



TITLE	POLICY NUMBER	
Equal Employment Opportunity	DCS 04-04	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Human Resources	12/10/14	4

This policy does not create a contract for employment between any employee and the Department. Nothing in this policy changes the fact that all uncovered employees of the Department are at-will employees and serve at the pleasure of the appointing authority.

I. POLICY STATEMENT

The Arizona Department of Child Safety (the Department, or DCS) is committed to providing equal employment opportunities for all individuals regardless of race, color, national origin, age, religion, disability, sex, genetic information, pregnancy, military or veteran status, or any other category protected under executive orders or applicable federal, state, or local law. As part of this commitment, DCS will not tolerate discrimination or harassment based on these categories or any other characteristic protected by law or executive order. These protections extend to all management practices and decisions, including recruitment and hiring practices, appraisal systems, promotions, training, and career development programs. Additionally, DCS prohibits retaliating against an individual because that person complained about discrimination or harassment, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

II. APPLICABILITY

This policy applies to all covered and uncovered employees and contracted employees of the Department.

III. AUTHORITY

[A.A.C. R2-5A-104](#)

Prohibition Against Discrimination, Harassment
and Retaliation

<u>A.A.C. R2-5A-501</u>	Standards of Conduct
<u>A.A.C. R2-5A-901</u>	Complaint System
<u>A.A.C. R2-5A-902</u>	Complaint Procedures
<u>A.R.S. 41-742</u>	State personnel system; covered and uncovered employees; application; exemptions
<u>A.R.S. § 41-743</u>	Powers and duties of the director
<u>A.R.S. §§ 41-1401-1405</u>	Civil Rights Division and Civil Rights Advisory Board
<u>A.R.S. 41-1461, et seq</u>	Discrimination in employment
<u>Executive Order 2003-22</u>	Confirming Equal Employment Opportunities
<u>Executive Order 2023-01</u>	Protecting Employment Opportunity
<u>Executive Order 2023-09</u>	Prohibiting Race-Based Hair Discrimination
<u>P.L. 88-38</u>	Equal Pay Act of 1963
<u>P.L. 110-233</u>	Genetic Information Nondiscrimination Act
<u>P.L. 95-555</u>	Pregnancy Discrimination Act
<u>P.L. 117-328</u>	Pregnant Workers Fairness Act (eff. 6/27/2023)
<u>P.L. 101-336</u>	Americans with Disabilities Act
<u>P.L. 88-352</u>	Title VII of the Civil Rights Act of 1964
<u>P.L. 102-166</u>	Civil Rights Act of 1991
<u>P.L. 103-353</u>	Uniformed Services Employment and Reemployment Rights Act

[28 CFR 35.104](#)

Rehabilitation Act of 1973

[29 U.S.C §§ 621-634](#)

Age Discrimination in Employment Act

IV. DEFINITIONS

ADOA Director: The Director of the Arizona Department of Administration.

Complainant: The employee(s) who files a complaint.

DCS Director: The Director of the Arizona Department of Child Safety.

Department or DCS: The Arizona Department of Child Safety.

Disability: With respect to an individual:

1. a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
2. a record of such impairment;
3. being regarded as having such impairment.

Discrimination: Includes but is not limited to:

1. preferential treatment of one individual or group over another similarly situated individual or group because of the individual's or group's race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation;
2. sexual harassment;
3. harassment of any individual because of the individual's race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran

status, marital status, or any other status protected by executive order or federal law, state law, or regulation; and

4. failing or refusing to provide a reasonable accommodation to a qualified person with a disability.

Discrimination because of disability: Includes but is not limited to:

1. treating an individual with a disability less favorably than a similarly situated person without a disability;
2. favoring a person with one disability over a person with a different disability; and
3. refusing to provide a reasonable accommodation that is necessary to enable a qualified individual with a disability to perform the essential functions of his or her job.

Equal Opportunity Officer: The Human Resources Equal Opportunity Officer (EOO) within the Department who is responsible for receiving complaints, determining applicability under the complaint system, investigating or assigning the complaint to the appropriate individual within the agency for review or investigation, and tracking the processing of the complaints.

Harassment because of race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation: Involves unwelcome and unsolicited conduct which is predicated upon an individual's race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, or marital status when:

1. submission to the conduct is made either explicitly or implicitly a term or condition of employment;
2. submission to or rejection of such conduct by an employee is used as a basis for an employment decision affecting the employee; or
3. the conduct has the purpose or effect of substantially interfering with an

employee's work performance and creating a hostile, intimidating, or otherwise offensive working environment. Prohibited harassment includes but is not limited to:

- a. derogatory comments, epithets, or slurs directed at an individual because of that individual's race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by federal law, state law, or regulation;
- b. posting or circulating written or graphic materials, including but not limited to cartoons, pictures, posters, or calendars containing derogatory comments, epithets, or slurs based upon an individual's race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation; and
- c. abusive or derogatory remarks or conduct targeted at identifiable groups, which are identified based upon their race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation.

Sexual Harassment: Unwelcome and unsolicited conduct of a sexual nature when:

1. submission to the conduct is made either explicitly or implicitly a term or condition of employment;
2. submission to or rejection of such conduct by an employee is used as a basis for an employment decision affecting the employee, or

3. the conduct has the purpose or effect of substantially interfering with an employee's work performance and creating a hostile, intimidating, or otherwise offensive working environment. Examples of conduct that can violate this policy include but are not limited to:
 - a. explicit sexual behavior by a supervisor, manager, co-worker, contractor, visitor, client, or other entity with whom the employee interacts during the course of employment;
 - b. implicit requests for sexual favors;
 - c. direct or indirect pressure for dates or sexual activity;
 - d. pinching, patting, or other unwelcome touching;
 - e. leering or gawking;
 - f. posting or circulating sexually graphic materials including but not limited to cartoons, pictures, posters, or calendars;
 - g. sexually derogatory comments, including slurs, jokes, and other inappropriate remarks;
 - h. unwelcome sexual advances;
 - i. reprisals or threats after a negative response to sexual advances; and
 - j. preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.

V. POLICY

- A. DCS employees shall comply with all federal and state anti-discrimination laws. The Department and its employees shall not unlawfully discriminate against any individual with regard to the terms and condition of employment, including hiring, pay, leave, insurance benefits, retention, and rehiring. All allegations of unlawful discrimination, harassment, and retaliation shall be promptly investigated, and any Department employee who engages in conduct in violation of this policy may be disciplined or separated from state employment.
- B. It is the responsibility of all DCS employees to promptly bring any allegation of

unlawful discrimination, harassment, or retaliation to the attention of the Department. Any complaint alleging unlawful discrimination, harassment, or retaliation must be submitted in accordance with the procedures described in this policy.

- C. This policy does not affect other rights and remedies under federal and state statutes prohibiting employment discrimination. Employees who believe that they have been subjected to discrimination because of their race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation may also file charges of employment discrimination with the Arizona Attorney General's Civil Rights Division, the Equal Employment Opportunity Commission, or the Governor's Office of Equal Opportunity.
- D. Harassment of a sexual nature or harassment based on race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation is prohibited. The Department prohibits the unlawful harassment of any employee in the course of the employee's work by supervisors, coworkers, or third parties such as vendors or customers. Any DCS employee who engages in unlawful harassment may be disciplined or separated from state employment.
- E. The Department shall provide equal employment opportunity for all individuals regardless of race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order or federal law, state law, or regulation. It is the policy of the Department that all individuals are treated in a fair and non-discriminatory manner throughout the application process and their employment.
- F. The Department does not permit or tolerate retaliation against anyone for raising a concern about, assisting in an investigation of, or filing a complaint in good faith concerning unlawful discrimination or harassment. Any DCS employee found to

have engaged in retaliation against another individual for reporting or assisting in the investigation of any allegation of unlawful discrimination may be disciplined or separated from state employment.

- G. The Department shall make reasonable accommodations to allow people with disabilities to take part in all programs, services, and activities. This includes but is not limited to:
 - 1. providing sign language interpreters for people who have impaired hearing;
 - 2. making reasonable changes to activities to accommodate people with disabilities; and
 - 3. holding programs, services, and activities in wheelchair accessible locations.

VI. PROCEDURES

- A. An employee who believes that they may not be able to understand or take part in an activity, the employee may inform the Department of their needs in advance. See [DCS 04-03 Americans with Disabilities Act Title I](#) for information about the procedures for requesting a reasonable accommodation.
- B. Any employee may use this policy to file a complaint alleging unlawful discrimination, harassment, or retaliation with the Equal Opportunity Officer within 180 days of the action giving rise to the complaint. The employee must clearly outline the allegations, including whether the complaint is based on:
 - 1. unlawful discrimination based on race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran status, marital status, or any other status protected by executive order, federal law, state law, or regulation;
 - 2. an allegation of sexual harassment or other form of harassment based on race, color, national origin, ancestry, political or religious affiliation or ideas, age, disability, genetic information, sex, pregnancy, childbirth or medical conditions related to childbirth, sexual orientation, gender identity or expression, culture, creed, social origin or condition, military or veteran

status, marital status, or any other status protected by executive order, federal law, state law, or regulation;

3. retaliation for filing a complaint; or
4. retaliation or intimidation for exercising any right under state or federal law.

C. Complaint Preparation

The complainant shall not use state time or state property to prepare a complaint, to prepare for a meeting with agency management, or to meet with a representative. Subject to supervisory approval and the operational needs of the unit, the complainant may request available compensatory, holiday, or annual leave for this purpose.

D. Multiple Complaints

Multiple complaints by an employee may be consolidated into a single complaint. Separate complaints filed by two or more employees regarding the same issue or issues may be consolidated into a group complaint. Employees having a common complaint may submit one group complaint, identifying one complainant as the selected spokesperson for the group. Employees who choose to file a group complaint are prohibited from filing separate complaints on the same issue.

E. Amendments

Once a complaint is submitted to the Equal Opportunity Officer, it may not be amended. If additional documentation is submitted by the complainant after the initiation of the complaint, the reviewing or investigating official may remand the complaint to the complainant for reconsideration and resubmission.

F. Complaint Process

1. The employee who has an allegation of, or becomes aware of, a situation involving unlawful discrimination, harassment, or retaliation shall report the allegation or complaint by submitting an [Employee Complaint](#) (DCS-1164) form to the Equal Opportunity Officer. The Equal Opportunity Officer can be reached at HR@azdcs.gov or by mail at 3033 North Central Avenue, Phoenix Arizona 85012. The complaint shall include all facts and circumstances involved in the alleged violation, including the following information:

- a. description of the incident(s);
- b. name(s) of the individual(s) involved;
- c. name(s) of witness(es);
- d. the date(s) the discrimination, harassment, or retaliation occurred;
- e. the resolution sought; and
- f. federal or state law alleged to have been violated (if known).

2. The Equal Opportunity Officer shall:

- a. notify the DCS Director and Chief Human Resources Officer of the complaint upon receipt;
- b. acknowledge receipt of the complaint in writing to the complainant not later than five business days after receipt of the written complaint;
- c. assign the complaint to a qualified individual within the Department to investigate the allegations within 10 business days of receipt of the complaint.
 - i. The review or investigation shall be completed within 60 business days of receipt of the written complaint.
 - ii. If extenuating circumstances exist, the Equal Opportunity Officer may request an extension from the Chief Human Resources Officer.
- d. provide the findings and a written recommendation to the DCS Director and Chief Human Resources Officer within 10 business days of completion of the review or investigation, barring resolution of the complaint by agreement of the parties.

3. The DCS Director or designee shall:

- a. review the findings and recommendations;
- b. issue a decision in writing to the complainant within 10 business days following receipt of the findings and recommendations; and

- c. provide a copy of the response to the Equal Opportunity Officer and the Chief Human Resources Officer.
- G. If the complainant is not satisfied with the DCS Director's decision on a complaint alleging unlawful discrimination, harassment, or retaliation, the complainant may elevate the complaint to the Director of the Arizona Department of Administration (ADOA) located at 100 North 15th Avenue, Phoenix, Arizona 85007 within five business days after receipt of the DCS Director's decision.
- H. The ADOA Director shall furnish a copy of the ADOA Director's decision to the DCS Director and the complainant within 20 business days following receipt of the complaint by the ADOA Director.
 - 1. The 20 business days may be extended by the ADOA Director with the concurrence of the complainant.
 - 2. The decision of the ADOA Director is the final step in the complaint procedure.
 - 3. The ADOA Director's response will refer the employee to the appropriate entity if the employee is dissatisfied with the final step of the complaint procedure.
- I. Any employee who has questions related to this procedure may contact the Department's Equal Opportunity Officer or the Department's Chief Human Resources Officer at HR@azdcs.gov.
- J. Included as Attachment A is an overview of the Employee Complaint Process.

VII. FORMS INDEX

[DCS-1164A Employee Complaint](#)

Attachment A

EMPLOYEE COMPLAINT PROCESS OVERVIEW

Responsibilities

The Arizona Department of Child Safety (the Department) is committed to the prohibition of unlawful discrimination, harassment, and retaliation in the workplace. It is the responsibility of all Department employees to promptly bring any allegation of unlawful discrimination, harassment, or retaliation to the attention of the Department. Any complaint alleging unlawful discrimination, harassment, or retaliation must be submitted in accordance with the Department's Equal Employment Opportunity Policy (DCS 04-04).

Initiating the Complaint

To initiate the complaint process, the Employee Complaint form must be completed and submitted to the Department Equal Opportunity Officer, as soon as possible after the occurrence of the act and not later than 180 calendar days after the action giving rise to the complaint. The complaint shall include a description of the incident(s), list of individual(s) and witness(s) involved, date(s) of the discrimination, harassment, or retaliation occurred (if known), the resolution sought, and the state or federal law alleged to have been violated (if known). The Equal Opportunity Officer can be reached at:

DCS Equal Opportunity Officer
3003 North Central Avenue, Phoenix, Arizona 85012
Fax: (833) 889-7315
HR@azdcs.gov

The review or investigation of the complaint shall be completed within 60 business days of receipt of the written complaint. The DCS Director or designee shall review the findings and issue a decision in writing to the complainant within 20 business days after completion of the investigation. An employee who does not initiate the complaint within the 180 calendar day period waives the right to file the complaint.

Elevating the Complaint

If the complainant is not satisfied with the DCS Director's decision on a complaint alleging unlawful discrimination, harassment, or retaliation, s/he may elevate the complaint to the Director of the Arizona Department of Administration located at 100 North 15th Avenue,

Phoenix, AZ 85007, within five business days after receipt of the DCS Director's decision. The ADOA Director will appoint an individual who is not an employee of the Department to investigate the complaint. The ADOA Director shall furnish a copy of their final decision to the DCS Director and the complainant within 20 business days following receipt of the complaint. This is the final step in the Department complaint process.