Finance and Administration Cabinet STANDARD PROCEDURE	PAGE: 1 OF 5
ISSUED BY: **Office of Equal Employment Opportunity and Contract Compliance (EEO/CC)**	
EFFECTIVE DATE: **4/12/06, Revised 11/13/07**	
PROCEDURE # **1.5**	
SUBJECT: **Equal Employment Opportunity and Affirmative Action**	
DISTRIBUTION CODE: A, B, C, D, G	CONTACT: **Executive Director, Office of Equal Employment Opportunity and Contract Compliance** **(502) 564-2874**

I. PURPOSE

The Finance and Administration Cabinet (Cabinet) recognizes its responsibility to abide by the provisions of Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, the Pregnancy Discrimination Act, the Equal Pay Act of 1963, the Kentucky Civil Rights Act, KRS 18A.138 and Executive Order 2006-402. This procedure establishes processes for handling allegations or suspicions of discrimination, harassment and retaliation and for reviewing requests for reasonable religious accommodation. Further, through this procedure, the Cabinet affirms its commitment to the affirmative action plan for Kentucky state government.

II. DEFINITIONS

A. Equal Employment Opportunity

Equal employment opportunity is "equal access to all available jobs and training, under equal terms and conditions, and with equal benefits and services without actions, policies, or practices which differentiate among applicants or employees..." on the basis of their membership in, association or affiliation with—either real or perceived—a protected class.

B. Affirmative Action

Affirmative action is a policy designed to remedy past discrimination against minority groups, women and other members of protected classes through measures to improve their opportunities in the workplace.

C. Discrimination

Discrimination is "unequal treatment of a class of persons." Further, discrimination involves treating one person unfairly over another according to factors unrelated to their ability or potential.

III. ANTI-DISCRIMINATION IN EMPLOYMENT

State and federal law and an executive order relating to equal employment opportunity provide protections against discrimination and harassment in any aspect of employment based on race, color, religion, sex, national origin, age (forty (40) and over), disability, pregnancy or childbirth and smoking.

Executive Order 2006-402 also provides protection based on veteran status. In addition, the executive order directs all state agencies:

- to eliminate "all barriers to employment of women, ethnic minority groups, and other members of protected classes,"
- to "improve employment opportunities" for ethnic minority groups, women and other members of protected classes in all EEO job categories, and
- to "use corrective employment measures outlined in the state Affirmative Action Plan, as amended."

Title VII prohibits intentional discrimination, practices that have discriminatory effects, harassment or any other adverse employment action based on:

- an individual's association with a person of another race, color, sex, national origin, religion or disability,
- an individual's physical, cultural or linguistic characteristics and clothing,
- a perception or belief—whether correct or incorrect—that an individual is a member of a particular racial, national origin, or religious group, or
- an individual's affiliation with a particular religious or ethnic group.

Laws prohibit retaliation against an individual for opposing a discriminatory employment practice or harassment, filing a complaint, or participating in any way in an investigation, proceeding or litigation.

IV. PROCEDURE

A. Reasonable Religious Accommodation

An employee shall notify the supervisor or manager of the need for a reasonable religious accommodation. To facilitate the request, the employee and Cabinet shall work together to determine an effective religious accommodation. However, the Cabinet shall make the final determination regarding a reasonable religious accommodation.

B. Reporting Allegations of Discrimination or Harassment

An employee or job applicant who believes he/she is a victim of discrimination, harassment or retaliation at work by supervisors, managers, co-workers, visitors, clients, or customers may notify any of the following:

- a supervisor or manager,

- an EEO Counselor,
- the Cabinet EEO Coordinator,
- the Director of Human Resources,
- the State EEO Coordinator,
- the Kentucky Commission on Human Rights, or
- the federal Equal Employment Opportunity Commission (EEOC).

C. Complaint Investigations

The Office of Equal Employment Opportunity and Contract Compliance (EEO/CC) shall promptly investigate all complaints. To the extent possible, the privacy of the complainant and the person accused of discrimination, harassment or retaliation shall be kept confidential. Information concerning the complaint shall not be released to third parties or anyone who is not involved with the investigation under the Open Records Act. Nor shall anyone involved be permitted to discuss the subject outside the investigation. The purpose of this provision is to 1) protect the confidentiality of the employee who files a complaint, 2) to encourage the reporting of any incidents of sexual harassment, and 3) to protect the reputation of any employee wrongfully charged with sexual harassment.

D. Corrective or Disciplinary Action

After an investigation, the Cabinet shall, as appropriate, take the following action:

- assure that all parties are reacquainted with EEO and Affirmative Action procedures;
- require specific training, counseling and/or follow-up;
- take disciplinary action, up to and including dismissal; and/or
- provide any information requested by the State EEO Coordinator.

V. RESPONSIBILITIES

A. Cabinet

The Cabinet shall maintain a positive, non-hostile work environment where all employees are safe to report discrimination or harassment or to request a reasonable religious accommodation without fear of retaliation.

B. Supervisor/Manager

A supervisor or manager shall immediately notify the agency EEO Counselor and the Cabinet EEO Coordinator when:

- the manager/supervisor witnesses or becomes aware of potential discrimination, harassment or retaliation,
- any employee makes an allegation of discrimination, harassment or retaliation, or
- an employee requests a reasonable religious accommodation.

C. Office of Equal Employment Opportunity and Contract Compliance shall:

- provide guidance to employees, supervisors and managers regarding the Cabinet's EEO and Affirmative Action procedures;
- ensure that all employees, supervisors, managers and EEO Counselors receive appropriate EEO training;
- notify the Division of Human Resources and the Office of General Counsel regarding potential discrimination, harassment or retaliation;
- promptly investigate complaints or suspicions of discrimination, harassment and retaliation;
- promptly handle requests for reasonable religious accommodation;
- provide technical assistance to persons filing complaints and, when appropriate, refer them to other EEO entities/authorities; and
- update and monitor the Cabinet's affirmative action plan and report results to the Secretary of Finance.

D. Division of Human Resources shall:

- notify EEO/CC and the Office of General Counsel regarding potential discrimination, harassment or retaliation;
- work with EEO/CC and the Office of General Counsel in formulating recommendations at the conclusion of an investigation;
- work with the supervisor or manager and EEO/CC to respond to requests for reasonable religious accommodation; and

- work with EEO/CC to identify and eliminate barriers to employment and to implement corrective employment measures outlined in the state Affirmative Action Plan, as appropriate.

E. Agency EEO Counselors shall:

- know procedures for handling complaints and requests for reasonable religious accommodation;
- ensure that the EEO and Affirmative Action procedures are posted in a location accessible to all employees; and
- immediately notify the Cabinet EEO Coordinator when a complaint or request for reasonable religious accommodation is received.

F. Cabinet Employee

The Cabinet employee is strongly encouraged to report any instances of discrimination, harassment or retaliation immediately following the event.

VI. DISCIPLINE FOR VIOLATIONS

Any Cabinet employee determined to have refused to abide by or to have violated the EEO and Affirmative Action procedures shall be subject to disciplinary action, including, but not limited to reprimand, fine, demotion, suspension and dismissal.

VII. REFERENCES

State EEO Coordinator

U.S. EEOC Kentucky Office

Kentucky Commission on Human Rights