

DHMH POLICY

<http://dhmh.maryland.gov/SitePages/op02.aspx>

OFFICE OF EQUAL OPPORTUNITY PROGRAMS (OEOP) DHMH POLICY 01.02.04
Effective Date- June 26, 2014

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY

I. EXECUTIVE SUMMARY

Federal statutes and the Maryland Code of Fair Practices prohibit the practice of all forms of discrimination in employment based on protected bases. This policy implements the Office of Equal Opportunity Programs (OEOP) at the Department of Health and Mental Hygiene (DHMH) and ensures compliance with all applicable Federal and State laws and regulations. The policy further prohibits any unit of DHMH from conducting business with firms, institutions, or agencies that engage in workplace discrimination. All units of the Department as well as grant-in-aid programs, health services providers, and DHMH contractors/subcontractors that receive Federal or State funds are covered by this policy.

II. BACKGROUND

This policy version supersedes and recodifies DHMH Policy 02.06.04 dated September 5, 2006. This version includes the following changes: 1) Newly enacted Federal laws and State statutes were added; 2) Codification of the policy number has been changed to reflect that the Office of Equal Opportunity Programs now reports to the Office of the Secretary; 3) The structure was revised; 4) The Roles and Responsibility section was expanded; 5) Agency names and contact information were updated; and 6) Web links were added and updated.

III. POLICY STATEMENTS

A. AUTHORITY

Federal and State laws and regulations prohibit the practice of discrimination in employment. This prohibition applies to employment discrimination based on a protected status including age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation and any other protected status identified by law. Authority for this policy is derived from the following mandates, but other laws and regulations may also apply:

1. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on race, color, religion, sex, and national origin;
2. The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination against people who are 40 or older because of age.

Department of Health & Mental Hygiene

OFFICE OF REGULATION AND POLICY COORDINATION (ORPC)
201 West Preston Street - Suite 512 - Baltimore Maryland 21201-2301
Phone 410 767-6499 FAX 410 767-6483

3. The Religious Freedom Restoration Act of 1993 (42 U.S.C. §2000bb), is a federal law aimed at preventing laws that substantially burden a person's free exercise of their religion;
4. The Rehabilitation Act of 1973, Section 503, which prohibits discrimination against persons with a disability;
5. The Equal Pay Act of 1963 prohibits discrimination in wages based on sex;
6. Title I, II, IV and V of the Americans with Disabilities Act (ADA) of 1990 and its amendments, the Americans with Disabilities Act Amendment Act (ADAAA) of 2008, prohibit discrimination based upon a disability;
7. The Genetic Information Nondiscrimination Act of 2008, this law makes it illegal to discriminate against employees or applicants because of genetic information;
8. State Personnel and Pensions, Article 19, State Finance and Procurement states it is the policy of the State not to enter into a contract with any business entity that has discriminated in the solicitation, selection, hiring, or commercial treatment of vendors, suppliers, subcontractors, or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners;
9. Title 20 (formerly Article 49B), Annotated Code of Maryland prohibits discrimination based on age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation;
10. The Governor's Executive Order 01.01.2007.16 -Code of Fair Employment Practices prohibits employment discrimination in State Government including discrimination based on age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation.

B. SCOPE

1. This policy applies to all DHMH programs, facilities, independent units such as Boards and Commissions, Local Health Departments, grant-in-aid programs, health services providers, and DHMH contractors/subcontractors receiving Federal or State funds.
2. No component of DHMH shall conduct business with firms, institutions, service providers, or agencies that engage in unlawful discrimination.

C. ROLES AND RESPONSIBILITY

1. Each Deputy Secretary shall ensure that equal opportunity exists in all employment practices within the scope of his or her responsibility.

2. Each Deputy Secretary, Program Director, Facility CEO, Health Officer, unit head or supervisor of one or more employees shall ensure that a review of EEO practices is a component of the annual performance evaluation completed for each subordinate supervisor.
3. Each Program Director, Facility CEO, Health Officer, and unit head or supervisor of one or more employees shall follow the guidelines of this policy in all areas of programming, services and personnel.
4. In support of this program, the head of the unit, in conjunction with the fair practices officer, shall:
 - a. Provide resources to the program to ensure efficient and successful operation;
 - b. Provide for the prompt, fair, and impartial processing of complaints;
 - c. Conduct training to assure the lawful application of the unit's personnel policies, practices, and working conditions;
 - d. Communicate the unit's equal employment opportunity policy and program and its employment needs to all sources of job candidates without regard to any of the categories specified in State Personnel and Pensions Article, §5-208, Annotated Code of Maryland;
 - e. Provide orientation, training, and advice to managers and supervisors to assure their understanding and implementation of the equal employment opportunity policy;
 - f. Review and evaluate managerial and supervisory performance in a manner that ensures a continuing application and enforcement of the policy of equal opportunity;
 - g. Take appropriate disciplinary action against employees who engage in discriminatory practices;
 - h. Comply with:
 - i. Title VII of the Civil Rights Act of 1964, and its amendments;
 - ii. The Equal Pay Act of 1963, and its amendments;
 - iii. Age Discrimination in Employment Act (ADEA) of 1967;
 - iv. Titles I, II, IV, and V of the Americans with Disabilities Act of 1998, and its amendments, including the Americans with Disabilities Act Amendment Act (ADAAA) of 2008;

- v. Sections 503 of the Rehabilitation Act of 1973, and its amendments;
 - vi. The Genetic Information Nondiscrimination Act of 2008;
 - vii. The Religious Freedom Restoration Act of 1993 (42 U.S.C. §2000bb);
 - viii. The Governor's Code of Fair Employment Practices, 01.01.2007.16; and
 - ix. Title 19 and 20 of the Maryland Annotated Code;
 - i. Establish a system for periodically evaluating the effectiveness of the unit's overall equal employment opportunity effort.
5. The fair practices officer shall:
- a. Advise the head of the unit regarding the preparation of equal employment opportunity plans, procedures, reports, and other matters related to the unit program;
 - b. Periodically evaluate the sufficiency of the unit program for equal employment opportunity and recommend to the head of the unit any changes needed, including remedial or disciplinary action, in appropriate cases;
 - c. With the authorization of the head of the unit, make changes in programs and procedures designed to ensure the elimination of discriminatory practices and to improve the unit's program for equal employment opportunity;
 - d. Assure that discrimination complaints are fairly and thoroughly investigated and resolved in a timely manner; and
 - e. Review the complaints and corresponding investigation reports which have been completed by unit equal employment opportunity officers, certify that the reports have been reviewed, and forward the proposed decision to the head of the principal unit;
 - f. Where authorized, to act on behalf of the Secretary or Deputy Secretaries of DHMH to carry out the provisions and intent of this policy.
6. The fair practices officer in conjunction with OEOP's EEO Officers and OEOP Staff shall:
- a. Develop, recommend, and monitor DHMH EEO policies and procedures to assure the Department is in compliance with Federal and State laws and regulations;

- b. Provide technical assistance to DHMH components in matters regarding EEO practices;
- c. Accept timely complaints and conduct on-site reviews, as necessary;
- d. Cooperate with Federal and State offices responsible for equal employment opportunity;
- e. Prepare an annual EEO report for all DHMH and submit it to the Maryland Department of Budget and Management's (DBM) Office of the Statewide Equal Employment Opportunity Coordinator (OSEEOC) and
- f. Monitor all personnel transactions--hiring, promotions, transfers, reassignments, terminations, discipline, etc., for EEO compliance.

7. The Fair Practices Officer is designated by the Secretary, DHMH, to have oversight responsibility to:

- a. Develop, recommend, and monitor policies and procedures necessary for DHMH to remain compliant with Federal and State EEO laws and regulations;
- b. Provide technical assistance and advice on EEO practices to all DHMH components;
- c. Monitor all personnel transactions - appointment, hiring, promotions, transfers, reassignments, terminations, discipline, corrective action, performance appraisal, acting capacity, reassignment, reclassification, reinstatement, decisions affecting compensation, benefits, training or any other matter which significantly affects an individual's compensation, terms or conditions of employment for EEO compliance;
- d. Where authorized, act for the Secretary or Deputy Secretary in carrying out the provisions of this policy;
- e. Accept timely complaints and conduct on-site reviews, as necessary;
- f. Work in conjunction with the Maryland Commission on Civil Rights (MCCR), the Federal Equal Employment Opportunity Commission (EEOC), the United States Department of Justice Civil Rights Division and United States Department of Health and Human Services in the investigation of alleged discrimination; and
- g. Prepare and submit relevant reports to the Secretary and appropriate Federal and State agencies.

D. RESOURCES FOR OBTAINING SERVICE

- 1. DHMH OFFICE OF EQUAL OPPORTUNITY PROGRAMS

a. The Office of Equal Opportunity Programs attempt to quickly resolve employment discrimination disputes through mediation, investigation, and training; and to maintain a discrimination-free work environment for all employees within DHMH regardless of age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation

b. An individual may file a complaint with the Office of Equal Opportunity Programs. State law requires that official complaints must be in writing and must be filed within 30 days of the alleged discriminatory practice or act (COMAR 17.04.08.03). Individuals may call 410-767-6600 for additional information. All matters discussed in relation to an individual's inquiry will be kept confidential, except where a complaint is filed and management is notified, or is otherwise provided by law.

c. An individual may choose instead to file a complaint with the Maryland Commission on Civil Rights (MCCR), or the US Equal Employment Opportunity Commission (EEOC). Please note that the filing deadlines vary (<http://dhmh.maryland.gov/oeop/Pages/Discrimination-Complaints.aspx>).

2. **DBM OFFICE OF THE STATEWIDE EEO COORDINATOR**

The Office of the Statewide EEO Coordinator (OSEEOC) enforces the Governor's Code of Fair Employment Practices, which ensures equal employment opportunity for all State employees and applicants for State employment, and provides a means for appealing agency decisions on complaints employment discrimination.

DBM Office of the Statewide EEO Coordinator

301 West Preston Street - Room 607

Baltimore, Maryland 21201

410-767-3800 <http://dbm.maryland.gov/eoo/Pages/EEOHome.aspx>

3. **THE MARYLAND COMMISSION ON CIVIL RIGHTS (MCCR)**

Within 180 days of the alleged discriminatory act, contact the MCCR at 410-767-8600 to set up an appointment or begin the process of filing a charge of discrimination.

Maryland Commission on Human Relations

6 St. Paul Street, Suite 900

Baltimore, MD 21201

410 767-8600 or 1.800.637.6247

<http://mccr.maryland.gov/>

4. **US EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

a. EEOC is responsible for investigating employment discrimination claims on the Federal level. The agency is charged with enforcing Title VII

of the Civil Rights Act of 1964, as amended, the Equal Pay Act (EPA), the Title I of the Americans with Disabilities Act (ADA) of 1990, the Age Discrimination in Employment Act (ADEA) of 1967 and the Genetic Information Nondiscrimination Act of 2008.

b. A charge must be filed with EEOC within 180 days from the date of the alleged violation.

c. This 180-day filing deadline may be extended to 300 days if the basis is also covered by a state or local anti-discrimination law.

Equal Employment Opportunity Commission

Baltimore Field Office
City Crescent Building
10 South Howard Street, 3rd Floor
Baltimore, Maryland 21201
1-800-669-4000. / 410-209-2237
<http://www.eeoc.gov/field/baltimore/>

IV. REFERENCES

- The Age Discrimination in Employment Act of 1967 (ADEA)
<http://www.eeoc.gov/laws/statutes/adea.cfm>
- Title 19 of the State Finance and Procurement Article, Annotated Code of Maryland
<http://www.lexisnexis.com/hottopics/mdcode/>
- Title 20 (formerly Article 49B) Human Relations, Annotated Code of Maryland
<http://www.lexisnexis.com/hottopics/mdcode/>
- The Rehabilitation Act of 1973, Section 503
<http://www.dol.gov/compliance/laws/comp-rehab.htm>
- The Equal Pay Act of 1963, and its amendments
<http://www.eeoc.gov/laws/statutes/epa.cfm>
- Title I, II, IV and V of the Americans with Disabilities Act (ADA) of 1990 and its amendments, the Americans with Disabilities Act Amendment Act (ADAAA) of 2008
<http://www.ada.gov/>
- The Religious Freedom Restoration Act of 1993 (42 U.S.C. §2000bb)
http://www.justice.gov/jmd/ls/legislative_histories/pl103-141/act-pl103-141.pdf
- The Genetic Information Nondiscrimination Act of 2008,
<http://www.eeoc.gov/laws/statutes/gina.cfm>

- The Governor's Executive Order 01.01.2007.16 -Code of Fair Employment Practices
<http://www.governor.maryland.gov/executiveorders/01.01.07.16FairHiring2.pdf>

APPROVED:



Joshua M. Sharfstein, M.D. Secretary

June 26, 2014
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