

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Parks, Recreation and Historic Preservation</p> <p>Section: Human Resources</p>	<p>Policy Title: Non-Discrimination Policy</p> <p>Directive: HR-POL-001</p> <p>Effective Date: 05/15/2017</p>
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Summary

Equality of opportunity is a civil right in New York State under the provisions of Article 15 of the New York State Human Rights Law. Discrimination is also prohibited by a number of federal and state laws and executive orders. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is committed to ensuring a discrimination free workplace and to prohibiting discrimination in the operations of our public facilities, services, and programs.

All complaints and/or allegations of discrimination **must** be promptly reported to the Bureau of Affirmative Action which will thoroughly investigate complaints and recommend corrective action if warranted. Only the Bureau of Affirmative Action may undertake investigations of complaints. All employees are required to cooperate with an investigation of an alleged violation of this Policy. Employees that fail to cooperate may be subject to discipline.

Policy

Discrimination Free Workplace

OPRHP, in the furtherance of diversity and inclusion, prohibits and will not tolerate discrimination by any OPRHP employee or third party individual such as vendors, patrons, volunteers, and interns against any OPRHP employee or intern as it relates to terms and conditions of employment on the basis of protected characteristics including race, color, age, creed, national origin, sex (including gender identity and the status of being transgender), disability (including pregnancy-related conditions and gender dysphoria), marital status, familial status, military status, sexual orientation, veteran’s status, domestic violence victim status, prior arrest and conviction record or predisposing genetic characteristics.

This policy is based upon New York State Human Rights Law, Title VI and VII of the Federal Civil Rights Act of 1964, as amended, Sections 503/504 of the Rehabilitation Act of 1973, the Americans with Disability Act, Article 15-A of the Executive Law, the New York Code of Rules and Regulations §466.13, and the publication, *Equal Employment Opportunity in New York*

State – Rights and Responsibilities, A Handbook for Employees of New York State Agencies.
The prohibition on discrimination extends to all recruitment, hiring, promotion, compensation, training, retention, and disciplinary decisions and practices.

Public Facilities, Services, and Programs

OPRHP prohibits and will not tolerate any act of discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex (including gender identity and the status of being transgender), disability (including pregnancy-related conditions and gender dysphoria), predisposing genetic characteristics, marital status, familial status, domestic violence victim status, or veteran status against any individual who visits any state park, historic site, administrative office, or other facility under the jurisdiction of the agency; or against any individual who communicates or interacts with the agency regarding any service or program administered by the agency.

Complaint & Investigation Process

Employees and other individuals covered by this Policy who feel that discrimination has occurred have certain rights under the law and various administrative and legal remedies available to them.

OPRHP maintains a formal internal complaint procedure to investigate and address all allegations of discrimination in the workplace. While OPRHP is committed to resolving complaints of discrimination at the earliest and most informal level; any employee, applicant, or third party individual may file a complaint with the Bureau of Affirmative Action. Any Agency employee or other individual employee who believes that discrimination based on any of the characteristics listed above has occurred in any facility operated by the agency or in the administration of any agency program or service should report the incident verbally and/or in writing to:

- The employee's immediate, next level, or a higher level supervisor; or
- The Regional Affirmative Action Liaison; or
- The Bureau of Affirmative Action at (518) 486-9397 or via email at equality@parks.ny.gov.

A complaint of discrimination should be documented on the OPRHP Affirmative Action complaint form and forwarded to the Bureau of Affirmative Action immediately. The complaint form is available on the Agency Intranet, from the Regional Affirmative Action Liaison, and from the Bureau of Affirmative Action.

Regardless of who receives a complaint of discrimination, only the Bureau of Affirmative Action is authorized to investigate the complaint. Managers and supervisors who witness discriminatory actions may take immediate corrective action to stop such behaviors but must report such behavior to the Bureau of Affirmative Action. Any supervisor who has

direct knowledge of, or becomes aware of discrimination within the workplace, and fails to report such conduct, could be subject to disciplinary action.

If the allegations are of a criminal nature, immediately report the incident to the State Park Police. If an employee or patron alleges unwanted physical contact, the State Park Police **MUST** be notified immediately. In all potentially criminal complaints, the offices of Affirmative Action, Employee Relations and Counsel should also be notified, so that all offices can work closely with the State Park Police to address the allegations. The State Park Police will take the lead on investigating cases alleging unwanted physical contact and any other allegations that, if proven, would constitute a violation of the law.

Allegations of discrimination and any investigation will be kept confidential to the extent possible and permissible under applicable law. This confidentiality extends to the person alleging inappropriate behavior, the accused individual(s), and witnesses interviewed in the course of any investigation. No intimidation, coercion, or reprisal will be permitted against any individual reporting alleged discrimination. Federal and State laws prohibit retaliation against any individual who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful practice.

OPRHP's complaint and investigation procedure shall not in any way limit an employee, applicant, or third party individual from filing a complaint with the New York State Division of Human Rights, the U.S. Equal Employment Opportunity Commission, or any other entity with jurisdiction.

Training Requirement

All employees shall receive a copy of this Policy at orientation and are mandated to complete the annual GOER Equal Employment Opportunity: Rights and Responsibilities training. All employees are also required to attend supplementary non-discrimination training sessions as warranted by OPRHP Bureau of Affirmative Action.

This Policy shall be posted in conspicuous areas in agency facilities and on OPRHP's Intranet.

Forms

Discrimination Complaint Form – English (version dated 2/16/2016)
Discrimination Complaint Form – Spanish (version dated 2/16/2016)

Other Related Information

New York State Human Rights Law, Article 15
Federal Rehabilitation Act of 1973

New York Code of Rules and Regulations §466.13
Equal Employment Opportunity in New York State – Rights and Responsibilities; A Handbook
for Employees of New York State Agencies, dated December 2011
https://www.goer.ny.gov/Employee_Resources/employee_handbook/2011Employee_Handbook.pdf
Reasonable Accommodation Policy (HR-POL-003)
Reasonable Accommodation Request Procedure (HR-PCD-004)

History

- 05/15/2017 Updated to include gender identity, transgender status and gender dysphoria as protected classes; to explicitly prohibit discrimination by an OPRHP against another OPRHP employee; and to require employees to complete annual GOER-mandated non-discrimination training and attend supplementary training as needed
- 07/05/2016 Updated to reflect changes to Division of Human Rights regulations that prohibit harassment and discrimination on the basis of gender identity, transgender status or gender dysphoria.
Eliminated “Discrimination Complaint Process and Investigation Procedure” (HR-PCD-002). Direction included in the procedure was added to this updated policy HR-POL-001.
- 06/26/2015 Eliminated the 2010 “Policy on Non-Discrimination, Equal Access, and Reasonable Accommodation” and replaced with the following guidance documents:
Reasonable Accommodation Policy (HR-POL-003)
Reasonable Accommodation Request Procedure (HR-PCD-004)
Accessibility Policy (OPR-POL-001)
Non-Discrimination Policy (HR-POL-001)
Discrimination Complaint Process and Investigation Procedure (HR-PCD-002)
- 07/19/2010 Policy issued that combined Agency Policies “Equal Opportunity and Equal Access (dated November 2007) and “Policy Statement No. 31 Re: Reasonable Accommodation (undated).