

 POLICY AND PROCEDURE	DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS		EFFECTIVE DATE:	March 13, 2014	Page 1 of 11
			SUPERSEDES:	3800.1E July 1, 2004	
			OPI:	HRM	
			ATTACHMENT:	Attachment-A	
			REVIEW DATE:	March 13, 2015	
			Approving Authority	Thomas Faust Director	
	SUBJECT:	EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM			
NUMBER:	3800.1F				
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SUMMARY OF CHANGES:

Section	Change
Entire Policy	<i>Major changes have been made throughout policy.</i>
Page 3, §9	<i>Section #9 "Delegation of Authority" was revised in its entirety.</i>
Page 6, §11	<i>Section #11 "Procedures" was revised in its entirety.</i>
	<i>Added Attachment A- EEO Complainant Form to policy.</i>

APPROVED:



Thomas Faust, Director

3/13/2014

Date Signed

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1. **PURPOSE AND SCOPE.** To provide for the D.C. Department of Corrections (DOC) Equal Employment Opportunity (EEO) Program.

2. **POLICY.** It is the policy to promote equal opportunity in accordance with the law in all personnel actions such as selection, retention and promotion, compensation benefits, transfers, reduction-in-force (RIF), return from RIF, organization sponsored training, and education; social and recreational programs will be administered in accordance with laws and regulations that prohibit discrimination.

3. **NOTICE OF NON-DISCRIMINATION**
 - a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

4. **PROGRAM OBJECTIVES.** The expected results of this program are:
 - a. The notice of non-discrimination shall be included in all DOC issued statements, announcements, forms or directives that must comply with District policy against discrimination pursuant to the Human Rights Act of 1977.

 - b. Personnel decisions will comply with equal employment requirements.

 - c. Retaliation for filing EEO complaints will be prohibited.

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5. DIRECTIVES AFFECTED

a. Directives Rescinded

PS 3800.1E Equal Employment Opportunity (EEO) Program
(07/01/04)

b. Directives Referenced

- 1) PP 3310.4 Sexual Harassment Against Employees
- 2) PP 3800.2 Accommodating Persons with Disabilities
- 3) District Personnel Manual (DPM) Bulletin 0801-4, Designation of Agency Elective Placement Coordinator, October 28, 1982.
- 4) Labor Management Agreement between the Fraternal Order of Policy (FOP) and the District of Columbia Department of Corrections.
- 5) Order of the United States District Court in Bessye Neal v. Margaret Moore, Director, D.C. Department of Corrections, Civil Action No. 93-240.

6. AUTHORITY

- a. Executive Order 11478, August 8, 1969, as amended by Public Law 92-261, March 24, 1972.
- b. District of Columbia Human Rights Law: 1) Title 34, D.C. Rules and Regulations, District of Columbia Code, 2) DC Human Rights Act of 1977, and 3) Title 4 (Human Rights) of the District of Columbia Municipal Regulations (DCMR).
- c. D.C. Law 2-38, December 13, 1977.
- d. 31 DCR 56, Equal Employment Opportunity Rules Governing Complaints of Discrimination in the District of Columbia Government.

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- e. Code of Federal Regulations, Title 29, Part 1613, Subpart B.
- f. Mayor's Order 2000-131, August 21, 2000, "Uniform Language in D.C. Government Anti-Discrimination Issuances and Equal Employment Opportunity Notices.
- g. Mayor's Order 75-230, October 31, 1975, as amended by Mayor's Order 79-89, May 27, 1972.
- h. Mayor's Order 79-204, September 14, 1979.
- i. Section 504 of the Rehabilitation Act of 1973.
- j. Public Law 93-122, September 26, 1973
- k. Chapter 16, Title 29, U.S. Code.
- l. Americans with Disabilities Act of 1990.
- m. Title VII of the Civil Rights Act of 1964, as amended.

7. STANDARDS REFERENCED

- a. American Correctional Association (ACA) 4th Edition, Administration of Correctional Agencies: 4-ALDF-6B-02, 4-ALDF-6B04-05, 4-ALDF-6B-07-08, 4-ALDF-7E-05

8. APPLICABILITY. This directive applies to all DOC employees, applicants for employees, volunteers and contractors with the DOC.

9. DELEGATION OF AUTHORITY

- a. The Deputy Director for Management Support shall administer the provisions of this directive and report to the Director matters pertaining to equal employment opportunities within DOC.

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- b. The EEO Officer shall manage the agency EEO program, oversee the operations and provide technical assistance to the EEO Counselors, prepare EEO reports, conduct discrimination investigations and EEO training, serve as coordinator on various aspects of equal employment opportunity enforcement, and procedures for handling cases for the U.S. Equal Employment Opportunity Commission and the D.C. Office of Human Rights complaints.
- c. The EEO Counselor shall provide informal counseling to Complainants with the objective of resolving the complaint at the agency level.

10. **DEFINITIONS.** For the purpose of this directive, the following definitions shall apply:

- a. **Complainant** – Any employee or qualified applicant for employment who believes that he/she has been discriminated against based on the prohibitive factors listed in the policy guidelines.
- b. **Respondent** – The individual employee or employees in an internal or informal complaint against whom the complainant is alleging discrimination.
- c. **Agent** – An individual involved in a complaint that has authorization to act on behalf of the respondent.
- d. **Age** – Eighteen (18) years of age or older except, in a case of employment, age shall be defined as 18 to 70 years of age, unless otherwise defined by law.
- e. **Employee** - Any individual employed by or seeking employment from an agency of the District of Columbia Government.
- f. **Family Responsibilities** - The state of being, or the potential to become, a contributor to the support of a person or persons in a dependent relationship, irrespective of the number of such persons.
- g. **Familial status** - One or more individuals under 18 years of age being domesticated with (1) a parent or other person having legal custody of the individual; or (2) the designee, with written authorization of the parent, or

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other persons having legal custody of individuals under 18 years of age. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual under 18 years of age.

- h. **Marital Status** - The state of being married (same sex, opposite sex), single, divorced, separated, or widowed and the usual conditions associated with such status including pregnancy or parenthood.
- i. **Matriculation** - The condition of being enrolled in a college, or university; or in a business, nursing, professional, secretarial, technical or vocational school; or in an adult education program.
- j. **Personal Appearance** - The outward appearance of any persons, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hairstyle and beards. It shall not relate, however, to the requirement of cleanliness, wearing of uniforms, or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees, for a reasonable business purpose; or when such bodily conditions or characteristics, style or manner of dress or personal grooming presents a danger to the health, welfare or safety of any individual.
- k. **Handicap** - A physical or mental impairment that substantially limit's a major life activity.
- l. **Political Affiliation** - The state of belonging to or endorsing any political party.
- m. **Religion** - Any institutionalized system or personal set of attitudes, beliefs and practices which relate to religious, moral or ethical standards.
- n. **Sexual Harassment** - Unwelcome sexual advances, requests for sexual favor, and other verbal, non-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 employment;

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- 2) Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting such employee; or
 - 3) Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment as described in PS 3310.4G "Sexual Harassment".
- o. **Retaliation/Coercion** - Taking or threatening to take adverse employment actions against an employee because he/she has filed a Title VII charge, has participated in a Title VII investigation, or has otherwise opposed Title VII discrimination, or other legally protected activity.
- 1) Adverse employment actions include any negative change in the terms and conditions or privileges of employment. It includes, for example, changes in assignments, shifts, or evaluations.
 - 2) Legally protected activity includes resisting or opposing sexual harassment, oral or written complaints about sexual harassment, and testifying at, assisting in, or otherwise participating in an investigation or a sexual harassment complaint. Such activity is protected regardless of whether the conduct of which the employee complains was actually proven to have constituted sexual harassment.
 - 3) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, from complying with the provisions of this chapter.
- p. **Sexual Orientation** - Male or female heterosexuality, homosexuality and bisexuality by preference or practice.
- q. **Impasse** - A condition that exists when no agreement can be reached between the complainant and respondent in resolving an EEO pre-complaint.
- r. **Pre-Complaint** - Informal complaints filed with the EEO Office by an employee or applicant for employment alleging that discriminatory practice exists in employment.
- s. **Formal Complaint** - A complaint filed with an outside agency or with the courts.

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11. **PROCEDURES.** An employee or applicant who believes that he/she has been discriminated against, shall consult with the agency EEO Counselor and filling out the EEO Complainant Form (Attachment A) or choose any District of Columbia EEO Counselor within 180 calendar days after the alleged unlawful discriminatory practice occurred or within 180 calendar days of his/her discovery of the occurrence.

The following actions must occur after a complaint is received by the EEO Counselor and/or EEO Officer:

- 1) The EEO Counselor shall:
 - a) Make an inquiry and review of the matter.
 - b) Notify the EEO Officer of the complaint.
 - c) Seek a solution of the matter on an informal basis.
 - d) Counsel the employee and his/her representatives concerning the issues of the matter.
 - e) Keep a record of counseling activities so as to brief, periodically, the agency EEO Officer on those activities.
 - f) Conduct the final interview with the employee no later than thirty (30) calendar days after the date on which the matter was called to his/her attention by the employee and/or his/her representative.
 - g) If the complaint of discrimination has not resolved to the employee's satisfaction, the EEO Counselor shall provide the employee and/or his/her representative written notice, Exit Letter, to file a formal complaint with the D.C. Office of Human Rights within (15) days of the final interview. The employee may also file a complaint with the U.S. Equal Employment Opportunity Commission or in a court of competent jurisdiction.
- 2) The EEO Officer shall:
 - a) Determine if a basis of discrimination is present

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- b) Conduct an investigation, if allegations establish an EEO complaint
- c) Disclose to the agency Director a written report of the investigation and advise of any violations of anti-discrimination laws or the agency's EEO policy.
- d) Make appropriate notifications to the Complainant and the Respondent regarding the investigation findings.

12. **RESPONSIBILITIES.** The D.C. Department of Corrections will not condone acts of discriminatory behavior by internal or external staff. All employees will be informed that discrimination is prohibited. Staff must take seriously all reported statements from their fellow staff alleging claims of inappropriate sexual behavior or claims of sexual harassment or retaliation.

- a. **Managers and Supervisors.** All managers and supervisor are responsible for the following:
 - 1) Ensuring that the policies regarding EEO and retaliation are implemented and enforced.
 - 2) Promoting a workplace that is free of discrimination and retaliation, and ensuring that complaints of such conduct are promptly forwarded to the EEO Officer in according with DOC Policy and Procedure.
 - 3) Monitoring his/her workplace to ensure that incidents of discrimination and retaliation are detected promptly and that each employee is aware of DOC's EEO/retaliation policy and complaint procedures.
 - 4) Ensuring that the employees who file EEO complaints are protected from retaliation.
 - 5) Maintaining, to the greatest extent possible, the confidentiality of those employees who lodge EEO/retaliation complaints or report evidence of discrimination or retaliation.
 - 6) Complying with procedures for forwarding complaints, cooperating with investigations of allegations of discrimination, and carrying out remedial and disciplinary orders of the Director of his/her designee.

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b. **Employees.** Each DOC employee is responsible for the following:

- 1) Ensuring that his or her conduct is free from all forms of discrimination or retaliation.
- 2) Refraining from using discriminatory offensive language in the workplace.
- 3) Refusing to tolerate or condone discrimination and/or retaliation by other employees.
- 4) Cooperating with the EEO Officer, EEO Counselor or DOC Supervisors /Office Administrators.

13. **PENALTIES**

- a. The Director or his/her designee will be responsible for ensuring that disciplinary action is taken against persons found in violation of the agency's EEO Policy and Procedure.
- b. Managers and supervisors who fail to report acts of discrimination or fail to take appropriate action to resolve issues of discrimination at the workplace will be subject to disciplinary action.

14. **DISSEMINATION** The DOC will ensure that the poster explaining employee rights and procedures for filing complaints under this Policy and Procedure is displayed permanently on all employee bulletin boards.

15. **CONFIDENTIALITY OF RECORDS AND REPORTS**

- a. The EEO Officer will hold all EEO related information confidential. Confidential information is any information of any kind, nature, or description concerning matters affecting or relating to a Complainant's EEO complaint received either verbally or written. The EEO Officer shall disclose information to authorized personnel in the following limited circumstances:
 - 1) Complying with the investigative process of the Federal, State and Local agencies charged with enforcing or implementing such EEO laws or civil remedies, or
 - 2) To other witnesses when the disclosure of the information or documents is necessary to obtain information from the witness to explain the

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allegations in an EEO complaint, or

- 3) The Complainant has filed a civil complaint seeking damages or other relief and the file is requested by an attorney in the Civil Litigation Division of the Office of the Attorney General in connection with the litigation.
 - b. After the completion of an EEO investigation, requests for departmental records shall be directed to the Department's Records Information and Privacy Officer.
 - c. The EEO Counselor shall submit required EEO reports to the EEO Officer by the 5th of each month for the previous reporting period.

Attachment-

Attachment A- EEO Complainant Form

DOC/PP3800.1E/3/13/2014



**THE GOVERNMENT OF THE DISTRICT OF COLUMBIA
EEO COMPLAINT FORM
D.C. Department of Corrections**

Information required herein will assist EEO staff to determine the nature and extent of discrimination as defined by the Federal/Local Discrimination Laws.

1. COMPLAINANT

Today's Date: _____
Name: _____
Address: _____
City/State/Zip: _____
Tel # (H): _____
Tel # (W): _____
Tour of Duty: _____
Immediate Supervisor: _____

IF REPRESENTED BY COUNSEL/UNION REPRESENTATIVE, PLEASE PROVIDE THE FOLLOWING:

Name: _____
Telephone/Fax: _____
Address: _____

2. RESPONDENT(S)

Name(s): _____
Position Title: _____
Tour of Duty: _____
Address: _____
City/State/Zip: _____
Tel #: _____
Fax #: _____

3. BASIS OF COMPLAINT

The basis is the reason you feel you were treated differently than others outside of your protected class. I feel I was discriminated against because of my:

(Please check appropriate box and provide detail, if necessary.)

- | | | |
|--|--|--|
| <input type="checkbox"/> Race _____ | <input type="checkbox"/> Sex _____ | |
| <input type="checkbox"/> National Origin _____ | <input type="checkbox"/> Religion _____ | |
| <input type="checkbox"/> Color _____ | <input type="checkbox"/> Age _____ | |
| <input type="checkbox"/> Disability _____ | <input type="checkbox"/> Gender Identity or Expression _____ | |
| <input type="checkbox"/> Genetic Information _____ | | |
| <input type="checkbox"/> Matriculation _____ | <input type="checkbox"/> Marital Status _____ | <input type="checkbox"/> Personal Appearance _____ |
| <input type="checkbox"/> Political Affiliation _____ | <input type="checkbox"/> Family Responsibilities _____ | <input type="checkbox"/> Sexual Orientation _____ |

4. ISSUES

What action was taken that made you feel you were treated differently?

- | | |
|---|---|
| <input type="checkbox"/> Family Medical Leave | <input type="checkbox"/> Failure to Hire |
| <input type="checkbox"/> Promotion | <input type="checkbox"/> Discharge |
| <input type="checkbox"/> Transfer | <input type="checkbox"/> Discipline |
| <input type="checkbox"/> Demotion | <input type="checkbox"/> Failure to Accommodate (i.e. Religion, Disability) |
| <input type="checkbox"/> Retaliation | |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Hostile Work Environment | |

5. D.C. FAMILY AND MEDICAL LEAVE ACT

(Only complete section if your complaint deals with FMLA.)

Have you been employed with this agency for at least one (1) year and have worked at least one thousand (1,000) hours? YES NO

Date(s) you requested:

Reason you requested:

Person who denied your request:

Title: _____

Others who have requested leave:

How are these persons different from you:

Have you tried to resolve this matter with Respondent? If so, please describe with whom you spoke and their response:

Name/Title:

