



NORTH CAROLINA DEPARTMENT OF HEALTH & HUMAN SERVICES

2014 EQUAL EMPLOYMENT OPPORTUNITY PLAN

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POLICY STATEMENT

STATE OF NORTH CAROLINA EQUAL EMPLOYMENT OPPORTUNITY

POLICY STATEMENT

It is the policy of the State of North Carolina to provide all employees and qualified applicants with equal employment opportunities and prohibit discrimination in employment on the basis of race, color, religion, sex, national origin, age, genetic information, political affiliation or disabling condition. In furtherance of this policy, the State of North Carolina and its various sub-divisions shall:

- Recruit, select, hire, place, train and promote persons in all job classifications without regard to race, color, national origin, religion, sex, age, genetic information, political affiliation or disabling condition.
- Base selection, hiring and promotion decisions on valid requirements and criteria which are job-related and necessary upon entry at that level to perform the essential functions of the job
- Administer all employment practices including compensation, benefits, promotion, training, tuition assistance, termination, transfer, demotion and reduction-in-force objectively and without regard to race, color, national origin, religion, sex, age, genetic information, political affiliation or disabling condition; and
- Provide, when necessary, reasonable accommodations for applicants' and/or employees' disabilities when doing so will enable them to successfully perform the essential functions of the job or benefit from training
- Prohibit retaliatory actions against employees or applicants for employment who make a charge of employment discrimination, testify, assist or participate, in any manner, in a hearing, proceeding or investigation of employment discrimination
- Assure a work place environment that is free from discrimination

Department of Health and Human Services EEO Policy Statement

The Department of Health and Human Services emphatically states that it will provide equal employment opportunities for all persons regardless of race, color, national origin, religion, sex, age, disability, genetic information or political affiliation, except where religion, sex or age are bona fide job related employment requirements. This is in keeping with Title VII of the Civil Rights Act of 1964, as amended, Federal Executive Order 11246, the Rehabilitation Act of 1973, the Civil Rights Restoration Act of 1988, the Americans with Disabilities Act of 1990, NCGS § 126-16 and 126-17 and other applicable federal and state laws.

In furtherance of this policy, the Department of Health and Human Services will:

- Prohibit retaliatory action of any kind taken by any employee of the Department of Health and Human Services against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.
- Assure that all the employment practices of the agency will be administered without regard to race, color, national origin, religion, age, sex, disability, genetic information or political affiliation and that these practices shall include, but are not limited to:
 - recruitment, including advertising, or soliciting for employment;
 - selection, hiring, and placement;
 - treatment during employment including compensation, promotion and reallocation;
 - evaluation of work performance;
 - administration of all forms of pay and other compensation;
 - selection for training, including trainee, interim and apprenticeship opportunities;
 - other career development opportunities, and
 - transfer, suspension, demotion, termination and/or reduction-in-force.
- Assure the Department of Health and Human Service provides reasonable accommodations for applicants and/or employees with disabilities when doing so will enable them to successfully perform the essential job functions or benefit from training.
- Discourage and prevent harassment (based on race, color, national origin, religion, sex, age, disability or genetic information) and prohibit through well-defined policy and laws.

- Ensure greater utilization of all persons by identifying the underutilized groups in the workforce and making special efforts to increase their participation in recruitment, selection, training and development, upward mobility programs and any other term, condition, or privilege of employment.
- Delegate the responsibility for the actual development of the Equal Employment Opportunity plan and program to the EEO Director. However, responsibility for the implementation of and compliance with this plan and program will be shared by the Secretary, Deputy Secretaries, Senior Staff, Assistant Secretaries, Division and Institution Directors and all managers and supervisors;
- Assure that the EEO plan and program effectiveness will be monitored and evaluated continuously for program effectiveness.
- Understand and value diversity within the Department of Health and Human Services.

The Secretary, Deputy Secretaries, Assistant Secretaries, Senior Staff, Division, Facility, Office Directors, managers, supervisors and all employees of the Department of Health and Human Services concur on the need for this policy and are committed to a diverse workforce.

Adopted March 1st of 2014.



Aldona Z. Vos, M.D., Secretary
North Carolina Department of Health and Human Services

EEO Policy

No DHHS employee may engage in speech or conduct that is defined as unlawful workplace harassment as indicated below. The Department is committed to providing a work environment free from unlawful workplace harassment, retaliation, and discrimination.

DEFINITIONS:

The Department defines unlawful workplace harassment as unwelcome or unsolicited speech or conduct based upon race, sex, religion, national origin, age, color, disabling condition or genetic information or as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo, which is a conditioning of employment benefits on an employee's submission to unwelcome sexual conduct.

Unlawful discrimination refers to unfair or unequal treatment of an individual or group based on certain protected class characteristics, which are: race, sex, religion, national origin, age, color, disabling condition or genetic information.

Unlawful retaliation is adverse treatment taken because of opposition to unlawful workplace harassment.

FILING A COMPLAINT:

Any employee who believes that he or she has been the subject of unwelcome harassment from another employee, a supervisor or manager, or from an outside party in the workplace, or who has observed harassment in the workplace, is encouraged to identify the offensive behavior and request that it stop. If you are unable to address the matter directly with the harasser, or if you do and the behavior continues, report the issue utilizing the complaint process outlined below.

An applicant for State employment, probationary State employee, former probationary State employee, career State employee or former career State employee (hereafter referred to as complainant) alleging unlawful discrimination, harassment or retaliation shall first file a complaint with the agency Equal Employment Opportunity (EEO) Officer within **15 calendar days** of the alleged discriminatory or retaliatory act that is the basis of the complaint. If the complainant alleges facts that would constitute unlawful discrimination, harassment, or retaliation as prohibited by law, the complaint will be investigated as a part of the EEO Informal Inquiry. The investigation will determine if the facts support a finding that there is reasonable cause to believe the alleged act rises to the level of unlawful discrimination, harassment or retaliation.

The agency has **45 calendar days** from receipt of the complaint to investigate and respond to the complainant, unless the complainant and the employer mutually agree in writing to extend the time due to occurrences that are unavoidable or beyond the control of either party. Any extension shall not exceed **15 calendar days**.

At the conclusion of the investigation, the agency shall communicate the outcome of the investigation in writing to the complainant. If there is reasonable cause to believe that unlawful discrimination, harassment, or retaliation occurred, management shall take appropriate action to resolve the matter. If the complaint is successfully resolved, the complainant will sign a letter of agreement with the agency detailing the terms of the resolution. The agency shall ensure that the terms of the agreement under the control of the agency are implemented. If the complaint is not successfully resolved, then the complainant may continue the process by filing a formal grievance within **15 calendar days** of the written response from the EEO Informal Inquiry.

At any point in the grievance process, the complainant/grievant has the right to bypass discussions with or review by the alleged offender. Time spent in the EEO Informal Inquiry is not a part of the formal internal grievance process.

The entire Employee Grievance Policy can be found on the OSHR website at:
http://www.oshr.nc.gov/Guide/Policies/7_Discipline,%20Appeals%20and%20Grievances/Employee%20Appeals%20and%20Grievances.doc

UNLAWFUL WORKPLACE HARASSMENT PREVENTION STRATEGIES

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

A. DEFINITIONS

Unlawful Workplace Harassment is unwelcome or unsolicited speech or conduct based upon race, sex, religion, national origin, age, color, handicapping condition or genetic information as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo.

Hostile Work Environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

Quid Pro Quo harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Retaliation is adverse treatment taken because of opposition to unlawful workplace harassment.

Note: Sexual harassment does not include personal compliments welcomed by the recipient, or social interaction or relationships freely entered into by State employees or prospective employees.

Note: "Hostile" includes offensive, aggressive, antagonistic, belligerent, and/or contentious behavior involving unlawful workplace harassment based on age, sex, race, color, national origin, religion, or handicapping condition as defined by G.S. 168A-3. A hostile work environment is determined by looking at the following: 1) whether the environment is objectively offensive in the eyes of a reasonable person, 2) whether the environment is subjectively offensive in the eyes of the person who is the object of the alleged harassment, and 3) the nature of the alleged hostility.

Note: Examples of quid pro quo unlawful workplace harassment include: 1) a supervisor promises an employee a promotion if the employee acquiesces to sexual advances; or 2) a supervisor begins each staff meeting with a prayer session conducted by a Christian minister. A Jewish employee refuses to participate in the prayer session and is terminated because of this refusal.

B. OBJECTIVES

The Department of Health and Human Services (DHHS) seeks the creation of a work environment in the agency that is free of any conduct which falls under the definition of unlawful workplace harassment by:

- a) Developing and disseminating to all employees the EEO policy statement for the agency;
- b) Sensitizing employees to the subject through training, orientation and literature;
- c) Developing disciplinary actions addressing unlawful workplace harassment;

C. TIMETABLE FOR MEETING OBJECTIVES

- a) The unlawful workplace harassment prevention strategies contained in this EEO Plan will be made available publicly and posted on the Department's website and other areas visible to employees once the Department receives OSHR's approval;
- b) Unlawful workplace harassment as one of the topics presented during orientation for new Department employees, and periodically thereafter Placement of all supervisors in the *EEO Training* course. The goal is to have all supervisors complete this course within their initial year of employment.

D. RESPONSIBILITIES FOR AND FACETS OF IMPLEMENTATION

As shown below, all employees of DHHS play a role in the prevention of Unlawful Workplace Harassment.

EEO Director/Human Resources Office

- 1) developing the Department's EEO policy statement;
- 2) communicating the policy and plan to new and existing employees;
- 3) scheduling workshops on unlawful workplace harassment;
- 4) developing methods to evaluate program activities;
- 5) coordinating related activities;
- 6) investigating and obtaining any additional information of cases alleging unlawful workplace harassment needed to complete documentation of the file for management;
- 7) advising as appropriate and necessary all parties involved in cases alleging unlawful workplace harassment to include supervisor, grievant, and alleged harasser;
- 8) monitoring procedures and disciplinary action of all alleged cases;
- 9) verifying that all claims are properly recorded in the BEACON system; and

10) serving as resource persons to all employees.

Staff Development Specialist

- 1) In conjunction with the EEO Director, developing and administering workshops and/or on-line training on unlawful workplace harassment and retaliation to supervisors and employees;
- 2) maintaining records of which employees have completed workshops and those still needing to attend;
- 3) Advising the EEO Director and Human Resources Office of recommended changes to or implementation of policy which may prevent workplace harassment and retaliation.

Supervisor

- 1) administering the Department's policy;
- 2) preventing and correcting any identifiable discrimination and/or unlawful workplace harassment;
- 3) counseling of employees when appropriate to prevent and correct unlawful workplace harassment;
- 4) creating and maintaining a work environment free of unlawful workplace harassment; and
- 5) notifying the Human Resources Director of any claim or potential claim.

Employee

- 1) adhering to the Department's policy;
- 2) reporting illegal discrimination and unlawful workplace harassment; and
- 3) maintaining a work environment free of unlawful workplace harassment, discrimination and retaliation.

1. Training

DHHS recognizes its responsibility to prevent and correct unlawful workplace harassment, discrimination and retaliation and will offer a training program for its supervisors and employees to sensitize all to the subject. The department utilizes the EEO training program for supervisors originally designed by the Office of State Human Resources, Equal Opportunity Services Division which includes the following components:

- the State's policy
- unlawful workplace harassment
- unlawful workplace harassment grievance procedures
- illegal discrimination and unlawful workplace harassment
- corrective steps
- state and federal laws
- appropriate disciplinary actions
- reporting claims to Human Resources and/or the EEO Director

The DHHS EEO Director also is in the process of implementing appropriate EEO training for all employees.

2. COUNSELING

For victims of unlawful workplace harassment who may be experiencing some work related problems such as absenteeism, low productivity, inefficiency, as well as physiological problems which have been linked to stress, the State Employee Assistance Program will be cited as an available resource.

3. DISSEMINATION

The Department is dedicated to wide dissemination of this policy. It shall be posted in areas highly visible to employees. The current policy will also be presented to employees during orientation sessions for new employees, available in their Human Resources division/institution offices and posted on the Department's website.

4. EVALUATION

DHHS will maintain and report unlawful workplace harassment complaints through the established grievance reporting mechanism in the BEACON system.

An annual review shall be conducted by the EEO Director and Human Resources Director that identifies:

- 1) the number of incidents;
- 2) the location of incidents in the Department;

- 3) the ethnic and gender make up of employees alleging harassment;
- 4) the ethnic and gender make up of alleged harassers;
- 5) the department's program toward objectives and goals identified in that year's Unlawful Workplace Harassment Prevention Plan.

Any supervisor who becomes aware of a claim or potential claim shall be responsible for reporting such information to the Human Resources Director. The Human Resources Director shall be responsible for verifying that all claim information reported to the Human Resources Department is properly noted on the BEACON system. The information regarding claims shall be summarized and presented to the Secretary for review on a yearly basis. The EEO Director and Human Resource Director shall evaluate the collected information and determine changes to implement the prevention program.

EEO RESPONSIBILITIES

Assignment of Responsibility and Accountability

Governor of North Carolina

The Governor of the State of North Carolina has overriding responsibility for the State's Equal Employment Opportunity Policies and Programs. The responsibility for the actual development and implementation of individual equal employment opportunity plans and programs is delegated by the Governor to each university chancellor, and each head of a department of State and each head of a State agency or commission.

Office of State Human Resources Equal Employment Opportunity Services Division

Responsibility for the provision of technical assistance in EEO and program review, monitoring and evaluation according to State Human Resources Commission policy and guidelines is delegated to the Office of State Human Resources (OSHR). This responsibility is assigned to the Equal Employment Opportunity Services Division of the OSHR. The responsibilities of the Equal Employment Opportunity Services Division include:

- ❑ approving of all equal employment opportunity and sexual harassment prevention plans and the EEO segment of all reduction-in-force plans;
- ❑ designing and implementing the monitoring and reporting systems for equal employment opportunity planning and for determining the effectiveness of each EEO plan and program;
- ❑ providing technical assistance for plan and program development and recommendation of corrective action where necessary;
- ❑ providing assistance in identifying problem areas;
- ❑ developing and implementing of EEO support programs;
- ❑ developing and implementing of EEO training program;
- ❑ evaluating progress and programs designed to enhance Equal Employment Opportunity and personnel practices to assure non-discrimination.

Secretary, Department of Health & Human Services

The Secretary of the Department of Health & Human Services has the overall responsibility for Equal Employment Opportunity in DHHS. The Secretary's responsibilities will include, but not be limited to:

- ❑ developing EEO policy and implementing the DHHS Equal Employment Opportunity Plan;

- ❑ ensuring that all employment practices and all aspects of the employment function within the organization are implemented in a manner which is equal for all applicants and employees and consistent with State Human Resources policy as promulgated by the State Human Resources Commission and with NCGS § 126-19;
- ❑ establishing accountability for EEO achievement by including a factor in the performance evaluation process [Performance Management Program] that measures the EEO performance of each Division/Facility/Office Director, Manager and Supervisor.
- ❑ hiring a management-level official to serve as the agency's EEO Director. The EEO Office is located in the Office of the Secretary;
- ❑ appointing an Equal Employment Opportunity Diversity Committee;
- ❑ effectively communicating EEO policies, plans and procedures to all employees, applicants for employment and the public.

Division / Institution/Office Directors, Managers and Supervisors

Division/Institution/Office Directors, Managers and Supervisors will be responsible for carrying out equal employment as a basic part of their jobs. Each one is responsible for implementing the specific elements of the Equal Employment Opportunity Plan. These elements are designed to eliminate the underutilization of minorities, females, and workers with disabilities and remove the barriers to equal employment opportunity that created this underutilization. It is understood that their [Directors, Managers and Supervisors] performance in meeting equal employment goals, as established in Performance Management Program [PMP] sessions with their managers, is an important criterion in evaluations for promotions and merit increases. The specific responsibilities of managers and supervisors include, but are not limited to:

- ❑ assisting in the identification of areas of underutilization and establishing goals and timetables for their elimination;
- ❑ being aware of and eliminating stereotypical ideas and biases which can enter into employment and promotional interviews and decisions;
- ❑ making every effort to achieve established placement goals and maintaining an equitably representative workforce for the department, division, work unit or section;
- ❑ providing career counseling for employees and ensuring that all protected group employees are given the full opportunity to attend workshops, seminars, and other training opportunities;
- ❑ assisting the EEO Designee in periodic evaluations to determine the effectiveness of the EEO program;
- ❑ sensitizing employees to all EEO policies; and
- ❑ preventing and correcting the unlawful harassment of employees.

EEO Office

Currently, the composition of the office is one full-time EEO Director and an administrative assistant. The office is located in the Office of the Secretary and reports directly to the Chief of Staff, who reports directly to the Secretary of the Department. EEO Designees are individuals who represent their perspective division/facility/office directors in matters of equal employment opportunity. The EEO Office is physically located on 1003 Richardson Drive on the Dorothea Dix Campus in Raleigh, NC. EEO Designees are located in their respective divisions/facility/office.

Supervision for the office flows directly from the Secretary to the Chief of Staff to the EEO Director. The EEO Director has no supervisory capacity over the EEO Designees in his/her present role. The EEO Director's primary responsibility is to advise, consult and recommend proper and innovative EEO procedures to the agency through the EEO Designees. Management and ultimately the Secretary will make decisions based upon the EEO office's recommendation(s) on matters of equal employment opportunity.

Each division/facility/office if appropriate to its structure will appoint an EEO Designee; preferably, from his/her management teams and/or an individual who has direct access to the Director. These are not full time positions, but ones that have EEO (additional) responsibilities attached to already existing positions. Directors have the option to divide the responsibilities among several individuals. However, only one individual will be the named Designee and shall be the primary contact person with the EEO Office.

The EEO Director has the following primary responsibilities:

- ❑ supervise the administrative assistant
- ❑ chief individual responsible for the structure and composition of the departmental EEO plan submitted to the Office of State Human Resources (OSHR) in March of each year. in accordance with state law
- ❑ inform the Office of the Secretary of progress in a timely manner of the "approved" plan by OSHR
- ❑ develop duties and responsibilities of the EEO Designees
- ❑ secure legal interpretation of the Federal, State, and agency policies as to how it affects the department's EEO program
- ❑ chief contact individual with the Office of State Human Resources on all EEO matters and issues as it applies to DHHS
- ❑ respond to external questions and inquiries at the department level in regard to structure and composition of the EEO program
- ❑ interacting with the EEO Designees in applying all Federal, State laws, regulations, policies and guidelines that involve discrimination in employment and workplace harassment in their respective regions
- ❑ maintain and analyze workforce utilization data for the Department in addition to having access to the BEACON system
- ❑ develop department-wide training programs in conjunction with Human Resources that will satisfy Federal and State requirements, such as developing power point presentations and the use of teleconferences

- ❑ serve as the principle advisors to the EEO Designees and division/institution directors in their respective regions
- ❑ provide training for the EEO Designees
- ❑ assist division/institution directors in identifying specific needs in their respective regions
- ❑ providing confidential counseling for management in regard to trends of discrimination in the workplace as well as working with Employee Relations in Human Resources on identified trends and not individual cases
- ❑ liaison to community groups and/or employee advocate groups (e.g., SEANC) in regard to representing the views of the Department in matters of EEO
- ❑ coordinating special programs (internally or in cooperation with the Office of State Human Resources) to achieve program objectives and to provide management and employee input and assistance in program development and implementation
- ❑ By utilizing Beacon reports, track new hires, dismissal, in-range adjustments, promotions, complaints, etc. which may show progress or discriminatory actions and trends which will be reported to their respective regions and to the Secretary
- ❑ periodically review all EEOC complaints with the Employee Relations Section
- ❑ Agency Coordinator for Equal Employment Opportunity Institute (coordination delegated to EEO Administrative Assistant with oversight by EEO Director)

The EEO Designees will have the following primary responsibilities:

- ❑ chief contact individual at their respective division/facility/office with the EEO office
- ❑ will receive yearly printouts from OSHR in regard to workforce composition
- ❑ will review workforce utilization material and confer with the agency director as to goals and needs for the upcoming plan year
- ❑ direct employees to the proper channels in which to file discrimination complaints or workplace harassment allegations
- ❑ will compile requested data for the EEO Director as to “selection/rejection” forms or any other requested statistical data
- ❑ follow the hiring process from the beginning to end, which includes signing of all “selection/rejection” forms prior to an offer being made to an applicant
- ❑ will have restricted access to the BEACON system if performing projects for the division/institution director
- ❑ will report directly to the division/facility/office director as to the progress of the yearly plan and any other EEO projects that the director may have requested
- ❑ ensure that HR has information on all underutilized groups and understands the division/institution focus

EEO Committee

The Equal Employment Opportunity Committee shall be composed of the EEO Director, HR Director and various other members determined by the HR Director and EEO Director. The duties of the EEO Diversity Committee include, but are not limited to:

- ❑ creating a communication link between agency management, employees, and EEO designees on various aspects of the Equal Employment Opportunity Plan and program and the potential EEO problem areas in the agency through regular meetings;
- ❑ review and evaluate the existing Equal Employment Opportunity Plan;
- ❑ arrange meetings with top management to discuss the EEO program, report on the employees' concerns, and recommend EEO policy changes and additions;
- ❑ identify recruitment sources, programs for career mobility, and other activities designed to strengthen the EEO program;
- ❑ communicate information about the EEO program to other employees and managers;
- ❑ plan and implement programs to educate the agency workforce on EEO concepts.

DEPARTMENTAL DIRECTIVES & POLICIES

Department of Health and Human Services Directives

Directive Number III-2

Directive Number III-2, effective January 1, 2002, establishes basic department policy on equal employment opportunity.

Directive Number III-4

Directive Number III-4 defines the department's policy on the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964, as amended. This directive also establishes a full-time civil rights compliance attorney located in the Office of the Secretary who is responsible for implementation and compliance of the above-mentioned laws in the department. In addition, division/institution shall designate an individual to serve as a coordinator for issues involving these laws. Directive Number III-4 is the result of a voluntary compliance agreement between the department and the U.S. Department of Health and Human Services (Region IV).

Sexual Harassment Policy

Equal Employment Opportunity Commission guidelines on sexual harassment (published November 1980) and the federal courts hold that sexually harassing actions are unlawful employment practices that violate Title VII of the Civil Rights Act of 1964. The federal guidelines hold employers to strict standards of liability for such conduct by its agents or supervisors.

It is the policy of the Department of Health and Human Services that:

- All employees are guaranteed the right to work in an environment free of sexual harassment.
- No manager, supervisor, or employee may engage in conduct that falls under the definition of sexual harassment (stated below).
- No personnel decision shall be made based on the granting or the denial of sexual favors.
- No departmental official, manager, or supervisor shall engage in interference, coercion, restraint, or reprisal against an employee complaining of alleged sexual harassment.
- Each division/institution director is responsible for communicating this policy to unit employees and for providing periodic training for unit managers and supervisors in the prevention and elimination of sexual harassment.

Sexual harassment is defined as deliberate, unsolicited, and unwelcome verbal and/or physical conduct of a sexual nature or with sexual implications by a supervisor or coworker which:

- a. has or may have direct employment consequences resulting from the acceptance or rejection of such conduct; or
- b. creates an intimidating, hostile or offensive working environment; or
- c. interferes with an individual's work performance.

Sexual harassment does not include personal compliments welcomed by the recipient or social interaction or relationships freely entered into by state employees or prospective employees.

DISSEMINATION OF THE PLAN

Dissemination of the Plan

Internal Dissemination

All department employees shall have access to the Department EEO Plan. The Department of Health and Human Services currently employs over 16,000 employees. Due to the nature of many of these positions, there is rapid turnover. These factors as well as cost make it virtually impossible to disseminate a copy of the entire plan to each individual employee. However, the Department will ensure that each employee has total access to the plan. The EEO information shall be disseminated in the following ways:

- ❑ during the orientation process, each new employee shall be made aware of the EEO program and who within their division/institution shall maintain copies of the EEO plan;
- ❑ EEO Designees, Employee Relations and/or Human Resource Staff shall inform all employees of the internal and external discrimination procedures;
- ❑ information regarding EEO Laws will be posted in all required areas;
- ❑ through division/institution training on EEO and diversity;
- ❑ EEO Designees informing employees in their division/institution of their existence and their duties.

External Dissemination

The public shall also be informed of the Department's position on Equal Employment Opportunities. This shall be conducted in the following manner:

- ❑ Notify each recruiting resource that the Department of Health and Human Services is an Equal Employment Opportunity Employer

Workforce Analysis

The Department of Health and Human Services has selected the NC Occupational specific civilian labor force and the NC working population (18-64) compromise standard, as the standard of measurement to effectively analyze its workforce. The occupation specific labor force of each demographic group and the working population by each demographic group will be compared to the agency or university workforce. An average of the underutilization resulting from the comparisons of the two criteria shall be used to determine the workforce underutilization by occupational category for each demographic group. When calculating the underutilization resulting from the occupation specific working population comparison, the statewide working population and the statewide occupational specific category compromise numbers shall be used for analyzing the officials and administrators, management related and the professional occupational categories. When calculating the underutilization resulting from the occupation specific/working population comparison, the working population in the local geographical recruiting area and the occupational specific category compromise numbers in the local geographical recruiting area may be used for analyzing the other occupational categories.

The EEO Office is responsible for annually developing the EEO Plan pursuant to requirements of state law. The workforce analysis portion of this plan consists of establishing specific goals for the reduction and eventual elimination of under-utilized groups in all standard occupational classifications. Implementation of and compliance with this plan is the responsibility of supervisors, managers, and directors. The organization of the plan is composed of the following steps:

- workforce/demographic analysis, which profiles the distribution of workers in each department by race, gender, and persons reporting disabilities, compared with percentage of North Carolina State demographics in each ethnic category. The under-utilization is calculated based on that comparison;
- estimate or project future job vacancies in each occupational classification where under-utilization has occurred and project the Department's capacity to eliminate or reduce the under-utilization;
- establish placement goals for reduction of under-utilization in each category to include timetables that identify specific dates for achievement; and develop an action plan to facilitate the likelihood of goal achievement within the established time frames.

In reviewing the report, it is important to understand the meaning of and limitations on the data presented. The report compares the percentages of persons working in various job categories in the Department of Health and Human Services at a particular point in time with percentages of persons reported in various census statistics that reflect the statewide population. Thus, the report's comparisons are only hypothetical comparisons. They do not include comparisons to percentages of persons for whom applications have been actually received by the Department nor to the subset of these applications that actually qualify for hire by the Department. Further, limitations in the specificity of the

census data available for use means that such statistics very likely include many individuals not actually qualified to be hired by the Department.

Therefore, this report and any findings of “under-utilization” as to particular job categories set further therein are simply rough, hypothetical indicators intended only to be utilized as a tool in the Department’s recruitment efforts. A finding of “under-utilization” as to job category does not mean, and is not intended to mean, that there are any problems with the Department’s hiring practices or that recruitment or hiring in that job category is in any legal or other sense discriminatory. Rather, the identification of hypothetical “under-utilization” as to a particular job category merely serves to identify that category as one where the Department should seek to ensure that potential candidates are being recruited, encouraged to apply for employment, and considered for employment.

Any setting of hiring “objectives” required by the report is, again, intended only as a tool to facilitate and focus recruitment efforts and is not intended as a quota or mandate for hiring particular individuals regardless of qualifications. Further, the setting of such objectives is also hypothetical in that it requires a projection of both the numbers of vacancies and qualified applicants, neither of which may actually occur. The failure to achieve any of these “objectives” does not mean that discrimination has occurred. In sum, the report is intended solely as an aid to facilitate the Department’s ongoing efforts to recruit and hire a diverse workforce.

EEO Objectives & Program Activities

EEO Objectives & Program Activities

In its continuing effort to ensure Equal Employment Opportunity and to increase diversity of its workforce, the Department of Health and Human Services will focus additional energy in the areas noted below. Other EEO objectives will also gain additional review and attention.

Recruitment

With the implementation of the Department's Merit Based Hiring Program, the department will focus a great deal of energy in the area of recruitment. Recruitment is a major element in having a diverse, representative applicant pool and is crucial to overcoming underutilization. The following actions will be taken on an ongoing basis:

- ❑ The department utilizes NEOGOV, an online recruiting system which provides recruitment, selection and applicant tracking solutions to government entities nationwide. Job postings are listed in NEOGOV and are available to all members of the general public, thus allowing the department to attract large numbers of applicants of all demographics.
- ❑ Establish alliances with public and private universities in North Carolina, especially the Historically Black Colleges and Universities (HBCU's), such as North Carolina Central University, and college and university programs established for disabled citizens.
- ❑ The state's current budget situation impacts the department's recruiting expenditures. When possible, advertise in minority, ethnic and predominately female publications.
- ❑ Promote the recruitment of qualified minority applicants where inequities exist. The DHHS Office of Talent Management, which is located in Human Resources, promotes the recruitment of qualified applicants for departmental openings, including minorities, females, the disabled and veterans. In collaboration with the EEO Director, the Office of Talent Management will seek innovative measures – in light of budgetary constraints restricting recruiting expenditures - to increase the department's efforts to recruit minorities, females and other historically underrepresented individuals. Examples of such efforts may include, but are not limited to, using free online sources, such as Facebook, Twitter and LinkedIn, to remind HBCU's and minority organizations of job postings on NEOGOV.
- ❑ Target positions with supervisory authority and/or management-related, specifically recruit members of the underrepresented class for these positions, while bringing this to the attention of the Secretary of the Department.
- ❑ Divisions/Institutions needing additional support in minority recruitment efforts should contact the Office of Talent Management, which will provide assistance.
- ❑ Depending on budgetary considerations and cost-effectiveness, participate in career days, job fairs and events that will assist in recruitment, when possible.

Selection

To ensure the selection procedures, hiring standards and placement process remain free from discrimination based on race, color, religion, sex, age, national origin, disability, genetic information and political affiliation the following activities are occurring:

- ❑ The Division of Human Resources is responsible for ensuring that the selection process is based on relative consideration of qualifications using fair and valid selection criteria.
- ❑ Instruct hiring managers and human resources offices not to accept an applicant pool that is not representative of the potential applicants; rather, re-post the position to ensure a diverse applicant pool.
- ❑ Require that hiring managers and human resources offices, in completing the merit-based requirements, determine first whether the position is an EEO goal or there is an underutilized group.
- ❑ Monitor the difference in qualified applicant pools and highly qualified pools to assure discrimination was not involved in the decision. This includes monitoring throughout the entire process, from the initial advertising of the position to the offer of hire.
- ❑ Encourage hiring managers to interview members of underutilized groups. Underutilized groups should be interviewed based upon their qualifications and not because of membership in any class.

Other Objectives

The Department of Health and Human Services will continue to ensure fairness and equity concerning the following areas:

- ❑ **Promotions**

All promotions within the Department of Health and Human Services are subject to all federal and state Equal Employment laws and policies.

In the State Human Resources System, promotions are not automatic. Employees interested in any position, including promotional, must apply through the State of North Carolina electronic application and be subject to the Merit Based Hiring process. Therefore, the same factors that are discussed above in selection are applicable to promotions. It is a goal of the Department of Health and Human Services to increase the number of minorities in upper management and supervisory positions. Because of this, specific recruitment efforts will be implemented, including encouraging current employees to apply for promotional opportunities.

□ **Compensation and Benefits**

The Department of Health and Human Service has a performance agreement with the Office of State Human Resources. The various units have the authority to see that all employees, regardless of race, color, religion, sex, age, national origin, disability, genetic information are treated equally.

Appropriate analysis processes should be in place to ensure that salary recommendations take into account related education, training, experience as well as the salaries of current employees performing similar duties and responsibilities. This is to ensure that all benefits and conditions of employment are equally available without discrimination to all employees. This includes leave policies, retirement plans, insurance programs, and other terms, conditions and privileges of employment.

The Department of Health and Human Services is continually looking at methods based on funding to reflect diversity in the work place in all areas of employment through the granting of educational leave, employee assistance programs, and accommodations for those who are disabled.

□ **Disciplinary Process and Implementation**

The Department of Health and Human Services' Disciplinary Process is designed to be fair and equitable. It is to be implemented in the same manner without regard to any biases. The Department of Health and Human Services Employee Relations Section also monitors the Disciplinary Process and Implementation. Employee Relations, the EEO Office and the EEO Designees work cooperatively to ensure equal practices are applied to the disciplinary process implementation. The EEO Designees should be familiar with the disciplinary process in the department and each division / institution.

A demotion, separation, transfers and termination are included in the disciplinary process. All demotions, separations, transfers and terminations are subject to the laws that govern equal employment. The Employee Relations Section and EEO Designees will work together to ensure fairness.

□ **Grievance Procedures**

The grievance procedure is the administrative process designed to ensure equal treatment to all individuals filing complaints. The Department of Health and Human Services has an Employee Relations Section, located in the Division of Human Resources, which is designated to deal with the internal complaint/grievance process. The Section works in conjunction with the EEO Office in all cases, if necessary, but particularly in discrimination issues. The Department of Health and Human Services' Grievance Procedures are designed to be fair and resolve issues in an equitable manner.

□ **Performance Appraisal**

Pursuant to the Department's Performance Management policy the department has established a system for implementing and managing the Performance Management System. The policy has the following dual purpose:

1. To establish, monitor and evaluate organizational goals;
2. To ensure a means by which employees, regardless of race, color, religion, sex, age, national origin, disability, genetic information and political affiliation and supervisors can:
 - a. establishes individual work plans, expectations of performance and development plans;
 - b. monitors progress and review feedback on the accomplishment of such work plans;
 - c. receive a fair and equitable appraisal of and reward for work performance.

□ **Training and Development**

It is the policy of the Department of Health and Human Services that all human resource development and training programs and opportunities shall be provided to employees on a nondiscriminatory basis.

The Department of Health and Human Services complies with NCGS 126-16.1, which requires the department to enroll each newly appointed supervisor or manager within one year of appointment in the Equal Employment Opportunity Institute. The EEO Office and the Office of Talent Management will work cooperatively to ensure this is implemented.

The EEO Director will provide training to its EEO Designees as needed. This training will ensure the designees are kept abreast of the latest laws and policies regarding Equal Employment Opportunities and Practices.

The EEO Designees, along with the assistance of the Office of Talent Management, shall provide upon request training to any division/institution or section of the department. The training will be modeled to suit the requester's needs, but always including the appropriate EEO laws and policies.

EEOI training is a vital part of the training and development of managers and supervisors. As such a process is in place to ensure the compliance with all statutes and laws relative to EEOI training. North Carolina General Statute 126.16.1 requires that all newly appointed managers and supervisors at each State agency and university attend the Equal Employment Opportunity Institute (EEOI) within one year of their initial appointment. In 2005, the Office of State Human Resources and the Department of Health and Human Services entered

into a contract allowing DHHS-EEOI Instructors to provide training for its employees. It has been renewed each year since 2005.

The EEO Office was given the task of oversight for the program. The enrollment process is completed via the Learning Management System.

□ **Reduction in Force (RIF)**

It is the policy of the Department of Human and Health Services, in accordance with Federal and State employment opportunity guidelines, that decisions concerning reduction in force (RIF) must be analyzed to determine their impact by race, sex, age and disability. The EEO Director, prior to the Department making final decisions on layoffs, shall conduct a RIF impact analysis of the effect of the proposed reduction(s).

Evaluation and Report Mechanism

Due to the size and complexity of DHHS, each division/facility/office has assigned at least one designee who will assist the EEO Director in preparing, submitting, monitoring and evaluating the 2014 EEO Plan. Upon the approval of the department wide plan, each designee disseminates the plan throughout his/her respective area. The designee works with the hiring managers as well as the Director to ensure the knowledge of all goals and objectives. At various times throughout the year, the designee will evaluate the effectiveness of his/her individual plan while the EEO Director evaluates the overall plan for the department. Both the designees and the EEO Director provide management with information on the progress of the plan.

Reduction in Force Policy and Procedure

Purpose

The purpose of this policy is to ensure that reductions-in-force (RIF) in the department are planned and implemented in a fair and systematic manner.

Policy

The State Personnel Act provides that an agency may separate an employee whenever it is necessary due to a shortage of funds or work, abolishment of a position, or other material change in duties or organization.

Definitions

1. Employee with a Permanent Appointment – An employee who has successfully completed a probationary or trainee period or an employee who has completed six (6) months of service as a trainee.
2. Career State Employee – An employee in a permanent position who has been continuously employed by the state in a position subject to the State Personnel Act for the immediate 24 preceding months.

Implementation

1. A RIF occurs when management determines the following:
 - A. The need exists to consolidate, reorganize, or abolish programs or organizational units with a resulting loss of one (1) or more permanent positions,
 - B. The need exists to redesign the duties and responsibilities of a permanent position so materially that the changed classification and qualifications render the incumbent unqualified for the redesigned position, or
 - C. The abolishment of positions and/or the revision of salary reserve funds is required by the North Carolina General Assembly.
2. A RIF separation is the involuntary separation of an employee resulting from a RIF.

Management in the department shall consider all feasible alternatives to the RIF separation of employees with permanent appointments.

3. Policy Exclusions

- A. The separation of an employee with less than three (3) years in a time-limited appointment due to RIF is not entitled to priority consideration rights as defined in this policy.
- B. When management reassigns or transfers a position to another program and/or geographical location with no subsequent change in classification or salary grade, the position's incumbent shall also be reassigned or transferred with the position. Position reassignments or transfers are not considered RIF, and are, therefore, excluded from the provisions of the policy. An employee who elects not to accept reassignment or transfer is not accorded priority consideration rights as defined in this policy.

4. Reduction Plan

- A. When a RIF occurs, other than a reduction of specific positions mandated by the North Carolina General Assembly, appropriate management shall develop a reduction plan. The plan shall document the reasons for the RIF, the factors considered in deciding a particular course of action, and the specific positions scheduled for abolishment or redesign. The following factors shall be addressed in the development of a reduction plan:

- Applicable laws and regulations
- Funding sources and budget guidelines
- Potential adverse impact on employees protected under state and federal equal employment opportunity provisions
- Impact on program objectives
- Possible redistribution of staff and other resources
- Composition of the affected work force
- Economy and efficiency

- B. When a reduction plan results in the probable separation of employees with permanent appointments, it shall include the designation of a layoff unit for the purpose of handling such separations. The layoff unit is the organizational unit from which employees in the classifications specified for abolishment or redesign will be separated. The layoff unit may be defined as an entire division/facility/school, or any organizational, geographical, or program unit within a division/facility/school. The layoff unit need not coincide with the program or activity that is the cause of the reduction.

5. Separation of Employees

When the implementation of a reduction plan requires the involuntary separation of employees with permanent appointments, the following factors shall be considered:

- A. Type of appointment
- B. Length of service
- C. Relative efficiency

1. **Type of appointment** shall be the first determining factor when separating employees. No employee with a permanent employee appointment in an affected classification shall be separated while there are temporary or probationary employees or trainees in their initial six months of training working in the same classification any place in the division/facility/school implementing the RIF.
2. **Length of service** shall be applied after type of appointment and shall be defined as total state service according to State Personnel policy. An employee with less seniority shall be separated before a more senior employee in the same classification unless there is a documented material difference in the employee's relative efficiency. When the length of service is one of the considerations in the determination of retention, an employee who qualifies for veteran's preference will be accorded one (1) year of service for each year or fraction thereof of military service up to a maximum of five (5) years. When the length of service of two (2) or more employees in the affected classification is equal, separation decisions shall be based on relative efficiency as defined below.
3. **Relative efficiency** shall be determined from the review and comparison of employees' performance evaluations on record for the last completed work cycle and from any formal disciplinary action brought against the employee during the preceding 12 months.

Plan Approval

When the necessary separation decisions are reached through application of the criteria noted above, management shall notify the director of the DHHS Division of Human Resources in writing of the proposed RIF before implementation. The written notification shall include the following elements:

- A copy of the reduction plan,
- A list of the employees scheduled for separation and their appointment status,
- The anticipated effective date(s) of such separations, and
- Certification that the proposed separations will be implemented in accordance with the departmental RIF policy and procedure.

Before implementation or formal notification to affected employees, the reduction plan and related separation proposals must be submitted for approval to the director of the DHHS Division of Human Resources.

Notice to Employees

After plan approval, management shall give all employees scheduled for separation a written notice of the reduction-in-force. In the case of career state employees, such notice shall include information on their priority consideration status and applicable appeal rights. The notice shall include the anticipated effective date of separation. The employee notice shall be given as soon as possible but not less than 30 calendar days before the scheduled separation date. The division/facility/school human resources manager shall receive a copy of the notice. Concurrent with or subsequent to presenting the notice to the employee, the appropriate supervisor shall discuss with the employee scheduled for separation the reasons for the action and the employee's rights and responsibilities under this policy.

Priority Consideration

A career state employee who is subject to a RIF shall have priority consideration rights for vacancies in state agencies and divisions/facilities/schools subject to the provisions of the State Personnel policy. On receipt of written notice of imminent separation due to a RIF, a career state employee acquires priority consideration status within all state agencies and universities subject to the State Personnel Act. For employees in flat-rate positions, the salary grade level for priority consideration shall be the salary grade which has as its maximum a rate nearest to the flat rate salary of the eligible employee. For employees in trainee status, the salary grade level for priority consideration shall be the salary grade of the full class.

An applicant with priority consideration status (RIF priority) has priority over non-state government applicants for vacancies at a salary grade, competency level, salary grade/competency equivalent, salary rate and appointment type equal to or below that held at the time of notification. When more than one (1) RIF employee applies for a vacant position, a RIF employee with more than 10 years of service shall receive priority consideration over a RIF employee with less than 10 years in the same or related classification. RIF employees receive equal consideration with state employees not affected by the RIF. RIF priority is in effect for 12 months following the date the employee receives written notification of imminent separation.

To exercise priority consideration status, the employee must submit a current employment application to the appropriate division/facility/school human resources office within 30 days upon written notification of a reduction in force. The human resources manager shall then forward the completed application to the DHHS Division of Human Resources' Recruitment Section for priority consideration. When an appropriate vacancy has been identified either by the employee or through the DHHS Division of Human Resources, the employee shall be offered the position unless the position is offered to a current state employee or another RIF applicant. The following requirements must be met:

Employee must meet the minimum qualifications for the class as stated in the section entitled recruitment standard,

Employee must meet the specific job requirements as outlined by management, and Employee must possess the ability to satisfactorily perform the duties and responsibilities within a reasonable period of time after appointment.

A RIF employee may be placed in a position at a salary grade, salary rate, competency level, salary grade/competency level equivalent, and appointment type greater than, equal to or below that of the position held at the time of notification. All placement offers within the department shall be in writing. The employee must respond in writing within three (3) calendar days of the receipt of the offer. RIF priority is satisfied when the employee accepts a position that is at a salary grade, salary rate, competency level, salary grade/competency level equivalent or appointment type which is the same or greater than that held at the time of notification. If the employee refuses an interview or rejects an offer of employment for a position at a salary grade, salary rate, competency level, salary grade/competency level equivalent, or appointment type which is the same as or higher than that held at the time of notification, the employee forfeits further RIF priority unless the position exceeds a distance of 35 miles from the employee's previous work station. An employee shall retain priority if the employee accepts an offer for a position at a salary grade, competency level, salary grade/competency level equivalent, salary rate, or appointment type which is lower than the position held at the time of notification.

When a RIF employee accepts a position at the same or at a lower salary grade, competency level, salary grade/competency equivalent, the employee's salary rate will be the salary at the time of notification, unless the salary rate exceeds the maximum of the new salary grade, in which case, the salary rate is reduced to the maximum of the new salary grade. When an employee accepts a position at a higher salary grade, the salary rate will be set according to the promotion policy.

Assistance for Department Employees

The division/facility/school human resources manager shall be responsible for providing information concerning the RIF and associated rights and responsibilities to affected employees. This role will include the following:

0. Initial guidance and counsel on RIF policy and procedure,
 1. Liaison with the DHHS Division of Human Resources,
 2. Job placement assistance and job counseling,
 3. Referrals for necessary training and development, and
 4. Coordination of job placement efforts within a division/facility/school.
- B. Employees who decline assistance on job placement or reemployment must acknowledge their election in writing to the division/facility/school human resources manager. The written confirmation declining assistance will be forwarded

to the DHHS Division of Human Resources, which will then forward the documentation to the NC Office of State Human Resources.

- C. It shall be the department's responsibility to make all feasible and reasonable efforts to identify appropriate vacancies and employment opportunities for employees subject to a RIF. The division/facility/school human resources manager will assume responsibility for assisting employees and ensuring coordination with the DHHS Division of Human Resources.

2. Appeal Rights

Employees with a permanent appointment have the right to appeal a RIF separation. Career state employees also have the right to appeal the alleged denial of priority consideration in a selection decision.

- A. Appeal of a RIF Separation: The sole issue in an appeal of a RIF separation is whether the separation is in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, political affiliation, or handicapping condition. Such an appeal may be made either through the agency internal grievance procedures and is to be filed at step 2 within 15 days from the employee's separation, (i.e., the last day of work) or may be filed directly with the Office of Administrative Hearings, at the choice of the employee.
- B. Denial of Veterans' Preference: An employee may appeal the separation if it is alleged that the separation is a denial of veterans' preference granted in connection with a reduction in force for an eligible veteran as provided in Chapter 126, Article 13. The appeal may be made either through DHHS grievance procedures or may be filed directly with the Office of Administrative Hearings, at the choice of the employee.
- C. Denial of Priority Consideration Status: Career state employees may appeal an alleged denial of priority consideration directly to the Office of Administrative Hearings within 30 days of notification of the selection decision.
- D. An employee who alleges that a RIF separation was the result of unlawful discrimination may elect to file an appeal either under the departmental grievance procedure or directly to the Office of Administrative Hearings.
- E. An employee who alleges that denial of priority consideration for a DHHS position was the result of unlawful discrimination may elect to file an appeal either under the departmental grievance procedure or directly to the Office of Administrative Hearings.
- F. An employee who alleges that denial of priority consideration for a non-DHHS position was the result of unlawful discrimination may file an appeal directly to the Office of Administrative Hearings.

Procedures for Monitoring

DHHS utilizes BEACON system EEO reports to monitor EEO Activities. EEO reports from the NeoGov application tracking system also will be utilized to the fullest extent.

Assessment of Current Program

In July 2012, the Department of Health and Human Services hired a new EEO Director. DHHS is committed to the EEO program and the execution of the Governor's Executive Order Number 14, regarding Equal Employment Opportunity in North Carolina State Government. The Department recognizes that, in order for an agency to best serve all segments of the population, it must employ citizens from all segments of the population.

It is the mission of the Department of Health and Human Services:

- “To serve the people of North Carolina by enabling individuals, families, and communities to be healthy and secure, and to achieve social and economic well-being.”
- In achieving this mission, the department is committed to supporting and developing employees as diverse, invaluable resources.
- The Department of Health and Human Services is committed to EEO.