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**I. Policy**

- A.** Purpose. The Florida Department of Health (DOH) is committed to a fair and respectful environment that is free from any form of discrimination.
- B.** The Department assures each applicant or employee an equal employment opportunity without regard to a person's age, race, color, sex, religion, national origin, genetic information, political affiliation, marital status, disability, or status as a special disabled veteran or veteran of the Vietnam era. There are laws, however, that allow exception to these assurances. A specific exception is a requirement that constitutes a bona fide occupational qualification necessary to perform the tasks associated with the position.
- C.** Equal employment opportunity will be attained using both objective and subjective merit principles and shall apply to agency practices relating to recruitment, examination, appointment, training, promotion, demotion, compensation, retention, discipline, separation, or other employment practice.
- D.** No person shall be subjected to retaliation, including being harassed, intimidated, threatened, coerced, or discriminated against for making a charge, testifying, assisting, or participating in any manner in an investigation, proceeding or hearing, or for opposing an alleged unlawful discriminatory practice

**II. Authority**

- A. Governor's Executive Order 81-116**
- B. Code of Federal Regulations, in order by chapter and Federal Statutes**
  - 1. *Title 7, Code of Federal Regulations (CFR) Part 15*, requires nondiscrimination on the basis of race, age, color, disability, national origin, religion or sex in programs and activities funded by the United States Department of Agriculture.
  - 2. *Title 29, CFR*, Equal Employment Opportunity Commission, pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e. et seq. and Title I of the Americans with Disabilities Act.
  - 3. *Title 29, CFR, Part 1601 (29CFR1601)*, "Procedural Regulations"
  - 4. *Title 29, CFR, Part 1602 (29CFR1602)*, "Recordkeeping and reporting requirements under Title VII, the ADA, and GINA"
  - 5. *Title 29, CFR, Part 1605 (29CFR1605)*, "Guidelines on Discrimination Because of Religion"

6. *Title 29, CFR, Part 1607 (29CFR1607)*, “Uniform guidelines on employee selection procedures (1978)”
7. *Title 29, CFR, Part 1608 (29CFR1608)*, “Affirmative Action appropriate under Title VII of the Civil Rights Act of 1964, as amended”
8. *Title 29, CFR,, Part 1635 (29CFR1635)*, “Regulations under the Genetic Information Nondiscrimination Act of 2008”.
9. *Title 41, CFR, Chapter 60*, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor”
10. *Title 45, CFR, Chapters 80. 81, 83. 86, and 90* requires nondiscrimination on the basis of race, color, national origin, disability, sex, or age in federally assisted programs and activities (Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq.; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; and Age Discrimination in Employment Act of 1967.
11. *Public Law (PL) 111-2*, January 29, 2009, 123 Stat 5, “Lilly Ledbetter Fair Pay Act of 2009”

**C. Florida Statutes**

1. “*Florida Civil Rights Act of 1992*”, *Chapter 760, Part I, Florida Statutes (F.S.)*
2. *Section 110.105(2), F.S.*, “Employment policy of the state
3. *Section 110.112, F.S.*, “Affirmative Action; equal employment opportunity”
4. *Section 110.201(3), F.S.*, “Personnel rules, records, and reports” (relates to compliance with all federal regulations)
5. *Section 112.042, F.S.*, “Discrimination in county and municipal employment; relief”
6. *Section 112.043, F.S.*, “Age discrimination”
7. *Section 112.044, F.S.*, “Public employees, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy”

**D. Florida Administrative Code**

1. Rule 60L, Florida Administrative Code (F.A.C.), “Personnel Management System”

2. Rule 60L-33.007, F.A.C., "Equal Employment Opportunity and Affirmative Action"
3. Rule 60L-36.004, F.A.C., "Sexual Harassment"
4. Rule 60L-36.005, F.A.C., "Disciplinary Standards"
5. Rule 60Y-5, F.A.C., "Proceedings upon Complaints of Unlawful Employment Practices"

### III. Supportive Data

- A. DOHP 220-3-14, "Methods of Administration, Equal Opportunity in Service Delivery"
- B. DOHP 60-35-09, "Sexual Harassment"
- C. DOHP 60-32-11, "Americans with Disabilities Act Accommodations"

### IV. Signature Block with Effective Date

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Mary Beth Vickers  
Acting Chief of Staff

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Date

### V. Definitions

- A. **Accommodation:** Job duties, work environment, or work culture modified or adjusted to enable a qualified individual with a disability to enjoy equal employment opportunity. In addition, any adjustment to the work environment that will allow an employee or applicant for employment to practice his or her sincerely held religious belief.
- B. **Administrative Entity:** This term refers to the alleged discriminatory official, that is, county, institution, or other department entity (including contractors or service providers).
- C. **Affirmative Action:** This term refers to actions taken or policies and procedures implemented by an agency committed to achieving and promoting equal employment opportunity. Any action intended to correct effects of past discrimination, to eliminate present discrimination, or to prevent discrimination in the future.
- D. **Affirmative Action Plan:** The written plan that contains the analysis of an entity's workforce and that, upon identification of underutilization of women and minorities, sets forth detailed steps (action-oriented programs) the entity will take

and/or has already taken to meet its placement goals and to eliminate underutilization and ensure equal employment opportunity.

- E. Alleged Discriminatory Official (ADO):** The alleged discriminatory official is the employee, supervisor, hiring authority, or other individual named in an employment discrimination complaint as committing an unlawful act.
- F. Assigned Legal Counsel:** The attorney designated by the Department's General Counsel to provide consultation on personnel issues.
- G. Available Labor Market:** Persons who reside in the geographic area, from which an employer may reasonably expect to recruit, limited to those unemployed and those employed but available, who possess the knowledge, skills, and abilities to perform a specific job or type of job.
- H. Basis:** The protected class or status alleged in a discrimination complaint such as a person's age, race, color, sex, religion, national origin, genetic information, political affiliation, marital status, or disability or retaliation for a person's opposition to an act made unlawful by the Civil Rights Act of 1964 or similar civil rights laws.
- I. Bona Fide Occupational Qualification (BFOQ):** This term refers to a job-related requirement or necessary occupational qualification that is essential for the satisfactory performance of the duties and responsibilities assigned to a particular position. Race is never a BFOQ.
- J. Bullying:** The repeated less-favorable treatment of a person by another or others that is considered an unreasonable and inappropriate workplace practice. Bullying is aggressive behavior that intimidates, humiliates, and/or undermines a person or group and is a form of harassment. Examples of bullying may include sabotaging someone's work or his or her ability to do the job by not providing vital information, appropriate training, and/or resources.
- K. Complainant (Charging Party):** A person filing a complaint of discrimination alleging a violation of federal or state civil rights (equal opportunity and nondiscrimination) laws or policies.
- L. Conciliation and Settlement:** The processes an employer and a complainant use to develop a mutually satisfactory written agreement to resolve an employment discrimination complaint.
- M. Delegated Authority:** Chief of Staff, appropriate deputy secretary, county health department director/administrator, division director, children's medical services medical director, General Counsel, or Inspector General.
- N. Determination:** The findings or results of the investigation relating to the merits of the complaint; for example, there is reasonable cause or no reasonable cause, to believe a violation of equal opportunity laws occurred as alleged.

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- O. Disability:** As defined in 29 CFR, 1630.2, is a physical or mental impairment that substantially limits one or more of the major life activities of an individual; or a record of such an impairment; or being regarded as having such an impairment.
- P. Discrimination:** With regard to employment practices, the denial of equal treatment to a person in comparison with others similarly situated based on that person's rights. Title VII of the Civil Rights Act, Section 504 of the Rehabilitation Act, Title II of the Genetic Information Nondiscrimination Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Florida Civil Rights Act, and other applicable laws define these rights.
- Q. Equal Employment Opportunity (EEO):** The provisions of an environment in which the rights of all persons to work and to advance based on qualifications, ability, and potential are manifest.
- R. Equal Employment Opportunity Commission (EEOC):** An independent federal agency created by the Civil Rights Act of 1964. This agency is responsible for enforcing Title VII of that Act, the Equal Pay Act, the Age Discrimination in Employment Act, Title I of the Americans with Disabilities Act, Title V of the Americans with Disabilities Act. It is also responsible for enforcing Sections 501 and 505 of the Rehabilitation Act (relating to the federal government), the Civil Rights Act of 1991, the Lilly Ledbetter Fair Pay Act, and Title II of the Genetic Information Nondiscrimination Act. The EEOC provides oversight and coordination of all federal equal employment opportunity regulations, practices, and policies.
- S. Equal Opportunity Manager:** The individual appointed by the State Surgeon General to serve as the Equal Opportunity/Affirmative Action Officer for the Department of Health.
- T. Equal Opportunity Section:** responsible for investigating and/or ensuring that all internal/external complaints of discrimination are thoroughly and expeditiously investigated and to coordinate the Department's response for external complaints of discrimination.
- U. External Complaints:** Written complaints of discrimination filed with federal, state, or local fair employment practice agencies with enforcement authority in the investigation, resolution, or disposition of civil rights (discrimination) complaints.
- V. Florida Commission on Human Relations (FCHR):** The commission, created pursuant to Chapter 760, F.S., is the state's civil rights enforcement agency. FCHR is charged with promoting and encouraging fair treatment and equal opportunity for all persons; mutual understanding and respect among members of all economic, social, racial, religious, and ethnic groups; and efforts to eliminate discrimination against and antagonism among religious, racial, and

ethnic groups and their members. Employment discrimination complaints filed with the FCHR may be jointly filed with the EEOC, except those alleging a basis of marital status or age under 40. (Florida Civil Rights Act, Chapter 760, F.S.)

**W. Genetic Information:** Information about:

1. An individual's genetic tests;
2. The genetic tests of that individual's family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or
5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology. Genetic information does not include information about the sex or age of the individual or the sex or age of family members.

**X. Harassment:** This term refers to a form of discrimination. Harassment includes unwelcome, embarrassing, unsolicited, offensive, abusive, belittling, or threatening behavior directed at an individual or group because of some real or perceived attribute such as a person's age, race, color, sex, religion, national origin, genetic information, marital status, or disability in circumstances that a reasonable person would find to be offensive, humiliating, or intimidating. Harassment can be one or more of the following:

1. Practical jokes;
2. Swearing;
3. Bullying;
4. A demand or inappropriate request for sexual/romantic favors;
5. Crude jokes, derogatory comments, offensive messages, or phone calls;
6. Graffiti with racial overtones;
7. Name calling, physical threats, and offensive gestures;
8. Campaigns of hate and silence, and

9. Leering, patting, pinching, and touching;
  10. Coercion of employees, clients, or customers in the participation or non-participation in religious activities;
  11. Ethnic slurs, innuendoes, or
  12. Offensive posters, pictures, or graffiti displayed.
  13. Harassment includes any other verbal or physical conduct that creates an intimidating, hostile, or offensive environment.
- Y. Hiring Authority:** Any person who has selection authority for a job vacancy.
- Z. Mediation:** Negotiation assisted by a neutral third person(s) who is not involved in the dispute. Decision-making authority remains with the employee and the appropriate delegated authority.
- AA. No Reasonable Cause:** The conclusion or determination reached after examining all available evidence and documentation that no discrimination has taken place.
- BB. Protected Class:** This term refers to a person or group of persons who, under a specific set of relevant circumstances, qualifies for protection against discrimination under a given civil rights statute or ordinance.
- CC. Qualified Applicant:** Any person who submits a State of Florida application for a bona fide job vacancy and whose knowledge, skills, and abilities (training and experience) meet the minimum requirements established for the position (Chapter 60L-33, F.A.C.). (For positions requiring examination, applicants who possess the required minimum knowledge, skills, and abilities and attain a minimum qualifying score on the written examination for the class.)
- DD. Race and Ethnic Categories:** A group of people classified together based on physical characteristics, common history, nationality, or geographic distribution as described under guidelines from EEOC and the Florida Department of Management Services. The categories are:
1. **White:** All individuals having origins in any of the original peoples of Europe, North Africa, or the Middle East. It includes people who indicate their race as White or report entries such as Irish, German, Italian, Lebanese, Near Easterner, Arab, or Polish.
  2. **Black or African American:** All individuals having origins in any of the Black racial groups of Africa. It includes people who indicate their race as Black, African American, or Negro or written entries such as Afro-American, Kenyan, Nigerian, or Haitian.



3. **Hispanic or Latino:** All individuals whose origins are from Spain, the Spanish-speaking countries of Central or South America, the Dominican Republic, or people identifying themselves generally as Spanish, Spanish-American, Hispanic, Hispano, Latino, and so on or report such entries as Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
  4. **Asian:** All individuals having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
  5. **American Indian or Alaska Native:** All individuals having origins in any of the original peoples North, South, or Central America and who maintain tribal affiliation or community attachment. It includes people who indicate American Indian, Canadian Indian, French American Indian, Spanish American Indian, or who enter the name of an Indian tribe. It also includes people who indicate Eskimo, Aleut, Alaska Indian, as well as entries such as Artic Slope, Inupiat, Yupik, Alutiq, Egegik, and Pribilovian. It includes the Alaska tribes of Alaskan Athabascan, Tlingit, and Haida.
  6. **Native Hawaiian or Other Pacific Islander:** All individuals having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who indicate their race as Native Hawaiian, Guamanian or Chamorro, Samoan, and Other Pacific Islander.
  7. **Other or Balance:** This includes persons giving all other responses not included in groups 1 through 6. However, this designation is not available for the required EEO-4 report. Do not check this box in People First.
- EE. Reasonable Cause:** The conclusion or determination reached after applying facts, obtained from available evidence and documentation, to applicable principles or standards of proof.
- FF. Retaliation:** Prohibited action taken against complainants or persons assisting in a complaint of discrimination as a direct result of their participation in the complaint or their opposition to alleged unlawful employment practices prohibited by federal or state civil rights law or statute, the Whistleblower's Act, or a department policy opposing discrimination.
- GG. Sexual Harassment:** Any form of unwelcome 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 an individual's employment.

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

## **VI. Protocol**

### **A. Outcome**

1. Each applicant and employee will have equal employment opportunity without regard to that person's age, race, color, sex, religion, national origin, genetic information, political affiliation, marital status, disability, or status as a special disabled veteran or veteran of the Vietnam era.
2. The Department will not discriminate on the basis of a protected class against a qualified individual with regard to:
  - a. Recruitment, advertising, or job application procedures;
  - b. Hiring, upgrading, promoting, awarding tenure, demoting, transferring, laying off, terminating, giving right to return from layoff, or rehiring;
  - c. Rates of pay or any other forms of compensation or changes in compensation;
  - d. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, or seniority lists;
  - e. Leaves of absence, sick leave, or any other leave;
  - f. Fringe benefits available by virtue of employment, whether or not administered by the covered entity;
  - g. Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities or approval of leaves of absences to pursue training;
  - h. Activities sponsored by a covered entity including social and recreational programs; and
  - i. Any other term, condition, or privilege of employment.

**B. Personnel**

All Department of Health employees

**C. Areas of Responsibility**

1. The Office of the General Counsel, Equal Opportunity Section is responsible for this policy.
2. The State Surgeon General will appoint the Equal Opportunity Manager.
3. The Equal Opportunity Manager will determine the department's final position on a complaint of discrimination filed with an external agency.
4. The Equal Opportunity Manager will develop policies and procedures to implement the Department's equal opportunity/affirmative action program and establish objectives for the equal employment opportunity/affirmative action (EEO/AA) program. The major objectives of the EEO/AA program are:
  - a. To prevent discrimination;
  - b. To create a workforce more reflective of the population composition in the available labor market;
  - c. To ensure compliance with all applicable state and federal laws, rules, regulations and executive orders relative to EEO/AA;
  - d. Determine annual goals for the Department of Health;
  - e. Develop policies and procedures to ensure department and contracted service providers comply with applicable civil rights laws;
  - f. Ensure the investigation of all externally filed complaints of discrimination;
  - g. Develop training for employees regarding equal opportunity, sexual harassment, and affirmative action;
  - h. Provide technical assistance, guidance, and necessary training to department personnel;
  - i. Monitor civil rights compliance and disseminate information to appropriate department personnel and pertinent parties;
  - j. Inform Department staff of pertinent civil rights issues and activities;

- k. Serve as liaison between the Department of Health and the United States Department of Health and Human Services Office for Civil Rights; Office of the Assistant Secretary of Civil Rights, the United States Department of Agriculture; the United States Department of Justice, Office of Civil Rights Division; the United States Equal Employment Opportunity Commission; the Florida Commission on Human Relations; and other agencies or groups concerned with the nondiscriminatory delivery of services and equal employment opportunity; and
  - l. Ensure the investigation of internal complaints of discrimination.
5. Delegated Authorities will:
- a. Ensure personnel under their authority attend equal opportunity training and functions when scheduled and complete EO Awareness Training and Sexual harassment Training in TRAIN on an annual basis;
  - b. Ensure personnel under their authority comply with applicable civil rights laws, rules, regulations, and procedures;
  - c. Designate an Equal Opportunity (EO) Coordinator.
6. EO Coordinators will:
- a. Assist the Equal Opportunity Section with gathering affidavits and relevant documentation needed to respond to a complaint of discrimination, as well as other equal opportunity related materials or information;
  - b. Assist the Equal Opportunity Section with compliance reviews and ensure timely submission of compliance reports;
  - c. Provide documents requested by the Equal Opportunity Section;
  - d. Coordinate the annual update of the Auxiliary Aids and Limited English Proficiency Plan (LEP);
  - e. Coordinate the annual update of the affirmative action plan.

## **VII. Procedures**

This section establishes the responsibility and authority of the Equal Opportunity Section to conduct discrimination complaint investigations and to ensure that all complaints of discrimination are thoroughly and expeditiously investigated through an independent investigative process free of real or perceived influence or interference. In the

performance of its investigative duties, the Equal Opportunity Section will have free and unfettered access to all DOH records, documents, and other material that relate to complaints of discrimination.

All DOH employees are required to respond truthfully to questions related to discrimination complaint investigations, to cooperate in any discrimination investigation and to provide all applicable documents, records, or other information requested by the Equal Opportunity Section in that regard.

The discrimination complaint process establishes uniform procedures for resolving complaints of discrimination through complaint investigation where appropriate. These procedures apply to department employees and applicants for employment who allege unlawful discrimination because of age, race, color, sex, religion, national origin, genetic information, political affiliation, marital status, or disability. Any employee who knowingly files a false complaint of discrimination and/or harassment shall be subject to disciplinary action up to and including dismissal. However, employees who have acted in good faith and on reasonable grounds to believe that discrimination and/or harassment have occurred shall not be subject to discipline.

- A. **Management Responsibility:** Any supervisor or manager who learns of possible discrimination on a basis protected by civil rights laws must take action to resolve the issue. Managers are responsible for reporting all discrimination complaints to the Equal Opportunity Section. The supervisor or manager will notify the Equal Opportunity Manager or an Inspector Specialist in the Office of the General Counsel, Equal Opportunity Section if an employee wishes to remain unnamed or does not wish to file a written statement or complaint. The appropriate delegated authority, with the assistance of the Equal Opportunity Manager and the assigned legal counsel, will determine the disposition of the matter. In accordance with Section 119.071(2)(g)2, F.S., if the alleged victim chooses not to file a formal complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from Section 119.07(1), F.S., and Section 24(a), Article I of the State Constitution.
- B. **Internal Complaint:** Internal complaints must be filed within 365 days of the alleged discriminatory act. The "Discrimination Complaint Form" is available for use to file the complaint, but is not required. The complaint should include the basis, issue, name of the alleged discriminatory official, a brief explanation of what occurred, and the date of the alleged discriminatory action.
1. Employees and applicants for employment with the Department of Health may file an internal complaint with the following:

Office of the General Counsel  
Equal Opportunity Section  
Department of Health  
4052 Bald Cypress Way, Bin A02  
Tallahassee, Florida 32399-1703

850-245-4002  
850-487-2168 FAX  
1-410-1451

2. The Department's Equal Opportunity Section will serve as the intake unit for internal employee complaints and applicants for employment complaints of discrimination. Any departmental entity receiving an internal complaint of discrimination will immediately forward the complaint to the Office of the General Counsel, Equal Opportunity Section for investigation.
3. The Equal Opportunity Section will forward a copy of the complaint and document request to the appropriate delegated authority, the local EO Coordinator, and the assigned legal counsel for coordination of the collection of documentation. The deadline for submission of requested documentation is seven days. Only the Equal Opportunity Manager or designee may grant an extension of the deadline.

C. **External Complaint:** Employees and applicants for employment may file an external complaint with external agencies including the following agencies:

District Director, Miami Area Office  
United States Equal Employment Opportunity Commission  
One Biscayne Tower, Suite 2700  
Two South Biscayne Boulevard  
Miami, Florida 33131  
800-669-4000  
800-669-6820 TTY  
(Must file within 300 days of the alleged violation)

District Director, Tampa Area Office  
United States Equal Employment Opportunity Commission  
501 East Polk Street, Room 1000  
Tampa, Florida 33602  
812-228-2310  
(Must file within 300 days of the alleged violation)

Florida Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, Florida 32301-4857  
800-342-8170  
850-488-7082  
(Must file within 365 days of the alleged violation)

1. The Office of the General Counsel, Equal Opportunity Section will serve as the intake unit for complaints of discrimination filed with the Florida Commission on Human Relations, the Equal Employment Opportunity Commission, and other external agencies. Any Department of Health

entity receiving an external complaint of discrimination will immediately forward the complaint to the Equal Opportunity Section.

2. The Equal Opportunity Section will forward a copy of the complaint and document request to the appropriate delegated authority, the local EO Coordinator, and the assigned legal counsel for coordination of the collection of documentation. The deadline for submission of requested documentation is seven days. Only the Equal Opportunity Manager or designee may grant an extension of the deadline.

**D. Complaint Format:** The complaint must contain:

1. The basis for the complaint, e.g. race, color, religion, sex, age, national origin, disability, marital status or retaliation;
2. The name, address and telephone number of the person (complainant) filing the complaint;
3. The name and address of the employer (respondent) along with the name(s) of the alleged discriminatory official(s) and the specific organizational unit(s) complained against;
4. A description and date of the alleged discrimination; and
5. A written affirmation (signed) by the complainant.

**E. Exceptions and Extensions:** Requests for exceptions to the procedures described herein or extensions of the time required to complete the compilation of requested documents/documentation should be submitted to the Equal Opportunity Manager or assigned Inspector Specialist. The requests should include the reasons for the exceptions or extensions, any additional time needed, the anticipated completion date, and any recommended alternative procedure or action. The local EO Coordinator or assigned legal counsel will notify the Equal Opportunity Manager:

1. To request technical assistance;
2. To request an extension of the due date;
3. When contacted by investigators from outside the Department;
4. When there is a union grievance pending;
5. When there may be the appearance of a conflict of interest or other reason to reassign responsibility for the investigation;
6. When litigation has been initiated on behalf of the complainant relating to the complaint; or

7. To request exceptions, waiver, or deviation from EEO procedures and reporting requirements.

F. **Department Disposition:** Based on the investigative reports, findings and recommendations, the Equal Opportunity Manager will determine the department's position relative to complaints of employment discrimination filed against the department. The Equal Opportunity Manager, after legal review, will approve and sign the department's position statement. The Equal Opportunity Manager or designee will forward the signed position statement to external agencies, if any.

1. Internal Complaints

- a. If there is a finding of "no reasonable cause" to believe that discrimination has occurred as alleged, the complaint will be dismissed; the complaint file closed; and the complainant and appropriate parties are notified of the decision.
- b. If there is a finding of "reasonable cause" to believe that discrimination has occurred as alleged, conciliation will be effected by the Equal Opportunity Manager in coordination with the complainant, delegated authority, and the assigned legal counsel.

2. External Complaints

- a. If the Department finds "no reasonable cause," the Equal Opportunity Section will prepare a written statement supporting this finding and will submit that statement, after legal review, along with supporting documentation to EEOC or FCHR for final determination and disposition of the complaint.
- b. If EEOC and/or FCHR find "reasonable cause", they will initiate conciliation with the department through the Equal Opportunity Section. Upon notification of said finding of "reasonable cause", the Equal Opportunity Section will coordinate the department's conciliation efforts with the appropriate external agency, delegated authority, and assigned legal counsel. During the investigative process, the Equal Opportunity Manager may request negotiation with the external agency if the delegated authority and legal counsel agree.
- c. When notified of the disposition of the complaint by the external agency, the Equal Opportunity Manager will notify the delegated authority and the assigned legal counsel of the external agency's decision.



- d. The Equal Opportunity file will remain open during the right to sue period.

#### G. **Restricting Use of Information**

1. Information in the investigative report and position statement is confidential during an investigation. However, after the external agency makes a determination relative to the merits of a complaint, certain materials are available as part of the discovery process in a suit(s). In addition, certain materials are available as public records pursuant to Chapter 119, F.S.
2. Requests for review of investigative materials or reports should be submitted to the Equal Opportunity Manager in the Office of the General Counsel, the official custodian of such records.

#### H. **Accommodations for Religious Practices**

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. This section establishes procedures for employees or prospective employees to follow when requesting a reasonable accommodation for religious practices.

Beliefs can be religious beliefs and practices even if no one else or few other people subscribe to them. Religious beliefs relate to any ultimate concerns, such as life, purpose, death, humanity's place in the universe, or right and wrong.

There is no protection, however, of beliefs that relate to a personal preference and that are not part of a moral or ethical belief system under Title VII of the Civil Rights Act.

The DOH will reasonably accommodate sincerely held religious beliefs and practices unless to do so will cause an undue hardship. Undue hardship may include disruption to co-workers, customers, and business operations by a permitted religious expression. Personalized signatures on e-mails that include religious quotes and bible verses are discouraged. Reasonable accommodation may include flexible work schedules, modifying dress or grooming standards, lateral transfer, change in job assignments, leave, ability to wear religious garb, accommodating certain hairstyles, and reasonable religious expression or practice. Security concerns are one of the factors considered when determining if a requested accommodation is reasonable.

1. **Accommodation Request:** An employee may request a reasonable accommodation for a religious practice in writing or by any other means of communication used by the employee. Submit the request to the immediate supervisor or directly to the Equal Opportunity Section in the Office of the General Counsel. A written request is required for clear

documentation. The request must specify the type of accommodation needed and what religious practice or belief requires the accommodation.

2. **Review Process:** The supervisor will assess each request. The supervisor and the employee will confer fully and promptly to the extent needed to share any necessary information about the employee's religious needs and the available accommodation options.
3. **Disposition/Notification to Employee:** The DOH is not obligated to provide the employee's preferred religious accommodation if there is more than one effective alternative. When a request for a religious accommodation is under review, a supervisor must consider offering alternative methods of accommodation on a temporary basis. The supervisor will confer with assigned legal counsel and the Equal Opportunity Manager prior to denying an accommodation. The employee will receive notification of the accommodation approval or denial. An accommodation denial will include the reason(s) for the denial.

#### **I. Mediating External Complaints**

1. The Equal Opportunity Manager will provide the appropriate delegated authority and assigned legal counsel a copy of the external complaint and the offer to mediate.
2. The appropriate delegated authority, assigned legal counsel, and the Equal Opportunity Manager will decide if the department will accept the offer to mediate. If necessary, the legal counsel will notify the Department of Financial Services, Division of Risk Management of the plan to mediate.
3. If the decision is to mediate, the Equal Opportunity Manager or assigned legal counsel will sign the agreement to mediate and return it to the external agency. The external agency coordinates the mediation.
4. The assigned legal counsel and the delegated authority will attend the mediation. The Equal Opportunity Manager will attend the mediation if requested by the delegated authority or legal counsel; otherwise, legal counsel will notify the Equal Opportunity Manager of the time and date of the mediation and discuss the intended settlement with the Equal Opportunity Manager prior to finalizing the agreement.
5. The assigned legal counsel will notify the Department of Financial Services, Division of Risk Management of the time and date of the mediation; provide information and documentation requested by the Division of Risk Management representative; and request that the Division of Risk Management representative be available by telephone, if needed, to discuss the settlement options. The individuals attending the mediation must have authority to grant or deny the requested relief.

**J. Retention Periods**

1. Records that relate to a complaint of discrimination are to be retained by the EO Coordinator until the complaint is either resolved or a final court decision is made.
2. Disposal of records will be in accordance with the Department of Health records management procedure. The retention period for all equal employment opportunity records and reports is a minimum of three calendar years after closure or, if in litigation, until the Equal Opportunity Manager provides notice of complaint resolution.

**K. Reports**

An effective affirmative action program requires periodic review and evaluation of policies, procedures, and practices. The Equal Opportunity Section developed the following to determine compliance with the affirmative action plan.

1. **Disciplinary Action Report:** The Disciplinary Action Report captures all disciplinary actions imposed on Department of Health employees within each county and central office. This is a monthly report and is due by the 10th of the following month.
2. **Statistical Reports:** The Equal Opportunity Section periodically distributes workforce diversity and equal employment opportunity statistical reports for review to determine progress towards affirmative action goals.
3. **Goals:** Realistic goals are important in evaluating affirmative action plans. A goal is set based on the principle that equal employment opportunity constitutes consideration of each individual's capacity to perform job-related duties without regard to that person's age, race, color, sex, religion, national origin, genetic information, political affiliation, marital status, or disability. Realistic goals measure the progress of correcting present underutilization of protected classes. Further, the purpose of goals is not to displace present employees or to promote the hiring of unneeded or unqualified applicants.
  - a. The Equal Opportunity Section will develop and recommend realistic goals for the department's affirmative action plan.
  - b. The Delegated Authorities will develop and recommend to the Equal Opportunity Section realistic goals and strategies for their administrative entity.
  - c. Procedure for Establishing Goals:

1. Use the labor market data provided by the Department of Management Services to determine the percentage of protected class members in the equal employment opportunity job categories in the relevant labor market;
2. Assess the workforce of the relevant entity annually;
3. When there is underutilization, establish a hiring goal based on the available labor market;
4. Do not establish a goal in any category in which underutilization does not exist or in which the protected class represents 50 percent or more of the workforce;
5. A revision of goals is appropriate only in cases involving exceptional circumstances such as legislative or court-mandated changes or revised relevant available labor market data, substantial increases or decreases in the number of authorized positions and extremely low turnover rate.

**VIII. Distribution List**

Deputies  
General Counsel  
Office Directors  
Division Directors  
Bureau Chiefs  
County Health Department Directors/Administrators  
Children's Medical Services Medical Directors  
Children's Medical Services Nursing Directors and Program Managers  
EO Coordinators  
Policies and Procedures Library, hard copy  
Web Manager, electronic copy  
Department of Health employees

**IX. History Notes**

This policy replaces DOHP 60-33-11, dated July 1, 2011.

**X. Appendix**

DOH Internal Discrimination Complaint Form