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# CDOT AFFIRMATIVE ACTION COMMITMENT STATEMENT

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## Affirmative Action Commitment Statement

The Colorado Department of Transportation's (CDOT) Executive Director, directed by and through its staff, is committed to equal employment opportunity and a program of affirmative action to fulfill that commitment. This affirmative action plan serves as a guide that outlines to management his/her responsibilities regarding the implementation of the affirmative action program.

To support CDOT in achieving its mission, this affirmative action plan reinforces equal employment opportunity principles by ensuring that the workforce and public has an equal opportunity to enter public service and work in an environment that is free of unlawful employment barriers.

CDOT is committed to equal opportunity and non-discrimination under the laws instituted by the State and the U.S. Congress. It is the responsibility of every person within CDOT to incorporate and implement actions of equal opportunity. In addition, CDOT prohibits retaliation against any employee because he or she has made a report of alleged discrimination or harassment; has testified, assisted or participated in any manner in an investigation of such report; or has opposed discrimination or harassment.

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CDOT is dedicated to the principles and goals of fairness, equality, courtesy, and respect for all individuals. As an employer, CDOT is committed to fairness and equality of opportunity in the workplace. All recruitment, hiring, training, promotions, transfers, and administration of all personnel policies, procedures, programs, and services are conducted or administered without regard to differences in age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender or sexual orientation, political affiliation, organizational membership, and veteran's status, or other non-job related factors.

CDOT will ensure that no person shall, on the grounds of age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender or sexual orientation, political affiliation, organizational membership, and veteran's status, or other non-job related factors, be excluded from participation in, be denied the benefit of, or be subjected, to discrimination or harassment under any program or activity receiving state or federal financial assistance directly or indirectly by CDOT.

It is the policy of CDOT to promote equal opportunity in the employment of women, minorities, veterans and persons with disabilities. Reasonable accommodations are offered in the selection process and minimum qualifications are written to guarantee job relatedness. Individuals responsible for classification and compensation review the minimum qualifications for positions to guarantee that women, minorities, veterans or persons with disabilities are not adversely screened out of the employment process.

CDOT values the individual diversity of all employees, applicants, volunteers and citizens. Differences in age, race, ethnic heritage, religion, appearance, sexual orientation or any number of other distinguishing factors provide experiences, viewpoints and ideas that can strengthen and enrich our work environment. Our goal is to create an environment that is inclusive, respectful, and equitable; and to employ the talents of people with different backgrounds experiences, and perspectives to accomplish the mission of CDOT.

To further this message, CDOT issued Policy Directive 600.0, "Equal Employment Opportunity and Affirmative Action" to its employees. This policy was updated and signed by the Transportation Commission on January 22, 2014.



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**CDOT EQUAL EMPLOYMENT OPPORTUNITY AND  
AFFIRMATIVE ACTION POLICY DIRECTIVE**

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# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION  
Office of Government Relations  
4201 East Arkansas Avenue, Room 275  
Denver, Colorado 80222  
(303) 757-9772



**To:** All CDOT Employees

**From:** Heidi Humphreys – DAS / Herman Stockinger – OPGR / Mary Frances Nevans - OPGR

**Re:** Policy Directive 600.0 Equal Employment Opportunity and Affirmative Action

**Date:** January 27, 2014

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**Background** Policy Directive 600.0 “Equal Employment Opportunity and Affirmative Action” updates current Policy Directive 600.0, “Equal Employment Opportunity and Non-Discrimination Policy” adopted June 18, 2008.

**Rationale for Policy Directive** Outlines CDOT’s general policy for all CDOT employees (including temporary employees and volunteers) and applicants with regard to compliance with Title VII of the Civil Rights Act of 1964 and Colorado Anti-Discrimination laws. It does not include CDOT’s obligations under Title VI, which are set forth in Policy Directive 604.0, “Non-Discrimination Policy,” overseen by the Civil Rights and Business Resource Center.

**Individuals/Entities Impacted in Policy Directive** The directive pertains to all CDOT employees (including temporary employees and volunteers) and applicants for employment. The directive identifies those protected classes under federal regulations and state law. It also requires compliance with the Genetic Information Nondiscrimination Act of 2008 (“GINA”), 43 U.S.C. § 2000ff, which prohibits the use of the improperly disclosed genetic information in hiring and promotion. It requires adherence to the Department of Regulatory Agencies (“DORA”) guidelines pertaining to Colorado Anti-discrimination Laws under § 24-34-401, *et seq.*, C.R.S.

**Implementation** The Division of Administrative Services (DAS), Employee Relations / Legal Office (ER/L) shall implement this directive. The Affirmative Action Officer shall oversee CDOT’s affirmative action compliance.

**Effective Date** January 22, 2014

**Review Date** On or before January 2019

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
<b>Subject</b>		
<b>EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION</b>		<b>600.0</b>
<b>Effective</b> 1/22/14	<b>Supersedes</b> 06/18/08	<b>Originating Office</b> <b>Division of Administrative Services</b>

### **I. PURPOSE**

To ensure that no person, such as a member of the public, applicant, or employee, shall, on the grounds of race, color, religion, gender (including sexual harassment), sexual orientation as defined in § 24-34-401 (7.5), C.R.S., national origin, age, genetic information, political affiliation, organizational membership, veteran's status, disability, marriage to a co-worker, pregnancy, or because such person has opposed any unlawful discriminatory practice or other non-job related factor, be excluded from participation in, be denied the benefit of, or be subjected to discrimination or harassment in hiring or employment practices.

### **II. AUTHORITY**

Executive Director, § 43-1-105, C.R.S.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e  
(<http://www.eeoc.gov/laws/statutes/titlevii.cfm>)

Rehabilitation Act, 29 U.S.C. § 791  
(<http://www.eeoc.gov/laws/statutes/rehab.cfm>)

Age Discrimination Act of 1975, 29 U.S.C. § 621  
(<http://www.eeoc.gov/laws/statutes/adea.cfm>)

The Equal Pay Act, 29 U.S.C. § 206(d)  
(<http://www.eeoc.gov/laws/statutes/epa.cfm>)

The Genetic Information Nondiscrimination Act, 42 U.S.C. § 2000ff  
(<http://www.eeoc.gov/laws/statutes/gina.cfm>)

The Civil Rights Act of 1991, 29 CFR 1614  
(<http://www.eeoc.gov/laws/statutes/cra-1991.cfm>)

§ 24-34-401, *et seq.*, C.R.S.

### **III. APPLICABILITY**



Subject	Number
<b>EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION</b>	<b>600.0</b>

This directive applies to all divisions, branches, regions and offices of the Colorado Department of Transportation ("CDOT" or "Department") with regard to applicants and employees. For purposes of this Policy, "employees" includes all employees, including management level, as well as temporary employees, volunteers and applicants.

#### **IV. POLICY**

It is the policy of CDOT to provide equal opportunity in employment and to prohibit discrimination in employment based on the above mentioned factors. CDOT supports the rights of employees to exercise all available rights under applicable civil rights laws and does not tolerate retaliation against employees who engage in a protected activity. Any employee or program issue related this EEO policy should be addressed to the Regional Civil Rights Office, Employee Relations Legal (ER/L), or the Affirmative Action Officer.

#### **V. IMPLEMENTATION PLAN**

A. This Policy Directive shall be effective upon approval by the Transportation Commission.

B. It shall be implemented by the Affirmative Action Officer in the Office of Employee Relations / Legal at CDOT Headquarters.

#### **VI. REVIEW DATE**

This Policy Directive shall be reviewed on or before January 2019.

Norman J. Strickman III  
Secretary, Transportation Commission

1-22-14  
Date of Approval

**Resolution # TC-3126**

**Approved January 16, 2014**

**Adoption of Policy Directive 600.0 "Equal Employment Opportunity and Affirmative Action"**

**WHEREAS**, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy for the Colorado Department of Transportation ("CDOT"); and

**WHEREAS**, CDOT is required to comply with Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, and related statutes as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT is required to comply with the Colorado Anti-Discrimination Laws under § 24-34-401, *et seq.*, C.R.S.; and,

**WHEREAS**, Policy Directive 600.0 seeks to fulfill the Federal Highway Administration's requirement to have a policy in place with regard to equal opportunity employment practices and prohibition of discrimination, which practices will be implemented through all phases of CDOT's Affirmative Action Plan; and,

**WHEREAS**, Policy Directive 600.0 updates and replaces Policy Directive 600.0, "Equal Opportunity and Non-Discrimination Policy" adopted on June 18, 2008; and

**WHEREAS**, updated Policy Directive 600.0 confirms CDOT's commitment to equal opportunity in employment and the prohibition of discrimination in employment.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein adopts Policy Directive 600.00 "Equal Employment Opportunity and Affirmative Action."

*Herman F. Stockinger III*

Transportation Secretary

1-22-14

Date

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# CDOT AFFIRMATIVE ACTION REPORT AND PLAN

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**COLORADO**

**Department of  
Transportation**

## **CDOT AFFIRMATIVE ACTION REPORT**

(October 1, 2013 - September 30, 2014)

***AND***

**PLAN**

(October 1, 2014 - September 30, 2015)

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**AFFIRMATIVE ACTION PROGRAM**

**Colorado Department of Transportation  
2014 Annual Report: October 1, 2013 to September 30, 2014  
2015 Affirmative Action Plan: October 1, 2014 to September 30, 2015**

**Colorado Department of Transportation  
(CDOT) 4201 E. Arkansas Ave.  
Denver CO 80222  
303-757-9201**

**Authorities:  
Federal Highway Administration  
23 CFR Part 230  
Federal Transit Administration  
Circular 4701.1**

**Completed by: Kathy Pickard, CDOT Affirmative Action Officer**

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Date

**Concurred and Approved by:**

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Greg Diehl, Civil Rights and Business Resource Center Director Date

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Kevin Furman, EEO and Strategic Workforce Solutions Director Date

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Don Hunt, CDOT Executive Director Date



## **SECTION 1 – CDOT BACKGROUND INFORMATION**

### **Affirmative Action Program Commitment Statement**

The Colorado Department of Transportation's (CDOT) Executive Director, directed by and through its staff, is committed to equal employment opportunity and a program of affirmative action to fulfill that commitment. This affirmative action plan serves as a guide that outlines to management his/her responsibilities regarding the implementation of the affirmative action program.

To support CDOT in achieving its mission, this affirmative action plan reinforces equal employment opportunity principles by ensuring that the workforce and public has an equal opportunity to enter public service and work in an environment that is free of unlawful employment barriers.

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CDOT is dedicated to the principles and goals of fairness, equality, courtesy, and respect for all individuals. As an employer, CDOT is committed to fairness and equality of opportunity in the workplace. All recruitment, hiring, training, promotions, transfers, and administration of all personnel policies, procedures, programs, and services are conducted or administered without regard to differences in age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender or sexual orientation, political affiliation, organizational membership, and veteran's status, or other non-job related factors.

CDOT will ensure that no person shall, on the grounds of age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender or sexual orientation, political affiliation, organizational membership, and veteran's status, or other non-job related factors, be excluded from participation in, be denied the benefit of, or be subjected, to discrimination or harassment under any program or activity receiving state or federal financial assistance directly or indirectly by CDOT.

It is the policy of CDOT to promote equal opportunity in the employment of women, minorities, veterans and persons with disabilities. Reasonable accommodations are offered in the selection process and minimum qualifications are written to guarantee job relatedness. Individuals responsible for classification and compensation review the minimum qualifications for positions to guarantee that women, minorities, veterans or persons with disabilities are not adversely screened out of the employment process.

CDOT values the individual diversity of all employees, applicants, volunteers and citizens. Differences in age, race, ethnic heritage, religion, appearance, sexual orientation or any number of other distinguishing factors provide experiences, viewpoints and ideas that can strengthen and enrich our work environment. Our goal is to create an environment that is inclusive, respectful, and equitable; and to employ the talents of

people with different backgrounds experiences, and perspectives to accomplish the mission of CDOT.

To further this message, CDOT issued Policy Directive 600.0, "Equal Employment Opportunity and Affirmative Action" to its employees. This policy was updated and signed by the Executive Director on January 22, 2014. Appendix C)

CDOT has a full-time Affirmative Action Officer to support the EEO/AA Program. This position is located in the Civil Rights and Business Resource Center.

### **Introduction to CDOT**

The Colorado Department of Transportation maintains 23,000 miles of roads and bridges—this equates to 9,146 highway center line miles and 3,447 bridges. The vehicle miles travelled (VMT) on our state highway system is now more than 27 billion—an increase of 57 percent since 1990. During the same time, our road capacity (or new lane miles) added to handle that growth increased by only 2 percent. Projections show the VMT is expected to grow by another 48 percent in the next 20 years.

CDOT takes care of more than 20 high-mountain passes, seven of which are higher than 11,000 feet. The Department's snow and ice budget in fiscal year 2014 million was \$69 million; and \$262 million total was spent on all maintenance activities. This means CDOT spends 35 percent of its maintenance budget on snow and ice control, alone.

CDOT is divided into 5 Transportation or Engineering Regions and each has a Director appointed by the CDOT Executive Director, Don Hunt. Each Region has a Regional Civil Rights Manager and staff who shares FHWA compliance obligations regarding Civil Rights Program implementation with the Headquarters-based Civil Rights and Human Resources Offices. Defining roles and responsibilities is an ongoing strategic priority of the Affirmative Action Officer and CDOT management.

### **CDOT Vision**

To enhance the quality of life and the environment of the citizens of Colorado by creating an integrated transportation system that focuses on safely moving people and goods by offering convenient linkages among modal choices.

### **CDOT Mission**

To provide the best multi-modal transportation system for Colorado that most effectively and safely moves people, goods, and information.

### **CDOT Values**

- **SAFETY** - We work and live safely! We protect human life, preserve property, and put employee safety before production!
- **PEOPLE** - We value our employees! We acknowledge and recognize the skills and abilities of our coworkers, place a high priority on employee safety, and draw strength from our diversity and commitment to equal opportunity.
- **INTEGRITY** - We earn Colorado's trust! We are honest and responsible in all that we do and hold ourselves to the highest moral and ethical standards.
- **CUSTOMER SERVICE** - We satisfy our customers! With a can-do attitude we work together and with others to respond effectively to our customer's needs.

- **EXCELLENCE** - We are committed to quality! We are leaders and problem solvers, continuously improving our products and services in support of our commitment to provide the best transportation systems for Colorado.
- **RESPECT** - We respect each other! We are kind and civil with everyone, and we act with courage and humility.

### **CDOT History**

- 1909 - The first highway bill was passed by forming a three-member Highway Commission to approve work and allocate funds.
- 1917 - The State Highway Fund was created and the State Highway Department (CDOH Colorado Department of Highways) was formed.
- 1968 - The legislation reorganized highway matters and created the Division of Highways
- 1991 - CDOH became Colorado Department of Transportation (CDOT)

### **CDOT 2014 Major Programs**

- Aeronautics
- Bridge Enterprise
- Capital Expenditures
- FASTER (Funding Advancement for Surface Transportation and Economic Recovery)
- High Performance Transportation Enterprise
- Transportation Systems Management and Operation-Intelligent Transportation Systems
- Local Programs
- Maintenance
- Other Construction
- Project Support
- Safety/Safety Education
- Structures
- Surface Treatment
- Transit

### **CDOT Strategic Policy Initiatives**

1. **Safety.** Goal: Reduce traffic fatalities and serious injuries and work toward zero deaths for all users.
2. **Infrastructure Condition.** Goal: Preserve the transportation infrastructure condition to ensure safety and mobility at a least life-cycle cost.
3. **System Performance.** Goal: Improve system reliability and reduce congestion, primarily through operational improvements and secondarily through the addition of capacity. Support opportunities for mode choice.
4. **Freight Movement & Economic Vitality.** Goal: Improve the freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.
5. **Environmental Stewardship.** Goal: Enhance the performance of the transportation system while minimizing the impact to and encouraging the preservation of the environment.
6. **Reduced Project-Delivery Delays.** Goal: Reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project

completion through eliminating delays in the project development and delivery process. This includes reducing regulatory burdens and improving CDOT's work practices.

### **CDOT Strategic Focus Areas**

1. **Business Excellence.** Goal: Improve business processes for better customer service and efficiency. Better processes and service help CDOT meet all of its Strategic Policy Initiatives.
2. **Construction Funding.** Goal: Use innovation and improved management to get more money to construction. This helps CDOT achieve the Strategic Policy Initiatives of preserving infrastructure condition, reducing project-delivery delays and improving system performance and the freight network.
3. **System Efficiency.** Goal: Get more out of the existing highway system to improve mobility through better operations, management and innovation without making major infrastructure improvements. This goal helps CDOT meet Strategic Policy Initiatives including improving system performance and the freight network.
4. **Private-Sector Partnerships.** Goal: Partner with the private sector to augment public funds. This helps CDOT fulfill Strategic Policy Initiatives including preserving infrastructure condition and improving system performance and the freight network.
5. **Transparency & Accountability.** Goal: Achieve better transparency and accountability in CDOT budget, project planning, construction and maintenance activities. This goal helps CDOT meet all its Strategic Policy Initiatives by building credibility with the public, elected officials, the Federal Highway Administration and other customers.
6. **Workforce Development.** Goal: Provide CDOT employees training and professional development opportunities. This goal helps the Department meet all of its Strategic Policy Initiatives.

### **CDOT Organizational Update – Appendix A**

#### **Addition of New Divisions:**

- Office of Program Management - Richard Zamora, Director
- Division of Project Support- Renamed from "Staff Branches" Scott McDaniel, Director
- Office of Emergency Management - Chad Ray, Director
- Division of Highway Maintenance- Kyle Lester, Director

#### **New Division Director/Manager Appointments:**

- Chief Engineer - Joshua Laipply
- Division of Accounting and Finance - Scott Richrath, Director
- Region 2- Karen Rowe, Regional Transportation Director (RTD)
- Strategic Workforce Solutions: Kevin Furman, HR Director

#### **Other Notable Organizational Changes:**

- Chief Engineer's Office reorganization to include Division of Transportation Development, Division of Transit and Rail, Office of Major Project Development, Office of Program Management and Division of Project Support
- Transfer of Affirmative Action Program (including AA Officer) to CRBRC
- Division of Process Improvement transferred to the Division of Administrative Services
- Region 1 Civil Rights Manager, Vacant

#### **CDOT Current Initiatives**

- Flood Recovery
- Portfolio, Cash and Program Management

- RAMP (Responsible Acceleration of Maintenance and Partnerships)
- Asset Management Focus
- 2040 Statewide Transportation Plan

### **Employee Rights (APPENDIX B)**

The State of Colorado provides Personnel Board Rules, Universal Policies and general information to employees regarding his/her workplace rights. The State Personnel Director, through a Memorandum of Understanding, has decentralized the complaint process to each Department. The following sections provide information from both sources.

#### **Complaint Procedure**

All complaint information and processes are compliant with the State Personnel Board Rules Regarding "Disputes" and "Fair Employment Practices". All complaint processes are also compliant with the State of Colorado Universal Policies on "Anti-Harassment" and "Non-Discrimination."

Colorado State Personnel provides the following Intranet Information regarding Employee grievance and dispute rights:

#### Grievances

The Board's grievance procedure is outlined in Board Rules 8-5, 8-6, and 8-7, which provide the circumstances and parameters under which a grievance may be filed at the agency level and appealed to the Board. Board Rule 8-5 specifies those matters that may not be grieved or appealed. Board Rule 8-6 provides an employee with the right to ask the Board to review an agency's final decision and determine whether the employee may be granted a hearing (referred to overall as the discretionary hearing process). Board Rule 8-7 explains the status of a grievance after an employee's separation from service or restoration to a position following involuntary separation.

#### Agency Grievance Process

The grievance process is a process that, at the agency level, usually unfolds in less than 60 days from start to finish. Board Rule 8-8 outlines the steps for filing a grievance with an agency and then appealing the agency's final decision to the Board.

#### Employee Resources

- State Grievance Process Flow Chart
- State Personnel System Consolidated Appeal/Dispute Form
- Mediation Memorandum of Agreement
- Mediation Agreement
- Whistleblower Complaint Form

All of the aforementioned employee resources can be accessed through the CDOT Intranet and the Regional Civil Rights and Strategic Workforce Solutions (Human Resources) Offices.

CDOT's Internal Complaint Policy Directive 600.6 is accessible to all employees and is posted on the Intranet. This Directive provides the process to file an internal workplace complaint. This policy expired in 2006 and is in the queue for Agency review and revision; the CRBRC has requested priority placement. Please note that where the Center for Equal Opportunity is referenced, that reference has been renamed the Civil Right Business and Resource Center (CRBRC) and DoHRA is now the Division of Administrative Services. The responsible office

for this Policy and Procedural directive is currently the Employee Relations/Legal unit in the office of Strategic Workforce Solutions (HR).

The CDOT Intranet site includes also includes information that explains both employee's workplace rights and resources).

**CDOT Equal Employment and Affirmative Action Policies**

- EEO and Affirmative Action Policy 600.0 (approved 1-22-14)
- Sexual Harassment Policy and Procedures 603.0 and 603.1 (approved 1-22-14)
- Placement of Employees with Disabilities (Review due January 2013)

Two of the above three policies have been updated since last Report. The ADA policy update is scheduled to be completed by March 1,2015.



## SECTION 2 - REPORT ON ACHIEVING GOALS OF 2013/2014 PLAN

This section reports the year-end progress made regarding hiring full-time, permanent employees within each Occupational group where Underutilization was identified in the 2014 AA Plan.

Quarterly Reports on the progress of goals was provided to the CDOT Executive Director, Don Hunt, through the EEO Directors, Dan Myers and Heidi Humphreys.

The determination whether goals were met depends on the net increase or decrease of hires and separations within the protected class as of September 30, 2014.

For the 2015 AA Plan contained in Section 4 of this Report, these current workforce demographics are used.

### Race and Gender Codes

- HM Hispanic Male
- WM White Male
- BM African American or Black Male
- AIM American Indian Male
- AM Asian Male
- HPIM Hawaiian/Pacific Islander Male
  
- HF Hispanic Female
- WF White Female
- BF African American or Black Female
- AIF American Indian Female
- AF Asian Female
- HPIF Hawaiian/Pacific Islander Female

### 1. Officials/Administrators Occupational Group:

Underutilization determined:

- 0.3 Hispanic Males = 1
- 0.3 Hispanic Females = 1
- 2.5 White Females = 3

**2014 Goal and Timetable:** There were no goals made in this Group as these Management positions serve at the pleasure of the Executive Director.

### Outcome:

Ethnicity	HM	WM	BM	AIM	AM	HPIM	HF	WF	BF	AIF	AF	HPIF
Goal	1	0	0	0	0	0	1	3	0	0	0	0

Net Increase	1	2	0	0	0	0	0	0	0	0	0	0
Goal Met?	y	-	-	-	-	-	n	n	-	-	-	-

**Summary:** Three employees were hired in this Group. Five would have had to been hired to reach goals, had goals been established. One Hispanic male was hired.

**2. Professionals Occupational Group:**

Underutilization determined:

- 0.8 Hispanic Females = 1
- 83.6 White Females = 84

**2014 Goal and Timetable:** Based on a turnover rate of 9.4% and with 884 employees in this group, it was projected that about 83 new employees could be hired in this Occupational Group each year, resulting in targeting 8-9 White females per year to be hired over the next ten (10) years to meet this goal.

**Outcome:**

Ethnicity	HM	WM	BM	AIM	AM	HPIM	HF	WF	BF	AIF	AF	HPIF
Goal	0	0	0	0	0	0	1	9	0	0	0	0
Net Increase	0	11	0	0	0	0	1	0	2	1	3	0
Goal Met?	-	-	-	-	-	-	y	n	-	-	-	-

**Summary:** There was a net decrease of 16 occupied positions in this Group from last year. The goal of one Hispanic female was met. The number of White females hired and separated were equal, leaving the goal unmet.

**3. Technicians Occupational Group:**

Underutilization determined:

- 2.0 White Females

**2014 Goal and Timetable:** Based on the turnover rate of 5.1% and with 294 in the Group, it was projected that about 15 new employees could be hired in this Group this last year and that 2 of the 15 will were targeted to be White females.

**Outcome:**

Ethnicity	HM	WM	BM	AIM	AM	HPIM	HF	WF	BF	AIF	AF	HPIF
Goal	0	0	0	0	0	0	0	2	0	0	0	0
Net Increase	6	0	2	1	0	0	0	0	1	0	0	0
Goal Met?	-	-	-	-	-	-	-	n	-	-	-	-



**Summary:** There was a net decrease of 15 occupied positions from last year. Although there was a net increase of 9 minority males and 1 minority female, we did not reach the goal of hiring 2 White females.

- 4. **Protected Services Occupational Group - No CDOT jobs included**
- 5. **Paraprofessional Occupational Group - No CDOT jobs included**
- 6. **Administrative Support Occupational Group:**  
Underutilization determined:
  - 1.0 Hispanic Males
  - 11.7 White Males = 12

**2014 Goal and Timetable:** Based on the turnover rate of 10% and with 142 employees in this Group, it was projected that 14 employees in this category could be hired. 1 Hispanic male and 8 White males were targeted to be hired into this Group.

**Outcome:**

Ethnicity	HM	WM	BM	AIM	AM	HPIM	HF	WF	BF	AIF	AF	HPIF
Goal	1	12	0	0	0	0	0	0	0	0	0	0
Net Increase	0	0	0	0	0	0	1	0	0	0	1	0
Goal Met?	n	n	-	-	-	-	-	-	-	-	-	-

**Summary:** There was a net increase of two occupied positions from last year. Although there was a net increase of one Hispanic female and one Asian female, we did not reach the stated goal.

- 7. **Skilled Craft Occupational Group:**  
Underutilization determined:
  - 2.5 Black Males = 3
  - 11.4 American Indian Males = 12

**2014 Goal and Timetable:** Based on a turnover rate of 11.7% and with 1537 employees in this Group, it was expected that 180 new hires in this Group could be made this last year and it was projected that 3 black males and 11 American Indian males would be hired.

**Outcome:**

Ethnicity	HM	WM	BM	AIM	AM	HPIM	HF	WF	BF	AIF	AF	HPIF
Goal	0	0	3	12	0	0	0	0	0	0	0	0
Net Increase	0	0	0	0	1	0	0	4	0	0	0	0
Goal Met?	-	-	n	n	-	-	-	-	-	-	-	-

**Summary:** There was a decrease of 22 occupied positions from last year. Although there was a net increase of 4 White females, the goals were not met.

**8. Service Maintenance Occupational Group:**

Underutilization determined:

- 1.5 Black Males = 2
- 0.6 Asian Males = 1

**2014 Goal and Timetable:** Based on the turnover rate in this Group at 23.2% and with 37 employees in this Group, it was expected that there could be about 8-9 new employees hired in this Group. 2 Black males and 1 Asian male were targeted to be hired.

**Outcome:**

Ethnicity	HM	WM	BM	AIM	AM	HPIM	HF	WF	BF	AIF	AF	HPIF
Goal	0	0	2	0	1	0	0	0	0	0	0	0
Net Increase	0	2	3	0	0	0	0	1	0	0	0	0
Goal Met?	-	-	y	-	n	-	-	-	-	-	-	-

**Summary:** There was an increase of 3 occupied positions in this Group. We exceeded our goal in the Black male ethnicity. Although there was a net increase of one White female, we did not meet the goal of one Asian male.

**Promotions:** Data on promotions was not collected and no goals were made upon which to report. Internal employee movement will be tracked in 2015 through purchased affirmative action software.

### SECTION 3 – REPORT ON ACTION-ORIENTED INITIATIVES, PROGRAMS AND GOOD-FAITH EFFORTS

2014 was an infrastructure building year for the EEO/AA Program and this Section showcases the progress made, and the existing gaps, for CDOT to achieve or exceed in its future goals.

#### Upward Mobility /Job Structuring

CDOT continues to use the Student Trainee and Engineer-in-Training (EIT) Job series as an entry level, career path option to assist with recruiting for minorities and females for engineering positions. The following chart shows the employee demographics of the EIT hiring results for the federal fiscal year.

Engineer-In-Training I	Male	White
Engineer-In-Training I	Female	Asian
Engineer-In-Training II	Female	Asian
Engineer-In-Training I	Female	White
Engineer-In-Training I	Female	White
Engineer-In-Training II	Female	White
Engineer-In-Training III	Female	White
Engineer-In-Training II	Male	Asian
Engineer-In-Training I	Male	White
Engineer-In-Training I	Male	White
Engineer-In-Training I	Male	White
Engineer-In-Training I	Male	White
Engineer-In-Training I	Male	White
Engineer-In-Training I	Male	White
Engineer-In-Training II	Male	White

Summary: Fourteen EIT's were hired that included two Asian females, one Asian male and six females.

CDOT did not hire any Student Trainee hires during the federal fiscal year.

#### Internship Program

The CDOT Office of Employee Development (previously known as Organizational Learning and Development) is developing a statewide Internship Program. This initiative will standardize the use of CDOT Interns which previously had varied definitions. This program is awaiting final review. This program will be monitored for the proportionate hiring of females and minorities.

The following is an excerpt explaining the purpose of the Internship Program:

CDOT's Internship Program is a partnership between CDOT and the college student. The selection process is similar to hiring a "Temporary Employee". There are several units in CDOT

that currently use interns. This program serves as a means to standardize the various initiatives.

Managers and supervisors are responsible and accountable to CDOT to ensure that the use of this Internship program provides equal opportunity to the public to enter public service and work in an environment that is free from unlawful employment barriers. It is also expected that the use of this program supports the CDOT Affirmative Action goals. The CDOT Affirmative Action Program and goals are available through the Civil Rights Business Resource Center and is posted on the Intranet. Questions can be directed to your Regional Civil Rights Manager (RCRM), Workforce Staffing, or the CDOT Affirmative Action Officer at 303-757-9620.

Interns gain valuable experience in various disciplines and enhance the college experience while aiding CDOT in its mission. Benefits of the Internship Program:

- Showcases CDOT as an employer of choice
- An opportunity to reach minority and females in underrepresented occupational groups.
- A recruiting tool and an opportunity to train future employees
- The opportunity to evaluate prospective employees while they are working for the organization
- May reduce significant costs in finding new talent
- Interns bring current technology and ideas from the classroom to the workplace and therefore increase an organization's intellectual capital
- An internship program can supply an easily accessible source of highly motivated pre-professionals
- Interns provide an opportunity for mid-level staff to manage
- Provides meaningful, real-world work
- The opportunity to network with fellow interns and CDOT employees through intern program activities and events intern"...

### **Succession Planning Program**

In August, 2014, CDOT introduced a "Succession Planning" Program. Following is the explanation of this program. This program will also track its flow of female and minority participants for adverse impact analysis.

#### **What is Succession Planning at CDOT?**

- Identify the readiness of our internal talent, folks who meet the technical and leadership skills for lateral or upward movement.
- Ensure a steady supply of internal talent to replace exiting employees.
- Increase the awareness and ability of current employees to provide continuity during extended period of absences.
- Identify gaps in knowledge, skills and abilities between current behaviors and desired advancement.
- Create individual development plans to help each person close the identified gaps.

#### **What are the Benefits?**

Being a part of the succession planning process will help us:

- Fill more leadership positions with internal candidates rather than hire from outside.
- Gain visibility into employee experience, expertise, performance and career aspirations.

- Address talent gaps with targeted development plans to provide employees with the skills needed for growth and advancement.
- Address current and potential talent pool gaps to reduce the risk of poor business execution.

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- Fill more leadership positions with internal candidates rather than hire from outside.
- Gain visibility into employee experience, expertise, and performance and career aspirations.
- Address talent gaps with targeted development plans to provide employees with the skills needed for growth and advancement.
- Address current and potential talent pool gaps to reduce the risk of poor business execution.

Who will be involved?

All CDOT employees can choose to be involved in CDOT’s succession planning

- Management and Executives will participate in Talent Review Sessions
- Supervisors will evaluate employee’s potential and work with employees to create the development plan
- Employees communicate interest and motivation for development and growth opportunities
- 

### Temporary Employees

The use of Temporary Employees (up to 9 months) has always been a typical practice by the State to fill a void when an unpredicted or seasonal business need occurs. Temporary employees can be hired outside the usual recruitment and selection process. CDOT’s use of the formalized “Internship Program” applies to this group as a potential talent pipeline to our permanent workforce. It is of importance to track this pipeline for ensure equal employment opportunity for all citizens.

Temporary Employees

Ethnicity/ Gender	HM	WM	BM	AIM	AM	HIM	Total	HF	WF	BF	AIF	AF	HPIF	Total
DOT Population	22	107	4	2	2	2	139	5	34	1	0	5	0	45
%Temps/ CDOT Perms	12%	58.2%	2.2%	1.1%	1.1%	1.1%		2.7%	18.5%	.5%	0%	2.7%	0%	
Colorado Census %	7.6%	40.9%	2.2%	.7%	1.2%	0%	52.9%	6.1%	38%	1.6%	.6%	.9%	.1%	47.2%

Temporary Employees

Gender	Males	Females
CDOT Population	139	45
% of Temps/% CDOT Perms	75.5%	24.5%
Colorado Census %	52.8%	47.2%

**Summary:**

Overall, males represent 53% of available workforce, but they represented 76% of our temporary hires. This is most likely due to the hire of seasonal Transportation Maintenance Workers. Females represent 47% of the available workforce, but only 25% of the temporary hires. Minorities are hired at or below the percentage of available workforce, except for Asian females.

As a significant talent pipeline to our permanent workforce, the hiring of temporary employees should continue to be monitored.

**Recruitment/Selection**

In April, 2014, CDOT appointed a part-time state-wide Recruiter. CDOT had a red need for a for a more comprehensive, efficient, consistent recruitment program that targeted top talent via all available avenues (social media, advertisements, job fairs, face-to-face), to meet the needs of all Regions/Divisions and which supports CDOT’s Affirmative Action Plan.

The table below shows CDOT’s recruitments for the federal occupational groups for the Time beginning 1/1/14 through 9/30/14). Almost half of our recruitments are for the Skilled Craft Workers which include the Transportation Maintenance Workers. The second largest group is the Professional group. These two groups should be a focus of our targeted recruitment efforts in 2015.

Occupational Group #	Occupational Group Name	Number of Recruitments	% of Overall
1	Management	8	3.11%
2	Professional	89	34.63%
3	Technician	16	6.24%
6	Administrative Support	12	4.66%
7	Skilled Craft Workers	122	47.47%
8	Service Maintenance	10	3.89%
<b>Total</b>		<b>257</b>	<b>100%</b>

An adverse impact analysis for applicant-to hire and interim steps has not been implemented. It is anticipated that the coming year will clarify the responsibility in this regard as well as the reporting mechanisms, regardless whether the function is conducted internally or outsourced.

The CDOT Recruiter facilitated the following activities throughout the state since her appointment in April, 2014. There were several protected class-focused events.

NAME OF EVENT	DATE
Veteran’s Hospital Job Club	3 <sup>rd</sup> Thursday of every month



Denver Public Library, How to Apply for State Jobs	1/21/14
Diversity Employment Day	2/5/14
CSU Career Fair	2/27/14
Adams State Career Fair	2/27/14
Colorado Mesa Spring Career Fair	3/6/14
Trinidad State Junior College	3/12/14
Montbello High School Career Fair	3/27/14
Denver Nuggets Game, 1 <sup>st</sup> Responder's Night (CDOT Table in Concessions)	3/31/14
Delta-Montrose Technical College Spring Career Fair	3/31/14
Denver Public Library, How to Apply for State Jobs	4/15/14
CU Boulder Just in Time Hiring and Internship Fair	4/17/14
Southern Ute Career Fair	4/17/14
University of Denver Spring Non-Profit and Government Career and Internship Fair	4/23/14
CSU Engineering Days	4/25/14
Adams County Logistics and Transportation Job Fair	5/14/14
Morgan County Area Job Fair	5/21/14
CO Springs Military and Employment EXPO	5/22/14
Fort Carson Annual Military Spouse Career Day	6/20/14
Bandimere/Merritt Equipment Truck Fest	8/3/14
Diversity Employment Day	8/13/14
Construction Job Fair - Jefferson, Clear Creek and Gilpin Counties	8/27/14
CO School of Mines Career Day	9/9/14
Denver Chamber of Commerce Hiring Day	9/23/14
University of Denver Fall Career and Internship Fair	10/22/14
Virtual Job Fair with CO Department of Labor	ongoing

Additional recruitment was conducted that was not listed above. This was conducted by CDOT HQ Workforce Staffing staff or Regional Civil Rights Managers:

**HQ - Statewide:**

CoJobs (State electronic Application System)

"Connecting Colorado" through the Workforce Centers

Division of Vocational Rehabilitation

Rocky Mountain Service, Employment, Redevelopment (Rocky Mountain SER)

**Region 1: Conducted by HQ**

Pickens Technical College for Jobs within Skilled Craft Occupational Group

**Region 2: Conducted by HQ, Statewide Recruitment Only**

**Region 3: Conducted by HQ, Statewide Recruitment Only**

**Region 4: Job Postings emailed to each entity**

Eastern Colorado Workforce Center  
Larimer County workforce Center  
Weld County Employment Services  
Northeastern Jr. College  
Weld County Veterans Service Office  
Keenesburg Workforce Center  
Fort Morgan Workforce Center  
University of Northern Colorado  
UC at Boulder Veterans' Services  
Center for People with Disabilities  
Society of Women Engineers  
Native American Student Service, UNC  
Catholic Charities  
Marcus Garvey Center for Black Cultural Education, UNC  
Cesar Chavez Cultural Center, UNC  
Aims Community College  
CSU Career Center

**Region 5: Job Posting emailed to each entity**

Colorado Mesa University Black Student Alliance  
Colorado Mesa University Construction Management  
Colorado Mesa University Cultural Diversity Board  
Colorado Mesa University Cultural Diversity Board - Black Student Alliance  
Colorado Mesa University Cultural Diversity Board- Gay Straight Alliance  
Colorado Mesa University Cultural Diversity Board- Ho'olokahi Polynesian Club Alliance  
Colorado Mesa University Cultural Diversity Board- International Student Alliance  
Colorado Mesa University Cultural Diversity Board- Latino Student Alliance  
Colorado Mesa University Cultural Diversity Board- Native American Student Alliance  
Colorado Mesa University East Asian Culture Club  
Colorado Mesa University Engineering Club  
Colorado Mesa University Job Opportunities  
Western Colorado Latino Chamber of Commerce  
National Assoc. of Women in Construction  
Mesa County Women's Network  
Western State University MultiCultural Center  
Western State University MultiCultural Center- Asian/Pacific Islander Club  
Western State University MultiCultural Center- Black Student Alliance  
Western State University MultiCultural Center- Native American Student Council

**Training Participation**



The following chart illustrates the number of employees who participated in either elective CDOT training and/or participated in the CDOT tuition reimbursement programs during the federal fiscal year, by ethnicity and gender. For purposes of the following analyses, both full and part time employees were counted towards the totals. The attendees were grouped by Occupational Group, to mirror the workforce utilization analysis. This chart shows whether there is adverse impact with attendees of the non-majority group. Adverse impact is shown when the participation of a group is below 80% of the majority group participation.

ETHNICITY GENDER

Professional Occupational Group

Ethnicity / Gender	HM	WM	BM	AIM	AM	HPIM	Total	HF	WF	BF	AIF	AF	HPIF
CDOT Population per Ethnicity / Gender	61	530	20	4	28	1	644	25	215	17	2	17	1
% of Groups WF vs CDOT WKFCE	6.6%	57.5%	2.2%	0.4%	3.0%	0.1%		2.7%	23.3%	1.8%	0.2%	1.8%	0.1%
#Class Takers	52	478	19	4	23	1	577	24	189	13	2	15	1
% of Class Takers per Gender / Ethnicity	85.2%	90.2%	95.0%	100.0%	82.1%	100.0%		96.0%	87.9%	76.5%	100.0%	88.2%	100.0%
# of Tuition Reimbursement Applicants	6	157	7	1	12	1	184	5	39	1	0	3	0
% of Tuition Reimbursement Appl. Eth / Gen	9.8%	29.6%	35.0%	25.0%	42.9%	100.0%		20.0%	20.6%	5.9%	0.0%	17.6%	0.0%

Technicians Occupational Group

Ethnicity / Gender	HM	WM	BM	AIM	AM	HPIM	Total	HF	WF	BF	AIF	AF	HPIF
CDOT Population per Ethnicity / Gender	38	165	5	6	4	2	220	11	42	5	1	0	1
% of Groups WF vs CDOT WKFCE	13.6%	58.9%	1.8%	2.1%	1.4%	0.7%		3.9%	15.0%	1.8%	0.4%	0.0%	0.4%
#Class Takers	36	148	5	6	4	2	201	10	41	5	1	0	1
% of Class Takers per Gender / Ethnicity	94.7%	89.7%	100.0%	100.0%	100.0%	100.0%		90.9%	97.6%	100.0%	100.0%	0.0%	100.0%
# of Tuition Reimbursement Applicants	0	13	0	0	0	0	13	1	11	0	0	0	0

% of Tuition Reimbursement Appl. Eth/Gen	0.0%	7.9%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	9.1%	26.2%	0.0%	0.0%	0.0%
<b>Administrative Support Occupational Group</b>														
Ethnicity/Gender	HM	WM	BM	AM	AIM	AM	HPIM	Total	HF	WF	BF	AIF	AF	HPIF
CDOT Population per Ethnicity/Gender	3	4	1	0	0	0	0	8	27	107	6	0	2	0
% of Groups WF vs CDOT WKFCE	2.0%	2.7%	0.7%	0.0%	0.0%	0.0%	0.0%		18.0%	71.3%	4.0%	0.0%	1.3%	0.0%
#Class Takers	2	4	1	0	0	0	0	7	26	105	5	0	1	0
% of Class Takers per Gender/Ethnicity	66.7%	100.0%	100.0%	0.0%	0.0%	0.0%	0.0%		96.3%	98.1%	83.3%	0.0%	50.0%	0.0%
# of Tuition Reimbursement Applicants	0	0	0	0	0	0	0	0	0	1	0	0	0	0
% of Tuition Reimbursement Appl. Eth/Gen	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%		0.0%	0.9%	0.0%	0.0%	0.0%	0.0%
<b>Skilled Craft Workers Occupational Group</b>														
Ethnicity/Gender	HM	WM	BM	AM	AIM	AM	HPIM	Total	HF	WF	BF	AIF	AF	HPIF
CDOT Population per Ethnicity/Gender	262	1186	26	4	12	4	2	1492	3	39	0	0	0	0
% of Groups WF vs CDOT EKFCFCE	17.1%	77.3%	1.7%	0.3%	0.8%	0.3%	0.1%		0.2%	2.5%	0.0%	0.0%	0.0%	0.0%



#Class Takers	188	859	16	3	4	1	1071	2	31	0	0	0	33	
% of Class Takers per Gender/Ethnicity	71.8%	72.4%	61.5%	25.0%	100.0%	50.0%		66.7%	79.5%	0.0%	0.0%	0.0%	0.0%	
# of Tuition Reimbursement Applicants	0	36	0	0	0	0	36	1	1	0	0	0	2	
% of Tuition Reimbursement Appl. Eth/Gen	0.0%	3.0%	0.0%	0.0%	0.0%	0.0%		33.3%	2.6%	0.0%	0.0%	0.0%	0.0%	
<b>Service Maintenance Occupational Group</b>														
Ethnicity/Gender	HM	WM	BM	AIM	AM	HPIM	Total	HF	WF	BF	AIF	AF	HPIF	Total
CDOT Population per Ethnicity/Gender	11	21	3	0	0	0	35	2	7	2	0	0	0	11
% of Groups WF vs CDOT WKFC	23.9%	45.7%	6.5%	0.0%	0.0%	0.0%		4.3%	15.2%	4.3%	0.0%	0.0%	0.0%	
#Class Takers	3	17	2	0	0	0	22	1	6	1	0	0	0	8
% of Class Takers per Gender/Ethnicity	27.3%	81.0%	66.7%	0.0%	0.0%	0.0%		50.0%	85.7%	50.0%	0.0%	0.0%	0.0%	
# of Tuition Reimbursement Applicants	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% of Tuition Reimbursement Appl. Eth/Gen	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	

## Summary:

### Professional Occupational Group:

-Between 76.5% - 100% of employees in each ethnicity group in this Occupational Group took elective training.

-92.08% of males and 91.43% females took elective training.

-40.38% of Males and 10.68% of females participated in the tuition reimbursement program.

### Technicians Occupational Group:

-Between 89% and 100% of employees in each ethnicity group in this Occupational Group took elective training.

-97.4% of males and 97.7% of females took elective training.

-7.9% of males and 17.65% of females participated in the tuition reimbursement program.

### Administrative Occupational Group

-Between 50% - 100% of employees in each ethnicity in this Occupational Group took elective training. The 50% represented 1 of 2 Asian female employees.

-88.9 of males and 75.17 of females took elective training.

-7.9% of males and 17.65% of females participated in the tuition reimbursement program.

### Skilled Craft Workers Occupational Group

-Between 25% - 100% of employees in each ethnicity in this Occupational groups took elective training. The 25% represented 3 of 12 American Indian males.

-63.45% of males and 73.1% of females took elective training

-3% of males and 17.95% of females participated in the tuition reimbursement program

### Service Maintenance Occupational Group

-Between 27.3% - 85.7% of employees in each ethnicity in this Occupational Group took elective training. The 27.3% represents 3 of 11 Hispanic males.

-58.33 of males and 61.9 of females took elective training.

-No employee in this Group participated in the tuition reimbursement program.

Males and females took elective training at equitable rates. A review for potential barriers of the low participation rate of American Indian males in the Skilled Craft group and Hispanic males in the Service Maintenance group will be recommended.

The tuition reimbursement program should continue to be strongly marketed to all employees.

The Office of Employee development should continue to monitor its training and tuition reimbursement activity to ensure that all employees continue to access the training programs and that all training programs support the promotion and retention of all employee demographics.

## Leadership Journey

This program is explained as follows, "The number of qualified candidates for promotion is insufficient to meet the demands of a dynamic organization like CDOT in a time of near continuous change in all aspects of our business. To address this, the Office of Employee Development in the Strategic Workforce Solutions division has developed a leadership program now available to every CDOT employee. The three-tiered leadership program called The Leadership Journey proactively addresses the leadership skills and the competencies necessary for every level in CDOT from entry-level employees to management."

See this link for current information on Leadership Journey.  
<http://intranet/employees/programs/leadership-journey-program>.  
 As of 9.30.14, only the first level, open to all CDOT employees, was available.

As of 9.30.14, 74 applications were received. Eight applicants did not have the initial requirements in place, so 66 were accepted. Of those:

Ethnicity	HM	WM	BM	AIM	AM	NHPIM	HF	WF	BF	AIF	AF	NHPIF
Total	4	37	0	0	2	0	2	19	1	1	0	0

Summary: 43 males (1.66% of 81.79% of wkfce)  
 23 females (4.25% of 18.20 of wkfce)  
 Hispanic (1.3% of 15% of wkfce)

The Office of Employee Development should continue to monitor its training activity to ensure that all employees continue to access the training programs and that all training programs support the promotion and retention of all employee demographics.

**CDOTU**

The tagline for CDOT U is, *“Helping you take charge of your career.”* All classes taken for this program are reported in the “Elective” classes listed in the chart beginning on page 23.

CDOTU will provide both the direction and the steps for employees to reach career goals. Here’s how:

- Career Mapping that lays out the needed skills and training for each career field, at each step. This will provide a clear plan to help you prepare for advancing in your career.
- Uniform standards for quality training both in how it’s designed, and how it’s delivered to you.
- Partnerships with schools and associations to get academic credit and certifications for the quality training you do

**Cross-Training Pilot**

The Office of Employee Development conducted a pilot program to cross train employees this year. 17 employees participated.

Participants included: 134 males: 4 Hispanic, 1 African-American, and 8 White males; and 3 females: 1 African-American, 1 Hispanic and 1 White female.

The continuance of this as a statewide program is being assessed.

**EEO/AA Management Training**

A six module EEO/AA e-learning course for CDOT managers and supervisors is in the beginning development phase in partnership among the Office of Employee Development, the CRBRC/Affirmative Action Officer, and the Workforce Staffing Supervisor. Ongoing development meetings are being held. It is recommended that these modules will be mandatory for all managers and supervisors and participation will be monitored. Heidi Humphreys is the sponsor of this training and the roll-out date is not yet determined, however, it will most likely be rolled out by topic beginning with 1 and 2, about March 1, 2015

The topics include:

1. What is EEO/AA?

2. What does EEO/AA mean at CDOT?
3. What does EEO/AA mean to Me and my Employees?
4. How do I apply EEO/AA to my Recruitment and Hiring Processes?
5. How do I apply EEO/AA to my Employees?
6. What are my Resources?

At this time, Supervisors are not receiving any direct EEO-related training. Of course, all of our supervisory training includes the expectation of non-discrimination of employees.

### Performance Ratings

The CDOT performance cycle period was 4.1.13 to 3.31.14. As of 3.31.14, 2316 employees received ratings. This total includes part-time employees and of course, vacancies occurred that account for the total.

The State rating system is on a 1-3 scale. "1" is Needs Improvement, "2" is Successful, and "3" is Exceptional. Pay increases are related to one's rating.

Of significance:

"1" Rating: 7 employees received this rating that included 5 White males and 2 White females.

"3" Rating: 517 employees received this rating that included:

137 females (5.9 % of total wkfce receiving ratings)	
(26.5% of total wkfce receiving a "3" rating)	
380 males (16.4% of total wkfce receiving ratings)	
(73.5% of total wkfce receiving a "3" rating)	
<hr/>	
65 Hispanic (2.8% of total wkfce receiving ratings)	
(12.6 % of those receiving a "3" rating)	
09 African American/Black (.4 % of total wkfce receiving a rating)	
(1.7 % of total wkfce receiving "3" rating)	
03 American Indian (.1 % of total wkfce receiving a rating)	
(.6% of total wkfce receiving a "3" rating)	
11 Asian (5 % of total wkfce receiving a rating)	
(2.1% of total wkfce receiving a '3" rating)	
1 Hawaiian/Pacific Islander (.04 % of total wkfce receiving ratings)	
(.2% of total wkfce receiving a "3" rating)	
428 White (18% of total wkfce receiving a rating)	
(83% of total wkfce receiving a "3" rating)	

### Summary

White employees are receiving a significant proportion of "3" ratings. Management should make certain that all employees are fairly evaluated and that internal mentoring, coaching and training is provided equitably to all staff.

### Communication Plan Results

The following is the 2014 CDOT and Affirmative Action Officer Communication Plans and Outcomes in *Italics*:

The Department is committed to ensure that each employee is aware of his/her rights in regards to CDOT's Equal Employment Opportunity/Affirmative Action and State and Federal laws regarding discrimination. Managers, Administrators, and supervisors at all levels are responsible for being familiar with these policies and laws and applying them in the execution of his/her duties. CDOT will provide its employees and the public this information in the following ways:

- A paper copy of the AA Plan and EEO Policy will be posted at Headquarters (HQ) and at each Regional Transportation District location. *Accomplished by AA Officer*
- Each Senior Management Team member will be provided a paper copy. *Accomplished by EEO Director*
- The CDOT Intranet and External site will have the documents available in electronic format. *Accomplished by Communication Services*
- CDOT New Employee Orientation implemented in November, 2013, includes information about the CDOT EEO policy. *Accomplished by Employee Development/Workforce Staffing*
- The CDOT Human Resources monthly magazine, *In Motion*, will contain a standing notice about the Plan and Policy. *In Motion was momentarily suspended. A standing notice in the Strategic Workforce Solutions Newsletter was substituted.*
- CDOT requires new employees to take Strength from Diversity and Putting the Brakes on Workplace Harassment training. *These classes have been suspended due to State Department of Personnel and Administration's pending release of a statewide training.*
- Colorado State employment application form. *Ongoing*
- Quarterly goal-setting and progress status meetings and reporting between the Affirmative Action Office and the Regional Civil Rights Managers (RCRMs). *Partnerships among the stakeholders is an ongoing process to factor in the clarification of roles, responsibilities, re-organizations and changes in leadership.*

#### **Affirmative Action Officer**

- Systematically share EEO/AA data analysis results with CDOT leadership. *Accomplished, EEO data reporting mechanism still under development due to resources, leadership and program direction.*
- Include EEO/AA information in new employee On-Boarding and Orientation presentations. *Accomplished*
- Highlight Annual AAP Report through CDOT electronic and paper publications and notices with a link to document and program information. *Accomplished*
- Align all AAP recommendations and goals within Strategic Workforce Solutions (HR). *Partnership under continued development*
- Speak and provide workforce data at Quarterly RCRMs meetings. *Monthly meetings held, but data not shared because of uncompleted data tracking mechanism*
- Participate in pertinent transportation and professional organizations. *Attended DOL/OFCCP AA conference hosted by the Southwest and Rocky Mountain Region Industrial Leaders Group (SWARM/ILG).*
- Plan annual EEO/AA employee meetings. *Accomplished*
- It is recommended to CDOT EEO Program Manager and Executive Director that EEO/AA accountability language be included in the Job Descriptions, Performance Plans and Evaluations for all supervisory positions. *Planning for 2016 performance year*



## **Diversity Activity Results**

From September 9 through September 30, 2014, CDOT hosted an on-line Diversity Activity. This Activity was a partnership between the Affirmative Action Officer and the Communication Services Division (and their 4 temporary cross-trainees). The Activity was promoted through the weekly "Public Announcements", Don Hunt's "Monthly Chat", and posters. The Activity was posted on the front page of the CDOT Intranet. The sharing of employees diversity culture and experiences was encouraged through "Tell Us" (call in on dedicated phone line), "Show Us" (varied media), "Write To Us" (written narrative), and "Tempt our Tastebuds" (recipes). Participation was allowed anonymously.

According to OIT via "Google Analytics", there were 3855 total pageviews and 2461 unique pageviews. Follow-up comments were solicited but none were received. It was hoped that the turnout would have been greater.

## **Summary of Other Equal Employment Opportunity/Affirmative Action Program Development Activities**

As part of the ongoing enhancements of the CDOT EEO/AA program, other initiatives and activities have been underway to align the CDOT AA goals with CDOT business practices. Some activities have been completed and some are ongoing, overlapping into the 2015 federal fiscal year.

### **Affirmative Action Data Management**

- AA Software Vendors - it has become apparent that the data analysis necessary for an optimal AA program is beyond the capacity of the AA Officer and the Excel application. In June, 2014, a business case was submitted to the CDOT Information Technology Management Team (ITMT) with the recommendation that there be one statewide AA Analysis, with 6 regional sub-analysis. It should that is software can auto-track all of this data by demographic, including whether a position is filled by internal staff or external candidates. This differentiation results in accuracy in tracking both promotional and hiring data. Having this software will result in consistency in reporting and the sourcing and analysis of data from three separate sources. I have recommended that the software be leased or that the reporting be outsourced; or a combination of both. On October 7, 2014, the business case was approved to move forward with the consideration of leasing or purchasing affirmative action software.
- Google Portal Shared Data Reporting- An "Internal" reporting civil rights page was created by CRBRC on their Civil Rights Google Portal reporting page and reserved for EEO data reporting. This page allows Regional Civil Rights Managers (RCRMs) and Melinda Urban, the Federal Highway Administration (FHWA) EEO/AA liaison, to view civil rights activity raw data that is reported from the RCRMS's. Strategic Workforce Solutions/Employee Relations/Legal (ERL) is in the midst of identifying resources to create the 'internal' reporting page. After resources are identified, a target date for completion can be determined.
- Regardless if AA software is used in the upcoming year, the AA Program will analyze the existing NEOGOV applicant tracking service to have individual recruitment and occupational group applicant- to- hire adverse impact analysis a priority.

### **Recruitment - Partnering with Workforce Staffing (WFS)**

- Since July, 2014, open-competitive job postings have been advertised through the "Connecting Colorado" system through the County Workforce Centers. Job Postings are being provided weekly to Case Managers of Rocky Mountain Service, Employment and Redevelopment (Rocky Mountain SER) and Vocational Rehabilitation.
- Job postings for positions at HQ /Region 1 in the Skilled Craft and Service Maintenance Occupational Groups are being advertised at Pickens Technical College. This is being done as a result of the high turnover in this group, creating an opportunity to make or exceed our affirmative action goal in that group.
- Workforce Staffing stated that a review of the Transportation Maintenance selection process is forthcoming. The AA Officer will partner with that staff to ensure diversity mindfulness. There is not a targeted completion date.
- Workforce Staffing was given the recommendation to monitor the local census data and applicant -to- hire, for individual recruitments for unintentional discrimination through an adverse impact analysis. This recommendation is still under consideration, however, the purchase or lease of aforementioned software will automate this analysis.
- Workforce Staffing was given the recommendation to enhance EEO/AA language on recruitments. This recommendation is still under consideration.
- The recommendation for diversity in the composition on comparative analysis and interview panels has been implemented with Workforce Staffing and the Regional Civil Rights Managers. A monitoring process is included in the aforementioned software or tracking will be done in the existing NEOGOV software.
- Defining roles among the AA Officer, Workforce Staffing and the Regional Civil Rights Managers will continue throughout the upcoming year.

### **Report on Other EEO/AA Development Activities**

Although it was a program priority for federal fiscal year 2014, a standard statewide electronic employee activity reporting system was not created, however, several Regions did report in good faith. As of December 1, 2014 the Human Resources Director has directed the use of a Google-based standard statewide tracking system maintained by the Human Resources office. Data to be reported includes:

- ADA Activity
- Workplace Counseling
- Discipline
- Corrective Actions
- Performance Disputes
- Grievances
- Appeals
- Title VII Internal Investigations
- Title VII External Investigations
- Other Internal Investigations (Whistleblower, Workplace Violence)

The Affirmative Action Office will have access to this data to provide summary information for future Affirmative Action reporting.

### **Separations**

There were 216 employment separations from CDOT during the last federal fiscal year. Twenty five of those were involuntary.

These included:

- 21 males (.78% of male workforce)
  - 4 females (.73% of female workforce)
- 
- 4 African American/Black (5.8% of African American/Black workforce)
  - 2 Hispanic (.45% of Hispanic workforce)
  - 19 White (.80% of White workforce)

### **Exit Interviews**

In February, 2014, Human Resources issued the following guidance regarding exit interviews, "When an employee separates from CDOT for whatever reason, (transfer, retirement, disciplinary, new job) we have been conducting an Exit Interview via email and or phone call. This will function is being handed over to the Civil Rights offices in the Regions effective 2/1/14. I am attaching the form to be used when talking with exiting employees. If for some reason an employee is more comfortable talking with me versus the Civil Rights Manager, please pass their information to me as well as give them my contact information. I need to track all the interviews/responses and give a report to Dan Myers monthly, to present to the Senior Management Team. I will send additional instructions for these interviews. I think some regions have been doing these already, but here is the official form to be used. Feel free to call me and we can chat about these."

The reporting process for the statewide exit interview process is unclear and whether some interviews were counted twice. With that, 109 exit interviews were reported and there was one report of gender discrimination which was researched and not found to be valid.



## SECTION 4 – CDOT 2015 AFFIRMATIVE ACTION PLAN

Ideally, CDOT's workforce should naturally mirror the number of females and minorities in Colorado's available labor market of similar jobs. Because that occurrence does not always happen naturally, the federal government has required that recipients of federal funds monitor their employment activity to ensure that all citizens have equal access to employment.

The federal government has identified eight (8) Occupational Groups into which all jobs can must be listed. The Department's EE0-4 Report, which was completed as of 6.30.13, provided the baseline data for the analysis of workforce to census. Data from the 2010 Census was required. This analysis consists of comparisons of the percentages of minorities and females in CDOT's workforce and the percentage of minorities and females in similar jobs in the Colorado labor market in each of the 8 Occupational Group. In the required parity-based utilization analysis, females and minorities are considered underutilized when their representation in an Occupational Group falls below 80% of the labor market availability in that Group.

\* Underutilization is considered only in the groups that represent at least 2% of the available Colorado labor market in the occupational group. Any fraction of a person is considered and is rounded to the nearest whole number. The CDOT jobs to Occupational Groups can be found under.

The total of CDOT employees on the 2014 EE0-4 Report (2986) differs from the total used for this 2015 analysis (2915). It was determined to use the current full-time workforce as of 10/1/14 to conduct an accurate analysis and Plan going forward.

### Race and Gender Codes

HM	Hispanic Male
WM	White Male
BM	African American or Black Male
AIM	American Indian Male
AM	Asian Male
HPIM	Hawaiian/Pacific Islander Male
HF	Hispanic Female
WF	White Female
BF	African American or Black Female
AIF	American Indian Female
AF	Asian Female
HPIF	Hawaiian/Pacific Islander Female

1. **Officials/Administrators Occupational Group:**

	No. of Employees	CDOT %age	CO Census %age	Parity	80% of Parity	Shortfall/# needed for 80% of Parity
HM	1	2.5	4.5	1.8	1.4	-0.4
WM	28	70.0	49.3	19.7	15.8	12.2
BM	1	2.5	1.6	0.6	0.5	0.5
AIM	0	0.0	0.5	0.2	0.2	-0.2
AM	1	2.5	1.3	0.5	0.4	0.6
NH PIM	0	0.0	0.0	0.0	0.0	0.0
<b>Total Male</b>		<b>77.5</b>	<b>57.2</b>	<b>22.9</b>	<b>18.3</b>	<b>12.7</b>
HF	0	0.0	4.4	1.8	1.4	-1.4
WF	9	22.5	35.4	14.1	11.3	-2.3
BF	0	0.0	1.6	0.7	0.5	-0.5
AIF	0	0.0	0.6	0.2	0.2	-0.2
AF	0	0.0	0.7	0.3	0.2	-0.2
NH PIF	0	0.0	0.1	0.0	0.0	0.0
<b>Total Female</b>	<b>9</b>	<b>22.5</b>	<b>42.8</b>	<b>17.1</b>	<b>13.7</b>	<b>-4.7</b>
<b>Total</b>	<b>40</b>	<b>100.0</b>	<b>100.0</b>	<b>40.0</b>		

**Goal and Timetable:** No goals will be made in this Group as these Management positions serve at the pleasure of the Executive Director. It is impractical to determine the turnover rate. There is a gubernatorial election this fall which could impact the Executive Director and appointees.

2. Professionals Occupational Group:

	No. of Employees	CDOT %age	CO Census %age	Parity	80% of Parity	Shortfall/# needed for 80% of Parity
HM	59	6.6	2.5	22.3	17.8	41.2
WM	525	58.3	46.9	421.7	337.4	187.6
BM	20	2.2	1.3	12.1	9.7	10.3
AIM	4	0.4	0.3	2.4	2.0	2.0
AM	28	3.1	1.7	15.2	12.2	15.8
NH PIM	1	0.1	0.0	0.0	0.0	1.0
<b>Total Male</b>	<b>637</b>	<b>70.8</b>	<b>52.6</b>	<b>473.8</b>	<b>379.0</b>	<b>258.0</b>
HF	23	2.6	3.2	29.0	23.2	-0.2
WF	204	22.7	40.7	366.0	292.8	-88.8
BF	17	1.9	1.4	12.4	9.9	7.1
AIF	2	0.2	0.6	5.8	4.6	-2.6
AF	16	1.8	1.4	12.9	10.3	5.7
NH PIF	1	0.1	0.0	0.2	0.2	0.8
<b>Total Female</b>	<b>263</b>	<b>29.2</b>	<b>47.4</b>	<b>426.2</b>	<b>341.0</b>	<b>-78.0</b>
<b>Total</b>	<b>900</b>	<b>100.0</b>	<b>100.0</b>	<b>900.0</b>		

**Goal and Timetable:** Based on a five year average, the turnover rate is 7.86%. With 900 employees in this group, it is projected that about 71 new employees could be hired in this Occupational Group this year. 1 Hispanic female and 7 White females per year are targeted to be hired this year.

**3. Technicians Occupational Group:**

	No. of Employees	CDOT %age	CO Census %age	Parity	80% of Parity	Shortfall/# needed for 80% of Parity
HM	38	13.6	8.7	24.3	19.4	18.6
WM	165	59.1	64.1	178.9	143.2	21.8
BM	5	1.8	1.3	3.7	2.9	2.1
AIM	6	2.2	1.1	3.1	2.4	3.6
AM	4	1.4	1.3	3.7	3.0	1.0
NH PIM	2	0.7	0.0	0.0	0.0	2.0
<b>Total Male</b>	<b>220</b>	<b>78.9</b>	<b>76.6</b>	<b>213.7</b>	<b>171.0</b>	<b>49.0</b>
HF	11	3.9	1.9	5.4	4.3	6.7
WF	41	14.7	20.0	55.8	44.6	-3.6
BF	5	1.8	0.3	0.8	0.7	4.3
AIF	1	0.4	0.4	1.1	0.9	0.1
AF	0	0.0	0.8	2.2	1.7	-1.7
NH PIF	1	0.4	0.0	0.0	0.0	1.0
<b>Total Female</b>	<b>59</b>	<b>21.1</b>	<b>23.4</b>	<b>65.3</b>	<b>52.2</b>	<b>6.8</b>
<b>Total</b>	<b>279</b>	<b>100.0</b>	<b>100.0</b>	<b>279.0</b>		

**Goal and Timetable:** Based on a five year turnover rate average of 6.52% and with 279 in the Group, it is projected that about 18 new employees could be hired in this Group and that 4 of the 18 are targeted to be White females.

- 4. Protected Services Occupational Group - No CDOT jobs included
- 5. Paraprofessional Occupational Group - No CDOT jobs included



**6. Administrative Support Occupational Group:**

	No. of Employees	CDOT %age	CO Census %age	Parity	80% of Parity	Shortfall/# needed for 80% of Parity
HM	3	2.1	3.5	4.9	3.9	-0.9
WM	4	2.9	15.6	21.8	17.4	-13.4
BM	1	0.7	1.5	2.1	1.7	-0.7
AIM	0	0.0	0.3	0.4	0.3	-0.3
AM	0	0.0	0.5	0.7	0.6	-0.6
NH PIM	0	0.0	0.0	0.0	0.0	0.0
<b>Total Male</b>	<b>8</b>	<b>5.7</b>	<b>21.4</b>	<b>29.9</b>	<b>23.9</b>	<b>-15.9</b>
HF	26	18.6	10.6	14.8	11.8	14.2
WF	98	70.0	63.2	88.4	70.7	27.3
BF	6	4.3	2.7	3.8	3.0	3.0
AIF	0	0.0	0.8	1.1	0.9	-0.9
AF	2	1.4	1.3	1.9	1.5	0.5
NH PIF	0	0.0	0.1	0.1	0.1	-0.1
<b>Total Female</b>	<b>132</b>	<b>94.3</b>	<b>78.6</b>	<b>110.1</b>	<b>88.0</b>	<b>44.0</b>
<b>Total</b>	<b>140</b>	<b>100.0</b>	<b>100.0</b>	<b>140.0</b>		

**Goal and Timetable:** Based on the turnover rate of 10.74% and with 140 employees in this Group, it is projected that 15 employees in this group could be hired. 1 Hispanic male and 10 White males are targeted to be hired into this Group.

**7. Skilled Craft Underutilization:**

	No. of Employees	CDOT %age	CO Census %age	Parity	80% of Parity	Shortfall/# needed for 80% of Parity
HM	262	17.3	13.9	209.9	167.9	94.1
WM	1167	77.0	75.9	1150.3	920.3	246.7
BM	26	1.7	2.6	38.9	31.1	-5.1
AIM	12	0.8	2.1	31.3	25.1	-13.1
AM	4	0.3	1.4	21.3	17.1	-13.1
NH PIM	2	0.1	0.2	3.1	2.5	-0.5
<b>Total Male</b>	<b>1473</b>	<b>97.2</b>	<b>96.0</b>	<b>1454.8</b>	<b>1163.9</b>	<b>309.1</b>
HF	3	0.2	0.7	10.8	8.7	-5.7
WF	39	2.6	3.0	44.7	35.8	3.2
BF	0	0.0	0.2	2.6	2.1	-2.1
AIF	0	0.0	0.1	1.1	0.9	-0.9
AF	0	0.0	0.0	0.7	0.5	-0.5
NH PIF	0	0.0	0.0	0.0	0.0	0.0
<b>Total Female</b>	<b>42</b>	<b>2.8</b>	<b>4.0</b>	<b>60.0</b>	<b>48.0</b>	<b>-6.0</b>
<b>Total</b>	<b>1515</b>	<b>100.0</b>	<b>100.0</b>	<b>1514.8</b>		

**Goal and Timetable:** Based on a five year turnover rate average of 8.94% and with 1515 employees in this Group, it is expected that 135 new hires in this Group could be made this year. 6 Black males and 14 American Indian males are targeted.

**8. Service Maintenance Underutilization:**

	No. of Employees	CDOT %age	CO Census %age	Parity	80% of Parity	Shortfall/# needed for 80% of Parity
HM	9	22.0	19.0	7.8	6.2	2.8
WM	20	48.8	52.9	21.7	17.4	2.6
BM	3	7.3	4.9	2.0	1.6	1.4
AIM	0	0.0	1.3	0.5	0.4	-0.4
AM	0	0.0	2.1	0.9	0.7	-0.7
NH PIM	0	0.0	0.0	0.0	0.0	0.0
<b>Total Male</b>	<b>32</b>	<b>78.0</b>	<b>80.3</b>	<b>32.9</b>	<b>26.3</b>	<b>5.7</b>
HF	2	4.9	5.2	2.1	1.7	0.3
WF	5	12.2	12.9	5.3	4.2	0.8
BF	2	4.9	0.7	0.3	0.2	1.8
AIF	0	0.0	0.5	0.2	0.2	-0.2
AF	0	0.0	0.4	0.2	0.1	-0.1
NH PIF	0	0.0	0.1	0.0	0.0	0.0
<b>Total Female</b>	<b>9</b>	<b>22.0</b>	<b>19.7</b>	<b>8.1</b>	<b>6.5</b>	<b>2.5</b>
<b>Total</b>	<b>41</b>	<b>100.0</b>	<b>100.0</b>	<b>41.0</b>		

**Goal and Timetable:** Based on the turnover rate in this Group at 8.94% and with 41 employees in this Group, it was expected that there could be about 4 new employees hired in this Group. 1 Asian male is targeted to be hired.

**Promotions**

Promotional activity was reviewed this last federal fiscal year. The following pages show the promotional activity for the year by ethnicity and gender. This activity has been presented by Occupational Groups, to mirror the analysis of new hires. Adverse impact is shown when the selection rate of the minority groups falls below 80% of the selection rate of the majority group. Ethnic groups that represent less than 2% of the workforce are not considered for analysis

**ETHNICITY**

**Officials/Administrators Occupational Group**

	HM	WM	BM	AIM	AM	NHP IM	Tot al	HF	WF	BF	AIF	AF	NHP IF	To t al
CDOT Population per Ethnicity/Gender	1	28	1	0	1	0	31	0	9	0	0	0	0	9
% of Groups WF vs CDOT WKFCE	2.5%	70.0%	2.5%	0.0%	2.5%	0.0%		0.0%	22.5%	0.0%	0.0%	0.0%	0.0%	
# of Promotions within Ethnicity/Gender	0	3	0	0	0	0	3	0	1	0	0	0	0	1
% of Promotions with Ethnicity / Gender	0.0%	10.7%	0.0%	0.0%	0.0%	0.0%		0.0%	11.1%	0.0%	0.0%	0.0%	0.0%	

**Professional Occupational Group**

	HM	WM	BM	AIM	AM	NHP IM	Tot al	HF	WF	BF	AIF	AF	NHP IF	To t al
Ethnicity/Gender	61	530	20	4	28	1	644	25	215	17	2	17	1	277
CDOT Population per Ethnicity/Gender	6.6%	57.5%	2.2%	0.4%	3.0%	0.1%		2.7%	23.3%	1.8%	0.2%	1.8%	0.1%	
# of Promotions within Ethnicity/Gender	8	36	2	3	4	0	53	3	28	0	0	1	0	32
% of Promotions with Ethnicity / Gender	13.1%	6.8%	10.0%	75.0%	14.3%	0.0%		12.0%	13.0%	0.0%	0.0%	5.9%	0.0%	

**Technicians Occupational Group**

	HM	WM	BM	AIM	AM	NHP IM	Tot al	HF	WF	BF	AIF	AF	NHP IF	To t al
Ethnicity/Gender	38	165	5	6	4	2	220	11	42	5	1	0	1	60
CDOT Population per Ethnicity/Gender	13.6%	58.9%	1.8%	2.1%	1.4%	0.7%		3.9%	15.0%	1.8%	0.4%	0.0%	0.4%	
# of Promotions within Ethnicity/Gender	2	34	0	0	1	0	37	0	3	1	0	0	0	4

% of Promotions with Ethnicity / Gender	5.3%	20.6%	0.0%	0.0%	0.0%	0.0%	25.0%	0.0%	0.0%	7.1%	20.0%	0.0%	0.0%	Total
<b>Administrative Support Occupational Group</b>														
<b>Ethnicity/Gender</b>	HM	WM	BM	AIM	AM	NHP IM	Tot al	HF	WF	BF	AIF	AF	NHP IF	Total
CDOT Population per Ethnicity/Gender	3	4	1	0	0	0	8	27	107	6	0	2	0	142
% of Groups WF vs CDOT WKFC	2.0%	2.7%	0.7%	0.0%	0.0%	0.0%		18.0%	71.3%	4.0%	0.0%	1.3%	0.0%	
# of Promotions within Ethnicity/Gender	1	0	0	0	0	0	1	0	7	0	0	0	0	7
% of Promotions with Ethnicity / Gender	33.3%	0.0%	0.0%	0.0%	0.0%	0.0%		0.0%	6.5%	0.0%	0.0%	0.0%	0.0%	
<b>Skilled Craft Workers Occupational Group</b>														
<b>Ethnicity/Gender</b>	HM	WM	BM	AIM	AM	NHP IM	Tot al	HF	WF	BF	AIF	AF	NHP IF	Total



CDOT Population per Ethnicity/Gender	262	1186	26	12	4	2	1492	3	39	0	0	0	0	42
% of Groups WF vs CDOT WKFCE	17.1 %	77.3 %	1.7%	0.8%	0.3%	0.1 %		0.2%	2.5%	0.0%	0.0%	0.0%	0.0%	
# of Promotions within Ethnicity/Gender	9	67	0	0	0	0	76	0	3	0	0	0	0	3
% of Promotions with Ethnicity / Gender	3.4%	5.6%	0.0%	0.0%	0.0%	0.0 %		0.0%	7.7%	0.0%	0.0%	0.0%	0.0%	
<b>Service Maintenance Occupational Group</b>														
Ethnicity/Gender	HM	WM	BM	AIM	AM	NHP IM	Total	HF	WF	BF	AIF	AF	NHP IF	Total
CDOT Population per Ethnicity/Gender	11	21	3	0	0	0	35	2	7	2	0	0	0	11
% of Groups WF vs CDOT WKFCE	23.9 %	45.7 %	6.5%	0.0%	0.0%	0.0 %		4.3%	15.2%	4.3%	0.0%	0.0%	0.0%	
# of Promotions within Ethnicity/Gender	0	2	0	0	0	0	2	0	0	0	0	0	0	0
% of Promotions with Ethnicity / Gender	0.0%	9.5%	0.0%	0.0%	0.0%	0.0 %		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
DOT Population per Ethnicity/Gender	262	1186	26	12	4	2	1492	3	39	0	0	0	0	42
% of Groups WF vs CDOT WKFCE	17.1 %	77.3 %	1.7%	0.8%	0.3%	0.1 %		0.2%	2.5%	0.0%	0.0%	0.0%	0.0%	
# of Promotions within Ethnicity/Gender	9	67	0	0	0	0	76	0	3	0	0	0	0	3
% of Promotions with Ethnicity / Gender	3.4%	5.6%	0.0%	0.0%	0.0%	0.0 %		0.0%	7.7%	0.0%	0.0%	0.0%	0.0%	
<b>Service Maintenance Occupational Group</b>														
Ethnicity/Gender	HM	WM	BM	AIM	AM	NHP IM	Total	HF	WF	BF	AIF	AF	NHP IF	Total
CDOT Population per Ethnicity/Gender	11	21	3	0	0	0	35	2	7	2	0	0	0	11
% of Groups WF vs CDOT WKFCE	23.9 %	45.7 %	6.5%	0.0%	0.0%	0.0 %		4.3%	15.2%	4.3%	0.0%	0.0%	0.0%	

# of Promotions within Ethnicity/Gender	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% of Promotions with Ethnicity / Gender	0.0%	9.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CDOT Population per Ethnicity/Gender	262	1186	26	12	4	2	14	39	0	0	0	0	0	0	0	0	0	42
% of Groups WF vs CDOT WKFCE	17.1%	77.3%	1.7%	0.8%	0.3%	0.1%		2.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
# of Promotions within Ethnicity/Gender	9	67	0	0	0	0	76	3	0	0	0	0	0	0	0	0	0	3
% of Promotions with Ethnicity / Gender	3.4%	5.6%	0.0%	0.0%	0.0%	0.0%		7.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
<b>Service Maintenance Occupational Group</b>																		
Ethnicity/Gender	HM	WM	BM	AIM	AM	NHP IM	Total	WF	BF	AIF	AF	NHP IF	Total					
CDOT Population per Ethnicity/Gender	11	21	3	0	0	0	35	7	2	0	0	0	11					
% of Groups WF vs CDOT WKFCE	23.9%	45.7%	6.5%	0.0%	0.0%	0.0%		15.2%	4.3%	0.0%	0.0%	0.0%						
# of Promotions within Ethnicity/Gender	0	2	0	0	0	0	2	0	0	0	0	0	0					
% of Promotions with Ethnicity / Gender	0.0%	9.5%	0.0%	0.0%	0.0%	0.0%		0.0%	0.0%	0.0%	0.0%	0.0%						



<b>GENDER</b>		
<b>Officials/Administrators Occupational Group</b>		
Gender	Males	Females
CDOT Population per Gender	31	9
% of Groups WF vs CDOT WKFCE	77.5%	22.5%
# of Promotions within Gender	3	1
% of Promotions within Gender	9.7%	11.1%
<b>Professional Occupational Group</b>		
Gender	Males	Females
CDOT Population per Gender	644	277
% of Groups WF vs CDOT WKFCE	69.9%	30.1%
# of Promotions within Gender	53	32
% of Promotions within Gender	8.2%	11.6%
<b>Technicians Occupational Group</b>		
Gender	Males	Females
CDOT Population per Gender	220	60
% of Groups WF vs CDOT WKFCE	78.6%	21.4%
# of Promotions within Gender	37	4
% of Promotions within Gender	16.8%	6.7%
<b>Administrative Support Occupational Group</b>		
Gender	Males	Females
CDOT Population per Gender	8	142
% of Groups WF vs CDOT WKFCE	5.3%	94.7%
# of Promotions within Gender	1	7
% of Promotions within Gender	12.5%	4.9%
<b>Skilled Craft Workers Occupational Group</b>		
Gender	Males	Females
CDOT Population per Gender	1492	42
% of Groups WF vs CDOT TWF	97.3%	2.7%
# of Promotions within Gender	76	3
% of Promotions within Gender	5.1%	7.1%
<b>Service Maintenance Occupational Group</b>		
Gender	Males	Females
CDOT Population per Gender	35	11
% of Groups WF vs CDOT WKFCE	76.1%	23.9%
# of Promotions within Gender	2	0
% of Promotions within Gender	5.7%	0.0%



## **Goals and Timetables**

### **1. Officials/Administrators Occupational Group**

Four in the total group of 40 employees were promoted into this group. This group differs from the others in that one cannot be promoted within this group. Given that basis, one White female was promoted into this group (11.1%) and 3 White males were promoted into this group (10.7%).

### **2. Professionals Occupational Group**

Eight-five out of the total group of 921 employees in the Group were promoted. Thirty-two females (11.6%) and 53 males (8.2%) were promoted. Asian males were the majority group being promoted with 4 (14.3%). No goals made for this group.

### **3. Technician Occupational Group**

Forty-one employees were promoted in this group including 37 males (16.8%) and 4 females (6.7%) out of a total of 280 employees. Thirty-four (20.6%) White males were promoted. The promotion of an American Indian male and a Hispanic female would ensure no adverse impact in this Group.

### **4. No CDOT Jobs in this Group**

### **5. No CDOT Jobs in this Group**

### **6. Administrative Support Occupational Group**

One Hispanic male (33.3%) and seven females (4.9%) were promoted out of a total of 150 in this Group. The sample is too small to determine adverse impact.

### **7. Skilled Craft Occupational Group**

Seventy-nine out of 1534 employees in this Group employees were promoted. This included 3 White females (7.7%), 67 White males (5.6%) and 9 Hispanic males (3.4%) The promotion of a Hispanic male in this Group would ensure no adverse impact.

### **8. Service Maintenance Occupational Group**

Two White males were promoted out of 46 employees in this Group. All other represented ethnicities experienced adverse impact in this Group. The promotion of a female and a Hispanic male in this group would ensure no adverse impact.

## **Identification of Affirmative Action Implementation Responsibilities**

The roles and responsibilities among the Affirmative Action Officer, Workforce Staffing and Regional Civil Rights Managers are continually being clarified.

### **Executive Director of CDOT/Regional Transportation Directors/Division Directors and Director of Transit and Rail**

- The Executive Director has designated a full-time Affirmative Action (AA) Officer to be responsible for the direction and implementation of CDOT's Affirmative Action Program
- The Executive Director and his/her appointees and Administrators shall be responsible for the overall administration of the EEO/AA Program, including the total integration of equal opportunity into all facets of CDOT personnel management

### **Affirmative Action Officer, CRBRC**

- Develop the Affirmative Action Plan
- Publicize the AA Plan content internally and externally
- Advise Regional Civil Rights Managers (RCRMs), managers, and supervisors in collecting and analyzing employment data, and identifying problem areas
- Set goals and timetables and develop programs to achieve goals
- Remedy to eliminate any discriminatory practices discovered in the employment system
- Receive, handle and process formal discrimination complaints
- Design, implement and monitor internal audit and reporting systems to measure the program effectiveness and to determine where progress has been made and where further action is needed
- Report, at least quarterly, to the Executive Director, progress and deficiencies of each unit in relation to agency goals
- Assist with the implementation of CDOT Equal Employment Opportunity program

### **Headquarters EEO Program Director, Human Resources**

- Provide supportive services to the Regions through strategic analysis and direction.
- Investigate discrimination complaints, including hostile work environment
- Investigate sexual harassment complaints
- Coordinate Statewide CDOT Disability Program (Americans with Disability Act as Amended, etc.), including reasonable accommodations
- Support Regional Civil Rights Managers (RCRMs), managers and supervisors in carrying out their EEO responsibilities
- Ensure equal availability of employee benefits
- Ensure disciplinary actions are issued in a nondiscriminatory manner.
- Provide employee engagement activities such as Goodwill (morale-building) and Anti-Bullying
- Investigate, mediate or resolve conflicts as appropriate for Work Place Violence reports and complaints.



### **Headquarters Workforce Staffing Unit**

- Conduct classification reviews to ensure that the job descriptions (PDQ) are classified appropriately in accordance with State criteria
- Ensure hiring and promotion activities are non-discriminatory.
- Conduct recruitment and selection activities that support EEO/AA efforts

### **Regional Civil Rights Managers (RCRMs) and Human Resources**

- Investigate, mediate or resolve conflicts as appropriate regarding discrimination complaints, including hostile work environment
- Investigate sexual harassment complaints
- Coordinate outreach recruitment efforts for candidates, including veterans and protected classes
- Ensure hiring, promotion, and compensation activities are non-discriminatory, including reallocations
- Ensure that accurate and current job descriptions are submitted to Headquarters WFS
- Implement the CDOT Disability policy, including providing reasonable accommodations.
- Advise managers and supervisors in carrying out their EEO and Affirmative Action responsibilities
- Conduct Exit Interviews
- Ensure equal availability of employee benefits
- Ensure disciplinary actions are issued in a nondiscriminatory manner
- Provide and record employee engagement activities and Programs: Cross Training, Internship, Mentorship, and Career Counseling
- Provide activity reports to the Employee Relations/ Legal/ Affirmative Action Officer as requested
- Report to the Affirmative Action Officer any observed barriers to equal employment opportunity

### **Supervisors**

- Communicate any identified barriers to equal employment opportunity to the appropriate manager or authority
- Ensure that all non-management employees are aware of CDOT's policies and commitment to EEO/AA
- Ensure that no barriers exist that preclude equal opportunity in hiring, promotion, training or any other term or condition of employment.
- Ensure that they and subordinate staff have completed all CDOT mandatory training related to EEO
- Immediately report any complaint of sexual harassment, discrimination, or hostile work environment relating to discrimination to the Regional Civil Rights Office, Employee Relations Office or the Affirmative Action Officer

### **Managers**

- Ensuring that subordinate managers and supervisors understand the Department's EEO/AA policies and solicit full support in achieving the Department's goals and objectives
- Monitor all employment actions under his/her authority, to include, but not limited to, hiring, promotion, training, and any other term or condition of employment. The

- goal is to ensure that no barriers preclude equal employment opportunity
- Ensure that all subordinate staff completed all mandatory COOT training related to EEO
- Immediately report any complaint of sexual harassment, discrimination, or hostile work environment related to discrimination to the Regional Civil Rights Office, Employee Relations Office or the Affirmative Action Office.

### **Communication Plan**

The following is the 2015 CDOT and Affirmative Action Officer Communication Plan.

The Department is committed to ensure that each employee is aware of his/her rights in regards to CDOT's Equal Employment Opportunity/Affirmative Action and State and Federal laws regarding discrimination. Managers, Administrators, and supervisors at all levels are responsible for being familiar with these policies and laws and applying them in the execution of his/her duties. CDOT will provide its employees and the public this information in the following ways:

- A paper copy of the AA Plan and EEO Policy will be posted at Headquarters (HQ) and at each Regional Transportation District location
- Each Senior Management Team member will be provided a paper copy.
- The CDOT Intranet and External site will have the documents available in electronic format
- CDOT New Employee Orientation, includes information about the CDOT EEO policy
- A standing notice in the monthly Strategic Workforce Solutions Newsletter will be included
- Colorado State employment application form
- Quarterly goal-setting and progress status meetings and reporting among the Affirmative Action Officer, Strategic Workforce Solutions Staff and the Regional Civil Rights Managers (RCRMs)
- Advise each Region to develop and implement EEO/AA Communication Plan.
- Require CDOT managers to take the EEO/AA e-learning training that is in current development

### **Affirmative Action Officer**

- Systematically share EEO/AA data analysis results with CDOT leadership
- Include EEO/AA information in all Employee Development program materials
- Highlight Annual AAP Report through CDOT electronic and paper publications and notices with a link to document and program information. Accomplished
- Align all AAP recommendations and goals within Strategic Workforce Solutions (HR).
- Provide workforce data at Quarterly RCRMs meetings
- Plan annual EEO/AA employee activity
- It is recommended to CDOT EEO Program Manager and Executive Director that EEO/AA accountability language be included in the Job Descriptions, Performance Plans and Evaluations for all supervisory positions

## **Program Evaluation**

Quarterly progress reports will continue to be provided to the Executive Director.

In order to continue in the direction of having EEO/AA principles organic to business practice, it is recommended that an EEO/AA Consortium be created to continue the review of the effectiveness of the EEO/AA program. Stakeholders could include, but are not limited to:

- EEO Director
- AA Officer
- HR Director
- Workforce Staffing Manager
- Workforce Recruiter
- Employee Development Manager
- Regional Civil Rights Managers
- Regional Transportation Directors
- Chief Operating Officer

Issues to review include, but are not limited to:

- AA software
- Centralized EEO tracking, reporting and trends
- Movement to regional AA programs
- HQ/Region roles and responsibilities
- NEOGOV reporting, adverse impact and good faith efforts
- Exit Interview reporting
- Strategic workforce reporting (combine AA and SWS reports)
- Review of training participants
- Review of recruiting markets
- Compensation analysis
- Engineering/Maintenance specific workforce reviews
- Succession planning program analysis
- Accountability
- Consider monitoring consultant diversity

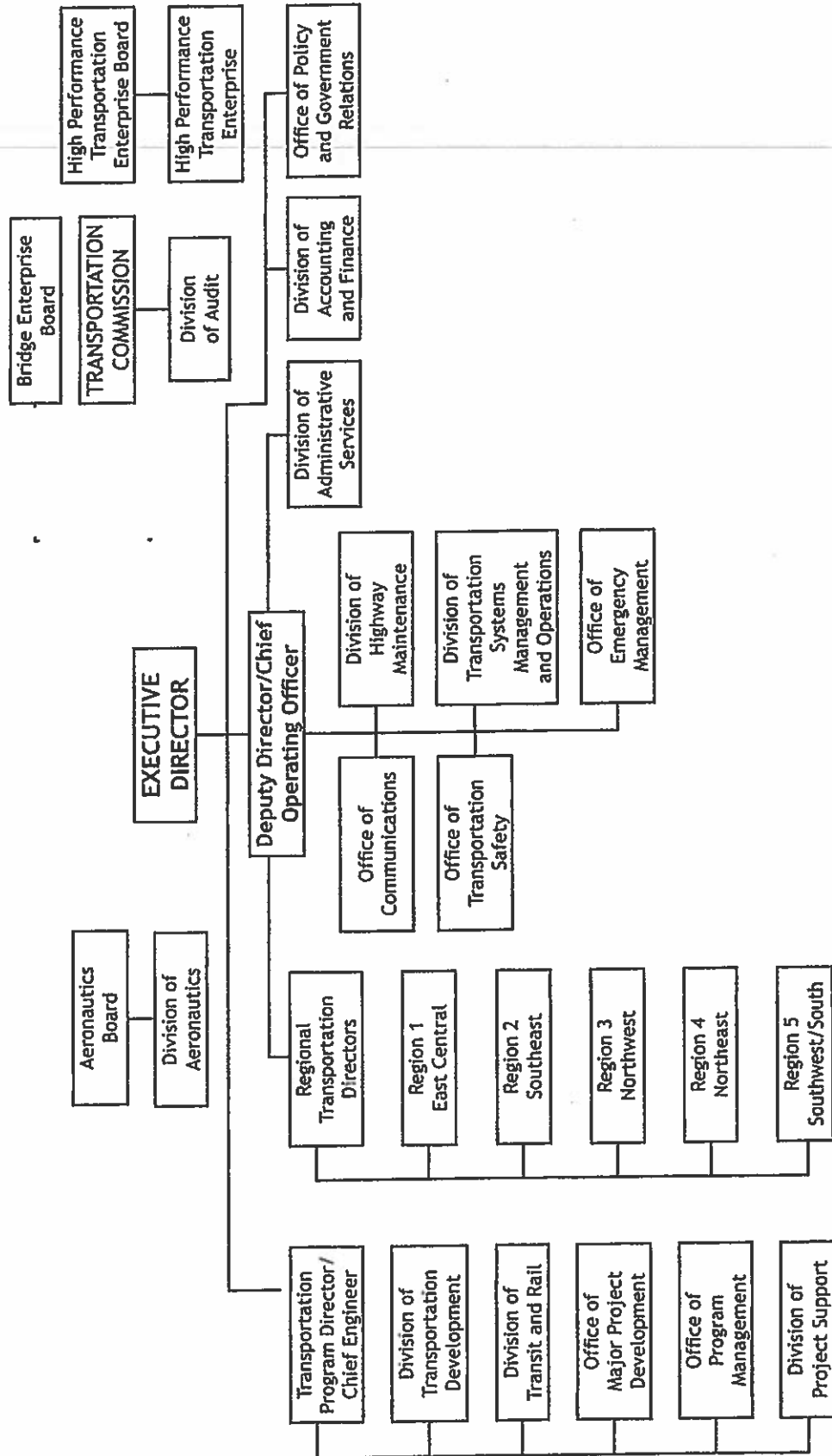
# APPENDIX A



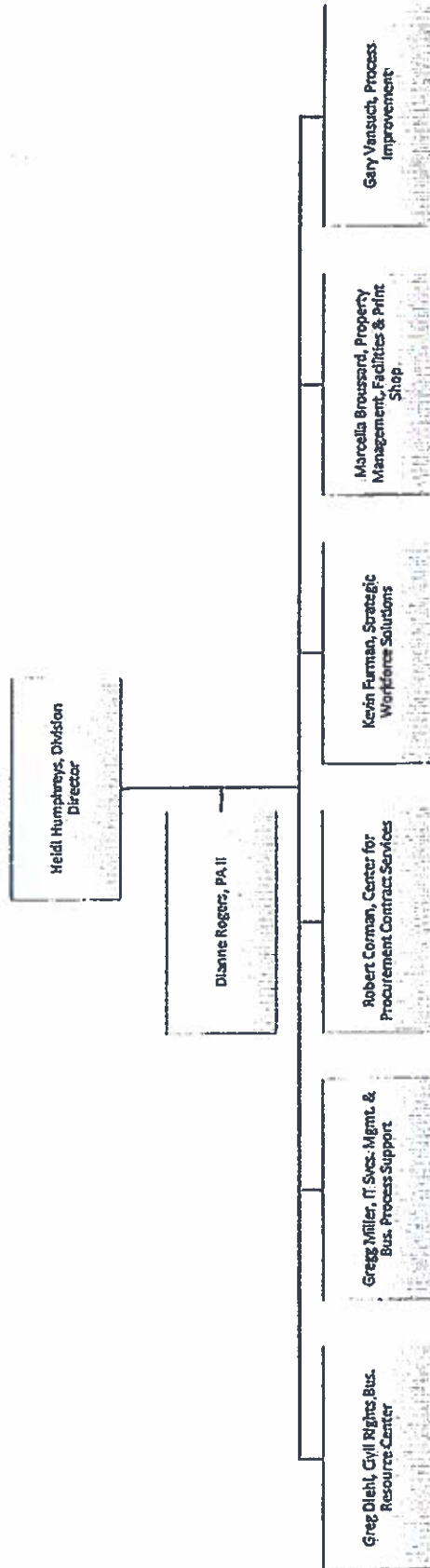
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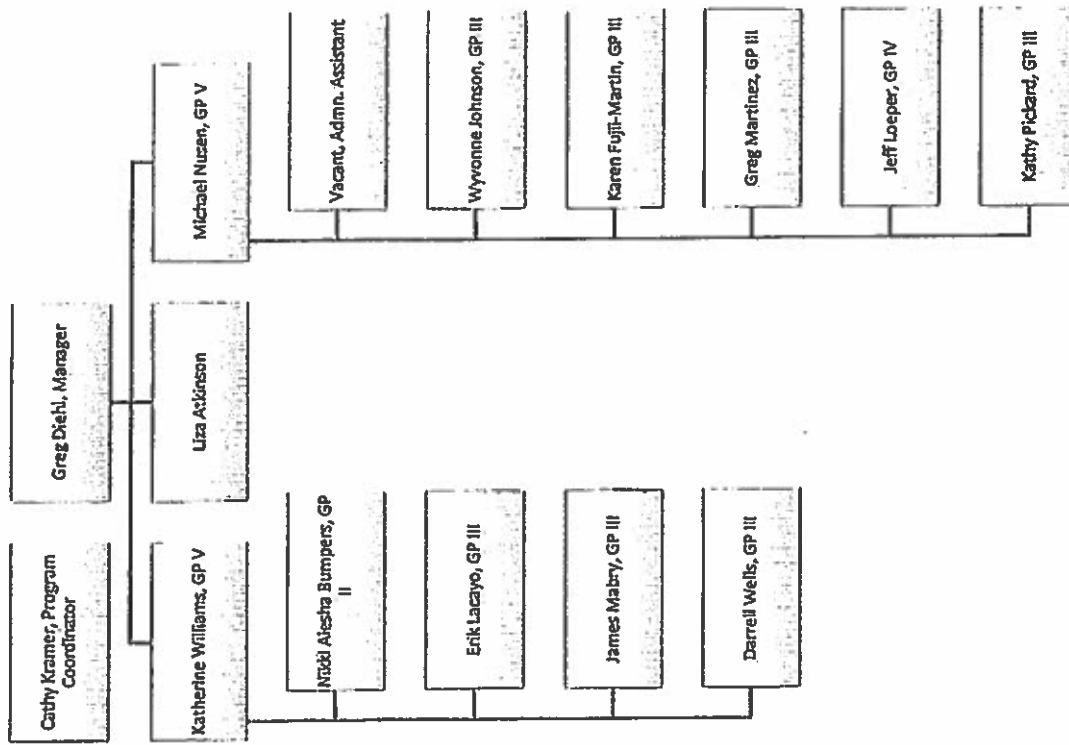
Organizational Chart : July 2014







Civil Rights Business Resource Center  
October 2014



# APPENDIX B

## Chapter 8 Dispute Resolution

Authority for rules promulgated in this chapter is found in §§ 24-50-103, 104, 104.5, 123, 125, 125.3, 125.4, 125.5, 131, 24-50.5-101 to 107, 24-50-112.5, 24-4-105 and 106, 24-11-110, and 24-34-402, C.R.S. Board rules are identified by cites beginning with "Board Rule".

### General Principles

**Board Rule 8-1.** Disputes should be resolved at the lowest level and as informally as possible. Fair and unbiased resolutions should be reached as quickly as possible. As such, parties are encouraged to use alternative dispute resolution methods, including those provided in this chapter, in an attempt to reach early solutions.

**Board Rule 8-2.** Appeals may be dismissed if the employee, applicant, or department does not keep the Board informed of the proper email address or mailing address, fails to appear for a hearing either personally or through counsel, or if the appeal does not meet the requirements of these rules. (12/1/09)

**Board Rule 8-3.** Any person may file a complaint concerning a state employee's action. If the complaining party is an employee in the same department, the grievance procedure adopted by the department, or if none, as provided in this chapter, is to be used. If the complaining person is outside the department or the state personnel system, the person shall file a written complaint with the employee's appointing authority within a reasonable time period. The appointing authority will review a complaint and take the appropriate action, if any.

### Notice Of Appeal Rights—Corrective Or Disciplinary Actions

**Board Rule 8-4.** Affected persons shall be informed, in writing, of any rights to dispute a final agency decision on a grievance or an action that adversely impacts pay, status, tenure, or a performance rating and award. Such a notice must include the time limit to exercise such rights, the official and address to whom the dispute should be directed, the requirement that the dispute must be in writing, and the availability of any standard appeal form. If the dispute alleges a whistleblower claim or discrimination, refer to the "Investigation Of Retaliation For Disclosure Of Information (Whistleblower Claims)" or "Allegations of Discrimination" sections of this chapter. (7/1/13)

### Board's Dispute Resolution Processes

#### Grievance Procedures

**Board Rule 8-5.** A permanent employee may grieve matters that are not subject to appeal or review by the Board or Director. Issues pertaining to leave sharing, discretionary pay differentials, granting or removal of in-range salary movements, or the performance management system that do not result in corrective or disciplinary action are not subject to grievance or appeal. (7/1/13)

**Board Rule 8-6.** Once a final written grievance decision is rendered by the highest level of relief in a department, an employee may petition the Board for discretionary review pursuant to the discretionary Board hearing section of this chapter.

**Board Rule 8-7.** If the complaining employee is no longer employed under the state personnel system, any grievance in process at the department level is considered concluded.

- A. If the complaining employee is separated from employment and does not appeal that separation to the Board, any grievance in progress at the department or Board level is considered concluded.

- B. If an employee is restored to a position following involuntary separation, by Board order, settlement or reemployment, the employee may reinitiate, within 10 calendar days, any unrelated grievance pending at the time of separation. (7/1/13)

#### Grievance Process

Board Rule 8-8. The grievance process is designed to address and resolve problems, not to be an adversarial process. Each department may establish a grievance process but such process shall include the following elements. All established grievance processes must be made available to employees. (7/1/13)

- A. The State of Colorado has a two step grievance process, as follows:
1. Step One: To initiate the grievance process, the employee shall notify the supervisor and/or second level supervisor, as provided in the department's grievance process. An informal discussion will be held to attempt to resolve the grievance. The employee shall be informed in writing of the decision within 7 days after the discussion. If a timely decision is not issued, the employee may proceed to the next stage of the process. The decision reached at Step One of the grievance process shall be binding on the parties, unless the employee elects to proceed to Step Two of the grievance process.
  2. Step Two:
    - a) The employee has 5 days after receipt of the informal decision to initiate the formal grievance process. The formal grievance must be in writing and submitted to the employee's appointing authority. Only the issues set forth in the written grievance shall be considered thereafter.
    - b) The appointing authority will issue the final department response to the grievance. The appointing authority may appoint an objective person or panel to make recommendations, or may delegate the decision. If the grievance concerns the actions of the appointing authority the department may, but is not required to, provide a process by which a different individual issues the final department response.
    - c) The process is deemed completed upon issuance of a final department decision, which must be in writing and issued within 30 days of the initiation of the written grievance process. The final written grievance decision must notify the employee of the right to appeal the final decision, including the time frame for such an appeal, and the Board address and telephone and fax number for filing the appeal. (7/1/13)
- B. An employee must initiate the grievance process within 10 days of the action or occurrence being grieved; or within 10 days after the employee has knowledge of, or reasonably should have knowledge of, the action or occurrence. (7/1/13)
- C. Appeal to the Board of final department decision:
1. The final decision is binding unless the employee pursues the grievance with the Board.
  2. If a final decision is not issued in a timely manner, the employee may pursue the grievance with the Board.
  3. The employee has 10 days to file a petition for hearing with the Board after receipt of the final department decision, or after expiration of 30 days of initiation of the written grievance process or any extension period granted by the Board. The original written grievance and the department's final decision shall be attached to the petition for

hearing. A copy must be provided to the person who made the department's final decision. (7/1/13)

- D. Any of the time frames for completion of the grievance process may be waived or modified if agreed to by both parties, including deferral of action to allow the parties a chance to resolve the issue. (7/1/13)
- E. An employee may be represented by any person of the employee's choice at Step Two or beyond of the grievance process. That person may participate and speak for the employee. However, the employee is expected to participate in the discussion during the grievance process. (7/1/13)

#### **Alternative Dispute Resolution (Informal problem-solving processes)**

##### Mediation Prior to Appealing or Petitioning the Board

- 8-9. Upon mutual agreement of the parties, mediation may be used in an attempt to resolve disputes. Parties participating shall have authority to settle disputes at the time of mediation. (7/1/13)
- 8-10. A trained, unbiased facilitator, who assists the parties in clarifying and understanding their different points of view, identifying common ground, generating and evaluating alternatives, and reaching a mutually acceptable resolution, conducts mediation. The costs associated with the use of a mediator are to be borne equally by the parties, unless otherwise agreed to between the parties prior to the commencement of the mediation process. Departments may notify participants to a grievance that mediation is an available form of alternate dispute resolution. (7/1/13)

Board Rule 8-11. Mediation is considered a confidential process. Communication during mediation is not discoverable or admissible, except for information that is required to be reported under a specific law. Mediator notes are confidential and must be destroyed after mediation. The mediator cannot be contacted for information or called as a witness in other later proceedings. (7/1/13)

##### Settlement

Board Rule 8-12. Subsequent to filing an appeal or petition for hearing under this chapter, any party may ask the Board staff to facilitate the settlement process and the Board will provide a facilitator, which may be an administrative law judge not assigned as the hearing judge for the matter. However, the parties must attempt to resolve an appeal before the hearing commences, which may include settlement or other form of alternative dispute resolution. If a party to an appeal makes such a request, the other party(ies) must appear at least once at a conference and attempt in good faith to settle the matter. If a party believes settlement is inappropriate, that party must file a motion stating the specific reasons why settlement is inappropriate. The administrative law judge assigned the case, upon good cause shown, may waive the requirement. An administrative law judge may require a settlement conference.

Board Rule 8-13. The settlement process is private, confidential, and privileged unless the information disclosed is required to be reported under specific law.

Board Rule 8-14. Only the parties and their representatives shall participate in settlement proceedings, which shall be closed to any other person.

Board Rule 8-15. All notes taken by the facilitator shall be kept in a separate file and are not accessible to the administrative law judge assigned the appeal. At the end of the case, the files shall be destroyed. There will be no communication regarding the substance of the settlement negotiations between the facilitator and the administrative law judge hearing the appeal.

**Board Rule 8-16.** The facilitator cannot be a witness in any proceeding on the subject matter. Communication between the parties at the settlement conference shall not be admissible at the hearing. However, this does not bar admission of evidence discovered by a party outside the settlement conference.

**Board Rule 8-17.** Any settlement agreement reached shall be reviewed by both parties prior to signature. Upon reaching a signed settlement agreement, the parties shall file a signed stipulated motion with the Board seeking dismissal of the case or action. The Board's director or an administrative law judge will promptly enter an order pursuant to the stipulated motion. (7/1/13)

**Board Rule 8-18.** If the employee or the department contends the other party has not complied with the terms of the settlement agreement, the employee or the department may petition the Board for a hearing. If the employee does not comply with the terms of the agreement, the action may be subject to the provisions in the "Performance" chapter.

- A. If the employee is no longer employed by the department and either party contends the other has not complied with the terms of a settlement agreement, the employee or the department may seek review or enforcement of the Board's order entered pursuant to Board Rule 8-17 above, under the provisions of § 24-4-106, C.R.S. (1/1/07)

#### **Petition for Declaratory Orders**

**Board Rule 8-19.** Any person may petition the Board for a declaratory order to clarify the applicability of statute, Board rule or order to the petitioner.

- A. Any petition must include: petitioner's name and address; whether petitioner is a state personnel system employee; the related statute or Board rule or order; and a concise factual statement of the issues involved. The Board may deny any petition that does not contain all of this information.
- B. In determining whether to issue a declaratory order, the Board may consider factors including, but not limited to, whether a declaratory order will terminate the uncertainty or controversy giving rise to the petition; whether the petitioner has another remedy or avenue for review of the controversy; whether there is another case or investigation pending before the Board, a court, or another department involving the controversy; and whether the issue is ripe for review.
- C. The Board may grant the petition for declaratory order and order that the matter be set for hearing, order briefing on the issues presented in the petition, or deny or dismiss the petition. The Board will notify the petitioner of its decision.
- D. Any action or order of the Board is subject to judicial review.

#### **Investigation Of Retaliation For Disclosure Of Information (Whistleblower Claims)**

**Board Rule 8-20.** An employee who seeks to have an allegation of retaliation for disclosure of information reviewed by the Board must file a complaint with the Board in accordance with § 24-50.5-101, C.R.S., et seq. ("Whistleblower Act").

**Board Rule 8-21.** The Board will send a copy of the complaint to the department for an initial response. The response must be filed within 45 days after the date the complaint was filed with the Board. (1/1/07)

**Board Rule 8-22.** The Board will notify the employee of the notice requirements of the Governmental Immunity Act, § 24-10-101, C.R.S., et seq.

**Board Rule 8-23.** If an appeal is also filed asserting a constitutional or statutory right to a hearing, and the appeal and complaint relate to the same or closely related facts, they may be consolidated for evidentiary hearing. Either party may request, or the administrative law judge may order, consolidation if it would be more efficient and would not unduly prejudice any party. The hearing shall be set to commence not later than 90 days from transmittal of the acknowledgement to the parties of the written response filed by the agency and may be continued once for 30 days only upon good cause shown and upon approval of the administrative law judge. (7/1/13)

**Board Rule 8-24.** If the employee does not have a constitutional or statutory right to a hearing, the case will be set for preliminary review pursuant to the discretionary Board hearing section of these rules. The matter shall be set for preliminary review upon transmittal of the agency's written response. (7/1/13)

### **Allegations Of Discrimination**

**Board Rule 8-25.** Pursuant to § 24-50-125.3, C.R.S., the Board has jurisdiction over claims of discrimination within the state personnel system. If an employee or applicant seeks to have an allegation of discrimination reviewed by the Board, that person must file a petition for hearing within 10 days of the action or receipt of any final written decision (including, but not limited to, grievance decisions, selection decisions, or performance pay system dispute resolution decisions). All such decisions must notify that employee or applicant of the right to appeal the final decision, including the time frame for such an appeal, and the Board's address and telephone and facsimile numbers for filing the appeal. Except for appeals, the Board will defer action to allow the parties a chance to resolve the issue. (1/1/07)

**Board Rule 8-26.** Upon receipt of an appeal or a petition for hearing on matters covered by § 24-34-402, C.R.S., the Board will refer the matter to the Colorado Civil Rights Division (CCRD) for investigation and issue a notice of referral.

- A. If the allegation is against the CCRD, the Board shall appoint an independent third party to investigate and will inform CCRD.
- B. If the applicant or employee wants CCRD to investigate the discrimination claim, the employee must file a discrimination charge with the CCRD within 20 days of the date of the certificate of mailing of the notice of referral. The employee must file a verification form with the Board no more than 10 days after filing the CCRD charge, with a copy to the respondent. (7/1/13)

**Board Rule 8-27.** Any time an appointing authority becomes aware of an allegation of discrimination based on disability, the matter must be referred to the department's ADA coordinator for investigation, no later than 7 days from the date of the allegation. This includes grievances and meetings to consider adverse action against the employee. Any time limits are suspended pending the investigation.

**Board Rule 8-28.** For claims asserted pursuant to § 24-34-402, C.R.S., an employee can waive the right to investigation and proceed to preliminary review or hearing any time prior to completion of the investigation. The date of written notice of waiver of investigation is the date of appeal to begin the 45-day hearing period. If no specific, written charge is filed with the CCRD within 20 days of the date of the certificate of mailing of the referral order from the Board, or if the employee fails to file a verification form with the Board, the employee is deemed to have waived investigation and the matter will proceed to preliminary review or hearing. (7/1/13)

**Board Rule 8-29.** If the investigation is not completed within 270 days, absent granting a time extension, the Board will notify the parties and set the matter for preliminary review or hearing.



Board Rule 8-30. When the investigation is complete, a written opinion of probable cause or no probable cause will be prepared. The Board will mail the opinion to the parties along with notice of their rights.

Board Rule 8-31. If probable cause is found in the CCRD investigation, CCRD will attempt to conciliate. If conciliation succeeds, the results and any settlement agreement will be sent to the Board. The Board will notify the parties by mail. If attempts fail, CCRD will notify the Board in writing. The Board will notify the parties by mail, including informing them of the right to appeal within 10 days of the Board's notice. If a party appeals the probable cause finding, the issue of discrimination shall be set for hearing.

Board Rule 8-32. If no probable cause is found in the investigation, CCRD or the independent third-party investigator will send the opinion to the Board who will notify the parties in writing by mail. The employee or applicant may appeal within 10 days of receipt of the opinion. If the employee fails to file an appeal or petition, the discrimination claim is considered abandoned and dismissed, and the matter will proceed without consideration of the issue of discrimination.

#### Attorney Fees And Costs

Board Rule 8-33. Pursuant to § 24-50-125.5, C.R.S., attorney fees and costs may be assessed against an applicant, employee, or department, upon final resolution of a proceeding against a party if the Board finds that the personnel action from which the proceeding arose, or the appeal of such action was frivolous, in bad faith, malicious, was a means of harassment, or was otherwise groundless.

- A. Frivolous means that no rational argument based on the evidence or law was presented;
- B. In bad faith, malicious, or as a means of harassment means that it was pursued to annoy or harass, made to be abusive, stubbornly litigious, or disrespectful of the truth;
- C. Groundless means despite having a valid legal theory, a party fails to offer or produce any competent evidence to support such an action or defense. (7/1/13)

Board Rule 8-34. Attorney fees may be assessed against an applicant, employee, department, or their respective counsel, for abuses of discovery procedures, prehearing procedures, or other proceedings before the Board or its administrative law judges as provided in the Colorado Rules of Civil Procedure.

- A. Any party seeking attorney fees under this rule shall file and serve a written motion for such fees no later than the conclusion of a proceeding, or make an oral motion for such fees during the course of a proceeding.
- B. Any response to a motion for attorney fees shall be filed within ten (10) days of the date of filing or making of the motion.
- C. A person or party that may be affected by a motion for attorney fees may request a hearing. The administrative law judge may hold a hearing if it is determined, in his or her discretion, that a hearing would materially assist in ruling of the motion.

#### Board Appeal Process

##### Address

Board Rule 8-35. Appeals asserting claims or grounds within the Board's jurisdiction as authorized by Colorado Constitution, statute, or these rules must be submitted to the Board at the official address listed on the Board's website. (7/1/13)

### Filing Deadlines

Board Rule 8-36. Any appeal is timely if it is received by the Board or postmarked within 10 days after receipt of the written notice of the action. Any appeal that is not timely will be denied except for the following.

- A. If the 10th day falls on a weekend or legal state holiday (regular schedule), the time period will be extended to the next regular business day.
- B. The Board may extend the period of time for good cause as long as the request for extension is received by the Board or postmarked within the 10-day appeal period. The Board shall add up to three days to the date of notice if it was not sent by certified mail, hand delivered, or filed by facsimile transmission; however, the 10-day period begins to run from the actual date of receipt.

### Scope and Contents of Board Appeals

8-37. Claims (with no allegation of discrimination) based upon the selection and comparative analysis process, downward allocation of a position, disputes involving the performance pay system, matters involving the overall administration of the personnel system by a department, not otherwise subject to an appeal to the Board, and matters involving overtime, FMLA, removal of a name from an eligibility list, or rejection of an application shall be filed with the Director pursuant to the provisions of these rules governing "Director's Dispute Resolution Processes" in this chapter. (3/30/13)

Board Rule 8-38. The appeal must be in writing and copies provided concurrently to the affected department. Use of the standard "*Colorado State Personnel Board Consolidated Appeal/Dispute Form*" found on the Board's website is required. For good cause shown, the Board may waive this requirement provided the person filing the appeal ("complainant") sets forth such grounds at the time the appeal is submitted. The appeal must clearly state the following in sufficient detail: (7/1/13)

1. The name, address, email address, and telephone number of the complainant and any representative. (7/1/13)
2. The specific action being appealed and a copy of the written notice.
3. The date the complainant received the notice of action.
4. A short, specific statement giving the reason for the appeal.
5. Whether the complainant is a certified employee.
6. The specific remedy sought.

Failure to provide a copy to the affected department may be grounds for denial or dismissal of the appeal.

Board Rule 8-39. If the notice of appeal does not contain sufficient or appropriate grounds for filing an appeal, the Board may dismiss the appeal with prejudice. Employees are required to keep the Board informed of their current address and telephone number, and to attend any required meetings or hearings. If either party does not follow these procedures, the Board may take appropriate action, including dismissal with prejudice.

Board Rule 8-40. The determination of timeliness of any subsequent documents will be the date of receipt in the Board's office. Whenever a person or party files any documents with the Board, copies must be provided to the opposing party at the same time.

## Discretionary Board Hearings

**Board Rule 8-41.** The Board may use its discretion to grant a hearing for actions that do not adversely affect a certified employee's current base pay, status, or tenure, and where the employee does not have a right to a hearing, appeal, or review by law or rule.

- A. The Board may grant a hearing in matters such as a violation of federal or state constitutional rights, an adverse written decision from the highest level of a department's grievance process, a decision from the "Director's review process" involving the overall administration of the state personnel system (referred to later in this chapter), unlawful discrimination where there is no mandatory right to a hearing, including discrimination in the selection and comparative analysis process, and reversion of a trial service employee for unsatisfactory performance. (7/1/13)
- B. The Board cannot grant a hearing to probationary employees who appeal discipline for unsatisfactory performance unless the employee alleges unlawful discrimination or other statutory or constitutional violation. (3/30/13)

**Board Rule 8-42.** After the State Personnel Director's final decision pursuant to § 24-50-112.5(4), C.R.S., any applicant directly affected by the comparative analysis process may file a written petition for discretionary review of the appointing authority's decision with the Board. Such petition shall be filed within 10 days after the State Personnel Director's final decision has been received by the applicant. The Board may only grant the petition when it appears that the appointing authority's decision violates the comparative analysis standards set forth in § 24-50-112.5, C.R.S., in any other provision of law, or in any rules or procedures relating to the comparative analysis process. The Board shall review and summarily grant or deny a petition within one hundred twenty days of receipt of the petition. Any petition granted shall be determined in accordance with § 24-50-125.4, C.R.S. (3/30/13)

**Board Rule 8-43.** The written petition for hearing must be filed within 10 days after a complainant receives written notice of the action on which the petition is based, and must include a copy of the action. Contents of the petition must be the same as those required in an appeal as listed in the scope and contents of Board appeals section of this chapter. (7/1/13)

- A. Failure to provide a copy of the petition to the respondent at the same time it is filed with the Board may be grounds to deny the petition for a hearing.

## Mandatory Disclosures

**Board Rule 8-44.** Within 15 days of the date of the certificate of mailing the notice of preliminary review, the parties shall provide to each other copies of all documents or information relied upon by that party in reaching, in the complainant's case, the decision to grieve the respondent's action(s) and to appeal the respondent's final agency decision, and, in the respondent's case, the final agency decision that constitutes the subject of the petition for hearing. If either party asserts a privilege regarding such documents or information, it shall specify the nature of the privilege and provide the other party a privilege log that describes each document by title, author, date, subject matter, and legal basis for preserving the privileged or confidential nature of the documents or information withheld. (7/1/13)

## Information Sheets

**Board Rule 8-45.** Each party is required to file an information sheet containing the following specifically and clearly stated information:

A. Complainant

1. the facts complainant is prepared to prove, if a hearing is granted, that the respondent's actions were arbitrary, capricious, or contrary to rule or law;
2. any legal argument or authority complainant relies upon to support his or her claims;
3. the names, addresses, and telephone numbers of all witnesses, and a brief description of the testimony of each such witness that would substantiate complainant's allegations and claims;
4. a list of exhibits that would substantiate complainant's allegations and claims, with copies of such exhibits attached to the information sheet; and
5. a description of the remedy or relief sought by complainant.

B. Respondent

1. the response to the allegations and claims of complainant, including all facts respondent intends to prove if a hearing is granted that respondent's actions were not arbitrary, capricious, or contrary to rule or law;
2. any legal arguments or authority relied on by respondent;
3. the names, addresses, and telephone numbers of all witnesses, and a brief description of testimony of each such witness that would substantiate respondent's allegation and claims;
4. a list of exhibits that would substantiate respondent's allegations and claims, with copies of such exhibits attached to the information sheet; and
5. the respondent's response to the remedy or relief sought by complainant.

C. Unless an investigation has been referred and is pending as provided in the allegation of discrimination section of this chapter, complainant shall file his or her information sheet with the Board and serve a copy on the respondent within 25 days of the certificate of mailing of the notice of preliminary review by the Board. The respondent shall file its information sheet with the Board no more than 10 days after the complainant has filed his or her information sheet with the Board. The complainant may file a reply to the respondent's information sheet within five days. Three days shall not be added for pleadings sent by mail. The Board may grant one extension of time to each party for the filing of information sheets. Such extension shall be for no more than five (5) days, and granted only upon good cause shown. (7/1/13)

D. In the event an investigation has been referred and is pending pursuant to the allegation of discrimination section of this chapter, the time periods to file information sheets as provided in this rule shall not commence until the final written report or opinion resulting from such investigation is served upon the parties by the Board. (1/1/07)

E. The parties shall be required to file their respective information sheets with the Board electronically in an editable format, and to also submit a paper copy of the information sheet, with attached exhibits. The Board, for good cause, may waive the requirement of an electronically-filed information sheet if the party, no later than five days prior to the time the information sheet is due, makes a written request to the Board with detailed grounds to support the request. (7/1/13)

F. If complainant fails to file a conforming information sheet, the petition for hearing may be considered abandoned and dismissed. If the respondent fails to file an information sheet, the preliminary recommendation will be based solely upon the information submitted by complainant.

- G. The Board's director or administrative law judge will review the information presented by the parties in their information sheets to determine whether valid issues exist which merit a hearing. Complainant has the burden of demonstrating the existence of valid issues which merit a hearing as set forth in Board Rule 8-41(A). (7/1/13)
- H. An administrative law judge or the Board's director will make a written preliminary recommendation to the Board, with copies provided to both parties, as to whether a hearing should be granted or denied.

Board Rule 8-46. The Board will consider the preliminary recommendation and render its decision to grant or deny a hearing pursuant to § 24-50-123(3), C.R.S.

- A. The Board will not consider any document or other information submitted by either party after issuance of the preliminary recommendation. If the Board denies the petition for hearing, its determination shall not be subject to reconsideration.
- B. If the Board grants a hearing, the date of the order will be treated as the date the appeal was submitted for purposes of determining the deadline for commencing a hearing. If the hearing is denied, the date of the order shall be used for purposes of any further appeal.
- C. If a hearing is granted, the action that is the subject of the petition for hearing will not be reversed or modified unless it is found to be arbitrary, capricious, contrary to rule or law, or in violation of the grounds set forth in section § 24-50-123, C.R.S. (7/1/13)

Board Rule 8-47. If an employee files a petition for hearing and an appeal asserting a constitutional or statutory right to a hearing and the mandatory and discretionary appeals relate to the same or closely related matters, the administrative law judge or Board's director may consolidate the cases if it is determined that consolidation would be more efficient and would not unduly prejudice any party.

#### Board Appeals

Board Rule 8-48. Any action that adversely affects a certified employee's current base pay, status, or tenure as defined by Board rule may be appealed and will be set for hearing. An adverse effect results in a reduction of current base pay or loss of other rights to which an employee is entitled by law, including denial of reemployment rights or removal from a reemployment list. Issues involving annual total compensation survey, discretionary pay differentials, the granting of in-range salary movements, leave sharing, personal services contracts and job evaluation system and actions are not subject to appeal. (7/1/13)

- A. Disciplinary actions are subject to appeal and will be set for hearing, except discipline of probationary employees for unsatisfactory performance, reversion of trial service employees for unsatisfactory performance, and demotion of conditional employees to the class in which last certified. An employee who resigns in lieu of disciplinary action forfeits appeal rights. (1/1/07)

#### Practice Before The Board And Preparation For Board Hearings

Board Rule 8-49. The Colorado Rules of Civil Procedure and Evidence apply to proceedings before the Board as follows:

- A. To the extent practicable, unless inconsistent with these rules, the Colorado Rules of Civil Procedure (C.R.C.P.) apply to matters before the Board. Unless the context otherwise requires, whenever the word "court" appears in the C.R.C.P., that word shall be construed to mean the Board or an administrative law judge for the Board.

- B. To the extent practicable, the Colorado Rules of Evidence (C.R.E.) applicable to civil cases apply to all hearings before the Board or its administrative law judges. Unless the context otherwise requires, whenever the word "court," "judge," or "jury" appear in the C.R.E., such word shall be construed to mean the Board or an administrative law judge for the Board. An administrative law judge for the Board has the discretion to admit evidence not admissible under C.R.E., as permitted by law.

#### Representation

Board Rule 8-50. An individual may appear before the Board on his or her own behalf, or by an attorney authorized to engage in the practice of law in Colorado. Nothing shall preclude an out-of-state attorney from being admitted to practice before the Board in accordance with C.R.C.P. 221.1.

- A. An attorney representing a party before the Board shall file an entry of appearance or sign a pleading. The entry of appearance shall contain the attorney's name, mailing address, email address, telephone number, attorney registration number, and the identity of the party for whom the appearance is made.
- B. An attorney may withdraw from a case before the Board in conformance with the C.R.C.P. (7/1/13)

Board Rule 8-51. The filing and service of pleadings and other papers, including facsimile filings, shall be governed by the following:

- A. The original of an appeal, petition, pleading, or other papers shall be filed with the Board. After the Board has assigned a case number to a matter, all pleadings and other papers filed with the Board shall contain the assigned case number.
- B. The facsimile capabilities of the Board are limited. Parties are encouraged to avoid filing pleadings or other papers with the Board by facsimile copy, except when reasonably required by time constraints. Facsimile copies may be filed with the Board in lieu of the original document, provided, however, that if a complete facsimile copy fails to conform to Board rules, it will not be accepted for filing. The party or attorney filing the facsimile copy shall keep the original document for production to the Board, if requested.
- C. Documents in excess of six pages, excluding the caption or cover sheet, may not be filed in lieu of the original unless otherwise ordered by the Board's director or an administrative law judge.
- D. Any facsimile copy filed or transmitted directly to the Board shall be accompanied by a caption/cover sheet that contains:
1. the title of the document being transmitted and identifying it as a facsimile copy;
  2. the case number;
  3. the number of pages;
  4. identity of the transmitter; and
  5. telephone number of the transmitter, along with any instructions.
- E. All facsimile copies filed in lieu of the original document must be filed during normal business hours of the Board between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding state holidays. In the event a facsimile copy is received outside of normal business hours, it will be considered to have been filed on the next business day.
- F. Service of pleadings or other papers on a party or on an attorney representing a party may be made by hand delivery, facsimile transmission to the facsimile number provided



by the party or attorney, by mail or email to the address contained in the pleadings, or to the party's last known address. When an attorney represents a party, service shall be made on the attorney. (7/1/13)

Board Rule 8-52. The filing of motions shall be governed by the following:

- A. Prior to the filing of a motion, the party or counsel filing a motion should confer with the opposing party or counsel. The motion shall, at the beginning, contain a certification that the party filing the motion in good faith has conferred with the opposing party or counsel about the motion. If no conference has occurred, the reason why shall be stated. If the relief sought in the motion has been agreed to by the parties or will not be opposed, the motion shall so state.
- B. Except for motions made during hearing or where the administrative law judge deems an oral motion appropriate, motions should be filed as early as possible prior to hearing, and in no event later than 10 days prior to hearing. Substantive motions shall be supported by a recitation of legal authority either incorporated in the motion or set forth in a separate brief. The responding party shall have 10 days from the date of the motion to file a response. If there are less than 10 days before the hearing, the responding party may provide a written or oral response at the hearing. No reply from the moving party shall be permitted unless ordered by the administrative law judge. Motions and briefs in excess of 10 pages in length are discouraged.
- C. Motions shall be determined promptly upon the written motion and briefs filed. However, the administrative law judge may order expedited responses, oral argument or an evidentiary hearing on the administrative law judge's own motion or at the discretion of the administrative law judge, on request of a party. The party filing a motion requiring immediate disposition shall call it to the attention of the administrative law judge or Board's director.
- D. A motion shall be deemed a confession upon failure of a party to file a response. If any party fails to appear at oral argument or hearing, without a prior showing of good cause for non-appearance, the administrative law judge or Board's director may proceed to hear and rule on the motion.
- E. Motions for extensions of time or continuance of hearings shall be determined in accordance with this rule. A hearing may only be continued once and only for good cause; motions for extensions of time shall also be granted only for good cause. Stipulations for extensions of time or continuances shall not be effective unless and until approved by an administrative law judge or Board's director. (7/1/13)

#### Prehearing Procedures

##### Discovery

Board Rule 8-53. Discovery in proceedings before the Board shall be governed by the following:

- A. To the extent practicable, C.R.C.P. 26 through 37 apply to proceedings before the Board and its administrative law judges, except to the extent they provide for or relate to disclosures, numerical limitations on discovery requests, or the time discovery can be initiated.
- B. Preparation for hearing may be done through informal information requests or the formal discovery procedures. No specific order by an administrative law judge is needed for a party to conduct discovery. Without an order, the following applies to preparation for all

hearings; however, upon the filing of a proper motion and a showing of good cause, an administrative law judge may modify or waive the following provisions in a specific case.

1. Within 15 days of the certificate of mailing of the notice of hearing, the parties, without awaiting a discovery request, are to disclose to each other a listing, together with a copy of all documents, information, data compilations and tangible things in the possession, custody, or control of the party that are relevant to the facts, claims and defenses in the appeal before the Board. Each party shall also make available for inspection and copying the documents or other evidentiary materials not privileged or protected from disclosure. If a party claims a privilege relative to any document or evidentiary materials, that party shall provide the other parties a privilege log describing the title, author, date, and subject matter of the document or material, along with the legal basis for preserving the privileged or confidential nature of the document or materials withheld.
2. All requests for information, either informal or formal, other than depositions, must be served no later than 15 days from the certificate of mailing of the notice of hearing. The deadlines are not extended if the hearing is continued unless the administrative law judge orders an extension.
3. Responses to all requests for information, either informal or formal, must be provided within 20 days after the certificate of service of the request.
4. All exchanges of information, including depositions, must be completed at least 10 days prior to the commencement of a hearing.
5. Each party is allowed to take three depositions. Each party is allowed to submit 30 interrogatories consisting of one question each, 20 requests for production of documents consisting of one request each, and 20 requests for admissions consisting of one admission each.
6. A party must make a good faith effort to resolve any discovery disputes prior to filing a motion to compel discovery. Failure to make such an effort may result in the imposition of sanctions against the moving party. Any motion concerning discovery disputes must certify compliance with this rule. (7/1/13)

#### Prehearing Statements

Board Rule 8-54. The parties shall file with the Board and serve on each other party, no less than 15 days prior to the commencement of a hearing, a prehearing statement setting forth the following:

- A. Statement of claims and defenses (a plain, concise statement of all claims or defenses asserted by the party filing the prehearing statement. Complainants should include the action being appealed and date of the action, the date complainant was notified of the action, complainant's job position and time in the position at the time of the action (including date complainant was certified in the position), complainant's current position, and the remedy/relief requested);
- B. Undisputed facts (a plain, concise statement of all facts which the party filing the prehearing statement contends are or should be undisputed);
- C. Disputed issues of fact (a plain, concise statement of the facts which the party filing the prehearing statement claims are in dispute);



- D. Pending motions (a listing of all outstanding motions that have not been ruled upon by the administrative law judge);
- E. Points of law (a plain, concise statement of all points of law that are to be relied upon or that may be in controversy, citing pertinent statutes, regulations, rules, cases, and other authority);
- F. Witnesses (the name, address and telephone number of any witness whom the party may call at hearing, together with a description of the content of such person's testimony);
- G. Experts (the name, address, telephone number and a brief summary of the qualifications of any expert witness a party may call at hearing, together with a detailed statement as to the opinions or conclusions to which the expert is expected to testify. These requirements may be satisfied by the party incorporating a resume for each expert and a report containing the opinions or conclusions of each expert, along with the basis of each opinion or conclusion);
- H. Exhibits (a description of any physical or documentary evidence to be offered at the hearing. Complainant's exhibits should be marked using letters, and respondent's exhibits marked using numbers. Exhibits should not be attached to the prehearing statement filed with the Board.) (6/1/06); and,
- I. Stipulations (a listing of all stipulations of fact or law, or admissibility of exhibits reached between the parties, as well as any additional stipulations offered to facilitate disposition of the case).

Board Rule 8-55. Compliance with the prehearing procedures set forth in these rules is mandatory unless modified by order by the administrative law judge on his or her own motion, or motion by one of the parties. Such order may require the parties to participate in a prehearing conference before the administrative law judge.

Board Rule 8-56. The hearing must commence no later than 90 days after receipt of the appeal. All prehearing matters, including the filing of prehearing or amended prehearing statements and completion of discovery, must be concluded prior to commencement of the hearing.

- A. The commencement will be in person, or if ordered by the administrative law judge prior to the commencement, upon good cause shown, may be by telephone or videoconference where appropriate. Presentation of an opening statement, factual stipulations, and stipulated exhibits will be sufficient to constitute the commencement of the hearing.

Board Rule 8-57. Both parties must attempt to resolve an appeal before the hearing. This may include settlement.

Responsible/Lead Counsel

Board Rule 8-58. If all parties are represented by counsel in proceedings before the Board, each counsel of record shall be jointly responsible for scheduling conferences and preparing and filing prehearing pleadings and documents as may be required. In the event a party is not represented and will be participating in the hearing, counsel for the represented party in the proceeding shall be responsible for coordinating with the unrepresented party for the purpose of scheduling conferences, obtaining hearing dates, and preparing and submitting prehearing pleadings and documents.

## Subpoenas

**Board Rule 8-59.** Upon an oral or written request of a party or counsel for a party at least 3 business days in advance, an administrative law judge shall issue a subpoena or subpoena duces tecum requiring the attendance of a witness or the production of documentary evidence, or both. Attorneys for parties in actions pending before the Board may also issue subpoenas in conformance with C.R.C.P. 45.

- A. The subpoena or subpoena duces tecum shall be served on the witness to whom it is directed in the same manner as subpoenas served in proceedings in the district courts for the State of Colorado pursuant to C.R.C.P. 45. A subpoena for testimony at a hearing must be served at least 48 hours prior to the commencement of the hearing. A subpoena for testimony in a deposition shall be served at least 7 days before the deposition. A subpoena duces tecum commanding a person to produce records or tangible things shall be served at least 14 days before compliance is required. Immediately following service of a subpoena, the party or attorney who issues the subpoena, shall serve a copy of the subpoena on all parties.
- B. Except for witnesses subpoenaed on behalf of the State of Colorado, or an officer or department of the State of Colorado, witnesses subpoenaed for testimony pursuant to this rule shall be paid the same fees for mileage as are paid to witnesses in the district courts of the State of Colorado. The party requesting that the subpoena be issued shall pay such fees to the witness at the time the subpoena is served as required by this rule.
- C. Consistent with C.R.C.P. 45 criteria for mandatory or discretionary quashing or modification of a subpoena, upon the failure of a party or counsel to comply with the requirements of either subparagraphs A or B of this rule, the party or witness subject to the subpoena may petition the administrative law judge for an order quashing or modifying such subpoena. The administrative law judge, in his or her discretion, may also award attorney fees for such non-compliance pursuant to Board Rule 8-34.
- D. Upon failure or refusal of any witness to comply with a subpoena issued and served upon a witness under this rule, either party may petition the district court for the City and County of Denver for an order enforcing the subpoena, and upon failure or refusal to comply, for an order citing such witness as in contempt for such failure or refusal. The procedure for such contempt proceedings shall be governed pursuant to § 24-4-105(5), C.R.S. (1/1/14)

## **Post-Hearings Proceedings**

**Board Rule 8-60.** A petition for reconsideration of the initial decision may be filed by an original party within five days of receipt of the initial decision. The administrative law judge may reconsider an initial decision without the petition within 10 days of issuance. Petitions shall be limited to matters alleged to be overlooked or misunderstood by the administrative law judge and cannot contain other arguments. Oral arguments shall not be permitted on any petition. A determination on the petition is typically issued but if no order is issued, the petition is considered denied. Filing a petition does not extend the time for filing an appeal of the initial decision.

**Board Rule 8-61.** Recordings of a hearing may be deleted after expiration of all rights resulting from that hearing. (7/1/13)

## **Board Review Of Initial Decisions and Dismissal Orders**

**Board Rule 8-62.** Appeals of dismissal orders, initial decisions, and orders issued subsequent to an initial decision by the administrative law judge are made in accordance with statute. Appeals should be filed with the Board and a copy served on the opposing party, within 30 days of mailing

of the order or decision. Any party who seeks review of all or part of the order or initial decision must file an appeal within 30 days, with no extensions for cross-appeals. Timely filing is determined by the date the Board actually receives the appeal. Failure to serve a copy on the opposing party may result in dismissal. The Board is required by statute to certify the record within 60 days after the date the record is designated. The Board will review and render a written decision within 90 days of the date the record is certified. (7/1/13)

**Board Rule 8-63.** Any party who seeks to reverse or modify the initial decision must file with the Board a designation of record within 20 days following the date of the certificate of mailing of the initial decision. A copy of this designation shall be served on all parties. Within 10 days, any other party or the Board may also file a designation of additional parts of the transcript of the proceedings which is to be included. Any appeal of the initial decision must be filed within 30 days of the date of the decision. Any appealing party shall submit appropriate payment for preparation of the record at the time the appeal is filed. (7/1/13)

**Board Rule 8-64.** Any party who designates a transcript as part of the record is responsible for obtaining and paying a certified court reporter who shall prepare the transcript and file it with the Board no more than 59 days after the designation of record. Failure to designate a transcript is deemed a waiver of a request to prepare the transcript. If no transcript has been filed within the time limit, the record will be certified and the transcript will not be included in the record or considered on appeal. In absence of a transcript, the Board is bound by the findings of fact of the administrative law judge.

**Board Rule 8-65.** The appeal of the initial decision shall describe, in detail, the basis for the appeal, the specific findings of fact and/or conclusions of law that are alleged to be improper, and the remedy being sought.

**Board Rule 8-66.** Upon certification of the record of administrative proceedings, the parties shall be notified in writing of the date the Board will consider the appeal. The Board is required by statute to decide the appeal no more than 90 days after the certification of the record.

**Board Rule 8-67.** Absent specific orders to the contrary, the appellant shall serve and file the opening brief within 20 days after the Board certifies the record. The opposing party's answer brief shall be filed within 10 days after date of the certificate of service of the appellant's brief. The appellant may file a reply brief within five days. Three days shall not be added for pleadings sent by mail.

A. The final brief must be filed no later than 12 days before the Board meeting where the appeal will be considered. No extensions of time will be granted unless they allow both parties to file briefs within that time limit.

B. In cases where both parties have filed an appeal, they will be ordered to file simultaneous briefs as described above unless the parties file a stipulated amended briefing schedule. (7/1/13)

**Board Rule 8-68.** All briefs must be typewritten and the text double-spaced, using only 8 ½ x 11-inch paper. Except by permission of the Board's director, briefs shall not exceed 10 pages, exclusive of pages containing the table of contents, tables of citations, and any addendum containing statutes, rules, regulations, and the like. An original and nine copies must be filed with the Board and a copy must also be served on the opposition. (6/1/06)

**Board Rule 8-69.** For any appeal to the Board, an original and nine copies of any motion (except extension of time) must be filed. For extensions of time or motions to dismiss based upon settlement of the appeal, the original and one copy must be filed with the Board. The Board director may grant motions for extension of time or motions to dismiss based upon settlement. A copy of any motion must be served on the opposition. (6/1/06)

**Board Rule 8-70.** In general, no oral argument will be heard and parties need not be present before the Board. Oral arguments may be allowed at the discretion of the Board. A request for oral argument shall be filed no later than the date the requesting party's brief is due. If granted, oral argument shall not exceed 15 minutes for each party. A request for additional time may be made by motion within 10 days after the briefs are closed but granted only for good cause. If oral argument is granted, parties are given reasonable notice of the time and place. The Board may terminate the argument whenever, in its judgment, further argument is unnecessary.

**Board Rule 8-71.** Any party appealing a final Board order to the Colorado Court of Appeals shall serve a copy of the notice of appeal on the Board at the time of filing the notice. (7/1/13)

### Security

**Board Rule 8-72.** Security during Board meetings and Board hearings may be obtained by any party at that party's expense. Board staff will assist the parties in obtaining security when possible.

### **Director's Dispute Resolution Processes**

#### General

**8-73.** Disputes asserting claims or grounds within the Director's jurisdiction as authorized by Colorado Constitution, statute, or these rules must be submitted to the Director at the official address as listed on the Director's website. (7/1/13)

**8-74.** Disputes must be in writing. Use of the standard "*Colorado State Personnel System Consolidated Appeal/Dispute Form*" found on the Director's website is required. For good cause shown, the Director may waive this requirement provided the person filing the appeal ("complainant") sets forth such grounds at the time the appeal is submitted.

**A.** The dispute must clearly state the following in sufficient detail:

1. The name, address, and telephone number of complainant and any representative.
2. The specific action being disputed and a copy of the written notice.
3. The date complainant received the notice of action.
4. A short, specific statement giving the reason for the dispute.
5. Whether complainant is a certified employee.
6. The specific remedy sought.

**B.** Copies of the written dispute must be provided concurrently to the affected department. Failure to do so may result in denial or dismissal of the dispute. (7/1/13)

### **Director's Appeals**

**8-75.** An applicant or employee who is directly affected may appeal to the Director within 10 days of receipt of notice or knowledge of the action. The appeal is timely filed if it is in writing and received by 5:00 p.m. or postmarked by the 10th day. It may be filed by mail, hand delivery or facsimile to the Director:

- A.** An allocation of an individual position to a lower pay grade.
- B.** Objection to the selection and comparative analysis process.
- C.** Matters that are not otherwise covered in this chapter e.g., removal of name from an eligible list, rejection of an application, violation of FLSA, or FMLA. (1/1/14)

- 8-76. A request for review may be filed with the Director within 10 days after receipt of notice or knowledge of the action. It must be in writing to the Director and include the following: job title, department involved, name of the department representative spoken to during informal resolution attempts, the date of the conversation, the specific issue, and the reason it is believed the decision is arbitrary, capricious, or contrary to rule or law.
- A. A request may also be filed for a Director's review of a general matter that affects the overall administration of the state personnel system that is not otherwise covered by this chapter (except annual compensation survey, the granting of in-range salary movements, discretionary pay differentials, leave sharing, granting and application of discretionary saved pay during exercise of retention rights, and job evaluation system and actions). A Director's decision in this type of review is subject only to a discretionary Board hearing. (7/1/13)
- 8-77. The decision may be overturned only if found to be arbitrary, capricious, or contrary to rule or law. Both parties will receive a copy of the decision. If a decision is not issued within the time period, the initial decision is upheld. (7/1/13)
- 8-78. Confidentiality of Examination Materials. Examination data and documents will be filed in a sealed envelope with the Director only. Such documents include, but are not limited to: test questions, scoring keys and scores or results. A list of documents sent under sealed envelope will be given to all appellants.
- A. Use or disclosure of the information outside the appeal review process is strictly prohibited. Confidentiality of material in sealed envelopes shall be maintained throughout *all phases of the review process, including preparation of any record for judicial review.* The confidential material will be returned to the Director after the completion of a panel review. The Director will return the contents to the responding party if no request for judicial review is filed.
- 8-79. Oral Argument. No party is entitled to oral argument; it is discretionary with the Director or advisor(s). Either party may request oral argument in writing. A request must be granted before oral argument is permitted. The Director or advisor(s) may request oral argument on any issue raised regardless of whether any party has requested it.
- A. The Director or advisor(s) will notify all parties of the date, time, and place. No continuances will be granted. All parties may speak. Each party is allowed 15 minutes. The appellant speaks first, followed by the opposing side. No witnesses or new written material will be allowed. Questions asked by the Director or advisor(s) are outside the 15 minutes allotted to a party.
- B. Oral argument will be tape recorded unless all parties agree in writing to waive the recording. The tape recording will be destroyed 90 days after the decision is issued if no notice of judicial review is received.
- 8-80. The Director shall issue a written decision no later than 90 days after receipt of the appeal. The action may be overturned only if found to have been arbitrary, capricious, or contrary to rule or law. Failure to issue a decision within the time limit will cause the initial decision to be upheld. The matter appealed must be resolved within the 90 days, after which the Director loses jurisdiction and does not have the authority to extend the time period.
- 8-81. Decisions of the Director are subject to judicial review in accordance with statute. Any person directly affected by the comparative analysis process may seek Board review pursuant to Board Rule 8-38. (7/1/13)

- 8-82. An appellant may withdraw an appeal at any time prior to the final decision. If the remedy is granted during the course of the appeal, the appeal will be considered moot and dismissed with prejudice.

#### Performance Management Disputes

- 8-83. The performance management dispute resolution process is an open, impartial process that is not a grievance or appeal. No party has an absolute right to legal representation, but may have an advisor present. The parties are expected to represent and speak for themselves. (7/1/07)
- 8-84. Only the following matters are disputable:
- A. the individual final overall performance evaluation, including lack of a final overall evaluation; and,
  - B. the application of a department's performance management program to the individual employee's final overall evaluation. (1/1/14)
- 8-85. The following matters are not disputable:
- A. the content of a department's performance management program; (7/1/07)
  - B. matters related to the funds appropriated; and, (8/1/08)
  - C. the performance evaluations and merit pay of other employees. (9/1/12)
- 8-86. Every effort shall be made by the parties to resolve the issue at the lowest possible level in a timely manner. Informal resolution before initiating the dispute resolution process is strongly encouraged.
- 8-87. Dispute Resolution Process. Only the issue(s) as originally presented in writing shall be considered throughout the dispute resolution process.
- A. Internal Stage. The first stage is the department internal dispute resolution process. Each department shall continually communicate and administer a detailed internal dispute resolution process that complies with the requirements of, and is approved in advance by, the Director. A description of the process must be communicated to all employees and must include the following elements.
    - 1. The time limits and the process for filing a written request for review of the issue(s) throughout the dispute resolution process.
    - 2. Who will decide the issue(s). The appointing authority is the decision maker unless it is delegated in writing and publicized in advance. Employees must be notified of the authorized decision maker for their disputes.
    - 3. The time limits for issuing the final written department decision.
    - 4. Any other specific requirements established by the Director.

A department's decision on issues involving an individual performance evaluation concludes at the internal stage and no further recourse is available. For issues disputable at the external stage, the employee shall be given written notice, including deadlines and address for filing and the requirement to include a copy of the original written dispute and the department's final decision.
  - B. External Stage. This stage is administered by the Director. Only those original issues involving the application of the department's performance management program to the individual evaluation are disputable at this stage. (1/1/14)



1. Within five working days from the date of the department's final decision, an employee may file a written request for review with the Director at the address specified in the Director's dispute resolution processes section of this chapter.
  2. The request for external review shall include a copy of the original issue(s) submitted in writing and the department's final decision.
    - a. The Director or designee shall retain jurisdiction but may select a qualified neutral third party to review the matter. The Director or designee shall issue a written decision that is final and binding within 30 days.
- C. In the event that an employee with a pending dispute separates from the state personnel system, the dispute is dismissed. (8/1/08)
- 8-88. The scope of authority of those individuals making final decisions throughout the dispute resolution process is limited to reviewing the facts surrounding the current action, within the limits of the department's performance management program. These individuals shall not substitute their judgment for that of the rater, reviewer, or the department's dispute resolution decision maker if an issue is being considered at the external stage. Further, these individuals shall not render a decision that would alter a department's performance management program. (7/1/07)
- A. In reaching a final decision, these individuals have the authority to instruct a rater(s) to:
1. follow a department's performance management program;
  2. correct an error; or,
  3. reconsider an individual performance plan or final overall evaluation.
- B. These individuals may also suggest other appropriate processes such as mediation.
- 8-89. Retaliation against any person involved in the dispute resolution process is prohibited.

## Chapter 9 Fair Employment Practices

Authority for rules promulgated in this chapter is found in §24-34-402, C.R.S. Board rules are identified by cites beginning with "Board Rule".

### General Principles

Board Rule 9-1. It is to the benefit of the state to employ a diverse workforce that reflects the character of its general population to assist in providing effective services to citizens.

Board Rule 9-2. The state is committed to special efforts to increase representation of the population throughout all levels of the state personnel system. The state will continue to attract and retain qualified persons representing the population as future changes occur.

### Discrimination

Board Rule 9-3. Discrimination against any person is prohibited because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veteran's status, disability, or other non-job related factors. This applies to all employment decisions.

Board Rule 9-4. Standards and guidelines adopted by the Colorado Civil Rights Commission and/or the federal government, as well as Colorado and federal case law, should be referenced in determining if discrimination has occurred.

Board Rule 9-5. The state prohibits discrimination against any person, including members of the public, applicants and employees. Each department must notify applicants and employees of the policy prohibiting discrimination. Any means or method reasonably designed to clearly communicate the information may be used.

- A. Each department will notify applicants and employees of the name, business address, and telephone number of the ADA coordinator. Appointing authorities and employees should consult with their departmental ADA coordinator concerning what constitutes a disability, reasonable accommodation, and undue hardship.

Board Rule 9-6. If the Board finds that discrimination has occurred, it may order: cease and desist orders; hiring, reinstatement, or upgrading of employees, with or without back pay and compensation; referral of applicants for employment; admission or continuation of enrollment in on-the-job training; posting of notices and issuing orders as to the manner of compliance and corrective and/or disciplinary actions, as required; and, altering terms and conditions of employment as appropriate. This does not prohibit settlement by the parties at any stage of the proceedings.

9-7. If the Director finds the selection and comparative analysis is a contributing factor to discrimination or unequal opportunity for all applicants, the Director can set it aside, require its redesign, void an eligible list or take other appropriate action. (3/30/13)

### Disputes

Board Rule 9-8. For any complaint on an action that violates the provisions of this chapter, refer to the "Dispute Resolution" chapter for further information.



## Universal State Personnel System Policy

### ANTI-HARASSMENT POLICY



**Generally:** Colorado State Government is proud of its tradition of maintaining a work environment where all persons are treated with dignity and respect. Each individual shall be provided with the opportunity to work in a professional atmosphere which promotes equal opportunities and prohibits discriminatory practices. Such practices include harassment or retaliation based on a person's disability, race, creed, color, sex, sexual orientation, religion, age, national origin, or ancestry, or in retaliation for participation in a protected activity that includes filing a discrimination charge, testifying, or participating in any way in an investigation or other proceeding. Harassment, whether verbal, physical, or environmental, is unacceptable and will not be tolerated in the workplace itself or in other work-related settings such as business trips, conferences, or social events.

#### Definitions:

**Harassment:** any offensive conduct, verbal or physical, based on a person's disability, race, creed, color, sex, sexual orientation, religion, age, national origin, or ancestry if such conduct adversely affects that person's work performance or employment status, or otherwise creates an intimidating, hostile or offensive work environment. Examples of prohibited conduct may include derogatory comments, remarks, gestures, or jokes relating to a person's race, national origin, gender, age, sexual orientation, religion, or disability; racial or ethnic slurs; negative epithets; physical assaults or threats; intimidation; ridicule or mockery; insults or put-downs; or offensive objects or pictures.

**Retaliation:** action(s) against an employee because he or she has opposed an unlawful employment practices or made a charge, testified, assisted or participated in an investigation, proceeding or hearing.

#### Prohibitions:

Colorado State Government will not tolerate, condone or allow harassment based on disability, race, creed, color, sex, sexual orientation, religion, age, national origin, or ancestry, or in retaliation for participation in a protected activity. This prohibition covers harassment by *anyone* in the workplace – supervisors, co-workers, or non-employees.

Prevention is the best tool to eliminate harassment in the workplace. Managers and supervisors must take appropriate steps to prevent and correct unlawful harassment. They shall clearly communicate to employees that unwelcome harassing conduct will not be tolerated. Each Department/Agency must establish an effective complaint process, provide anti-harassment training to their staff and employees, and take immediate and appropriate action when an employee complains. Managers and supervisors are

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responsible for creating an environment in which employees feel free to raise concerns and are confident that those concerns will be addressed.

Managers and supervisors shall make clear that adverse treatment of employees because they report harassment or provide information related to such complaints will not be tolerated. Management shall undertake whatever measures are necessary to ensure that retaliation does not occur. For example, when management investigates a complaint of harassment, the official who interviews the parties and witnesses should remind these individuals about the prohibition against retaliation. Management must also scrutinize employment decisions affecting the complainant and witnesses during and after the investigation to ensure that such decisions are not based on retaliatory motives.

Employees are encouraged to inform the alleged harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

Managers and supervisors shall assure employees who make complaints of harassment or provide information related to such complaints that:

- they will be protected against retaliation;
- there is a clearly described complaint process that provides accessible avenues to lodge a complaint and that provides a prompt, thorough, and impartial investigation;
- the employee's confidentiality will be protected to the extent possible; and
- the appointing authority or delegated management official will take immediate and appropriate corrective action when he/she determines that harassment has occurred.

### **Notice to Employee:**

Upon the filing of a complaint, employees shall be advised that the deadline for filing an EEOC charge is 300 days after the last date of alleged harassment. This deadline is *not* extended because an internal investigation of the complaint is pending.

### **LAWS:**

The right of employees to be free from harassment is protected under federal and state law. Including:

**C.R.S. 24-34-402, Discriminatory or Unfair Employment Practices** which specifies those practices which are discriminatory or unfair including harassment.

**Title VII of the Civil Rights Act of 1964** prohibits discrimination based on race, sex, color, religion, and national origin.

**Age Discrimination in Employment Act of 1967** prohibits discrimination against employees and applicants who are over 40 years of age.

**The Civil Rights Act of 1991** expands the scope of relevant civil rights statutes to provide adequate protection to victims of discrimination, and provides appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

**Contact your HR office for information on this policy.**

## Universal State Personnel System Policy

### NON-DISCRIMINATION POLICY



# DPA

**Generally:** The State values the individual diversity of all employees, applicants, volunteers, and citizens. Differences in age, ancestry, color, marital status, disability, national origin, race, religion, veteran status, or sexual orientation or any number of other distinguishing factors provide experiences, viewpoints, and ideas that can strengthen and enrich our work environment. Our goal is to create an environment that is inclusive, respectful, and equitable, and to employ the talents of people with different backgrounds, experiences, and perspectives to accomplish the various missions of State government.

The State is committed to providing equal employment opportunities to all applicants and employees. The State does not discriminate on the basis of disability, race, creed, color, sex, sexual orientation, religion, age, national origin or ancestry. The State is committed to providing a workplace free of unlawful discrimination, harassment, or unwelcome behavior based on disability, race, creed, color, sex, sexual orientation, religion, age, national origin or ancestry.

This policy applies in all areas of employment including recruitment, hiring, training, promotion, compensation, and benefits. The State does not tolerate unlawful discrimination or harassment of any kind of any of its personnel. Through the procedures set forth in this policy, the State strives to prevent, correct and where appropriate, take swift and appropriate action against any behavior that violates this policy and existing law.

This policy covers all employees in the State personnel system and anyone conducting business and otherwise having occasion to enter a state facility or participating in a state sponsored event. Persons other than classified employees may be covered by the individual non-discrimination policies of state agencies or higher education institutions and should refer to those policies for instructions on reporting suspected discrimination.

All State employees must be informed of and are expected to comply with the State's policies and procedures. (Refer to State Personnel Board Rule 1-12 which states that an employee is required to know and adhere to personnel rules, laws, and executive orders governing their employment.)

#### **Definitions:**

**EEO Function:** the equal employment opportunity function of a state department. Not all departments will have dedicated employees performing EEO functions. If a department does not have a dedicated staff person assigned to perform the EEO responsibilities, the human resources director or his/her designee shall be responsible for carrying out this Policy.

#### **Prohibitions.**

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It is a violation of this policy to discriminate in employment opportunities, benefits or privileges, or to create discriminatory work conditions or use discriminatory work conditions or evaluative standards if the basis of the discrimination is the employee's disability, race, creed, color, sex, sexual orientation, religion, age, national origin or ancestry.

**Retaliation:** An employee who reports alleged discrimination, harassment and/or retaliation under this policy and/or existing law shall not suffer any retaliation, including the loss of benefits, demotion, discipline or adverse impact on the terms and conditions or employment for filing or responding to a complaint of discrimination or harassment, appearing as a witness in an investigation of a complaint of discrimination or harassment, or threatening to file a complaint of discrimination or harassment.

Discrimination as defined in this Policy may also violate federal, state, and local laws, including but not limited to:

Title VII of the Civil Rights Act of 1964

The Age Discrimination in Employment Act of 1967

The Vocational Rehabilitation Act of 1973

Vietnam Era Veteran's Readjustment Assistance Act of 1974

The Americans with Disabilities Act As Amended

The Civil Rights Act of 1991

The Uniformed Services Employment and Reemployment Rights Act of 1994

Executive Order D0043 87, Equal Employment Opportunity in State Government; August 7, 1987

The State Personnel Board Rules and Director's Rules and Technical Guidance can be found at:

Rules

Universal State Policies

Technical Assistance

For reporting procedures please consult with your HR office.

## Universal State Personnel System Policy



**DPA**

### RECRUITMENT

**Generally:** Colorado State Government must attract and retain the most highly qualified workforce available. In order to achieve this, each State Agency has a responsibility to make known information about employment opportunities to the largest practicable number of persons necessary to ensure that all members of Colorado's population have an equal opportunity to compete for entry into the state personnel system. This universal policy is intended to guide appointing authorities and their agency human resources staff as they determine the most effective recruitment methods for filling vacancies. Our goal is to attract and retain the best people we can to accomplish the various missions of State government.

This policy specifically applies to the recruitment phase of the selection process and addresses the behavior expected from all State employees that have a role in determining specific recruitment activities when an employment opportunity exists.

State agencies are responsible for ensuring that minimum qualifications and special requirements necessary to perform any job satisfactorily are fair, equitable and do not disproportionately exclude individuals (women, minorities, or persons with disabilities) unless such requirements are demonstrably job related and significant to successful performance.

Recruitment strategies must be designed to inform persons, especially where underutilization exists, about opportunities.

State agencies shall report annually their recruitment efforts overall and specifically for those groups that have been identified as underutilized. Recruitment strategies shall be inclusive and be designed to increase the numbers of women and minority applicants and should include at a minimum: maintaining contact with organizations representing groups and professional societies from all segments of Colorado's diverse population for candidates for technical, professional and management level positions; ensuring any recruitment literature, printed and electronic, is relevant and accessible to all interested individuals and may include advertisements in publications that serve underutilized groups within the State. The recruitment strategies should also include periodic reviews and monitoring procedures to assure that no discriminatory practices exist and should be analyzed to determine the effective flow of applicants.

#### **Definitions:**

**Underutilization:** employment of members of a race, ethnic, or gender group at a rate below their availability (representation in the labor market).

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All State agencies are expected to comply with the State's personnel rules, policies and procedures pertaining to recruitment.

The State Personnel Board Rules, and the State Personnel Director's Rules and Technical Assistance can be found at:

Rules

Universal State Policies

Technical Assistance



## Universal State Personnel System Policy

### COLORADO STATE GOVERNMENT AFFIRMATIVE ACTION PROGRAM



#### Statement of Policy

Colorado State Government is dedicated to the principles and goals of fairness, equality, courtesy, and respect for all individuals. As an employer, State Government is committed to fairness and equality of opportunity in the workplace. All recruitment, hiring, training, promotions, transfers, and administration of all personnel policies, procedures, programs, and services shall be conducted or administered without regard to differences in age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender, or sexual orientation.

Colorado State Government values the individual diversity of all employees, applicants, volunteers, and citizens. Differences in age, race, ethnic heritage, religion, appearance, sexual orientation or any number of other distinguishing factors provide experiences, viewpoints, and ideas that can strengthen and enrich our work environment. Our goal is to create an environment that is inclusive, respectful, and equitable, and to employ the talents of people with different backgrounds, experiences, and perspectives to accomplish the various missions of Colorado State Government.

The State's Affirmative Action Program includes the following Universal State Personnel System Policies:

- *Non-Discrimination*: Statement of commitment to equal opportunity and non-discrimination in all areas of employment.
- *Sexual Harassment*: Statement that defines sexual harassment and prohibits such conduct in the workplace.
- *Anti-Harassment*: Statement that prohibits any offensive or harassing conduct based on any protected class or characteristic in the workplace.
- *Americans with Disabilities Act (ADAAA) Compliance Policy*: Statement prohibiting discrimination based on a disability and a commitment to reasonable accommodations when appropriate.
- *Recruitment*: Guide to agencies in implementation of most effective recruitment strategies.
- *Equal Pay Policy*: Statement of commitment to non-discriminatory practices in compensation.

#### Duties and Responsibilities

**Executive Director, Department of Personnel & Administration:** The Executive Director has the ultimate responsibility for the overall administration of the State Affirmative Action Program subject to C.R.S. 24-50-101 (3)(e) and Executive Order D-0043-87, Equal Employment Opportunity in State Government. This includes:

- Responsibility for integrating equal opportunity into all parts of personnel and program management;
- Reviewing policies and procedures as they affect diversity, and;
- Ensuring compliance with relevant federal and state constitutions, statutes, and regulations.

**Director, State Division of Human Resources:** The Director of the State Division of Human Resources, as directed by the DPA Executive Director, has day-to-day responsibility for the implementation of the State Affirmative Action Program. This may include:

- Delegated responsibilities from the Executive Director
- Developing and monitoring the State's universal written policies
- Disseminating the State Program internally and externally
- Developing and disseminating annual statewide utilization analyses for principal departments (Effective November 1, 2009);
- Developing reporting templates for use by the principal departments;
- Assisting agency/department Human Resources Directors by providing model mechanisms for the resolution of complaints, identifying and creating related training programs, and assisting with the creation and implementation of diversity initiatives.

**Department Heads:** Heads of the principal Departments are responsible for the implementation of the State Affirmative Action Program. This includes:

- Communicating the elements of the State Affirmative Action Program to employees;
- Adopting appropriate procedures that promote equal opportunity for all employees, applicants, and program beneficiaries
- Ensuring that employee demographic data in the state employment database is correct and current;
- Submission of annual reports to the Governor and DPA Executive Director as required by Executive Order D 0043-87 (Effective October 1, 2010)
- Ensuring fair employment decisions are made by their supervisors and managers;
- Taking swift and appropriate action(s) to stop discrimination and/or harassment when it is discovered; and
- Assuring compliance with all Universal State Personnel System Policies addressing equal opportunity and non-discrimination.

**Managers and Supervisors:** Managers and supervisors are responsible for:

- Establishing a positive climate for equal employment;
- Assuring that all personnel practices and procedures, including training, hiring, and promotion, are applied equally and in compliance with Colorado State Personnel Rules and Universal State Personnel System Policies;
- Ensuring that employee demographic data is completely and accurately recorded at the time of hire;
- Taking swift and appropriate action(s) to stop discrimination and/or harassment when it is discovered; and
- Managers and supervisors should also promote inclusion and cultural sensitivity in the workplace.

**Communication of the State Affirmative Action Program:**

The State Affirmative Action Program shall be well publicized internally to all employees and externally to the public.

The Colorado State Affirmative Action Program description shall be distributed to all Executive Agency Department employees when this program is adopted, and thereafter distributed to each new employee upon hire. It will be made available on each Department's Intranet site and shall be available to any person upon request through the Human Resources Division of each principal department.

Each principal department shall provide training related to diversity in the workplace, harassment, and sexual harassment to all employees and managers/supervisors.

The promotion of equal employment opportunity and achievement of the requirements of the affirmative action program will be included as core criterion within the performance management program for managers/supervisors.

**Affirmative Action Program Components:**

**Workforce Analysis and Determination of Underutilization:** The Department of Personnel & Administration will create a statewide Affirmative Action plan based on annual submissions from each principal department of its efforts to promote a workforce that resembles the labor market through the elimination of barriers and the implementation of proactive programs. On an annual basis, each principal department's workforce shall be analyzed to comply with Equal Employment Opportunity Commission guidelines to determine whether there is any under-utilization of specific groups in the workforce as compared to the available labor force. The availability of underutilized groups in the state's labor force shall be determined using job categories as defined by the Equal Employment Opportunity Commission or the Department of Labor. (The Technical Assistance -Equal Opportunity and Diversity provides guidance on compiling workforce analysis) If such underutilization is found, the principal department will attempt to determine if it is the result of barriers limiting equal employment opportunities.

**Development of Individual Department Plans:** The DPA Division of Human Resources will provide guidance to authorities in the principal departments to aid them in defining Equal Opportunity initiatives and creating plans appropriate for their department. These plans will be created based upon a review of data specific to their department. Each plan will describe methods to be used to increase diversity in the workforce, and to promote awareness and sensitivity to diversity issues related to employees. Each plan will contain a review of past accomplishments, and suggestions for improvement where needed.

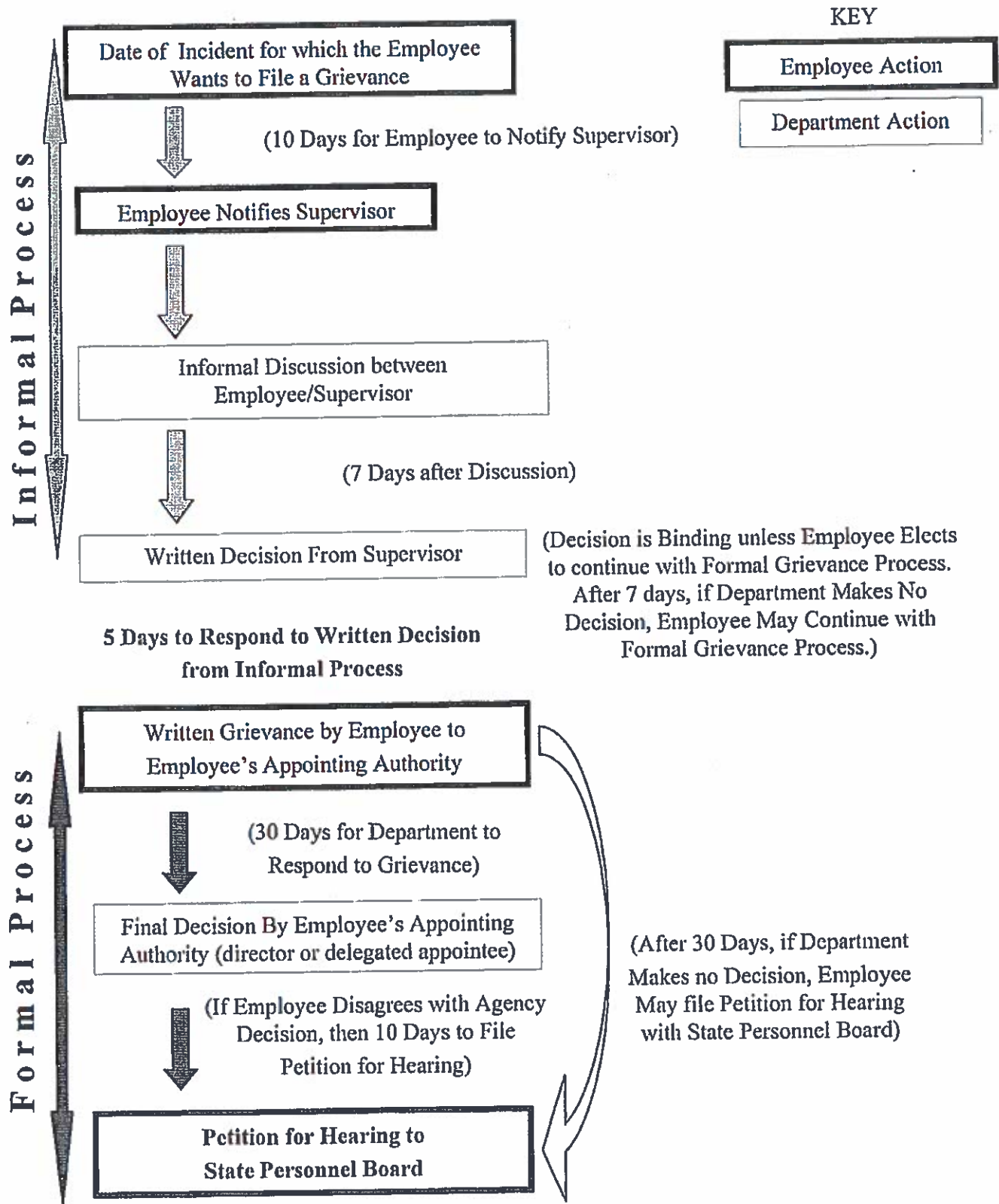
**Reporting Requirements:** By October 1<sup>st</sup> of each year, the head of each principal department shall submit a report to the Governor and the Executive Director of the DPA as required by Executive Order D-0043-87. The report will include a description of the department's efforts, accomplishments, and shortfalls of the previous year, and describe plans for the coming year. Statistical information will be provided by the Human Resources Division of each department as a component of the report. The reports will be summarized by the DPA Division of Human Resources Division and compiled into a statewide report.

**Training:** Specific training programs will be created in each principal department to increase awareness and sensitivity to diversity issues for all employees and supervisors/managers. Diversity issues will be considered in the creation of new programs. All new employees and supervisors hired or promoted after the implementation of this program will be required to complete training within one year of their hire or promotion date.

**Priorities for Layoff:**

Colorado Personnel Board Rule 7-11 requires, among other things, that affected employees be ranked as part of the layoff process. If two or more employees' rankings are tied after application of the Layoff Matrix described in Rule 7-11, then the employee who is a member of a protected class in which the department has identified an existing underutilization of members of that protected class in that employee's current position, that employee shall be the higher ranked employee.

## Colorado State Personnel Board Rule 8-8 Minimum Requirements of Employee Grievance Process



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# APPENDIX C

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<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input type="checkbox"/> <b>POLICY DIRECTIVE</b>
		<input checked="" type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
<small>Subject</small> <b>Internal Discrimination Complaint Procedures</b>		<small>Number</small> <b>600.6</b>
<small>Effective</small> <b>08/07/06</b>	<small>Supersedes</small>	<small>Originating Office</small> <b>Center for Equal Opportunity</b>

**PURPOSE**

To ensure timely, equitable, objective and consistent investigation of civil rights complaints including discrimination and workplace harassment

**AUTHORITY**

- Title I and Title II of the Americans with Disabilities Act of 1990 as amended;
- Title VI of the United States Civil Rights Act of 1964;
- Title VII of the United States Civil Rights Act of 1964 as amended and rulings of the U.S. Equal Employment Opportunity Commission;
- Civil Rights Act of 1991;
- Civil Rights Restoration Act of 1987
- Civil War Era Civil Rights Act – 42 U.S.C. 1981 et seq.
- Rehabilitation Act of 1973
- Vietnam Era Veterans Readjustment Act
- Age Discrimination in Employment Act of 1967;
- Equal Pay Act of 1963;
- Immigration Reform and Control Act of 1986
- Executive Order 11246
- Colorado Revised Statutes Sec. 24-34-301 et seq.
- Colorado Revised Statutes: CRS § 24-72-201 et seq.(Public Records); and,
- 23 CFR Part 230 Subpart C, "State Highway Agency Equal Employment Opportunity Programs." (TAB F)
- 49 CFR Part 27(TAB F)

**DEFINITIONS**

**Appointing Authority** – Executive Director, Deputy Director, Division Directors, Regional Transportation Directors. An appointing authority may delegate any and all human resource functions.

**Complainant** – CDOT employee who alleges or files a complaint of discrimination or workplace harassment.

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**Conflict of interest** – An investigator must be an objective resource to help ensure compliance with various state and federal civil rights laws and policies. If an investigator cannot consider, recommend, or carry out an appropriate course of action for the complainant because of other responsibilities, interests, or relationships, objectivity may be impaired, and a conflict of interest may exist.

**Discrimination** – Discrimination is the act of treating a person, or group of people, differently based on their race, color, religion, sex, (including sexual harassment), sexual orientation, age, national origin, political affiliation, and organizational membership, veteran's status, disability.

**Early Resolution Process** – Early Resolution Process is a process to resolve a conflict informally and as soon as possible. One or more meetings may be facilitated by the investigator and attended by the complainant and those parties involved in the complaint that can help to reasonably resolve the issue(s). During the initial meeting, the Civil Rights Investigator will consider the circumstances that exist between the parties with regard to the current relationship, the attitudes and behaviors of the parties, the willingness of the parties to reach resolution, and any other circumstances that indicate that early resolution is or is not a viable process. At any time, the investigator or any other party involved may terminate the early resolution process if it is believed that the process is not the appropriate method of resolution. All discussions and information exchanged are considered confidential.

**Harassment** – Harassment, a form of discrimination is unwelcome verbal, physical, or negative visual conduct that is based on a person's race, color, religion, sex, age, national origin, or disability. Harassment not only consists of blatantly direct offensive behavior, but may include subtle acts or comments. Derogatory comments, jokes, and slurs of a racial, sexual, ethnic, or religious nature or those that refer to an individual's sexual orientation or disability can also be considered harassing and/or discriminatory behavior.

**Civil Rights Investigator** – An individual who is trained and experienced in the application of Title VI and/or Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), and other applicable Civil Rights laws. The Appointing Authority will delegate the handling of an investigation to the Investigator. The investigators will be the Regional and Headquarters Civil Rights Specialists or independent investigators who possess the knowledge, skills and experience to perform all civil rights investigations.

**Investigator's work product** – The investigator's work product includes the investigation plan, notes taken during the investigation, and other information gathered that is not a part of the final investigation report.



Subject <b>Internal Discrimination Complaint Procedures</b>	Number <b>600.6</b>
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**Pretext** —Evidence that the respondent's articulated nondiscriminatory reasons are not true.

**Remedy** – Correcting a wrong or enforcing a right, pursuant to the CDOT civil rights policies, procedures and rules and state and federal laws. Remedies are evaluated on a "case by case" basis and are dependant on the specific circumstances at hand. The appointing authority will decide appropriate remedies under the advice of the Attorney General's office and in conjunction with the DoHRA Division Director or CDOT's Executive Director as appropriate.

**Respondent** – Entity/person against which a complaint or charge is filed.

**Retaliation** - Retaliation occurs when an individual has opposed a practice made unlawful by a civil rights statute, or has filed a charge, has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the applicable statute, and as a consequence has suffered an adverse action.

**Sexual Harassment** – Sexual harassment is unwelcome conduct of a sexual nature, such as, sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct of a sexual nature or harassing behavior(s) such as threatening, demeaning, or offensive conduct whether or not sexual in connotation, that is directed toward an individual based on gender when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; or,
2. Threat of submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting the individual; or,
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

## **PROCEDURES and RESPONSIBILITIES**

### **STEP 1 – ATTEMPT TO RESOLVE THE SITUATION**

**Employee:** An employee who feels discriminated against should attempt to resolve the issue as soon as possible. If possible and if safe, inform the person whose behavior or action is unwelcome or offensive, to stop the offending behavior, and thereby informally resolve the issue. If the employee does not feel comfortable with approaching that person, then the employee may want to seek assistance from his/her supervisor and/or their Civil Rights Office.

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An employee is not required to report a complaint of discrimination to his/her supervisor. If the employee's supervisor whose behavior or action is perceived to be discriminatory or offensive, the employee should notify the next level of management and their Civil Rights office.

Employees should to the maximum extent possible, report any form of discrimination, harassment, sexual harassment, or retaliation against them or any other employee, to a supervisor or manager and/or their Civil Rights office.

**Supervisor or Manager:** When supervisor/manager receives a report of alleged discrimination or harassment, the supervisor/manager will take action to correct the situation to the extent possible in a timely manner. The supervisor/manager will promptly notify the respective Civil Rights Office in writing (i.e. email) when an employee has alleged discrimination, and describe any mitigating action taken.

**Civil Rights Investigator:** The Headquarters Center for Equal Opportunity and the Regional Civil Rights Managers are responsible for receiving, investigating and acting on reports of discrimination.

## **STEP 2 – FILING A COMPLAINT**

The Civil Rights Investigator will clarify issues and determine whether there is alleged illegal discrimination under any civil rights law. If the complaint is baseless, the Civil Rights Investigator will so inform the complainant.

The Civil Rights Investigator will counsel the employee on the benefits of mediation and assist the employee in coordinating mediation if requested.

Complaints involving sexual harassment and/or workplace violence are always investigated by CDOT.

Internal complaints should be initiated within 30 days of the last discriminatory incident; otherwise they are not considered timely and may be difficult to investigate. If the complaint involves sexual harassment and/or workplace violence it should be reported immediately. It will be at the discretion of the Investigator to extend the 30 days if the extension is requested, in writing, and the circumstances support the need for an extension. In no case will this extension exceed 180 days.

Time limits are:

- Equal Employment Opportunity Commission (EEOC) - 300 days
- Colorado Civil Rights Commission (CCRD) - Six (6) months.

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Please note that for the CCRD you must initiate your complaint through the State Personnel Office.

If a complaint is close to the end of the time limit for CCRD or EEOC, the CDOT Civil Rights Investigator will advise the complainant of his or her rights and procedures to seek assistance from CCRD and EEOC.

**COMPLAINANT WILL:**

- Contact a CDOT Civil Rights Investigator to file a complaint of discrimination or to report activity that appears to be in violation of CDOT's equal employment and non-discrimination policy.
- File the complaint as soon as possible after the incident or incidents have occurred.
- Note important information before contacting the Civil Rights Investigator such as a description of the incident(s), witnesses, date and time of alleged violation(s), statements made.
- Be clear and specific when reporting the potential violation(s).

**EARLY RESOLUTION**

CDOT is committed to early and informal resolution of a conflict, if possible. When an employee seeks assistance, the Civil Rights investigator will determine if early and informal resolution, mediation or alternative dispute resolution is appropriate. The decision to proceed with the early resolution process is based on careful evaluation of the relationship and the attitudes and behaviors of the complainant and respondent, and on the apparent willingness of the parties to participate in the early resolution process. If appropriate, coordinate and facilitate the first meeting for the Early Resolution Process.

If the Civil Rights Investigator determines that early resolution would not be the appropriate action, then the investigation process continues to the next step in the process.

**REQUESTS FOR AN ALTERNATE INVESTIGATOR**

The Civil Rights Investigator or Appointing Authority may determine that another investigator should be assigned to the investigation. Employees may also request a different investigator if they believe and can substantiate that the current investigator has a conflict of interest. If an employee (complainant) believes that a conflict of interest exists, he/she may contact the Manager for the Center for Equal Opportunity (EO). The complainant shall provide a

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written explanation to the Manager for EO of the reasons for the request to have the complaint investigated with an alternate investigator.

The EO Manager will discuss the facts of the situation with the respective Civil Rights office and determine a course of action. If an agreement cannot be reached on the matter, a written document with details on the situation will be submitted to the DoHRA Division Director and the respective Appointing Authority allowing them to determine the appropriate action to take. The Manager for EO will notify the respective Civil Rights Office of the decision and based on the determination, an appropriate Civil Rights Investigator will be assigned before any investigation into the allegations begins.

### **STEP 3 – COMPLAINT INTAKE AND NOTIFICATION OF EMPLOYEE RIGHTS**

The Civil Rights Investigator will schedule a meeting for complaint intake as soon as possible. Civil Rights Investigators will communicate CDOT's complaint procedures to the complainant during their initial contact. It is the Civil Rights Investigator's responsibility to ensure that the complainants have an understanding of their options, their rights, and the resources available to assist them in resolution of the problem.

If the complaint appears to have a basis under any civil rights law, the Civil Rights Investigator will explain the investigation process to the employee. It is the employee's responsibility to submit his or her written complaint and other pertinent information in a timely manner to the Civil Rights Investigator.

During the intake process the employee will be instructed to:

- Complete and sign the intake documents and statements of remedy.
- Provide medical information and release for medical information if the complaint is made under the Americans with Disabilities Act (ADA) or section 504 of the Rehabilitation Act.
- Provide all relevant complaint information including details about the issues raised, dates, times, places, description of events, names of witnesses, documents, objects, and any other relevant information that he or she believes will corroborate the claims.
- Report developments to the investigator that relate to the complaint. The employee should also report any behavior that they believe is directed to them as retaliation for submitting a discrimination claim or participating in a process related to a possible discrimination claim.
- Ask questions when clarification is required.
- Keep in confidence any and all information regarding the complaint and the investigation in order to preserve the integrity of the investigation.
- Comply with the timeframes provided for submitting information.

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#### **STEP 4 – NOTIFICATIONS**

- The Civil Rights Investigator will notify the appropriate Appointing Authority immediately when an investigation will begin.
- Unless the circumstances warrant immediate action the intake should be completed before notice to the appointing authority of the alleged discrimination.
- The Civil Rights Investigator will notify the complainant in writing or by email that an investigation will begin.

#### **STEP 5 – INVESTIGATION**

The investigator will proceed with the level of investigation determined to be necessary on a case by case basis.

The employee will need to provide all relevant information and submit all pertinent documentation in a timely manner.

In order to maintain the integrity of the investigation and to prevent the spread of inaccurate information, any witness or any person, including supervisors, who are questioned during an investigation will not discuss the issue with any one except the Civil Rights Investigator or his/her representative. Employees may be subject to corrective or disciplinary action if he/she does not cooperate or who otherwise interferes with the investigation.

The Civil Rights Investigator may inform a supervisor/manager that an investigation is being conducted. Supervisors and managers will ensure that there is no retaliation against employees who are involved in a complaint process. The Civil Rights Investigator may ask a supervisor/manager for assistance in scheduling interviews for an investigation.

Confidentiality is defined as information known or conveyed to a limited number of people for which unauthorized disclosing of information could damage the integrity of the investigation. If an interviewee breaches his/her confidentiality, he/she is subject to a personnel action at the discretion of the appointing authority. However, the investigator must reveal confidential information as is necessary and appropriate to individuals who may have relevant facts related to the charges.

#### **STEP 9 – INVESTIGATION CLOSE-OUT**

The Civil Rights Investigator will inform the Appointing Authority and the complainant of the results of the investigation. The employee may be informed whether a corrective or disciplinary action will be pursued by the appointing authority against offenders, but due to confidentiality issues, the complainant will not be given details or specifics of such action(s). A supervisor/manager may not be

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informed of the information collected during an investigation, but may be advised of the findings of the investigation.

**STEP 10 - RETALIATION**

The Civil Rights investigator will process complaints of discrimination retaliation in accordance with this directive. Retaliation complaints will be treated as discrimination complaints. The Civil Rights Investigator will conduct

investigations into all retaliation complaints. Witnesses and other pertinent parties to complaints are protected from retaliation. Any employee who complains of retaliation will be notified by the Civil Rights Investigator of the outcome.

**REVIEW DATE:**

This directive will be reviewed in January of 2011.



08/07/06

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Thomas E. Norton  
Executive Director

Date

# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION  
Office of Government Relations  
4201 East Arkansas Avenue, Room 275  
Denver, Colorado 80222  
(303) 757-9772



**To:** All CDOT Employees

**From:** Heidi Humphreys – DAS / Herman Stockinger – OPGR / Mary Frances Nevans - OPGR

**Re:** Policy Directive 600.0 Equal Employment Opportunity and Affirmative Action

**Date:** January 27, 2014

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**Background** Policy Directive 600.0 “Equal Employment Opportunity and Affirmative Action” updates current Policy Directive 600.0, “Equal Employment Opportunity and Non-Discrimination Policy” adopted June 18, 2008.

**Rationale for Policy Directive** Outlines CDOT’s general policy for all CDOT employees (including temporary employees and volunteers) and applicants with regard to compliance with Title VII of the Civil Rights Act of 1964 and Colorado Anti-Discrimination laws. It does not include CDOT’s obligations under Title VI, which are set forth in Policy Directive 604.0, “Non-Discrimination Policy,” overseen by the Civil Rights and Business Resource Center.

**Individuals/Entities Impacted in Policy Directive** The directive pertains to all CDOT employees (including temporary employees and volunteers) and applicants for employment. The directive identifies those protected classes under federal regulations and state law. It also requires compliance with the Genetic Information Nondiscrimination Act of 2008 (“GINA”), 43 U.S.C. § 2000ff, which prohibits the use of the improperly disclosed genetic information in hiring and promotion. It requires adherence to the Department of Regulatory Agencies (“DORA”) guidelines pertaining to Colorado Anti-discrimination Laws under § 24-34-401, *et seq.*, C.R.S.

**Implementation** The Division of Administrative Services (DAS), Employee Relations / Legal Office (ER/L) shall implement this directive. The Affirmative Action Officer shall oversee CDOT’s affirmative action compliance.

**Effective Date** January 22, 2014

**Review Date** On or before January 2019



<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
<b>Subject</b>		
<b>EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION</b>		<b>600.0</b>
<b>Effective</b> 1/22/14	<b>Supersedes</b> 06/18/08	<b>Originating Office</b> Division of Administrative Services

### I. PURPOSE

To ensure that no person, such as a member of the public, applicant, or employee, shall, on the grounds of race, color, religion, gender (including sexual harassment), sexual orientation as defined in § 24-34-401 (7.5), C.R.S., national origin, age, genetic information, political affiliation, organizational membership, veteran's status, disability, marriage to a co-worker, pregnancy, or because such person has opposed any unlawful discriminatory practice or other non-job related factor, be excluded from participation in, be denied the benefit of, or be subjected to discrimination or harassment in hiring or employment practices.

### II. AUTHORITY

Executive Director, § 43-1-105, C.R.S.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e  
(<http://www.eeoc.gov/laws/statutes/titlevii.cfm>)

Rehabilitation Act, 29 U.S.C. § 791  
(<http://www.eeoc.gov/laws/statutes/rehab.cfm>)

Age Discrimination Act of 1975, 29 U.S.C. § 621  
(<http://www.eeoc.gov/laws/statutes/adea.cfm>)

The Equal Pay Act, 29 U.S.C. § 206(d)  
(<http://www.eeoc.gov/laws/statutes/epa.cfm>)

The Genetic Information Nondiscrimination Act, 42 U.S.C. § 2000ff  
(<http://www.eeoc.gov/laws/statutes/gina.cfm>)

The Civil Rights Act of 1991, 29 CFR 1614  
(<http://www.eeoc.gov/laws/statutes/cra-1991.cfm>)

§ 24-34-401, *et seq.*, C.R.S.

### III. APPLICABILITY

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This directive applies to all divisions, branches, regions and offices of the Colorado Department of Transportation ("CDOT" or "Department") with regard to applicants and employees. For purposes of this Policy, "employees" includes all employees, including management level, as well as temporary employees, volunteers and applicants.

**IV. POLICY**

It is the policy of CDOT to provide equal opportunity in employment and to prohibit discrimination in employment based on the above mentioned factors. CDOT supports the rights of employees to exercise all available rights under applicable civil rights laws and does not tolerate retaliation against employees who engage in a protected activity. Any employee or program issue related this EEO policy should be addressed to the Regional Civil Rights Office, Employee Relations Legal (ER/L), or the Affirmative Action Officer.

**V. IMPLEMENTATION PLAN**

A. This Policy Directive shall be effective upon approval by the Transportation Commission.

B. It shall be implemented by the Affirmative Action Officer in the Office of Employee Relations / Legal at CDOT Headquarters.

**VI. REVIEW DATE**

This Policy Directive shall be reviewed on or before January 2019.

Norman J. Stockings III  
Secretary, Transportation Commission

1-22-14  
Date of Approval

**Resolution # TC-3126**

**Approved January 16, 2014**

**Adoption of Policy Directive 600.0 "Equal Employment Opportunity and Affirmative Action"**

**WHEREAS**, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy for the Colorado Department of Transportation ("CDOT"); and

**WHEREAS**, CDOT is required to comply with Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, and related statutes as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT is required to comply with the Colorado Anti-Discrimination Laws under § 24-34-401, *et seq.*, C.R.S.; and,

**WHEREAS**, Policy Directive 600.0 seeks to fulfill the Federal Highway Administration's requirement to have a policy in place with regard to equal opportunity employment practices and prohibition of discrimination, which practices will be implemented through all phases of CDOT's Affirmative Action Plan; and,

**WHEREAS**, Policy Directive 600.0 updates and replaces Policy Directive 600.0, "Equal Opportunity and Non-Discrimination Policy" adopted on June 18, 2008; and

**WHEREAS**, updated Policy Directive 600.0 confirms CDOT's commitment to equal opportunity in employment and the prohibition of discrimination in employment.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein adopts Policy Directive 600.00 "Equal Employment Opportunity and Affirmative Action."

*Reynold J. Stockinger III*

Transportation Secretary

1-22-14

Date

# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION  
Office of Government Relations  
4201 East Arkansas Avenue, Room 276  
Denver, Colorado 80222  
(303) 767-9772



**To:** All CDOT Employees

**From:** Heidi Humphreys – DAS / Herman Stockinger – OPGR / Mary Frances Nevans - OPGR

**Re:** Policy Directive 603.0 “Policy Prohibiting Sexual Harassment”

**Date:** January 27, 2014

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**Background** Policy Directive 603.0 “Policy Prohibiting Sexual Harassment” updates Policy Directive 603.0, “Sexual Harassment” dated August 16, 2007.

**Rationale for Policy Directive** Outlines CDOT’s general policy for all CDOT employees with regard to compliance with Title VII of the Civil Rights Act of 1964 and state law and regulations.

**Individuals/Entities Impacted in Policy Directive** Policy Directive 603.0 pertains to all CDOT employees.

**Implementation** The Division of Administrative Services (DAS), Employee Relations / Legal Office (ER/L) shall implement this directive.

**Effective Date** January 22, 2014

**Review Date** On or before January 2019