



**Department of Corrections and Rehabilitation
NOTICE OF CHANGE
TO DEPARTMENT OPERATIONS MANUAL**

**Chapter 3, Article 1,
EQUAL EMPLOYMENT OPPORTUNITY**

Transmittal Letter Number:

15-13

Revision Date:

August 25, 2015

The purpose of this document is to provide staff with information regarding revisions to Department Operations Manual (DOM) Chapter 3, Article 1, Equal Employment Opportunity (formerly titled Equal Employment Opportunity / Sexual Harassment Policy).

The proposed changes add two protected categories and revise others, add specified conduct violations and revise others, revise the responsibilities of various Department entities and staff regarding EEO policies, add new subsections regarding religious accommodation, and make revisions to the complaint process.

Please inform all persons concerned of the contents of this notice, which shall be maintained and utilized until it is incorporated into the next online edition of the DOM. If you have any questions, please contact Tiesha Savage, Office of Internal Affairs / Civil Rights, at (916) 255-0545.

Original Signed By:

DAVID GRANT
Deputy Director
Office of Internal Affairs / Civil Rights

CHAPTER 3 -PERSONNEL, TRAINING, AND EMPLOYEE RELATIONS

ARTICLE 1 – EQUAL EMPLOYMENT OPPORTUNITY

Revised August 2015

31010.1 Policy

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing Equal Employment Opportunity (EEO) and creating a work environment in which all individuals are treated with respect and professionalism. Consistent with this commitment, it is the policy of CDCR to provide a workplace free from discrimination, harassment, and retaliation for all applicants, employees, contractors, unpaid interns and volunteers. The CDCR EEO policy is a zero-tolerance policy which applies to all aspects of employment within CDCR including recruitment, hiring, promotion, transfer, training, corrective adverse action, and other terms, conditions, and benefits of employment. Zero tolerance means that violations of this policy will not be tolerated. When policy violations are found to have occurred, appropriate corrective action and/or adverse action, up to and including dismissal, depending on the severity of the violation, will be taken. All employees are prohibited from discriminating against or harassing anyone on the basis of their protected status. The bases for filing a complaint are:

- Age (40 or older)
- Ancestry
- Color
- Disability (physical or mental)
- Genetic Information
- Marital Status
- Medical Condition (cancer or genetic characteristics)
- National Origin
- Political Affiliation (includes opinion or activities)
- Race
- Religion/Religious Creed
- Sex/Gender (including sexual harassment, pregnancy, gender identity, and gender expression)
- Sexual Orientation
- Veteran Status/Military Service
- Usage of leave rights permissible under the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and/or Pregnancy Disability Leave Act.
- EEO Retaliation

The protected bases listed above may include being perceived or regarded as having these characteristics or association with an individual who has or is perceived to have any of these characteristics.

All employees are prohibited from retaliating against any person because the person has opposed any practices forbidden under this policy or because the person has filed a complaint, testified, or assisted in any proceeding related to this policy.

All employees are prohibited from aiding or coercing any acts forbidden under this policy.

All employees are prohibited from engaging in behavior that rises to the level of discrimination, harassment, or retaliation in violation of:

- Title VII of the Civil Rights Act of 1964 (including amendments)

- California Fair Employment and Housing Act (FEHA) of 1959 (including amendments)
- California Code of Regulations (Titles 2 and 15)
- Departmental EEO policies and procedures
- Other California and federal EEO laws

This policy applies to conduct that occurs in any location operated by CDCR or is considered a workplace by CDCR, as well as any location that can reasonably be regarded as an extension of the workplace, such as an off-site business or social function, or other non-CDCR facility where CDCR business is being conducted. This policy applies to conduct that occurs off-duty and is brought back to the workplace, when such conduct adversely affects the individual in a manner otherwise prohibited by this policy.

31010.2 Purpose

The purpose of this policy is to prevent misconduct, define the roles and responsibilities of CDCR management and employees relative to the EEO policy, and to identify the discrimination complaint process.

31010.3 Definitions of Discrimination Basis

Age

Refers to the chronological age of any individual who has reached his or her 40th birthday.

Ancestry

The national or cultural origin of a line of familial descent.

Color

The color of skin of an individual, including shades of skin within a racial group.

Disability

A physical or mental impairment affecting one or more body systems which limits a major life activity, including work; a record of such an impairment; or being regarded as having such an impairment. This includes Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome.

Genetic Information

With respect to any individual, information about the individual's genetic tests, genetic tests of family members of the individual, and the manifestation of a disease or disorder in family members of the individual.

Marital Status

The legal status in a relationship such as married, never married, single, separated, divorced, or widowed.

Medical Condition

A person's genetic characteristics or a person who has or had cancer.

National Origin

The country where a person was born, or more broadly, the country from which his or her ancestors came, which includes the individual's common language, culture, ancestry, and other similar social characteristics.

Political Affiliation

Membership or association in a political party or special interest group (union issues are not included).

Race

Classes of persons identifiable because of their ancestry or ethnic characteristics.

Religion

All aspects of religious belief, observance, and practice.

Retaliation

An adverse employment action taken against an individual due to his/her protected activity (including one's opposition to a discriminatory practice or participation in the discrimination complaint process).

Sex

Sex includes, but is not limited to, a person's gender. Gender includes a person's gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Gender identity refers to a person's identification as male, female, a gender different from the person's sex at birth, or transgender.

Sex also includes, but is not limited to pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; and breastfeeding or medical conditions related to breastfeeding.

Sexual Orientation

"Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

Military and Veteran Status

Any person entitled to the rights and benefits under the Uniformed Services Employment and Reemployment Rights Act.

31010.3.1 Definitions of Other Terms**Association**

An individual's involvement with a member of a protected group or membership in an advocacy organization representing a protected group.

Complainant

Any individual or group of individuals who allege discrimination in violation of a State or federal EEO law or regulation or departmental policy.

EEO

The legal right of all individuals to be afforded full and equal consideration for employment, retention, and advancement on the basis of merit.

EEO Counselor

A departmental employee trained to assist in the discrimination complaint process.

EEO Coordinator

A person designated by a hiring authority to receive and coordinate internal discrimination complaints.

External Discrimination Complaint

A complaint alleging discrimination, harassment, and/or discrimination filed with a State or federal compliance agency against the Department by a charging party.

Family and Medical Leave Acts/California Family Rights Act

Provisions in State and federal statutes that allow for up to 12 weeks of unpaid leave for the birth of a child for purposes of bonding, placement of a child in the employee's family for adoption or foster care, and the qualified serious health condition of the employee or the qualified serious health condition of a parent, spouse or child. California law provides the same protection for registered domestic partners. Federal law also provides for up to 12 weeks for leave to assist family members in the military who are being called to active duty in support of contingency military operations or are regular military and being stationed overseas; and up to 26 weeks to care for ill or injured family members in the military. The program responsible for the administration of these statuses is Human Resources.

Hiring Authority

The Secretary, Undersecretary, General Counsel, Chief Information Officer, or any Assistant Secretary, Executive Officer, Director, Deputy Director, Associate Director, Warden, Parole

Administrator, Superintendent, Superintendent of Correctional Education, Associate Superintendent of Education, Regional Health Care Administrator, Health Care Manager, Chief Executive Officer, or any other person authorized by the Secretary, CDCR, to hire, discipline and dismiss employees under his/her authority.

Internal Discrimination Complaint

A complaint alleging discrimination filed with the OIA or any local EEO Coordinator.

Respondent

The person(s) who is alleged to have committed an unlawful practice or engaged in conduct that violates this policy, in a complaint filed through Local Intervention Process (LIP), referral to OIA/CRO, or compliance agency.

31010.4 Complainant's Rights

Every person covered by this policy has the following rights:

1. The right to a discrimination-free work environment.
2. The right to work in an environment free from bullying or abusive conduct.
3. The right to file a discrimination complaint, freedom from influence to refrain from filing a complaint, and freedom from retaliation after filing a complaint, (see "Filing a Complaint" below). Employees and applicants must immediately report the discriminatory action or conduct.
4. The right to have their complaint promptly reported, objectively reviewed, and investigated when appropriate.
5. The right to be informed of the disposition of the complaint.
6. The right to be represented by a person of the complainant's choosing at each and all steps of the process.
7. The right to file a complaint with the California Department of Fair Employment and Housing (DFEH), Equal Employment Opportunity Commission (EEOC), and other appropriate State and federal compliance agencies.

31010.5 Conduct Violations

The type of prohibited discriminatory, harassing, or retaliatory behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Making employment decisions on the basis of an individual's protected characteristics.
- Changing the terms, conditions, or privileges of employment of an employee in retaliation for filing a discrimination complaint or participating in the discrimination complaint process.
- Failing to consider a reasonable accommodation request for a disability or for religious reasons.
- Denying a leave request for which an employee is eligible under FMLA, CFRA, or because of pregnancy and pregnancy-related conditions.
- Using discriminatory terms or telling discriminatory jokes that are based on an individual's protected status.
- Bullying or abusive conduct, including repeated infliction of verbal abuse and use of derogatory remarks, insults, and epithets.
- Verbal and physical conduct that a reasonable person would find threatening, intimidating, or humiliating.
- Displaying objects, cartoons, pictures, or posters that are derogatory, sexual in nature, or discriminatory based on an individual's protected status.
- Posting, sending, uploading/downloading messages with discriminatory, retaliatory, or sexual content in any form via electronic mail, the intranet/internet websites, cell phone, interoffice mail, or public or private mail.

- Discriminating against any employee in violation of this policy so as to create a hostile work environment.
- Engaging in any unwanted physical contact or leering.
- Making harassing telephone calls to a coworker, or sending harassing correspondence to an individual by any means including, but not limited to, public or private mail, interoffice mail, facsimile, electronic mail or text messaging.
- Restricting or denying restroom access, in accordance with their gender identity/expression, to transitioning transgender employees; or repeatedly calling a transgender employee by the wrong pronouns or name, after the transgender employee has provided notice of his or her transition in accordance with his or her gender identity.

31010.6 Sexual Harassment Violations

Sexual harassment is defined under State and federal laws and by this policy as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature that interferes with work performance by creating an intimidating, hostile, or offensive work environment. Such conduct constitutes sexual harassment in violation of this policy when:

- (1) Submission to the conduct or communication is made either explicitly or implicitly a term or condition of employment.
- (2) Submission to or rejection of the conduct or communication is used as a basis for employment or service decisions affecting the individual.
- (3) Such conduct or communication has the potential to negatively affect an individual's work performance and/or create an intimidating, hostile, or offensive work environment.

The type of prohibited discriminatory or harassing behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Demanding sexual favors in exchange for employment benefits or as a term or condition of employment, whether explicitly or implicitly.
- Engaging in any unwanted physical contact, including touching, leering, making sexual gestures, impeding or blocking movements, pinching, grabbing, patting, intentionally brushing up against another individual in a sexual manner, rape, or sexual assault.
- Engaging in retaliation after a negative response to sexual advances.
- Using sexually derogatory terms or telling sexual jokes and/or stories.
- Displaying objects, cartoons, pictures, or posters of a derogatory or sexual nature.
- Posting, sending, or uploading/downloading sexual or demeaning materials in any form via electronic mail, the intranet/internet websites, cell phone, interoffice mail, or public or private mail.
- Following or stalking an employee.
- Making harassing telephone calls of a sexual nature to a coworker, or sending sexually harassing correspondence to an individual by any means including, but not limited to, the use of public or private mail, interoffice mail, facsimile, electronic mail, or text messaging.

310107 Responsibilities

Deputy Director, Office of Internal Affairs

The Deputy Director, Office of Internal Affairs (OIA), will establish a Civil Rights Operations (CRO) within OIA. The CRO will develop policy and provide training to meet the Department's obligation to ensure EEO and a work environment free of discrimination, harassment, and retaliation.

Chief, Civil Rights Operations

The Chief, CRO, OIA, shall:

- Serve as the department's EEO Officer. As needed, the Chief, CRO reports to the CDCR Secretary on matters related to EEO.
- Develop EEO policies and procedures.
- Provide statewide direction in the implementation of the Department's EEO/ policy and procedures in compliance with State and federal laws and departmental policies to ensure a work environment free of discrimination, harassment, and retaliation.
- Oversee the statewide discrimination complaint process and provide technical assistance to hiring authorities.
- Ensure the Department is in compliance with requirements mandated by external State and federal agencies, including Department of Fair Employment and Housing (DFEH), and the Equal Employment Opportunity Commission (EEOC).
- Monitor the most sensitive and/or complex cases.
- Consult with the Office of Legal Affairs when necessary.
- Conduct research and prepare reports regarding EEO matters.
- Ensure the Disability Advisory Committee (DAC) and other EEO/Sexual Harassment workgroups are effectively implemented throughout the Department.
- Coordinate with the Office of Training and Professional Development in the development and delivery of EEO/Sexual Harassment Prevention training, including monitoring and evaluating the effectiveness of such training.
- Provide EEO program support; ensure the adequacy and accuracy of training materials; identify training needs; and customize training to meet training requirements.
- Complete the annual Workforce Analysis Report, including goals for persons with disabilities and upward mobility, and other reports related to EEO compliance and regulation.
- Provide technical assistance to CDCR staff regarding EEO/Sexual Harassment issues, internal and external complaint processes, and completion of forms.
- Serve as a liaison for the Limited Examination and Appointment Program (LEAP); incorporate LEAP into training programs to encourage hiring of qualified persons with disabilities.

Civil Rights Operations, Headquarters Staff

The CRO, Headquarters Staff shall:

- Review discrimination complaints received by OIA.
- Provide analysis of discrimination complaints alleging a violation of the CDCR EEO policy.
- Provide a response to external compliance agencies regarding complaints or requests for information.
- Develop EEO/Sexual Harassment training for CDCR staff and managers.
- Provide consultation to EEO Coordinators and hiring authorities on requests for religious accommodation.
- Review all requests for religious accommodation, and provide recommendations to the hiring authority, prior to their final determination.
- Conduct EEO/Sexual Harassment Prevention training. Provide technical assistance to CDCR staff on EEO policy.

Civil Rights Operations, Regional Staff

The CRO, Regional Staff shall:

- Conduct EEO/Sexual Harassment Prevention training. Provide technical assistance to local CDCR staff on the EEO policy.
- Assist Special Agents with investigations involving allegations of harassment/discrimination.

- Provide response to external compliance agencies related to OIA investigations.
- Serve as a liaison for OIA and EEO Coordinators, EEO Counselors, and field training staff.

Hiring Authority

The hiring authority shall:

- Ensure compliance with the EEO policy and procedures and applicable State and federal laws by all employees under their authority and take immediate and appropriate course of action as necessary.
- Ensure that employees under their management or supervision have received EEO/Sexual Harassment training and a copy of the EEO policy.
- Ensure discrimination complaints received are referred to, recorded, and reviewed by the EEO Coordinator and logged in compliance with Department Operations Manual (DOM), Section 31140.13, regardless of the nature of the complaint.
- Assign an appropriate employee to the position of EEO Coordinator, normally at the level of a Captain, Parole Agent III, Staff Services Manager II or above.
- When appropriate, the hiring authority may conduct an allegation inquiry in compliance with DOM Section 31140.14.
- Consult with CRO staff on requests for religious accommodation prior to rendering a final determination.
- Ensure engagement of interactive process with the requesting employee has occurred. Review requests for religious accommodation and make the final determination regarding such requests. Take disciplinary action pursuant to CDCR DOM, Articles 14 and 22 when necessary, to address violations of the CDCR EEO policy.

EEO Coordinator

Under the supervision of the hiring authority, the EEO Coordinators shall:

- Receive discrimination complaints (whether or not they are documented on a Discrimination Complaint Form [CDCR Form 693]), and initiate the discrimination complaint process following the EEO Coordinator's manual provided by OIA.
- Review the complaint, including the CDCR Form 693, and collect any other documents submitted or identified by the complainant and/or EEO Counselor.
- Provide respondent with a Notice of Complaint after initial review when appropriate to order the alleged conduct or retaliation to stop/cease.
- Notify the complainant and respondent(s) in writing following the disposition of the complaint after the Local Intervention Process (LIP).
- Provide recommendation to the hiring authority regarding EEO policy, complaints, and related concerns.
- Serve as a liaison between employees and management to help resolve discrimination complaints by discussing problems with employees and appropriate supervisors, by advising employees on the issues, and by developing appropriate solutions.
- Make recommendations for the selection of EEO Counselors to the hiring authority, and provide training, technical assistance, direction, and maintain their contact information.
- Provide assistance to OIA in coordinating on-site interviews, including interviews conducted by external compliance agencies, and obtaining any requested documents.
- Receive, review, and evaluate requests for religious accommodation, on behalf of the hiring authority.
- Gather additional information or documents related to requests for religious accommodation, as needed, to evaluate such requests.

- Make a recommendation to the hiring authority regarding requests for religious accommodation.
- Serve as liaison between the employee requesting a religious accommodation and management to determine an appropriate accommodation, if any.
- Consult with CRO staff on requests for religious accommodation, as needed.
- Log complaints on the CDCR Form 2140, Internal Affairs Allegation Log, in compliance with DOM Section 31140.13.

Serve as a member of the EEO Advisory Committee, as outlined in Section 31010.9, and participate in quarterly meetings (at a minimum) to advise the hiring authority regarding local EEO complaints and training.

EEO Counselors

Under the supervision of the EEO Coordinator, the EEO Counselors shall:

- Establish and provide an open channel of communication through which employees may discuss complaints.
- Direct individuals to the appropriate procedure if the issue of the complaint does not involve an allegation of discrimination.
- Advise employees of their rights and responsibilities with regard to the internal and external discrimination complaint procedures.
- Inform employees of the EEO policy and procedures and the discrimination complaint process.
- Receive discrimination complaints and forward them to the EEO Coordinator within 24 hours.
- Conduct the LIP intake interview with the complainant and submit the completed CDCR Form 693 and documentation to the EEO Coordinator.
- Assist the EEO Coordinator, as needed, in gathering information or documentation related to requests for religious accommodation.
- Serve as a member of the EEO Advisory Committee, as outlined in Section 31010.9, and participate in quarterly meetings (as a minimum) to advise the hiring authority regarding local EEO complaints and training.

Managers and Supervisors

Under the supervision of the hiring authority, all CDCR managers and supervisors shall:

- Maintain and promote a work environment free from discrimination, harassment, retaliation, and unprofessional or disrespectful conduct related to this policy.
- Adhere to the EEO policy and procedures, applicable State and federal law, discrimination complaint process and ensure they are communicated to all employees under their supervision.
- Take immediate and appropriate action to stop conduct that violates this policy. Ensure that employees under their management or supervision have received EEO/Sexual Harassment Prevention training and a copy of the policy.
- Advise employees of their rights and the process for filing an EEO complaint. Notify in writing his or her direct supervisor and the local EEO Coordinator within 24 hours of becoming aware of conduct that may violate CDCR's EEO policy. Prepare and submit a memorandum to the EEO Coordinator within three working days from the date the employee informed the supervisor of the alleged violation.
- Attend mandated EEO/Sexual Harassment Prevention training.
- Submit any requests for religious accommodation to the EEO Coordinator within two working days.

- Cooperate with the EEO Coordinator to identify possible accommodations to address requests for religious accommodation.

Failure by a manager or supervisor to adhere to the above responsibilities may result in corrective and/or adverse action up to and including dismissal from CDCR. Separate from any action taken by CDCR, managers and supervisors should be aware that their conduct may result in personal civil liability.

Employees

All CDCR employees shall:

- Adhere to CDCR's EEO policy and procedures, applicable State and federal laws, and the discrimination complaint process.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the EEO policy.
- Report any EEO policy violations to any supervisor or manager.
- Cooperate with any investigation conducted by OIA.
- Attend mandated EEO/Sexual Harassment Prevention training.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or adverse action, up to and including dismissal from the Department, regardless of rank, level, or classification.

31010.8 Religious Accommodation

The need for religious accommodation may arise when an employee's sincerely held religious beliefs, observances, or practices conflict with a requirement or an essential function of the employee's work. If a conflict exists between an employee's religious beliefs, observances, or practices and the employee's work requirements or essential functions, that employee may request a religious accommodation. An employee who seeks a religious accommodation must make the employer aware of the need for an accommodation.

The employer shall consider a request for an accommodation that eliminates the conflict between the employee's religious beliefs, observances, or practices and the employee's work requirements or essential functions.

An accommodation includes, but it is not limited to adjustment to the work environment that eliminates, when reasonable, a conflict between an employee's religious beliefs, observances, or practices, and the employee's work requirements or essential functions. A waiver of an essential function is not required. Essential functions are the fundamental job duties of the employment position the individual holds or desires. Essential functions do not include marginal functions of the position. Under the Government Code, Section 12926, Subdivision (u), an undue hardship is an action requiring significant difficulty or expense. An undue hardship may exist if the requested accommodation creates safety or security risks, conflicts with a Memorandum of Understanding (MOU), conflicts with State or federal laws, or results in a waiver of an essential function of a position.

Request for Religious Accommodation

An employee in need of a religious accommodation shall make a request and cooperate in good faith with their supervisor, manager, EEO Coordinator and/or hiring authority to provide the necessary information to process the request. This may include providing the appropriate and verifiable information from a religious leader within the employee's religious group. A request for religious accommodation should be submitted by an employee in writing, on a CDCR Form 2273, Request for Religious Accommodation or verbally to a supervisor, manager, or EEO Coordinator.

The CDCR Form 2273 should state the specific religious belief, observance, or practice in conflict with specific work requirements or essential functions; it must explain how the religious belief, observance, or practice conflicts with specific work requirements or essential functions;

and it must state the specific accommodation requested, and explain how the requested accommodation resolves the conflict between the employee's religious belief, observance, or practice and the employee's work requirements or essential functions.

Upon receipt of a CDCR Form 2273, it shall be forwarded to the EEO Coordinator within two working days.

A verbal request for religious accommodation shall be documented in writing by the person receiving the request and delivered to the EEO Coordinator within 2 working days. The employee must make a request for religious accommodation at least 15 calendar days prior to the requested accommodation. Failure to submit the request 15 calendar days prior to the requested accommodation may delay the processing of the request for accommodation.

31010.8.1 The Interactive Process

EEO Coordinators and hiring authorities shall engage in a good faith interactive process with the employee requesting a religious accommodation. The interactive process requires employer and employee flexibility and cooperation in informal discussions. An employer is not required to provide the specific accommodation requested by the employee. An employer is also not required to provide an accommodation, if the accommodation creates an undue hardship for the employer, or if the accommodation results in the segregation of the requesting employee from other employees or the public. (See Government Code, Section 12940 [1][2]). If the requested accommodation creates an undue hardship for the Department, the hiring authority must engage in the interactive process with the employee to determine if there is an alternative accommodation to address the employee's religious needs. EEO Coordinators and hiring authorities shall consult with OIA/CRO before making a final decision.

31010.8.2 Evaluation of a Request for Religious Accommodation

EEO Coordinator

The EEO Coordinator shall evaluate the request for religious accommodation and request additional information, if necessary. The EEO Coordinator shall contact the employee requesting the religious accommodation and ask clarifying questions, if needed, regarding the specific religious belief, observance, or practice that conflict with specified work requirements or essential functions, the specific conflict, and the accommodation requested.

The EEO Coordinator shall consider alternative accommodations, if the accommodation requested creates an undue hardship for the Department. The EEO Coordinator will consult with the local Labor Relations Analyst to rule out a conflict between the proposed accommodation and a MOU. If a conflict with a MOU exists, the EEO Coordinator will consult with the Labor Relations Analyst to determine if alternatives are available in accordance with the terms of the MOU. The EEO Coordinator shall review the information and make a recommendation to the hiring authority regarding the request for religious accommodation.

Hiring Authority

The hiring authority shall forward all requests for religious accommodation to OIA/CRO for review. OIA/CRO will provide a recommendation to the hiring authority regarding such requests. Upon receipt of the recommendation from the OIA, the hiring authority shall make the final determination. Once a final determination has been made, the hiring authority shall provide a response to the requesting employee, as soon as operationally feasible.

31010.9 Discrimination Complaint Process

The CDCR's Discrimination Complaint Process consists of the Local Intervention Process (LIP), direct filing with the OIA, or referral to OIA via CDCR Form 989, Confidential Request for Internal Affairs Investigation by the hiring authority. A complaint may also be filed by contacting a State or federal compliance agency.

31010.9.1 The Local Intervention Process

It is CDCR's policy to resolve a complaint of discrimination, harassment, or retaliation at the lowest level. If an employee reasonably believes that an EEO policy violation has occurred, he or she must report the alleged misconduct pursuant to DOM Section 31140.5. An employee should file a complaint in writing using the CDCR Form 693, Discrimination Complaint form which can be obtained from the local EEO Coordinator, the OIA, or the CDCR Intranet/Internet websites. An employee must be allowed a reasonable amount of State time to report a complaint to his or her supervisor, an EEO Counselor, the local EEO Coordinator, or any other CDCR manager or supervisor. The individual to whom the violation has been reported will take immediate and appropriate action to assist the employee in reporting the complaint, including submission of a written report to the EEO Coordinator in the case of a verbal complaint, and preventing further violation(s) of this policy.

A discrimination complaint alleging a violation of the CDCREEO policy must be forwarded to the EEO Coordinator within 24 hours, whenever possible. The EEO Coordinator may assign an EEO Counselor to conduct a LIP interview with the complainant. After the EEO Coordinator receives the documents from the assigned EEO Counselor, the EEO Coordinator evaluate the complaint and makes a recommendation to the hiring authority. The hiring authority will make a determination and direct the appropriate course of action.

The complaint must be forwarded to OIA via CDCR Form 989 when a reasonable belief of misconduct occurred and the alleged misconduct, if proven true, would result in adverse action, as determined by the hiring authority.

31010.9.2 Filing a Complaint

A discrimination complaint should be filed via a CDCR Form 693, Discrimination Complaint Form, with the local EEO coordinator. . A complaint may also be sent directly to the OIA, or by using the OIA, EEO Discrimination Complaint Hotline at 1-800-272-1408. An employee may also file an external complaint with a State or federal agency. See External Complaint, 31010.8.4. An employee is not required to confront the person(s) engaged in the conduct believed to be in violation of this policy at any time before or after filing a complaint. If the complaint involves supervisor(s) or manager(s) in the employee's direct chain of command, the employee may report the behavior to any uninvolved supervisor, manager, EEO Counselor, or EEO Coordinator.

31010.9.3 Allegation Inquiry

An allegation inquiry may be conducted when violations of the CDCR EEO policy are alleged, but the allegations(s) and/or complainants and respondent(s) are not clearly defined. The OIA, CRO staff may be consulted to determine whether an inquiry is appropriate. The inquiry shall be conducted in accordance with DOM Section 31140.14.

31010.9.4 External Complaint

All persons covered by this policy may elect to file a discrimination complaint with the following external compliance agencies:

1. California Department of Fair Employment and Housing (DFEH) – A complainant may file with DFEH within 365 days from the last incident, date of notification of alleged discriminatory act(s), or date of actual harm.
2. United States (U.S.) Equal Employment Opportunity Commission (EEOC) – A complainant may file a discrimination complaint with EEOC within 300 days from the last incident or notification of the alleged discriminatory act(s).
3. U.S. Department of Labor – A complaint filed with the U.S. Department of Labor should be filed within a reasonable time of when the employee discovers that his or her FMLA rights have been violated. In no event may a complaint be filed more than two years after the action which is alleged to be a violation of FMLA occurred, or three years in the case of a willful violation.

When a charge of discrimination is received from external compliance agencies, OIA shall review the charge to determine the appropriate course of action and take suitable corrective action where appropriate. On behalf of CDCR, the CRO will submit a position statement, including a response to the requested supplemental information to the external compliance agencies.

31010.10 Logging Discrimination Complaints

The hiring authority, or designee, shall log each discrimination complaint on the CDCR Form 2140, Internal Affairs Allegation Log, in compliance with DOM, Section 31140.13.

31010.11 Use of State Time

Use of State time for filing a discrimination complaint or participating in investigations shall be approved by the employee's supervisor. Absent an emergency, employees may request and shall be allowed reasonable State time by the supervisor to contact/secure a representative and to discuss the matter with the representative prior to any interview.

31010.12 EEO Advisory Committee

Each institution/parole region shall establish an EEO committee. The EEO Committee shall meet on a quarterly basis and serve in an advisory capacity to the hiring authority on EEO matters including complaints and training.

EEO Advisory Committee Membership shall include the following individuals:

- Warden or Regional Parole Administrator (RPA) and Deputy RPA.
- EEO Coordinator.
- EEO Counselors.

31010.13 Disability Advisory Committee

The Chief, CRO, OIA, or designee, serves as the liaison to the DAC and shall provide advice and assistance to the CDCR Secretary, and the OIA Deputy Director, on disability issues, such as:

- Developing and maintaining EEO programs and activities for persons with disabilities.
- Making recommendations to improve the personnel practices and employment opportunities for persons with disabilities.
- Establishing contact with groups and organizations that are concerned with achieving equitable representation and utilization of persons with disabilities in the CDCR workforce.
- Monitoring of disability issues identified by the committee, including, but not limited to, reasonable accommodation and accessibility, to ensure that necessary actions occur within reasonable time frames.
- Assisting the Department in complying with the Americans with Disabilities Act and other related statutes.

Membership

The Chief, CRO, OIA, or designee serves as the liaison to the DAC.

The DAC shall consist of volunteers selected by the DAC Chairperson and DAC Vice Chairperson with input from the hiring authority and current DAC members. DAC membership should include persons with disabilities.

Meetings

The DAC shall meet at least annually.

Resources

Members of the DAC shall be primarily involved with the duties and responsibilities of their specific assignments; local administrators shall make the necessary arrangements to allow members reasonable time to perform committee activities.

31010.14 Revision

The Deputy Director, OIA, or designee, shall ensure that the content of this Article is accurate and current.

31010.15 References

Federal

Title VII of the Civil Rights Act of 1964 (including amendments).

Family and Medical Leave Act.

Age Discrimination in Employment Act of 1967.

Americans with Disabilities Act of 1990.

Uniformed Services Employment and Reemployment Rights Act.

Title II of the Genetic Information Nondiscrimination Act of 2008.

State

California Fair Employment and Housing Act of 1959 (including amendments).

California Family Rights Act.

California Department of Corrections Code of Regulations (Title 15).

California Government Code Sections 12920 - 12922; 12925 - 12928; 19230 – 19237; 19400 – 19406; 12940 - 12951; 12960 – 12976; 19700 – 19706; 19790 – 19799.

INSTRUCTIONS: This form should be used when requesting a religious accommodation. Requests should be submitted to your local Equal Employment Opportunity (EEO) Coordinator or a supervisor.

Part A: REQUESTOR/EMPLOYEE INFORMATION:

Please check one current employment status from the following and complete the contact information below:

- CDCR Employee
- Contractor
- Job Applicant
- Other

| | | | |
|------------------------------|----------------------------------|---|-------------------------|
| NAME: | | EMAIL ADDRESS: | |
| CONTACT PHONE NUMBER: | WORK PHONE NUMBER: | WORK LOCATION / DIVISION / INSTITUTION / FACILITY | |
| CIVIL SERVICE CLASSIFICATION | HOW LONG IN THIS CLASSIFICATION: | HOW LONG EMPLOYED BY CDCR | UNIT/SECTION: |
| SUPERVISOR'S NAME: | SUPERVISOR'S PHONE NUMBER | MANAGER'S NAME: | MANAGER'S PHONE NUMBER: |

- 1) Describe your specific religious beliefs, observances or practices that conflict with your work requirements or essential functions.
- 2) Specify what work requirements or essential functions are in conflict with your religious beliefs, observances or practices.
- 3) Provide specific examples of how your religious beliefs, observances or practices conflict with your work requirements or essential functions.
- 4) Attach any documentation, or provide additional information, which helps explain how your religious beliefs, observances or practices conflict with your work requirements or essential functions, and which you would like to be considered as part of this request.
- 5) Explain the specific accommodation you are seeking (e.g., adjusted work schedule, modification of work assignment, wearing of religious attire, etc.)
- 6) Explain how the specific accommodation will resolve the conflict between your religious beliefs, observances or practices and your work requirements or essential functions.

Employee's Signature _____ Date: _____

Received by:
 Print Name _____ Signature _____ Date _____

EEO COORDINATOR

Met and discussed the religious accommodation process with the employee.

YES NO DATE: _____

1) Discussed the specific religious beliefs, observances or practices, and the conflict between the beliefs, observances or practices and the work requirements.

YES NO

2) Received all necessary information supporting the employee's request for a religious accommodation.

YES NO

3) Contacted the employee's supervisor and/or manager to discuss possible accommodations.

YES NO DATE: _____

4) Consulted with Labor Relations to rule out a conflict with a MOU.

YES NO

5) If a conflict with a MOU was present, discussed possible alternatives with Labor Relations.

YES NO

6) Resolved the religious conflict within the Institution/Facility/Parole Region/Division/Office by providing the following accommodation:

7) Unable to accommodate within the Institution/Facility/Parole Region/Division/Office for the following reasons:

Print Name _____ Signature _____ Date _____

HIRING AUTHORITY

1) Agrees with the recommendation from the EEO Coordinator.

YES NO

2) Disagrees with the recommendation from the EEO Coordinator for the following reasons:

3) Alternative solution:

Print Name _____ Signature _____ Date _____

A request for religious accommodation, along with all supporting documentation, shall be submitted to CRO for review and recommendation before a final determination by the Hiring Authority (HA).

Part C: OIA CIVIL RIGHTS OPERATIONS

1) Agrees with the recommendation. Return to the HA for processing.

YES NO

2) Disagrees with the recommendation for the following reasons:

3) Suggested alternatives:

CRO Program Manager or designee:

Print Name _____ Signature _____ Date _____

CRO shall return the completed form to the HA within 30 calendar days from the date the request is received by CRO. The HA shall make the final decision.

Part D: HIRING AUTHORITY

| |
|---|
| 1) Agrees with the recommendation from Civil Rights Operations. <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 2) Disagrees with the recommendation from Civil Rights Operations for the following reasons: |
| 3) Final Decision: |
| Hiring Authority or designee: Print Name _____ Signature _____ Date _____ |
| The HA shall make the final decision and notify the employee. |

SAMPLE