Interpreter, Oral Interpreter, or Reeltime Captioner:

- These services are not provided on a routine basis. If a citizen requests an interpreter, they must do so at least 48 hours in advance. Contact the Deaf and Hard of Hearing Access Program (DHHAP) for a list of professionals (see Resource List at the end of this document for information on DHHAP).

##### Oral Discussions:

- Microphones, if used, should be accessible and flexible.
- Provide Teletypewriter (TTY) access.

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Steps	Who is Responsible	Action to be Taken
1.	Manager	Identifies the essential functions of the position on each employee's position description.
	Employee	Identifies the limitations imposed by the disability which prevents or hampers his/her ability to perform an essential function of his/her position without accommodation, and submits a request for specific accommodation. The individual may use "plain English" and need not mention the ADA or use phrases like "with reasonable accommodation" in their request.
2.	Manager	Notifies HR Analyst of employee's request for reasonable accommodation.
3.	HR Analyst/ADA Coordinator	<p>Ensures the employee is qualified to perform the essential functions of the job with or without reasonable accommodations.</p> <p>To determine whether or not the person has a disability that qualifies under the ADA, the HR Analyst coordinates an <b>interactive dialogue</b> with the employee, their supervisor, ADA coordinator, and other accommodation specialists as necessary.</p> <p>In limited circumstances, a conversation with the employee's health care provider or medical documentation may be needed for final determination. If there is a charge for this documentation it is at the employee's expense (may be covered in part/full by medical insurance). The request for documentation must be <u>job-related</u> and <u>consistent with business necessity</u> (i.e., if an employee's ability to do the essential job functions will be impaired by a medical condition or an employee will pose a direct threat due to a medical condition). If an individual has more than one disability, DEQ will request information pertaining only to the disability that requires a reasonable accommodation. A second professional opinion at the Department's expense may be required to determine an employee's disability or options for accommodation. Professionals may include doctors, licensed physician's assistants, psychologists, nurses, occupational therapists, physical therapists, speech therapists, vocational rehabilitation specialists or licensed mental health professionals.</p> <p>After determination that the employee is a qualified person with a disability, the employee, manager, HR Analyst and ADA Coordinator will begin a collaborative process to explore potential accommodations that would mitigate the limitations.</p>
4.	Management Team: HR Analyst Manager	<p>Performs job analysis and evaluates employee-submitted recommendation(s) based on the following factors:</p> <p>a) Essential functions of the job</p>

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ADA Coordinator

- b) Classification and compensation implications
- c) Collective bargaining provisions and/or ADA statutes
- d) Reasonable accommodation alternatives
- e) Nature and cost of accommodation(s), availability of financial resources, and availability of outside funding
- f) Effect of the accommodation on Agency operations, the ability of other employees to perform their duties, and the Agency's ability to fairly and effectively apply and enforce the state statutes for which it has responsibility
- g) Whether the accommodation and/or alternatives shall enable the individual to perform the essential functions of the job

Some common areas for reasonable accommodation are: facilities readily accessible and usable; job restructuring (except essential functions), modified work schedule, acquisition of modified equipment or assistive devices; adjustment of tests, policies or training; negotiated variances in the collective bargaining agreement, or provision of readers or interpreters. The Department will consider reassignment to a funded, vacant position as a possible accommodation. However, the Department is not required to create a new position. Employees cannot employ "bumping rights" to an occupied position as an accommodation for a disability.

Makes decision regarding the accommodations that will be made.

5. ADA Coordinator

Notifies the employee requesting the accommodation of the Agency's determination and specific accommodations it proposes to make if accommodations are feasible.

Documents all actions taken by the Department and ensures Agency-wide consistency in approach to approving or denying accommodation requests.

6. Employee

Notifies the ADA Coordinator if the accommodation is or is not acceptable.

7. ADA Coordinator

Coordinates with the parties involved to insure the accommodations are completed.

Enters the details of the reasonable accommodation(s), including financial, into a database maintained by Human Resources.

8. Employee

If employee rejects the accommodation(s) offered, has no reasonable alternatives, and cannot perform the essential functions of the job as a result of the rejection, the employee will not be considered a qualified individual for that position. The Agency will then take appropriate steps, up to and including termination from the position.

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- When a TTY is not available use the Oregon Relay System by calling 1-800-735-1232. This system enables you to talk with a person using a TTY through a third party.

### PROCEDURES FOR REASONABLE ACCOMMODATION REQUESTS:

#### Applicants for Employment:

Steps	Who is Responsible	Action to be Taken
1.	Manager	Identifies the essential functions of the position on the position description, particularly those requiring physical requirements. Some tools to use when establishing essential functions are: written job descriptions, the amount of time spent on the function, consequences of not performing the function, and work experience of past incumbents or incumbents in similar jobs.
2.	Human Resources	Develops recruitment announcements, which include an offer to provide reasonable accommodation to applicants, upon their request, who need assistance to participate in the application and/or selection process.
3.	Applicant	Follows the application procedure described on the job announcement, meets the qualifications for the job with or without accommodation, and qualifies by examination in the same way as a non-disabled applicant.  Submits oral or written request for accommodation to the manager in order to participate in the interview, if necessary.
4.	Manager	Interviews applicants. During the interview process, the interviewers may NOT inquire about the existence, nature, or severity of a disability. If a current employee is an applicant for a position, the employee is treated like an outside applicant for the job. A current supervisor who has confidential medical information about the employee should not disclose that information to the person conducting interviews for the new job or to the new supervisor.  Ascertains if the applicant is qualified to perform the essential functions of the job with or without reasonable accommodation.  After hiring, you may ask the employee if they can evacuate the building safely.

#### Current Employees with a Temporary Disability

(These procedures do not include temporary disabilities resulting from an on the job injury. For Worker's Compensation claims, please refer to the AFSCME Agreement or contact Human Resources.)

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Steps	Who is Responsible	Action to be Taken
1.	Employee	Obtains a written medical release from their health care provider identifying the limitations, duration of the temporary disability, whether the employee can perform a "light duty" assignment, and whether the employee can resume full duties of his/her previous assignment within ninety (90) days.
2.	Manager	Forwards this documentation to Human Resources.
3.	Employee	Contacts the ADA Coordinator to assist in placement in a "light duty" assignment for a period not to exceed ninety (90) days.
4.	ADA Coordinator	<p>Checks for the availability of a "light duty" assignment within the same geographic area. The Agency will make every effort to locate such work as the employee is capable of performing and which is available during that ninety (90) day period. If an assignment is located, the employee begins that work, the employee's manager is notified, the ninety (90) days is tracked in the Reasonable Accommodations database. The employee and his/her manager are notified shortly before the ninety (90) days has been completed.</p> <p>DEQ is not required to create an assignment for an employee. If an assignment cannot be located, the employee will go on leave until one is available, she/he has obtained a release from his/her doctor to return to work, or the ninety (90) day period has been reached. Employees cannot employ "bumping rights" to an occupied position as an accommodation for a disability.</p>
5.	Employee	Before the ninety (90) days has expired, submits to his/her manager a written release from the health care provider stating the employee can resume the full duties of his/her original assignment.
6.	Manager	Forwards the document to Human Resources. Discusses options for return to work with employee.
7.	Employee	Returns to their previous assignment, provided they can perform the essential functions of their previous assignment with or without accommodations. If the assignment is not available, they will be offered the first assignment for which they are qualified that is available and suitable. If the disability has become permanent and an accommodation is needed, please follow the steps outlined in "Current Employees."

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## CONFIDENTIALITY

Information obtained during the reasonable accommodation process regarding the medical condition or history of the applicant/employee shall be held confidential as medical records, with these exceptions:

- Managers/supervisors may be informed regarding necessary accommodations.
- First aid/safety personnel may be informed, where appropriate, if the impairment might require emergency treatment, or if accommodations need to be made for the safe evacuation of the building.
- Government officials investigating compliance with Section 504 of the Rehabilitation Act, or the Americans with Disabilities Act, shall be provided relevant information upon request.

To ensure confidentiality, all information concerning applicants/employees will be maintained by the Human Resources Section in confidential files separate from their personnel file.

## APPEAL PROCEDURES:

Any employee, applicant, or member of the public who believes they have been discriminated against because DEQ failed to provide reasonable accommodation may file a complaint with the Agency Director, Human Resource Manager, ADA Coordinator, Division Administrator, or a supervisor. All reported incidents will be investigated promptly, thoroughly, impartially, and discreetly. The investigator will notify the complainant in writing of the results of the investigation.

Formal appeals/complaints may also be filed with the state's Affirmative Action Office; the Bureau of Labor and Industries; the Equal Employment Opportunity Commission; or the United States Department of Labor, Office of Civil Rights.

## ADA RESOURCES:

Below are a list of organizations you may contact to obtain appropriate technical assistance on reasonable accommodations and questions on ADA law.

**American Council of the Blind**  
1155 15<sup>th</sup> St, NW, Suite 720  
Washington, DC 20005  
(202) 467-5081  
1-800-424-8666  
[www.acb.org](http://www.acb.org)

Founded in 1961, the Council strives to improve the well-being of all blind and visually impaired people by: elevating the social, economic and cultural levels of blind people; improving educational and rehabilitation facilities and opportunities; and conducting a public education program to promote greater understanding of blindness and the capabilities of blind people.

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**Central Oregon Resources for Independent Living (CORIL)**  
20436 Clay Pigeon Ct  
PO Box 9425  
Bend, OR 97908  
(541) 388-8103

CORIL is a non-profit consumer controlled resource center providing services designed to enhance the ability of people who experience disabilities to live more independently.

**Deaf and Hard of Hearing Access Program (DHHAP)**  
Oregon Disabilities Commission  
1257 Ferry St, SE  
Salem, OR 97301-4278  
(503) 378-3142  
[Wayne.Seely@state.or.us](mailto:Wayne.Seely@state.or.us)  
[www.odc.state.or.us](http://www.odc.state.or.us)

DHHAP is a small program that several departments of state government depend on to monitor and develop their ADA compliance for clients, employees, and constituents who are deaf, hard of hearing, and late-deafened. DHHAP is responsible to ensure that you get communication access to those departments and their services. A list of sign language interpreters and Reeltime captioners is maintained by DHHAP. DEQ has a contract with this program.

**Handicapped Awareness Support League (HASL)**  
1252 Redwood Ave  
Grants Pass, OR 97527-5592  
(541) 479-4275

HASL's Independent Abilities Center provides personal support via advocacy, peer counseling, skills training, and information and referral to individuals experiencing a disability, their caregivers, family and friends. HASL services people living in Josephine and Jackson counties.

**Independent Living Resources (ILR)**  
2410 SE 11<sup>th</sup>  
Portland, OR 97214  
(503) 232-7411  
(503) 232-8408 (TTY)  
[ilr@teleport.com](mailto:ilr@teleport.com)

ILR provides support, advocacy, and instruction to individuals with various disabilities. They will for a nominal fee, transcribe materials into large print, Braille, or onto tape.

**Job Accommodation Network (JAN)**  
P.O Box 6080  
Morgantown, WV 26505  
Phone: 1-800-526-7234 (voice/TTY)  
[www.jan.wvu.edu](http://www.jan.wvu.edu)

JAN is a free consulting service that provides information about job accommodations, the Americans with Disabilities Act (ADA), and the employability of people with disabilities. This is a free service.

**Mobility International, USA (MIUSA)**  
PO Box 10767  
Eugene, OR 97440  
(541) 343-1284 (voice/TTY)  
[www.misua.org](http://www.misua.org)

MIUSA empowers people with disabilities around the world through international exchange, information, technical assistance and training and to ensure the inclusion of people with disabilities in international exchange and development programs.

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## Northwest Americans with Disabilities Act/Information Technology (Northwest ADA/IT) Center

Oregon Health and Sciences University

PO Box 574

Portland, OR 97207-0574

(800) 949-4232

(503) 494-4001 (voice)

(503) 494-7373 (TTY)

[nwada@ohsu.edu](mailto:nwada@ohsu.edu)

[www.nwada.org](http://www.nwada.org)

The Northwest ADA/IT Center provides technical assistance, training and dissemination of information regarding the Americans with Disabilities Act. They also provide technical assistance on accessible education-based information technology. This is a free service.

## Oregon Bureau of Labor and Industries (BOLI)

800 NE Oregon Street #32

Portland, OR 97223

Phone: (503)731-4106

[www.boli.state.or.us](http://www.boli.state.or.us)

BOLI promotes the development of a highly skilled, competitive workforce in Oregon through partnerships with government, labor, business, and education; to protect the rights of workers and citizens to equal, nondiscriminatory treatment; and to advocate policies that balance the demands of the workplace and employers with the protections of workers and their families. Oregonians who feel they have been discriminated against, can call the Bureau of Labor and Industries for information and for help filing a complaint.

## Oregon Commission for the Blind

535 SE 12<sup>th</sup> Ave

Portland, OR 97221

(503) 731-3221

(503) 731-3224 (TTY)

1-888-202-5463 Oregon only

[www.cfb.state.or.us](http://www.cfb.state.or.us)

The Oregon Commission for the Blind is a resource for visually impaired Oregonians, as well as their families, friends, and employers. They help people make informed choices about their individual goals and plans, which may lead to successful employment, independent living, and social self-sufficiency.

## Oregon Disabilities Commission (ODC)

1257 Ferry Street, SE

Salem, OR 97301

503) 378-3142 (voice/TTY)

1-800-358-3117(voice/TTY) Oregon only

[Vivian.L.Davis@state.or.us](mailto:Vivian.L.Davis@state.or.us)

[www.odc.state.or.us](http://www.odc.state.or.us)

ODC was created by the Legislative Assembly in 1985. The Commission was created to advocate on behalf of Oregonians with disabilities. Its authorizing legislation is found in [ORS 185.130](#) which mandates that it advise the Governor, the Legislative Assembly, the Department of Human Resources and other state agencies on disability issues.

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**Office of Federal Contract Compliance Program**  
200 Constitution Ave, NW, Room C3325  
Department of Labor  
Washington, DC 20210  
(202) 219-9475 (voice)  
(202) 219-9390 (TTY)

Section 503 of the Rehabilitation Act says firms doing business with the US Government must take affirmative action to hire and promote persons with disabilities. Persons who believe their rights have been violated should file a complaint within 120 days with this agency.

**Senior and Disabled Services Division, Department of Human Services**  
500 Summer St NE E02  
Salem, OR 97301  
(503) 945-5811  
(503) 947-5331 (TTY)  
1-800-282-8096 Oregon only

The Senior and Disabled Services Division helps persons with disabilities seek and find employment.

**Spokes, Unlimited**  
415 Main St  
Klamath Falls, OR 97601  
(541) 883-7547 (voice/TTY)  
[Sustaff@cdsnet.net](mailto:Sustaff@cdsnet.net)

Spokes, Unlimited provides services designed to enhance the ability of people with disabilities to live more independently. Services include information and referral, advocacy, peer counseling, independent living skills training, technical assistance, and community education and outreach.

**Technology Access for Life Needs (TALN) Project**  
Salem Center and Administrative Office  
3070 Lancaster Dr NE  
Salem, OR 97305  
1-800-677-7512 (voice/TTY) Oregon only  
(503) 361-1201 (voice/TTY)  
[ati@orednet.org](mailto:ati@orednet.org)  
[www.taln.org](http://www.taln.org)

Portland Center  
Portland State University,  
Branford Price Miller Library  
PO Box 1151  
Portland, OR 97207-1151  
(503) 725-8395 (voice/TTY)  
[petteyp@irn.pdx.edu](mailto:petteyp@irn.pdx.edu)  
[www.taln.org](http://www.taln.org)

TALN assists persons with disabilities in Oregon to secure and effectively use assistive technologies. They provide a loan library, used equipment marketplace, assist in finding funding for assistive technology, provide information about assistive technology, technical assistance, and training and education for individuals and groups.

**Umpqua Valley Disabilities Network (UVDN)**  
1036 SE Douglas, Rm. 105B  
Roseburg, OR 97470  
(541) 672-6336  
(541) 440-2882 (TTY)  
[uvdn@jeffnet.org](mailto:uvdn@jeffnet.org)

UVDN provides information and referral, peer counseling, support groups, skills training, individual and systems advocacy, and ADA information and services.

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U.S. Equal Employment Opportunity Commission  
Federal Laws Prohibiting Discrimination  
400 Seventh St. SW  
Washington, D.C. 20590  
[www.eeoc.gov/facts/ada17.html](http://www.eeoc.gov/facts/ada17.html)

Statewide Policy 50.010.01  
(Discrimination and Harassment-Free Workplace)

EFFECTIVE DATE: 1/25/08

APPROVED: Signature on file with Human Resource Services Division

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

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

**APPLICABILITY:** All employees, state temporary employees and volunteers.

**ATTACHMENTS:** None

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

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

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

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

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

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

**Higher Standard:** Applies to managers and supervisors. Proactively taking an affirmative posture to create and maintain a discrimination and harassment free workplace.

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

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

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

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

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

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

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

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**Workplace Harassment:** Unwelcome, unwanted or offensive conduct based on or because of an employee's protected class status. Harassment may occur between a manager/supervisor and a subordinate, between employees, and among non-employees who have business contact with employees. A complainant does not have to be the person harassed, but could be a person affected by the offensive conduct.

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

### POLICY

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

(a) **Discrimination, Workplace Harassment and Sexual Harassment.** The State of Oregon provides a work environment free from unlawful discrimination or workplace harassment based on or because of an employee's protected class status. Additionally, the state of Oregon provides a work environment free from sexual harassment. Employees at every level of the organization, including state temporary employees and volunteers, must conduct themselves in a business-like and professional manner at all times and not engage in any form of discrimination, workplace harassment or sexual harassment.

(b) **Higher Standard.** Managers/supervisors are held to a higher standard and are expected to take a proactive stance to ensure the integrity of the work environment. Managers/supervisors must exercise reasonable care to prevent and promptly correct any discrimination, workplace harassment or sexual harassment they know about or should know about.

(c) **Reporting.** Anyone who is subject to or aware of what he or she believes to be discrimination, workplace harassment, or sexual harassment should report that behavior to the employee's immediate supervisor, another manager, or the agency, board, or commission Human Resource section, Executive Director, or chair, as applicable. A report of discrimination, workplace harassment or sexual harassment is considered a complaint. A supervisor or manager receiving a complaint should promptly notify the Human Resource section, Executive Director, or chair, as applicable.

(A) A complaint may be made orally or in writing.

(B) A complaint must be filed within one year of the occurrence.

(C) An oral or written complaint should contain the following:

(i) the name of the person filing the report;

(ii) the name of the complainant;

(iii) the names of all parties involved, including witnesses;

(iv) a specific and detailed description of the conduct or action that the employee believes is discriminatory or harassing;

(v) the date or time period in which the alleged conduct occurred; and

(vi) a description of the remedy the employee desires.

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**(d) Other Reporting Options.** Nothing in this policy prevents any person from filing a formal grievance in accordance with a CBA, or a formal complaint with the Bureau of Labor and Industries (BOLI) or the Equal Employment Opportunity Commission (EEOC) or if applicable, the United States Department of Labor (USDOL) Civil Rights Center. However, some CBAs require an employee to choose between the complaint procedure outlined in the CBA and filing a BOLI or EEOC complaint.

**(e) Filing a Report with the USDOL Civil Rights Center.** An employee whose position is funded by the Oregon Workforce Investment Act (WIA), such as employees of the Oregon Workforce One-stop System, may file a complaint under the WIA, Methods of Administration (MOA) with the State of Oregon WIA, MOA Equal Opportunity Officer or directly through the USDOL, Civil Rights Center. The complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

**(f) Investigation.** The agency, board, or commission Human Resource section, Executive Director, or chair, as applicable, will coordinate and conduct or delegate responsibility for coordinating and conducting an investigation.

(A) All complaints will be taken seriously and an investigation will be initiated as quickly as possible.

(B) The agency, board or commission may need to take steps to ensure employees are protected from further potential discrimination or harassment.

(C) Complaints will be dealt with in a discreet and confidential manner, to the extent possible.

(D) All parties are expected to cooperate with the investigation and keep information regarding the investigation confidential.

(E) The agency, board or commission will notify the accused and all witnesses that retaliating against a person for making a report of discrimination, workplace harassment or sexual harassment will not be tolerated.

(F) The agency, board or commission will notify the complainant and the accused when the investigation is concluded.

(G) Immediate and appropriate action will be taken if a complaint is substantiated.

(H) The agency, board or commission will inform the complainant if any part of a complaint is substantiated and that action has been taken. The complainant will not be given the specifics of the action.

(I) The complainant and the accused will be notified by the agency, board or commission if a complaint is not substantiated.

**(g) Penalties.** Conduct in violation of this policy will not be tolerated.

(A) Employees engaging in conduct in violation of this policy may be subject to disciplinary action up to and including dismissal.

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(B) State temporary employees and volunteers who engage in conduct in violation of this policy may be subject to termination of their working or volunteer relationship with the agency, board or commission.

(C) An agency, board or commission may be liable for discrimination, workplace harassment or sexual harassment if it knows of or should know of conduct in violation of this policy and fails to take prompt, appropriate action.

(D) Managers and supervisors who know or should know of conduct in violation of this policy and who fail to report such behavior or fail to take prompt, appropriate action may be subject to disciplinary action up to and including dismissal.

(E) An employee who engages in harassment of other employees while away from the workplace and outside of working hours may be subject to the provisions of this policy if that conduct has a negative impact on the work environment and/or working relationships.

(F) If a complaint involves the conduct of a contracted employee or a contractor, the agency, board, or commission Human Resource section, Executive Director, chair, or designee must inform the contractor of the problem behavior and require prompt, appropriate action.

(G) If a complaint involves the conduct of a client, customer, or visitor, the agency, board or commission should follow its own internal procedures and take prompt, appropriate action.

**(h) Retaliation.** This policy prohibits retaliation against employees who file a complaint, participate in an investigation, or report observing discrimination, workplace harassment or sexual harassment.

(A) Employees who believe they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing discrimination, workplace harassment or sexual harassment, should report this behavior to the employee's supervisor, another manager, the Human Resource section, the Executive Director, or the chair, as applicable. Complaints of retaliation will be investigated promptly.

(B) Employees who violate this policy by retaliating against others may be subject to disciplinary action, up to and including dismissal.

(C) State temporary employees and volunteers who retaliate against others may be subject to termination of their working or volunteer relationship with the agency, board or commission.

**(i) Policy Notification.** All employees including state temporary employees and volunteers shall:

(A) be given a copy or the location of Statewide Policy 50.010.01, Discrimination and Harassment Free Workplace;

(B) be given directions to read the policy;

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

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

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

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

Performance Standard: 100%

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

Performance Standard: 100%

<p><b>Department of Environmental Quality (DEQ)</b></p>  <p><b>POLICIES AND PROCEDURES AND GUIDELINES</b></p>	<p><b>POLICY NUMBER:</b> 50.040</p> <hr/> <p><b>EFFECTIVE DATE:</b> SEPTEMBER 25, 2001 **REVISED AUGUST 13, 2003</p> <hr/> <p style="text-align: center;">PAGE 1 OF 4</p>
<p><b>SUBJECT:</b> EMPLOYEE DEVELOPMENT, EDUCATION, AND TRAINING</p>	<p><b>APPROVAL:</b> SIGNATURE ON FILE</p>

**INTENT:**

The Department of Environmental Quality will provide resources for employees to keep abreast in the areas of his/her current position and to encourage career development in state service. In accordance with the Oregon Benchmarks, the DEQ goal will be to provide as many employees as possible with at least twenty (20) hours of training related to work skills and knowledge within each fiscal year. This goal is to be achieved through the development and maintenance of individual training plans.

**AUTHORITY:**

ORS.240.145(3)(4); 240.250; 240.551; OAR 839.020.0044(7); Oregon Benchmarks; AFSCME Collective Bargaining Agreement.

**APPLICABILITY:**

Education/training is accessible to all DEQ employees.

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### DEFINITIONS:

Job-Related Education	Education/training necessary to prepare the employee to execute his/her current job or to improve the employee's job performance. This may also include classes about valuing diversity in the workplace, safety, organizational perspectives, workplace harassment, and other programs to build understanding of state government or organization priorities and activities.
Career Development Education	Education/training to assist the employee in obtaining or improving skills for promotion or job changes within DEQ or state service.
Educational Leave	Unpaid leave granted by the Agency for the purpose of completing course work to upgrade skills, completing a degree, or learning a trade.

### POLICY:

DEQ will provide opportunities for education/training for employees to perform their current jobs, and to prepare them for additional responsibilities.

**Job-related education** is paid from program funds at 100% of the cost of the class/workshop, fees and books. Books purchased in conjunction with the class/workshop will become the property of the Agency. Attendance at a job-related class/workshop is on paid time. All new managers will completed the appropriate Department of Administrative Services (DAS) **Management Development Series** course within six (6) months of hire.

If a **certification/license** is required for a position, DEQ will pay for the certification/license fee as well as the study course to prepare for the exam. Time spent in required training outside regular working hours at the study course which is required for certification is on the employee's own time (OAR 839.020.0044(7)).

**Public Employee's Retirement System (PERS)** sponsored retirement and investment seminars will be paid from program funds at 100% of the cost of the seminar. These seminars will be on paid time if during the employee's regular work hours. If the seminar takes place outside the regular working hours, it is on the employee's own time.

**Career development education** is reimbursed from program funds. Prior authorization for a course and an approved Career Plan on file in Human Resources are required for reimbursement of career development education. Up to 75 active participants may participate in this Program at any given time. Attendance at training for career development education is on the employee's own time.

Employees at salary range 20 and above are reimbursed at 50% of the cost of tuition and fees related to the class (pro-rated for part-time employees); employees at salary range 19 or below are reimbursed at 75% of the cost of tuition and fees related to the class (pro-rated for part-time employees). Reimbursement is not to exceed \$1000 in a twelve month period and the year starts with the first reimbursement payment.

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No funds are to be carried over from year to year and the funds are available to each participant for a period of up to three consecutive years. The employee must submit documentation of a "pass"/grade of "C" or better in the class for reimbursement. If the class is credit/no credit the employee must receive credit status. The cost of books is not reimbursable unless the program manager agrees at the time of enrollment to purchase and retain the books as Agency property.

There may be times when, for reasons such as budget constraints, workload, or other operational reasons, a manager may deny an education/training request. The reasons for denial should be in writing to the employee with a copy forwarded to Human Resources.

Education/training is available to employees without regard to race, color, religion, gender, national origin, age, sexual orientation or mental or physical disability.

### GUIDELINES:

Job-Related Education	All DEQ employees are eligible.
Career Development Education	<p>All regular and limited duration status employees are eligible for career development education. Trial service employees, temporary employees, employees who have a current work improvement plan, and employees who have had a disciplinary action within the last year are not eligible to participate.</p> <p>With manager approval, employees will develop a Career Plan for the attainment of skills and knowledge not related to the employee's current position but will aid in advancing the employee's career within DEQ or state service. Career Plans must be practical for the employee to achieve within a reasonable length of time. If the "final goal" is long-range and will require several years to attain appropriate training and experience, the employee should list an annual goal and what is necessary to achieve it. Once the annual goal is achieved, the Career Plan should be revised for the next year, if appropriate.</p>
Educational Leave	<p>All regular status employees are eligible for educational leave without pay. Trial service, limited duration, and temporary employees; employees who have a current work improvement plan; and employees who have had a disciplinary action within the last year are not eligible to participate.</p> <p>Employees may request up to one year of unpaid educational leave from their jobs to upgrade skills, complete a degree, or learn a trade. Leaves are privileges and may be approved for employees only after consideration of all of the following:</p> <ul style="list-style-type: none"> <li>• Workload and needs of the Agency</li> <li>• Benefits of particular course work to the Agency</li> <li>• Commitment of employee to return to the Agency</li> <li>• Employee's performance record</li> </ul> <p>Upon return from educational leave the employee will return to the position held immediately preceding commencement of the leave or another equivalent position.</p>

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### RESPONSIBILITIES:

Employees	<ul style="list-style-type: none"> <li>• Assess his/her own skills, talents, and development needs</li> <li>• Set goals and objectives</li> <li>• Meet with his/her manager to prepare a Career Plan, if needed</li> <li>• Obtain manager's approval for education/training</li> <li>• Attend the class/workshop, and assimilate and utilize the new skills obtained</li> <li>• Upon completion of the workshop/class, submit verification of attendance to Human Resources for inclusion in his/her training record</li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>• Oversee the administration of the policy</li> <li>• Assist in identifying training resources</li> <li>• Assist employees in assessing his/her interests and talents and setting goals and objectives</li> <li>• Maintain employee training records with information submitted by employee</li> <li>• Approve Career Plans and maintain employee files for those who are in the Career Development Program</li> </ul>
Managers	<ul style="list-style-type: none"> <li>• All new managers will complete the appropriate DAS Management Development Series course within six (6) months of hire</li> <li>• Review the employee's request for education/training and/or Career Plan and approve or deny the request</li> <li>• Determine whether the employee's career development education is eligible for reimbursement under the policy</li> <li>• Review the employee's training record and/or Career Plan when preparing the employee's annual work agreement and performance review so education/training can be discussed along with other job-related needs</li> </ul>

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### PROCEDURES:

The training requisition form (Word template) is used for all training, except for training conducted within DEQ and no-cost training such as some Environmental Protection Agency (EPA) sponsored courses.

<p>Job-related Education (paid before training begins)</p>	<ul style="list-style-type: none"> <li>• The employee completes the training requisition form with the "job-related" box checked and submits the form to his/her manager.</li> <li>• The manager reviews the training requisition; and, if approved, sends the form to the <u>Business Office</u>. If the education/training is outside Oregon borders, an Out-of-State Training Justification form needs to be completed.</li> <li>• The Business Office processes the request for payment.</li> <li>• Upon completion of the workshop/class, the employee may submit verification of attendance to Human Resources for inclusion in his/her training record.</li> <li>• Human Resources enters the education/training into the employee's official training record.</li> </ul>
<p>Career Development Education (paid after completion of the class/training)</p>	<ul style="list-style-type: none"> <li>• The employee completes a Career Plan (Word template); the manager reviews the Plan; and, if the Plan is approved by the manager, it is submitted to Human Resources for approval before reimbursement can occur. If the education/training is outside Oregon borders, an Out-of-State Training Justification form needs to be completed before the education/training can begin.</li> <li>• Upon completion of the course, the employee completes the training requisition form with the "career development" box checked and submits the form, tuition receipts, and an official grade transcript to his/her manager.</li> <li>• The manager reviews the training requisition; and if approved sends the form, employee's tuition receipt, and official grade transcript to <u>Human Resources</u>.</li> <li>• Human Resources reviews the requisition, calculates the amount the employee will be reimbursed, updates the employee's file, and forwards the requisition to the Business Office for payment to the employee.</li> </ul>
<p>Educational Leave</p>	<ul style="list-style-type: none"> <li>• The employee submits a written request within four months of the intended leave indicating the period of leave, the name of school, the course work, and any other relevant information. The request can be for a period not to exceed one year. If the educational leave is taken for job-related or career development education/training, the procedures for payment noted above apply.</li> <li>• The employee forwards the request to his/her manager. Educational leave must be approved by his/her manager, the Division Administrator, and Human Resources Manager.</li> <li>• Leave is subject to approval in accordance with the applicable collective bargaining agreement or policy.</li> </ul>

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## Veterans' Preference in Employment

All agencies for the State of Oregon provide honorably-discharged veterans and disabled veterans with preference points in employment as follows:

*Veterans must submit 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.*

**5 points (Veteran):** must have served on active duty in the Armed Forces:

1. For more than 178 consecutive days (less if discharged under honorable conditions); or
2. In a combat zone for at least one day; or
3. Received a combat or campaign ribbon for service in US Armed Forces.

*There is no limit to the number of times a veteran may use these points within 15 years of discharge or release from service.*

**10 points (Disabled Veteran) must be:**

1. A person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty; or
2. Entitled to disability compensation under laws administered by the United States Department of Veterans Affairs; or
3. Awarded the Purple Heart for wounds received in combat.

*There is no limit to the number of times a veteran can use these points. These points never expire.*

## Applying Veterans' Preference Points in Employment

The first step of the applications review process is determining whether an applicant meets the minimum and special qualifications for a position. (Human Resources)

- 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.

## Initial Application Screening

Following the minimum qualification review by Human Resources, the manager conducting the recruitment has the following options:

- Following Scored Application Questions and Scored interviews, 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.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

- For applications that do not include test questions, the manager will interview all applicants who meet the minimum or special qualifications of the classification including any Veterans -the applications are ranked in order of interest or qualification the Veteran is moved up one position in the ranking and the Disabled Veteran two places in the ranking; or
- In the case of a very large applicant pools, supplemental questions may be sent to each of the applicants who meet the minimum qualifications (in lieu of a first interview) and from scoring those questions determine who is to be interviewed.

### Interviewing

If interviews are conducted based on strengths and needs rather than numerically scored, the Veterans will receive further consideration as outlined:

- Following the Interview and ranking of candidates based on their interview and skills, the veteran is moved up one step on the list and the Disable Veteran moved up two steps on the ranking list.
- If a Veteran or Disabled Veteran is determined to be equal to the top applicant or applicants for a position 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.

Preference points applied above are 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.

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 notifications that they were not selected. The agency will respond in writing.

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

Department of Environmental Quality	Policy Number: 10.050
Policies and Procedures	Effective Date:
	Page 1 of 1
Subject: Public Complaints about Reasonable Accommodation	Approval:

**INTENT:**

The purpose of this policy is to provide a complaint process for individuals regarding Reasonable Accommodations under the Americans with Disabilities Act.

**AUTHORITY:**

The Americans with Disabilities Act

**POLICY:**

- A) DEQ shall make a good faith effort to provide reasonable accommodations to the public when requested to do so by an individual who needs the accommodation.
- B) Individuals who believe DEQ has not followed this policy have the right to file a complaint against the Agency.

**RESPONSIBILITIES:**

The Director of the DEQ is responsible for forwarding any complaints to the Affirmative Action Officer. The Affirmative Action Officer is responsible for responding to the complaint and providing any reasonable accommodations to the individual when appropriate.

**PROCEDURES:**

- 1) Any individual who feels s/he did not receive reasonable accommodation for a disability after requesting accommodation may file a written complaint with the Director of the DEQ. A verbal complaint will be accepted if a written complaint is not possible.
- 2) The complaint must contain the request for accommodation and why the individual believes the accommodation is reasonable, the date of the initial request for accommodation and the name of the employee at DEQ who responded to the initial request for information.
- 3) The Director will forward the complaint to the Affirmative Action Officer who will respond to the complaint within 7 days of receiving the complaint.
- 4) The individual may accept the Agency response, or may appeal the complaint to the state's Affirmative Action Office.

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

Department of Environmental Quality	Policy Number: 40.020
Policies and Procedures	Effective Date:
	Page 1 of 7
Subject: Recruitment Process	Approval:

**INTENT:**

To provide the procedures involved in the recruitment process.

**DEFINITIONS:**

Types of Appointments:

- 1) Permanent: an appointment to a full- or part-time position that is usually expected to last indefinitely subject to individual's wishes or availability of permanent funding. Employee serves first six months on trial service.
- 2) Limited Duration (LD): an appointment made for a special study or project of uncertain or limited duration, or to a position with limited funding. or when position reduction is anticipated. This type of appointment is limited to no more than two years. These appointments also require a six-month trial service period.
- 3) Seasonal. An appointment to a position which occurs, terminates, and recurs periodically and regularly regardless of its duration.
- 4) Temporary: The appointment of a person for the purpose of meeting emergency or non-recurring, short term workload needs of the agency. A temporary employee may not work more than the equivalent of 6 months (1040 hours) in a 12-month period unless an extension is granted.

**AUTHORITY:**

Administrative Rules 105-40-010, 105-40-020, 105-40-030, 105-40-040, State Policy 40.025.01; ORS Chapter 240, 249.391, 659.415, 659.420; Collective Bargaining Agreement Article 16 - Filling of Vacancies.

**APPLICABILITY:**

Classified represented, management service and temporary employees.

**POLICY:**

- A) In accordance with state policy, applicants for any position will be chosen from the following lists, listed in the order of consideration:
- 1) Injured Worker
  - 2) DEQ Layoff

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- 3) Statewide Reemployment Layoff
  - 4) Agency Transfer
  - 5) The sequence for consideration of other lists is optional. These other lists include:
    - a) Agency Promotion
    - b) Statewide Promotion
    - c) Statewide Transfer
    - d) Open Competitive
- B) Job announcements will be posted for a minimum of five (5) days and will be distributed widely throughout the Agency. All DEQ candidates meeting the minimum qualifications of a vacant position will be interviewed for the position for which they have applied.
- C) Oral interviews will be held and applicant references checked before a hiring decision is made. Upon selection of a candidate for a position, managers will announce the selection to all DEQ employees.

### **GUIDELINES:**

Managers must first balance the task to be completed against current employee developmental opportunities. Consideration must be given each time to the employee's view: "Is this a potential developmental opportunity?" Managers must consider developmental opportunities before hiring a temporary employee. Please see DEQ Policy 40.040 on Alternative Methods of Filling Positions .

Post selection interviews may be offered to the unsuccessful DEQ candidates. These interviews include the basis for not being selected, areas to improve, and identification of training and/or continuing education needs.

### **PROCEDURES:**

The general recruitment process is explained below (I). The step-by-step processes of different types of appointments are also explained following the general process (II).

(I) DEQ's general recruitment process involves the following steps:

A) Staffing Request

When the manager identifies a staffing need, whether it be for a permanent position or temporary assistance, a Staffing Request Form should be completed. The form for requesting temporary staff is different than the one used for permanent, LD, or seasonal positions (see attachments). The form needs to be signed by the Division Administrator (DA), the Budget Manager, and the Human Resources Manager, in that order. The Staffing Request must identify the position to be filled, the type of appointment and the method of recruitment desired.

B) Position Description

Human Resources (HR) reviews the position description on file to be sure it is current and requests the manager to update it if needed.

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If it is a temporary position, managers must provide a description of the duties to be performed by the employee, so that HR can determine the correct classification and compensation. Documentation justifying the need for the temporary employee must be provided to HR for the personnel records.

If it is a new position, which has never been filled, managers must provide the appropriate Classification Analysis paperwork and new position description. HR verifies that these documents have been completed and approved.

### C) Knowledge, Skills, or Abilities and the Experience and Training Examination

The most common method of open competitive recruitment is the Experience and Training (E&T) examination. Managers choosing to use this method of recruitment will need to identify two to four Knowledge, Skills, and/or Abilities (KSAs) that an employee in the position should possess in order to do the job. For each KSA identified, managers will formulate scoring criteria - through what experience and/or training would an acceptable candidate have developed this knowledge, skill, and/or ability, and what experience and/or training would an outstanding applicant have. Once the criteria have been developed, managers will develop exam questions for inclusion in the job announcement. The manager submits this information to the personnel officer who reviews it, discusses it with the manager and prepares the announcement.

### D) The Job Announcement

An announcement does not need to be developed for a direct appointment or a temporary service contract appointment. If the manager identifies someone who meets the minimum qualifications for the classification, the manager offers the position to that individual after the Temporary Staffing Request and the justification for hiring a temporary employee have been approved. HR needs to receive an application form (PD 100) and be notified of the starting date of the temporary employee before the employee actually begins work. See the step-by-step procedures under "Temporary Appointments" for the procedures involved in hiring a temporary employee from a contracted temporary agency.

For regular appointments, the personnel officers draft a job announcement in the proper format. HR sends the announcement by e-mail to Salem and posts it on the State Jobs announcements list. HR places it on the DEQ Web Page, and informs all DEQ staff of the opening via e-mail or other internal communication. If open competitive, the announcement is sent to the Agency's Affirmative Action list. HR also places the announcement on the Jobline, and prepares on a classified advertisement for publication, if necessary.

### E) Screening

When the announcement closes, the personnel officer reviews the applications to be sure the applicants meet the minimum qualifications, and grades the exam questions or arranges them for grading by subject matter experts to be determined by the manager. After the applications are graded, they are sent back to HR for data entry. HR cannot run the official certificate of applicants until the data entry has been completed. HR converts the scores using an established conversion table and provides the manager with a list of the applicants in rank order and copies of the applications. The manager then arranges interviews.

Often, applicants with disabilities on the list are missed since they are not required to answer the questions on the recruitment announcement and do not have a score listed. They must be offered an interview, however, so it is important for managers not to overlook these applicants.

## **DEQ AFFIRMATIVE ACTION PLAN 2009-2011**

Before conducting interviews, the manager reviews the interview questions with the personnel officer. All applicants with the same score are interviewed. If an applicant with a certain score is interviewed, any applicants with that identical score must be interviewed as well. The interview panel should consist of at least two individuals. After interviewing, managers should check employment references of all finalists. No offer should be made without first reviewing the selection with HR.

### F) Hiring

After discussing selection with HR, the manager offers the position. New employees are generally offered a salary within the bottom half of the salary range unless otherwise approved by the DA, Budget Manager, and HR Manager.

The personnel officer needs to be informed immediately who the new employee is, when he/she starts, and if a higher salary has been approved. All interview materials - notes, reference checks, comments - need to be submitted to HR within one week of the position being filled. Documentation should clearly indicate why the hired candidate was selected over others. Managers should record the results of contacting applicants, such as declined interview, could not be reached, interviewed, etc., on the certificate of eligible.

HR completes the Staffing Request and processes all necessary information for the hiring of the employee. HR also provides all necessary orientation paperwork for the new employee.

(II) The different types of recruitment procedures are explained below:

#### A) Temporary appointments:

- 1) Manager fills out Staffing Request and contacts personnel officer.
- 2) Manager provides justification for temporary position and short position description.
- 3) HR reviews justification and duties and determines the appropriate classification and compensation.

For Temporary Service Contract Provider:

- 4) HR places job order, giving the contracted temporary service provider the experience and skills required for the assignment.
- 5) HR provides manager with name of temporary employee, produces tracking sheet, inputs data, and provides necessary information to Accounting Section.

Managers should notify HR if temporary employee is not working out and a replacement will be requested.

- 6) The manager should inform HR when temporary assignment is completed, or if there is a need to extend. If extension is necessary, manager should fill out "Approval to Extend a Temporary Appointment."

For Recruiting: Refer to the Open Competitive Procedures.

#### B. Agency Promotion/Transfer

1. Manager fills out Staffing Request and contacts personnel officer to discuss recruiting.
2. HR checks for a current position description and asks the manager to revise it if necessary.

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### For Existing List:

3. HR runs agency promotional (AP) list using appropriate skill codes. Either HR or the manager notifies applicants of the position.
4. The manager designates contact person for receiving calls and scheduling interviews.
5. The manager develops interview questions and reviews them with the personnel officer, after which the panel interviews applicants.
6. Employment references should be checked for any finalists after interview.
7. Manager chooses a candidate and reviews the selection with personnel officer after which the manager may offer the job..
8. If the offer is accepted, the manager notifies those interviewed but not selected. If it is not accepted, the manager should contact the next choice after discussing with HR.
9. Manager confirms appointment with HR and sends all interview notes to HR to be filed.

### To Develop New List:

1. Announcement information taken from position description and requisition; there will be no exam questions.
2. HR establishes open and close dates, and contacts the Department of Administrative Services (DAS) for announcement and exam number.
3. HR places announcement on DEQ Job Summary list, and sends hard copies to DAS.
4. Employees need to submit applications to HR by close date.
5. HR will review applications for minimum qualifications of applicants and enter all applications into computer system.
6. DAS computer system generates grade and reject notices and sends to applicants.
7. The manager will develop interview questions and review them with the personnel officer.
8. The manager will contact applicants for interview.
9. HR will provide copies of applications of candidates being interviewed.
10. The manager with one or more staff members will conduct interviews.
11. Employment references should be checked for any finalists after interview.
12. Manager chooses a candidate and reviews the selection with personnel officer.
13. After HR has approved the selection, the manager may offer the job.
14. If the offer is accepted, the manager notifies those interviewed but not selected. If it is not accepted, the manager should contact next choices after discussing them with HR.
15. Manager confirms appointment with HR and sends all interview notes to HR for personnel files.

### A. Open Competitive

1. Manager fills out Staffing Request and contacts personnel officer to discuss recruiting.
2. HR checks for a current position description and the manager revises it, if necessary.

### For Existing List:

1. HR runs Open Competitive list using applicable skill codes and separate AP list.
2. HR discusses list with manager to: determine applicants to contact and to identify appropriate KSAs for inclusion in the notification letter.
3. The manager designates contact person for receiving calls and scheduling interviews.

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4. The manager develops interview questions and reviews them with the personnel officer, after which the manager can interview applicants.
5. Employment references should be checked for any finalists after interview.
6. Manager chooses a candidate and reviews the selection with personnel officer after which the manager may off the job..
7. If the offer is accepted, the manager notifies those interviewed but not selected. If it is not accepted, the manager should contact next choice after discussing it with HR.
8. Manager confirms appointment with HR and sends all interview notes to HR to be filed.

### To Develop New List:

1. HR offers examples of KSAs, grading criteria, and exam questions. The personnel officer will discuss advertising, length of time for announcement to be open, process, and time frame with manager.
2. Manager drafts exam and scoring criteria based on KSAs and submits them to HR for review. HR will review the exam, refine it if necessary, discuss any proposed changes with manager, and finalizes.
3. The personnel officer drafts the recruitment announcement in the proper format, contacts DAS for announcement number, and provides DAS with information on recruitment plans.
4. The announcement is put in the proper formats for posting on the DEQ Web Page, and the State Jobs Internet site.
5. HR faxes copies of the announcement to all regional offices and maintain copies in headquarters.
6. A recording of the announcement is placed on the Jobline.
7. If an advertisement is necessary, HR writes the ad and prepares requisition to pay for ad.
8. HR informs all DEQ staff of the opening through e-mail or other internal communication.
9. HR receives and processes all applications. The personnel officers check the applications for minimum qualifications.
10. Near close of announcement period, HR and manager discuss the number of applicants to determine whether to extend or close; if the number of applicants is small, the announcement may be extended.
11. Once announcement closes, the personnel officer grades the applications or arranges them for grading by subject matter experts. Graders outside of HR are chosen by the manager.
12. If applications are graded outside of HR, they should be returned after grading. HR converts scores, and runs certificate of eligible for managers. Computer issues grade notices to all applicants.
13. The personnel officer and manager discuss the appropriate scoring cutoff.
14. The manager develops interview questions and reviews them with the personnel officer.
15. The manager or HR contacts applicants for interview, depending on the availability of staff.
16. HR provides copies of applications of candidates being interviewed to the manger.
17. The manager along with one or more staff members conducts interviews.
18. Employment references should be checked for all finalists after interview.
19. Manager chooses a candidate and reviews the selection with personnel officer after which the manager may offer the job.
20. If the offer is accepted, the manager notifies those interviewed but not selected. If it is not accepted, the manager should contact next choice after discussing it with HR.
21. Manager confirms appointment with HR and sends all interview notes to HR for filing.

## DEQ AFFIRMATIVE ACTION PLAN 2009-2011

Department of Environmental Quality  Policies and Procedures	Policy Number: 40.030
	Effective Date:
	Page 1 of 2
Subject: HIRING PRACTICE	Approval:

**INTENT:**

The purpose of this policy is to address those issues involved in the hiring process once recruitment has been completed and an applicant has been selected.

**AUTHORITY:**

Administrative Rule 105-40-010, ORS Chapter 240, DEQ Policy 40.000, Personnel Management Law SB 57. Collective Bargaining Agreement Articles 16 and 17.

**APPLICABILITY:**

Classified represented, management and executive service employees.

**POLICY:**

- A) DEQ will base hiring and promotional decisions on an applicant's relevant knowledge, experience, skills, and work habits determined by competition without regard to individual's race, color, sex, marital status, national origin, political affiliation, disability, age, sexual orientation or other non-job related factors.
- B) All new employees will be started within the lower half of the salary range, unless otherwise authorized by the Division Administrator, Budget Manager, and Human Resources Manager.
- C) All new employees of DEQ appointed to permanent or limited duration positions will serve the first six months on trial service to assure that the employee is capable of performing the required duties of that position.
- D) Managers will provide clear documentation to the reasons of hiring a selected candidate over others.

# DEQ AFFIRMATIVE ACTION PLAN

## 2009-2011

### GUIDELINES:

- A) Managers should note the following:
- 1) When someone from the list of eligible who does not have the highest score is hired, there must be clear documentation why those with higher scores were not hired.
  - 2) After interviewing is completed and someone has been chosen for a position, copies of applications for all those interviewed plus all interview and reference notes must be forwarded within seven (7) calendar days to Human Resources be filed. Interview and reference notes should identify interviewer by full name. Include any reason an applicant was not hired.
  - 3) Reasons for not hiring may include, but are not limited to:
    - a) Applicant chosen has best background for particular job (note what specifically)
    - b) Poor references
    - c) Applicants demonstrated interpersonal skills would not fit into the work unit.
  - 4) Specific reasons for not hiring needs to be noted only on those with equal or higher scores than the applicant hired. Records will be retained on file in Human Resources in accordance with State Archives record retention rules.
  - 5) If a structured interview is conducted, with clear, objective criteria and point values assigned, and the top-ranking applicant is hired, no other justification is necessary.
- B) To maintain an Equal Opportunity Employment environment, managers should:
- 1) Prepare job-related interview questions based on the position description.
  - 2) Have objective criteria and point values established for evaluating answers to interview questions.
  - 3) Have interview questions reviewed by Human Resources prior to beginning interviews.
  - 4) Ask the same interview questions of all applicants.
  - 5) Summarize the points made during interviews.
  - 6) Use a reference form (see attachment) to check employment references.
  - 7) Hire the "top-ranked" candidate, unless there is justification not to.
- C) When a person is hired, all of the following must be returned to Human Resources:
- 1) Original application of candidate hired, starting date and starting salary (must have documented approval from Division Administrator for anything above step four).
  - 2) Interview notes and references on candidate selected and reasons for picking the particular applicant.
  - 3) Applications, interview notes, and, if applicable, references on all candidates interviewed and reasons for not hiring.
- D) Managers should note the disposition of all candidates on the hiring certificate: e.g.,
- 1) Declined this particular job
  - 2) Failed to reply or show for scheduled interview

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- 3) Only wants part-time work
- 4) Not in location preference
- 5) Applicant considered, another hired

E) Trial service is applicable to management service as well as those represented positions covered by Article 17 of the Collective Bargaining Agreement.

### **RESPONSIBILITIES:**

Managers and personnel officers are responsible for making sure that hiring practices are in accordance with this policy.

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Department of Environmental Quality	Policy Number: 40.040
Policies and Procedures	Effective Date:
	Page 1 of 3
Subject: ALTERNATIVE FILLING METHODS	Approval:

### INTENT:

This policy provides an explanation for alternative methods to filling vacancies, i.e. job shares, special assignments, job rotations, developmental assignments, and double-fills. It is intended to be used in conjunction with other policies regarding hiring and the recruitment process.

### DEFINITIONS:

In cases where an employee is asked to perform the duties of a position in a higher classification, there is a necessity for work out of class compensation. Refer to DEQ Policy 20.030, Work Out of Class.

A job share is a situation where a full-time position is filled by more than one person. Employees who wish to participate in job sharing will submit requests to Human Resources to be considered.

In a job rotation or special assignment, employees may be asked to fill a position they are already classified or qualified to perform. The employee remains assigned to their regular position throughout the special assignment or job rotation and returns to their normal work at the end of the assignment. If the duties assigned are at a classification higher than that of the employee's regular duties, work out of class compensation will be granted.

A developmental assignment allows an employee of a lower classification to fill a position of higher classification or salary range to gain knowledge and develop skills in other areas. The employee does not need to have the necessary qualifications in this case as the objective is for the employee to gain the experience towards meeting the qualifications. Work out of class compensation is not available for developmental assignments.

Double-Filling involves assigning two employees to one position.

### AUTHORITY:

Administrative Rules 105-40-050, 105-40-070; ORS 240.145(3), 240.012, 240.013, 240.015(7), 240.250.

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## POLICY:

- A) DEQ management is aware that the most valuable resource of the Agency is its employees, and in recognizing the ongoing commitment and contribution of these employees, managers will make efforts to consider developmental and career enrichment opportunities for employees in the event of any job vacancy.
- B) A manager may consider any of the following alternative filling methods for a vacancy:
- 1) Job Share, or
  - 2) Job Rotation or Special Assignment, or
  - 3) Developmental Assignment.
- C) Double-fills will only be justified in the following cases:
- 1) to cover an employee on leave when temporary appointment is not appropriate and a vacant position does not exist.
  - 2) short-term transitions of employees into positions for purposes of training or pending a vacancy.
  - 3) a pending position establishment or modification is in process.
  - 4) when approved and/or directed by Budget and Management Division to address budget issues.

## GUIDELINES:

This policy only addresses those opportunities arising when a manager needs to fill a position. Training and career development policy and procedures are regulated by DEQ Policy 50.040.

## RESPONSIBILITIES:

An employee interested in being considered for a job share or special or developmental assignment should inform Human Resources and his/her manager. Managers and personnel officers are responsible for making sure that consideration is given to any employee interested for these types of opportunities when filling a position.

## PROCEDURES:

For Special Assignments:

- 1) Manager fills out Staffing Request and contacts personnel officer to discuss assignment.
- 2) HR will check for a current position description and the manager will need to revise it if necessary.
- 3) If manager and an employee have already worked out an agreement, then manager will inform HR for approval and necessary follow-up paperwork. The manager may then make a direct appointment.
- 4) If no direct appointment will be made, HR will make an agency announcement via internal communication systems.
- 5) Any interested employees will respond by the closing date of the announcement.
- 6) HR will review applicants, and notify manager of any qualified candidates.
- 7) Manager develops interview questions and submits to HR for review and approval, after which the manager can interview applicants.
- 8) Manager makes selection and reviews with HR.
- 9) Manager offers job and sends all interview notes to HR for retention.
- 10) HR gets paperwork ready for employee (WOC, etc.) and retains file.

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11) If job was not accepted, manager offers to second choice or selects another approach to getting work done.

Department of Environmental Quality	Policy Number: 40.060
Policies and Procedures	Effective Date:
	Page 1 of 5
Subject: Return of Injured Workers	Approval:

### INTENT:

The intent of this policy is to provide procedures for the return of injured employees to work at the Department.

### DEFINITIONS:

Injured Employee - An employee who incurred a compensable injury while employed by the Department and who has not waived reinstatement and reemployment rights under ORS 659.415 and 659.420.

Modified Work Assignment - A work assignment different from an injured employee's regular work duties which that employee is capable of performing and does not normally exceed 90 days.

Permanently Restricted Injured Employee - an injured employee who has recovered sufficiently to be released to return to work by a physician but who has physical restrictions that do not allow the employee to return to the employee's pre-injury position.

Temporary Restricted Injured Employee - an injured employee who is reasonably expected to recover fully and is released by a physician to return to a modified work assignment prior to returning to the employee's pre-injury position.

### AUTHORITY:

ORS 240.015, 240.306, 240.391, 659.412, 659.415, 659.420; Administrative Rules 105-40-005, 105-40-015, 105-40-020, 105-40-025, 105-50-020; BOLI Rules 839-06-100 - 839-06-165; DAS 50.020.01, Collective Bargaining Agreement Article 41.

### APPLICABILITY:

Classified represented, management and executive service employees.

### POLICY:

DEQ's Return-to-Work Program is committed to returning injured employees to work as soon after an injury or illness as possible. The Department shall identify available and suitable modified work assignments for injured employees within 24 hours of a return-to-work notification. This policy sets forth responsibilities and procedures for implementing the Department's Return-to-Work Program.

# DEQ AFFIRMATIVE ACTION PLAN 2009-2011

## POLICY CLARIFICATION:

The Department will attempt to find available and suitable work for employees who are unable to perform their regular job duties due to an injury or illness which is not work-related.

## PROCEDURE:

A) Notification and completing required forms:

Employee:

The employee must immediately notify his or her supervisor of an on-the-job injury or illness. The SAIF 801 insurance form and DEQ Occupational Injury/Near Miss Report Form must be completed by the employee before seeking medical attention, or within 24 hours if an emergency. Employees who seek medical attention must provide the treating physician with a copy of the "Physicians Report for Authorized Leave or Modified Work."

Supervisor:

Ensure employee completes the SAIF 801 and DEQ Occupational Injury/Near Miss Report Form. Supervisor must complete his/her portion of the forms and submit them to Human Resources within 24 hours of the injury.

The Supervisor should check with the employee during his/her shift. If the employee has not returned or contacted the supervisor by the beginning of the next scheduled work shift, the supervisor will immediately call the employee at home to determine the injured employee's condition.

The Supervisor must contact Human Resources once the employee's condition has been determined.

B) Employee is released to work without restrictions:

Employee:

The employee must report to work at his/her regularly scheduled time. Vehicle inspectors must report to the Tech Center. All other employees must report to their regular work location.

Human Resources:

Human Resources records the information in the agency Log Book and on the OSHA 200 log.

C) Employee is released to work with restrictions:

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Employee:

The employee must report to work at his/her regularly scheduled time. Vehicle inspectors must report to the Tech Center. All other employees must report to their regular work location.

The injured employee must provide his/her supervisor with a copy of the treating physician's report. A temporary, modified work assignment will be made available if the employee cannot perform his/her regular job duties. The modified work assignment may end when any of the following conditions occur:

- a. ninety consecutive calendar days have elapsed since Day One of this temporary assignment; or
- b. suitable modified work is no longer available; or
- c. doctor releases employee for regular work without restrictions; or
- d. doctor documents permanent medical restrictions that prevent the employee from returning to the regular job without restrictions; or
- e. employee's claim for workers' compensation is denied.

Employees on modified work assignment must submit a Physician's Report to Human Resources after each visit to the doctor.

Refusal to accept a modified job assignment could affect time loss compensation, could mean loss of employee's reemployment and reinstatement rights, and could affect employee's vocational eligibility.

Human Resources:

Human Resources will work with the supervisor to determine if the injured employee's job can be modified to meet medical limits. If current job duties cannot be changed, Human Resources will immediately begin to identify a modified work assignment within the agency. Human Resources will develop a modified work assignment based on the following guidelines:

- a. the treating physician will be consulted if there are questions about employee's limits or abilities to perform the assigned tasks to seek approval for modified work assignment;
- b. when possible, the modified work assignment will be made in the following order: injured employee's work unit, program, division, agency;
- c. the employee can begin modified work immediately unless the doctor has approved time off;
- d. the modified work assignment offer will include: location, date, and time to report for work; name and phone number of supervisor; number of days or weeks that work will be available (usually no more than 90 days); rate of pay;
- e. the offer can be made by phone and followed-up in writing if the employee is not at work.
- f. the employee can start work before the written job offer is received;
- g. the employee will sign the modified work assignment offer. A copy will be sent to SAIF.

Human Resources will provide the injured employee with a copy of the "Injured Workers Rights and Responsibilities" fact sheet.

D) Employee is not released for regular or modified work:

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Employee:

Employee must notify supervisor within 24 hours of the treating physician's diagnosis. Employee must send Human Resources a written statement from the treating physician indicating inability to work.

Employee must submit to Human Resources a Physician's Report after each visit to the treating physician.

Human Resources:

Human Resources will ensure employee submits the initial Physician's Report from the treating physician and ensure that a Physician's Report is submitted after each proceeding visit to the doctor. An appropriate schedule will be determined for contacting the injured employee and the treating physician. Human Resources will be responsible for initiating these contacts and for recording them in the agency's Injury Log Book.

Human Resources will send the injured employee a copy of the "Injured Worker's rights and Responsibilities" fact sheet.

E) Employee is permanently restricted from work:

Human Resources:

Following the determination by the employee's treating physician that an on-the-job injury or illness has resulted in a permanent restriction, if the original job cannot be modified and the employee is therefore unable to return to his/her original work assignment, DEQ will:

- a. search for available and suitable work within DEQ;
- b. consider reasonable accommodations to agency positions;
- c. provide a referral package to Department of Administrative Services.

F) Reemployment/Reinstatement Rights:

Every injured worker with a compensable injury or illness has the right to reinstatement/reemployment under ORS 659.415 and 659.420. The employee must make a written request for reinstatement within seven (7) calendar days of being released for work by the attending physician. This request must be made to the employee's supervisor or to Human Resources.

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## Appendix B

- A. Age Discrimination in Employment Act of 1967 (ADEA)
- B. Disability Discrimination Title I of the Americans with Disability Act of 1990
- C. Equal Pay and Compensation Discrimination Equal Pay Act of 1963, and Title VII of the Civil Rights Act of 1964
- D. National Origin Discrimination Title VII of the Civil Rights Act of 1964
- E. Pregnancy Discrimination Title VII of the Civil Rights Act of 1964
- F. Race/Color Discrimination Title VII of the Civil Rights Act of 1964
- G. Religious Discrimination Title VII of the Civil Rights Act of 1964
- H. Retaliation Title VII of the Civil Agency Affirmative Action Policy
- I. Sex-Base Discrimination Title VII of the Civil Rights Act of 1964
- J. Sexual Harassment Title VII of the Civil Rights Act of 1964

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### Age Discrimination

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:

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.

#### Apprenticeship Programs

**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.

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## Statistics

In Fiscal Year 2005, EEOC received 16,585 charges of age discrimination. EEOC resolved 14,076 age discrimination charges in FY 2005 and recovered \$77.7 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

### Charge Statistics: Age Discrimination

## Disability Discrimination

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.

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**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.

### Statistics

In Fiscal Year 2005, EEOC received 14,893 charges of disability discrimination. EEOC resolved 15,357 disability discrimination charges in FY 2005 and recovered \$44.8 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

#### Americans With Disabilities Act Charges

### Equal Pay and Compensation Discrimination

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

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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.

### Statistics

In Fiscal Year 2005, EEOC received 970 charges of compensation discrimination. EEOC resolved 889 compensation discrimination charges in FY 2005 and recovered \$3.1 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

Charge Statistics: Equal Pay Act

### Other Resources

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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](#)

## National Origin Discrimination

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:

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

### Employment Decisions

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.

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## Harassment

## 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.

## Statistics

In Fiscal Year 2005, EEOC received 8,035 charges of national origin discrimination. Including charges from previous years, 8,319 charges were resolved, and monetary benefits for charging parties totaled \$19.4 million (not including monetary benefits obtained through litigation).

## Pregnancy Discrimination

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.

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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.

## Statistics

In Fiscal Year 2005, EEOC received 4,449 charges of pregnancy-based discrimination. EEOC resolved 4,321 pregnancy discrimination charges in FY 2005 and recovered \$11.6 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

## Race/Color Discrimination

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.

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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.

## Statistics

In fiscal year 2005, EEOC received 26,740 charges of race discrimination. EEOC resolved 27,411 race charges in FY 2005, and recovered \$76.5 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

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## Religious Discrimination

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.

## Statistics

In Fiscal Year 2005, EEOC received 2,340 charges of religious discrimination. EEOC resolved 2,352 religious discrimination charges and recovered \$6.1 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

## Retaliation

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as

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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;

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- 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.

## Statistics

In Fiscal Year 2004, EEOC received 22,740 charges of retaliation discrimination based on all statutes enforced by EEOC. The EEOC resolved 24,751 retaliation charges in 2004, more than were filed during the course of the Fiscal Year, and recovered more than \$90 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

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## Sex-Based Discrimination

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:

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.

### Sexual Harassment

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

### Pregnancy Based Discrimination

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.

## Statistics

In Fiscal Year 2005, EEOC received 23,094 charges of sex-based discrimination. EEOC resolved 23,743 sex discrimination charges in FY 2005 and recovered \$91.3 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

## Sexual Harassment

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

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

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

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

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- 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.

### **Statistics**

In Fiscal Year 2005, EEOC received 12,679 charges of sexual harassment. 14.3% of those charges were filed by males. EEOC resolved 12,859 sexual harassment charges in FY 2004 and recovered \$47.9 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

#### Charge Statistics: Sexual Harassment

#### Trends in Harassment Charges Filed With the EEOC During the 1980s and 1990s

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