DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

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EQUAL EMPLOYMENT OPPORTUNITY

PART 1: TITLE 4 DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS

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100 SCOPE

100.1 The provisions of this chapter shall apply to all District government agencies subject to the Act.

101 COVERAGE

101.1 The provisions of this chapter shall govern the processing of any matter involving discrimination on grounds of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information, family responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment.

101.2 The procedures set forth in this chapter shall apply to matters presently pending or hereinafter filed with a District of Columbia agency.

101.3 Nothing in this chapter shall be construed to supersede any federal or District law nor to invalidate any proceedings commenced under the authority of any prior regulations.

101.4 Sexual harassment shall be deemed to be a form of sex discrimination which is prohibited under District laws and regulations, including this chapter.

101.5 Employees of the District of Columbia shall have certain rights to file complaints with the United States Equal Employment Opportunity Commission pursuant to § 706 of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5, and to pursue remedies provided for in the Age Discrimination in Employment Act as amended, 29 U.S.C. § § 626,633.

102 POLICY

102.1 It shall be the policy of the Government of the District of Columbia in connection with any aspect of District government employment to do the following:

(a) To prohibit sexual harassment;

(b) To prohibit retaliation for filing Equal Employment Opportunity (EEO) complaints;

(c) To provide equal employment opportunity for all persons; and

(d) To prohibit discrimination in employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information , family responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment..

102.2 Sufficient resources shall be provided to administer the District's Equal Employment Opportunity program in a positive and effective manner.

102.3 A continuing program shall be conducted to eradicate every form of prejudice or discrimination based upon race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information, family responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment.

102.4 The head of each District government department and agency shall be required to take affirmative action within that department or agency to assure equal opportunity in every aspect of employment.

103 RESPONSIBILITIES OF THE DIRECTOR, EEO

103.1 In addition to other duties for purposes of this chapter, the Director, EEO shall advise the Mayor with respect to the preparation of plans, procedures, regulations, reports and other matters pertaining to the provisions of this chapter.

103.2 The Director, EEO shall prepare all reports in connection with the equal employment opportunity program as may be required by the Mayor or the U.S. Equal Employment Opportunity Commission.

103.3 The Director, EEO shall recommend changes in policy practices and procedures designed to eliminate discriminatory practices and to improve the Mayor's program for equal employment opportunity.

103.4 The Director, EEO shall establish a system for periodically evaluating the effectiveness of the District government's overall equal employment opportunity program including the rules and when appropriate report to the Mayor with recommendations for any improvement or correction needed including remedial or disciplinary action with respect to managerial or supervisory employees who have failed to carry out the provisions of the chapter.

103.5 The Director, EEO shall prepare the model for affirmative action programs.

103.6 The Director, EEO shall consult with agency heads regarding the suitability of persons appointed or designated pending appointment or designation as departmental EEO Officers, EEO Counselors, Women's Program's Manager, and Hispanic Program Coordinators.

103.7 The Director, EEO shall issue guidelines and procedures for counseling by an EEO Counselor of any aggrieved employee or applicant for employment who contends that he or she has been discriminated because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information , family responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment.

103.8 The Director, EEO shall receive and investigate complaints of alleged discrimination in personnel matters from employees who contend that they have been discrimination against because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information, family responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment..

103.9 The Director, EEO shall publicize to all District government employees the name and address of the Director, EEO, the District Government" s Women's Program manager, and the Hispanic Program Coordinator

103.10 The Director, EEO shall submit to the Director of Personnel for prior review all recommendation of in depth investigation or statistical reports when the recommendation or reports relate to or would effect in any manner programs involving the employment employee relations or other personnel action of the District government.

103.11 The Director, EEO shall designate when necessary in the interest of fairness and justice, EEO Counselors to handle EEO problems on an informal basis. An At-Large EEO Counselor need not be an employee of the Department for which counseling service is provided.

103.12 The Director, EEO shall designate a Women's Program Manager for the District government with responsibilities for advising the Director, EEO on matters affecting

the employment and advancement of women.

103.13 The Director, EEO shall designate a Hispanic Program Coordinator for the District government who shall advise the Director, EEO on the special concerns of persons of Hispanic origin to ensure that specific actions are taken to provide equal opportunity for people of Hispanic origin.

104 RESPONSIBILITIES OF AGENCY HEADS

104.1 Each District agency heads shall do the following:

(a) Be personally responsible and accountable for the execution of the EEO program within his or her agency;

(b) Establish procedures whereby each complaint is reviewed promptly and processed promptly at every subsequent stage and cause agency records to reflect each date of review and the action taken;

(c) Appoint or designate one (1) or more EEO Officers, EEO Counselors, Women's Program Manager and Hispanic Program Coordinators;

(d) Upon request of the Director of EEO, consult with him or her regarding the suitability of persons appointed or designated EEO Officers, EEO Counselors, Women's Program Manager *and* Hispanic Program' Coordinators and shall upon request, review appointments or designations and advise the Director, EEO of the determination. Consultation between department heads and the Director of EEO prior to appointment or designation of EEO Counselors, EEO Officers, Women's Program Coordinators and Hispanic Program Coordinators is encouraged.

(e) Publicize to agency employees by posting on agency bulletin boards, the following:

1. The name, office, address and telephone number of each agency EEO Counselor and the organizational units served;
2. Inform employees that they may contact an EEO Counselor outside their organizational unit if desired and the time limit for contacting an EEO Counselor;
3. The availability of the EEO Counselor to counsel an employee or qualified. applicant for employment who believes he or she has been discriminated against because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information , family

responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment.; and

4. Inform employees and applicants of the requirement that an employee or qualified applicant shall consult the EEO Counselor within one hundred eighty (180) calendar days after the alleged unlawful employment practice occurred or within one hundred-eighty (180) calendar days of the discovery of the occurrence giving him or her cause to believe that he or she has been discriminated against whichever is earlier within thirty (30) calendar days.

104.2 Each District Government Agency head shall also publicize to all agency employees and post permanently on official bulletin boards the name, address and telephone number of the Director, EEO, each agency EEO Officer, the agency EEO Counselors. Women's Program Manager and the District government, and agency Hispanic Program Coordinators.

104.3 Each District Government Agency head shall ensure that equal opportunity for women is an integral part of the agency's overall program by assigning to the Women's Program Manager the function of advising in matters affecting the employment and advancement of women.

104.4 Each District Government Agency head shall ensure that equal opportunity for persons of Hispanic origin is an integral part of the agency's overall program by assigning to the Hispanic Program Coordinator the function of advising on matters affecting the employment and advancement of those of Hispanic origin.

104.5 Each District Government Agency head shall make reasonable accommodation or the religious needs of applicants and employees including the needs of those who observe Sabbath on a day other than Sunday, when that accommodation can be made without undue disruption to the business of the agency.

105 PRE-COMPLAINT PROCESSING

105.1 An employee who believes that he or she has been discriminated against because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, genetic information , family responsibilities, matriculation, disability, or political affiliation in connection with any aspect of District Government employment shall consult an EEO Counselor within one hundred eighty (180) calendar days of the occurrence of the alleged unlawful discriminatory practice or within one hundred-eighty (180) calendar days of his or her discovery of the occurrence, except that a complaint of sexual harassment may be filed directly with the office.

105.2 The EEO Counselor shall then do the following:

(a) Make an inquiry and review the matter;

(b) Seek a solution of the matter on an informal basis;

(c) Counsel the complainant or his or her representative concerning the issues of the matter;

(d) Keep a record of counseling activities so as to brief, periodically the agency EEO Officer on those activities;

(e) When advised by the Director, EEO that the complaint of discrimination has been accepted and is under investigation, submit a written report to the agency EEO Officer, with a copy to the complainant, his or her representative, and the Director, EEO summarizing his or her actions and advice to solve the matter within the department including, but not limited to the following:

1. A thorough review of the circumstances under which the alleged discrimination occurred;
2. The treatment of members of the complainant's group, if any, identified by the complaint as compared with-the treatment of other employees in the organization unit in which the alleged discrimination occurred;
3. The examination of pertinent records; and
4. The review of any policies and practices related to the work situation which may constitute or appear to constitute discrimination even though they have not been expressly cited by the complainant.

105.3 The EEO Counselor shall, insofar as is practicable, conduct the final interview with the complainant not later that twenty-one (21) calendar days after the date on which the matter was called to his or her attention by the complainant.

105.4 The EEO Counselor shall advise the complainant in writing in the final interview of the complainant's right to file a formal complaint with the Director, EEO, within fifteen (15) calendar days of the final interview if the matter has not been resolved to complainant's satisfaction.

105.5 A formal complaint to the Director, EEO shall be filed by the complainant within fifteen (15) calendar days after the final interview has been conducted by the EEO Counselor.

105.6 Complaints filed after the fifteen (15) calendar day period specified in section 105.4 shall be deemed untimely and dismissed by the Director, EEO.

105.7 In any event, and regardless of whether or not the EEO Counselor completes his or her review and action within the time limits, a complainant shall be free to file a complaint with the Director, EEO at the expiration of the twenty-one (21) day review period set forth in §105.3.

105.8 If a final interview is not conducted by the EEO Counselor, the complainant may file a formal complaint to the Director, EEO within sixty (60) calendar days after the date on which the matter was called to the attention of the EEO Counselor, pursuant to §105.1.

105.9 Complaints filed beyond the sixty (60) calendar day period specified in §105.8 shall be deemed untimely and dismissed by the Director, EEO.

105.10 The EEO Counselor shall not reveal the identity of a complainant who has come to the Counselor for consultation, except when authorized to do so by the complainant in writing, until a complaint of discrimination has been filed with the Director, EEO.

105.11 The EEO Counselor shall be free from restraint, interference, coercion, discrimination, or reprisal and shall be given the assistance and cooperation of the department or agency in connection with the performance of his or her duties under this chapter.

105.12 At any stage in the proceeding under this chapter the complainant shall be free from restraint, interference, coercion, discrimination, or reprisal, and shall have the right to be accompanied, represented, and advised by a representative of his or her own choosing.

105.13 If the complainant is an employee of the District government, he or she shall have a reasonable amount of official time for preparation and presentation of his complaint.

105.14 If the complainant designates an employee of the District government as his or her representative, the representative shall be free from restraint, interference, coercion, discrimination, or reprisal, and shall have a reasonable amount of official time to prepare and present the matter.

105.15 Whenever a matter is submitted to the EEO Counselor under the provisions of this chapter with respect to a pending appointment, promotion, transfer, reduction-in force, termination, disciplinary action, or other adverse action, the agency head shall hold the action in abeyance until this matter is resolved by the EEO Counselor, EEO Office, or EEO Officer, or until the complainant has exercised his or her opportunity to file a formal complaint with the Director, EEO.

105.16 The requirements of § 105.15 shall be suspended by the Director, EEO, pending a resolution of the matter, if it is shown that immediate and irrevocable harm to the agency will result or there will be a substantial interference with the efficient operation of the agency.

105.17 The requirements of § 105.15 may be waived by agreement between the agency head and the Director, EEO if sufficient and appropriate opportunities will be available to provide relief to the complainant if the assertion of discrimination is upheld, or where the agency head effects the action on a temporary basis and subject to reversal if the complainant's assertion of discrimination is upheld.

106 FILING AND PRESENTATION OF COMPLAINTS

106.1 A verified and written complaint of discrimination shall be submitted by the complainant to the Director, EEO within fifteen (15) calendar days of the date of the complainant's final interview with the EEO Counselor.

106.2 The time limit for filing may be extended by the Director, EEO upon a showing by the complainant that good cause prevented the complainant from submitting the complaint within the prescribed time limit.

106.3 Upon filing of a complaint the Director, EEO shall provide a copy to the agency in which the complainant is employed.

106.4 At any stage in the presentation of a complaint, including the pre-complaint counseling stage, the complainant shall have the right to be represented, accompanied, and advised by a representative of his or her choosing.

106.5 The Director, EEO may dismiss or reject a complaint of discrimination for the following reasons:
(a) It is not timely filed;
(b) It is not within the scope of this chapter; or
(c) The complainant fails to prosecute the complaint.

106.6 In the event of such rejection or dismissal, the Director, EEO shall transmit the decision by letter to complainant or his or her representative, which shall inform the complainant or his or her representative of complainant's right to request

reconsideration or the reopening of the case by the Director, EEO pursuant to §114.4. A copy of the decision shall also be transmitted to the respondent agency.

106.7 In order to resolve each complaint expeditiously, the complainant and the District government shall proceed with the complaint without undue delay so that the complaint is resolved, insofar as practicable, within one hundred-eighty (180) calendar days after receipt by the Director, EEO, including the time spent processing the complaint by the Hearing Examiner

106.8 Repealed.

106.9 The complainant shall be responsible for prosecuting the complaint without undue delay so as to permit resolution of the complaint within the prescribed time limits.

106.10 The complainant shall provide reasonable assistance and all pertinent information to the Office of Human Rights (OHR) staff in processing the complaint.

106.11 The Director, EEO may dismiss a complaint if the complainant fails to process without necessary delay or may adjudicate the complaint on the basis of the existing record if sufficient information for that purpose is available.

106.12 Officers and employees of District government agencies and departments in which a complaint arises under this chapter shall not cause hardship, delay, or interference with the efforts of the EEO counselor, the complainant or the complainant's representative, staff members of the OHR, or the Hearing Examiner, in their efforts and activities to process the complaint to a resolution.

106.13 All District agencies and departments shall make every effort to make available as witnesses at hearings those employees whose testimony is determined to be necessary by the Hearing Examiner.

106.14 A complaint may be amended by the complainant at any time prior to the issuance of a summary determination pursuant to §109, or a decision following a hearing pursuant to § 114

106.15 An amendment shall be in writing and verified, and shall be submitted by the complainant or the complainant's representative to the Director, EEO.

106.16 When an amendment is field, the Director, EEO shall serve a copy of the amendment upon the respondent within five (5) work days of the amendment.

106.17 The respondent shall within five (5) work days after service of the amendment,

file an answer to the amendment.

107 INVESTIGATION

107.1 Each complaint shall be promptly investigated by the Office of Human Rights.

107.2 The investigator assigned to a case is authorized to administer oaths and require that the statement of a witness shall be under oath or affirmation without a pledge of confidence.

107.3 A witness shall not be subjected to any form of restraint, interference, coercion, discrimination, or reprisal because of consultation with or information provided to the Office of Human Rights staff

107.4 The Director, EEO shall arrange, upon written request, to furnish the complainant, the complainant's representative, the appropriate agency EEO Officer or the agency head a copy of the investigative file upon completion of the investigation. The cost of reproduction shall be borne by the department or agency in which the complaint arose.

107.5 The investigator, upon completion of the investigation, shall submit in writing to the Director, EEO a statement of proposed findings of fact, conclusions and recommendations.

107.6 The activities of the Director, EEO under this chapter shall be considered investigations or examinations of municipal matters within the meaning of the Act of July 1, 1902, D.C. Code §5-1021(2001)) and § 3 of D.C. Law 3-109, D.C. Official Code §1-1-301.21(2001), and the Director, EEO and hearing officers shall possess the powers vested in the Mayor by those statutes.

108 ADJUSTMENTS OF COMPLAINTS

108.1 At any time during the course of the investigation of a complaint under § 107, the Director, EEO may review the investigative file and may propose terms for adjustment of the complaint to the head of the agency in which complaint arose.

108.2 Every effort shall be made to adjust a complaint informally. For example, a complaint may be settled through voluntary action of an agency head to correct the situation out of which the complaint arose, and the withdrawal of the complaint by the complainant.

108.3 If an adjustment of the complaint is achieved, the terms of the adjustment shall be reduced to writing and made part of the complaint file. A copy of the terms of adjustment shall be given to the agency EEO Officer and the complainant or the complainant's representative, and the complaint file shall be closed.

108.4 Where a complaint has not been settled, dismissed or is the subject of a summary determination, the Director, EEO may, after investigative efforts, determine whether reasonable cause exists to believe that a violation has occurred. A determination as to reasonable cause shall be based on, and limited to, evidence obtained by the Office and does not reflect any judgment on the merits of allegations not addressed in the determination.

108.5 A letter incorporating the determination of reasonable cause and the basis for the finding shall be served on the complainant or a representative and the respondent agency, along with a notice inviting the parties to conciliate.

108.6 The respondent agency shall, within (15) calendar days or receipt of the letter of determination, notify the Director, EEO in writing, of its decision to enter into conciliation.

108.7 If the respondent agency accepts the invitation to conciliate, the Director, EEO shall set a date for a post determination conciliation conference to be held within twenty (20) calendar days of the receipt of the agency's acceptance.

108.8 If the parties cannot agree to a settlement, or if the agency fails to respond within the fifteen (15) days prescribed in § 108.6, or declines the invitation to conciliate, the Director, EEO shall notify the complainant in writing of the opportunity for a hearing, of the right of the complainant to a summary determination as provided in § 109.

108.9 The Complainant shall have fifteen (15) calendar days from the receipt of the notice prescribed in § 108.8 to notify the Director, EEO in writing of the complainant's request for a hearing or a summary determination.

109 SUMMARY ACTION ON COMPLAINTS

109.1 If no adjustment is agreed upon during the course of an investigation, or following conciliation efforts, the Director, EEO may make a summary determination on the merits of a complaint based solely upon information in the complaint file.

109.2 In making a summary determination, the Director, EEO may issue an order to the department head requiring appropriate remedial action including, but not limited to hiring, reinstatement, promotion, recession of adverse action, or award of compensatory credits which are authorized by existing personnel regulations

and statutes.

109.3 The Director, EEO may issue an order dismissing the complaint for lack of reasonable cause to credit the allegations.

109.4 Any order issued-by the Director, EEO shall be in writing and shall advise the complainant and the agency head of their right to request reconsideration or the reopening of the case by the Director, EEO pursuant to § 114.

109.5 Within fifteen (15) days after issuance of any order by the Director, EEO, either party may request reconsideration or the reopening of the case, pursuant to § 11.4.4.

109.6 Repealed.

109.7 If the Director, EEO determines that a matter is not appropriate for summary determination, the complainant shall be advised of the right to a formal hearing, before an independent hearing examiner with a subsequent decision by the Director, EEO based upon the Hearing Examiner's report and recommendations.

109.8 The complainant shall have fifteen (15) calendar days from receipt of the notice to notify the Director, EEO whether or not he or she wishes to have a hearing.

109.9 If the complainant fails to request a formal hearing within fifteen (15) calendar days in accordance with § 109.8, the Director, EEO may make a determination on the merits of the complaint based solely upon information in the complaint file, and may dismiss the complaint or order remedial action.

110 CONDUCT OF HEARINGS BY HEARING EXAMINERS

110.1 The Director, EEO shall notify all necessary parties in writing that a hearing will be held.

110.2 Hearings shall be held by a qualified Hearing Examiner who shall not be an employee of the department in which the complaint arose, and who shall not have investigated the complaint, or taken or reviewed an action giving rise to the complaint being heard.

110.3 The Director, EEO shall select a Hearing Examiner from among impartial employees of the District government qualified to conduct a hearing on a discrimination complaint.

110.4 In addition to any other power specified in this chapter, a Hearing Examiner

shall have the power to do the following:

(a) Hold pre-hearing conferences to narrow the issues of the complaint, provide notice and information of the hearing procedure, and to take other actions deemed necessary to expedite the hearing;

(b) Administer oaths and affirmations;

(c) Examine and cross-examine witnesses;

(d) Request the issuance of subpoenas authorized under this chapter;

(e) Rule upon offers of proof and receive evidence;

(f) Regulate the course and conduct of the hearing, including the following:

(1) Continuing the hearings to a later date or different place by announcement at the hearings or other appropriate notice;

(2) Taking official notice of any material fact;

(3) Ruling upon the admissibility of evidence and testimony;

(4) Determining whether the hearing will be open to the public; and

(5) Taking appropriate measures to assure that there shall be no interference with the orderly conduct of the hearing; and

(g) Prepare and deliver to the Director, EEO a Hearing Examiner's report which shall include a brief and concise statement of the history of the subject matter of the hearing, findings of fact, conclusions of law, analysis, and a recommendation or proposed order.

110.5 The Director, EEO shall transmit the complaint file to the Hearing Examiner.

110.6 The Hearing Examiner shall review the complaint file to determine whether further investigation is needed before scheduling the hearing.

110.7 If the Hearing Examiner determines that further investigation is needed, the Hearing Officer shall either return the complaint file to the Director, EEO for further investigation or arrange with Director, EEO for the appearance of witnesses

necessary to supply the needed information at the hearing.

110.8 The Hearing Examiner shall schedule the hearing for a convenient time and place.

110.9 The Director, EEO shall provide the Hearing Examiner adequate space, appurtenances and services necessary for the hearing.

111 HEARING PROCEDURES

111.1 The Hearing Examiner shall conduct the hearing so as to bring out pertinent facts, including the production of pertinent documents.

111.2 The Hearing Examiner shall permit wide latitude in the introduction of evidence, but shall exclude irrelevant and unduly repetitious evidence.

111.3 The Hearing Examiner shall receive only evidence, testimony or information which may have a bearing upon the complaint or upon any other employment policy or practice related to the complaint.

111.4 The Director, EEO may designate an employee of the Office of Human Rights who shall aid in a complete, fair and impartial hearing, and have the full opportunity to participate in the presentation of the case, as warranted by the issues of the matter.

111.5 District government employees shall be required to serve as witnesses at hearings held under the provisions of this chapter. Absence from regular duty to serve as a pay witness shall be without charge to leave or loss in pay.

111.6 Witnesses may be requested by the complainant or the complainant's representative, subject to the approval of the Hearing Examiner of the reasons given by either party as to the need for the witnesses.

111.7 The Hearing Examiner shall request the Director, EEO to make available as a witness at the hearing any District employee whose appearance the appeals examiner deems necessary.

111.8 The Hearing Examiner shall request the Director, EEO to make available any other person whose appearance the Hearing Examiner deems necessary.

111.9 The denial of a request for the appearance of a person as a witness by the Hearing Examiner shall include the reasons for denial and shall be entered into the record of the hearing.

111.10 Request for witnesses may be submitted to the Director, EEO in writing by either

party not later than three (3) working days in, advance of the scheduled hearing date.

111.11 Each agency head shall make employees available to serve as witnesses whenever it is administratively possible and practicable to do so.

111.12 Reasons for denial by an agency head of a request for the service of an employee as a witness shall be sent in writing to the Director, EEO with a copy to the Hearing Examiner for inclusion in the complaint record and the hearing record.

111.13 If the explanation is inadequate, the Hearing Examiner shall advise the Director, EEO and request the Director, EEO to order the employee made available as a witness at the hearing.

111.14 An agency head shall be required to make the employee available when directed by notice from the Director, EEO.

111.15 If the explanation is adequate, the Hearing Examiner shall insert it in the record of the hearing, provide a copy to the complainant and the agency, and make arrangements to secure testimony from the employee through written interrogatories.

111.16 Witnesses shall not be subjected to restraint, interference, coercion, discrimination, intimidation, or reprisal in presenting testimony or because having given testimony.

112 RECORDS AND TRANSCRIPTS OF HEARINGS

112.1 Each hearing shall be recorded and transcribed verbatim.

112.2 The record shall consist of the complaint file, exhibits, transcripts and all other documents submitted to and accepted by the Hearing Examiner related to the subject matter of the hearing and made a part of the record.

112.3 The Director, EEO shall be responsible for the reproduction of records, at the expense of the respondent agency.

112.4 A copy of the verbatim transcript shall be furnished to the complainant or the complainant's representative, the Hearing Examiner, the department concerned, and the Director, EEO including a copy of each document made a part of the record by the Hearing Examiner.

113 FINDINGS AND RECOMMENDATION OF THE HEARING EXAMINER

113.1 Within thirty (30) days time after receipt of the transcript or post hearing submissions, whichever is later, the Hearing Examiner shall transmit to the Director, EEO the following:

(a) The complaint file;

(b) The record of the hearing;

(c) A report including a brief and concise statement of the history of the subject matter of the complaint;

(d) Findings of fact;

(e) Conclusions of law, and

(f) Analysis, and recommendations, or proposed order.

113.2 A copy of the Hearing Examiner's report shall be transmitted to the complainant or the complainant's representative and to the agency representative, including a notice of the date on which the report was transmitted to the Director, EEO.

113.3 Any party who is aggrieved by the adoption of the Hearing Examiner's report and proposed recommendation or order, may, within twenty (20) days after receipt of the report, submit to the Director, EEO a proposed substitute order or findings along with arguments in support of the proposed substitute.

114 FINAL DECISION OF THE DIRECTOR, EEO

114.1 Following receipt of the Hearing Examiner's recommendations or proposed decision or order, and any argument or proposed substitute order or findings submitted by a party, the Director, EEO shall do one of the following:

(a) Render a final decision which may adopt, reject, or modify the decision of the Hearing Examiner; or

(b) Remand the matter for further hearings.

114.2 If the Director, EEO rejects or modifies the recommended decision of the Hearing Examiner, the final decision of the Director shall set forth in detail the specific reasons for rejection or modification.

114.3 The final decision of the Director, EEO shall be served on the complainant or the complainant's representative and the agency representative.

114.4 Either party may file a written request with the Director, EEO for reconsideration or the reopening of a case within fifteen (15) days from the date of issuance of the final decision.

114.5 A request for reopening will only be considered if the requesting party demonstrates that there is newly discovered evidence that is competent, relevant, and material and was not reasonably discoverable prior to issuance of the final decision by the Director, EEO and that such evidence, if credited, would alter the ultimate outcome in the case.

114.6 The final decision of the Director, EEO on a complaint for which there has been no hearing shall be transmitted by letter to the complainant or the complaint's representative and the agency representative stating the basis for the decision, including findings of fact, analysis, and conclusions of law.

114.7 The letter transmitting the final decision of the Director, EEO shall advise the parties of their right to request reconsideration or the reopening of the case pursuant to § 114.4 or to seek judicial review of the decision by a court of competent jurisdiction.

114.8 If either party requests reconsideration or the reopening of the case pursuant to § 114.4, and the Director, EEO determines that the case should be reconsidered or reopened, the Director, EEO shall inform the parties that the case is being reconsidered or reopened and that the final decision previously issued by the Director, EEO is vacated.

114.9 If neither party requests reconsideration or the reopening of the case pursuant to §114.4, the final decision of the Director, EEO shall become the final administrative action of the District government fifteen (15) calendar days after issuance of the decision, and the parties shall be deemed to have exhausted all administrative remedies.

114.10 If the Director, EEO decides not to grant a request for reconsideration or to reopen a case, the Director, EEO shall so notify the parties in writing, and at the time the notification is issued, the decision previously issued shall become the final administrative action of the District government.

114.11 If no action is taken on a request for reconsideration or to reopen a case within one hundred twenty (120) days, the request shall be deemed disapproved and the decision previously issued shall become the final administrative action of the District government.

114.12 In the interests of justice, the Director, EEO may reopen or reconsider any case in which the Director, EEO has issued a decision at any time prior to the filing of an appeal by either party with a court of competent jurisdiction.

114.13 If the Director, EEO decides to reconsider or reopen a case pursuant to §114.12, the Director, EEO shall inform the parties that the case is being reconsidered or reopened and that the decision previously issued by the Director, EEO is vacated.

115 (Repealed)

116 THE COMPLAINT FILE

116.1 The Director, EEO shall establish and maintain a complaint file containing all documents pertinent to each complaint.

116.2 The complaint file shall not contain any document that has not been made available to the complainant. The complaint file shall include, as a minimum, copies of the following:

(a) The complaint.

(b) The written report of the EEO counselor to the agency EEO Officer on all pre-complaint counseling efforts made with regard to the complainant's case.

(c) The investigative file.

(d) A signed written statement of the complainant or the complainant's representative if the complaint is withdrawn by the complainant.

(e) The written record of adjustment if the complaint is adjusted informally under the provisions of this Chapter.

(f) A copy of the letter from the Director, EEO notifying the complainant of the proposed disposition of the complaint and of the right to a hearing or a decision by the Director, EEO without a hearing if no adjustment of the complaint is reached.

(g) A copy of the letter to the complainant transmitting the decision of the Director, EEO when the decision is made without a hearing under the provisions of this chapter;

(h) The record of the hearing including the hearing examiner's findings, analysis,

and recommended decision on the merits of the complaint if a hearing is held;

(i) A copy of the letter to the complainant transmitting the final decision of the Director, EEO made after a hearing; and

(j) Any other decisions, notices, or correspondence to or from any party.

117 COMPLAINTS OF SEXUAL HARASSMENT

117.1 Allegations of sexual harassment shall be fully investigated, and corrective or disciplinary action taken if warranted.

117.2 Complaining parties shall be required to swear or affirm that the facts stated in the complaint are true to the best of the person's belief, knowledge and information.

117.3 An investigation shall be conducted on those complaints which are filed by a person who, at the time of filing, is an employee of the District of Columbia, or a former employee, who left employment with the District government because of sexual harassment, if filed within one hundred-eighty (180) days of separation from the District government, and which are directed against a person who, at the time of filing, is a District employee.

117.4 The complaint file, including all information and documents pertinent to a complaint, shall be confidential.

117.5 Only complaints of sexual harassment that concern incidents which occurred within a period of one (1) year immediately prior to the date of the complaint is filed shall be considered.

117.6 The Office of Human Rights shall receive complaints and allegations involving sexual harassment directed against officers and employees of the District government.

117.7 Complaints shall be investigated and processed in accordance with the procedures and authorities set forth in this chapter.

117.8 If disciplinary action may be warranted, the pertinent complaint file or files of the Office of Human Rights shall be made available to the Director of the Office of Personnel.

117.9 Each agency head shall include measures within the Agency's Affirmative Action Plan to indicate the procedures and authorities that will be established in the

agency for providing work sites free of sexual harassment, for monitoring working conditions so that instances of sexual harassment will be detected soon after their occurrences, and to provide for resolution of complaints within each agency.

117.10 Agency Heads who have complaints of sexual harassment brought to their attention shall promptly investigate and attempt to resolve the complaints.

117.11 If a resolution cannot be reached within an agency within sixty (60) days, the agency head shall refer the complaint to the Office of Human Rights.

117.12 The brining of a complaint or allegation of sexual harassment to an agency shall not bar nor preclude the complainant from filing a complaint with the Office of Human Rights pursuant to this chapter.

118 FREEDOM FROM REPRISAL OR INTERFERENCE

118.1 Witnesses and those who serve in EEO capacities, such as EEO Officers, EEO Counselors, Women's Program Coordinators, Hispanic Program Coordinators, or those who are involved in any other way in the EEO Program, or in the EEO complaint process shall be free from restraint, interference, coercion, discrimination and reprisals at any stage in the presentation of a complaint at either the informal or formal phase or in the performance of their EEO-related duties.

118.2 A witness or a person who serves in an EEO capacity who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint under this section or in the performance of his or her EEO related duties, may, if an employee or applicant, have the allegation reviewed as an individual complaint of discrimination subject to applicable sections of this chapter.

118.3 In order to avoid any suggestion of restraint, interference, coercion, discrimination, or reprisal, no information of any kind relating to a complaint of discrimination or the fact than an employee has made an allegation of discrimination shall be placed in the employee's personnel records except personnel actions taken as a result of final order by the Director, EEO, which has been upheld on appeal, if taken.

119 REMEDIAL ACTION: APPLICANTS FOR EMPLOYMENT

119.1 When the Director, EEO finds, that an applicant for employment has been discriminated against and, except for that discrimination, would have been hired, the agency involved shall offer the applicant employment of the type and grade denied at the first opportunity that the employment becomes available.

119.2 The offer shall be made in writing.

119.3 The individual shall have fifteen (15) calendar days from receipt of this offer within which to accept or decline the offer.

119.4 Failure to notify the agency of a decision to accept employment within the fifteen (15) day period shall be considered a refusal of the offer, unless the individual can show that circumstances beyond his or her control prevented a timely response.

119.5 If the offer is accepted, the appointment shall be retroactive to the date the applicant would have been hired, and back pay may be awarded for the retroactive period, but not to exceed two (2) years prior to the date the complaint was filed, and subject to any appropriate deductions required by law or-regulation. During the period of retroactivity, the complainant shall be deemed to have performed services for all purposes except for meeting service requirements for completion of a probationary or trial period.

119.6 If the offer is declined, the respondent agency shall award the complainant back pay subject to the limitations of §119.5 and shall notify the complainant in its offer, of his or her right to this award in the event the offer is declined.

119.7 When the Director, EEO finds that discrimination existed at the time the applicant was considered for employment but does not find that the individual is the one who would have been hired except for discrimination, the department shall consider the individual for any existing vacancy of the type and grade for which he or she has been considered initially and for which he or she is qualified before consideration is given to other candidates.

119.8 If the individual is not selected, the agency shall record the reasons for non selection.

119.9 If no vacancy exists, the agency shall give the applicant priority consideration for the next vacancy for which he or she is qualified.

120 REMEDIAL. ACTIONS: EMPLOYEES

120.1 When the Director, EEO finds that an employee of an agency was discriminated <u>against</u> and as a result of that discrimination was denied an employment benefit, or was subjected to an adverse administrative decision, the agency shall take remedial actions which shall include one (1) or more of the following, but need not be limited to, these actions:

(a) Retroactive promotion, when the record clearly shows that but for the discrimination, the employee would have been promoted to a higher grade.

Provided, that the back pay liability may not accrue from a date more than two (2) years prior to the date the discrimination complaint was filed, or the actual date he or she would have been. promoted;

(b) If a finding of discrimination was not based on a complaint, the back pay liability may not accrue from a date earlier than two (2) years prior to the date the finding of discrimination was recorded, or the actual date he or she would have been promoted, whichever is the shorter period;

(c) Consideration for promotion to a position for which he or she is qualified before consideration is given to other candidates when the record shows that discrimination existed at the time selection for promotion was made, but it is clear that except for the discrimination the employee would have been promoted. If the individual is not selected, the agency shall record the reasons for non-selection.

(d) Cancellation of an unwarranted personnel action and restoration of withheld benefits that would have accrued to the employee;

(e) Expunction from the agency's records of any reference to or any record of an unwarranted disciplinary action that is not a personnel action; and

(f) Full opportunity to participate in the employee benefit denied the employee (e.g., training, preferential work assignments, overtime scheduling), or a reasonable substitute.

120.2 When a complaint of discrimination is submitted under the provisions of this chapter with respect to a pending appointment, promotion, transfer, reduction-in force, termination, disciplinary action or other adverse action, the agency head shall upon the request for the Director, EEO, hold the pending action in abeyance until the complaint is resolved, or until released by the Director, EEO, but in no case longer than thirty (30) calendar days after the complaint was filed with the Office of Human Rights.

120.3 Application of the provisions of §120.2 shall be waived whenever the Director, EEO and the agency head concerned agree that sufficient and appropriate opportunities will be available to provide relief to the complainant if his or her complaint is sustained or whenever the agency head effects the action on a temporary basis and the temporary action is made specifically subject to termination if the complainant's assertion of discrimination is upheld.

120.4 In cases where an appointment has proceeded to a point that a third party might be aggrieved if no basis is proved for the allegation of discrimination, a temporary appointment or promotion shall be effected.

120.5 When corrective action is ordered by the Director, EEO in connection with resolving a complaint, the Director, EEO shall transmit a copy of the corrective order to the head of the agency concerned, and the corrective action ordered shall be taken without delay by the agency head.

120.6 If the agency head fails to comply with the corrective order within the stated time frame, the Director, EEO shall certify the order of the Office of the City Administrator, who shall direct the agency head to comply with the order.

121 THIRD PARTY ALLEGATIONS OF DISCRIMINATION

121.1 This section shall apply to general allegations by organizations or other third parties of discrimination in personnel matters within a department of the District government which are unrelated to an individual complaint of discrimination.

121.2 The organization or other third party shall state the allegation with sufficient specificity so that the agency may investigate the allegations.

121.3 The agency may require additional specificity as necessary to proceed with its investigation.

121.4 The agency shall establish a file on each general allegation, and this file shall contain copies of all material used in making the decision on the allegation.

121.5 The agency shall furnish as copy of this file to the party submitting the allegation and shall make it available to the Director, EEO for review on request.

121.6 The agency shall notify the party submitting the allegation of its decision, including any corrective action taken on the general allegations, and shall furnish to the Director, EEO, , on request, a copy of its decision.

121.7 If the third party disagrees with the agency decision, it may within thirty (30) days after receipt of the decision, request that the Director, EEO to review it.

121.8 The request shall be in writing and shall set forth with particularity, the basis for the request.

121.9 Upon receipt of the request, the Director, EEO shall make, or require the agency to make additional investigation, the Director, EEO deems necessary.

121.10 The Director, EEO shall issue a decision on the allegation ordering corrective action, as he or she considers appropriate.

121.11 Either the third-party complainant or the agency may request reconsideration or the reopening of a decision of the Director, EEO pursuant to § 114.4.

122 DISCRIMINATION COMPLAINTS IN OTHER PROCEEDINGS

122.1 Whenever an issue of discrimination as specified in §101.1 of this chapter is raised by a party in a grievance or adverse action proceeding, before any appropriate agency of the District government, the Hearing Examiner or hearing officer or officers shall inform the person raising the complaint of discrimination, that the complaint will not be admitted as an issue in the grievance or adverse action proceeding and that the complaint should be submitted to the Director, EEO.

199 DEFINITIONS

199.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act - the District of Columbia Human Rights Act of 1977, D.C. Law 2-38, D.C. Official Code §§-2501-2501 et seq.2001

Administrative Procedure Act - the District of Columbia Administrative Procedure Act, D.C. Code Official Code §§-2-201 et seq. (2001).

Age - eighteen (18) years of age or older except that, in a case of employment, age shall be defined as eighteen (18) to sixty-five (65) years of age, unless otherwise defined by law.

Agency - any office, department division, board, commission or other agency of the government of the District of Columbia with respect to which the Mayor or the Council are authorized by law to establish administrative procedures.

Director, EEO - the Director of the District of Columbia Office of Human Rights or a designate.

Employee - any individual employed by or seeking employment from an agency of the District of Columbia.

Family Responsibilities—the state of being, or the potential to become, a contributor to the support of a person or persons in a dependent relationship, irrespective of the number of such persons.

Marital status – the state of being married, single, divorced, separated, or widowed, and the usual conditions associated with such status including pregnancy or parenthood.

Office – The District of Columbia Office of Human Rights, as established by Commissioner's Order No. 71-224, dated July 8, 1971, as amended.

Personal appearance – the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including but not limited to, hair style and beards. It shall not relate, however, to the requirements of cleanliness, uniforms or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees, for a reasonable business purpose; or when such bodily conditions or characteristics, style or manner of dress or personal grooming presents a danger to the health, welfare or safety of any individual.

Physical handicap – a bodily or mental disability which may be the result of injury, illness or congenital condition for which reasonable accommodation can be made.

Political affiliation – the state of belonging to or endorsing any political party.

Religion – any institutionalized system or personal set of attitudes, beliefs and practices which relate to moral or ethical standards.

Sexual Harassment -The conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include, but is not limited to, verbal harassment or abuse, subtle pressure for sexual activity, patting or pinching, brushing against another employee's body, and demands for sexual favors.

Sexual Orientation - male or female homosexuality, heterosexuality, and bisexuality, by preference or practice.

Part II Equal Employment Opportunity (EEO) Officer and Counselors for the Fire and Emergency Medical Services Department

In accordance with Title VII of the Civil Rights Act of 1964 and the D.C. Human Rights Act 1977, as expanded, DC Fire and EMS has designated a Diversity/EEO Officer and EEO Counselors to hear and resolve grievances and complaints of discrimination on the grounds of race, color, national origin, cultural ethnicity, religion sex, marital status, personal appearance, sexual orientation, gender identity, family responsibilities, matriculation, disability, political affiliation, genetic information, or age which may arise within the DC Fire and EMS Department.

Diversity/Equal Employment Opportunity Program Manager

Joshua Henline Esq.
Diversity/EEO Program Manager
1923 Vermont Avenue, N.W.
Washington, D.C. 20001
202-673-3396

Equal Employment Opportunity Counselors

Name	Title	Assignment/Address	Phone No #
Donald Barber	EMS Captain	EMS 1-Plt.#2-Batt.1	(202) 673-3212 (202) 673-3281 (202) 437-5717(cell) (202) 639-5247 (cell)
Leroy Cade, Jr.	Battalion Fire Chief	Battalion 1–Plt.#1	(202) 673-3281 (202) 673-3381 (202) 673-3130 (fax)
Jacquelyn Campbell	Fire Instructor	Training Academy	(202) 673-3245
LaShon S. Frazier	EMS Captain	Street Calls Program Grimke Bldg.	(202) 939-4383 (202) 425-4984 (cell) (202) 645-3796 (fax)
Joshua Henline, Esq.	EEO/Diversity Manager	Grimke Bldg.	(202) 673.3323 (202) 673.3396 (202) 462-0807 (fax)
Stephanie Lewis	Firefighter	Engine 18-Plt.#4–Batt.2	(202) 673.3218
Daniel Lottes	Firefighter	Engine 19-Plt.#3-Batt.3	(202)673-3219
Donald Martin	Battalion Fire Chief	Battalion 6–Plt.#4	(202) 673.3286 (202) 673.3386 (202) 673.6470 (fax)
Anita Massengale	Clinical Quality Program Manager	OMD Clinical Quality Grimke Bldg.	(202) 715-2857 (main) (202) 425-4855 (cell) (202) 462-0807 (fax)

Marie Rosich	EMS Lieutenant	Training Academy	(202) 673.3245 (main) (202) 673-2296 (direct) (202) 425-4997 (cell) (202) 645-4998 (fax)
Alan Skursky	Captain	Engine 23-Plt.#1-Batt.6	(202) 673-3223
Calvin Walden, III	Firefighter Technician	Truck 2-Plt.#2-Batt.6	(202) 673-3201 (202) 285-5265 (cell)
Adam Young, Jr.	Lieutenant	FIU	(202) 673-3370

The Diversity/EEO Program Manager is responsible for the administrative supervision and coordination of the EEO activities of the EEO Counselors. In addition the EEO/Diversity Manager is responsible for seeking out and providing appropriate training to the EEO Counselors which will enable them to carry out this program's activities and purposes with professional skill and ability. Employees may contact either the EEO Officer or an EEO Counselor, if desired.