State of Ohio Administrative Policy

Anti-Discrimination and Anti-Harassment Policy and Reporting Procedures

No:
Human Resources
HR-14

Effective:
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Issued By:

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1.0 Purpose

The State of Ohio is a diverse, inclusive, and equal opportunity employer. The purpose of this policy is to emphasize that ***discrimination***, ***harassment***, and/or ***retaliation*** will not be tolerated in the workplace and to establish procedures for state employees and applicants for state employment to report claims of discrimination, harassment, and retaliation.

A glossary of terms in this policy is located in Appendix A – Definitions. The first occurrence of a defined term beginning in the section that follows is in ***bold italics*** and linked to Appendix A. To go directly to a term's definition, click on the bold and italicized term. To return to the body of the policy, click on the defined term.

2.0 Policy

The State of Ohio is an Equal Employment Opportunity (EEO) employer and does not discriminate on the basis of race, color, religion, gender/sex, gender identity or expression, national origin (ancestry), military status, disability, age (40 years of age or older), genetic information, sexual orientation, status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, or status as a foster parent as those terms are defined in applicable Ohio law, federal law and any Executive Order, when making any of the following employment-related decisions including, but not limited to hiring, layoff, transfer, termination, promotion, demotion, discipline, rate of compensation, eligibility for in-service training programs, or terms and conditions of employment.

Moreover, no state agency, board or commission (collectively "Agencies") may retaliate against anyone who exercises a protected right under state EEO policy or applicable EEO laws, including making a complaint or participating in an investigation.

2.1 **Procedures for Reporting Violations of State and Agency EEO Policies:** Any employee or applicant for employment who believes that he or she is a victim of

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discrimination, harassment, or retaliation based on a protected class as outlined in state or agency EEO Policies should report the incident(s) to any or all of the following: 1) the employee's supervisor; 2) the agency EEO Officer; or 3) the Department of Administrative Services, Equal Opportunity Division (DAS-EOD).

Reporting violations of state and agency EEO policies with DAS-EOD can be done at www.das.ohio.gov/Divisions/EqualOpportunity. This filing must occur no later than thirty (30) days from the date of the last alleged discriminatory incident. Reporting incidents of EEO policy violation(s) to the agency EEO Officer should be done pursuant to the agency's internal EEO policy and procedures. Additional filing rights through the Ohio Civil Rights Commission (OCRC) and the Equal Employment Opportunity Commission (EEOC) are outlined in section 2.4 of this policy.

In addition to making a report as outlined above, an employee or applicant who believes that he or she has been subject to discrimination, harassment, and/or retaliation is encouraged to inform the potential discriminator, harasser, or retaliator that the conduct is unwanted or unwelcome, through direct or indirect means as soon as practical and safe.

As part of the complaint process, employees may have an individual represent or assist them in the process, including a union representative if applicable.

2.2 **Responsibility:**

Manager/Supervisor: A manager/supervisor is responsible for ensuring the work-environment managed/supervised is free from discrimination and harassment. Managers/Supervisors must not retaliate against employees who exercise their rights as outlined in State or agency EEO policy or protected by law

A manager/supervisor who receives a report of discrimination, harassment, or retaliation must immediately report the complaint to the Agency EEO officer. While the report cannot be kept strictly confidential, the information reported shall only be communicated as necessary to investigate and take appropriate action.

Employees: Employees shall assist in the Agency's effort to achieve equal employment opportunity and to maintain a discrimination and harassment free environment. It is everyone's responsibility to maintain a workplace free from discrimination and/or harassment. Employees are encouraged to speak up if discrimination or harassment is occurring in the work environment by reporting the incident to the Agency EEO officer.

Agency EEO Officer: The Agency EEO officer will counsel aggrieved employees or applicants, providing them with information about the Agency's EEO policy, including filing rights. The Agency EEO officer will also attempt informal resolution of the issue, including through human resources.

The Agency EEO officer will conduct a prompt, thorough, and objective investigation of complaints, that includes interviews of witnesses and review of relevant documents as required by Ohio Administrative Code (OAC) Chapter 123:1-49. While the information

obtained cannot be kept strictly confidential, the information reported shall only be communicated as necessary to investigate and take appropriate action.

Agency: Each Agency will promote equal employment opportunity and maintain a work environment free from discrimination and harassment. Under the guidance of DAS-EOD, Agencies shall develop internal policies and procedures for reporting discrimination, harassment, and/or retaliation aligned with their agency structure.

Each Agency is responsible for providing this statewide policy and their Agency's specific EEO policy to employees upon hire and covering both policies during onboarding. Agencies should also make this and agency EEO policies readily available for employees to access, and ensure management and employees review the policies annually.

2.3 **Consequences of Violation:** Discrimination, harassment and retaliation will not be tolerated. Such conduct is subject to discipline, up to and including termination. Managers/supervisors are advised that they may be subject to personal liability for acts of discrimination, harassment, and/or retaliation that occur under their authority or outside the scope of identified job duties and may be responsible for providing their own legal defense.

2.4 **Additional Filing Rights:** This policy is not intended to be a complete statement of federal and/or state law, or an employees' rights regarding discrimination, harassment, and/or retaliation under the law. An employee may seek the counsel of an attorney for questions regarding the law and their legal rights.

In addition to the reporting procedures contained in section 2.1 of this policy, an employee or applicant for state employment who believes they have experienced discrimination, harassment and/or retaliation may also report the incident to one or both of the following external entities:

- Ohio Civil Rights Commission (OCRC): Filing with OCRC can be done by calling (614) 466-7742, by visiting www.crc.ohio.gov or by mail to: 30 East Broad Street, Fifth Floor, Columbus, Ohio 43215 or regional office. This filing must occur no later than six (6) months from the date of the alleged discriminatory incident; or

- Federal Equal Employment Opportunity Commission (EEOC): Filing with the EEOC can be done by calling (800) 669-4000, visiting www.eeoc.gov or by mail: 1240 East 9th Street, Suite 3001, Cleveland, Ohio 44199. The filing must occur no later than three hundred (300) days from the date of the last alleged discriminatory incident.

3.0 Authority

ORC 124.04, 124.09; OAC 123:1-47-01(B), 123:1-49; Executive Order 2019-05D

This policy supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

4.0 Revision History

Date	Description of Change
12/14/2011	Last issue date.
08/30/2019	Reissued in compliance with Executive Order 2019-05D.

5.0 Inquiries

Direct inquiries about this policy to:

Labor Relations and Human Resources Policy Section
Office of Collective Bargaining
Ohio Department of Administrative Services
1602 West Broad Street
Columbus, Ohio 43223

614.752.5393 | DASHRD.HRPolicy@das.ohio.gov

Equal Opportunity Division
Ohio Department of Administrative Services
4200 Surface Road
Columbus, Ohio 43228

614.466.8380 | das-eod.aaeeo@das.ohio.gov

State of Ohio Administrative Policies may be found online at
www.das.ohio.gov/forStateAgencies/Policies.aspx

Appendix A – Definitions

a. **Discrimination**. Discrimination occurs when an employment action is taken based on the employee or applicants' status as a member of a protected class. There are two forms of discrimination:
   - Disparate Treatment—Disparate treatment occurs when an employer intentionally treats an employee differently because of their protected class.
   - Disparate Impact—Disparate impact occurs when an employment policy, although neutral on its face, adversely impacts persons in a protected class.

b. **Harassment**. Unwelcome conduct based on a protected class. Harassment becomes unlawful where: 1) enduring the offensive conduct becomes a condition of continued employment (quid pro quo), or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive (hostile work environment). Harassment can be verbal and/or physical and can include name calling, slurs, jokes, gestures, leering, stalking, grabbing, and/or assault. This is not an exhaustive list of all harassing behaviors.

c. **Retaliation**. The act of punishing an employee or applicant for asserting their rights to be free from employment discrimination or harassment under EEO laws or policy. This includes retaliation against an individual whom requested an accommodation; filed, testified, or participated in a discrimination investigation, proceeding or lawsuit; or opposed employment practices that they reasonably believed discriminate against individuals.

Appendix B – Resources

Resource Name
EEO Complaint Process, including contact information regarding where to file a complaint: http://das.ohio.gov/Divisions/EqualOpportunity/AffirmativeActionEqualEmploymentOpportunity/DiscriminationComplaintManagement.aspx

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