

# Virginia Employment Commission



## EQUAL OPPORTUNITY PLAN

July 2006-June 2008

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# purpose



**T**his Equal Opportunity Plan has been developed to provide a written plan of action to establish and maintain equal opportunity in accordance with state and federal employment laws and regulations. It is intended to be a resource guide for managers and employees on Equal Employment Opportunity related matters.

In accordance with regulatory requirements, the plan is intended to ensure that the VEC's workforce reflects the labor market with respect to the representation of females and minorities. Additionally, the plan is designed to ensure equal opportunity for all employees and applicants for employment.<sup>1</sup>

The Governor's Executive Order 1 and the Department of Human Resource Management Policy 2.05 require that all state agencies provide equal employment opportunity to employees and applicants for employment, without regard to race, color, religion, sex, age, national origin, disability, political affiliation, sexual orientation, or veteran status. The prohibition against discrimination covers all aspects of employment, including hiring, firing, demotion, promotion, layoff, disciplinary actions, transfer, compensation, benefits, and other terms, conditions, and privileges of employment.

This plan has been developed by the Human Resource Management Services (HRMS) Division; however, the responsibility for equal employment opportunity is shared by all agency managers and supervisors.

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<sup>1</sup> The agency's plan to ensure nondiscrimination and equal opportunity with respect to recipients of VEC services is outlined in the agency's Methods of Administration.

# executive order 1 (06)

## COMMONWEALTH OF VIRGINIA OFFICE OF THE GOVERNOR



### Equal Employment Opportunity

By virtue of the authority vested in me as Governor, I hereby declare that it is the firm and unwavering policy of the Commonwealth of Virginia to assure equal opportunity in all facets of state government.

This policy specifically prohibits discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, age, political affiliation, or against otherwise qualified persons with disabilities. The policy permits appropriate employment preferences for veterans and specifically prohibits discrimination against veterans.

State appointing authorities and other management principals are hereby directed to take affirmative measures, as determined by the Director of the Department of Human Resource Management, to emphasize the recruitment of qualified minorities, women, disabled persons, and older Virginians to serve at all levels of state government. This directive does not permit or require the lowering of bona fide job requirements, performance standards, or qualifications to give preference to any state employee or applicant for state employment.

Allegations of violations of this policy shall be brought to the attention of the Office of Equal Employment Services of the Department of Human Resource Management. No state appointing authority, other management principal, or supervisor shall take retaliatory actions against persons making such allegations.



Any state employee found in violation of this policy shall be subject to appropriate disciplinary action.

The Secretary of Administration is directed to review annually state procurement, employment, and other relevant policies for compliance with the non-discrimination mandate contained herein, and shall report to the Governor his or her findings together with such recommendations as he or she deems appropriate. The Director of the Department of Human Resource Management shall assist in this review.

This Executive Order supersedes and rescinds Executive Order Number One (2002), Equal Opportunity, issued by Governor Mark R. Warner on January 12, 2002, and revised on December 16, 2005.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 14th day of January 2006.

/s/Tim Kaine, Governor  
Attest: /s/Secretary of the Commonwealth  
Governor of Virginia - Timothy M. Kaine

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# nondiscrimination and equal opportunity policy

**Effective Date: February 15, 2006**

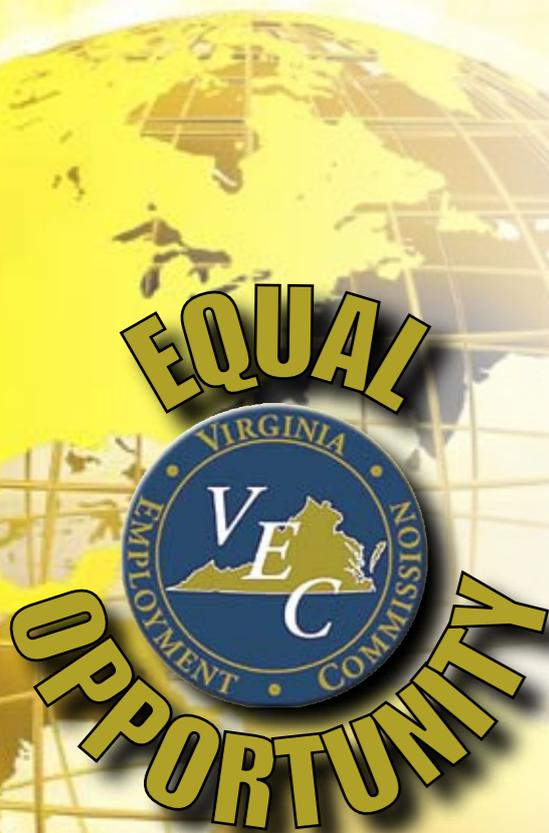
**Rescission: Nondiscrimination and Equal Opportunity Policy  
March 25, 2002**

## **POLICY**

It is the policy of the Virginia Employment Commission (VEC) to provide equal opportunity in employment to all employees and applicants for employment without regard to race, color, religion, gender, national origin, age, disability, sexual orientation, or political affiliation. The policy permits appropriate employment preferences for veterans and specifically prohibits discrimination against veterans.

This policy applies to all terms, conditions, and privileges of employment, including hiring, compensation, benefits, work assignments, evaluations, promotion, transfer, disciplinary actions, educational assistance, training, social and recreational programs, and use of VEC facilities. This policy prohibits the lowering of bona fide job requirements and qualification standards to give preference to any applicant.

In addition to its equal opportunity commitment in employment, VEC shall provide equal opportunity in accordance with Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act, 29 CFR Part 37, and other pertinent directives. To that end, no person shall, on the basis of race, color, religion, gender, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in any VEC program or activity.





## BACKGROUND

- (1) Title VI and Title VII, Civil Rights Act of 1964
- (2) Civil Rights Act of 1991
- (3) Governor's Executive Order Number One (06)
- (4) 29 CFR Part 37
- (5) Section 504 of the Rehabilitation Act
- (6) Title I and Title II, Americans with Disabilities Act

Programs and activities funded by the United States Department of Labor under the Workforce Investment Act (WIA), are subject to federal equal opportunity laws and regulations. The VEC, as a recipient of federal funds, is obligated to comply with the nondiscrimination and equal opportunity provisions of the Workforce Investment Act.

Section 188 of the WIA describes the prohibition against discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship and participation in WIA programs.

The Governor's Executive Order 1 (06) prohibits employment discrimination on the basis of race, gender, color, sexual orientation, national origin, religion, age, or political affiliation, or against otherwise qualified persons with disabilities. The policy permits appropriate employment preferences for veterans and specifically prohibits discrimination against veterans. The lowering of bona fide job requirements, performance standards, or qualifications to give preference to any state employee or applicant for state employment is not permitted or required.

## PROCEDURES

- A. Notification – All employees, applicants for employment, and customers should be notified of this policy.
  1. Customers should be notified of this policy by posting the agency's "Equal Opportunity is the Law" posters in all VEC offices.

2. New employees (classified and wage) should be given a copy upon employment.
3. Current employees should be informed of changes to the policy.

**B. Complaints of Discrimination**

Employees and applicants for employment may file discrimination complaints with the VEC EO Officer (Human Relations Manager). Employees and applicants for employment may also file complaints with the Office of Equal Employment Services of the Department of Human Resource Management Civil Rights Center of the U.S. Department of Labor and the U. S. Equal Employment Opportunity Commission.

Customers (recipients of VEC services) may file complaints either with the VEC EO Officer or with the Director, Civil Rights Center of the U.S. Department of Labor.

Retaliatory action shall not be taken by agency management against any person for filing a complaint of discrimination.

**C. Violations**

Any VEC employee found in violation of this policy shall be subject to appropriate disciplinary action.

**AGENCY RIGHT**

The Virginia Employment Commission reserves the right to revise or eliminate this policy.



*Dolores A. Esser*

Dolores A. Esser  
Commissioner

# sexual harassment policy

**Effective Date:** May 1, 2006

**Rescission:** Sexual Harassment Policy  
May 1, 2004

## **POLICY**

The Virginia Employment Commission, in law and in spirit, is committed to providing a work environment that is conducive to the performance of job duties and free from intimidation or coercion in any form.

As an employer, the VEC is dedicated to a stringent policy against discrimination as indicated in Executive Order Number One (06): Harassment on the basis of race, sexual orientation, veteran status, color, sex, national origin, religion, age, political affiliation, or disability are forms of discrimination prohibited. It is the intent of this policy to further detail harassment on the basis of sex.

Sexual harassment is an unlawful employment practice, which potentially can subject both the agency and the harasser to financial liability. The agency intends to avoid such liability by prohibiting the practice of sexual harassment of any employee, applicant for employment, contractor, or volunteer and requiring that its employees refrain from conduct that could give rise to allegations of sexual harassment.

## **BACKGROUND**

- (1) Title VII, Civil Rights Act of 1964
- (2) Civil Rights Act of 1991
- (3) Governor's Executive Order Number One (06)
- (4) Department of Human Resource Management Policy Number 2.30 (Workplace Harassment)
- (5) Virginia Employment Commission Agency Policy on Nondiscrimination and Equal Opportunity



- (6) Virginia Employment Commission Methods of Administration (MOA), Element #2, Notice & Communication

## DEFINITIONS

### *What Constitutes Sexual Harassment*

- A. Sexual harassment is defined by the Equal Employment Opportunity Commission (EEOC) as unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature, when:
1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
  2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that 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.
- B. Forms of behavior which may be considered sexual harassment include, but are not limited to:
1. Verbal - Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, sexual threats.
  2. Non-Verbal - Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures.
  3. Physical - Unwelcome physical contact, including touching, pinching, brushing the body, coerced sexual intercourse, sexual assault.
- C. In addition to being prohibited in the work environment, these behaviors are also not to be tolerated at agency-sponsored activities, such as conferences, workshops, retreats, etc.



- D. The VEC may be liable for acts of sexual harassment committed in the agency workplace by non-employees such as vendors or clients for services. The VEC may also be liable for acts of sexual harassment committed by agency employees against these non-employees.
- E. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, and that fails to respect the rights of others. In addition to being personally offensive, the behavior must be severe or pervasive enough to create a work environment that a reasonable person would find abusive.

## PROCEDURES

### I. Avenues of Redress

#### A. Internal

1. Employees who believe they are sexually harassed should make it clear that such behavior is unwelcome and should report the harassment to the appropriate supervisory level. In instances where the alleged harasser is the immediate supervisor, the violation should be reported to the harasser's supervisor by the most expeditious means possible. Allegations may also be reported directly to the Human Relations Manager or the Human Resource Management Services (HRMS) Director.
2. Employees may utilize the Employee Grievance Procedure (classified, non-probationary employees.) Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and is thus a grievable issue because it is a complaint of discrimination on the basis of sex. Per the Grievance Procedure, if a grievance deals with a charge of discrimination against the immediate supervisor, the



employee shall be permitted to initiate the grievance with the next higher level of management. As specified in the Commonwealth of Virginia Employee Grievance Procedure, a grievance must be initiated within 30 calendar days of the action giving rise to the grievance.

B. External

1. Employees can utilize the State Employee's Discrimination Complaint Procedure, which is administered by the Office of Equal Employment Services of the Department of Human Resource Management. The complaint must be filed within 180 days of the alleged discrimination.
2. Employees can file a complaint with the U.S. Equal Employment Opportunity Commission. A complaint must be filed within 180 days of the alleged discrimination.

II. Agency Responsibility

- A. All employees of the Virginia Employment Commission are encouraged to ensure enforcement of this policy by reporting any known or suspected violations.
- B. Agency managers and supervisors must immediately investigate an allegation of sexual harassment with the counsel and/or assistance of the HRMS staff and take the necessary action to ensure that all instances of sexual harassment are addressed swiftly, fairly, and effectively. All allegations of sexual harassment must immediately be reported to the Human Relations Manager or the HRMS Director.
- C. All managers and supervisors of the VEC are directed to take affirmative action to ensure that the principles of this policy are fully implemented at all levels and locations of the VEC and to ensure an environment free from sexual harassment.



### III. Response to Policy Violators

- A. Sexual Harassment is a serious offense. As a consequence, any employee who engages in such conduct shall be subject to corrective action. Depending on the circumstances involved, such corrective action may include dismissal from State service. Consultation with the Human Relations Manager or the HRMS Director is required to determine if the Standards of Conduct should be applied as corrective action in any case of sexual harassment.
- B. Managers and supervisors who fail to respond appropriately to allegations of sexual harassment may also be subject to corrective action, including demotion or discharge.

### IV. Distribution and Maintenance of Policy Statement

This policy statement will be disseminated to all agency employees. Each local office and the central office should display this policy statement publicly. This policy statement will be subject to review during Equal Opportunity (EO) Technical Assistance Reviews.

### V. Resources for Information

For questions regarding this policy or any issues related to harassment employees may contact any of the following: VEC Human Resource Management Services, the Department of Human Resource Management, the Department of Employment Dispute Resolution, and the U.S. Equal Employment Opportunity Commission.

### **AGENCY RIGHT**

The Virginia Employment Commission reserves the right to revise or eliminate this policy.



# agency overview

## Agency History

The VEC was established as the Unemployment Compensation Commission of Virginia in 1936, assuming its current name in 1960. Pursuant to the Wagner-Peyser Act and the Social Security Act of 1935, the Commission was created both to provide employment services and administer the federal-state unemployment insurance program. Throughout its history, the Commission's administrative operations have been primarily federally funded through a federal unemployment tax (FUTA) paid by employers exclusively for this purpose.



### Our Vision

*Virginia's First Choice for Workforce Services*

### Our Mission

*To promote economic growth and stability by delivering and coordinating workforce services to include:*

- Policy development
- Job Placement
- Temporary income support
- Workforce information
- Transition and training services

*To accomplish our mission, we will:*

- Partner with our stakeholders
- Develop and empower staff
- Improve our processes
- Embrace innovative solutions and technologies
- Continually renew our organization

Commissioner: Dolores Esser  
Deputy Commissioner: Nicholas Kessler

### Our Values

#### Ethical

Conform to professional standards of conduct.

#### Achieving

Make a worthwhile contribution to society.  
Meet the needs of customers.

#### Purposeful

Have a clear sense of purpose.  
Evaluate results and activities compared to established goals, objectives, and performance measures.

#### Fulfilling

Create an environment for meaningful work, where individual, team, and VEC contributions are recognized, valued, and rewarded.

#### Balanced

Concern for the needs of communities, customers, employees, and other stakeholders.

#### Secure

Provide a safe and secure work environment.



## Legislative Authority

The VEC Commissioner and staff administer and derive mandates from:

- OIC-Title 60.2 of the *Code of Virginia*, the Virginia Unemployment Compensation Act.
- The Social Security Act of 1935.
  - Title III - Grants to States for Unemployment Compensation Administration
  - Title IX - Miscellaneous Provisions Relating to Employment Security
  - Title XII - Advances to States' Unemployment Funds
- The Federal Unemployment Tax Act (FUTA).
- The Workforce Investment Act (WIA).
  - Title II - Workforce Investment Systems
  - Title III - Workforce Investment Related Systems

## Programs

The *Code of Virginia* today sets forth the following responsibilities for the agency:

Section 60.2-113. Employment stabilization—The Commission shall take all necessary steps through its appropriate divisions and with the advice of such advisory boards and committees as it may have to:

1. Establish a viable labor exchange system to promote maximum employment for the Commonwealth of Virginia with priority given to those workers drawing unemployment benefits;
2. Maintain a solvent trust fund financed through equitable employer taxes which provide temporary partial income replacement to involuntarily unemployed covered workers;



3. Coordinate and conduct labor market information research studies, programs and operations, including the development, storage, retrieval and dissemination of information of the social and economic aspects of the Commonwealth and publish data needed by employers, economic development, education and training entities, government, and other users in the public and private sectors;
4. Determine and publish a list of jobs, trades, and professions for which a high demand of qualified workers exists or is projected by the Commission. The Commission shall consult with the Virginia Workforce Council in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including public two- and four-year institutions of higher education; government agencies, including the Department of Education, and public libraries; and other users in the public and private sectors;
5. Prepare office short- and long-range population projections for the Commonwealth for use by the General Assembly and state agencies with programs which involve or necessitate population projections;
6. Encourage and assist in the adoption of practical methods of vocational guidance, training, and retraining; and
7. Develop a plan for implementation during times of economic recession, natural disaster, or military mobilization whereby necessary workers can be provided.

### **Structure of the Agency**

A single Commissioner heads the VEC, the largest agency in the Commerce and Trade Secretariat. The agency's executive team includes the:

Deputy Commissioner  
Chief Operating Officer  
Assistant Commissioner for Field Operations  
Chief Administrative Law Judge, Administrative Law Division

Director, Economic Information Services  
Director, Finance and General Services  
Director, Human Resource Management Services  
Director, Information Technology  
Director, Internal Audit  
Director, Workforce Investment Act

The Virginia Workforce Council established by the Governor shall assist the Governor in complying with the provisions of the federal Workforce Investment Act.

(P.L.105-220), referred to in the bill as “WIA,” including the creation of Virginia’s Workforce Development Program. Appointed members of the council shall serve at the pleasure of the Governor without compensation.



# Organizational chart



\*furnished by Dept. of Corrections

# eEO-4 job categories

EEO-4 categories for state positions are determined by the Department of Human Resource Management. The EEO-4 job categories are defined as follows:

**Officials and Administrators:** (EEO-4 Category A) Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, assessors, inspectors, examiners, wardens, superintendents, unit supervisors, kindred workers, and administrative faculty.

**Professionals:** (EEO-4 Category B) Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, or instructors and kindred workers.

**Technicians:** (EEO-4 Category C) Occupations which require a combination of basic scientific or technical knowledge and a manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, draftsmen, surveyors, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, medical, dental, electronics and physical science technicians, and kindred workers.

**Protective Service Workers:** (EEO-4 Category D) Occupations in which workers are entrusted with public safety, security, and protection from destructive forces.



Includes: police officers, firefighters, guards, sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, and kindred workers.

**Paraprofessionals:** (EEO-4 Category E) Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience than is normally required for professional or technical status. Such positions may fall within an identical pattern of staff development and promotion under a “New Careers” concept. Includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemaker aides, home health aides, and kindred workers.

**Office and Clerical:** (EEO-4 Category F) Occupations in which workers are responsible for internal and external communications, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk typists, stenographers, court transcribers, license distributors, payroll clerks, and kindred workers.

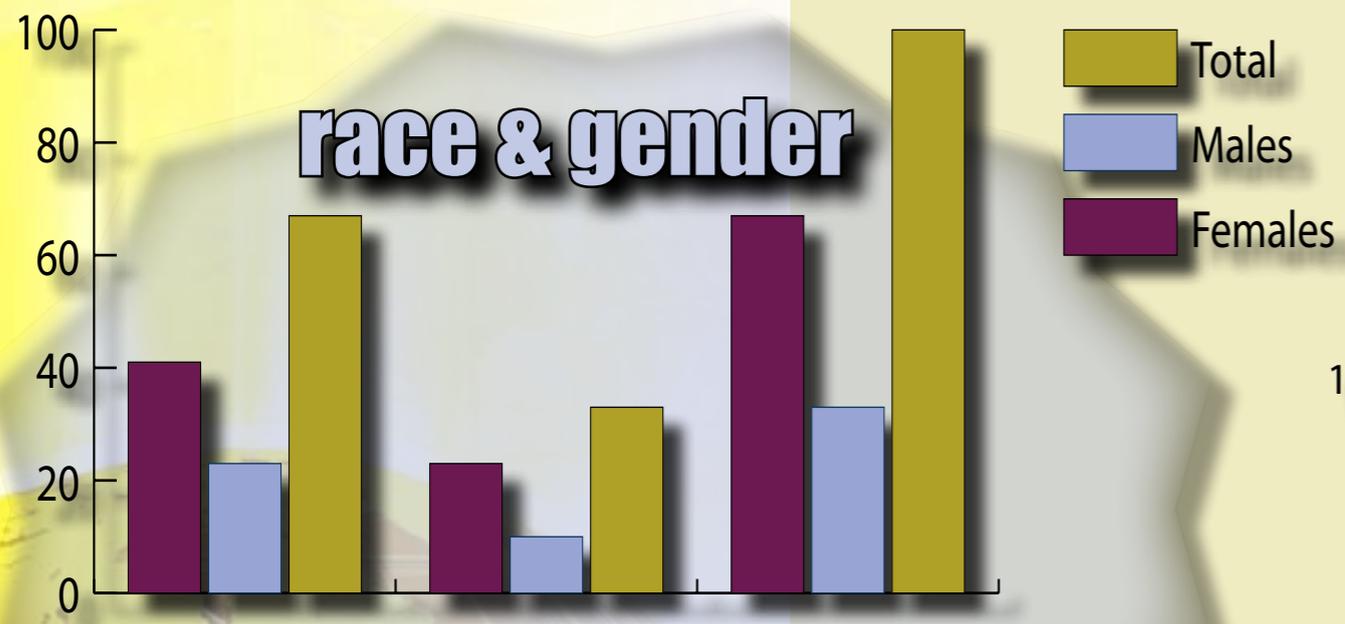
**Skilled Craft Workers:** (EEO-4 Category G) Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairmen, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

**Service/Maintenance:** (EEO-4 Category H) Occupations in which workers perform duties which result in or contribute to the convenience, hygiene, or safety of the general public or which contribute to the upkeep and care of buildings, facilities, or grounds of public property. Workers in this group may operate machinery. They include: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial employees, gardeners, and groundskeepers, refuse collectors, construction laborers, and kindred workers.



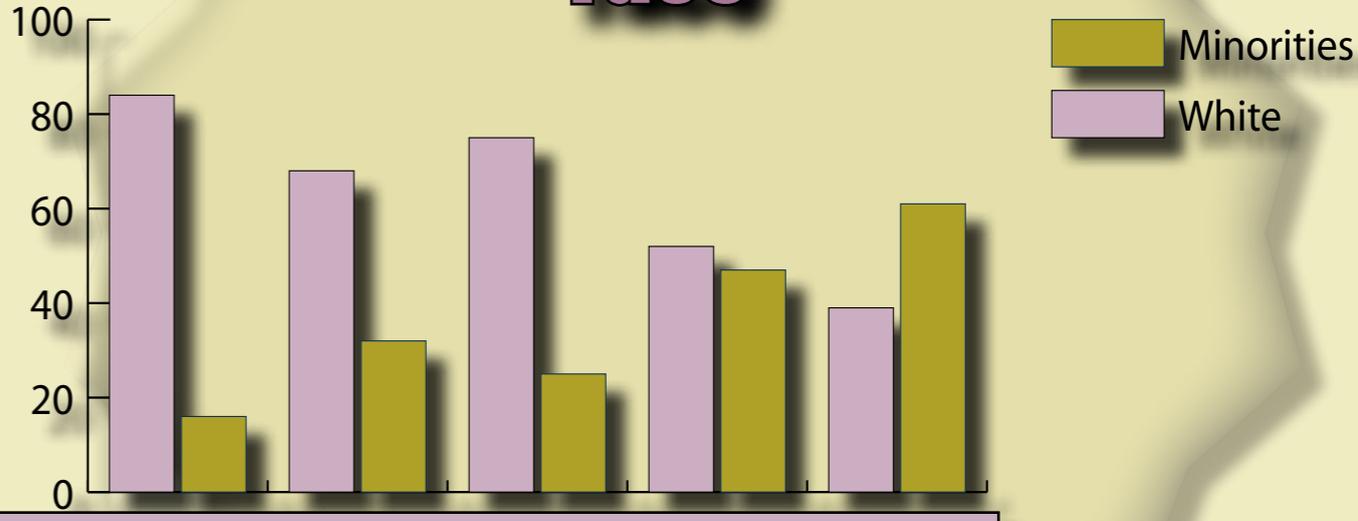
# vec employees

## race & gender



	White	Minority	Total
Total	63%	36%	100%
Males	23%	10%	33%
Females	41%	26%	67%

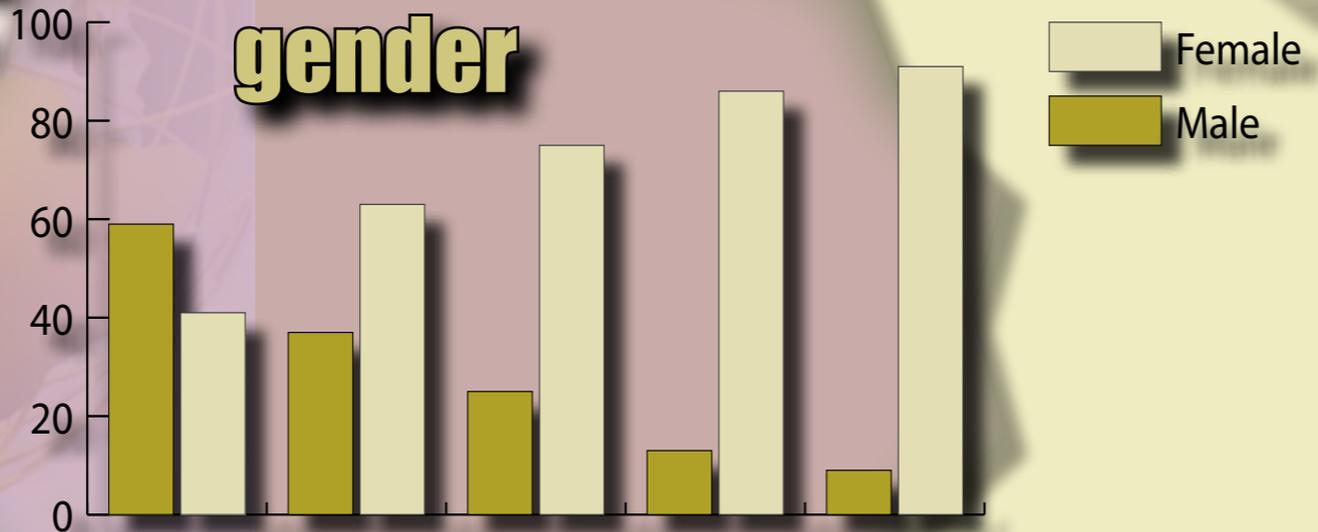
## race



	Managers	Professionals	Technicians	Paraprofessionals	Clerical
Minority	16%	32%	25%	47%	61%
White	84%	68%	75%	52%	39%



## gender



	Managers	Professionals	Technicians	Paraprofessionals	Clerical
Female	41%	63%	75%	86%	91%
Male	59%	37%	25%	13%	9%

EEO-4 job categories with fewer than 5 employees are not represented.  
*Employment data as of June 30, 2006.*

# comparative employment analysis

CATEGORY A (Officials and Administrators)														
Total Employees	White Males	White Females	Minority Males	Minority Females	Total Employees	White Males	White Females	Minority Males	Minority Females	Total Employees	White Males	White Females	Minority Males	Minority Females
<b>6-30-2004</b>					<b>6-30-2005</b>					<b>6-30-2006</b>				
84	47	24	6	7	75	40	22	6	7	69	36	22	5	6
Percent	56	29	7	8	Percent	53	29	8	9	Percent	52	32	7	9
CATEGORY B (Professionals)														
690	193	276	76	145	637	167	260	73	137	644	165	273	68	138
Percent	28	40	11	21	Percent	26	41	11	22	Percent	26	42	11	21
CATEGORY C (Technicians)														
11	2	3	3	3	4		3	1		4	0	3	1	0
Percent	18	27	27	27	Percent		75	25		Percent	0	75	25	0
CATEGORY E (Paraprofessionals)														
76	4	34	4	34	77	7	33	4	33	76	7	33	3	33
Percent	5	45	5	45	Percent	9	43	5	43	Percent	9	43	4	43
CATEGORY F (Office and Clerical)														
132	1	49	10	72	124	1	42	10	71	119	1	45	10	63
Percent	1	37	8	55	Percent	1	34	8	57	Percent	1	38	8	53
CATEGORY G (Skilled Craft Workers)														
1	1	0	0	0	1	1	0	0	0	1	1	0	0	0
Percent	100	0	0	0	Percent	100	0	0	0	Percent	100	0	0	0
CATEGORY H (Service/Maintenance)														
1	0	0	1	0	1	0	0	1	0	1	0	0	1	0
Percent	0	0	100	0	Percent	0	0	0	100	Percent	0	0	100	0
TOTALS														
995	248	386	100	261	919	216	360	95	248	914	210	376	88	240
Percent	25	39	10	26	Percent	24	39	10	27	Percent	23	41	10	26

# communication of the plan

The VEC will communicate its Equal Opportunity Plan and Policy internally and externally. To ensure that all employees, applicants for employment, and other interested parties are aware of the Equal Opportunity Plan and Policy, the following steps will be taken:

## Internal Dissemination

- The primary means of communicating the Equal Opportunity Plan to employees will be the VEC intranet system (*VECnet*).
- Field Office Managers and Central Office division managers should download a copy of the Equal Opportunity Plan to ensure that it is available to employees who do not have access to *VECnet*.
- The Nondiscrimination and Equal Opportunity Policy will be posted on all of VEC's employee bulletin boards statewide. Additionally, a statement will be posted informing employees that copies of the Equal Opportunity Plan are available for review.
- The Nondiscrimination and Equal Opportunity Policy will be included in new employee orientation packages to inform new employees of VEC's commitment to equal employment opportunity.
- Managers and supervisors should include equal employment opportunity training in their staff meetings with employees at least annually.
- HRMS will conduct an Equal Employment Opportunity assessment of field offices each month, and provide a report to management.



- HRMS will participate in training for managers and supervisors during Fundamentals for Supervisors that will include VEC's Nondiscrimination and Equal Opportunity Policy.
- HRMS will periodically publish news articles in the *VEC Journal*, the employee newsletter.

### **External Dissemination**

- All advertisements for recruitment, job opportunity announcements, and recruitment literature will include the statement, "The VEC is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities."
- The Equal Opportunity Plan will be available to the public on the VEC's Web site.
- Copies of the Nondiscrimination and Equal Opportunity Policy will be available at job fairs and other recruitment events.



# implementation of the plan

All managers and supervisors are responsible for carrying out the guiding principles of the plan and the agency's Nondiscrimination and Equal Opportunity Policy. However, to ensure the successful implementation of the plan, designated persons have responsibility for various aspects of the plan.

- The Commissioner of the Virginia Employment Commission has ultimate responsibility for the implementation of this plan. The Commissioner has assigned the Director of Human Resource Management Services the responsibility of implementing, monitoring and complying with the administration of the VEC Equal Opportunity Plan.
- The Human Resource Management Services Director is responsible for overall leadership of the equal employment opportunity program for VEC. This responsibility includes the supervision, review, and monitoring of all activities assigned to the Human Relations Manager.
- The Human Relations Manager is the Equal Opportunity Officer for the VEC and has responsibility for the development and monitoring of the Equal Opportunity Plan. Duties also include the following activities:
  1. Reviews the plan and modifies it as necessary to account for relevant legislation and judicial decisions.
  2. Reviews employment statistics, selection procedures, and adverse impact analyses to assess the progress in achieving the plan objectives.



3. Investigates and recommends final disposition of complaints of discrimination filed with VEC, state and/or federal agencies by employees, applicants for employment, and recipients of VEC services.
4. Serves as VEC's liaison with the U.S. Equal Employment Opportunity Commission, the U.S. Department of Labor Civil Rights Center, the VA Department of Human Resource Management Office of Equal Employment Services, and other state and federal agencies regarding the investigation and resolution of complaints of discrimination.
5. Serves as VEC's Mediation Program Administrator and Employee Grievance Procedure Coordinator.
6. Responsible for policy development, implementation, interpretation, and administration in affected areas.



# human resources

The Virginia Employment Commission's Division of Human Resource Management Services (HRMS) adheres to the policies and procedures of the State Department of Human Resource Management. It is the intention of HRMS to comply with Executive Order 1 (06) and Department of Human Resource Management Policy 2.05, Equal Employment Opportunity.

Furthermore, as a condition of receipt of its federal funding, the Virginia Employment Commission must also certify that it adheres to merit system principles by:

- (a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.
- (b) Providing equitable and adequate compensation.
- (c) Training employees, as needed, to assure high quality performance.
- (d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
- (e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, gender, religion, age or disability, sexual orientation, veteran status, and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.



- 
- (f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

Each year, HRMS will assess its progress in attaining goals and objectives that are outlined in the Equal Opportunity Plan. HRMS will also compare the agency's current workforce to the relevant labor market.

HRMS applies the principles of equal employment opportunity in administering all terms and conditions of employment including: recruitment and selection, recordkeeping, training and career development, performance evaluations, classification and compensation, and standards of conduct and performance. Additionally, HRMS will ensure the equal availability of employee benefits to all eligible employees. The functional areas in HRMS are as follows:

#### **A. Recruitment**

Recruitment to fill classified positions within the Virginia Employment Commission is primarily the responsibility of Human Resources. HRMS will work closely with the hiring manager to identify effective recruitment strategies, to address under-utilization issues when present, and to ensure suitable candidates are identified. Recruitment efforts are carried out in compliance with the provisions of Department of Human Resource Management Policy 2.10 (*Hiring and the VEC Recruitment and Selection Process*). The recruitment of wage employees has been delegated to the agency division directors/office managers. In either event, recruitment for classified and wage employees will be conducted to obtain qualified employees for the Virginia Employment Commission on a non-discriminatory basis. All recruitment postings and literature will apprise the public that the Virginia Employment Commission is an equal opportunity employer/program and auxiliary aids and services are available upon request to individuals with disabilities.

Classified positions will be advertised in accordance with Department of Human Resource Management Policy 2.10 (*Hiring*). At a minimum, the agency will post all

positions on the Recruitment Management System, the VEC website and agency intranet.

The Virginia Employment Commission also reserves the right to restrict recruitment to either internal or state employees for positions that warrant restrictive recruitment approaches. Such situations may include reorganization, agency sponsored career development programs, and internal transfers. Underutilization should always be considered before making the decision to restrict recruitment.

The prohibition against employment discrimination applies broadly to all aspects of the recruitment process to include consideration of employees affected by layoff.

The agency will comply with Department of Human Resource Management Policy 1.30, *Layoff*, when applicants submit Inter-agency Placement Screening Cards or Preferential Hiring Cards. The same consideration will be given when recalling agency employees on leave without pay as a result of layoff.

Human Resource Management Services shall keep a record of recruitment efforts by maintaining the information on Applicant Flow for a period of not less than three years. This information will be reported to the Human Relations Manager on a yearly basis.

## **B. Selection**

Human Resource Management Services shall review employment parity goals and employment data on a continuing basis and take whatever actions necessary to ensure progress in achieving Equal Opportunity Plan objectives. Recruitment and selection documentation, with all materials used in the selection process, will be reviewed by Human Resource Management Services for job relatedness in compliance with Department of Human Resource Management Policy 2.10 (Hiring). In those instances where there are questions of discrimination on the basis of race, gender, color, national origin, religion, age, sexual orientation, veteran status, disability, or political affiliation, the Employment Specialist will forward the selection file documentation in question with all materials to the Human Resource Manager. The Human Resource Director, Human Relations Manager and the applicable Division Director will review the case and make a final decision.



Training in proper employment interviewing techniques and selection procedures will be scheduled periodically by Human Resource Management Services and can be made available on request.

In accordance with Department of Human Resource Management, Policy 2.10 (*Hiring*), if interview panels are used in the selection process, the hiring authority should include individuals of different genders and races to serve on the panel. One panel member will be designated as chairperson. The hiring authority must ensure that panel members are familiar with the job in question, as well as selection and evaluation criteria. Panel members must be apprised of their responsibilities and the scope of their influence on the selection process. Panels act in a referral capacity only. The hiring authority is responsible for the final selection decision. Panel members are expected to keep all matters related to the selection in strict confidence, and are not to discuss the panel deliberations with candidates or other employees.

Prior to conducting employment interviews, interviewers will be provided with job-related written questions. All applicant responses and data pursuant to the selection shall be documented. Interviewers shall document the rationale for their recommendations based on the job-related criteria. At the conclusion of the selection, all data required will be returned to Human Resource Management Services. Any assessments, work samples and/or skill demonstrations to be used during the selection process must be approved by Human Resource Management Services.

### **C. Promotions**

In accordance with Department of Human Resource Management Policy 3.05 (*Compensation*), all agency employees will be afforded promotion opportunities on a non-discriminatory basis. A promotion is an employee's move from a position in one pay band to a position in a higher pay band only after being selected for the higher position through the competitive recruitment process.



## **D. EEO Recordkeeping**

All selection data are maintained by race and gender for a minimum of three years. Records regarding complaints of discrimination are retained for three years following the disposition of the complaint.

Confidential information on VEC applicants for employment is maintained in an automated tracking system that is password protected. Access to the data base is limited to authorized staff.

In accordance with the Americans with Disabilities Act (ADA), information from all employee medical examinations and inquiries are kept separate from general personnel files and are treated as confidential medical records.

## **E. Training and Career Development**

The agency is responsible for providing training opportunities for managers and supervisors necessary to maintain competencies in the areas of recruitment and selection, salary determinations, performance evaluations, Standards of Conduct, grievance procedure, leave administration, sexual harassment and equal employment opportunity.

Training for all Virginia Employment Commission employees will be in accordance with the provisions of Executive Order Number 1 (06) and Equal Opportunity Plan guidelines. Information on training opportunities is made available to all employees through a variety of sources. Guidance, counseling, and training on EEO will be made available through the Human Relations Manager. Job-specific training remains the primary responsibility of supervisors and managers.

## **VEC Performance Consulting and Staff Development Advisory Committee**

The VEC Performance Consulting and Staff Development Advisory Committee serves under the leadership of the Performance Consulting and Staff Development Manager. It is comprised of eleven members nominated by their respective division director.



Each division has one member with the exception of Field Operations which has one member from each region and one from central office, totaling five members. The committee membership is representative of the agency's demographic make-up. Members serve a two-year term with half the membership rotating off each year.

The purpose of the Committee is to:

- Focus on the “big” picture of training and performance improvement strategies;
- Assist in identification of agency and individual training needs;
- Provide recommendations about training delivery options and communication mechanisms; and
- Serve as support/advisors for special projects.

The duties of the Committee members may include:

- Serve as points of contact for the division/region they represent to provide two-way communication (collect training issues/needs and bring them before the Committee; provide feedback; etc.);
- Review nominations and make recommendations for the Commissioner's Outstanding Achievement Awards;
- Serve on curriculum development task forces; and
- Attend and critique pilot programs.

#### **F. Performance Evaluations**

Performance evaluations are invaluable tools for both management and employees. They can be used to identify strengths and weaknesses, chart steps to improve future performance, and prepare employees for promotional opportunities.



The VEC performance cycle is October 1- September 30. Within one month of the last performance evaluation, a supervisor should discuss the Performance Plan with the employee, and give the employee a copy of the Plan. New employees should be given a Performance Plan within 30 days of beginning the position. HRMS staff are available to assist managers and supervisors in developing evaluation criteria.

Managers and supervisors will evaluate employees in a non-discriminatory manner, in accordance with Department of Human Resource Management Policy 1.40, Performance Planning and Evaluation. The Performance Evaluation system will not, under any circumstances, be used for retaliatory purposes.

### **G. Classification and Compensation**

Positions within the agency are reviewed in accordance with Department of Human Resource Management Policy 3.05 and DHRM's Human Resource Management Manual. HRMS staff review classification and compensation on an ongoing basis, as individual positions change, and as required by organizational change, to ensure that personnel actions are not based on prohibited factors.

HRMS tracks all pay actions to ensure that they are not based on prohibited factors.

### **H. Standards of Conduct**

When applied consistently and fairly, the Standards of Conduct can be very helpful in assisting supervisors in maintaining a productive workforce. In some instances, it may be appropriate to provide counseling to employees who are experiencing problems on the job. A reasonable amount of time should be allowed for the employee to respond positively to counseling. In the event counseling fails to yield the desired results, the provisions of Department of Human Resource Management, Policy 1.60 (Standards of Conduct) and the VEC guidelines on issuing discipline and responding to grievances, should be considered.

Managers and supervisors must comply with this policy and VEC guidelines when issuing written notices. Prior to issuing a written notice, any extenuating and mitigating circumstances should be considered. Managers must consult with



their chain of command and HRMS prior to issuance of a Standards of Conduct written notice.

## **I. Grievances and Complaints**

Any classified, non-probationary employee may file a grievance, in accordance with the State Employee Grievance Procedure. A grievance alleging discrimination or retaliation by the immediate supervisor may be initiated with the next level supervisor.

Employees may receive counseling on the grievance procedure from the VEC Equal Opportunity Specialist, Human Relations Manager, or they may contact the Department of Employment Dispute Resolution.

Any employee, or applicant for employment, who feels that he/she has been discriminated against is entitled to file a complaint. Discrimination complaints may be filed with the Human Relations Manager.

Complaints may also be filed with the Department of Human Resource Management, Office of Equal Employment Services, the United States Department of Labor, Civil Rights Center, or the United States Equal Employment Opportunity Commission. The VEC complaint process is included in Appendix A.

Any employee experiencing a work-related conflict, including allegations of discrimination, may request a mediation. Mediation is a process in which a trained neutral (mediator) assists parties in conflict in reaching a resolution. The VEC Mediation Program is included in Appendix B. Contact Human Relations Manager for mediation.

All managers should notify the Human Relations Manager as soon as possible of any EEO complaints they have received. Also, they should immediately report all contacts with federal regulatory agencies concerning EEO matters to the Human Relations Manager.

All employees are advised of their grievance and complaint rights during new employee orientation.



**Additional information about the grievance procedure is available from:**

**The Department of Employment  
Dispute Resolution**  
830 East Main Street, Suite 400  
Richmond, VA 23219  
(804) 786-7994 V/TDD  
888-23-advice V/TDD  
[www.edr.state.va.us](http://www.edr.state.va.us)

**Additional information about the mediation process is available from:**

VEC Workplace Mediation Coordinator  
Human Relations Manager  
703 East Main Street, Room 102  
Richmond, VA 23219  
(804) 786-3466  
shirley.bray-sledge@vec.virginia.gov  
TDD/VRC 711

**Complaints may also be filed with:**

**Department of Human Resource Management  
Office of Equal Employment Services (EES)**  
101 North 14<sup>th</sup> Street  
James Monroe Building  
Richmond, VA 23219  
(804) 225-2131  
(804) 371-7671 V/TDD  
800-533-1414  
[www.dhrm.state.va.us](http://www.dhrm.state.va.us)

**Richmond District Office  
Equal Employment Opportunity Commission**  
830 East Main Street, Suite 600  
Richmond, VA 23219  
(804) 771-2200  
(804) 771-2227 TDD  
800-669-4000  
[www.eeoc.gov](http://www.eeoc.gov)

**Norfolk District Office  
Equal Employment Opportunity Commission**  
Federal Building  
200 Granby Street, Suite 739  
Norfolk, VA 23510  
(757) 441-3470  
(757) 441-3578 TDD  
[www.eeoc.gov](http://www.eeoc.gov)

**Washington D.C. Area Office  
Equal Employment Opportunity Commission**  
1400 L Street, NW, Suite 200  
Washington, D.C. 20005  
(202) 275-7377  
(202) 275-7518 TDD  
[www.eeoc.gov](http://www.eeoc.gov)



# reasonable accommodation guidelines

**S**ection 504 of the Rehabilitation Act of 1973 and Title I of the Americans with Disabilities Act (ADA) prohibit discrimination against qualified applicants and employees on the basis of disability. Under the ADA, an individual with a disability is a person who has:

- a physical or mental impairment that substantially limits one or more major life activities;
- a record or such an impairment; or
- is regarded as having such an impairment.

The determination of whether a person has a disability *must be made on a case-by-case basis*. It cannot be assumed that everyone with a particular type of impairment is automatically included or excluded from the ADA's definition of disability. Also, as a result of recent Supreme Court decisions, the determination of whether a person has an ADA disability must take into consideration whether the person is substantially limited in a major activity when using a mitigating measure, such as medication, a prosthesis, or a hearing aid.

Employers must make reasonable accommodation to the known physical or mental limitations of otherwise qualified applicants or employees with disabilities, unless the employer can show that the accommodation would impose an undue financial and administrative burden.

Reasonable accommodation means any change or adjustment to a training or work environment that permits a qualified applicant or employee with a disability to participate in the application process, to perform the essential functions of the job or to enjoy the benefits or privileges of employment.



Examples include:

- acquiring or modifying equipment or devices
- job restructuring
- modified work schedules
- providing qualified reader or interpreters
- making the workplace accessible to and usable by individuals with disabilities

The disabled individual must let the employer know that s/he needs an adjustment or change at work for a reason related to a medical condition. An individual may use “plain English” and need not mention the ADA or use the phrase “reasonable accommodation.” Requests for reasonable accommodation do not need to be in writing.

When the disability and/or need for accommodation is not obvious, the employer may ask the individual for reasonable documentation about his/her disability and functional limitations. The employer and the individual with a disability should engage in an informal process to clarify what the individual needs and identify the appropriate reasonable accommodation.

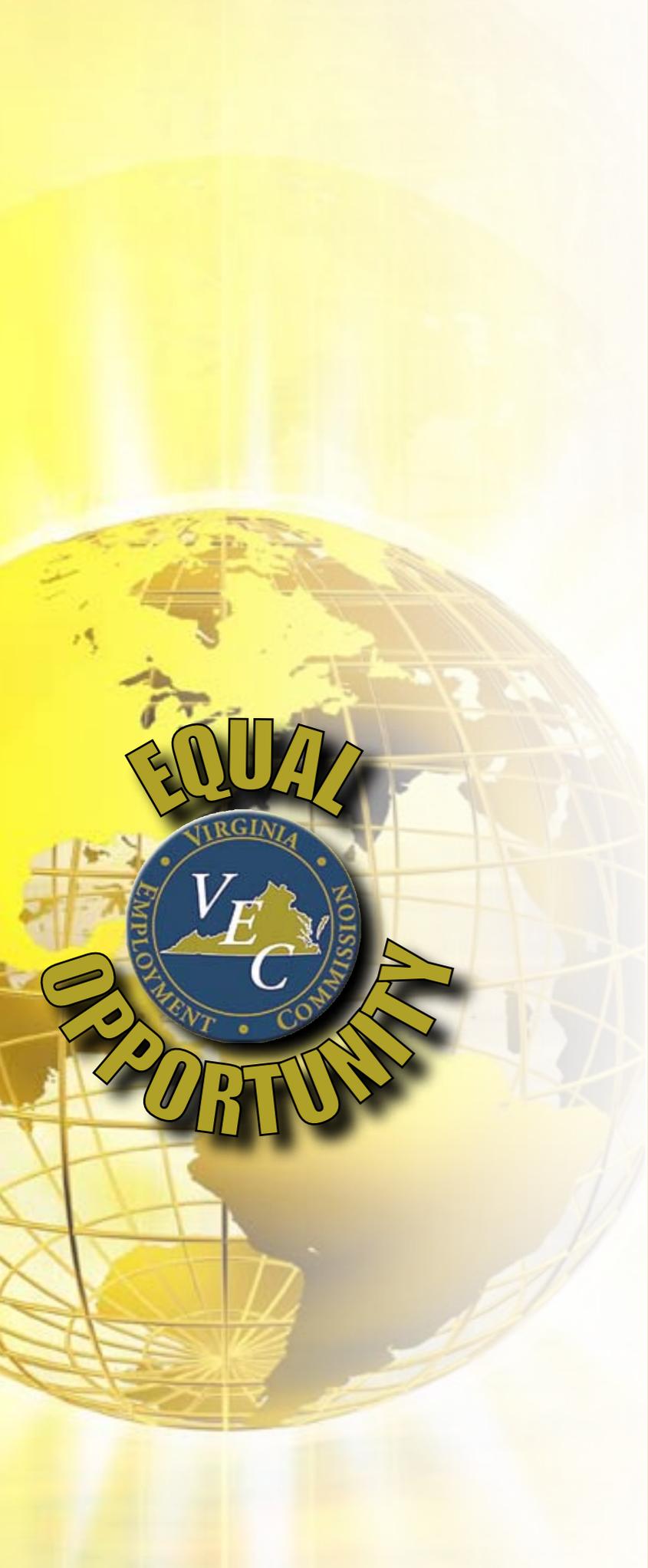


## DECISION TABLE FOR REASONABLE ACCOMMODATION PROCESS\*

Considerations/Steps	If NO, then . . .	If YES, then . . .
1. Is there a problem performing any particular function?	No need for reasonable accommodation.	GO TO STEP 2. Begin reasonable accommodation process.
2. Can job be accommodated by removing one or more marginal functions?	Determine if marginal function is really an essential function. If so, GO TO STEP 3.	Remove and reassign. GO TO STEP 3.
3. Is a <b>particular</b> function essential?	GO TO STEP 2.	GO TO STEP 4 for this <b>particular</b> function.
4. Is it possible to modify the existing facilities?	GO TO STEP 5.	Modify the facilities. If additional accommodation is needed, GO TO STEP 5.
5. Is there a product that would solve the problem?	GO TO STEP 6.	Purchase the product. If additional accommodation is needed, GO TO STEP 6.
6. Is it possible to use, or combine, available products differently than they are usually used?	GO TO STEP 7.	Purchase and integrate the products. If additional accommodation is needed, GO TO STEP 7.
7. Is it possible to modify a product?	GO TO STEP 8.	Purchase and modify the product. If additional accommodation is needed, GO TO STEP 8.
8. Is it possible to design a new product?	GO TO STEP 9.	Design and produce the new product. If additional accommodation is needed, GO TO STEP 9.
9. Is an alternative open position available?	GO TO STEP 10.	Investigate the possibility. If accommodations are needed, GO TO STEP 1.
10. Does situation need to be redefined?	GO TO STEP 11.	Redefine the situation. GO TO STEP 1.
11. Was Job Accommodation Network contacted?	Contact J.A.N. (800-232-9675)	GO TO STEP 12.
12. Document the reasonable accommodation process.	GO TO STEP 11.	GO TO NEXT SITUATION. START AT STEP 1.

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## DISABILITY LAWS AT-A-GLANCE

LAW	This law covers . . .	Contact Information
Architectural Barriers Act (ABA)	Post Office buildings and other federal buildings	U.S. Access Board (800) 872-2253 (800) 993-2822 (TTY) <a href="http://www.access-board.gov">www.access-board.gov</a>
Rehabilitation Act	Federal employment (including contractors), federally-funded programs and services	U.S. Department of Justice (DOJ) (800) 514-0301 (800) 514-0383 (TTY) <a href="http://www.usdoj.gov/crt/ada/adahom1.htm">www.usdoj.gov/crt/ada/adahom1.htm</a>
Individuals with Disabilities Education Act (IDEA)	Special education services (from birth to 21 years of age)	U.S. Department of Education (DOE) Office of Special Education and Rehabilitative Services (800) 872-5327 (800) 437-0833 (TTY) <a href="http://www.ed.gov/index.html">www.ed.gov/index.html</a>
Air Carrier Access Act (ACAA)	Air transportation issues, including boarding assistance, accessibility in new aircraft and new, or altered, airports	U.S. Department of Transportation, Aviation Consumer Protection Division Hotline (202) 366-4000 <a href="http://www.dot.gov/airconsumer">www.dot.gov/airconsumer</a>
Fair Housing Act (FHA)	Private federal or state and local government-funded housing	U.S. Department of Housing and Urban Development (HUD) (800) 669-9777 <a href="http://www.hud.gov/hdiscrim.html">www.hud.gov/hdiscrim.html</a>



## AMERICANS WITH DISABILITIES ACT (ADA)

Title I	State/local government and other employers with 15 or more employees	Equal Employment Opportunity Commission (EEOC) (800) 699-4000 (800) 800-3302 (TTY) <a href="http://www.eeoc.gov">www.eeoc.gov</a>
Title II	State/local government programs and services, including public transportation	U.S. Department of Justice (DOJ) (800) 514-0301 (800) 514-0383 (TTY) <a href="http://www.usdoj.gov/crt/ada/adahom1.htm">www.usdoj.gov/crt/ada/adahom1.htm</a>
Title III	Public accommodations (e.g., businesses, movie theaters, restaurants, etc.)	U.S. Department of Justice (DOJ) (800) 514-0301 (800) 514-0383 (TTY) <a href="http://www.usdoj.gov/crt/ada/adahom1.htm">www.usdoj.gov/crt/ada/adahom1.htm</a>
Title IV	Telephone relay service requirements	Federal Communications Commission (FCC) (888) 225-5322 (888) 835-5322 (TTY) <a href="http://www.fcc.gov/">www.fcc.gov/</a> <a href="http://www.fcc.gov/cgb/dro/title4.html">www.fcc.gov/cgb/dro/title4.html</a>

## WORKERS' COMPENSATION COMPARED TO THE ADA\*

Workers' Compensation A State Benefit Statute	ADA A Federal Civil Rights Statute
<p><b>Purpose:</b> to compensate for loss due to work injury/illness.</p>	<p><b>Purpose:</b> to enable people with disabilities to be employed by removing physical, program and attitudinal barriers; and providing reasonable accommodation.</p>
<p><b>Compensates</b> personal injury, death by accident or illness arising from employment.</p>	<p><b>Does not compensate</b> costs associated with disability but does provide redress from employer discrimination.</p>
<p><b>Assumes</b> that impairments are the cause of work limitations.</p>	<p><b>States</b> that disability does not necessarily mean inability to work.</p>
<p><b>Requires</b> no reasonable accommodation.</p>	<p><b>Requires</b> reasonable accommodation.</p>
<p><b>Defines</b> disability as a work-caused injury or illness.</p>	<p><b>Defines</b> disability as substantially limiting major life activities, a history of such, or being perceived as such.</p>
<p><b>Employable</b> individual is one who can perform useful and customary employment (all tasks). No consideration of marginal or essential tasks.</p>	<p><b>Qualified</b> means the individual need perform only the essential tasks, with or without reasonable accommodation.</p>
<p>Possible employer <b>liability</b> if worker returns to a job that may cause further injury.</p>	<p>Puts the employer at risk <b>if he/she does not</b> return the worker to employment if the employee can perform the essential job functions, unless a direct threat.</p>
<p><b>Focuses</b> on the impairment— what the worker cannot do. The worker must prove he/she is incapable.</p>	<p><b>Emphasizes</b> abilities. Limitations are considered, but only as related to essential functions, or factors, to be ameliorated.</p>
<p><b>Encourages</b> identifying conditions which justify compensation and job retraining.</p>	<p><b>Encourages</b> keeping workers employed.</p>

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## RESOURCES FOR LOCATING REASONABLE ACCOMMODATIONS

### Access Board Technical Assistance

800-USA-ABLE (800-872-2253/800-993-2822 TDD)  
Monday, Tuesday, Thursday, Friday 10am-5:30pm  
Wednesday 10am-2pm  
ta@access-board.gov  
[www.access-board.gov](http://www.access-board.gov)

### ADA Disability and Business Technical Assistance Center

for the Mid-Atlantic Region  
800-949-4232 (V/TDD)  
[www.adainfo.org](http://www.adainfo.org)

### Directory of Qualified Interpreters for the Deaf and Hard of Hearing

The Virginia Department for the Deaf and Hard of Hearing  
800-552-7917 (V/TDD)  
[www.vddhh.org/ip-dqi.htm](http://www.vddhh.org/ip-dqi.htm)

### IBM Special Needs Systems for HR Professionals

800-426-4832  
[www.austin.ibm.com/sns](http://www.austin.ibm.com/sns)

### Job Accommodation Network (JAN)

800-526-7234 (V/TTY)  
[www.jan.wvu.edu](http://www.jan.wvu.edu)

### Rehabilitation Center for the Blind

Assistive Technology Program Specialist  
(804) 371-3326  
(804) 371-3151 (V/TDD)  
[www.vrcbvi.org](http://www.vrcbvi.org)

### Virginia Assistive Technology Project

(804) 662-9990  
[www.vats.org](http://www.vats.org)

### Virginia Department for the Deaf and Hard of Hearing

Outreach Programs Coordinator  
(540) 332-9993  
800-552-7917 (VRC/TDD)  
[www.vddhh.org](http://www.vddhh.org)

### Woodrow Wilson Rehabilitative Center

Assistive & Rehabilitative Technology Services  
(540) 332-7390, (800) 345-9972, (800) 811-7893 (TDD)  
[www.wwrc.net](http://www.wwrc.net)

# adverse impact analysis

The impact ratio analysis is a statistical method used by the EEOC to determine whether minorities or females have experienced adverse impact in employment practices. The method is also referred to as the “Four-Fifths Rule” or “80% Rule.”

The selection rates of minorities and females are compared to the group with highest (or lowest for negative actions) rate of selection. According to the rule, if the comparison indicates that the rate of selection for minorities and females is less than four-fifths (80%), the selection process has an adverse impact on minorities and females.

The 80% rule is only useful for determining adverse impact, and does not determine unlawful discrimination.



# applicant flow/ selection

Reporting period: 7/1/05-6/30/06

EEO-4 Category	#Females	#Males	Agency IRA	#Minorities	#Non-Minorities	Agency IRA
<b>Officials &amp; Administrators</b>						
# Applicants	12	44		14	29	
# Interviewees	4	14		3	12	
# Hires/Offers	2	0		0	1	
<b>Professionals</b>						
# Applicants	1,787	766		1,136	1,136	
# Interviewees	350	195	3.347*	224	292	3.512*
# Hires/Offers	75	38		35	74	2.717*
<b>Technicians</b>						
# Applicants	44	50		26	53	
# Interviewees	7	4		1	8	
# Hires/Offers	1	0		0	1	
<b>Paraprofessionals</b>						
# Applicants	179	25		20	171	
# Interviewees	95	12		13	87	
# Hires/Offers	12	3		2	12	
<b>Office/Clerical</b>						
# Applicants	4	0		4	0	
# Interviewees	4	0		4	0	
# Hires/Offers	1	0		1	0	

\*Adverse Impact

# in-band adjustments

Reporting period: 7/1/05-6/30/06

EEO-4 Code	GENDER				Agency IRA	RACE				Agency IRA
	#Females in Category	#Males in Category	#Females In-Band Adjustment	#Males In-Band Adjustment		#Minorities in Category	#Caucasians in Category	#Minorities In-Band Adjustment	#Caucasians In-Band Adjustment	
A	27	40	2	0	NA	11	56	0	2	NA
B	411	237	12	8	NA	206	442	6	14	NA

NA - No adverse impact identified.



# in-band bonuses

Reporting period: 7/1/05-6/30/06

EEO-4 Code	GENDER				Agency IRA	RACE				Agency IRA
	#Females in Category	#Males in Category	#Females In-Band Bonuses	#Males In-Band Bonuses		#Minorities in Category	#Caucasians in Category	#Minorities In-Band Bonuses	#Caucasians In-Band Bonuses	
A	27	40	1	0	NA	11	56	0	1	NA
B	411	237	0	1	NA	206	442	0	1	NA

NA - No adverse impact identified.

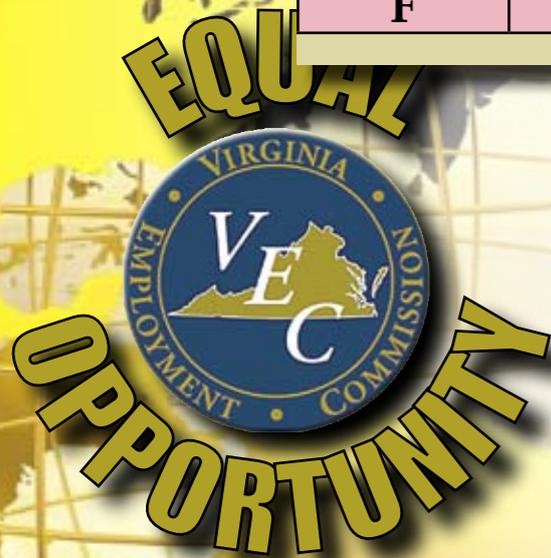


# promotions

Reporting period: 7/1/05-6/30/06

EEO-4 Code	GENDER					RACE				
	#Females in Category	#Males in Category	#Female Promotions	#Male Promotions	Agency IRA	#Minorities in Category	#Caucasians in Category	#Minority Promotions	#Caucasian Promotions	Agency IRA
A	27	40	1	0	NA	11	56	0	1	NA
B	411	237	4	4	NA	206	442	3	5	NA
F	108	11	1	0	NA	73	46	1	0	NA

NA - No adverse impact identified.



# employee performance rating distribution 2005



Performance Cycle 10/01/04 - 09/30/05 (Percent)					
	Total	Minority	Non-Minority	Male	Female
<i>Extraordinary Contributor</i>	22.8	17.3	26.0	20.6	23.9
<i>Contributor</i>	76.7	82.1	73.6	79.1	75.6
<i>Below Contributor</i>	0.5	0.6	0.4	0.3	0.5

# standards of conduct

Reporting period: 7/1/05 - 6/30/06

# Females in Agency	# Males in Agency	# Females Disciplined	# Males Disciplined	Agency IRA	# Minorities in Agency	# Caucasians in Agency	# Minorities Disciplined	# Caucasians Disciplined	Agency IRA
616	298	4	3	NA	328	586	3	4	NA

NA - No adverse impact identified.

# involuntary terminations

EQUAL



Reporting period: 7/1/05 - 6/30/06

# Females Disciplined	# Males Disciplined	# Females Terminated	# Males Terminated	Agency IRA	# Minorities Disciplined	# Caucasians Disciplined	# Minorities Terminated	# Caucasians Terminated	Agency IRA
4	3	0	0	NA	3	4	0	0	NA

NA - No adverse impact identified.

# standards of conduct

Reporting period: 7/1/05 - 6/30/06

Month	Group I	Group II	Group III	Sex	Race	Termination	Reason(s) Standard of Conduct Violations
<b>2005</b>							
July							
August							
September							
October		1		F	W	No	1.60(b)(2)
October		1		F	W	No	1.60(5)(b)(2)(a)
November							
December							
<b>2006</b>							
January	1			F	W	No	1.60(5)(b)(1)(a)
February	1			F	B	No	1.60(5)(b)(2)(a)
March		1		M	B	No	1.60(5)(b)(2)(a)
April	1			M	B	No	1.60(5)(b)(2)(i)
April		1		M	W	No	1.60(5)(b)(2)(a)
June							



# complaints and grievances

Reporting period: 7/1/05 - 6/30/06

EEO/EO complaints filed during the reporting period			
TYPE	DATE FILED	AGENCY	FINDINGS
Disability/Sex	7/21/05	EEOC	No cause
Disability	8/29/05	VEC	No cause
Sexual Harassment	11/14/05	VEC	No cause
Age/Disability	1/10/06	VEC	No cause
Disability	4/3/06	VEC	No cause
Sexual Harassment	6/7/06	VEC	No cause
EEO/EO complaints closed during the reporting period			
TYPE	DATE CLOSED	AGENCY	FINDINGS
Race/Age	12/17/05	DHRM	No cause
Race/National origin	8/31/05	VEC	No cause
Sex/Disability	8/31/05	EEOC	No cause
Disability	11/23/05	VEC	No cause
Sexual Harassment	2/7/06	VEC	No cause
Age/Disability	3/17/06	VEC	No cause
Disability	4/3/06	VEC	No cause
There were no grievances filed alleging discrimination during the reporting period			



# technical assistance

**A**s a recipient of federal funds under the Workforce Investment Act, the VEC is required to develop a system to periodically monitor agency compliance with nondiscrimination and equal opportunity provisions.

**E**ach VEC field office is reviewed onsite and provided technical assistance during EO technical assistance visits every three calendar years by HRMS staff, under the supervision of the Human Relations Manager. In addition to ensuring compliance, the reviews are designated to communicate policy, and to identify training needs. Periodic reviews also provide an opportunity for HRMS staff to offer assistance in correcting potential violations promptly.

Offices are routinely reviewed in the following areas:

- Display of required notices
- Maintenance/knowledge of EO policy directives
- Staff and customer interviews
- Data reports
- Accessibility for individual with disabilities
- Knowledge of limited proficiency regulations/guidelines



# glossary



## Adverse Impact

A disproportionate and negative effect on groups of individuals (race, gender, age, national origin, religion, etc.) resulting from an employer's use of neutral policies and practices (e.g., an employer requires applicants to be free of facial hair: because more black men wear beards and/or moustaches than do white males, the job requirement, although racially neutral, has an adverse impact which screens out black males).

## Affirmative Action

A planned proactive strategy which commits efforts to eliminate the effects of past discrimination against certain protected classes.

## Availability Data

The percentage of minorities and females within a Relevant Labor Market Area (RLMA) who are either employed or unemployed and seeking employment within broad occupational categories (EEO4 categories) or specific occupations; used in comparison with employment data for utilization analyses.

## DG6O

A data base on the VEC main frame that indicates utilization for agency work units. To access the data base, type in "DG6O".

From the Employment Analysis Main Menu, select "Individual Local Office & Central Office Work Unit Employment Analysis."

## Disparate Treatment

Intentional discrimination (e.g., an employer fires a female employee for absenteeism but merely reprimands a male employee for the same offense).



### EEO4 Category

An alphabetical code (A-H) assigned to job classifications by the Department of Human Resource Management (DHRM) based upon duties performed knowledge/experience requirements; found in classification specifications and the Compensation Plan, and used to group classifications for utilization analyses.

### Employment Data

The percentage of minority and female employees within a specific organization; used in comparison with availability data for utilization analyses.

### Equal Employment Opportunity

Equal Employment Opportunity is an employer's posture that all personnel activities will be conducted in a manner to ensure equal opportunity for all. Such activities will be based solely on individual merit and fitness of applicants and employees related to specific jobs and without regard to race, color, religion, gender, age, national origin, sexual orientation, veterans status, physical disability, political affiliation, or other non-merit factors.

### Four Fifths (4/5) Rule

A standard measure of statistical balance in the effects of personnel policies and practices classes: e.g., adverse impact is indicated if the minority or female employment rate is not within approximately 4/5ths of their labor market rate.

### IRA

The impact ratio analysis is a statistical method used to determine whether any minority/gender group has experienced an adverse impact in employment practices.

### Mediation

A voluntary process in which Mediators assist persons in conflict to discuss their issues in an open, honest, and confidential forum; and in arriving at a mutually satisfactory agreement.



### Parity

The equal representation of minorities or females in the workforce and labor market.

### Parity Objective

The numerical increases needed in the employment of minorities or females in broad occupational categories or specific occupations within an organization in order to equalize their employment and labor market representation.

### Relevant Labor Market Area

The geographical location from which an employer normally recruits to fill various positions within its work force(e.g., national, state, local).

### Utilization Analysis

A comparison of the availability and employment data for minorities and females within EEO4 categories, or specific occupations for the purpose of determining whether the representation of minorities and females in the organization is in parity with their representation in the labor market.

# appendix a

## VEC Complaint Procedures for Allegations of Violations of The Nondiscrimination and Equal Opportunity Provisions of WIA

The Virginia Employment Commission (VEC) has adopted the following procedures for processing complaints that allege a violation of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act (WIA):

- Discrimination is prohibited on the basis of: race, color religion, gender, national origin, age, sexual orientation, veterans status, disability, and political affiliation or belief. Discrimination on the basis of citizenship against persons who receive VEC services is also prohibited. Moreover, persons who receive VEC services shall not be discriminated against because of their participation in any WIA-funded program or service.
- Prohibition against intimidations and retaliation: Consistent with 29 CFR 37.11, intimidation and retaliation against individuals for having filed a complaint; opposing a prohibited practice; furnishing information; assisting or participating in any manner in an investigation, review, hearing or any other activity related to administration of, exercise or authority under, or privilege secured by, the nondiscrimination and equal opportunity provisions of WIA is prohibited. In accordance with 29 CFR 37.11, complaints may be filed alleging intimidation and retaliation.
- Who may file: Any person who believes that he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal employment provisions of WIA may file a written complaint by him/herself or by an authorized representative.



- Where to file: The complainant may file either locally with the Virginia Employment Commission's Human Relations Manager, or with the U.S. Department of Labor, Civil Rights Center (CRC). Filing a complaint with the VEC does not affect a complainant's right to file a complaint with CRC if he or she is not satisfied with the resolution provided by the VEC.

The Virginia Employment Commission's Human Relations Manager is:

Shirley M. Bray-Sledge  
Virginia Employment Commission  
P.O. Box 1358, Room 101  
Richmond, Virginia 23218-1358  
Telephone: (804) 786-3466  
TDD/VRC: 711  
[shirley.bray-sledge@vec.virginia.gov](mailto:shirley.bray-sledge@vec.virginia.gov)

Complainants may file with the Civil Rights Center:

Director, Civil Rights Center  
U.S. Department of Labor  
200 Constitution Avenue N.W.  
Room N-4123  
Washington, D.C. 20210  
(202)693-6500

- Time for filing: The complaint must be filed within 180 days of the alleged discrimination. If the complaint is not filed within 180 days, the Director of CRC may extend the time limits for good cause.



- Complaint Form: A complainant should complete either the VEC EEO Complaint Form (employees or applicants for employment) or the USDOL Complaint Information Form (persons receiving VEC services or participating in WIA-funded programs or services).
- Right to Representation: Each complainant and respondent has the right to be represented by an attorney or other individual of his or her choice.
- Local Level Complaint Processing: Any person who elects to file his or her complaint with the VEC should allow VEC 90 days to process the complaint.

During the 90-day period complainants may elect to participate in mediation within 15 days of filing a complaint, upon notification that the complaint has been accepted for investigation. The decision whether to use mediation or the customary investigative process rests with the complainant. If the complainant elects mediation and there is no resolution, the complaint will be referred for investigation.

If mediation is not elected, the complaint will be investigated in accordance with standard procedures as follows:

Within 15 days the Human Relations Manager will inform the complainant in writing if his or her complaint will be accepted. To be accepted a complaint must:

- be filed timely
- fall under the VEC's jurisdiction
- have apparent merit: i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA.



The complainant will be advised in writing whether each issue raised in the complaint will be accepted for investigation, or rejected, and the reason for the rejections.

If a complaint contains insufficient information, the Human Relations Manager shall seek the needed information from the complainant. If the complainant is unavailable after reasonable means have been used to locate him or her, or if the information is not furnished within 15 days of the receipt of such request, the complainant's file may be closed upon notice sent to the complainant's last known address.

Where the Human Relations Manager lacks jurisdiction over a complaint, he or she shall so advise the complainant immediately in writing, indicating the reasons for the determination and the complainant's right to file with the Director of CRC within 30 days of the notice.

Where a complaint lacks apparent merit or has not been timely filed, it need not be investigated. The Human Relations Manager shall so inform the complainant and indicate the basis for non-investigation. Complainants will be advised of their right to file with the Director of CRC within 30 days of the notice.

- Discrimination Complaint Investigation Procedure: Complaints will be investigated in accordance with the procedure outlined in the State's WIA Discrimination Complaint Policy. The procedure is an attachment to the policy.
- Determinations: The Human Relations Manager shall determine at the conclusion of the investigation of a complaint whether there is reasonable cause to believe that a violation of the nondiscrimination and equal opportunity provisions of WIA has occurred. If an investigation results in a reasonable cause finding, the Human Relations Manager will seek concurrence from the Attorney General's Office. If the Attorney General's Office concurs, the Human Relations Manager shall issue a written determination.



The determination shall notify the complainant of the specific findings; the proposed remedial or corrective action and the time in which corrective or remedial action must be completed.

Where a no cause determination is made, the complainant shall be notified in writing. Such a determination represents the final action of the VEC.

The complainant, or the authorized representative of any complainant may contact the VEC for information regarding the complaint.

Within 90 days, the VEC shall offer a written resolution of the complaint to the complainant. The VEC shall notify the complainant of his or her right to file a complaint with the CRC, and inform the complainant that this right must be exercised within 30 days, if the VEC resolution is unsatisfactory.

If by the end of 90 days, the VEC has not completed its processing of the complaint or has failed to notify the complainant of the resolution, the complainant or his or her representative may, within 30 days following the expiration of the 90-day period, file a complaint with the Civil Rights Center.

- Corrective Action: If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or conciliation agreement to correct the discriminatory actions or conditions. Actions to correct discrimination deficiencies may include any of the following:

- 1) back pay, or other monetary relief (Federal funds shall not be used to provide monetary relief—also requires approval by the Attorney General’s Office);
- 2) hire or reinstatement;
- 3) promotion;
- 4) benefits or other services denied; and
- 5) training to ensure equal opportunity.



- Record keeping: The VEC maintains an automated log of discrimination that includes information relevant to each complaint filed. Records pertaining to discrimination complaints, investigations or any other such actions shall be retained for a minimum of three (3) years from the date of resolution.

Information pertaining to the identity of any persons providing information related to, or assisting in, an investigation or a compliance review shall be maintained in a confidential manner to the extent possible. In the event that it is necessary that a person's identity be disclosed, the person(s) shall be protected from retaliation.



# appendix b

## VEC Human Resource Management Services Personnel Practices and Procedures

**Subject:** VEC Mediation Program Guidelines

**Reference:** 29 CFR Part 37, The Administrative Dispute Resolution Act of 1996

**Effective Date:** July 1, 1999

**Rescission:** None

### **POLICY**

It is the policy of the Virginia Employment Commission to maintain effective employee and customer relations by offering all VEC employees, applicants for employment and VEC customers an alternative means of addressing and resolving disputes, including discrimination complaints. To that end, mediation is available to VEC employees including probationary and non-classified, and applicants for employment, and any person receiving WIA services who files a discrimination complaint.

### **BACKGROUND**

Mediation is a method of resolving conflict by allowing participants to focus on core issues of difference in a confidential environment and with the assistance of a neutral third party. Mediation has been available for State employees since 1989, through services administered by the Department of Employee Relations Counselors. In 1997 the VEC Executive Management Team approved an internal mediation program for the agency.



The Workforce Investment Act (WIA) of 1998 requires that State Employment Security Agencies (SESA's) provide alternative dispute resolution (ADR) to address allegations of discrimination, including allegations made by recipients of services. Also, in 1998, the Interstate Conference of Employment Security Agencies (now National Association of State Workforce Agencies) adopted a resolution to support ADR.

Mediation is recognized by NASWA as the most appropriate form of ADR for addressing allegations of discrimination. Mediation is the ADR process that will be used in Virginia's WIA program. This procedure is provided to offer guidance on how the mediation process will be administered in the VEC.

## **DEFINITIONS**

### **Mediation**

A voluntary process in which mediators assist persons in conflict discuss the issues in an open, honest, and confidential forum, and in arriving at a mutually satisfactory agreement.

### **Mediator**

A trained neutral person who manages the process and does not decide the issues for the persons in conflict.

### **Parties**

Persons who are experiencing difficulties and have elected mediation in an effort to resolve the issues.

### **Agency Program Administrator**

The VEC Human Relations Manager administers the VEC and WIA mediation program.



## State Program Administrator

The Department of Employment Dispute Resolution administers the Commonwealth of Virginia's mediation program.

### PROCEDURES

#### I. Initiation of Mediation

A. All requests for mediation will be processed through the Agency Program Administrator. Requests may be verbal or written.

B. The Agency Program Administrator will contact the parties to determine their willingness to mediate.

#### II. Intake/Assessment

A. The Agency Program Administrator will interview each party to the mediation and assess the appropriateness of the issues for mediation and the willingness of the parties to resolve their conflict.<sup>1</sup>

B. The Agency Program Administrator will ensure that the parties have a basic understanding of the mediation process and understand that no party will be penalized or retaliated against for participating in, or refusing to participate, in mediation.

#### III. Scheduling

A. The Agency Program Administrator will coordinate the scheduling of the mediation.

B. Agency mediators will be used unless the parties request mediators from outside the agency. If outside mediators are requested, the Agency Program

<sup>1</sup>Almost any kind of dispute can be mediated. Mediation is particularly useful in resolving ADA complaints. Mediation is not appropriate if violence is an issue, or there is a question of voluntariness.



Administrator will either request mediators from other state agencies through the Department of Employment Dispute Resolution, or professional mediators who will provide services pro bono. The VEC Commissioner (or designee) must approve any costs incurred for the use of external mediators in advance.

C. The Agency Program Administrator will send written confirmation of the mediation to each party. If applicable, persons representing the parties should also be notified.

#### IV. How Mediations will be Conducted

A. Mediations will be held in a room that is private and in a location that will assure the mediation will not be disturbed.

B. During the mediation process, notes may be taken. However, once the mediation has been completed all notes must be turned over to the mediator for disposal.

C. Provisions will be made to ensure facilities utilized are accessible. Reasonable accommodations will be made for person(s) with disabilities.

#### V. Completed Mediations

A. When resolution is reached, the mediator will record the parties' written agreement. The agreement will be signed by the parties, and copies will be given to them.

B. The Agency Program Administrator will review the agreement, if one is reached, to ensure that it does not contain any provision that is contrary to law or policy.



## VI. Confidentiality

A. All mediation sessions are strictly confidential and will be closed to any individual other than the parties and if applicable, their representatives, except by consent of both parties and the mediator.

B. The only written document that may leave the room is the agreement reached by the parties. No notes may leave the room; no form of audio or video recording is permitted.

C. Communication and information disclosed during the mediation is privileged and confidential and shall not be disclosed to any third party, except for the purpose of implementation or enforcement, or by written agreement of both parties.

D. The Agency Program Administrator is responsible for maintaining the mediation files and is the only person who can grant access to the documents.

## VII. Impact of Mediation on the Grievance Procedure (**Eligible Employees Only**)

A. If a grievance has been initiated at the time of the request for mediation, and the parties agree to mediate, the grievance will be suspended pending the conclusion of the mediation.

B. If a grievance has not been initiated at the time of the request for mediation, the agency will grant an extension to the 30 calendar day grievance initiation period at the request of the employee.

C. As a result of mediation, the parties may agree that a written grievance will not be initiated or that the grievance in progress will be concluded.



D. If the parties do not reach an agreement, the employee may initiate a grievance within the 30 calendar day extension period, or continue a grievance from the step at which it was suspended.

#### VIII. Impact of Mediation on the Discrimination Complaint Procedure

A. Complainants will be offered the opportunity to participate in mediation within 15 days of filing a complaint, upon notification that the complaint has been accepted for investigation. The choice whether to use mediation or the investigative process rests with the complainant.

B. The mediation should be held in sufficient time to reach resolution or closure within 90 days of filing of the initial complaint.

C. The mediation process will be concluded when one of the following occurs: the complainant withdraws the complaint in writing, a settlement agreement is signed by the parties, or the parties are unable to resolve the dispute.

D. If a resolution is not achieved, complaints will be investigated by the appropriate WIA EO officer (or designee) in accordance with the Discrimination Complaint Investigation Procedure, which is an attachment to the WIA Discrimination Complaint Policy.

E. All agreements to resolve a discrimination complaint will include a no admission of discrimination clause, and a statement that the complaining party agrees to withdraw the complaint.

F. The Agency Program Administrator will follow up on any settlement agreement to ensure that actions are completed in a timely manner and that ongoing requirements of the agreement are monitored.



## IX. Breach of the Agreement

A. If either party alleges that the agreement has been violated, the Agency Program Administrator will review the agreement with each party and attempt to resolve the issues which may have contributed to the violation.

B. If the Agency Program Administrator is unsuccessful in resolving the issues, the parties may return to mediation to resolve the issues, void the agreement, amend the agreement, or enter into a new agreement.

C. If management alleges that an employee has breached the agreement, and the agreement is voided, management may take action retroactively to address the issue that led to mediation.

D. If an agreement is voided because of a breach of an item that was accepted by an employee as resolution of a grievance, the employee may reinitiate the grievance within 5 work days, at the step where it was concluded.

E. Within 30 calendar days after an agreement has been voided, an employee has the right to initiate a grievance on the issue that led to the request for mediation.

F. For any agreement reached to resolve a discrimination complaint, the Director of CRC must evaluate the circumstances to determine whether the agreement has been breached. If the agreement has been breached, the complainant may file a complaint with the Director of CRC, based on the original allegations and the Director of CRC will waive the time deadline for filing.



## X. Responsibilities

### A. Agency Program Administrator

1. Promote mediation to all staff and customers.
2. Establish written program guidelines.
3. Maintain a roster of mediators and data on mediation activities.
4. Monitor agency settlement agreements for compliance.
5. Coordinate and schedule mediations.
6. Provide training programs for mediators.

### B. Agency Management

1. Promote mediation as an alternative for resolving disputes.
2. Grant approval for employees to be trained as mediators.
3. Allow employee participation in mediation without loss of leave/pay.

### C. Agency Head

1. Designate individuals with authority to bind the agency in agreements reached to resolve discrimination complaints.
2. Support written agreements that bind the agency.
3. Determine appropriate sanction(s) if a written agreement to resolve a discrimination complaint is breached.

### **AGENCY RIGHT**

The Virginia Employment Commission reserves the right to revise or eliminate this policy.

