

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 131.01

EFFECTIVE DATE: 05 April 2025

**SUBJECT: DISCRIMINATION PROHIBITED /
EQUAL EMPLOYMENT
OPPORTUNITY / REASONABLE
ACCOMMODATIONS**

POLICY DIRECTIVE

PURPOSE:

To provide policy and procedure prohibiting discrimination; ensuring equal employment opportunities exist for all positions; and ensuring reasonable accommodations for a known physical and/or mental impairment for employees and applicants provided the accommodation does not impose an undue hardship or a direct threat.

REFERENCE:

Title VII of the Civil Rights Act of 1964; Americans with Disabilities Act (ADA); Uniformed Services Employment and Reemployment Rights Act (USERRA); Genetic Information Nondiscrimination Act (GINA) of 2008; United States, Executive Office of the President, Executive Order 14173; Groff v. DeJoy, 600 U.S. 447 (2023); West Virginia Human Rights Act, WV Code §16B-17-1 *et seq.*; Pregnant Workers' Fairness Act, WV Code §16B-19-1 *et seq.*; WV Code §§15-1F-8, 21-3-19, and 29-6-20; State of West Virginia, Executive Department, Executive Order No. 3-25; and

ACA Expected Practices 5-ACI-1C-01 and 06 through 09, 5ACI-3D-04; 5-ALDF-6-02 and 5-ALDF-7E-01; 4-JCF-3A-03, 4-JCF-6C-02, 4-JCF-6D-01 and 06 through 07; 3-JDF-1C-01, 05, 05-1 and 05-2, 3-JDF-3D-03 and 04-1; 1-JDTP-1C-01, 07, 07-01, and 08, 1-JDTP-3D-01-1 and 14-1; 2-CO-1C-01, 09, 09-1, 10, and 12-CO-3C-01; 1-CTA-1C-01, 03, 03-1 and 14; 4-APPFS-2G-01, 4-APPFS-3E-02 through 07; 2-CI-5A-3, 2-CI-6D-2 through 4.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 131.01, dated 14 December 2020 and DJS Policy 150.00, dated 01 January 2017.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution and is to be included in the Personnel Policy Manual.

DEFINITIONS:

Employee: For the purposes of this Policy, this includes full time, part-time, temporary, provisional, probationary, and permanent status employees of the State of West Virginia; contractors and their employees; and volunteers.

Offender: For the purposes of this Policy, this includes adult inmates, young adult offender, juvenile residents, Youth Reporting Center participants, and those individuals supervised by Parole Services.

POLICY:

- I. The Division of Corrections and Rehabilitation (DCR) is fully committed to Federal and State civil-rights laws that prohibit discrimination based on race, color, religion, sex, national origin, disability, age, political affiliation, military status, genetic information, and tobacco use.
 - A. Equal employment opportunities exist for all positions. All qualified persons are able to compete equally for entry into and promotion within DCR.
 - B. The DCR will ensure that all personnel actions relating to employment, compensation, transfers, promotion, training, educational opportunities, and terminations will be made in a nondiscriminatory manner.
- II. The DCR is committed to ensuring all employees are provided a work atmosphere free from all forms of discrimination, including sexual harassment. All employees are trained in the specific process to be followed and the designated staff to whom incidents of sexual harassment or discrimination should be reported.
- III. Reasonable accommodations for a known physical and/or mental impairment of a qualified individual with a disability will be made for employees and applicants provided the accommodation does not impose undue hardship on the DCR or a direct threat.
 - A. Reasonable accommodations refer to modifications or adjustments which enable qualified applicants with disabilities to access the job application process or which enable qualified employees with disabilities to perform the essential functions of the job and to enjoy the same terms, conditions, and privileges of employment that are available to persons without disabilities. Terms, conditions, and privileges include, but are not limited to recruitment, selection, and hiring; salary and compensation; benefits, holidays, leave, and work hours; promotion and advancement; staff development, including in-service training; and retirement, resignation, and termination.

- B. An undue hardship means significant difficulty or expense. Direct threat means a significant risk of substantial harm to the health or safety of any person, including the applicant or employee with a disability that cannot be eliminated or reduced by reasonable accommodation.
 - C. A qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements for the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the functions of such position.
 - D. The West Virginia Pregnant Workers' Fairness Act also requires that reasonable accommodation to the known limitations related to pregnancy, childbirth, or related medical conditions of a job applicant or employee be made unless the DCR can demonstrate that the accommodation would impose an undue hardship.
- IV. Title VII of the Civil Rights Act obligates employers to make reasonable accommodations to the religious needs of employees unless the burden of granting accommodation would result in substantially increased costs in relation to the conduct of its particular business.
 - V. WV Code §21-3-9 prohibits employers from refusing to hire or to discharge any employee or otherwise to disadvantage or penalize any employee solely because such individual uses tobacco products off the premises of the employer during nonworking hours.
 - VI. When permitted by law, employment of qualified ex-offenders is not prohibited. Policy Directive 135.00 contains guidelines for the consideration of prior convictions in the employment process.
 - VII. Discrimination based on an offender's race, religion, national origin, sex, disability, or political views is prohibited in making administrative decisions and in providing access to programs, activities, and services.
 - VIII. Discrimination is prohibited on the basis of disability in the provision of services, programs, and activities to beneficiaries including, but not limited to, family members of offenders, attorneys, and other authorized visitors.

ATTACHMENT(S): None.

APPROVED SIGNATURE: William K. Marshall III 04/05/2025
William K. Marshall III, Commissioner Date