

SECTION: 6.29

SUBJECT: Equal Employment Opportunity/Affirmative Action Plan/
Americans with Disabilities Act

AUTHORITY: Title VI and Title VII Civil Rights Act of 1964; Title I and Title V of the Americans with Disabilities Act of 1990, as amended; Equal Pay Act of 1963; Age Discrimination Act of 1967; Title II of the Genetic Information Nondiscrimination Act of 2008; Section 7 of Fair Labor Standard Act of 1938; Patient Protection and Affordable Care Act of 2010; Civil Rights Act of 1991; Chapters 110.105, 110.112 and 112.044, Florida Statutes; Rule 60L-33.007 F.A.C. Executive Director.

Policy:

Program activities and employment practices of the Commission shall be non-discriminatory. No person may be excluded from participation in, admission or access to, denied the benefit of, or otherwise subjected to discrimination under any program or employment on grounds of race, age, color, sex, religion, national origin, political affiliations, marital status, pregnancy, qualified disability, or protected veteran status (i.e., disabled veteran, Armed Forces service medal veteran, recently separated veteran, or other veteran who served during a war, or in a campaign or expedition for which a campaign badge has been authorized). This policy is also the Affirmative Action Plan (AAP) used to identify and eliminate barriers for qualified persons interested in employment opportunities with the agency. The Assistant Executive Director has general authority for the AAP. The Director of Human Resources will coordinate the specific implementation of the plan and provide technical assistance to the Divisions/Offices of the Commission. The Director of Human Resources or his/her designee is responsible for maintaining appropriate records and monitoring the AAP. Division, Office and Regional director, in concert with the Director of Human Resources, will ensure efforts are made to achieve the goals set forth in the AAP for their respective work units.

This policy also addresses access for persons with disabilities as set forth in the Americans with Disabilities Act of 1990 (ADA) as amended in 2008, and addresses the requirements for the 2010 ADA Standards for Accessible Design and those policies the Commission will follow to ensure those with disabilities are provided reasonable accommodation in employment, and access to agency programs, activities and facilities.

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Procedure:

6.29.1 Agency Description

The Commission is a constitutionally established State agency responsible for managing freshwater and saltwater aquatic life and wildlife habitats through law enforcement, management, outreach and research. The mission statement of the agency is *Managing fish and wildlife resources for their long-term well-being and the benefit of people*. The Commission is responsible for the enforcement of statutes and rules governing Florida's marine, freshwater and wildlife resources, hunting, boating safety and general laws applicable to Florida's coastal environment. Within the Commission are the following Divisions: Fish and Wildlife Research Institute , Freshwater Fisheries Management, Habitat and Species Conservation, Hunting and Game Management, Law Enforcement, Marine Fisheries Management and the following Offices: Community Relations, Executive Director, Finance and Budget, Human Resources, Inspector General, Legal, Legislative Affairs, Licensing and Permitting, Policy and Accountability, Strategic Initiatives, Public Access and Wildlife Viewing Services and five Regional Offices.

6.29.2 Responsibility

- A.** The Assistant Executive Director, through the Division/Office Directors, shall be responsible for ensuring that discrimination does not occur in program activities and employment.
- B.** Regional Directors shall be responsible for reviewing activities conducted in their respective regions, consulting with the Office of Human Resources and the applicable Division/Office director to address findings which may be discriminatory.
- C.** The Director of Human Resources shall be designated as the EEO/AA/ADA (Equal Employment Opportunity/Affirmative Action/Americans with Disabilities Act) Coordinator. The Director of Human Resources or his/her designee shall be responsible for the following:
 - 1. Chairing the EEO/AA/ADA Committee.
 - 2. Coordinating the response and resolutions of complaints and accommodation requests filed with the Commission.
 - 3. Assisting and training Commission employees in EEO/AA/ADA practices and requirements.

- D. EEO/AA/ADA Committee.**
1. A committee appointed by the Assistant Executive Director will be responsible for:
 - a. Reviewing existing policies and practices and preparing recommended changes.
 - b. Monitoring the agency ADA 504 Transition Plan which is reviewed by the U.S. Fish and Wildlife Service, Office of Civil Rights, every five years for compliance.
 - c. Reviewing requests for ADA accommodations or ADA complaints which have been referred to the committee for resolution.
 2. Efforts will be made to include representatives from management staff, non-management staff, minorities, women and one or more representatives from the general public including at least one person with a disability.
 3. Members shall meet as needed or upon request of three or more committee members.
- E. Directors shall be responsible for reviewing printed documents issued by the Division/Office to ensure the required phrases and/or statements of Title VI, Title VII and the ADA are included prior to printing when required or appropriate.**
1. Persons or entities who receive assistance from the Commission and open their land for public hunting or fishing for a fee or sponsor closed hunter safety courses or related courses on their premises, shall be required to sign a formal agreement (contract or Memorandum of Agreement (MOA) or Memorandum of Understanding (MOU) or other) which includes a non-discrimination clause which shall state: *"No person, on the grounds of race, creed, color, national origin, age, sex or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this contract/agreement."*

6.29.3 Posting

The Equal Employment Opportunity Commission (EEOC) and Florida Commission on Human Relations (FCHR) posters shall be prominently displayed in offices where business with the public is conducted reflecting the basic requirements of Title VI, VII, of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. The Office of Human Resources is responsible for distribution of the posters to agency designated office managers.

FWC is a major recipient of funds from the federal government and therefore agency publications must advise the public of their civil rights with respect to programs and services and provide contact information for the funding agency

for those who wish to file a civil rights complaint. The funding agency also requires recipients to display posters containing the required civil right notification. Divisions/Offices shall comply with Public Notifications of Civil Rights Complaints requirements and processing of civil rights complaints regarding any federally assisted program, activity or facility of this agency.

The following information shall be posted at agency facilities constructed with U.S. Fish and Wildlife Service funding and posted on the agency's public website. *"This agency does not allow discrimination on the basis of race, color, sex, religion, national origin, age or disability. If you believe you have been discriminated against in any program, activity or facility of this agency, write to: Florida Fish and Wildlife Conservation Commission, Office of Human Resources, 620 S Meridian Street, Tallahassee, FL 32399-1600 Phone: 850-488-6411 or to: Civil Rights Coordinator for Public Access, U.S. Fish and Wildlife Service, Wildlife and Sport Fish Restoration Program, 4401 N. Fairfax Drive Mail Stop: WSFR-4020, Arlington, VA 22203 Phone: 703-358-2558"*.

6.29.4 Information in Other Languages

- A.** In areas where a significant number or proportion of the population speak a language other than English and are eligible to be served or are likely to be directly affected by Commission programs, consideration shall be given to having relevant material printed and distributed in the language ordinarily spoken. When this is not feasible, printed information should be displayed in the appropriate language indicating assistance will be granted if English printed material is not readily understood.
- B.** Persons with disabilities who require materials in alternate formats must request the material through the agency EEO/AA/ADA Coordinator at least ten working days prior to the date the information is needed.

6.29.5 Workforce Analysis

The Director of Human Resources shall review the agency workforce annually and report on minority representation.

- A.** This workforce analysis will be included in the annual Affirmative Action Plan prepared by the Office of Human Resources and submitted to the Assistant Executive Director by the first day of October. The analysis shall include a review of employment practices to determine if inappropriate barriers exist. The plan shall also include an analysis of the progress made and effectiveness of actions taken.
- B.** Supervisors shall seek qualified minorities and women applicants for under-represented positions in the FWC's workforce when interviewing for vacant positions.

6.29.6 Recruitment

- A.** The Office of Human Resources shall assist in recruiting under-represented minorities by obtaining sources of potential applicants for consideration. The job opportunity (FWCJobAnnounce) GovDelivery listserv list contains many minority groups; minority groups not listed are encouraged to contact the Office of Human Resources so their group may be considered for placement on the list.
- B.** Recruiting activities shall be recorded and collected through the State of Florida, People First job requisition/talent management system.
 - 1.** Positions not advertised through People First system shall have an Applicant Information Form completed by the appropriate supervisor or his/her designee and forwarded to the Office of Human Resources for all full time equivalent (FTE) positions.
 - 2.** In accordance with Chapter 119, Florida Statutes, all applications received for the position, interview notes, tests, letters, notes, applications and other material related to the interview process shall be retained for a minimum of two calendar years after the year in which the position was filled and may not be destroyed until approved by the agency's Records Management section.
- C.** Persons requiring an ADA accommodation to participate in the application/selection process must notify the agency hiring authority and/or the People First Service Center (1-877-562-7287). Notification to the hiring authority must be made in advance to allow sufficient time to provide the accommodation.

6.29.7 Impact Actions

- A.** Commission employees who willfully discriminate in employment practices and/or program activities shall be disciplined in accordance with the provisions of IMPP 6.1.
- B.** Retaliatory actions shall not be taken against an individual who in good faith has opposed an alleged unlawful discriminatory practice or who has filed charges, testified, assisted or participated in an investigation, proceeding or hearing concerning a discrimination complaint. If retaliatory action occurs, the perpetrator shall be subject to disciplinary action as outlined in IMPP 6.1. An individual against whom retaliatory actions allegedly have been taken may file a complaint internally with the OIG or externally with the FCHR or appropriate federal agency.
- C.** Supervisors shall complete on-line mandatory training in recruitment, selection, EEOC/ ADA, sexual harassment and through annual refresher training to prevent discriminatory practices.

6.29.8 Work Requirements

- A.** Employees whose ethnic or religious beliefs conflict with work activities must obtain written approval from their immediate supervisor prior to deviation from a work schedule or assignment as follows:
 - 1.** Request for occasional deviations to a work schedule based on beliefs shall not be unreasonably withheld by the supervisor unless it can be demonstrated that accommodation would result in undue hardship in the operation of program activities.
 - 2.** Request for a permanent deviation in work schedule shall be in writing setting forth the reason for the request and suggested alternative for work coverage. This request must be submitted at least seven calendar days prior to the date requested, when possible.
- B.** Requests for deviation in work schedules with variable hours, or shifts, and law enforcement activities, will normally only be approved for one specific calendar date. Recurring deviations will require specific approval by date.

6.29.9 Americans with Disabilities Act (ADA)

- A.** A qualified individual with a disability is an individual who has a physical or mental impairment that substantially limits one or more of the major life activities, has a record of such impairment or is regarded as having such an impairment.
- B.** Persons with disabilities shall be provided reasonable accommodation to perform the essential functions of their position, participate in the benefits and privileges of employment, to participate in agency programs and to access agency facilities utilized by the public.
- C.** For employment accommodations, the agency will provide accommodations in the three categories outlined by the Equal Employment Opportunity Commission which are:
 - 1.** Modifications or adjustments to the job application process that will enable a qualified applicant with a disability to participate in the recruiting process.
 - 2.** Modifications or adjustments to the work environment or to the manner or circumstance under which the position held or desired is customarily performed.
 - 3.** Modifications or adjustments that enable an employee to enjoy equal benefits and privileges of employment.
- D.** An accommodation is required if it does not result in a fundamental alteration in the nature of the program or activity, impose an undue hardship by causing significant difficulty or expense when considering the agency's size, financial resources and nature and structure of its operation, does not constitute a violation of state or federal law and does not jeopardize the agency's ability to perform the major function of its mission and operations. The agency is not required to lower work standards or provide personal items as required accommodations.

- E. Persons seeking an accommodation under the ADA shall complete an ADA Accommodation Request Form. Requests for an accommodation to participate in FWC programs or activities should first be directed to the Division or Office (D/O) responsible for the program or activity. A person other than the individual with a disability may request a reasonable accommodation on behalf of the individual. The Director of Human Resources or FWC staff with delegated authority from the Human Resources Director shall review the D/O's decision to grant a program or activity accommodation prior to issuing the accommodation. Accommodations not reasonably satisfied at the D/O level, unable to be issued at the D/O level or in which the complainant is dissatisfied with the response and chooses to appeal, shall be forwarded to the EEO/AA/ADA Committee for further review. The Committee will make recommendations to the Executive Director of an appropriate response or resolution. The Executive Director's decision shall be final. The agency shall make every effort to respond at each step within 45 days of receipt of the request.

6.29.10 Patient Protection and Affordable Care Act of 2010 and Title VII of the Civil Rights Act of 1964 - Nursing Mothers.

- A. In accordance with Section 7 of the Fair Labor Standards Act (FLSA), for a period of up to one year following a child's birth, employers shall provide:
1. A reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk; and
 2. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.
 3. An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.
- B. Many employees in the State Personnel System are entitled to two 15-minute breaks with pay per full workday (as stipulated in certain collective bargaining agreements) and such breaks must be compensable in accordance with FLSA provisions (that recognize and govern rest periods of less than 20 minutes); employees may use these already established breaks to express milk. However, to the extent that such breaks are not sufficient to meet the employees' needs additional measures may be necessary, such as allowing employees to extend their breaks in increments of 15 minutes (unpaid or covered by personal leave).
- C. Sick leave use is authorized for this purpose, as lactation is considered a pregnancy-related medical condition under Title VII. Annual Leave, Regular Compensatory Leave, Special Compensatory Leave or Leave without Pay may also be used to cover the time needed by the employee to express breast milk.

6.29.11 Discrimination Complaint Procedures

- A. All complaints should be in writing and signed by the complainant. Complainants who complain verbally will be encouraged to submit the complaint in writing. Accommodations for written complaints shall be provided upon request. A Discrimination Complaint form may be obtained online from the agency website or from any FWC office location.
- B. Any Commission employee receiving a complaint orally or in written form shall notify the Director of Human Resources who shall ensure the appropriate procedures are followed.
 - 1. **Internal agency discrimination complaints-** Any person who believes he or she has been subjected to discrimination in employment or promotion may submit a complaint in writing and signed within 365 calendar days of the alleged infraction to either the FWC EEO/AA/ADA Coordinator, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or the Florida Commission on Human Relations (FCHR), or to any federal agency with jurisdiction to investigate such a complaint. The agency shall make every effort to respond within 45 days of receipt of the complaint. Complaints which involve serious misconduct by an employee which may result in suspension or dismissal, sexual harassment complaints, when the complaints are related to sexual harassment, or brought pursuant to the Whistle-blowers Act or Ombudsman process, shall be referred to the Office of Inspector General for investigation.
 - 2. **External discrimination complaints-** Any complaints from non-employees involving allegations of discrimination based on race, age, color, sex, religion, national origin, political affiliations, marital status, pregnancy, protected veteran, or FWC program activity or facility will be investigated by the FWC EEO/AA/ADA Coordinator or his/her designee. The agency shall make every effort to respond at each step within 45 days of receipt of receipt of the complaint. Complaints which involve serious misconduct by an employee, which may result in suspension or dismissal, sexual harassment complaints or complaints brought pursuant to the Whistleblower Protection Act of 1989, shall be referred to the Office of Inspector General for investigation.

- 3. Internal agency and external disability discrimination complaints-** Any internal or external complaint alleging discrimination based on a disability shall be forwarded to the FWC EEO/AA/ADA Coordinator for appropriate action and response. If the complaint cannot be resolved within a reasonable amount of time by the FWC EEO/AA/ADA Coordinator or his/her designee or if the complainant is dissatisfied with the response and chooses to appeal with the agency, the complaint will be submitted to the EEO/AA/ADA Committee (Committee) for review. The Committee will make recommendations to the Executive Director as to an appropriate response or resolution. The Executive Director's decision shall be final. The agency shall make every effort to respond at each step within 45 days of receipt of the complaint. Any person who believes they have been discriminated against based on a disability and wishes to file a complaint outside of the agency, may contact the Disability Rights Section, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Civil Rights Division, Disability Rights Section - NYA , Washington, D.C. 20530 Phone: (202) 307-0663.
 - 4. Program, Activity or Facility discrimination complaints-** Any person who believes he or she has been subjected to discrimination in, or denied access to a program, activity or facility, may submit a complaint in writing and signed within 365 calendar days of the alleged infraction to either the FWC, Office of Human Resources, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or Office of Diversity, Inclusion & Civil Rights, Department of the Interior, 1849 C Street, NW, Washington, D.C. 20240.
 - 5. Veterans' discrimination complaints-** Any person who believes they have been discriminated against as a protected veteran and wishes to file a complaint outside of the agency, may contact the Department of Veterans' Affairs, Division of Benefits and Assistance, P.O. Box 31003, St. Petersburg, FL 33731 Phone: 727-319-7462.
- C.** An employee who knowingly files a false complaint or grievance against another employee is subject to disciplinary action as outlined in IMPP 6.1.14.

- D. If the complainant elects to file an internal agency complaint and corresponding complaints with the FCHR or other state or federal agency with jurisdiction (as referred to in 6.29.11 (B)), the Commission may refer all investigation, hearing and resolution requirements to the outside agency.

History: Est: 5/22/2001; Revised 04/10/2015

Approved:

Eric Sutton

Executive Director or Designee

April 10, 2015

Date