

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**April 2017**

CONSIDERATION OF ADOPTION OF PERSONNEL POLICY 000-010,
NON-DISCRIMINATION IN DEPARTMENT PROGRAMS/ACTIVITIES

STATUTORY AUTHORITY:

Section 161.132, RSMo

Consent
ItemAction
ItemReport
Item**DEPARTMENT GOAL NO. 4:**

The Missouri Department of Elementary and Secondary Education will improve departmental efficiency and operational effectiveness

SUMMARY:

The Department's complete set of personnel policies was adopted by the State Board of Education on March 21, 2002. Revisions to some policies have been approved in subsequent years. The language in Personnel Policy 000-010, Non-Discrimination in Department Programs/Activities, needs to be revised. Policy revisions have been reviewed by a committee composed of employees, executive staff, the Human Resources Section, and legal counsel.

Revisions to the policy are necessary based upon guidance from the U.S. Department of Education Office for Civil Rights to include contact information for the office within the Department that employees should direct complaints for investigation and to clarify that it applies to both discrimination and retaliation complaints. The address of the U.S. Department of Education for Civil Rights has changed and the policy has been updated to include the new location.

PRESENTER:

Roger Dorson, Deputy Commissioner, Financial and Administrative Services; and Rachel Meystedt, Coordinator, Legal Services, Office of Special Education, will assist in the presentation and discussion of this agenda item.

RECOMMENDATION:

The Department recommends that the State Board adopt the personnel policy as presented.

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| Adoption Date: | Approved By: State Board of Education |
| Policy No: 000-010 | Section: Employment |
| Pg. 1 of 3 | Subject: Non-Discrimination in Department Programs/Activities |

I. PURPOSE

To define the Department's commitment to equal employment and affirmative action and to preserve an employment environment free from illegal discrimination. This commitment also includes maintaining programs, location of services, and activities free from illegal discrimination.

II. SCOPE

This policy applies to all Department employees and contractors as well as to those participating in Department programs and activities.

III. POLICY

- (A) The Department maintains a policy of non-discrimination with employees and applicants for employment. No aspect of employment within the Department will be influenced in any manner by race, color, religion, sex, age, national origin, sexual orientation, veteran status, mental or physical disability, or any other basis prohibited by statute. The Department's written Affirmative Action Plan shall be implemented.
- (B) This policy applies to, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and/or selection and training including internships. This policy also applies to programs, location of services, and activities.
- (C) The Department is further committed to maintaining an environment that is free from illegal discrimination in its programs, activities and facilities. Any person who believes s/he has been subjected to discrimination on the basis of race, color, religion, gender, national origin, age, or disability in a program or activity administered by the Department may file a complaint under this procedure. Retaliation against a person who files a complaint of discrimination on the basis of disability pursuant to the complaint procedure, or persons who participate in related proceedings, is prohibited. **Complaints of retaliation can be filed and will be investigated in accordance with the procedures of this policy.**
- (D) The Department has developed a complaint procedure providing for prompt and equitable resolution of complaints alleging noncompliance by the Department with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, or Title II of the Americans with Disabilities Act of 1990.

IV. PROCEDURE

- (A) Any employee or applicant for employment who feels she/he has been discriminated against should contact their Deputy Commissioner/division/office administrator immediately. A thorough investigation will be conducted pursuant to the Personnel Policies.
- (B) Inquiries or concerns related to department employment practices may be directed to the Jefferson State Office Building, Human Resources Director, 205 Jefferson Street, Jefferson City, Missouri 65101; telephone number 573-751-9619.
- (C) A complaint pertaining to a Department program, location of services, or activity must be submitted in writing, or other accessible format suitable to the person, to the Department's Civil Rights Compliance Coordinator (Coordinator) within forty-five (45) calendar days of the date the person filing the complaint becomes aware of the alleged discrimination. Office of the General Counsel, Coordinator - Civil Rights Compliance (Title VI/Title IX/504/ADA/Age Act); 6th Floor, 205 Jefferson Street, P.O. Box 480, Jefferson City, MO 65102-0480; telephone number (573) 526-4757 or TTY (800) 735-2966; email: civilrights@dese.mo.gov.

The complaint must contain the name and address of the person filing it. The complaint must also state the problem or action alleged to be discriminatory in sufficient detail, the action or accommodation desired, and the nature and extent of the person's disability. The person(s) legal representative must sign the complaint.

The Coordinator shall conduct a prompt and thorough investigation of each complaint received. This investigation shall afford all interested persons an opportunity to submit evidence relevant to the complaint. The Coordinator shall maintain the files and records relating to the complaint. Further, to the extent allowed by law, the Coordinator shall maintain the confidentiality of the person filing the complaint. This shall not prohibit the Coordinator from consulting with Department legal counsel regarding the investigation.

The Coordinator will issue a decision in writing, or other accessible format suitable to the person, outlining what action, if any, will be taken in regard to the complaint no later than thirty (30) working days after its filing. If the Coordinator, for good reason, is unable to reach a decision within the thirty (30) working day period, s/he shall notify the person as to the reason for the delay, and the additional time needed to reach a decision. Should the Coordinator find discrimination within a Department program or activity, the Department will take immediate steps to make the correction and to prevent its recurrence.

The person filing the complaint may appeal the Coordinator's decision within ten (10) working days of the receipt of the decision by writing to the Commissioner of Education, Missouri Department of Elementary and Secondary Education, Jefferson State Office Building, 6th Floor, 205 Jefferson Street, P.O. Box 480, Jefferson City, Missouri 65102-0480; telephone number (573) 751-4446 3563.

Filing of the appeal authorizes the Commissioner of Education (Commissioner) to review all information, including information classified as private or confidential by Commissioner. The Commissioner will review the person's statement of appeal and the factual findings of the Coordinator's decision to arrive at an independent conclusion.

The Commissioner will issue a decision in writing or other accessible format suitable to the person within ten (10) working days after receiving the appeal. If the Commissioner, for good reason, is unable to reach a decision within the ten (10) working day period, s/he shall notify the person as to the reason for its delay and the additional time needed to reach a decision. Should the Commissioner find discrimination within a Department program or activity, the Department will take immediate steps to make the correction and to prevent its recurrence.

The availability and use of this complaint procedure does not prevent a person from filing a complaint with the U.S. Department of Education, Office for Civil Rights, 1010 Walnut Street, Suite 320, Kansas City, Missouri 64106 ~~8930 Ward Parkway, Suite 2037, Kansas City, Missouri, 64114~~; telephone number (816) 268-0550; fax: (816) 823-1404; TDD: (877) 521-2172; email: OCR.KansasCity@ed.gov.