

3.000 Equal Employment Opportunity - Departmental Roles and Responsibilities

The **Director** establishes policies on nondiscrimination and is responsible for the overall implementation of the departmental Equal Employment Opportunity Program (EEOP) and Discrimination Complaint Process (DCP). This includes providing adequate staff resources for the effective implementation of prevention activities. The Director provides the final departmental disposition on all formal discrimination complaints.

The **Equal Employment Opportunity Officer (EEOO)** is the overall administrator of the EEOP and DCP and serves as the departmental resource person for equal employment opportunity and sexual harassment issues. The EEOO is responsible for providing leadership in preventing and resolving EEO complaints by working with managers, supervisors, and staff, to provide EEO training and counseling. The EEOO shall investigate complaints as necessary and is responsible for acknowledging formal complaints and ensuring that impartial investigations are conducted. The EEOO reviews all investigative reports and makes recommendations for resolution of the complaints to the appropriate levels. The EEOO ensures that appropriate corrective and/or adverse actions are initiated and taken. The EEOO coordinates and/or prepares responses to complaints filed with external compliance agencies (Department of Fair Employment and Housing, Equal Employment Opportunity Commission, State Personnel Board) and serves as liaison to departmental legal staff and outside legal counsel on the appeals or lawsuits filed in connection with discrimination complaints.

*The section regarding **EEO Counselors** is being revised. Please contact the EEO Office for further information.*

The **EEO Investigator** is responsible for conducting an impartial investigation into allegations of denial of equal employment opportunity or sexual harassment issues. This includes a thorough review of the circumstances leading up to the filing of a formal complaint and gathering all relevant facts for presentation in an investigative report to the EEOO. The EEO Investigator ensures that the report and all related documents are not accessed by anyone without authorization from the EEOO and the department's legal counsel.

Managers and Supervisors are responsible for implementation of preventive activities and training for all employees to promote a work environment that is fair and free from discrimination. This shall be

through example, education, discussion, and proactive efforts to change inappropriate or discriminatory attitudes and practices of all employees. They are responsible for knowing the department's policy on prevention of all forms of discrimination. It is also the responsibility of all managers and supervisors to apprise the EEOO of all EEO complaints, provide full cooperation to the EEOO or assigned Investigator, and to make a good faith effort to resolve complaints at the lowest level possible. Managers and supervisors are responsible for initiating immediate and appropriate action against any employee found to be practicing discrimination of any kind and must work in concert with the EEOO and the Human Resources Branch (HRB) to stop and correct inappropriate behavior.

Employees are responsible for promoting and maintaining a work environment free of inappropriate behaviors and practices that are discriminatory or harassing. All employees shall comply with the department's policies on EEO and sexual harassment prevention and shall immediately report violations of the policies to management or the EEO Office.

3.001 Equal Employment Opportunity Policy

It is the policy of the Department of Motor Vehicles (DMV) to ensure a work environment free of all forms of unlawful discrimination, harassment, intimidation, or coercion, and to establish and maintain an effective equal employment opportunity (EEO) program.

This program shall be based on merit, efficiency, and fitness as ascertained by competitive examination. The equal employment opportunity policy applies to all employees and applicants, and covers all aspects of the employment process, including: testing, hiring, disciplinary actions, evaluation, termination, training, promotion, assignments, and leave.

In accordance with state and federal laws, the DMV EEO program prohibits unlawful discrimination, harassment, intimidation, or coercion in employment, and provision of services based on age (over 40), race, sex, color, religion, national origin, political affiliation, ancestry, marital status, sexual orientation, pregnancy, childbirth or related medical condition, or disability. DMV is also fully committed to protecting employee rights under the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

The department shall immediately begin investigations by the EEO Officer or designee into allegations of violations of this policy. Findings shall be reported to the Director upon request and to the appropriate division's Deputy Director, with recommendations.

It is also the policy of the department that each manager and supervisor is responsible and accountable for implementing this policy within his or her area of responsibility.

3.010 Discrimination and Harassment - Remedial Action

It is the policy of this department that harassment, in any form, is unacceptable and will not be tolerated. Such conduct is subject to immediate disciplinary action up to and including dismissal from state service.

The department, following the guidelines of Title VII of the Civil Rights Act of 1964 as amended, the California Fair Employment and Housing Act (FEHA) and California Government Code Sections 19701 through 19703, shall take prompt remedial action against supervisors/managers and/or employees who knowingly commit, or allow employees to commit, acts of harassment or unlawful discrimination against other employees or customers because of age (over 40), race, sex, color, religion, national origin, political affiliations, ancestry, marital status, sexual orientation, pregnancy, childbirth or related medical condition, or disability.

This policy covers all forms of employee harassment, including both physical and nonphysical sexual harassment. Sexual harassment is a particular form of discrimination and is prohibited by both Title VII of the Civil Rights Act of 1964 and Section 12940 of the California Government Code, Fair Employment and Housing Act (FEHA).

3.020 Equal Employment Opportunity for Disabled Persons

It is the policy of this department to provide equal employment opportunity (EEO) and services to all qualified disabled persons, with or without reasonable accommodation. This shall include using all available resources to provide EEO to all individuals, such as the Limited Examination and Appointment Program (LEAP). Hiring supervisors and managers shall use LEAP as often as possible. It is also the policy of the department that EEO activities such as LEAP shall be considered during annual evaluations of supervisors and managers.

All decisions relating to personnel policy and practice in the areas of recruitment, testing, selection, placement, employment development, training, and advancement of disabled persons shall be made on the basis of the applicant's or employee's capabilities to adequately perform the specific job for which he/she has applied, with or without reasonable accommodation.

3.040 Sexual Harassment Prevention

It is the policy of this department that sexual harassment, in any form, is unacceptable and will not be tolerated. Such conduct is subject to immediate disciplinary action up to and including dismissal from state service.

In order to prevent sexual harassment, to provide a productive and pleasant working environment for employees, and to provide good service for DMV customers, it is important that all employees maintain an atmosphere of mutual respect and professionalism. Therefore the conduct characterized below will not be tolerated. Employees will be protected to the extent possible from harassment by employees as well as by non-employees in the workplace.

Sexual harassment is a particular form of discrimination and is prohibited by both Title VII of the Civil Rights Act of 1964 and Section 12940 of the California Government Code, Fair Employment and Housing Act.

Sexual harassment is generally defined as unsolicited and unwelcome sexual advances, requests for sexual favors, sexual demands, or other verbal, physical, or visual conduct of a sexual nature when it unreasonably interferes with a person's work performance or creates an intimidating work or customer service environment.

Inappropriate behavior that may violate this sexual harassment prevention policy can be found in many forms. Listed below are examples of the types of behaviors or situations that may be inappropriate.

- Sexually suggestive or obscene electronic mail, letters, notes, or invitations
- Sexually derogatory comments, slurs, jokes, or remarks
- Making sexual gestures or displaying sexually suggestive objects, pictures, cartoons, or posters
- Blocking movement or touching
- Unwanted sexual advances (including situations which began as mutual attractions, but later ceased to be mutual) and reprisals or threats after negative response to sexual advances
- Employment and/ or benefits that are given in exchange for

sexual favors or denied due to rejection

Management Responsibility:

Each manager, supervisor, and executive of the department is responsible for implementing this policy in his or her area of responsibility. All employees shall be made aware of the seriousness of violating the sexual harassment prevention policy and shall be warned against using peer pressure to discourage harassment victims from using the internal complaint procedures available to them.

Supervisors, managers, and department executives shall immediately notify the Equal Employment Opportunity (EEO) Officer of all charges of sexual harassment brought to their attention and shall take immediate and appropriate action to end inappropriate behaviors and to prevent re-occurrence.

Immediate and Appropriate Action:

In accordance with civil service laws and rules, immediate and appropriate action will be taken against any employee found to have violated this policy. The immediate and appropriate action taken will be sufficiently strong so as to end inappropriate behaviors and prevent re-occurrence.

Disciplinary actions taken as a result of violations of this policy may be up to and including dismissal from state service. According to the standard review procedure for corrective or disciplinary actions, the Director and/or appropriate Deputy Director, will review the action to be taken against employees found to have violated this policy.

Appropriate disciplinary action shall be taken against any supervisory or managerial staff who fails to take corrective action when the supervisor, manager, or executive knew, or should have known any of the following:

- That an employee is or was being subjected to any of the types of behavior prohibited by this policy
- That an employee is or was being retaliated against for any of the following:
 - Complaining of sexual harassment
 - Testifying or being a witness on behalf of one who made a complaint
 - Assisting or participating, in any manner, in any investigation into allegations of sexual harassment on

- behalf of any employee or customer of the department
- That an employee is or was violating the sexual harassment prevention policy

Any employee, applicant or customer of the department who feels they have been subjected to sexual harassment as defined under this policy may at any time bring the allegation to the attention of the appropriate supervisor, manager, or executive as well as to the EEO Officer of the department. However, allegations brought forward more than one year after the act(s) may lose protections afforded under EEO laws. In addition, the department will maintain trained EEO Counselors located in field offices, region offices, and headquarters locations who can assist.

Complaints may also be filed with the State Personnel Board (SPB), the state Department of Fair Employment and Housing (DFEH) and/or the U.S. Equal Employment Opportunity Commission (EEOC). Employees also have the right to sue.

3.100 Disabled Advisory Committee

California Government Code sections 19230 through 19237 require all state agencies to develop and implement an equal employment opportunity program aimed at assuring that persons with disabilities have access to positions in state government on an equal and competitive basis with the general population. As part of this effort, all state agencies are required to establish a disability advisory committee.

It is the policy of this department to maintain a committee of employees who are individuals with a disability, known as the DMV Disabled Advisory Committee (DAC). The DAC shall serve as technical advisors to the Director on the development, implementation, and maintenance of equal employment opportunity (EEO) and activities for persons and employees with disabilities. The DAC, in consultation with the EEO Officer, shall advise on the initiation, design, coordination, and implementation of projects to improve personnel practices and employment opportunities for persons with disabilities. The EEO Officer, or his or her designee, is responsible for providing direction to the DAC and for coordinating the activities of this committee.

The DAC shall consist of a representative from each division, the Executive Branch, the EEO Office, and the Facilities Coordinator. In addition, the Safety Coordinator and Return to Work Coordinator shall provide assistance to the committee as requested. The Director shall approve the membership of the DAC every September. The EEO Officer, or his or her designee, shall develop recommendations for appointments (or reappointments) from employees submitting applications to the DAC in accordance with the adopted DAC bylaws. The DAC shall meet on a quarterly basis, with additional meetings scheduled as necessary.

3.200 Equal Employment Opportunity Recruitment Responsibility

It is the policy of this department to utilize all available resources, and to ensure an efficient, result-oriented program. Responsibilities for recruitment will include:

- Those classifications having been identified as being underutilized in the assessment package submitted annually to the State Personnel Board (SPB) and requiring attention to eliminate deficiencies will be targeted for special recruitment efforts.
- The Equal Employment Opportunity Officer will furnish direction for establishing contacts with those groups identified as being deficient in representation.

3.210 Equal Employment Opportunity Performance Evaluation

It is the policy of this department to ensure compliance with state and federal laws pertaining to equal employment opportunity (EEO) and upward mobility, and that resulting departmental programs and policies are upheld and supported by supervisory and management personnel.

All supervisors and managers shall be held directly accountable for performance of their equal employment opportunity and upward mobility responsibilities. Their performance and/or compliance shall be evaluated and documented on an annual basis.

The Director shall establish the process of accountability and documentation, upon recommendation of the Director's Office Advisors, in concurrence with the EEO Officer, for all employees.

3.300 Reasonable Accommodation

It is the department's policy to provide reasonable accommodation to the known or perceived physical or mental disabilities of its employees or applicants. The department shall engage in a timely, good faith, interactive process with disabled employees or applicants to determine effective reasonable accommodations, if any, to the known physical or mental disability of employees and/or applicants.

It is the policy of the department that all requests for reasonable accommodation shall be handled in a manner that ensures that all medical information is kept confidential and separate from all other personnel documentation. Only those individuals determined by the Reasonable Accommodation Coordinator, in consultation with and concurrence from the Equal Employment Opportunity Officer, who have a need to know, shall be provided with information necessary to accommodate the requests. The exception to this confidential handling of requests is provided when the employee volunteers medical information to his or her supervisor or manager.

3.310 Reasonable Accommodation - AIDS

It is the policy of the department that requests for reasonable accommodation from employees with AIDS or HIV shall be handled like other such requests. The condition necessitating the accommodation shall be kept confidential. Only information necessary to accommodate the reasonable accommodation request shall be shared as stated below:

- If the Reasonable Accommodation request can be approved and implemented within the section of the requesting employee, only the supervisor, section manager, and EEO Officer should be informed of the basis of the request.
- If, however, the implementation of the request involves more than one section or division, only the appropriate Deputy Director and EEO Officer shall have information regarding the basis of the request. It will be left to the discretion of the Deputy Director and EEO Officer to determine the need for informing other supervisory personnel. Questions regarding employees with AIDS should be directed to the EEO Officer.

3.320 Reasonable Accommodation - Pregnancy

It is the policy of this department to provide reasonable accommodation to employees who are pregnant and to those who develop additional medical conditions resulting from pregnancy and/or childbirth.

In cases where risk factors may present health issues, temporary reasonable accommodation shall be provided. Examples of such health risks due to pregnancy include, but are not limited to, lifting, prolonged standing or sitting, exposure to chemicals, and the operation of equipment. It is the employee's responsibility to obtain a physician's statement verifying work limitations.

3.400 Retaliation

It is the policy of the department to prohibit retaliation against any employee or customer who raises issues under the department's EEO policies or engages in other similarly protected activities.

The department shall immediately begin investigations by the EEO Officer or designee into allegations of violations of this policy. Findings shall be reported to the Director upon request and to the appropriate division's Deputy Director with recommendations.