

 <p>State of Connecticut Department of Correction</p> <p>ADMINISTRATIVE DIRECTIVE</p>	Directive Number 2.1	Effective Date 10/31/2007	Page 1 of 7
	Supersedes Equal Employment Opportunity and Affirmative Action, dated 8/15/2006		
Approved By <i>Theresa C. Lantz</i>	Title Equal Employment Opportunity and Affirmative Action		

1. Policy. The Department of Correction shall achieve equal employment opportunity through affirmative action. The Department shall also be committed to providing its employees with a workplace that is free from both discrimination and harassment based upon race, color, sex, age, religion, national origin, ancestry, disability, marital status, sexual orientation, or any legally protected status; and retaliatory actions against those individuals who have submitted a complaint of such behavior. Violations of this nature shall be dealt with in a timely fashion, with discipline rendered as appropriate.

2. Authority and Reference.
 - A. United States Code, 29 USC 621 et seq., 29 USC 701 et seq., 29 USC 791 et seq., 42 USC 1981, 42 USC 1983, 42 USC 2000d et seq., 42 USC 2000e et seq., 42 USC 3601 et seq., and 42 USC 6101.
 - B. Presidential Executive Orders.
 1. Executive Order 11141.
 2. Executive Order 11246, as amended by Executive Orders 11375, 11478 and 12086.
 3. Executive Order 11625.
 4. Executive Order 12138, as amended by Executive Order 12608.
 5. Executive Order 12336, as amended by Executive Order 12355.
 - C. Americans with Disabilities Act of 1990.
 - D. Code of Federal Regulations, 29 CFR 32, 29 CFR 1604 through 29 CFR 1607, 29 CFR 1620, 29 CFR 1625, 29 CFR 1630, and 41 CFR 60.741.
 - E. Connecticut General Statutes, Sections 4-60u, 4a-60, 4a-61, 4a-60g, 5-227, 10a-11, 18-81, 31-51d, 31-75, 46a-51, 46a-58(a), 46a-60, 46a-64, 46a-68 through 46a-72, 46a-74 through 46a-77, and 46a-81c through 46a-81q.
 - F. Governor's Executive Orders.
 1. Executive Order No. 18, Governor Meskill
 2. Executive Order Nos. 11 and 12, Governor Grasso
 3. Executive Order No. 9, Governor O'Neill
 - G. Regulations of Connecticut State Agencies, Sections 46a-68-1 through 46a-68-17 and 46a-68-31 through 46a-68-74.
 - H. American Correctional Association, Standards for the Administration of Correctional Agencies, Second Edition, April 1993, Standard 2-CO-1C-09.
 - I. American Correctional Association, Standards for Adult Correctional Institutions, Fourth Edition, January 2003, Standard 4-4053.
 - J. American Correctional Association, Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, June 2004, Standard 4-ALDF-7E-01.

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- K. American Correctional Association, Standards for Adult Probation and Parole Field Services, Third Edition, August 1998, Standard 3-3052.
 - L. American Correctional Association, Standards for Correctional Training Academies, First Edition, May 1993, Standard 1-CTA-1C-03.
 - M. Administrative Directives 1.3, Administrative Directives, Manuals, Forms Management and Post Orders; 1.6, Monthly and Annual Reports; and 2.2, Sexual Harassment.
3. Definitions. For the purposes stated herein, the following definitions apply:
- A. Adverse Impact. A selection device that results in a substantially lower rate of selection for any protected class, generally four fifths (4/5) the rate for the group most favored by the selection device.
 - B. Affirmative Action. Proactive efforts, undertaken to correct the present effects of past practices, policies and barriers to achieve the full and fair participation of any protected class within the Department's workforce.
 - C. Affirmative Action Plan. A written, detailed set of objectives prepared by the Department and approved by the Commission on Human Rights and Opportunities, designed to ensure a diverse workforce.
 - D. Availability. The number of persons in a labor market possessing the skills, abilities, and qualifications necessary for the performance of a job or capable of acquiring the requisite skills in a reasonable period of time.
 - E. Bonafide Occupational Qualification (BFOQ). A job qualification which precludes consideration of a protected class based upon specific job requirements.
 - F. Disability/Handicap. A physical or mental impairment that substantially limits one or more major life activities; a record of such impairment or being regarded as having such an impairment or any chronic physical handicap, infirmity or impairment.
 - G. Discrimination. Any act, practice or policy which serves as a barrier with respect to the terms, conditions, or privileges of employment based solely on an individual's race, color, sex, religious creed, age, marital status, national origin or ancestry, physical disability (including blindness), present or past history of mental disorder, learning disability, mental retardation or sexual orientation, unless the provisions of state statutes are controlling.
 - H. Equal Employment Opportunity. Employment of an individual without regard to race, color, sex, religious creed, age, marital status, national origin or ancestry, physical disability (including blindness), present or past history of mental disorder, learning disability, mental retardation or sexual orientation, unless the provisions of state statutes are controlling except for bona fide occupational qualification.
 - I. Good Faith Effort. All reasonable efforts to achieve compliance with Affirmative Action/Equal Employment Opportunity goals; additional efforts undertaken when initial efforts fail and documentation of any effort undertaken to achieve compliance.

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- J. Harassment. Any unwelcome verbal or physical conduct based on a legally protected class when such conduct has the effect of creating an intimidating, hostile or offensive working environment that effects the terms and conditions of employment. Actions which may be considered harassment under this Directive include, but are not limited to:
1. Use of racially derogatory words, phrases, epithets;
 2. Demonstrations of a racial or ethnic nature such as a use of gestures, pictures or drawings which would offend a particular racial or ethnic group;
 3. Comments about an individual's skin color or other racial/ethnic characteristics;
 4. Making disparaging remarks about an individual's gender and/or sexual orientation not covered by Administrative Directive 2.2, Sexual Harassment;
 5. Making disparaging comments about an employee's religious beliefs (or lack of religious beliefs);
 6. Expressing disparaging stereotypes regarding an employee's birthplace, national origin or ancestry;
 7. Making disparaging comments regarding an employee's age; and,
 8. Derogatory or intimidating references to an employee's mental or physical impairment.
- K. Labor Market Area. A geographical area from which recruitment can be conducted.
- L. Occupational Category. A grouping of jobs by job contact and/or primary occupational activity.
- M. Parity. A condition where the representation of a protected class equals the percentage of such persons in the available workforce.
- N. Protected Class. Those classes or groups of persons specified in Sections 3(G) and 3(H) of this Directive.
4. General Principles of Affirmative Action and Equal Employment Opportunity.
- A. The Department's Affirmative Action Plan shall establish goals to achieve representation reflective of the applicable labor market.
 - B. Affirmative Action shall apply to all aspects of the employer/employee relationship including, but not limited to, recruitment, hiring, training, upgrading, promotions, benefits, compensation, discipline, layoff and termination. All such decisions shall be made on the basis of qualifications, performance and other pertinent work-related factors, and without discrimination against any person on the basis of race, color, sex, religion, national origin, ancestry, disability, marital status, sexual orientation, or any legally protected status.
 - C. Preventing harassment and other offensive conduct requires awareness by every employee, supervisor and manager at the Department of the impact that one's actions may have on others. In determining whether harassment or other offensive conduct has occurred, the standard to be applied is the perspective of a reasonable person.
 - D. No employee shall be intimidated, threatened, coerced, discriminated, harassed or otherwise restrained or retaliated against because of filing a complaint, opposing any

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discriminating practice, or testifying or participating in any manner in an investigation or proceeding. Any violation of this provision shall be reported immediately in writing to the investigating unit. If there is a conflict with reporting a violation to the investigating unit, it shall be reported to the Office of the Commissioner.

5. Affirmative Action Unit Duties and Responsibilities. The duties and responsibilities of the Affirmative Action Unit shall include but not be limited to:

- A. Develop the Department's Affirmative Action Plan;
- B. Monitor the Affirmative Action Plan, programs, and policies;
- C. Communicate the Department's Policy of Equal Employment Opportunity and Affirmative Action;
- D. Mitigate any discriminatory conduct within the Department;
- E. Investigate all complaints that are referred to the Affirmative Action Unit;
- F. Report all findings and recommendations upon the conclusion of the investigation to the Commissioner for proper action;
- G. Monitor Department programs and services for compliance with equal employment opportunity laws and regulations;
- H. Serve as liaison to various community groups and agencies;
- I. Provide training to all employees concerning equal employment opportunity, affirmative action and sexual harassment;
- J. Advise Department management regarding reasonable accommodations for disabled employees covered under the Americans with Disabilities Act of 1990 and the Connecticut Fair Employment Practices Act;
- K. Advise and consult with Department management on relevant Equal Employment Opportunity and Affirmative Action program issues;
- L. Review interview questions to ensure they are related to successful job performance and do not result in adverse impact on protected classes;
- M. Assess the effect of either expansions or reductions in the workforce on protected class members; and,
- N. Review annually personnel actions to determine if there has been an adverse impact, and recommend appropriate steps to alleviate any identified disparity.

6. Human Resources Affirmative Action Responsibilities. The Human Resources Unit shall in consultation with the Affirmative Action Unit:

- A. Identify and utilize recruitment sources which reach a diverse population.
- B. Use best efforts to ensure that applicant pools and eligibility lists for hire and promotion include a diverse population.
- C. Inform new hires and transfers into the Department during orientation of the Department's commitment to Affirmative Action and give each new employee a copy of this Directive.
- D. Review all interview questions to ensure that they are in compliance with this Directive.
- E. Document good faith efforts to achieve affirmative action goals and submit documentation to the Affirmative Action Unit.

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7. Unit Administrator Responsibility. Each Unit Administrator shall in consultation with the Affirmative Action Unit:
- A. Consider Affirmative Action goals when recruiting, selecting, assigning, promoting and training employees.
 - B. Monitor and report the unit's progress regarding affirmative action as required in Administrative Directive 1.6, Monthly and Annual Reports.
 - C. Consult with the Affirmative Action Unit on issues regarding reasonable accommodations for disabled employees covered under the Americans with Disabilities Act of 1990 and the Connecticut Fair Employment Practices Act.
 - D. Document good faith efforts to achieve affirmative action goals and submit documentation to the Affirmative Action Unit.
 - E. Communicate to all subordinates the Department's Equal Employment Opportunity and Affirmative Action Policy and make them aware of the Affirmative Action Plan.
 - F. Notify Affirmative Action Unit of any allegation of discrimination or sexual harassment.
 - G. Post all federal and state mandated signage regarding the Americans with Disabilities Act of 1990, sexual harassment and discrimination.
8. Manager/Supervisor Responsibility.
- A. Each manager and supervisor shall become familiar with the provisions of this Directive, complying with all requirements of this policy and cooperating with any inquiry under this Directive.
 - B. Each manager and supervisor has a responsibility to maintain the workplace free of any form of discrimination or harassment (based on a protected class status), to monitor working conditions in order to detect violations of this Directive, and to take prompt action to correct and report any violation through the chain of command.
 - C. Any manager or supervisor who witnesses conduct that violates this Directive or receives a report of conduct that is alleged to violate this Directive shall immediately report such conduct to a senior manager or the Unit Administrator, who shall advise the Director of Affirmative Action of any violation or alleged violation as soon as feasible.
 - D. Each manager and supervisor shall communicate to all subordinates the Department's Equal Employment Opportunity and Affirmative Action Policy and make them aware of the Affirmative Action Plan.
9. Employee Responsibility. An employee shall not engage in discrimination or harassment (based on a protected class status). The Department shall not tolerate violations of this Directive and strongly encourages victims of discrimination or harassment to report instances of such behavior as soon as feasible after it occurs. Any employee who witnesses discrimination or harassment or who becomes aware that an employee has been subjected to discrimination or harassment shall report same to a supervisor, manager, the Unit Administrator or the Affirmative Action Unit as soon as feasible and must do so immediately if the conduct jeopardizes the safety or security of staff or the orderly operation of the facility.

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10. Complaint Procedure. Any person, applying for employment or currently employed by the Department, who believes that he/she has been discriminated against, may file an Affirmative Action complaint utilizing CN 2101, Affirmative Action Complaint Form regardless of the person's status or classification, within 60 days of the occurrence. The person shall file the complaint with a member of the Affirmative Action Unit. The complaint shall be processed as follows:
- A. Informal Process. Upon receipt of CN 2101, Affirmative Action Complaint Form, the Affirmative Action Unit shall interview the complainant to determine the facts of the complaint and assess whether or not the issue is grievable under the jurisdiction of the Affirmative Action Unit. If it is not, the Affirmative Action Unit shall offer the complainant suggestions to appropriately address the matter.
 - B. Internal Process. In addition to investigating a complaint of alleged discrimination, the Affirmative Action Unit shall attempt to resolve the complaint through an informal process. The informal process shall attempt to reconcile the matter at the lowest possible level. The Affirmative Action Unit shall act in an effort to mediate, mitigate or conciliate a complaint. The process shall be completed within 75 days of the filing date of the affirmative action complaint.
 - C. Internal Decision. If, after the investigation of the complaint, the Affirmative Action Unit concludes that the complaint is not valid or no discriminatory act has occurred or cannot be substantiated, the complaint may be dismissed. If, after the investigation of the complaint, the Affirmative Action Unit finds reason to believe that an employment discrimination violation may have occurred, the Affirmative Action Unit shall then initiate attempts to cause reconciliation of the parties. If the parties to the complaint agree on a resolution by way of conciliation, the terms of such resolution shall be set forth in a written agreement signed by both parties.
 - D. Appeal. If the Affirmative Action Unit concludes that the complaint is not valid or a discriminatory act has not occurred or is unsubstantiated and dismisses the complaint, and the complainant is not satisfied with the finding(s), the complainant may appeal the decision within 15 calendar days, after the internal determination is made, to the Commissioner of Correction.
 - E. Compliance. If either the Department or the employee fails to comply with any obligation or requirement which forms part of any resolution or conciliation agreement, said decision may be enforced by an order from the Commissioner of Correction.
 - F. Ability to Use Formal Process. The use of the internal process shall not preclude the complainant from exercising any rights in using the processes provided by federal or state law, including those provided in Sections 10(G) and 10(H) of this Directive.
 - G. Connecticut Commission on Human Rights and Opportunities (CHRO). Any person who claims to be aggrieved by an alleged discriminatory practice may file a complaint with CHRO. Such complaints must generally be filed within 180 days of the date of the alleged act of discrimination or within 180 days of the date that the claimant became aware of the act. Further information on filing a CHRO complaint can be found on CHRO's website: <http://www.state.ct.us/chro/>.

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- H. Equal Employment Opportunities Commission (EEOC). Any individual who believes that his or her employment rights have been violated may file a charge of discrimination with EEOC. A charge may be filed by mail or in person at the nearest EEOC office and must be filed within 300 days of the date of the alleged act of discrimination. Further information on filing an EEOC complaint can be found on EEOC's website: <http://www.eeoc.gov>.
11. Distribution of Complaint Procedure. To ensure that employees are aware of the right to file an affirmative action complaint, the Commissioner's policy statement and complaint process shall be conspicuously posted and staff shall have access to this policy in accordance with Administrative Directive 1.3, Administrative Directives, Manuals, Forms Management and Post Orders. A copy of the procedure shall also be included in the Employee Handbook and on the Department's website: <http://www.ct.gov/doc>.
12. Protection from Adverse Action. No person employed by the Department shall be intimidated, threatened, coerced, discriminated, harassed or otherwise restrained or retaliated against because of filing a complaint, opposing any discriminating practice, testifying or participating in any manner in an investigation or proceeding. Any violation of this provision shall be reported immediately in writing to the investigating unit. If there is a conflict with reporting a violation to the investigating unit, it shall be reported to the Office of the Commissioner.
13. Confidentiality. The identity of a complainant and the facts and circumstances of a complaint and investigation shall, to the extent possible (considering the requirements of applicable state and federal laws, collective bargaining agreements and court orders), be kept confidential and shared only on a need-to-know basis.
14. Forms and Attachments. The following form is applicable to this Administrative Directive and shall be utilized for its intended function:
- A. CN 2101, Affirmative Action Complaint Form.
15. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.