TITLE	POLICY NUMBER	
Equal Employment Opportunity	DCS 04-04	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Human Resources	12-10-2014	0

I. POLICY STATEMENT

The Department of Child Safety's (the "Department") commitment to equal opportunity is predicated on the premise that all individuals have the right to be treated with respect and dignity. The Department is committed to the prohibition against unlawful discrimination, harassment, and retaliation in the workplace.

II. APPLICABILITY

This policy applies to all covered and uncovered employees and contracted employees of the Department.

III. AUTHORITY

A.R.S. § 41-743	Powers and duties of the Director
A.R.S. §§ 41-1401-1405	Civil Rights Division and Civil Rights Advisory Board
A.A.C. R2-5A-104	Prohibition Against Discrimination, Harassment, and Retaliation
A.A.C. R2-5A-501	Standards of Conduct
A.A.C. R2-5A-901	Complaint System
A.A.C. R2-5A-902	Complaint Procedures
Title VII of the Civil Rights Act of 1964	

IV. DEFINITIONS

ADOA Director: The Director of the Arizona Department of Administration.

Complainant: The employee(s) who files a complaint.

Department: Arizona Department of Child Safety.

Department Director: Director of the Arizona Department of Child Safety.

Disability: refers to:

a. A physical or mental impairment that substantially limits a major life function of an individual;
b. Having a history of such an impairment; or
c. Being regarded as having such impairment.

Discrimination: Includes, but is not limited to:

a. Preferential treatment of one individual or group over another similarly situated individual or group because of the individual's or group's race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation;
b. Sexual harassment;
c. Harassment of any individual because of the individual's race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation; and D.
d. Failing or refusing to provide a reasonable accommodation to a qualified person with a disability.

Discrimination because of disability: Refers to:

a. Treating an individual with a disability less favorably than a similarly situated person without a disability;
b. Favoring a person with one disability over a person with a different disability; and
c. Refusing to provide a reasonable accommodation that is necessary to enable a qualified individual with a disability to perform the essential functions of his or her job.

EEO Complaint Coordinator: The Human Resources Equal Employment Opportunity (EEO) Coordinator within the Department who is responsible for receiving complaints, determining applicability under the complaint system, investigating or assigning the complaint to the appropriate Individual within the agency for review or investigation, and tracking the processing of the complaints.

Harassment because of race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation: Involves unwelcome and unsolicited conduct which is predicated upon an individual's race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status when:

a. Submission to the conduct is made either explicitly or implicitly a term or condition of employment; Submission to or rejection of such conduct by an employee is used as a basis for an employment decision affecting the employee;
b. Submission to the rejection of such conduct by an employee is used as a basis for employment decision affecting the employee; or
c. The conduct has the purpose or effect of substantially interfering with an employee's work performance and creating a hostile, intimidating, or otherwise offensive working environment. Prohibited harassment includes, but is not limited to:

    i. Derogatory comments, epithets or slurs directed at an individual because of that individual's race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, or any other status protected by federal law, state law, or regulation;
    ii. Posting or circulating written or graphic materials, including but not limited to, cartoons, pictures, posters, or calendars containing derogatory comments, epithets or slurs based upon an individual's race, color, national origin, religion, age, disability, genetic information, sex,

pregnancy, or any other status protected by federal law, state law, or regulation; and

iii. Abusive or derogatory remarks or conduct targeted at identifiable groups which are identified based upon their race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation.

Sexual Harassment: Unwelcome and unsolicited conduct of a sexual nature when:

a. Submission to the conduct is made either explicitly or implicitly a term or condition of employment;

b. Submission to or rejection of such conduct by an employee is used as a basis for an employment decision affecting the employee; or

c. The conduct has the purpose or effect of substantially interfering with an employee's work performance and creating a hostile, intimidating, or otherwise offensive working environment. Examples of conduct that can violate this policy include, but are not limited to:

i. Explicit sexual behavior by a supervisor, manager, co-worker, contractor, visitor, client, or other entity with whom the employee interacts during the course of employment;

ii. Implicit request for sex;

iii. Direct or indirect pressure for dates or sexual activity;

iv. Pinching, patting, or other unwelcome touching;

v. Leering or gawking;

vi. Posting or circulating of sexually graphic materials including, but not limited to, cartoons, pictures, posters, or calendars;

vii. Sexually derogatory comments, including slurs, jokes, and other inappropriate remarks;

viii. Reprisals or threats after a negative response to sexual advances;

ix. Unwelcome sexual advances; and

x. Conditioning favorable terms and conditions of employment upon a positive response to abusive remarks or conduct targeted at only one sex, even if the context of the abusive remarks is not sexual.

V. POLICIES

A. All Department employees shall comply with all federal and state antidiscrimination laws. The Department and its employees shall not unlawfully discriminate against any individual with regard to the terms and condition of employment, including hiring, pay, leave insurance benefits, retention, and rehiring. All allegations of unlawful discrimination, harassment, and retaliation shall be promptly investigated, and any Department employee who engages in conduct in violation of this policy may be disciplined or separated from state employment.

B. This policy does not create a contract for employment between any employee and the Department. Nothing in this policy changes the fact that all uncovered employees of the Department are at-will employees and serve at the pleasure of the appointing authority.

C. It is the responsibility of all Department employees to promptly bring any allegation of unlawful discrimination, harassment, or retaliation to the attention of the Department. Any complaint alleging unlawful discrimination, harassment, or retaliation must be submitted in accordance with the procedures described in **this policy** and **not** under the Department's Covered Employee Grievance policy.

D. This policy does not affect other rights and remedies under federal and state statutes prohibiting employment discrimination. Employees who believe that they have been subjected to discrimination because of their race, color, national origin, religion, age disability, genetic information, sex, pregnancy, military or veteran status, or any other status protect by federal law, state law or regulation may also file charges of employment discrimination with the Arizona Attorney General's Civil Rights Division, the Equal Employment Opportunity Commission, or the Governor's Office of Equal Opportunity.

E. Harassment of a sexual nature or harassment based on race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation is prohibited. The Department prohibits the unlawful harassment of any employee in the course of the employee's work by supervisors, coworkers, or third parties, such as vendors or customers. Any Department employee who engages in unlawful harassment may be disciplined or separated from state employment.

F. The Department shall provide equal employment opportunity for all individuals regardless of race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation. It is the policy of the Department that all individuals are treated in a fair and non-discriminatory manner throughout the application process and their employment.

G. The Department does not permit or tolerate retaliation against anyone for raising a concern about, assisting in an investigation of, or filing a complaint in good faith concerning unlawful discrimination or harassment. Any Department employee found to have engaged in retaliation against another individual for reporting or assisting in the investigation of any allegation of unlawful discrimination may be disciplined or separated from state employment.

H. Employees shall comply with all federal and state anti-discrimination laws. The Department and its employees shall not unlawfully discriminate against any individual with regard to the terms and conditions of employment, including hiring, pay, leave, insurance benefits, retention, and rehiring.

VI. PROCEDURES

A. A **COVERED OR UNCOVERED EMPLOYEE** may use this policy to file a complaint alleging unlawful discrimination, harassment, or retaliation with the Equal Employment Opportunity (EEO) Complaint Coordinator within 180 days of the action giving rise to the complaint and to clearly outline the allegations, including whether the complaint is based on:

1. Unlawful discrimination based on race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation;
2. Allegation of sexual harassment or other form of harassment;
3. Retaliation for filing a complaint; or
4. Retaliation or intimidation for exercising any right under state or federal law.

B. <u>Complaint Preparation:</u>
The **COMPLAINANT** shall not use state time or state property to prepare a complaint, to prepare for a meeting with agency management, or to meet with a representative. Subject to supervisory approval and the operational needs of the unit, the

COMPLAINANT may request available compensatory, holiday, or annual leave for this purpose.

C. Multiple Complaints:
Multiple complaints by an employee may be consolidated into a single complaint. Separate complaints filed by two or more employees regarding the same issue or issues may be consolidated into a group complaint. **EMPLOYEES HAVING A COMMON COMPLAINT** may submit one group complaint, identifying one complainant as the selected spokesperson for the group. Employees who choose to file a group complaint are prohibited from filing separate complaints on the same issue.

D. Amendments:
Once a complaint is submitted to the EEO Complaint Coordinator, it may not be amended. If additional documentation is submitted by the complainant after the initiation of the complaint, the **REVIEWING OR INVESTIGATING OFFICIAL** may remand the complaint to the complainant for reconsideration and resubmission.

E. Complaint Process**:**

1. The **EMPLOYEE** who has an allegation of or becomes aware of a situation involving unlawful discrimination, harassment, or retaliation shall report the allegation or complaint by submitting Form DCS-1164A Employee Complaint to the EEO Complaint Coordinator. The EEO Complaint Coordinator can be reached at 602.542.3159 or 1789 W. Jefferson Street, Phoenix, Arizona 85007. The complaint shall include all facts and circumstances involved in the alleged violation, including the following information:
   a. Description of the incident(s);
   b. Name(s) of individual(s) involved;
   c. Name(s) of witness(es);
   d. The date(s) the discrimination, harassment, or retaliation occurred;
   e. Resolution sought; and
   f. Federal or state law alleged to have been violated (if known).
2. The **EEO COMPLAINT COORDINATOR** shall:
   a. Notify the Department Director and Chief Human Resources Officer of the complaint upon receipt;
   b. Assign a complaint tracking number;
   c. Acknowledge receipt of the complaint in writing to the complainant not later than five business days after receipt of the written complaint;
   d. Seek assistance from the Chief Human Resources Officer in assigning the complaint to a qualified individual within the agency to investigate the allegations within ten business days of receipt of the complaint:
      (i) The review or investigation shall be completed within 60 business days of receipt of the written complaint; and
      (ii) If extenuating circumstances exist, an extension shall be requested through the Chief Human Resources Officer by the EEO Complaint Coordinator.
   e. Provide the findings and a written recommendation to the Department Director and Chief Human Resources Officer within ten business days of completion of the review or investigation barring resolution of the complaint by agreement of the parties;
3. The **DEPARTMENT DIRECTOR OR DESIGNEE** shall:
   a. Review the findings and recommendations;
   b. Issue a decision in writing to the complainant within ten business days following receipt of the findings and recommendations; and

c. Provide a copy of the response to the EEO Complaint Coordinator and the Chief Human Resources Officer.

F. If the complainant is not satisfied with the Department Director's decision on a complaint alleging unlawful discrimination, harassment, or retaliation, the **COMPLAINANT** may elevate the complaint to the Director of the Arizona Department of Administration (ADOA) located at 100 N. 15th Avenue, Phoenix, AZ 85007, within five business days after receipt of the Department Director's decision.

G. The **ADOA DIRECTOR** shall furnish a copy of the ADOA Director's decision to the Department Director and the complainant within 20 business days following receipt of the complaint by the ADOA Director.

1. The 20 business days may be extended by the ADOA Director with the concurrence of the complainant;
2. The decision of the ADOA Director is the final step in the complaint procedure; and
3. The ADOA Director's response will refer the employee to the appropriate entity if the employee is dissatisfied with the final step of the complaint procedure.

H. **ANY EMPLOYEE** who has questions related to this procedure may contact the Department's EEO Coordinator at 602.542.3159 or the Department's Chief Human Resources Officer at 602-542-0260.

I. Included as **Exhibit A** is an Overview of the Employee Complaint Process.

VII. FORMS

DCS-1164A Employee Complaint

Exhibit A

OVERVIEW: EMPLOYEE COMPLAINT PROCESS

Responsibilities

The Arizona Department of Child Safety (the Department) is committed to the prohibition against unlawful discrimination, harassment, and retaliation in the workplace. It is the responsibility of all Department employees to promptly bring any allegation of unlawful discrimination, harassment, or retaliation to the attention of the Department. Any compliance alleging unlawful discrimination, harassment, or retaliation must be submitted in accordance with the Department's policy and procedures, DCS 04-04 Equal Employment Opportunity.

Initiating the Complaint

To initiate the complaint process, the Employee Complaint form must be completed and submitted to the Department EEO Complaint Coordinator as soon as possible after the occurrence of the act and not later than 180 calendar days after the action giving rise to the complaint. The complaint shall include a description of the incident(s), list of individual(s) and witness(s) involved, date(s) of the discrimination, harassment, or retaliation occurred (if known), the resolution sought, and the state or federal law alleged to have been violated (if known). The EEO Complaint Coordinator can be reached at:

Arizona Department of Child Safety
1789 W. Jefferson Street, Phoenix, AZ 85007
Telephone: 602-542-2159
Fax: 602-542-1933

The review or investigation of the complaint shall be completed within 60 business days of receipt of the written complaint. The Department Director or designee shall review the findings and issue a decision in writing to the complainant within 20 business days after completion of the investigation. An employee who does not initiate the complaint within the 180 calendar day period waives the right to file the complaint.

Elevating the Complaint

If the complainant is not satisfied with the Department Director's decision on a complaint alleging unlawful discrimination, harassment, or retaliation, s/he may elevate the complaint to the Director of the Arizona Department of Administration (ADOA) located at 100 N. 15th Avenue, Phoenix, AZ 85007, within five business days after receipt of the Department Director's decision. The ADOA Director will appoint an individual who is not an employee of the Department to investigate the complaint. The ADOA Director shall furnish a copy of his/her final decision to the Department Director and the complainant within 20 business days following receipt of the complaint. This is the final step in the Department complaint process.