

MDH POLICY

<https://health.maryland.gov/Pages/mdhpolices.aspx>

OFFICE OF EQUAL OPPORTUNITY PROGRAMS (OEOP) MDH POLICY 01.02.04
Effective Date- May 31, 2018

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY

I. EXECUTIVE SUMMARY

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

II. BACKGROUND

This policy version supersedes DHMH Policy 02.06.04 dated June 26, 2014. This version includes the following changes:

- 1) A section was added to define the term "retaliation/reprisal";
- 2) "Retaliation/reprisal" is now listed as a covered basis within this policy;
- 3) Updates the references to the Department's name which as of July 1, 2017 was changed from "Department of Health and Mental Hygiene" to "Maryland Department of Health"; and
- 4) Some links have been updated as well as other minor, editorial changes.

III. POLICY STATEMENTS

A. AUTHORITY

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

1. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on race, color, religion, sex, national origin, and retaliation/reprisal;

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

2. The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination and retaliation/reprisal, against people who are 40 or older.
3. The Religious Freedom Restoration Act of 1993 (42 U.S.C. §2000bb), is a federal law aimed at preventing retaliation/reprisal and laws that substantially burden a person's free exercise of their religion;
4. The Rehabilitation Act of 1973, Section 503, which prohibits retaliation/reprisal and discrimination against persons with a disability;
5. The Equal Pay Act of 1963 prohibits retaliation/reprisal and discrimination in wages based on sex;
6. Title I, II, IV and V of the Americans with Disabilities Act (ADA) of 1990 and its amendments, the Americans with Disabilities Act Amendment Act (ADAAA) of 2008, prohibit retaliation/reprisal and discrimination based on a disability;
7. The Genetic Information Nondiscrimination Act of 2008, this law makes it illegal to retaliate and discriminate against employees or applicants because of genetic information;
8. State Finance and Procurement Article, §19-114, Annotated Code of Maryland, states it is the policy of the State not to enter into a contract with any business entity that has discriminated in the solicitation, selection, hiring, or commercial treatment of vendors, suppliers, subcontractors, or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability, retaliation/reprisal or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners;
9. State Government Article, Title 20 (formerly Article 49B), Annotated Code of Maryland prohibits discrimination based on age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation and retaliation/reprisal; and
10. The Governor's Executive Order 01.01.2007.16 -Code of Fair Employment Practices prohibits employment discrimination in State Government including discrimination based on age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation and retaliation/reprisal.

B. SCOPE

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

C. ROLES AND RESPONSIBILITY

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

- iv. Titles I, II, IV, and V of the Americans with Disabilities Act of 1998, and its amendments, including the Americans with Disabilities Act Amendment Act (ADAAA) of 2008;
 - v. Sections 503 of the Rehabilitation Act of 1973, and its amendments;
 - vi. The Genetic Information Nondiscrimination Act of 2008;
 - vii. The Religious Freedom Restoration Act of 1993 (42 U.S.C. §2000bb);
 - viii. The Governor's Code of Fair Employment Practices, 01.01.2007.16; and
 - ix. Title 19 and 20 of the Maryland Annotated Code;
- i. Establish a system for periodically evaluating the effectiveness of the unit's overall equal employment opportunity effort.
5. The fair practices officer shall:
- a. Advise the head of the unit regarding the preparation of equal employment opportunity plans, procedures, reports, and other matters related to the unit program;
 - b. Periodically evaluate the sufficiency of the unit program for equal employment opportunity and recommend to the head of the unit any changes needed, including remedial or disciplinary action, in appropriate cases;
 - c. With the authorization of the head of the unit, make changes in programs and procedures designed to ensure the elimination of discriminatory practices and to improve the unit's program for equal employment opportunity;
 - d. Assure that discrimination complaints are fairly and thoroughly investigated and resolved in a timely manner; and
 - e. Review the complaints and corresponding investigation reports which have been completed by unit equal employment opportunity officers, certify that the reports have been reviewed, and forward the proposed decision to the head of the principal unit;
 - f. Where authorized, to act on behalf of the Secretary or Deputy Secretaries of MDH to carry out the provisions and intent of this policy.
6. The fair practices officer in conjunction with OEOP's EEO Officers and OEOP Staff shall:

- a. Develop, recommend, and monitor MDH EEO policies and procedures to assure the Department is in compliance with Federal and State laws and regulations;
 - b. Provide technical assistance to MDH components in matters regarding EEO practices;
 - c. Accept timely complaints and conduct on-site reviews, as necessary;
 - d. Cooperate with Federal and State offices responsible for equal employment opportunity;
 - e. Prepare an annual EEO report for all MDH and submit it to the Maryland Department of Budget and Management's (DBM) Office of the Statewide Equal Employment Opportunity Coordinator (OSEEOC) and
 - f. Monitor all personnel transactions--hiring, promotions, transfers, reassignments, terminations, discipline, etc., for EEO compliance.
7. The Fair Practices Officer is designated by the Secretary, MDH, to have oversight responsibility to:
- a. Develop, recommend, and monitor policies and procedures necessary for MDH to remain compliant with Federal and State EEO laws and regulations;
 - b. Provide technical assistance and advice on EEO practices to all MDH components;
 - c. Monitor all personnel transactions - appointment, hiring, promotions, transfers, reassignments, terminations, discipline, corrective action, performance appraisal, acting capacity, reassignment, reclassification, reinstatement, decisions affecting compensation, benefits, training or any other matter which significantly affects an individual's compensation, terms or conditions of employment for EEO compliance;
 - d. Where authorized, act for the Secretary or Deputy Secretary in carrying out the provisions of this policy;
 - e. Accept timely complaints and conduct on-site reviews, as necessary;
 - f. Work in conjunction with the Maryland Commission on Civil Rights (MCCR), the Federal Equal Employment Opportunity Commission (EEOC), the United States Department of Justice Civil Rights Division and United States Department of Health and Human Services in the investigation of alleged discrimination; and
 - g. Prepare and submit relevant reports to the Secretary and appropriate Federal and State agencies.

D. RETALIATION / REPRISAL

The anti-retaliation/reprisal provisions make it unlawful to discriminate because an individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII, the ADEA, the EPA, the ADA, the Rehabilitation Act, GINA, or any other State or Federal anti-discrimination law.

1. Abuse, restraint, intimidation, harassment, interference with, coercion, discrimination against, retaliation/reprisal against, or other offense against an employee or applicant for employment because of an individual's race, color, religious affiliation, belief or opinion, age, sex, disability, national origin, ancestry, creed, gender identity and expression, genetic information, marital status, sexual orientation or other non-merit factor, will not be tolerated in the workplace, will be investigated, and if warranted, the offending party(ies) will receive corrective action.
2. No complainant and/or participants in the EEO process shall be subjected to restraint, intimidation, harassment, interference, coercion, discrimination or retaliation/reprisal. Upon notification of any such action, the OEOP shall investigate such complaint and the findings of the facts will be forwarded to the Secretary, with recommendations for immediate remedial action, if applicable.
3. Any employee of MDH who deliberately makes a frivolous or false complaint under these rules and/or who deliberately gives false or misleading information during the course of an investigation under these rules shall be subject to disciplinary proceedings under the State Personnel Management System, applicable to MDH.

E. RESOURCES FOR OBTAINING SERVICE

1. MDH OFFICE OF EQUAL OPPORTUNITY PROGRAMS

- a. The Office of Equal Opportunity Programs attempt to quickly resolve employment discrimination disputes through mediation, investigation, and training; and to maintain a discrimination-free work environment for all employees within MDH regardless of age, ancestry, color, creed, disability, genetic information, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation and retaliation/reprisal
- b. An individual may file a complaint with the Office of Equal Opportunity Programs. State law requires that official complaints must be in writing and must be filed within 30 days of the alleged discriminatory practice or act (COMAR 17.04.08.03). Individuals may call 410-767-6600 for additional information. All matters discussed in relation to an individual's inquiry will be kept confidential, except where a complaint is filed and management is notified, or is otherwise provided by law.

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

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

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

DBM Office of the Statewide EEO Coordinator

301 West Preston Street - Room 607

Baltimore, Maryland 21201

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

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

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

Maryland Commission on Human Relations

6 St. Paul Street, Suite 900

Baltimore, MD 21201

410 767-8600 or 1.800.637.6247

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

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

a. EEOC is responsible for investigating employment discrimination claims on the Federal level. The agency is charged with enforcing Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act (EPA), the Title I of the Americans with Disabilities Act (ADA) of 1990, the Age Discrimination in Employment Act (ADEA) of 1967 and the Genetic Information Nondiscrimination Act of 2008.

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

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

Equal Employment Opportunity Commission

Baltimore Field Office

City Crescent Building

10 South Howard Street, 3rd Floor

Baltimore, Maryland 21201

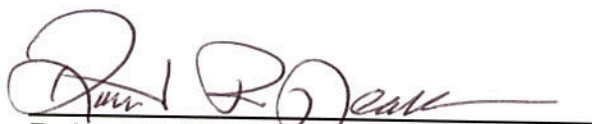
1-800-669-4000. / 410-209-2237

<http://www.eeoc.gov/field/baltimore/>

IV. REFERENCES

- The Age Discrimination in Employment Act of 1967 (ADEA)
<http://www.eeoc.gov/laws/statutes/adea.cfm>
- Section 2-101 of the Health-General , Annotated Code of Maryland
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=ghg§ion=2-101&ext=html&session=2018RS&tab=subject5>
- Title 19 of the State Finance and Procurement Article, Annotated Code of Maryland
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=gsf§ion=19-101&ext=html&session=2018RS&tab=subject5>
 - State Finance and Procurement Article, §19-114, Annotated Code of Maryland
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=gsf§ion=19-114&ext=html&session=2018RS&tab=subject5>
- Title 20 of the State Government Article, (formerly Article 49B), Annotated Code of Maryland
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=gsq§ion=20-101&ext=html&session=2018RS&tab=subject5>
- The Rehabilitation Act of 1973, Section 503
<https://www.dol.gov/ofccp/regs/compliance/sec503.htm>
- The Equal Pay Act of 1963, and its amendments
<http://www.eeoc.gov/laws/statutes/epa.cfm>
- Title I, II, IV and V of the Americans with Disabilities Act (ADA) of 1990 and its amendments, the Americans with Disabilities Act Amendment Act (ADAAA) of 2008
<http://www.ada.gov/>
- The Religious Freedom Restoration Act of 1993 (42 U.S.C. §2000bb)
http://www.justice.gov/jmd/ls/legislative_histories/pl103-141/act-pl103-141.pdf
- The Genetic Information Nondiscrimination Act of 2008,
<http://www.eeoc.gov/laws/statutes/gina.cfm>
- The Governor's Executive Order 01.01.2007.16 -Code of Fair Employment Practices
<http://www.dsd.state.md.us/comar/comarhtml/01/01.01.2007.16.htm>

APPROVED:



Robert R. Neall, Secretary

May 31, 2018
Effective Date