



# DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

---

## Program Statement

---

OPI: HRM  
Number: 3800.1E  
Date: July 1, 2004  
Subject: Equal Employment  
Opportunity (EEO) Program

---

1. **PURPOSE AND SCOPE.** To provide procedures for the DC Department of Corrections (DOC) Equal Employment Opportunity (EEO) Program .
2. **POLICY.** It is DOC 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, education, social and recreational programs will be administered in accordance with laws and regulations that prohibit discrimination.
3. **NOTICE OF NON-DISCRIMINATION.** In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code §2-1401.01 et seq., ("the Act) the District of Columbia does not discriminate on the basis of race, color, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, place of residence or business. Sexual harassment in the form of sex discrimination is also prohibited by the act. Discrimination in violation of the act will not be tolerated. Violators will be subject to disciplinary action.
3. **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.

#### 4. DIRECTIVES AFFECTED

##### a. Directives Rescinded

DO 3800.1C                    “Equal Employment Opportunity (EEO) Program”  
(10/23/84)

##### b. Directives Referenced

- 1) DO 3310.4G            “Sexual Harassment of Employees” (6/21/04)
- 2) DO 3800.2            ”Section 504, Handicap/Americans with Disabilities Act  
Accommodations” (8/10/92)
- 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 Police (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.

#### 4. 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) Title 6, Health and Safety, Chapter 22,  
Human Rights Act of 1977.
- 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.
- 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 24, 1972.
- h. Mayor’s Order 79-204, September 14, 1979.

- i. Section 504 of the Rehabilitation Act of 1973.
- j. Public Law 93-112, 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.

**5. STANDARDS REFERENCED**

- a. American Correctional Association (ACA) 2<sup>nd</sup> Edition, Administration of Correctional Agencies; 2-CO-1C-09 and 2-CO-1C-11.
- b. American Correctional Association (ACA) 4<sup>th</sup> Edition Standards for Adult Local Detention Facilities 4-ALDF-7E-01.

- 6. APPLICABILITY.** This directive applies to all DOC employees, applicants for employment, volunteers and contractors with the DOC.

**7. DELEGATION OF AUTHORITY**

- a. The Deputy Director is delegated authority to administer the provisions of this directive and to report to the Director on all matters pertaining to equal employment opportunity within the Department.
- f. The EEO Officer is designated to manage the EEO Program.
- g. Each manager and supervisor shall ensure that the programs, policies, and operation of the DOC EEO Program comply with Federal and District EEO laws and regulations as prescribed in this directive.
- h. Employees shall adhere to the Federal and Districts laws, and rules and regulations prescribed in this directive.

- 8. DEFINITIONS.** For the purpose of this directive, the following definitions 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. **EEO Counselor** - A representative of the EEO Office who is qualified through specific training to counsel complainants and conduct informal inquiries into pre-complaint charges.
- e. **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.
- f. **Employee** - Any individual employed by or seeking employment from an agency of the District of Columbia Government.
- g. **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.
- h. **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 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.
- i. **Marital Status** - The state of being married, single, divorced, separated, or widowed and the usual conditions associated with such status including pregnancy or parenthood.
- j. **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.
- k. **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.
- l. **Handicap** - A physical or mental impairment that substantially limit's a major life activity.
- m. **Political Affiliation** - The state of belonging to or endorsing any political party.

- n. **Religion** - Any institutionalized system or personal set of attitudes, beliefs and practices which relate to religious, moral or ethical standards.
- o. **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;
  - 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".
- p. **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.
- q. **Sexual Orientation** - Male or female heterosexuality, homosexuality and bisexuality by preference or practice.
- r. **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.

## 9. PROCEDURES

### a. Initiating an EEO-Complaint

- 1) An employee or applicant who believes that he/she has been discriminated against, shall consult with an EEO Counselor or the EEO Officer within 180 calendar days after the alleged unlawful discriminatory practice occurred or within 180 calendar days of his/her discovery of the occurrence.
- 2) The EEO Counselor or EEO Officer shall conduct an initial interview with the complainant.
- 3) In instances where the EEO Officer conducts the initial interview he/she will provide the complainant with a list of EEO Counselors. The complainant may select a counselor and contact the counselor directly.
- 4) The complainant shall complete the Pre-Complaint Form (Attachment A) provided by the EEO Counselor. The EEO Counselor shall notify the complainant and EEO Officer, in writing, of acceptance or rejection of the case. A copy of the Pre-Complaint Form shall be forwarded to the EEO Officer along with a copy of the acceptance letter (Attachment B).
- 5) The EEO Counselor shall:
  - a) Review the complaint to determine action(s) to resolve the complaint(s).
  - b) If the complaint involves sexual harassment or related retaliation, the EEO Counselor shall immediately forward the sexual harassment complaint to the Special Inspector in accordance with PS 3310.4E (04/30/02). The Special Inspector will only investigate that portion of the complaint that involves sexual misconduct or related retaliation.
  - c) Gather facts through informal interviews with Department officials, supervisors, other employees, and through examination of pertinent records and materials.
  - d) Resolve the complaint within 21 calendar days by conferring with employees and appropriate management officials, separately or together.
- 6) If resolution is reached, the EEO Counselor shall prepare the Pre-Complaint Report (Attachment 3) which shall be signed by both the EEO Counselor and EEO Officer and forwarded to the complainant, and the respondent. A copy of the report shall be submitted to the EEO Officer.
- 7) If resolution is not reached, the EEO Counselor shall consult with the EEO Officer concerning the impasse case and submit a Pre-Complaint Report

(Attachment C) to the EEO Officer after the final interview with the complainant.

- 8) At the final interview the complainant will be informed verbally and in writing of the right to file a formal complaint with the DC Office of Human Rights.
- 9) When EEO complaints are filed under the provisions of this order with respect to pending appointment, promotion, transfer, reduction-in-force, termination, disciplinary action, or other adverse action; the action shall be held in abeyance by the Director, DOC until the matter is resolved by the EEO Counselor, EEO Officer, or until the complainant has exercised the opportunity to file a formal complaint with the DC Office of Human Rights unless conditions are met in Section 10.
- 10) Provisions of paragraph (9) above may be suspended by the Director, Office of Human Rights, pending a resolution of the complaint, if it is shown that immediate and irrevocable harm to the Department will result or there will be a substantial interference with the efficient operation of the Department. This subparagraph may be waived upon agreement between the Director, DOC and the Director, DC Office of Human Rights that sufficient and appropriate opportunities will be available to provide relief to complainant if his/her assertion of a discrimination is upheld or where the Director effects the action on a temporary basis and such temporary action is made specifically subject to termination.

**b. Filing a Formal Complaint**

- 1) A formal complaint of discrimination must be submitted in writing, in person or by complainant's representative to the Director, DC Office of Human Rights within fifteen (15) calendar days of the date of the complainant's final interview with the EEO Counselor. The Director, DC Office of Human Rights may extend the time limit upon a showing by the complainant that a good cause prevented him/her from submitting the complaint within the prescribed time limit.
- 2) The Director, Office of Human Rights, may dismiss or reject a complaint of discrimination:
  - a) If it is not timely filed;
  - b) It is not within the scope of the EEO guidelines; or
  - c) Because of failure of complainant to prosecute the complaint.

**c. Sexual Harassment Complaints.** Complaints of discriminations based on sexual harassment may be filed consistent with procedures established in Program Statement 3310.4G. In addition, the employee may also file a

complaint with the DC Office of Human Rights (Mayor's Order 75-230) or the Equal Employment Opportunity Commission (EEOC). Only complaints of sexual harassment that concern incidents, which occurred within a period of one year from the time the complaint is filed shall be considered.

## 10. RESPONSIBILITIES

- a. **Complainant.** The Complainant is responsible for consulting with an EEO Counselor or EEO Officer as a first step in pursuing complaints of discrimination.
- b. **Respondent.** The respondent as defined in definition 7(n) is responsible for:
  - 1) Cooperating fully in the inquiry and exhibiting good faith in resolving the matter.
  - 2) Respondent agency, supervisors and managers are responsible for granting complainant up to 10 hours of official time to present his/her complaint and to assist the EEO Counselor or EEO Officer in resolving the case.
- c. **EEO Counselor.** The EEO Counselor is responsible for:
  - 1) Conducting the inquiry of discrimination complaints in a professional and objective manner.
  - 2) Maintaining confidentiality of records in carrying out his/her duties.
  - 3) Discussing problems and progress on counseling activities with the EEO Officer.
- d. **Supervisors of EEO Counselors.** Supervisors of EEO Counselors are responsible for:
  - 1) Providing full support to EEO Counselors in the performance of EEO counseling duties.
  - 2) Allowing a reasonable amount of official time to perform duties as EEO Counselors when circumstances demand.
- e. **EEO Officer.** The EEO Officer is responsible for:
  - 1) Administering the EEO Program.
  - 2) Advising EEO Counselors in the performance of their duties.
  - 3) Taking appropriate action to correct and improve matters relating to the EEO Program that are brought to his/her attention through the counseling program.

- 4) Providing EEO training for staff, managers and EEO Counselors.
- f. **Agent.** The agent is responsible for cooperating fully in the inquiry and exhibiting good faith in resolving the matter.
- g. **Hispanic Program Coordinator**
  - 1) Advises the EEO Officer and staff on matters affecting the employment and advancement of those of Hispanic origin.
  - 2) Assists EEO Counselors in carrying out their responsibilities as they relate to employees of Spanish origin.
- h. **504/ADA Coordinator.** Ensures non-discrimination on the basis of handicap. Determines that Department programs, services and activities are non-discriminatory and accessible to the handicapped and plans and implements affirmative action for individuals.

#### 11. GENERAL RULES FOR EEO PERSONNEL

- a. The EEO Officer, Hispanic Program Coordinator, and the 504/ADA Coordinator shall be appointed by the Director, DOC, consistent with prevailing District Government and United States laws, rules and regulations.
- b. EEO Counselors shall be nominated by the Deputy Director to serve at least three years. No more than 1/3 of the total complement of EEO Counselors will be changed in any one year. The Deputy Directors will be notified by the EEO Officer as to the number of nominees in a given year. Nominations for EEO Counselors will be forwarded to the EEO Officer, who will make recommendations to the Director based on the criteria listed below:
  - 1) Must have been a Department of Corrections employee for one year or longer.
  - 2) Must not have been adjudged a leave policy abuser.
  - 3) Is willing to perform the duties of an EEO Counselor.
- a) Counselors will be assigned as follows, except where reassignment dictates a larger number of EEO Counselors at a work site.

<u>Work site</u>	<u>Number</u>
Department Headquarters, Grimke Building	2
Central Detention Facility	4

- b) The EEO Program Team will consist of the EEO Officer, At-Large Counselor, Hispanic Program Coordinator, and 504/ADA Coordinator. The Program Team will meet as necessary to discuss EEO Program issues and analyze compliant trends. This information will be transmitted to EEO Counselors as needed. (Work site supervisors are ex-officio members of the Team and as such are invited to all meetings.

## 12. RECORDS AND REPORTS

- a. The EEO Officer shall establish and maintain a complaint file containing all documents and records pertinent to each EEO complaint. Monthly reports addressing the EEO Program will be submitted to the Deputy Director for Administration by the 10<sup>th</sup> of each month for the previous reporting period. (See Attachment D)
- b. Each EEO Counselor shall submit required EEO monthly reports by the 5<sup>th</sup> of each month for the previous reporting period. (See Attachment D)

  
Odie Washington  
Director

## ATTACHMENTS

- Attachment A EEO Pre-Complaint Form
- Attachment B EEO Acceptance/Rejection Memorandum
- Attachment C EEO Pre-Complaint Disposition Report
- Attachment D Monthly EEO Report