

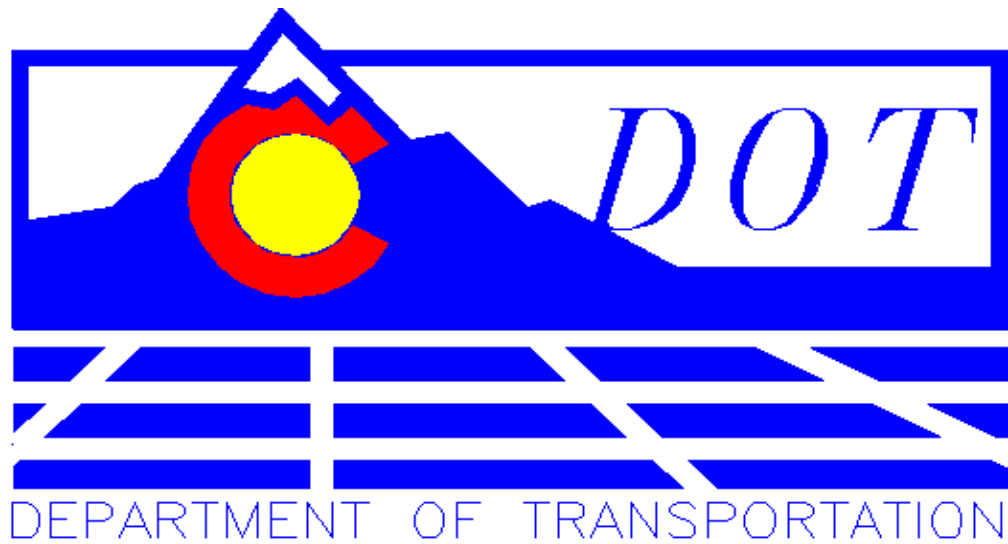
COLORADO DEPARTMENT OF TRANSPORTATION

AFFIRMATIVE ACTION REPORT

October 1, 2012 – September 30, 2013

AND PLAN

October 1, 2013 – September 30, 2014



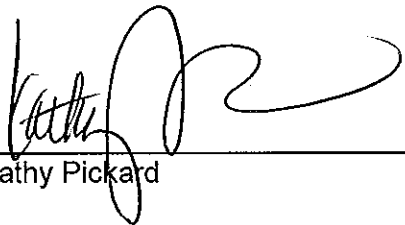
AFFIRMATIVE ACTION PROGRAM

**Colorado Department of Transportation
2013 Annual Report: October 1, 2012 to September 30, 2013
2013-2014 Affirmative Action Plan: October 1, 2013 to September 30, 2014**

**Colorado Department of Transportation (CDOT)
4201 E. Arkansas Ave.
Denver CO 80222
303-757-9201**

**Authorities:
Federal Highway Administration, 23 CFR Part 230
Federal Transit Administration, Circular 4701.1**

Completed by: Kathy Pickard, CDOT Affirmative Action Officer

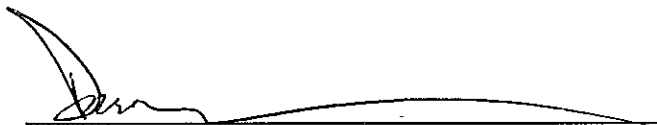


Kathy Pickard

November 27, 2013

Date

Concurred and Approved by:



Dan Myers, Strategic Workforce Solutions, EEO, and Senior Human Resources Director

Date

27 NOV 2013



Don Hunt, CDOT Executive Director

Nov. 27, 2013

Date

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SECTION 1

Introduction to CDOT
Vision, Mission and Values
History
Organizational Update

See Appendix A

CDOT Organizational Chart
Strategic Workforce Solutions (HR) Organizational Chart
CDOT EEO Policy
CDOT Sexual Harassment Policy
CDOT ADA Policy

INTRODUCTION TO CDOT

The Colorado Department of Transportation (CDOT) is responsible for a 9,146 mile highway system, including 3,447 bridges. Each year, this system handles over 27.4 billion vehicle miles of travel and 40 percent of that travel takes place on our interstate highways.

CDOT maintenance forces take care of the highway system, plowing snow and repairing pavement. Last winter, CDOT's men and women plowed, sanded and/or deiced 6.2 million miles of highway. They also repaired and maintained more than 55,000 miles of roadway.

CDOT is much more than roads and bridges: the Division of Aeronautics supports aviation interests statewide; the Division of Transit and Rail provides assistance to numerous transit systems in the state; and our Office of Transportation Safety helps local law enforcement agencies with special funds to apprehend drunk drivers and increase use of safety belts.

CDOT's desert plains roadways and high-mountain passes, our multi-lane interstates and two-lane rural highways, our fire season closures and our flood and rockfall emergencies—CDOT is like no other state. Transportation matters in Colorado, and we are all proud to participate.

CDOT's Vision:

To enhance the quality of life and the environment of the citizens of Colorado by creating an integrated transportation system that focuses on safely moving people and goods by offering convenient linkages among modal choices.

CDOT's Mission:

To provide the best multi-modal transportation system for Colorado that most effectively and safely moves people, goods, and information.

CDOT's Values:

- **SAFETY** - We work and live safely! We protect human life, preserve property, and put employee safety before production!
- **PEOPLE** - We value our employees! We acknowledge and recognize the skills and abilities of our coworkers, place a high priority on employee safety, and draw strength from our diversity and commitment to equal opportunity.
- **INTEGRITY** - We earn Colorado's trust! We are honest and responsible in all that we do and hold ourselves to the highest moral and ethical standards.
- **CUSTOMER SERVICE** - We satisfy our customers! With a can-do attitude we work together and with others to respond effectively to our customer's needs.
- **EXCELLENCE** - We are committed to quality! We are leaders and problem solvers, continuously improving our products and services in support of our commitment to provide the best transportation systems for Colorado.
- **RESPECT** - We respect each other! We are kind and civil with everyone, and we act with courage and humility.

CDOT History:

- 1909 - The first highway bill was passed by forming a three-member Highway Commission to approve work and allocate funds.
- 1917 - The State Highway Fund was created and the State Highway Department (CDOH - Colorado Department of Highways) was formed.
- 1968 - The legislation reorganized highway matters and created the Division of Highways
- 1991 - CDOH became Colorado Department of Transportation (CDOT)
- CDOT Organization

CDOT Organizational Update:

Major Organizational Changes since last year:

- Regional Boundaries
- Appointment of Deputy Director
- Appointment of Chief Operations Officer
- Creation of Office of Major Projects in the Chief Engineer's Office
- Strategic Workforce Solutions (aka HR)

Section 2

Summary of 2013/2014 Major Initiatives and Activities
Strategic Focus
Regional Boundary Changes
RAMP (Responsible Acceleration of Maintenance and
Partnerships
Total Asset Management (TAM)
Colorado Floods

SUMMARY OF 2013/2014 MAJOR INITIATIVES AND ACTIVITIES:

CDOT's Top Priorities for 2014:

Organizational:

- Continue to evolve CDOT to a more performance-based organization by implementing metrics and improving business processes and controls.
- Institutionalize changes to program delivery and transportation system management.
- Support industry and local government in identifying a 10–15 year source of additional transportation funding to support economic development and improved safety in Colorado.
- Implement RAMP program by including initial selected projects and establishing an operations project portfolio and cash management system.

Chief Engineer:

- Focus on program delivery, maintenance and employee safety.
- Identify RAMP projects and provide transparency.
- Improve project delivery by identifying required adjustments to project delivery methods and systems.
- Develop the portfolio management system to identify the budget, schedule, and purpose of all active projects and the predicted cash flow.
- Share the message of senior management with employees and solicit feedback.
- Support the new Operations Division to maximize the existing transportation system.
- Integrate maintenance and engineering decisions into asset management.
- Establish the Office of Major Project Development.

Individual:

- Monitor and engage with department, divisional and individual team progress through various communication tools.
- Perform job in accordance with CDOT values.
- Prioritize and implement *Excellence in Safety*.
- Continue training and education (at least two opportunities a year).

Strategic Focus Areas:

- Improve business processes for better customer service and efficiency.
- Use innovation and improved management to get more money to construction.
- Get more out of the existing highway system to improve mobility through better operations, management and innovation without making major infrastructure improvements.
- Partner with the private sector to augment public funds.
- Achieve greater transparency and accountability in budget reporting, project planning and construction, and maintenance activities.
- Provide employee training and professional development opportunities.

Regional Boundary Changes:

In October 2012, CDOT introduced proposed changes to the CDOT engineering region boundaries and solicited feedback from CDOT employees as well as stakeholders in the planning regions, cities, counties and Transportation Planning Regions (TPRs). After receiving feedback and analyzing the various options, CDOT has decided to modify the regions based mainly on county boundaries and reduce the number of regions from six to five effective July 1, 2013. Anthony DeVito became the Region Transportation Director (RTD) for the combined Region 1 and 6, to become Region 1 on July 1, 2013.

The boundary changes were primarily pursued in an effort to enhance customer service by:

- Better aligning of regions with county boundaries allowing the counties to coordinate with one region, rather than two or sometimes even three.
- Better aligning of regions with TPRs where appropriate.
- Creating “one stop shopping” for many more local governments and transportation stakeholders as well as some internal CDOT offices.
- Simplifying highway responsibilities in the Denver metro area and better aligning engineering and maintenance boundaries in other areas.

Changes to Region Boundaries:

- Region 6 and a portion of Region 1 were combined into a new region and include:
 - All of Adams, Arapahoe, Clear Creek, Denver, Douglas, Gilpin and Jefferson counties.
 - The majority of Broomfield County with the exception of a small portion north of SH 7, which will remain in Region 4.
 - The US 36 corridor between I-25 and Baseline Road in Boulder.
 - The Eisenhower Johnson Memorial Tunnel.
 - Summit County moved from Region 1 to Region 3.
- All engineering and maintenance in Park County moved to Region 2.
- All of Cheyenne, Elbert, Kit Carson and Lincoln counties moved from Region 1 to Region 4.

Chief Engineer’s RAMP Program:

On October 17, 2013, CDOT announced 44 private-sector partnership projects as part of the Responsible Acceleration of Maintenance and Partnerships (RAMP) program totaling \$580 million to maximize and expand the statewide transportation system. The RAMP program was created in December 2012 as a new approach to budgeting and planning to accelerate the completion of transportation projects.

The RAMP program has also identified \$66 million in operations projects throughout the state. Combined with an additional \$800 million dedicated to statewide asset management projects to maintain the system, RAMP will result in an approximately \$300 million per year increase in project construction for five years, an increase of 50 percent. RAMP’s impact is significant for the state’s economy, as every \$1.5 million spent on transportation projects sustains or creates 10.55 jobs.

Under the RAMP program, the Colorado Department of Transportation (CDOT) will fund multi-year projects based on year of expenditure, rather than saving for the full amount of a project before construction begins. This will match project expenditures with available revenues and allow CDOT to fund additional transportation projects over the next five years. CDOT will continue moving forward the RAMP program in addition to the flood recovery efforts and will work with counties impacted by the flooding to determine the best time for projects.

Total Asset Management:

The Federal Transportation Act, Moving Ahead for Progress in the 21st Century (MAP-21), requires that each state develop a risk-based asset management plan for the National Highway System (NHS) to improve or preserve the condition of the assets and the performance of the system.

FHWA defines asset management as “a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.” FHWA defines risk as “the positive or negative effects of uncertainty or variability upon agency objectives.”

CDOT’s risk-based asset management plan must include:

1. A summary listing of the pavement and bridge assets on the NHS in the State, including a description of the condition of those assets;
2. Asset management objectives and measures;
3. Performance gap identification;
4. Lifecycle cost and risk management analysis;
5. A financial plan; and
6. Investment strategies.

CDOT has recognized that asset management for the full state highway network is a good way to do business. A Transportation Asset Management Structure, which includes an Oversight Committee, a Working Committee and several task forces, provide the support, guidance, and leadership to address how CDOT best balances our life-cycle investments in transportation assets.

Colorado Floods:

The best way to describe the impact of the Colorado floods on CDOT is through the following supportive messages from Don Hunt, CDOT Executive Director:

September 20, 2013

Dear CDOT Employees:

Over the last few days it has become clear that this flood is more than just something that has affected one or two of our regions, it has impacted all of us at CDOT. It has been inspiring to see all of the employees who have called to volunteer to help and I

know that Johnny Olson, Tony DeVito and Tom Wrona are very grateful. Likewise it has been amazing to see our front line crews continue to push to assess and repair our roads and bridges, never letting up, always focused on our service to the public.

Nothing had made me more aware that we are one team than how we have pulled through the first parts of this disaster. Early assessments show that 200 lane miles and 50 bridges have been destroyed, damaged or impacted by the floods. And now our team has a larger task in front of us – the rebuilding of our transportation system in parts of northern and eastern Colorado.

It is time to support our front line with a structure that can help focus our energy and commitment to rebuilding for the long term. We plan to establish a recovery force to clear, repair and reconstruct components of the state highway system by December 1, before the onset of winter.

Our goal will be to rebuild our infrastructure with speed, efficiency and to improve our transportation system. Our Infrastructure Recovery Force (IR Force) will also provide coordination and assistance to local government in reestablishing critical links to local roads, bridges, water, sewer, power, and communications.

Scot Cuthbertson, CDOT Deputy Director and Johnny Olson, current Regional Transportation Director for Region 4 – Greeley will command the IR Force which will adopt an Incident Command Structure. Heidi Bimmerle Humphreys will become acting CDOT Deputy Director while Myron Hora will become acting RTD for Region 4. Scot and Johnny will be joined by a reassignment of CDOT staff from our most affected regions and from around the state to the IR Force whose mission will be focused on:

- Response: Including debris clearing, temporary road building and portable bridges. The work will be conducted by CDOT staff, emergency contractors and National Guard where possible. This work will be conducted in the next few months through winter.
- Recovery: Including more traditional infrastructure construction which will start next spring and occur over the next year to establish permanent roadways and bridges.

The IR Force will accomplish recovery work through the rotational assignment of statewide CDOT maintenance, engineering, and support employees. Soon, we will be reaching out for volunteers who might be able to support our current crews and this effort.

I hope that you can join me, Scot, Johnny and Tim Harris on an all employee call today at 3 p.m. where we can discuss this effort in more detail. We will be calling all desk phones at 3 p.m. but for those of you away from your desk, you can call in by dialing: [877-229-8493](tel:877-229-8493), PIN 112034.

We look forward to talking more on the call. The bottom line for us at CDOT – We will do what we need to do. No one will be left behind. We will emerge stronger and we will do it together.

Sincerely, Don

Dear CDOT Employees:

THANK YOU! Before I get to the nuts and bolts of how the flooding disaster affects CDOT, I want to start by saying what an extraordinary job our employees are doing in managing this crisis. The citizens of Colorado, the governor and I want to acknowledge the tireless and unprecedented response of our employees.

To say what has happened over the last week and over the weekend is unprecedented is an understatement. From the afternoon of Monday, September 9 to midday Friday, September 13, 14.6 inches of rain fell on Boulder, with similar amounts in Larimer County and continued run-off and rain in Weld counties. To put this in perspective, average annual precipitation in the Front Range is 15 inches.

As I write this letter, CDOT is still showing 25 road closures in Boulder, Larimer, Weld, Jefferson, Morgan and Denver counties. Rescue of stranded residents continues, and the human toll of this disaster is still unknown.

But this week, the focus will begin to turn from rescue to recovery. We know that we have lost 30 state highway bridges, there is damage to 20 more, and there are 20 more structures that currently can't be reached for inspection. We have teams of CDOT maintenance and engineering personnel who worked over the weekend to assess infrastructure condition. By the end of today, we expect to have the first estimate of what lies ahead for recovery and reconstruction.

Region 4 has been hardest hit. I want to recognize Johnny Olson and his outstanding team. They have worked day and night to keep travelers safe. They have worked to reestablish emergency road linkages to isolated communities, made the first pass of debris removal, and assessed damage to the state system. Region 1 has also been seriously affected by disaster, and Region 2 continues to manage the runoff aftermath of the Waldo Canyon fire.

All of this means that CDOT must rise to a new challenge, one that we have never experienced. This is the largest natural disaster affecting Colorado infrastructure since the 1965 South Platte flood. It replicates and dwarfs the 1976 Big Thompson disaster. While we think about the state highway system as the first priority for infrastructure recovery, the flooding impact on sewer, water, power, and communications systems is just emerging as an even higher risk to public health and safety. Local communities may need our help before we can even turn to the task of repairing the state highway system.

Recovering from the flooding will be the biggest challenge in our 100 year history, and perhaps the biggest challenge CDOT will face in the next 100 years. This recovery and rebuilding will transcend routine business. In addition to maintaining our regular service, I expect that we will create special recovery teams of CDOT personnel—maintenance, engineering, and support. These teams need to work with an urgency and effort equal to a blizzard response—but magnified by an enormous scope and unknown duration. We know that the pressure and the requests will keep coming. I recognize we are asking for more, but also know what a tremendous effort has gone into getting us to this point in the response and recovery.

Many of us—most of us--will have to sacrifice over the next few months, working overtime, and encountering stretches of time away from our families. We only have a

couple of months to do the most we can before winter weather sets in. I have no doubt that every CDOT employee will rise to the occasion. Our history of service and sacrifice for Colorado is unquestioned. The overwhelming adversity we face today will lead to writing the next great chapter in CDOT's contribution to Colorado.

Moving forward, we will be establishing a Flood Recovery page in the Change Hub section of the Intranet to share information and details about how we move forward together. Also look for updates from your regional management team and others.

I want to leave you all with the reminder of how grateful I am for the professionalism, expertise and sheer effort that you have put in over the last week. And if my gratitude isn't enough, here are just some of the many of hundreds of comments we have gotten from the public.

I want to leave you all with the reminder of how grateful I am for the professionalism, expertise and sheer effort that you have put in over the last week. And if my gratitude isn't enough, here are just some of the many of hundreds of comments we have gotten from the public.

Just stay safe and THANK YOU ALL! For what you are doing out there! Going above and beyond! God I love this state!

Amazing job. So appreciated. Made it from Evergreen to Ft. Collins today for my stepson's wedding which was a smashing success thanks to your hard work.

We are so grateful for you guys!!!!!! Stay safe! You are very much appreciated.

CDOT is THE best...thanks for all you do for us, all the time!

Thanks CDOT for dare I say it? rising to the occasion.

Thanks CDOT. If people only had an idea of what heroes you are.

Sincerely,

Don

Section 3

Affirmative Action Program Commitment Statement

Communication of CDOT's EEO Policy and AA Plan

Identification of Affirmative Action Implementation Responsibilities

Executive Director, Regional Transportation Directors
and Division Directors and Director of Transit and Rail

Affirmative Action Officer

EEO Program Director/Employee Relations/Legal Work
Unit

Workforce Staffing Unit

Regional Civil Rights Managers (RCRMs) and

Headquarters Rep

Supervisors

Managers

AFFIRMATIVE ACTION PROGRAM COMMITMENT STATEMENT

The Colorado Department of Transportation's (CDOT), Executive Director, directed by and through its staff, is committed to equal employment opportunity and a program of affirmative action to fulfill that commitment. This affirmative action plan serves as a guide that outlines to management of his/her responsibilities regarding the implementation of the affirmative action program.

To support CDOT in achieving its mission, this affirmative action plan reinforces equal employment opportunity principles by ensuring that the workforce and public has an equal opportunity to enter public service and work in an environment that is free of unlawful employment barriers.

CDOT is committed to equal opportunity and non-discrimination under the laws instituted by the State and the U.S. Congress. It is the responsibility of every person within CDOT to incorporate and implement actions of equal opportunity. In addition, CDOT prohibits retaliation against any employee because he or she has made a report of alleged discrimination or harassment; has testified, assisted or participated in any manner in an investigation of such report; or has opposed discrimination or harassment.

CDOT is dedicated to the principles and goals of fairness, equality, courtesy, and respect for all individuals. As an employer, CDOT is committed to fairness and equality of opportunity in the workplace. All recruitment, hiring, training, promotions, transfers, and administration of all personnel policies, procedures, programs, and services are conducted or administered without regard to differences in age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender or sexual orientation, political affiliation, organizational membership, and veteran's status, or other non-job related factors.

CDOT will ensure that no person shall, on the grounds of in age, ancestry, color, creed, marital status, disability, national origin, race, religion, gender or sexual orientation, political affiliation, organizational membership, and veteran's status, or other non-job related factors, be excluded from participation in, be denied the benefit of, or be subjected, to discrimination or harassment under any program or activity receiving state or federal financial assistance directly or indirectly by CDOT.

It is the policy of CDOT to promote Equal Opportunity in the employment of women, minorities, veterans and persons with disabilities. Reasonable accommodations are offered in the selection process and minimum qualifications are written to guarantee job relatedness. Individuals responsible for classification and compensation review the minimum qualifications for positions to guarantee that women, minorities, veterans or persons with disabilities are not adversely screened out of the employment process.

CDOT values the individual diversity of all employees, applicants, volunteers and citizens. Differences in age, race, ethnic heritage, religion, appearance, sexual orientation or any number of other distinguishing factors provide experiences, viewpoints and ideas that can strengthen and enrich our work environment. Our goal is to create an environment that is inclusive, respectful, and equitable, and to employ the talents of people with different backgrounds experiences, and perspectives to accomplish the mission of CDOT.

COMMUNICATION OF CDOT'S EEO POLICY AND AA PLAN

The Department is committed to ensure that each employee is aware of his/her rights in regards to CDOT's Equal Employment Opportunity/Affirmative Action and State and Federal laws regarding discrimination. Managers, Administrators, and supervisors at all levels are responsible for being familiar with these policies and laws and applying them in the execution of his/her duties. CDOT will provide its employees and the public this information in the following ways:

- A paper copy of the AA Plan and EEO Policy will be posted at Headquarters (HQ) and at each Regional Transportation District location.
- Each Senior Management Team member will be provided a paper copy.
- The CDOT Intranet and External site will have the documents available in electronic format.
- CDOT New Employee Orientation implemented in November, 2013, includes information about the CDOT EEO policy.
- The CDOT Human Resources monthly magazine, In Motion, will contain a standing notice about the Plan and Policy.
- CDOT requires new employees to take Strength from Diversity and Putting the Brakes on Workplace Harassment training
- Colorado State employment application form.
- Quarterly goal-setting and progress status meetings and reporting between the Affirmative Action Office and the Regional Civil Rights Managers (RCRMs).

IDENTIFICATION OF AFFIRMATIVE ACTION IMPLEMENTATION RESPONSIBILITIES

Executive Director of CDOT/ Regional Transportation Directors/Division Directors/Director of Transit and Rail:

- The Executive Director has designated a full-time Affirmative Action (AA) Officer to be responsible for the direction and implementation of CDOT's Affirmative Action Program.
- The Executive Director and his/her appointees and Administrators shall be responsible for the overall administration of the EEO/AA Program, including the total integration of equal opportunity into all facets of CDOT personnel management.

Affirmative Action Officer:

- Develop the Affirmative Action Plan.
- Publicize the AA Plan content internally and externally.
- Advise Regional Civil Rights Managers (RCRMs), managers, and supervisors in collecting and analyzing employment data, and identifying problem areas.
- Set goals and timetables and develop programs to achieve goals.
- Remedy to eliminate any discriminatory practices discovered in the employment system.
- Receive, handle and process formal discrimination complaints.
- Design, implement and monitor internal audit and reporting systems to measure the program effectiveness and to determine where progress has been made and where further action is needed.
- Report, at least quarterly, to the Executive Director, progress and deficiencies of each unit in relation to agency goals.
- Assist with the implementation of CDOT Equal Employment Opportunity program.

Headquarters EEO Program Director, Employee Relations/Legal Work Unit:

- Provide supportive services to the Regions through strategic analysis and direction.
- Investigate discrimination complaints, including hostile work environment.
- Investigate sexual harassment complaints.
- Coordinate Statewide CDOT Disability Program (Americans with Disability Act, etc.), including reasonable accommodations.
- Advise Regional Civil Rights Managers (RCRMs), managers and supervisors in carrying out their EEO and Affirmative Action responsibilities.
- Ensure equal availability of employee benefits.
- Ensure disciplinary actions are issued in a nondiscriminatory manner.
- Provide employee engagement activities such as Goodwill (morale-building) and Anti-Bullying.
- Investigate, mediate or resolve conflicts as appropriate for Work Place Violence reports and complaints.

Headquarters Workforce Staffing Unit:

- Conduct classification reviews to ensure that the job descriptions (PDQ) are classified appropriately in accordance with State criteria.
- Ensure hiring and promotion activities are non-discriminatory.
- Conduct recruitment and selection activities that support EEO/AA efforts.

Regional Civil Rights Managers (RCRMs) and Headquarters Rep (Vacancy to be Filled in 2014):

- Investigate, mediate or resolve conflicts as appropriate regarding discrimination complaints, including hostile work environment.
- Investigate sexual harassment complaints.
- Coordinate outreach recruitment efforts for candidates, including veterans and protected classes.
- Ensure hiring, promotion, and compensation activities are non-discriminatory, including reallocations.
- Ensure that accurate and current job descriptions are submitted to Headquarters HR.
- Implement the CDOT Disability policy, including providing reasonable accommodations.
- Advise managers and supervisors in carrying out their EEO and Affirmative Action responsibilities.
- Conduct Exit Interviews.
- Ensure equal availability of employee benefits.
- Ensure disciplinary actions are issued in a nondiscriminatory manner.
- Provide and record employee engagement activities and Programs: Cross Training, Internship, Mentorship, and Career Counseling.
- Provide activity reports to the Employee Relations/ Legal/ Affirmative Action Officer as requested.
- Report to the Affirmative Action Officer any observed barriers to equal employment opportunity.

Supervisors:

- Communicate any identified barriers to equal employment opportunity to the appropriate manager or authority.
- Ensure that all non-management employees are aware of CDOT's policies and commitment to EEO/AA.
- Ensure that no barriers exist that preclude equal opportunity in hiring, promotion, training or any other term or condition of employment.
- Ensure that they and subordinate staff have completed all CDOT mandatory training related to EEO.
- Immediately report any complaint of sexual harassment, discrimination or hostile work environment relating to discrimination to the Regional Civil Rights Office or Employee Relations/Legal Office.

Managers:

- Ensure that subordinate managers and supervisors understand the Department's EEO/AA policies and solicit full support in achieving the Department's goals and objectives.
- Monitor all employment actions under his/her authority, to include, but not limited to, hiring, promotion, training, and any other term or condition of employment. The goal is to ensure that no barriers preclude equal employment opportunity.
- Ensure that all subordinate staff completed all mandatory CDOT training related to EEO;
- Immediately report any complaint of sexual harassment, discrimination, or hostile work environment related to discrimination to the Regional Civil Rights Office or Employee Relation's Legal Office.

Section 4

Update/Report on 2012/2013 Affirmative Action Plan
CDOT Policy Updates
Response to 2011 FHWA Assessment (Internal Only)
Update on Regional Equal Opportunity Activities

UPDATE/REPORT ON 2013 PLAN:

Goals of CDOT 2012-2013 Affirmative Action Plan:

There were concerning issues contained in the Affirmative Action Workforce Analysis and Goals made in the 2012-2013 Affirmative Action Report.

Most significant:

- The Report was published without institutional knowledge of the data analysis methodology used in the previous Report(s) and the data was used and analyzed without the direction of an Affirmative Action Officer.
- The Plan did not distinguish between hiring and promotional data as required; therefore that data was not analyzed and goals could not be made in that manner.
- The Plan identified Highway Maintenance Workers as underutilized (levels I, II and III) and that analysis included seven (7) other job classes. A narrative explaining the rationale was not included and it is not possible to determine the origin of the recommendation in order to properly respond.
- The Plan mistakenly made a nexus between CDOT's female Engineer population and the Engineering Techs/Assistants in a career-path. The Engineer-in-Training (EIT) series is actually the more appropriate career path for Engineers.
- The Surveyor analysis included a total of four (4) job classes and explaining narrative was not included to determine the origin of the recommendation in order to properly respond.
- Statewide analysis was conducted and Colorado has differing regional EEO populations so an accurate analysis could not be conducted.
- Goal timetables, as required, were not included.

In any event, the following information was reported to FHWA in December, 2012:

The Annual Plan identified the underutilization of:

- Asian females in the Engineering Techs/ Assistants job category;
- White female in the Surveyor job category; and,
- African-American and Hispanic female Transportation Maintenance Workers.

The Annual Plan proposed adding the following staff to reach goals:

1. One (1) Asian female to the Engineering Tech/Assistant category;
2. One (1) White female Surveyor;
3. One (1) African-American female Transportation Maintenance worker; and,
4. One (1) Hispanic female Transportation Maintenance Worker.

The following chart shows the differences in CDOT population in the above targeted job classes from June 30, 2012 to June 30, 2013:

Engineer Tech and Asst	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
2012	36	138	1	4	3	2	2	23	1	1	0	0	212
2013	30	137	1	3	3		2	24	1	1	0	0	202

Surveyor	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
2012	3	26					1	2					32
2013	3	27					1	2					33

Targeted recruitment for the stated goals did not occur with the anticipation of a revised utilization analysis using 2010 census data.

Summary:

Asian female Tech/Asst. was not hired.

White female Surveyor was not hired.

The Transportation Maintenance Worker job was not likewise compared as the current parity analysis shows no underutilization in that job class.

CDOT Policy Updates:

All Affirmative Action-related policies listed below are being assessed and re-written. CDOT has a "Rules, Policies and Procedures Administrator" located in the CDOT Office of Policy and Government Relations that is charged with leading the revision initiative relative to the priorities of the Senior Human Resources Director/EEO Program Manager. Below each policy is a statement indicating its status in the update process.

- EEO (0600.0) Review Date: May 2012
Revision scheduled to begin the week of 11/11/13
- Placement of Employees with Disabilities (0600.2) Review Date: January 2013
Revision scheduled to begin January, 2014
- Internal Discrimination Complaint Procedures (0600.6) Review Date: January 2011
Repeal pending HR Manual publication, date to be determined
- Diversity (0602.0) Review Date: October 2010
Revision scheduled to begin the week of 11/11/13
- Sexual Harassment (0603.0) Review Date: August 2012
Revision scheduled to begin the week of 11/11/13
- Transfer Policy and Procedures (1280-1) Review Date: 2009
Repeal pending due to rule changes with clarifications
- Standard Procedures for Interviewers (1221.1) Review Date: January 2011
Repeal pending HR Manual publication, date to be determined

RESPONSE TO 2011 FHWA ASSESSMENT (INTERNAL ONLY):

In September, 2011, FHWA conducted a Civil Rights Program Assessment. This section is addressing Internal (CDOT workforce) EEO/AA Issues only. External Civil Rights issues are being communicated directly between Greg Diehl, Civil Rights Business Resource Center (CRBRC) Manager, and Melinda Urban, Colorado FHWA Civil Rights Programs liaison.

FHWA Observation #9: Communications: CDOT does not consistently notify the public and other interested parties that auxiliary aids will be provided upon request (e.g. via public meeting announcement). However, this notification is part of all employment announcements on CDOT's website.

FHWA Recommendation: Recommend CDOT establish a consistent policy to address public notification of auxiliary aids per 28 CFR 35.160(a), 28 CFR 35.163(a), and 49 CFR 27.7(c).

Update: The CRBRC is going forward with the development and implementation of a new Policy Directive to address this issue.

FHWA Observation #10: Communications: CDOT could not verify whether its public website is accessible to individuals with hearing or visual impairments. The Governor's Office of Information Technology maintains CDOT's website. The Center for EO verified there was a TDD/TTY (telecommunications devices for the Deaf) phone line for CDOT. However, the phone line is not easily found on the website. There is a link for "Accessibility" on the upper right hand side of CDOT's home page. Neither this link nor the "Contact" link provided the TDD/TTY phone line.

FHWA Recommendation: Verify CDOT's website is completely accessible and useable and recommend the TDD/TTY phone line be made known to the public per 28 CFR 35.161 and 49 CFR 27.7 (c).

Update: At this time, the CRBRC is providing FHWA this information directly through their scheduled meetings.

FHWA Observation #13: Implementation and Administration: CDOT does not have a full time Affirmative Action Officer (AAO). The Director for the Center for EO is serving as the interim AAO.

FHWA Recommendation: When filling this position recommend CDOT consider that managing the internal EEO program is a major time commitment, and cannot be added on to an existing full time job, per 23 CFR 230 Subpart C, Appendix A, Part II, Section II, A, 1 (a-c).

Update: Kathy Pickard, General Professional III, has been in this assignment as of April, 2013.

FHWA Observation #14: Implementation and Administration: The Affirmative Action officer reports on an annual basis to the Executive Director on the progress and deficiencies of each unit in relation to agency goals.

FHWA Recommendation: Recommend the Affirmative Action Officer report at least quarterly to the Executive Director on the progress and deficiencies of each program in relation to agency goals in CDOT's affirmative action plan, per 23 CFR 230, Subpart C, Appendix A, Part II, Section II, A, 2 (f).

Update: The AAO, Kathy Pickard, is assigned to provide a Quarterly and Annual Affirmative Action Report/Update to Don Hunt, CDOT Executive Director and will do so going forward.

FHWA Observation #17: General: The Region 6 Civil Rights Manager position has been vacant for the past two years. During this time, the Region 6 contract compliance specialist has been the civil rights specialist for external DBE functions. In addition, CDOT headquarters has been providing technical assistance on project specifics and internal EEO matters for the region. According to the Center for EO, while they can provide technical assistance, they are not staffed to provide project level oversight on the upcoming larger projects such as US-36 managed Lanes Project.

FHWA Recommendation: Consider filling the Region 6 Civil Rights manger position and document how CDOT will deliver the Region 6 Civil Rights program.

Update: CDOT's initiated regional boundary reorganization in January 2013, and the Civil Rights staff of Regions 1 and 6 have been combined. A Civil Rights Office has been established and expanded for the newly formed Region 1 and the Region 1 Civil Rights Manager is Micki Perez-Thompson. Vacant positions have been filled and staffing of the Region 1 Office includes seven support positions that handle both internal and external Civil Rights programs. The Region 1 Civil Rights programs and staffing will be evaluated on an ongoing basis to make certain the needs of the programs and region are met.

FHWA Proceeding Baseline Assessment Comments: The State Internal EEO program had three observations in the baseline assessment. The first observation was in regards to CDOT's organizational structure. CDOT's organizational chart still does not reflect a full time Affirmative Action officer. According to CDOT, its current structure supports the Center for EO because the staff serves as generalists so they can provide assistance in all Civil Rights program areas.

Update: CDOT organizational structure now shows an Affirmative Action Officer located in the Strategic Workforce Solutions, Employee Relations/Legal section.

CDOT did include numerical goals for its workforce and the EEO-4 form in the latest Affirmative Action plan update. However, the EEO-4 still does not include information on new hires and other than full time (part-time and temporary) information.

Update: The 2013 EEO-4 reflects new hire information and includes part-time and temporary employees.

UPDATE ON REGIONAL EQUAL OPPORTUNITY ACTIVITIES:

Each Regional Civil Rights Office was asked to provide the following information regarding equal opportunity activities. A standard tracking and reporting template is being developed and will be used to capture these activities beginning January 1, 2014.

Please provide as much information on your regional programs and accomplishments as related to the EEO/AA arena: The federal fiscal year for this report is 10/1/2012 through 9/30/13.

1. Participation in selection/ final interview activities.
2. Retention efforts (promotion, training, mentoring, career counseling).
3. Do you have an office mission or philosophy?
4. Do you keep logs of office employee contact activity?
5. Please include anything else related that I may have missed or mistitled.

Region 1: Micki Perez-Thompson, RCRM –

Region 1 participates 100% in selection activities for both open-competitive and promotional positions.

Region 2: Mary Dugan, RCRM

1. Recruiting efforts - Staff did not attend any career fairs this fiscal year.
2. Participating in selection/final interview activities - Staff attends approximately 99% of all oral/final interviews, selection process activities.
3. Retention efforts (promotion, training, mentoring, career counseling) - The Civil Rights Office is responsible for the implementation of the Region 2 Cross Training Program. During this past fiscal year we have had two complete a six month cross training program, one TM I cross training in the Traffic Section (Engineering) and one TM II cross training in the South Program Materials Lab. We currently have 4 employees currently active in the cross training program.
4. Do you have an office mission or philosophy? Region 2 Civil Rights Office Mission Statement: "To ensure equal opportunity is afforded to all employees of CDOT, and all consultants and contractors who have an interest in or are working on CDOT projects, by providing the best objective advice and guidance in accordance with applicable state and federal laws, regulations, policies and procedures."
5. Do you keep logs of office employee contact activity? The CRO Staff each keep a daily log, which includes employee contact activity.

Region 3: Chip Brazelton, RCRM

No information was provided due to understaffing. This region intends to add about 3 full-time staff members to its Civil Rights Office in early 2014.

Region 4: Anna Mariotti, RCRM

1. Region 4 has not participated in recruitment efforts thus far this year. We look forward to becoming more involved in that aspect as the programs develop.
2. Region 4 Civil Rights has participated in 31 interviews this past year. A majority of them were for promotional interviews.
3. Retention Efforts:
 - a. Region 4 Civil Rights has developed and implemented a mentoring program and there have been 27 participants in the program.
 - b. Region 4 Civil Rights has developed and implemented an employee enrichment program and there have been 31 participants in the program.
 - c. Region 4 Civil Rights has developed trainings for supervisors for: Professional Behavior in the Workplace, Progressive Discipline, as well as Fact-Finding. The unit has conducted 8 trainings over the past year.
4. The Region 4 Civil Rights Unit does not have a specific office mission/philosophy; however, we support the mission of CDOT and believe that all employees deserve equal opportunity with employment.
5. Region 4 does not maintain logs of contacts. They provide HQ with copies of Corrective Actions, Grievances, PMP Disputes, as well as Disciplinary Actions. They maintain record of investigations that we participate and look forward to a more detailed tracking method with the newly created roles and responsibilities document.

Region 5: Jason Benally, RCRM

1. Recruiting efforts: Presented at 3 career fairs: Fort Lewis College, Adams State University and at the Southern Ute Indian Tribe
2. Participation in selection/final interview activities:
 - a. October 2012: TM III Ridgway, GP I Safety Officer
 - b. November 2012: EIT II RE 2
 - c. December 2012: LTC OPS I Alamosa Shop, PE I RE 2
 - d. January 2013: TM I Cortez, TM II Ignacio
 - e. February 2013: Tribal Trainee
 - f. April 2013: TM I Hesperus, TM II Hesperus
 - g. May 2013: GP III RCO
 - h. June 2013: TM III Traffic
 - i. July 2013: TM II Alamosa
 - j. September: EIT II Alamosa
3. Retention efforts (promotion, training, mentoring, career counseling):
 - a. Promotion efforts - informal career counseling offered.
 - b. Training efforts - Regional training coordinator duties have been reassigned into the RCRO.
 - c. Ongoing efforts are being made to coordinate with various training providers.
 - d. FHWA Contractor Compliance Webinar 10/16
 - e. Gmail - 6 workshops in October

- f. SWMP Preparer I Course 11/15
 - g. Title VI and Project Management -Alamosa 12/18
 - h. Transport 1/2
 - i. MS Word Level II/III 3/20
 - j. Active Shooter 4/29
 - k. Mediation 5/6, 5/20
 - l. Diversity 8/8
 - m. Workplace Violence 8/8
 - n. Progressive Discipline 8/9
 - o. Section 3 Truck Rodeo 8/14
 - p. Section 7 Truck Rodeo 8/28
 - q. Payroll Training 8/29
4. Mentoring/Career Counseling
- a. Teambuilding I
5. Do you have an office mission or philosophy?
- a. We adhere to CDOT mission and philosophy
6. Do you keep logs of office employee contact activity?
- a. Yes, we track employee counseling and complaints
7. Please include anything else related that I may have missed or mistitled.
- a. We have a program for Tribal Trainees and have had Student trainees.

Section 5

2013-2014 Affirmative Action Plan

Utilization Analysis

Key/Explanation of Chart

Underutilization, Goals and Timetables

Promotion Analysis

Adverse Impact Analysis

See Appendix B

CDOT EEO-4 Report

2013-2014 AFFIRMATIVE ACTION PLAN

Ideally, CDOT’s workforce should mirror the representation of Females and Minorities in Colorado’s available labor market. This parity-based utilization analysis is the comparison of CDOT’s workforce to the available labor market, by EEO-4 Occupational Groups. The 2010 Census Data was used. This analysis requires comparisons of the two sets of data: a. percentages of Minorities and Females in CDOT’s workforce in each Occupational Group and, b. percentage of Minorities and Females in the Colorado labor market using related jobs in each Occupational Group. In a parity-based utilization analysis, Females and Minorities are considered underutilized when their representation in an Occupation Group falls below 80% of the labor market availability in that Group.

Chart Definitions:

- CDOT Workforce (# of CDOT Employees in the Occupational Group)
- Colorado Census (# of Colorado Citizens in Occupational Group per 2010 Census)
- Parity (CDOT Employees X Census/Available Labor Market)
- 80% of Parity (Parity X 80%)
- Utilization /# needed for 80% Parity (# of employees to be hired to reach 80% of Parity)

* Underutilization is considered only in the groups that represent at least 2% of the available Colorado labor market in the occupational group. Any fraction underutilization is considered and is rounded to the nearest whole number.

* The total of CDOT employees on the 2013 EEO-4 Report (2986) differs from the total used for the Utilization Report (2931). This difference is due to the data entry conducted after 6/30/13 of new and separating full-time employees. The CDOT payroll system allows for employee data entry to be completed up to about 3 weeks after hire or separation. The more accurate data was used for this specific analysis.

1 - Officials/ Administra tors	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
CDOT Wkfce	1	26	0	0	1	0	1	8	0	0	0	0	37
CO Census - %	4.5	49.3	1.6	0.5	1.3	0.0	4.4	35.4	1.6	0.6	0.7	0.1	
Parity	1.7	18.3	0.6	0.2	0.5	0.0	1.6	13.1	0.6	0.2	0.3	0.0	
80% of Parity	1.3	14.6	0.5	0.2	0.4	0.0	1.3	10.5	0.5	0.2	0.2	0.0	
Utilization/# needed for 80% of Parity	-0.3	11.4	-0.5	-0.2	0.6	0.0	-0.3	-2.5	-0.5	-0.2	-0.2	0.0	
2 – Profess ionals	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	
CDOT Wkfce	59	514	21	4	29	1	22	204	15	1	13	1	884
CO Census - %	2.5	46.9	1.3	0.3	1.7	0.0	3.2	40.7	1.4	0.6	1.4	0.0	
Parity	21.9	414.2	11.9	2.4	15.0	0.0	28.5	359.5	12.1	5.7	12.6	0.2	

80% of Parity	17.5	331.4	9.5	1.9	12.0	0.0	22.8	287.6	9.7	4.6	10.1	0.2	
Utilization/# needed for 80% of Parity	41.5	182.6	11.5	2.1	17.0	1.0	-0.8	-83.6	5.3	-3.6	2.9	0.8	
3 – Technicians	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	
CDOT Wkfce	44	173	3	5	4	2	12	45	4	1	0	1	294
CO Census-%	8.7	64.2	1.3	1.1	1.3	0.0	1.9	20.0	0.3	0.4	0.8	0.0	
Parity	25.6	188.6	3.9	3.2	3.9	0.0	5.7	58.8	0.9	1.1	2.3	0.0	
80% of Parity	20.5	150.9	3.1	2.6	3.2	0.0	4.5	47.0	0.7	0.9	1.8	0.0	
Utilization/# needed for 80% of Parity	23.5	22.1	0.1	2.4	0.8	2.0	7.5	-2.0	3.3	0.1	-1.8	1.0	
4 - Protect Serv N/A	0	0	0	0	0	0	0	0	0	0	0	0	0
5 - Para-Profess N/A	0	0	0	0	0	0	0	0	0	0	0	0	0
6 – Administrative Support	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	
CDOT Wkfce	3	6	1	0	0	0	25	99	7	0	1	0	142
CO Census - %	3.5	15.6	1.5	0.3	0.5	0.0	10.6	63.2	2.7	0.8	1.3	0.1	
Parity	4.9	22.1	2.2	0.4	0.7	0.0	15.0	89.7	3.8	1.1	1.9	0.1	
80% of Parity	4.0	17.7	1.7	0.3	0.6	0.0	12.0	71.7	3.1	0.9	1.5	0.1	
Utilization/# needed for 80% of Parity	-1.0	-11.7	-0.7	-0.3	-0.6	0.0	13.0	27.3	3.9	-0.9	-0.5	-0.1	
7 - Skilled Craft	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	
CDOT Wkfce	271	1180	29	14	3	2	3	35	0	0	0	0	1537
CO Census - %	13.9	75.9	2.6	2.1	1.4	0.2	0.7	3.0	0.2	0.1	0.0	0	
Parity	212.9	1167.2	39.4	31.8	21.7	3.2	11.0	45.4	2.6	1.2	0.7	0.0	
80% of Parity	170.4	933.7	31.5	25.4	17.3	2.5	8.8	36.3	2.1	0.9	0.6	0.0	
Utilization/# needed for 80% of Parity	100.6	246.3	-2.5	-11.4	-14.3	-0.5	-5.8	-1.3	-2.1	-0.9	-0.6	0.0	
8 – Service Maintenance	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
CDOT Wkfce	10	18	0	0	0	0	3	4	2	0	0	0	37
CO Census %	19.0	52.9	4.9	1.3	2.1	0.0	5.2	12.9	0.7	0.5	0.4	0.1	
Parity	7.0	19.6	1.8	0.5	0.8	0.0	1.9	4.8	0.2	0.2	0.2	0.0	
80% of Parity	5.6	15.7	1.5	0.4	0.6	0.0	1.5	3.8	0.2	0.1	0.1	0.0	

Utilization/# needed for 80% of Parity	4.4	2.3	-1.5	-0.4	-0.6	0.0	1.5	0.2	1.8	-0.1	-0.1	0.0	
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Analysis of Transportation Maintenance Worker I and Engineer I, II and III as CDOT's significant Job Classes. This analysis shows that there is no underutilization in these major CDOT job groups.

Transportation Maintenance Worker I	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
CDOT Wkfce	110	605	13	5	1	2	0	22	0	0	0	0	758
CO Census %	21	61	1	5	9	9	9	11	1	0	0	0	100
Parity	22.7	367.7	0.1	0.3	0.0	0.0	0.0	2.5	0.0	0.0	0.0	0.0	
80% of Parity	18.1	294.1	0.1	0.2	0.0	0.0	0.0	2.0	0.0	0.0	0.0	0.0	
Utilization/# needed for 80% of Parity	91.9	310.9	12.9	4.8	1.0	2.0	0.0	20.0	0.0	0.0	0.0	0.0	

Professional Engineers I, II and II	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
CDOT Wkfce	15	210	5	1	17	0	4	26	1	0	3	0	282
CO Census %	3	78	2	1	3	0	1	11	0	0	1	0	100
Parity	0.5	164.2	0.1	0.0	0.6	0.0	0.0	2.9	0.0	0.0	0.0	0.0	
80% of Parity	0.4	131.4	0.1	0.0	0.5	0.0	0.0	2.3	0.0	0.0	0.0	0.0	
Utilization/# needed for 80% of Parity	14.6	78.6	4.9	1.0	16.5	0.0	4.0	23.7	1.0	0.0	3.0	0.0	

KEY:

Data Definitions

CDOT Workforce (# of CDOT Employees in the Occupational Group)

Colorado Census (# of Colorado Citizens in Occupational Group per 2010 Census)

Parity (CDOT Employees X Census/Available Labor Market)

80% of Parity (Parity X 80%)

Utilization/# needed for 80% of Parity (# of employees to be hired to reach 80% of Parity)

Race and Gender Codes

HM – Hispanic Male

WM – White Male

BM – Black Male

AIM – American Indian Male

AM – Asian Male

HPIM –Hawaiian/Pacific Islander Male

HF – Hispanic Female

WF – White Female

BF – Black Female

AIF – American Indian Female

AF – Asian Female

HPIF – Hawaiian/Pacific Islander Female

CDOT Job Class Crosswalk to Eight Occupational Groups

1. Officials/Administrators Occupational Group
 - Management
 - Unclassified (formerly SES)

2. Professional Occupational Group
 - Accountant I-IV
 - Auditor I-V
 - Controller I, II, III
 - General Professional I - VII
 - Media Specialist IV
 - Student Trainee I - IV
 - Architect I, II, III
 - Civil Engineer Project Manager I and II
 - Design Planner
 - Electronic Engineer I - IV
 - Engineer in Training I - III
 - Landscape Architect I, II, III
 - Landscape Intern
 - Physical Science Research Scientist I - V,
 - Professional Land Surveyor I, II
 - Professional Engineer I - III
 - Statistical Analyst II

3. Technicians Occupational Group
 - Engineering/Physical Science Assistant I - III
 - Accounting Technicians I - IV
 - Technician I - V
 - Electronic Specialist I - IV
 - Electronic Specialist Intern
 - Engineering/Physical Sciences Tech I - III
 - Land Survey Intern I, II

6. Administrative Support Occupational Group
 - Administrative Assistant I - III
 - Administrative Assistant Intern
 - Office Manager I
 - Program Assistant I, II

7. Skilled Craft Workers Occupational Group
 - Electrical Trades I - III
 - Equipment Mechanic I - IV
 - Equipment Operator I - IV
 - LTC Operations I, II
 - Machining Trades I - IV
 - Pipe/Mechanic Trades I - III
 - Production I - V
 - Structural Trades I - III
 - Transportation Maintenance Workers I - III
 - Utility Plant Operator I, II

8. Service Maintenance Occupational Group
 - Custodian I - III
 - General Labor I - III
 - Grounds and Nursery I
 - LTC Trainee IV, V, VII
 - Materials Handler I, II

2013-2014 AFFIRMATIVE ACTION UNDERUTILIZATION, GOALS AND TIMETABLES

Quarterly reports on the status and progress of the goals and timetables will be made to the Executive Director. Opportunities and barriers will be continually identified to reach the goals.

RCRM's will be consulted with quarterly to report on progress of hiring in each underutilized class.

Summary of CDOT Workforce as of 6/30/2013 (EEO-4):

- 2986 full-time employees
- Decrease of 37 from 2012
- Minorities comprise 21% of total workforce or 632 employees
- Females comprise 17% of total workforce or 531 employees
- Majority of Employees are in the (7) Skilled Craft occupational group: 21% are minority or 321 of 1523 employees and females comprise 2.3% or 36 of 1523 employees
- Blacks in the Professional Occupational Group comprise 4% of that occupational group or 36 of 900 employees
- 249 New hires
- According to the CDOT Workforce Staffing Supervisor, Joe Czajka, there has been a generally consistent 10% staff turnover rate

1. Officials/Administrators Underutilization:

- 0.3 Hispanic Males
- 0.3 Hispanic Females
- 2.5 White Females

There are 37 positions in this Group. This Group includes all Executive Director appointed (non- classified) and Management job classes. Vacancy projections cannot be made as most positions serve at the pleasure of the Executive Director.

Goal and Timetable: None

2. Professionals Underutilization:

- 0.8 Hispanic Females
- 83.6 White Females

Goal and Timetable: Based on data from fiscal year 2013, the turnover rate is 9.4%. With 884 employees in this group, it is projected that about 83 new employees will be hired in this Occupational Group each year. At least 8-9 White females per year are targeted to be hired over the next ten (10) years to meet this goal.

3. Technicians Underutilization:

- 2.0 White Females

Goal and Timetable: Based on data from fiscal year 2013, the turnover rate is 5.1%. With 294 in the Group, it is projected that about 15 new employees are targeted to be hired in this Group next year and that 2 of the 15 will be a White female.

6. Administrative Support Underutilization:

- 1 Hispanic Males
- 11.7 White Males

Goal and Timetable: Based on data from fiscal year 2013, the turnover rate is 10%. With 142 employees in this Group, it is projected that 14 employees in this category will be hired in the next year. 1 Hispanic male and 8 White males are targeted to be hired into this Group.

7. Skilled Craft Underutilization:

- 3 White Females
- 2.5 Black Males
- 11.4 American Indian Males

Goal and Timetable: Based on data from fiscal year 2013, the turnover rate is 11.7%. With 1537 employees in this Group, it is expected that 180 new hires in this Group will be made this year and it is projected that 3 Black males and 11 American Indian males are targeted to be hired.

8. Service Maintenance Underutilization:

- 1.5 Black Males
- 0.6 Asian Males

Goal and Timetable: Based on data from fiscal year 2013, the turnover rate in this Group is 23.2%, With 37 employees in this Group, it is expected that there will be about 8-9 new employees hired in this Group. 2 Black males and 1 Asian male are targeted to be hired.

Promotions: 10/1/12 through 9/30/13

Promos include reclassifications	HM	WM	BM	AIM	AM	NH PIM	HF	WF	BF	AIF	AF	NH PIF	TL
#ee	41	169	4	2	5	0	7	57	2	0	0	1	288
%	14%	59%	1.3%	.7%	1.7%	0%	2.4%	20%	.7%	0%	0%	.3%	

Total Female: 67 or 23% of all Promotions

Total Minority: 62 or 22% of all Promotions

Adverse Impact Analysis in Hiring Practices:

CDOT recognizes the value of analyzing its hiring data and practices. This analysis is slated to begin in the 2014 calendar year. It is anticipated that the adverse impact analysis will be conducted in each Region using regional census data. From there, by ethnicity, gender and veteran status, the applicant attrition data will be compiled and analyzed throughout the selection process to include: meeting minimum qualifications, success in the comparative analysis, referral and final selection

Section 6

EEO Program Activities

Training Activity

Title VII Activity

ADA Activity

2013 Performance Ratings

Disciplinary Action Activity

Exit Interviews

EEO Program Activities:

CDOT recognizes the value of a comprehensive EEO Program to ensure equal employment opportunities for all employees and applicants. Dan Myers, Senior Human Resources Director is also the EEO Program Director. Efforts to implement a comprehensive employee personnel activity tracking and reporting system has already started with the Colorado Office of Information Technology (OIT) as a collaborating partner. Strengthened partnerships with Regional Civil Rights Managers have moved forward to ensure the success of the Program. The Equal Opportunity Employment Program will continue to diligently develop an infrastructure that will ultimately support and achieve CDOT's business objectives. It is also recognized that this program will ensure compliance with the reporting requirements of the Federal Transportation Administration (FTA).

Training Activity:

CDOT Training Delivered – From 10/1/2012 through 9/30/2013, training was delivered to 2,792 employees occupying 25,092 seats. Many employees took multiple courses. CDOT has 3 mandatory training courses and a total of 332 employees were trained occupying 660 seats. These employees were typically new hires. 21 employees only took mandatory courses only while 2,771 took some combination of mandatory and elective courses.

Although not completed this year, equal employment opportunity practices require that this information be tracked and reported by gender, race/ethnicity; and whether the training was required or elective. This requirement will be implemented for this reporting year.

Reimbursement Program – CDOT offers a financial reimbursement for Licenses, Memberships, Certifications and Education. The reimbursement is up 75% and up to \$2500.00 per year per employee, of costs for successful completion. From 10/1/2012 through 9/30/13, reimbursement was provided to 100 employees. These 100 employees received 159 reimbursements (some accessed the program more than one time). It is recommended that this program also track and report its use by gender, ethnicity/race for equal employment opportunity measures in this reporting year.

Title VII Activity:

During the federal fiscal year, there were 8 reported employees who filed Title VII claims. These claims included: Retaliation, Hostile Work Environment, Sexual Harassment, and National Origin discrimination. Some employees filed on multiple issues. These cases resulted in CDOT's internal finding of "no cause". Some of the employees subsequently filed with the State Personnel Board, Equal Employment Opportunity Commission/Colorado Civil Rights Division or District Court.

Again, this information will be comprehensively tracked for this reporting year.

ADA Activity:

The CDOT ADA Program Manager position is currently vacant. The development of the ADA Program will resume when this position is filled. Expected Program development includes: providing employee and supervisory training, tracking and reporting ADA complaint and accommodation, writing and implementing policy updates, and marketing Program materials. During the federal fiscal year, there were 14 reported employees who requested reasonable accommodation. All of these employees were provided an interactive process and accommodations were provided to 11 employees. Three of the employees could not be accommodated.

Performance Ratings:

2013 Performance Ratings included 2921 employees. This data set includes 260 ratings that are still outstanding. EEO expectations will be that next year's ratings will be reported by ethnicity and gender as well.

FY13 RATINGS

RATING %			
REGION	1 Needs Improvement	2- Successful	3 - Exceptional
1	1%	80.50%	18.50%
2	0.50%	73.20%	26.20%
3	1.20%	64.60%	34.20%
4	3.305	78.50%	18.20%
5	1.80%	76.60%	21.60%
6	6.60%	65.60%	32.90%
HQ	1.20%	69.10%	29.30%
TOTAL	1.50%	72%	26.40%

Disciplinary Actions (Corrective, Demotion, Other, Salary Reduction, Suspension, and Termination) 10/1/12 through 9/30/13:

Regions 1 and 6 combined 7/1/2013.

	HM #ee	WM #ee	BM #ee	AIM #ee	AM #ee	NH PIM #ee	HF #ee	WF #ee	BF #ee	AIF #ee	AF #ee	NH PIF #ee	TL #ee
Region1	9	18	1	1	0	0	0	1	0	0	0	0	30
Region2	3	11	0	0	0	0	0	0	0	0	0	0	14
Region 3	5	24	0	0	0	0	0	7	0	0	0	0	36
Region 4	1	13	0	1	0	0	0	0	0	0	0	0	14
Region 5	2	8	0	1	0	0	0	1	0	0	0	0	12
HQ	4	5	2	0	0	0	2	4	0	0	1	0	18

Exit Interviews:

A Statewide Exit Interview Program began in July, 2013. Each separated CDOT employee is contacted for an interview. Monthly results are reported to Dan Myers, EEO Program Director who also shares results with the respective Division Directors and Regional Transportation Directors. Response rate is about 20%.

Section 7

Upward Mobility/Job Structuring

Recruitment and Placement

Promotion

Training

Layoffs, Recalls, Discharges, Demotions and Disciplinary Actions

Other

ACTION ORIENTED INITIATIVES, PROGRAMS AND GOOD FAITH EFFORTS

Upward Mobility/Job Structuring:

In order to further integrate the CDOT Equal Employment Opportunity Program information and philosophy in CDOT culture and promote equal opportunity in all aspects of employee engagement, the following CDOT employee engagement Initiatives were launched beginning April 15, 2013. Dan Myers, EEO Program Director, is the champion of these initiatives. The intention of the programs is to enhance a more aligned employee engagement effort and outcome as well as to provide opportunities for all CDOT employees.

- Internship program
- Mentorship program
- Cross-training program
- HR Reorganization
- Recruiting & Retention
- Career Progression
- Succession
- Retention (resume writing, coaching, interviewing)

- CDOT continues to use the Student Trainee and EIT job series as a career path option to assist with recruiting for minority and females for professional engineering positions.
- CDOT job postings are on the State of Colorado NEOGOV/Governmentjobs.com websites. As of July 1, 2013, the national site, Jobing, was contracted to broaden our recruitment pools. At this time, HR conducts monthly presentation at the VA Hospital "Job Club." State classified Manager positions have been advertised in "Women in APWA".
- Headquarters Staff will collect and monitor activity data and provide report analysis to the Regions that will enhance program delivery. Headquarters staff will also develop and provide training to Regional staff on all expectations or as needed. Adverse impact analysis on selection rates will be included as part of the Regional strategy to achieve the State Goals.

RCRMs:

- Ensure job description accuracy and Strategic Workforce Solutions staff conduct position classification reviews at time of recruitment or job duty change to ensure that the Position Description Questionnaire (PDQ) reflects current job duties assigned and ensure that all qualification requirements are closely job-related.
- Review requests for reallocation (promotion) and ensure that the PDQ and employee meet State requirements.
- Administer Region-based internship program per CDOT Internship Program guidelines and monitor progress and curriculum requirements.
- Administer Region-based retention program per CDOT Retention Program guidelines and counsel employees on position availability, career map, application preparation, and interview skills.

- Administer Regional-based Mentor and Cross-Training Programs per CDOT Program guidelines and develop employee plans and coordinate with management to apply plans. Additionally, employee progress and curriculum adherence is monitored.
- Reasonable attempts to obtain minority and/or female representation in all comparative analysis assessments and interviews.

Recruitment and Placement:

RCRMs:

- Conduct Regional multi-faceted recruiting: face to face, internet and posted advertisement for targeted demographics in support of AAP goals. The Affirmative Action Officer conducts analysis Region population/labor market/demographic.
- Create Region-based partnerships with entities of influence that represents minority groups, females, professional societies to enhanced opportunities to expand potential applicant pools in support of the AAP.
- Distribute and post literature in high traffic areas that announce current open positions, benefits of CDOT employment and the State in order to attract targeted demographics in support of the AAP.
- Audit all aspects of the applicant review process to ensure fairness and ensure that applicants are not discriminated against.
- Assist HR in review of selection devices to ensure that they are easily understood, content valid as to not to alienate any demographics.
- Monitor and record applicant pool during the selection process. Records demographic information and count of pool, reasons for rejection reports trends by position.
- Monitor and ensure non-disparate placement and resolve issues/complaints. Ensure that employee position placement is non-discriminatory.

Promotion:

RCRMs:

- Ensure that no singular successor is identified and monitor promotional opportunities
- Match employee skills and accomplishments from CDOT career maps to assist employees in identifying promotional opportunities.

Training:

CDOT University

CDOT has a new educational program that is taking a leading role in the development of CDOT staff. This program is organized under our newly launched corporate university, which is named CDOTU.

A Corporate University takes a long-term view on the development needs of its people and intentionally builds its training programs to meet those needs. This prepares employees to be successful and progress in their careers.

While traditional training departments focus on what is needed now and in the near future, Corporate Universities look at training as a long term process and investment in developing its people for both success now and for advancement as far as they hope to reach.

Vision, Mission, and Goals of CDOTU:

Vision: A learning culture of continuous personal improvement and professional development across CDOT focused on fulfilling the mission with safety, innovation and proactive solutions.

Mission: To promote and deliver consistent, quality learning experiences that are strategically aligned with the professional development needs of our workforce.

Goal #1 – Create a Learning Culture

A learning culture is one in which personal improvement and professional development is continuous and encouraged because it is part of an organization's values. It is intentional and purposeful in its goals of developing in its people knowledge, skills and competencies geared to specific organizational needs. It is a culture in which knowledge acquisition, transfer and application is valued at all levels. It is characterized by perpetual improvement in order to innovate and find new and better ways to fulfill its mission. Such an organization is committed to providing learning opportunities for its people. Similarly, in a learning culture, employees share this vision and take personal responsibility for their development.

Strategies

- A. Governance Structure – Implement an agile, empowered and purpose-driven university administration that maximizes cross-functional collaboration, creates synergy and builds shared vision and partnership in organizational learning.
- B. Performance Management – Develop in conjunction with the Senior Director of Human Resources a knowledge management strategy that supports the tailored professional development of both a skills-based and a knowledge-based workforce within an organizational plan for succession. Included in this is the development of both Organizational and Individual Learning Plans as part of a greater performance management and succession preparation framework.
- C. Comprehensive Training Policy – Conduct a study to determine the “who, what, where, when, why and how” in the current state of training. Based on that study, build a unified

and comprehensive training policy that coordinates how training is funded, accomplished, tracked and reported.

- D. Communication Plan – Craft and implement a communications plan that supports the change management process and creates shared vision.

Goal #2 - Learning that Meets Organizational Strategies and Needs

Create coordinated, congruent and comprehensive learning programs that enhance organizational performance and are aligned with CDOT's strategic priorities and values.

Strategies

- A. Training Needs Analysis – Conduct a needs assessment CDOT-wide to identify gaps in skills and competency needs now and in the future.
- B. Curriculum Standards – Develop and formalize curriculum design and assessment standards based on Instructional Systems Design principles. Create processes to guide content development to those professional standards.
- C. Competency and Skills Based Learning Activities – Create or purchase curriculum that meets design standards and builds the needed competencies for our workforce.
- D. Evaluation Standards - Measure the effectiveness and consistency of training and delivery with emphasis on continuous evolution and improvement in meeting training objectives.

Goal #3 - Learning Programs with Effectiveness and Efficiency

Learning Programs that are effective and efficient in delivery are characterized by quality instruction and economies of effort and scale.

Strategies

- A. Quality Instruction – Build a network of certified instructors skilled in developing and delivering training to adult learners that is focused on knowledge retention and practical application.
- B. Centralized Administration – Implement processes to coordinate, track and report CDOT's training investments. Coordinate the administration for a Learning Content Management System to coordinate, track and report all CDOT training.
- C. Synchronized Curriculum - Synchronize learning programs across CDOT to ensure each employee obtains the best training available while achieving economies of scale and effort. Align and deliver content to meet *both* the short-term goals of specific CDOT workgroups as well as strategic workforce development in support of CDOT's mission and values
- D. E-Learning – Establish an e-learning strategy that seeks to leverage evolving technologies to transform learning delivery. The goal is not technology for technology's sake, but to reduce costs of development and delivery while at the same time create on-demand training that is free from constraints in scheduling and geography. E-learning development strategy must take into account the various learning styles of our workforce.

Progress in this knowledge management enterprise will be gauged through the measures listed below. As this is the first truly comprehensive learning strategy undertaken at CDOT, one of the goals in the first year will be to gather baseline or benchmark data for each measure. This data will be used to set performance targets for subsequent years.

Coordination of common cores services is a central feature of a Corporate University. Implementation of a common Learning Content Management System, course catalog, training calendar and certification programs for curriculum and instructors will be tangible and easily recognized milestones for the development of CDOTU.

The study listed above under “Comprehensive Training Policy” will provide the baseline data for assessing the current CDOT investment in training. From this baseline, future economies of scale and effort may be measured.

As part of an integrated employee performance management and development planning process, individual learning plans will be produced and action taken to meet them. Collecting this data would provide an important indication of progress at the operational level.

RCRM's:

- Assist with training development and delivers training to Supervisors in accordance with employee resolution process.
- Monitor succession planning program and ensure training requirements are met.
- Identify demographics being selected and ensures equality in the program.
- Develop and deliver training on interpersonal and technical skills for career development and advancement related to the selection process.
- Monitor and correct inequities in association with the offerings and allowances of training to employees. Ensures equality of the selection process of training program participants, evaluates training attendance and targets participation by underutilized employees.

Layoffs, Recalls, Discharges, Demotions and Disciplinary Actions:

RCRMs:

- Collaborate with, coach and provide technical expertise and guidance to supervisors/managers and monitors personnel actions to ensure fairness and nondiscrimination.
- Develop regional notification process for informing separating employees the options for an exit interview.

Other Personnel Issues:

RCRMs:

- Develop and implement a regional communication plan and distribute information regarding regional EEO services and grievance procedures.
- Adhere to the CDOT Employee Resolution flow chart.
- Adhere to grievance process. Collaborate with, and coach management, provide technical expertise and guidance to supervisors/managers and monitors procedures and proceedings.
- Collect information and assists Attorney General's office as requested.
- Conduct audits of the performance management process based on trending reports.
- Gather information and conduct conflict management for workplace issues to include investigation, mediation, fact-finding etc..

Section 8

Communication/Compliance Plan

COMMUNICATION/COMPLIANCE PLAN:

Affirmative Action Officer:

- Systematically share EEO/AA data analysis results with CDOT leadership.
- Include EEO/AA information in new employee On-Boarding and Orientation presentations.
- Highlight Annual AAP Report through CDOT electronic and paper publications and notices with a link to document and program information.
- Align all AAP recommendations and goals within Strategic Workforce Solutions (HR).
- Speak and provide workforce data at Quarterly RCRMs meetings.
- Participate in pertinent transportation and professional organizations.
- Plan annual EEO/AA employee meetings.
- It is recommended to CDOT EEO Program Manager and Executive Director that the following language be included in the Job Descriptions, Performance Plans and Evaluations for all supervisory positions:

Managers:

- Ensure that subordinate managers and supervisors understand the Department's EEO/AA policies and solicit full support in achieving the Department's goals and objectives.
- Monitor all employment actions under his/her authority, to include, but not limited to, hiring, promotion, training, and any other term or condition of employment. The goal is to ensure that no barriers preclude equal employment opportunity based on gender or race.
- Ensure that all subordinate staff completed all mandatory CDOT training related to EEO.
- Immediately report any complaint of sexual harassment, discrimination, or hostile work environment related to discrimination to the Regional Civil Rights Office or Employee Relation's Legal Office.

Supervisors:

- Communicate any identified barriers to equal employment opportunity to the appropriate manager or authority.
- Ensure that all non-management employees are aware of CDOT's policies and commitment to EEO/AA.
- Ensure that no barriers exist that preclude equal opportunity in hiring, promotion, training or any other term or condition of employment.
- Ensure that they and subordinate staff have completed all CDOT mandatory training related to EEO.
- Immediately report any complaint of sexual harassment, discrimination or hostile work environment relating to discrimination to the Regional Civil Rights Office or Employee Relations/Legal Office.

Section 9

Program Evaluation

PROGRAM EVALUATION

EEO Program/Affirmative Action Officer will provide supportive services to the Regional Civil Rights Managers and periodic summary participation and trend reports on:

- Underutilization Analysis for Hires and Promotions and Progress Towards Annual Goals
- Recruitment Priorities
- Recruitment
- Exit Interview
- Training
- Cross Training Program
- Mentorship Program
- Internship Program
- Retention Program
- Corrective/Disciplinary Actions
- Grievances
- Title VII Claims
- ADA Claims and Accommodations

Section 10

CDOT EMPLOYEE COMPLAINT PROCEDURE

See Appendix C

CDOT Employee Complaint Procedure, Procedural Directive
600.6

Colorado State Personnel Rules and Administrative Procedures
Regarding Employee Complaints, Disputes and
Grievances

CDOT Intranet Employee Rights and Complaint Information

INTERNAL COMPLAINT PROCEDURE

CDOT's Policy Directive 600.6 is posted on the Intranet and provides employees the process to file an internal workplace complaint. This policy is out-of-date and is scheduled for Agency review and revision in 2014. The primary change will be that where the Center of EO is referenced, the responsible office is currently the Employee Relations/Legal unit in Human Resources. The Center for EO is aware of this change and will refer employees to the correct office.

The current complaint procedure policy states in part,

...”STEP 1 – ATTEMPT TO RESOLVE THE SITUATION

Employee: An employee who feels discriminated against should attempt to resolve the issue as soon as possible. If possible and if safe, inform the person whose behavior or action is unwelcome or offensive, to stop the offending behavior, and thereby informally resolve the issue. If the employee does not feel comfortable with approaching that person, then the employee may want to seek assistance from his/her supervisor and/or their Civil Rights Office.

An employee is not required to report a complaint of discrimination to his/her supervisor. If the employee's supervisor whose behavior or action is perceived to be discriminatory or offensive, the employee should notify the next level of management and their Civil Rights office.

Employees should to the maximum extent possible, report any form of discrimination, harassment, sexual harassment, or retaliation against them or any other employee, to a supervisor or manager and/or their Civil Rights office.

Supervisor or Manager: When supervisor/manager receives a report of alleged discrimination or harassment, the supervisor/manager will take action to correct the situation to the extent possible in a timely manner. The supervisor/manager will promptly notify the respective Civil Rights Office in writing (i.e. email) when an employee has alleged discrimination, and describe any mitigating action taken.

Civil Rights Investigator: The Headquarters Center for Equal Opportunity and the Regional Civil Rights Managers are responsible for receiving, investigating and acting on reports of discrimination.

STEP 2 – FILING A COMPLAINT

The Civil Rights Investigator will clarify issues and determine whether there is alleged illegal discrimination under any civil rights law. If the complaint is baseless, the Civil Rights Investigator will so inform the complainant. The Civil Rights Investigator will counsel the employee on the benefits of mediation and assist the employee in coordinating mediation if requested. Complaints involving sexual harassment and/or workplace violence are always investigated by CDOT.

Internal complaints **should** be initiated within 30 days of the last discriminatory incident; otherwise they are not considered timely and may be difficult to investigate. If the

complaint involves sexual harassment and/or workplace violence it should be reported immediately. It will be at the discretion of the Investigator to extend the 30 days if the extension is requested, in writing, and the circumstances support the need for an extension. In no case will this extension exceed 180 days.

Time limits are:

- Equal Employment Opportunity Commission (EEOC) - 300 days
- Colorado Civil Rights Commission (CCRD) - Six (6) months.

Please note that for the CCRD you must initiate your complaint through the State Personnel Office.

If a complaint is close to the end of the time limit for CCRD or EEOC, the CDOT Civil Rights Investigator will advise the complainant of his or her rights and procedures to seek assistance from CCRD and EEOC.

COMPLAINANT WILL:

- Contact a CDOT Civil Rights Investigator to file a complaint of discrimination or to report activity that appears to be in violation of CDOT's equal employment and non-discrimination policy.
- File the complaint as soon as possible after the incident or incidents have occurred.
- Note important information before contacting the Civil Rights Investigator such as a description of the incident(s), witnesses, date and time of alleged violation(s), statements made.
- Be clear and specific when reporting the potential violation(s).

EARLY RESOLUTION

CDOT is committed to early and informal resolution of a conflict, if possible. When an employee seeks assistance, the Civil Rights investigator will determine if early and informal resolution, mediation or alternative dispute resolution is appropriate. The decision to proceed with the early resolution process is based on careful evaluation of the relationship and the attitudes and behaviors of the complainant and respondent, and on the apparent willingness of the parties to participate in the early resolution process. If appropriate, coordinate and facilitate the first meeting for the Early Resolution Process. If the Civil Rights Investigator determines that early resolution would not be the appropriate action, then the investigation process continues to the next step in the process.

REQUESTS FOR AN ALTERNATE INVESTIGATOR

The Civil Rights Investigator or Appointing Authority may determine that another investigator should be assigned to the investigation. Employees may also request a different investigator if they believe and can substantiate that the current investigator has a conflict of interest. If an employee (complainant) believes that a conflict of interest exists, he/she may contact the Manager for the Center for Equal Opportunity (EO). The complainant shall provide a written explanation to the Manager for EO of the reasons for the request to have the complaint investigated with an alternate investigator. The EO Manager will discuss the facts of the situation with the respective Civil Rights office and determine a course of action. If an agreement cannot be reached on the matter, a written document with details on the situation will be submitted to the DoHRA Division Director and the respective Appointing Authority allowing them to determine the appropriate action to take. The Manager for EO will notify the respective Civil Rights Office of the

decision and based on the determination, an appropriate Civil Rights Investigator will be assigned before any investigation into the allegations begins.

STEP 3 – COMPLAINT INTAKE AND NOTIFICATION OF EMPLOYEE RIGHTS

The Civil Rights Investigator will schedule a meeting for complaint intake as soon as possible. Civil Rights Investigators will communicate CDOT's complaint procedures to the complainant during their initial contact. It is the Civil Rights Investigator's responsibility to ensure that the complainants have an understanding of their options, their rights, and the resources available to assist them in resolution of the problem. If the complaint appears to have a basis under any civil rights law, the Civil Rights Investigator will explain the investigation process to the employee. It is the employee's responsibility to submit his or her written complaint and other pertinent information in a timely manner to the Civil Rights Investigator. During the intake process the employee will be instructed to:

- Complete and sign the intake documents and statements of remedy.
- Provide medical information and release for medical information if the complaint is made under the Americans with Disabilities Act (ADA) or section 504 of the Rehabilitation Act.
- Provide all relevant complaint information including details about the issues raised, dates, times, places, description of events, names of witnesses, documents, objects, and any other relevant information that he or she believes will corroborate the claims.
- Report developments to the investigator that relate to the complaint. The employee should also report any behavior that they believe is directed to them as retaliation for submitting a discrimination claim or participating in a process related to a possible discrimination claim.
- Ask questions when clarification is required.
- Keep in confidence any and all information regarding the complaint and the investigation in order to preserve the integrity of the investigation.
- Comply with the timeframes provided for submitting information.

STEP 4 – NOTIFICATIONS

- The Civil Rights Investigator will notify the appropriate Appointing Authority immediately when an investigation will begin.
- Unless the circumstances warrant immediate action the intake should be completed before notice to the appointing authority of the alleged discrimination.
- The Civil Rights Investigator will notify the complainant in writing or by email that an investigation will begin.

STEP 5 – INVESTIGATION

The investigator will proceed with the level of investigation determined to be necessary on a case by case basis. The employee will need to provide all relevant information and submit all pertinent documentation in a timely manner.

In order to maintain the integrity of the investigation and to prevent the spread of inaccurate information, any witness or any person, including supervisors, who are questioned during an investigation will not discuss the issue with any one except the Civil Rights Investigator or his/her representative. Employees may be subject to corrective or disciplinary action if he/she does not cooperate or who otherwise interferes with the investigation. The Civil Rights Investigator may inform a supervisor/manager that an investigation is being conducted. Supervisors and managers will ensure that there is no retaliation against employees who are involved in a complaint process. The

Civil Rights Investigator may ask a supervisor/manager for assistance in scheduling interviews for an investigation. Confidentiality is defined as information known or conveyed to a limited number of people for which unauthorized disclosing of information could damage the integrity of the investigation. If an interviewee breaches his/her confidentiality, he/she is subject to a personnel action at the discretion of the appointing authority. However, the investigator must reveal confidential information as is necessary and appropriate to individuals who may have relevant facts related to the charges.

STEP 9 – INVESTIGATION CLOSE-OUT

The Civil Rights Investigator will inform the Appointing Authority and the complainant of the results of the investigation. The employee may be informed whether a corrective or disciplinary action will be pursued by the appointing authority against offenders, but due to confidentiality issues, the complainant will not be given details or specifics of such action(s). A supervisor/manager may not be informed of the information collected during an investigation, but may be advised of the findings of the investigation.

STEP 10 - RETALIATION

The Civil Rights investigator will process complaints of discrimination retaliation in accordance with this directive. Retaliation complaints will be treated as discrimination complaints. The Civil Rights Investigator will conduct investigations into all retaliation complaints. Witnesses and other pertinent parties to complaints are protected from retaliation. Any employee who complains of retaliation will be notified by the Civil Rights Investigator of the outcome.”,,,

It should be noted that the CDOT Intranet site includes also includes information that explains Employee’s workplace rights and resources.

The State of Colorado Grievance Procedure and Flow Chart is posted on the CDOT Intranet site and the Department of Personnel and Administration’s State Personnel Board external website.

Colorado State Personnel provides the following Intranet Information regarding Employee grievance (affecting pay) and dispute (not affecting pay) rights:

...”Grievances

A grievance is a complaint filed by an employee with the employee's agency regarding working conditions when the employee's pay, status or tenure has not been affected, including discrimination complaints. A grievance must be filed on an agency form or the Board's [grievance form](#). A department may provide its own grievance process for the handling of grievances within its agency; however, that process should not conflict with the Board Rules. Please contact your department's human resources offices to determine whether your department has a departmental grievance procedure.

The Board's grievance procedure is outlined in Board Rules 8-5, 8-6, and 8-7, which provide the circumstances and parameters under which a grievance may be filed at the agency level and appealed to the Board. Board Rule 8-5 specifies those matters that may not be grieved or appealed. Board Rule 8-6 provides an employee with the right to ask the Board to review an agency's final decision and determine whether the employee may be granted a hearing (referred to overall as the discretionary hearing process). Board Rule 8-7 explains the status of a grievance after an employee's separation from service or restoration to a position following involuntary separation.

Agency Grievance Process

The grievance process is a process that, at the agency level, usually unfolds in less than 60 days from start to finish. Board Rule 8-8 outlines the steps for filing a grievance with an agency and then appealing the agency's final decision to the Board. An employee must initiate the process within 10 days of the action being grieved by filing or lodging the grievance with his/her supervisor. Shortly thereafter, an informal discussion or meeting between the employee and the supervisor must occur. A decision in writing must be given to the employee by the supervisor within 7 days of the informal discussion or meeting.

If the employee wishes to appeal that decision, then the employee must begin the formal written grievance process within 5 days of his/her receipt of the decision by filing a written grievance with the appointing authority (click on the link to obtain a copy of the form for filing a grievance). The appointing authority has 30 days from the filing of the written grievance process to render a final agency decision on the grievance. The employee then has 10 days from the receipt of that final agency decision to file a [petition for hearing](#) with the Board, under the discretionary hearing process, requesting a hearing on the final agency decision (click on the link to obtain a copy of the form for filing a petition with the Board). It is important to keep in mind that only those issues set forth in the written grievance filed with the appointing authority need to be considered in the final agency decision and by the Board in the discretionary hearing process.

At any step of the agency grievance process, an employee may be represented by any person of his/her choice (a non-lawyer or a lawyer). However, the employee still must participate in the discussions during the agency grievance process

A grievance is a complaint filed by an employee with the employee's agency regarding working conditions when the employee's pay, status or tenure has not been affected. A grievance must be filed on an agency form or the [State Personnel Board's grievance form](#).

A department may provide its own grievance process for the handling of grievances within its agency so long as that process does not conflict with the [Board Rules](#). Please contact your department's human resources offices to determine whether your department has a departmental grievance procedure.

The Board's grievance procedure rules - Board Rules 8-5, 8-6, and 8-7 - provide the circumstances and parameters under which a grievance may be filed at the agency level and appealed to the Board. Board Rule 8-5 specifies those matters that may not be grieved or appealed. Board Rule 8-6 provides an employee with the right to ask the Board to review an agency's final decision and determine whether the employee may be granted a hearing (referred to overall as the discretionary hearing process). Board Rule 8-7 explains the status of a grievance after an employee's separation from service or restoration to a position following involuntary separation.”...

Dispute Resolution

A grievance is a complaint filed by an employee with the employee's agency regarding working conditions when the employee's pay, status or tenure has not been affected. A grievance must be filed on an agency form or the [State Personnel Board's grievance form](#).

A department may provide its own grievance process for the handling of grievances within its agency so long as that process does not conflict with the [Board Rules](#). Please contact your department's human resources offices to determine whether your department has a departmental grievance procedure.

The Board's grievance procedure rules - Board Rules 8-5, 8-6, and 8-7 - provide the circumstances and parameters under which a grievance may be filed at the agency level and appealed to the Board. Board Rule 8-5 specifies those matters that may not be grieved or appealed. Board Rule 8-6 provides an employee with the right to ask the Board to review an agency's final decision and determine whether the employee may be granted a hearing (referred to overall as the discretionary hearing process). Board Rule 8-7 explains the status of a grievance after an employee's separation from service or restoration to a position following involuntary separation.

Employee Resources

- [State Grievance Process Flow Chart](#)
- [State Personnel System Consolidated Appeal/Dispute Form](#)
- Mediation Memorandum of Agreement
- Mediation Agreement
- [Whistleblower Complaint Form](#)

All of the aforementioned employee resources are available at the Regional Civil Rights and Strategic Workforce Solutions (Human Resources) Offices.

APPENDIX A

CDOT Organizational Chart

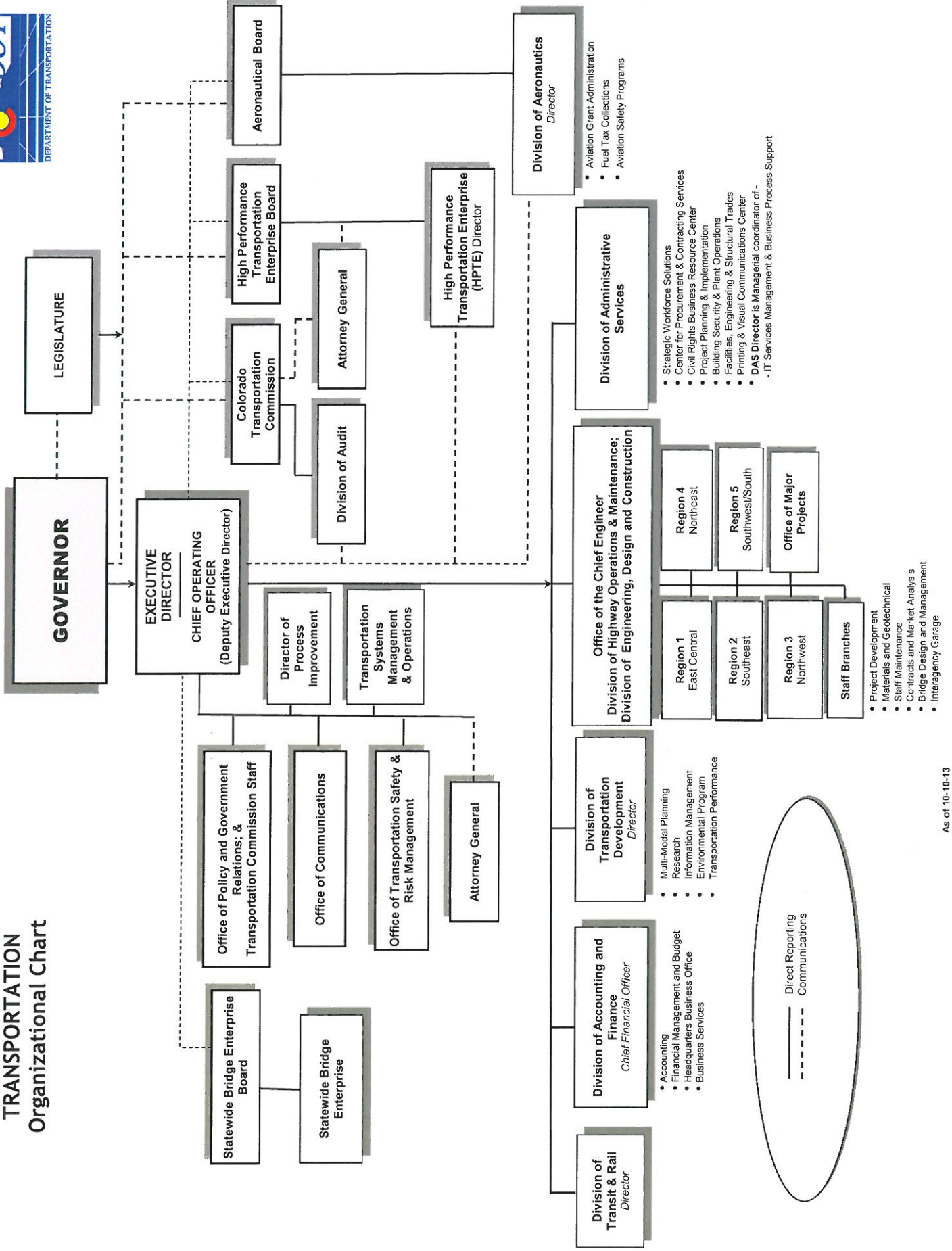
Strategic Workforce Solutions (HR) Organizational Chart

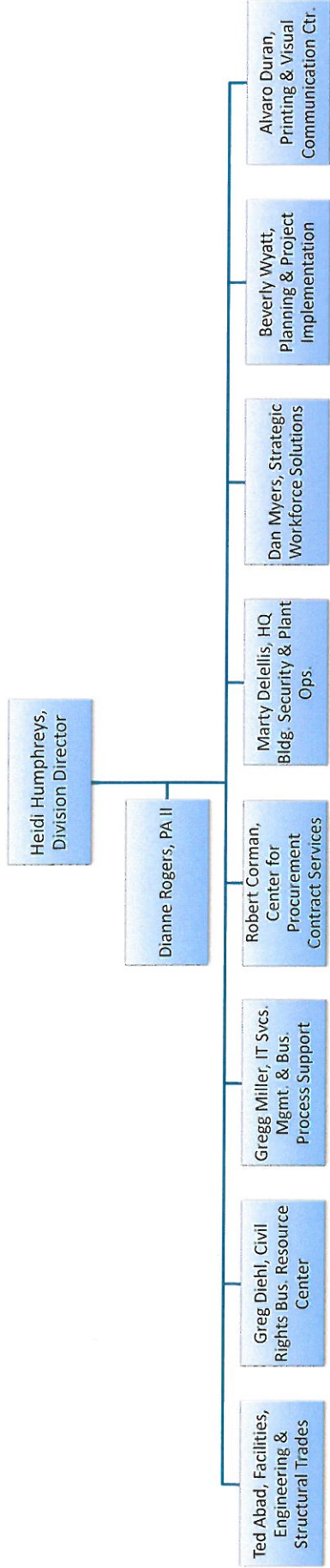
CDOT EEO Policy

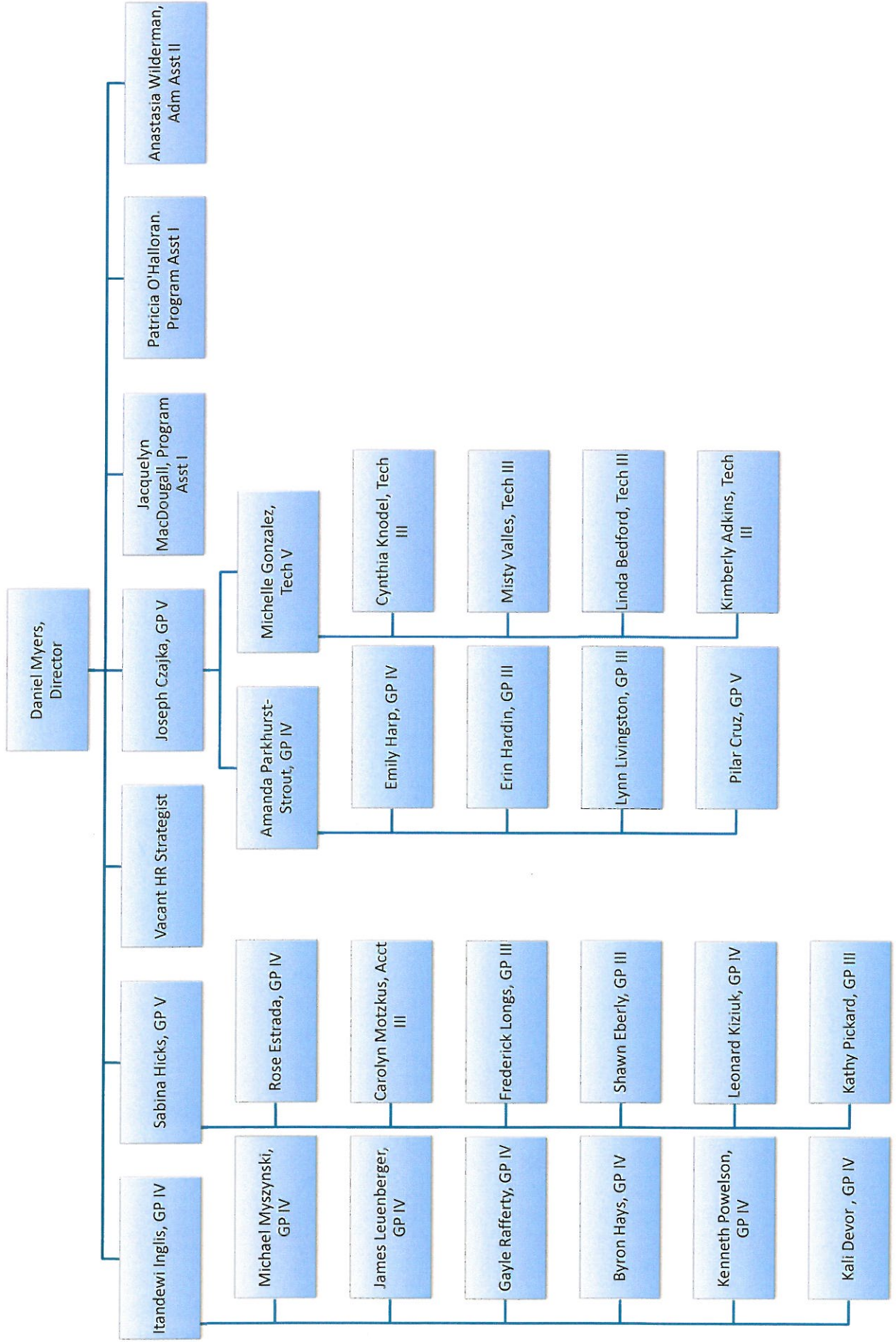
CDOT Sexual Harassment Policy

CDOT ADA Policy

COLORADO DEPARTMENT OF TRANSPORTATION Organizational Chart







COLORADO DEPARTMENT OF TRANSPORTATION		<input checked="" type="checkbox"/> POLICY DIRECTIVE <input type="checkbox"/> PROCEDURAL DIRECTIVE	
Subject			Number
EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY			600.0
Effective	Supersedes	Originating office	
06/18/08	09-01-07	Center for Equal Opportunity	

PURPOSE

1. To ensure that no person shall, on the grounds of race, color, religion, gender (including sexual harassment), sexual orientation, national origin, age, political affiliation, organizational membership, veteran's status, disability or other non-job related factor, be excluded from participation in, be denied the benefit of, or be subjected to discrimination or harassment under any program or activity receiving state or federal financial assistance directly or indirectly by CDOT.
2. To provide a policy that will standardize requirements by assuring uniform application and effective implementation of the provisions of the applicable state and federal Civil Rights Statutes.

SPECIFIC AUTHORITY

Primary impetus for equal opportunity and non-discrimination in accordance with:

1. Title VI of the Civil Rights Act of 1964
2. Federal-Aid Highway Act of 1968, Section 22(a)
3. Title VII of the Civil Rights Act of 1964, as amended
4. Presidential Executive Order 11246, as amended
5. Section 136(b) of the Federal-Aid Highway Act of 1970
6. Governor's Executive Order, April 1975
7. Rehabilitation Act of 1973, Section 503 and 504
8. Age Discrimination Act of 1975, as amended
9. Article XII, Section 13, State Constitution
10. Chapter 9: Rules and Regulations of the State Personnel System
11. CRS 24-34-402. Discriminatory or unfair employment practices
12. Colorado Civil Rights Commission standards and guidelines
13. American's with Disabilities Act of 1990

APPLICABILITY

This directive applies to employees of the Colorado Department of Transportation and all divisions thereof and external employees of CDOT such as consultants and contractors.

Subject EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY	Number 600.0
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POLICY

The Colorado Department of Transportation is committed to equal opportunity and non-discrimination under the law instituted by this state and the U.S. Congress. It is the responsibility of every person within the Department of Transportation to incorporate and implement actions of equal opportunity. The Colorado Department of Transportation's commitment to non-discrimination is essential in performing our duties to the State of Colorado and to serve the people. It is the policy of this Department to take an active role in instituting equal rights and non-discrimination of all people in accordance with the state and federal laws, and the policies of Congress. In addition, the State of Colorado and federal law prohibit retaliation against any employee because he or she has made a report of alleged discrimination or harassment; has testified, assisted or participated in any manner in an investigation of such report; or has opposed discrimination or harassment.

Harassment is a form of employment discrimination that is prohibited by law and this policy. Harassment is unwelcome conduct that is based on race, color, sex, religion, national origin, disability, and/or age.

Harassment becomes unlawful where:

- 1) enduring the offensive conduct becomes a condition of continued employment, or
- 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. Offensive conduct may include, but is not limited to:

- offensive jokes, slurs, epithets or name calling
- physical assaults or threats
- intimidation
- ridicule or mockery
- insults or put-downs
- offensive objects or pictures
- interference with work performance.

Subject EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY	Number 600.0
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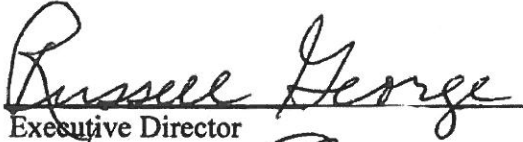
The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or a non-employee. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

Regional Transportation Directors and Division Program Directors and subordinates will be responsible and accountable to the Executive Director for performing all official actions in a manner consistent with federal and state non-discrimination laws and policies within the spirit and letter of the Colorado Constitution.

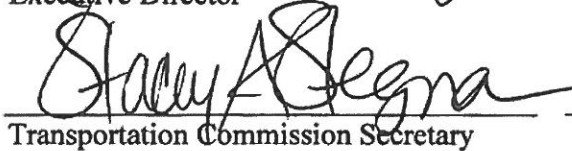
IMPLEMENTATION

The policy stated herein shall be effective immediately and shall be implemented by all divisions of the Colorado Department of Transportation.

REVIEW DATE: May 2012



Executive Director 6/18/08



Transportation Commission Secretary 6/18/08

COLORADO DEPARTMENT OF TRANSPORTATION		<input checked="" type="checkbox"/> POLICY DIRECTIVE <input type="checkbox"/> PROCEDURAL DIRECTIVE
Subject SEXUAL HARASSMENT		Number 603.0
Effective 08-16-07	Supersedes 09-15-99	Originating Office Center for Equal Opportunity

PURPOSE

To prevent all forms of sexual harassment at CDOT.

AUTHORITY

Title VII of the Civil Rights Act of 1964
Executive Director, Colorado Department of Transportation
Colorado Revised Statute 24-34-402 Discriminatory or Unfair Employment Practices

APPLICABILITY

This directive applies to all Divisions of the Colorado Department of Transportation (CDOT).

POLICY

It is the policy of the CDOT to provide and maintain for all employees a work environment free from all forms of sexual harassment. Sexual harassment is against the law. All CDOT employees and customers are expected to abide by the policy against sexual harassment. In addition, the State of Colorado and federal law prohibit retaliation against any employee because he or she has made a report of alleged sexual harassment; has testified, assisted or participated in any manner in an investigation of such report; or has opposed sexual harassment.

DEFINITIONS

Sexual harassment is a form of gender discrimination. It is defined as unwelcome sexual advances, requests for favors, and other unwelcome verbal and physical conduct based on an employee's sex when:

- submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment; or
- submission to or rejection of such conduct is used as a basis for making employment decisions about a person; or
- such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment may be perpetrated by men or women of the same or opposite sex. Any employee (male or female) may be a victim of sexual harassment. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

Quid Pro Quo – when a supervisor demands sexual favors and, if the employee does not comply, takes a tangible employment action against the employee such as:

- making a significant change in employment status, as in hiring firing, failing to promote,
- reassignment of significantly different responsibilities, or
- a decision causing a significant change in benefits.

Hostile work environment - involves workplace conditions that are sufficiently severe and pervasive to alter the conditions of the victim's employment and create an abusive work environment. A hostile work environment may include actions and or behavior such as:

- sexual advances or requests for social dates that are unwanted (this may include situations that began as reciprocal attractions, but later ceased to be reciprocal);
- sex -oriented physical contact or gestures such as touching, patting, or repeated brushing against the body;
- the (actual or electronic) display of sexually suggestive objects, pictures, cartoons or posters; viewing or transmitting sexually oriented subject matter is a violation of CDOT policy that may result in disciplinary action including termination.
- sexually oriented verbal comments, jokes, innuendoes or obscenities;
- sexually suggestive letters, notes, invitations, emails, electronic messages, displays or other written material;
- reprisals or threats after a negative response to sexual advances;
- sex-oriented entertainment appearing at the office or any other work-related site or function; and
- physical conduct such as impeding or blocking movement, touching or sexual assault.

Sexual harassment is conduct that meets the above criteria and interferes with an employee's:

- ability to do his or her work; or
- enjoyment of all work-related opportunities and benefits; or
- comfort level in his or her work environment.

RESPONSIBILITIES

All CDOT employees should read and understand the sexual harassment policy.

EEO

The Headquarters Center for Equal Opportunity staff and the Regional Civil Rights Managers are responsible for receiving, investigating and acting on reports of sexual harassment. All claims of sexual harassment will be investigated.

Employee

An employee who is being sexually harassed should attempt to resolve the issue as soon as possible. If possible, and if safe, inform the person whose behavior or action is unwelcome or offensive to stop the offending behavior, and thereby informally resolve the issue. If the employee does not feel comfortable with approaching that person, or if the offending behavior continues, the employee should seek assistance from his/her supervisor (or any supervisor in the chain of command) **and/or** the Regional Civil Rights Manager or the Headquarters Center for Equal Opportunity (303-757-9303 or 1-800-925-3427). Employees may notify supervisors and civil rights professionals verbally, in writing, via personal e-mail, or EO@dot.state.co.us.

Managers/Supervisors

When a supervisor/manager receives a report or has knowledge of alleged harassment, the supervisor/manager will take action to correct the situation to the extent possible in a timely manner. The supervisor/manager will promptly notify the respective Civil Rights Office in writing when an employee has alleged discrimination, and describe any mitigating action taken. A manager/supervisor is responsible for reporting all allegations of sexual harassment to the appropriate Headquarters Center for Equal Opportunity (303-757-9303, 1-800-925-3427, EO@dot.state.co.us) or the Regional Civil Rights Manager. Managers/supervisors are also responsible for documenting the allegations and for respecting the privacy of all parties.

Managers and supervisors must also take prompt action to stop inappropriate and impermissible behavior, and must take effective action to prevent incidents of alleged harassment. Some actions to prevent sexual harassment include:

- Ensure that your staff completes required training.
- Consult with the Headquarters Center for Equal Opportunity (303-757-9303 or 1-800-925-3427) or your Regional Civil Rights Manager for assistance or specialized training.
- Establish a workplace atmosphere of respectful communication that supports CDOT Values.
- Be alert and sensitive to possible sexual harassment situations or offensive behavior.
- Be accessible and listen to employee concerns.

Appointing Authorities

All appointing authorities and civil rights professionals shall be responsible for the enforcement of this policy. This includes ensuring that the supervisor in question has taken proper steps to stop alleged sexual harassment and that all complaints are investigated according to the CDOT Civil Rights Complaint Investigation Procedural Directive 600.6.

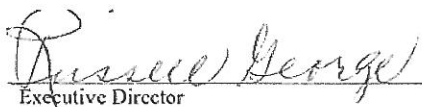
Any employee who violates this policy may be subject to corrective and/or disciplinary action, up to and including termination.


CDOT expects all employees to treat each other with courtesy and respect.

IMPLEMENTATION

This policy shall be effective immediately and shall be implemented by all Divisions of the Colorado Department of Transportation.

REVIEW DATE: August 2012.

 08/16/07
Executive Director Date

 08/16/07
Secretary, Transportation Commission Date

COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
Subject PLACEMENT OF EMPLOYEES WITH DISABILITIES		Number 600.2
Effective 01/26/09	Supersedes 10/03/02	Originating Office Center for Equal Opportunity

PURPOSE

To determine a CDOT employee's ability to perform the essential functions of his/her job, with or without reasonable accommodation(s), and to ensure CDOT's consistent compliance with the requirements of the Americans with Disabilities Act (ADA) and any amendments.

AUTHORITY

- A. Americans with Disabilities Act of 1990
- B. ADA Amendments Act of 2008
- C. Colorado Anti Discrimination Act, § 24-34-402, C.R.S.
- D. 29 CFR Part 1630
- E. Vocational Rehabilitation Act of 1973, Section 504
- F. State Personnel Rules and Procedures
- G. CDOT Policy Directive 600.0
- H. CDOT Executive Director

DEFINITIONS

ADA Representative: A trained and qualified person designated to take the lead role in the implementation of this Procedural Directive in a particular case (CDOT ADA Coordinator or designee or Regional Civil Rights Manager).

Appointing Authority: This term includes the Executive Director, the Deputy Director, Chief Engineer, Division Directors, and Regional Transportation Directors.

ADA Coordinator: The person designated within CDOT Headquarters to take the lead role in ADA policy development, interpretation of ADA requirements, and coordination and implementation of ADA requirements.

Disability: A physical or mental impairment that substantially limits one or more major life activities; a person with a record of such an impairment; or a person who is regarded as having such an impairment.

Essential Functions: Job tasks that are fundamental to the nature of the job and not marginal.

Functional Capacity Evaluation: A set of comprehensive tests of physical and static tolerances, including strength, range of motion and endurance.

Impairment's Effects: The effects that limit the person's ability to perform life activities. To qualify for a reasonable accommodation under the ADA, the impairment must have substantially limiting effects on one or more major life activities.

Interactive Process: A process that involves communication and discussion between an employer and a person who may have a disability to clarify what the individual needs and, to identify the appropriate reasonable accommodation when a reasonable accommodation is possible and required under the ADA.

Job Site Analysis: Objective measurements of the physical tasks included within a single job activity, a combination of activities, or all job activities within a job.

Major Life Activities: Functions include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a major bodily function including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Qualified person with a disability: An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or some other vacant position at a comparable salary and level of responsibility, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation: (i) Modifications or adjustments to the work environment, or to the manner or circumstances under which the duties of the position are customarily performed, that enable a qualified person with the disability to perform the essential functions of the position; or (ii) modifications or adjustments to a job or work environment that enable an employee with a disability to receive substantially equal benefits and privileges of employment as similarly situated employees without disabilities.

Stable Medical Condition: A medical condition that is stable enough to enable a physician to identify permanent work restrictions or restrictions that are likely to exist for an indeterminate long-range period.

Substantially Limits a Major Life Activity: An impairment substantially limits a major life activity when it restricts the activity as to the conditions, manner, or duration under which the person can perform the activity in comparison to the average person in the general population.

Some factors to consider are:

- i) The nature and severity of the impairment;
- ii) The duration or expected duration of the impairment; and
- iii) The permanent or long-term impact, or the expected permanent or long-term impact of or resulting from the impairment.

Under some circumstances, severe and long-term impairments may be covered under the ADA, even though they are not permanent.

Undue Hardship: The responsibility of an employer to provide reasonable accommodation(s) is limited to those situations in which making the accommodation would not create an undue hardship to the employer. Undue hardship means an accommodation involving significant difficulty or expense for the employer—including one that is excessive in cost, disruptive, would substantially impede completion of the employer’s mission, would create a danger to the employee or others, or would fundamentally alter the nature of the position.

Vacant Position (Vacancy): A funded position that is actually available. Even though a position may appear on a vacancy report, it is not available if: 1. A written offer of employment has already been made; or 2. Someone is in the position in an acting status, and there is an expectation that the incumbent will return.

APPLICABILITY

Any CDOT employee who experiences an injury or other event (such as an illness or on –the job or off-the-job injury), or gives notice of an old injury or event, that he/she believes substantially affects his/her physical or mental ability to perform the essential functions of his/her job.

PROCEDURES

STEP 1: Initiate the interactive process. In carrying out the provisions of this step and subsequent steps, actions will be coordinated with processes related to Family Medical Leave and Workers’ Compensation when appropriate.

A. Employee provides notice

1. Notify the appropriate supervisor and Regional/HQ Civil Rights Office verbally or in writing. The Regional/HQ Civil Rights staff will ensure that the appropriate ADA representative is assigned to the case and the ADA coordinator is notified.
2. The ADA representative shall evaluate the case in relation to ADA definitions and the intent of the statute and make a preliminary determination within one (1) work day about whether the case falls within the scope of this procedural directive. The ADA coordinator will review this decision and has the final decision whether the case is within the scope of this procedural directive.
3. If the ADA representative and the ADA coordinator determine that the case falls within the scope of this procedural directive, the ADA representative shall communicate the determination to: the appropriate appointing authority or appointing authorities and appropriate supervisors within two (2) work days, and advise them that the steps of this procedural directive will be implemented.

OR

- B. Supervisor provides notice (when employee does not)
1. Within three (3) work days of acquiring the knowledge that an employee may have an impairment that may affect the employee's ability to perform the essential functions of the job, notify the appropriate Region/HQ Civil Rights Office.
 2. The ADA representative shall initiate contact with the employee to begin an interactive process and perform the actions described in A 2 and 3 above. In situations where notice about the employee was provided by the supervisor to the Civil Rights staff person, a two (2) work day time frame shall apply to the action described in A 2 above.
- C. Communication
1. Each time that any CDOT staff member receives additional information relating to the employee's condition, he/she shall provide an update to ADA Coordinator, HQ/Region Civil Rights Office and Risk Management (when appropriate) by confidential e-mail within 5 days of receiving the new information.
 2. If, at any time, an employee's attorney contacts CDOT, the office of the Attorney General and the Director of the Center for Human Resources Management shall be notified.
 3. Within three (3) workdays of being designated, the ADA representative shall communicate with the supervisor, the appointing authority, and the employee to continue the interactive process. The focus of this communication shall be to explain steps that will be taken to evaluate the employee's ability to perform the essential functions of his or her job.

STEP 2: Formal Communication/Request for Documents

The ADA representative will send to the employee a certified letter (with release forms) that specifies that no further steps will be taken until the employee submits the following within seven (7) workdays of the date of the letter:

- A. All medical documents currently available (in the employee's possession or the possession of his/her physician) that are pertinent to the alleged disability;
- B. **AUTHORIZATION TO RELEASE OR OBTAIN INFORMATION** (CDOT form 1386 signed by employee);
- C. **AUTHORIZATION TO RELEASE OR OBTAIN INFORMATION** (signed and submitted to employee's physician; this does not need to be returned to ADA representative);
- D. **EMPLOYEE STATEMENT OF IMPAIRMENT EFFECTS** (CDOT form 1385) that describes the overall effects of the medical condition that is being evaluated (signed by employee). Without this statement, the appointing authority and ADA representative will base decisions on other available related information.

Subject PLACEMENT OF EMPLOYEES WITH DISABILITIES	Number 600.2
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STEP 3: Identify essential functions of the position

- A. ADA representative and supervisor will review the PDQ to verify that the described essential functions remain accurate.
- B. If the PDQ contains inaccuracies that may affect the evaluation of the employee's ability to perform the job, Civil Rights staff and Risk Management staff will initiate a job site analysis that will serve as the basis for evaluating the employee's ability to perform the essential functions of the job.

STEP 4: Determine eligibility to return to work

In consultation with the ADA Representative, the appointing authority shall determine if and when the employee can return to work and perform the essential functions of the job with or without a reasonable accommodation.

- A. Consider the identified essential job functions, physician statements/reports, and information provided by the employee to identify possible reasonable accommodations.
- B. If worker's compensation case, and unable to make a determination if the employee can return to work with or without an accommodation, the ADA representative will work with Risk Management to obtain updated information, which may include a functional capacity assessment. The ADA representative and the appointing authority will continue to attempt to make a determination each time Risk Management provides additional documentation.
- C. If unable to make a determination if the employee can return to work with or without an accommodation in a non-Worker's Compensation case, the ADA representative will request clarification from the employee's medical provider or the employee and continue to attempt to make this determination each time that medical provider submits additional documentation.

STEP 5: Identify reasonable accommodation

Within five (5) work days of notice of stable medical condition, the ADA representative shall work with the appointing authority or designee, the supervisor and the employee to identify the reasonable accommodation(s) that will enable the affected employee to perform the essential functions of the position. The accommodation must take affect as soon as is reasonably possible. The ADA representative is responsible for communicating the appointing authority's authorization for accommodation to the ADA Coordinator, and Risk Management in cases involving Workers' Compensation.

STEP 6: Search for a Vacant Position (if applicable)

Subject PLACEMENT OF EMPLOYEES WITH DISABILITIES	Number 600.2
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If the employee cannot perform the essential functions of his/her current job with or without a reasonable accommodation, the Regional ADA Representative may conduct a Regional vacancy search in accordance with the sub-sections below as applicable.

If the Region ADA Representative is unable to identify a vacant position within the Region that the employee can perform with or without reasonable accommodation(s), the ADA Coordinator shall coordinate a state-wide search for a vacant position with comparable compensation and level of responsibility for which the employee is qualified. Only lateral transfers or voluntary demotions are allowed. When ADA regulations or case law require, additional searches will be conducted.

During the search for a vacant position, the ADA Representative/ADA Coordinator or designee shall communicate progress on a regular basis to each other, the appointing authority, and Risk Management in cases involving Workers' Compensation.

- A. The employee will submit a State of Colorado Application Form within seven (7) days of a request from the ADA Representative/ADA Coordinator; or the ADA Coordinator may use the application received by the Region.
- B. Within two (2) workdays, the ADA Representative/ADA Coordinator will review and submit the application to CHRM.
- C. Within two (2) workdays, CHRM shall send an e-mail to the ADA Representative/ADA Coordinator a list of job classes and vacant positions by number for which the employee meets the minimum qualifications.
- D. The ADA Representative/ADA Coordinator shall review each vacant position to determine if the employee can perform the essential functions of the position in the following order:
 - 1. Positions within the home Region;
 - 2. Positions nearest the home Region, if the employee is willing to accept employment outside of the home region (statewide search by ADA Coordinator only);
 - 3. All other Regions, if the employee is willing to accept employment outside of the home region (statewide search by ADA Coordinator only).
- E. The ADA Representative/ADA Coordinator will advise the appointing authority about the position and related ADA requirements, verify vacancies and discuss vacant positions as appropriate with the manager of the work unit to clarify ADA requirements.
- F. For eligible positions, the ADA Representative/ADA Coordinator will consult with the appointing authority and notify CHRM to discontinue selection activities for the position.

- G. Within one (1) workday, the employee shall be offered in writing, the identified vacant position as specified by the US Tenth Circuit Court of Appeals when:
1. the employee is qualified for the position, and,
 2. the employee cannot be accommodated in the current position.

The letter shall state that the employee has three (3) work days to accept the offer, and that the offer completes CDOT's obligations under the ADA.

STEP 7: Separation from State Service (if applicable)

If separation from state service is contemplated based on the inability to accommodate the employee in the current or comparable jobs, the ADA representative or appointing authority shall consult with the Office of the Attorney General.

REVIEW DATE

This Procedural Directive shall be reviewed by January 2013.

This Procedural Directive shall become effective upon the signature of the Executive Director.



01/26/09

Executive Director

Date

APPENDIX B

2013 EEO-4 Report

APPENDIX C

CDOT Employee Complaint Procedure, Procedural Directive
600.6

Colorado State Personnel Rules and Administrative Procedures
Regarding Employee Complaints, Disputes and
Grievances

CDOT Intranet Employee Rights and Complaint Information

COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
<small>Subject</small> Internal Discrimination Complaint Procedures		<small>Number</small> 600.6
<small>Effective</small> 08/07/06	<small>Supersedes</small>	<small>Originating Office</small> Center for Equal Opportunity

PURPOSE

To ensure timely, equitable, objective and consistent investigation of civil rights complaints including discrimination and workplace harassment

AUTHORITY

- Title I and Title II of the Americans with Disabilities Act of 1990 as amended;
- Title VI of the United States Civil Rights Act of 1964;
- Title VII of the United States Civil Rights Act of 1964 as amended and rulings of the U.S. Equal Employment Opportunity Commission;
- Civil Rights Act of 1991;
- Civil Rights Restoration Act of 1987
- Civil War Era Civil Rights Act – 42 U.S.C. 1981 et seq.
- Rehabilitation Act of 1973
- Vietnam Era Veterans Readjustment Act
- Age Discrimination in Employment Act of 1967;
- Equal Pay Act of 1963;
- Immigration Reform and Control Act of 1986
- Executive Order 11246
- Colorado Revised Statutes Sec. 24-34-301 et seq.
- Colorado Revised Statutes: CRS § 24-72-201 et seq.(Public Records); and,
- 23 CFR Part 230 Subpart C, "State Highway Agency Equal Employment Opportunity Programs." (TAB F)
- 49 CFR Part 27(TAB F)

DEFINITIONS

Appointing Authority – Executive Director, Deputy Director, Division Directors, Regional Transportation Directors. An appointing authority may delegate any and all human resource functions.

Complainant – CDOT employee who alleges or files a complaint of discrimination or workplace harassment.

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Conflict of interest – An investigator must be an objective resource to help ensure compliance with various state and federal civil rights laws and policies. If an investigator cannot consider, recommend, or carry out an appropriate course of action for the complainant because of other responsibilities, interests, or relationships, objectivity may be impaired, and a conflict of interest may exist.

Discrimination – Discrimination is the act of treating a person, or group of people, differently based on their race, color, religion, sex, (including sexual harassment), sexual orientation, age, national origin, political affiliation, and organizational membership, veteran’s status, disability.

Early Resolution Process – Early Resolution Process is a process to resolve a conflict informally and as soon as possible. One or more meetings may be facilitated by the investigator and attended by the complainant and those parties involved in the complaint that can help to reasonably resolve the issue(s). During the initial meeting, the Civil Rights Investigator will consider the circumstances that exist between the parties with regard to the current relationship, the attitudes and behaviors of the parties, the willingness of the parties to reach resolution, and any other circumstances that indicate that early resolution is or is not a viable process. At any time, the investigator or any other party involved may terminate the early resolution process if it is believed that the process is not the appropriate method of resolution. All discussions and information exchanged are considered confidential.

Harassment – Harassment, a form of discrimination is unwelcome verbal, physical, or negative visual conduct that is based on a person’s race, color, religion, sex, age, national origin, or disability. Harassment not only consists of blatantly direct offensive behavior, but may include subtle acts or comments. Derogatory comments, jokes, and slurs of a racial, sexual, ethnic, or religious nature or those that refer to an individual’s sexual orientation or disability can also be considered harassing and/or discriminatory behavior.

Civil Rights Investigator – An individual who is trained and experienced in the application of Title VI and/or Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), and other applicable Civil Rights laws. The Appointing Authority will delegate the handling of an investigation to the Investigator. The investigators will be the Regional and Headquarters Civil Rights Specialists or independent investigators who possess the knowledge, skills and experience to perform all civil rights investigations.

Investigator’s work product – The investigator’s work product includes the investigation plan, notes taken during the investigation, and other information gathered that is not a part of the final investigation report.

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Pretext — Evidence that the respondent’s articulated nondiscriminatory reasons are not true.

Remedy – Correcting a wrong or enforcing a right, pursuant to the CDOT civil rights policies, procedures and rules and state and federal laws. Remedies are evaluated on a "case by case" basis and are dependant on the specific circumstances at hand. The appointing authority will decide appropriate remedies under the advice of the Attorney General’s office and in conjunction with the DoHRA Division Director or CDOT’s Executive Director as appropriate.

Respondent – Entity/person against which a complaint or charge is filed.

Retaliation - Retaliation occurs when an individual has opposed a practice made unlawful by a civil rights statute, or has filed a charge, has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the applicable statute, and as a consequence has suffered an adverse action.

Sexual Harassment – Sexual harassment is unwelcome conduct of a sexual nature, such as, sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct of a sexual nature or harassing behavior(s) such as threatening, demeaning, or offensive conduct whether or not sexual in connotation, that is directed toward an individual based on gender when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment; or,
2. Threat of submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting the 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.

PROCEDURES and RESPONSIBILITIES

STEP 1 – ATTEMPT TO RESOLVE THE SITUATION

Employee: An employee who feels discriminated against should attempt to resolve the issue as soon as possible. If possible and if safe, inform the person whose behavior or action is unwelcome or offensive, to stop the offending behavior, and thereby informally resolve the issue. If the employee does not feel comfortable with approaching that person, then the employee may want to seek assistance from his/her supervisor and/or their Civil Rights Office.

Subject Internal Discrimination Complaint Procedures	Number 600.6
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An employee is not required to report a complaint of discrimination to his/her supervisor. If the employee's supervisor whose behavior or action is perceived to be discriminatory or offensive, the employee should notify the next level of management and their Civil Rights office.

Employees should to the maximum extent possible, report any form of discrimination, harassment, sexual harassment, or retaliation against them or any other employee, to a supervisor or manager and/or their Civil Rights office.

Supervisor or Manager: When supervisor/manager receives a report of alleged discrimination or harassment, the supervisor/manager will take action to correct the situation to the extent possible in a timely manner. The supervisor/manager will promptly notify the respective Civil Rights Office in writing (i.e. email) when an employee has alleged discrimination, and describe any mitigating action taken.

Civil Rights Investigator: The Headquarters Center for Equal Opportunity and the Regional Civil Rights Managers are responsible for receiving, investigating and acting on reports of discrimination.

STEP 2 – FILING A COMPLAINT

The Civil Rights Investigator will clarify issues and determine whether there is alleged illegal discrimination under any civil rights law. If the complaint is baseless, the Civil Rights Investigator will so inform the complainant.

The Civil Rights Investigator will counsel the employee on the benefits of mediation and assist the employee in coordinating mediation if requested.

Complaints involving sexual harassment and/or workplace violence are always investigated by CDOT.

Internal complaints **should** be initiated within 30 days of the last discriminatory incident; otherwise they are not considered timely and may be difficult to investigate. If the complaint involves sexual harassment and/or workplace violence it should be reported immediately. It will be at the discretion of the Investigator to extend the 30 days if the extension is requested, in writing, and the circumstances support the need for an extension. In no case will this extension exceed 180 days.

Time limits are:

- Equal Employment Opportunity Commission (EEOC) - 300 days
- Colorado Civil Rights Commission (CCRD) - Six (6) months.

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Please note that for the CCRD you must initiate your complaint through the State Personnel Office.

If a complaint is close to the end of the time limit for CCRD or EEOC, the CDOT Civil Rights Investigator will advise the complainant of his or her rights and procedures to seek assistance from CCRD and EEOC.

COMPLAINANT WILL:

- Contact a CDOT Civil Rights Investigator to file a complaint of discrimination or to report activity that appears to be in violation of CDOT's equal employment and non-discrimination policy.
- File the complaint as soon as possible after the incident or incidents have occurred.
- Note important information before contacting the Civil Rights Investigator such as a description of the incident(s), witnesses, date and time of alleged violation(s), statements made.
- Be clear and specific when reporting the potential violation(s).

EARLY RESOLUTION

CDOT is committed to early and informal resolution of a conflict, if possible. When an employee seeks assistance, the Civil Rights investigator will determine if early and informal resolution, mediation or alternative dispute resolution is appropriate. The decision to proceed with the early resolution process is based on careful evaluation of the relationship and the attitudes and behaviors of the complainant and respondent, and on the apparent willingness of the parties to participate in the early resolution process. If appropriate, coordinate and facilitate the first meeting for the Early Resolution Process.

If the Civil Rights Investigator determines that early resolution would not be the appropriate action, then the investigation process continues to the next step in the process.

REQUESTS FOR AN ALTERNATE INVESTIGATOR

The Civil Rights Investigator or Appointing Authority may determine that another investigator should be assigned to the investigation. Employees may also request a different investigator if they believe and can substantiate that the current investigator has a conflict of interest. If an employee (complainant) believes that a conflict of interest exists, he/she may contact the Manager for the Center for Equal Opportunity (EO). The complainant shall provide a

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written explanation to the Manager for EO of the reasons for the request to have the complaint investigated with an alternate investigator.

The EO Manager will discuss the facts of the situation with the respective Civil Rights office and determine a course of action. If an agreement cannot be reached on the matter, a written document with details on the situation will be submitted to the DoHRA Division Director and the respective Appointing Authority allowing them to determine the appropriate action to take. The Manager for EO will notify the respective Civil Rights Office of the decision and based on the determination, an appropriate Civil Rights Investigator will be assigned before any investigation into the allegations begins.

STEP 3 – COMPLAINT INTAKE AND NOTIFICATION OF EMPLOYEE RIGHTS

The Civil Rights Investigator will schedule a meeting for complaint intake as soon as possible. Civil Rights Investigators will communicate CDOT’s complaint procedures to the complainant during their initial contact. It is the Civil Rights Investigator’s responsibility to ensure that the complainants have an understanding of their options, their rights, and the resources available to assist them in resolution of the problem.

If the complaint appears to have a basis under any civil rights law, the Civil Rights Investigator will explain the investigation process to the employee. It is the employee’s responsibility to submit his or her written complaint and other pertinent information in a timely manner to the Civil Rights Investigator.

During the intake process the employee will be instructed to:

- Complete and sign the intake documents and statements of remedy.
- Provide medical information and release for medical information if the complaint is made under the Americans with Disabilities Act (ADA) or section 504 of the Rehabilitation Act.
- Provide all relevant complaint information including details about the issues raised, dates, times, places, description of events, names of witnesses, documents, objects, and any other relevant information that he or she believes will corroborate the claims.
- Report developments to the investigator that relate to the complaint. The employee should also report any behavior that they believe is directed to them as retaliation for submitting a discrimination claim or participating in a process related to a possible discrimination claim.
- Ask questions when clarification is required.
- Keep in confidence any and all information regarding the complaint and the investigation in order to preserve the integrity of the investigation.
- Comply with the timeframes provided for submitting information.

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STEP 4 – NOTIFICATIONS

- The Civil Rights Investigator will notify the appropriate Appointing Authority immediately when an investigation will begin.
- Unless the circumstances warrant immediate action the intake should be completed before notice to the appointing authority of the alleged discrimination.
- The Civil Rights Investigator will notify the complainant in writing or by email that an investigation will begin.

STEP 5 – INVESTIGATION

The investigator will proceed with the level of investigation determined to be necessary on a case by case basis.

The employee will need to provide all relevant information and submit all pertinent documentation in a timely manner.

In order to maintain the integrity of the investigation and to prevent the spread of inaccurate information, any witness or any person, including supervisors, who are questioned during an investigation will not discuss the issue with any one except the Civil Rights Investigator or his/her representative. Employees may be subject to corrective or disciplinary action if he/she does not cooperate or who otherwise interferes with the investigation.

The Civil Rights Investigator may inform a supervisor/manager that an investigation is being conducted. Supervisors and managers will ensure that there is no retaliation against employees who are involved in a complaint process. The Civil Rights Investigator may ask a supervisor/manager for assistance in scheduling interviews for an investigation.

Confidentiality is defined as information known or conveyed to a limited number of people for which unauthorized disclosing of information could damage the integrity of the investigation. If an interviewee breaches his/her confidentiality, he/she is subject to a personnel action at the discretion of the appointing authority. However, the investigator must reveal confidential information as is necessary and appropriate to individuals who may have relevant facts related to the charges.

STEP 9 – INVESTIGATION CLOSE-OUT

The Civil Rights Investigator will inform the Appointing Authority and the complainant of the results of the investigation. The employee may be informed whether a corrective or disciplinary action will be pursued by the appointing authority against offenders, but due to confidentiality issues, the complainant will not be give details or specifics of such action(s). A supervisor/manager may not be

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informed of the information collected during an investigation, but may be advised of the findings of the investigation.

STEP 10 - RETALIATION

The Civil Rights investigator will process complaints of discrimination retaliation in accordance with this directive. Retaliation complaints will be treated as discrimination complaints. The Civil Rights Investigator will conduct

investigations into all retaliation complaints. Witnesses and other pertinent parties to complaints are protected from retaliation. Any employee who complains of retaliation will be notified by the Civil Rights Investigator of the outcome.

REVIEW DATE:

This directive will be reviewed in January of 2011.



08/07/06

Thomas E. Norton
Executive Director

Date

Chapter 8 Dispute Resolution

Authority for rules promulgated in this chapter is found in §§ 24-50-103, 104, 104.5, 123, 125, 125.3, 125.4, 125.5, 131, 24-50.5-101 to 107, 24-50-112.5, 24-4-105 and 106, 24-11-110, and 24-34-402, C.R.S. Board rules are identified by cites beginning with "Board Rule".

General Principles

Board Rule 8-1. Disputes should be resolved at the lowest level and as informally as possible. Fair and unbiased resolutions should be reached as quickly as possible. As such, parties are encouraged to use alternative dispute resolution methods, including those provided in this chapter, in an attempt to reach early solutions.

Board Rule 8-2. Appeals may be dismissed if the employee, applicant, or department does not keep the Board informed of the proper email address or mailing address, fails to appear for a hearing either personally or through counsel, or if the appeal does not meet the requirements of these rules. (12/1/09)

Board Rule 8-3. Any person may file a complaint concerning a state employee's action. If the complaining party is an employee in the same department, the grievance procedure adopted by the department, or if none, as provided in this chapter, is to be used. If the complaining person is outside the department or the state personnel system, the person shall file a written complaint with the employee's appointing authority within a reasonable time period. The appointing authority will review a complaint and take the appropriate action, if any.

Notice Of Appeal Rights—Corrective Or Disciplinary Actions

Board Rule 8-4. Affected persons shall be informed, in writing, of any rights to dispute a final agency decision on a grievance or an action that adversely impacts pay, status, tenure, or a performance rating and award. Such a notice must include the time limit to exercise such rights, the official and address to whom the dispute should be directed, the requirement that the dispute must be in writing, and the availability of any standard appeal form. If the dispute alleges a whistleblower claim or discrimination, refer to the "Investigation Of Retaliation For Disclosure Of Information (Whistleblower Claims)" or "Allegations of Discrimination" sections of this chapter. (7/1/13)

Board's Dispute Resolution Processes

Grievance Procedures

Board Rule 8-5. A permanent employee may grieve matters that are not subject to appeal or review by the Board or Director. Issues pertaining to leave sharing, discretionary pay differentials, granting or removal of in-range salary movements, or the performance management system that do not result in corrective or disciplinary action are not subject to grievance or appeal. (7/1/13)

Board Rule 8-6. Once a final written grievance decision is rendered by the highest level of relief in a department, an employee may petition the Board for discretionary review pursuant to the discretionary Board hearing section of this chapter.

Board Rule 8-7. If the complaining employee is no longer employed under the state personnel system, any grievance in process at the department level is considered concluded.

- A. If the complaining employee is separated from employment and does not appeal that separation to the Board, any grievance in progress at the department or Board level is considered concluded.

- B. If an employee is restored to a position following involuntary separation, by Board order, settlement or reemployment, the employee may reinstate, within 10 calendar days, any unrelated grievance pending at the time of separation. (7/1/13)

Grievance Process

Board Rule 8-8. The grievance process is designed to address and resolve problems, not to be an adversarial process. Each department may establish a grievance process but such process shall include the following elements. All established grievance processes must be made available to employees. (7/1/13)

- A. The State of Colorado has a two step grievance process, as follows:
1. Step One: To initiate the grievance process, the employee shall notify the supervisor and/or second level supervisor, as provided in the department's grievance process. An informal discussion will be held to attempt to resolve the grievance. The employee shall be informed in writing of the decision within 7 days after the discussion. If a timely decision is not issued, the employee may proceed to the next stage of the process. The decision reached at Step One of the grievance process shall be binding on the parties, unless the employee elects to proceed to Step Two of the grievance process.
 2. Step Two:
 - a) The employee has 5 days after receipt of the informal decision to initiate the formal grievance process. The formal grievance must be in writing and submitted to the employee's appointing authority. Only the issues set forth in the written grievance shall be considered thereafter.
 - b) The appointing authority will issue the final department response to the grievance. The appointing authority may appoint an objective person or panel to make recommendations, or may delegate the decision. If the grievance concerns the actions of the appointing authority the department may, but is not required to, provide a process by which a different individual issues the final department response.
 - c) The process is deemed completed upon issuance of a final department decision, which must be in writing and issued within 30 days of the initiation of the written grievance process. The final written grievance decision must notify the employee of the right to appeal the final decision, including the time frame for such an appeal, and the Board address and telephone and fax number for filing the appeal. (7/1/13)
- B. An employee must initiate the grievance process within 10 days of the action or occurrence being grieved; or within 10 days after the employee has knowledge of, or reasonably should have knowledge of, the action or occurrence. (7/1/13)
- C. Appeal to the Board of final department decision:
1. The final decision is binding unless the employee pursues the grievance with the Board.
 2. If a final decision is not issued in a timely manner, the employee may pursue the grievance with the Board.
 3. The employee has 10 days to file a petition for hearing with the Board after receipt of the final department decision, or after expiration of 30 days of initiation of the written grievance process or any extension period granted by the Board. The original written grievance and the department's final decision shall be attached to the petition for

hearing. A copy must be provided to the person who made the department's final decision. (7/1/13)

- D. Any of the time frames for completion of the grievance process may be waived or modified if agreed to by both parties, including deferral of action to allow the parties a chance to resolve the issue. (7/1/13)
- E. An employee may be represented by any person of the employee's choice at Step Two or beyond of the grievance process. That person may participate and speak for the employee. However, the employee is expected to participate in the discussion during the grievance process. (7/1/13)

Alternative Dispute Resolution (Informal problem-solving processes)

Mediation Prior to Appealing or Petitioning the Board

- 8-9. Upon mutual agreement of the parties, mediation may be used in an attempt to resolve disputes. Parties participating shall have authority to settle disputes at the time of mediation. (7/1/13)
- 8-10. A trained, unbiased facilitator, who assists the parties in clarifying and understanding their different points of view, identifying common ground, generating and evaluating alternatives, and reaching a mutually acceptable resolution, conducts mediation. The costs associated with the use of a mediator are to be borne equally by the parties, unless otherwise agreed to between the parties prior to the commencement of the mediation process. Departments may notify participants to a grievance that mediation is an available form of alternate dispute resolution. (7/1/13)

Board Rule 8-11. Mediation is considered a confidential process. Communication during mediation is not discoverable or admissible, except for information that is required to be reported under a specific law. Mediator notes are confidential and must be destroyed after mediation. The mediator cannot be contacted for information or called as a witness in other later proceedings. (7/1/13)

Settlement

Board Rule 8-12. Subsequent to filing an appeal or petition for hearing under this chapter, any party may ask the Board staff to facilitate the settlement process and the Board will provide a facilitator, which may be an administrative law judge not assigned as the hearing judge for the matter. However, the parties must attempt to resolve an appeal before the hearing commences, which may include settlement or other form of alternative dispute resolution. If a party to an appeal makes such a request, the other party(ies) must appear at least once at a conference and attempt in good faith to settle the matter. If a party believes settlement is inappropriate, that party must file a motion stating the specific reasons why settlement is inappropriate. The administrative law judge assigned the case, upon good cause shown, may waive the requirement. An administrative law judge may require a settlement conference.

Board Rule 8-13. The settlement process is private, confidential, and privileged unless the information disclosed is required to be reported under specific law.

Board Rule 8-14. Only the parties and their representatives shall participate in settlement proceedings, which shall be closed to any other person.

Board Rule 8-15. All notes taken by the facilitator shall be kept in a separate file and are not accessible to the administrative law judge assigned the appeal. At the end of the case, the files shall be destroyed. There will be no communication regarding the substance of the settlement negotiations between the facilitator and the administrative law judge hearing the appeal.

Board Rule 8-16. The facilitator cannot be a witness in any proceeding on the subject matter. Communication between the parties at the settlement conference shall not be admissible at the hearing. However, this does not bar admission of evidence discovered by a party outside the settlement conference.

Board Rule 8-17. Any settlement agreement reached shall be reviewed by both parties prior to signature. Upon reaching a signed settlement agreement, the parties shall file a signed stipulated motion with the Board seeking dismissal of the case or action. The Board's director or an administrative law judge will promptly enter an order pursuant to the stipulated motion. (7/1/13)

Board Rule 8-18. If the employee or the department contends the other party has not complied with the terms of the settlement agreement, the employee or the department may petition the Board for a hearing. If the employee does not comply with the terms of the agreement, the action may be subject to the provisions in the "Performance" chapter.

- A. If the employee is no longer employed by the department and either party contends the other has not complied with the terms of a settlement agreement, the employee or the department may seek review or enforcement of the Board's order entered pursuant to Board Rule 8-17 above, under the provisions of § 24-4-106, C.R.S. (1/1/07)

Petition for Declaratory Orders

Board Rule 8-19. Any person may petition the Board for a declaratory order to clarify the applicability of statute, Board rule or order to the petitioner.

- A. Any petition must include: petitioner's name and address; whether petitioner is a state personnel system employee; the related statute or Board rule or order; and a concise factual statement of the issues involved. The Board may deny any petition that does not contain all of this information.
- B. In determining whether to issue a declaratory order, the Board may consider factors including, but not limited to, whether a declaratory order will terminate the uncertainty or controversy giving rise to the petition; whether the petitioner has another remedy or avenue for review of the controversy; whether there is another case or investigation pending before the Board, a court, or another department involving the controversy; and whether the issue is ripe for review.
- C. The Board may grant the petition for declaratory order and order that the matter be set for hearing, order briefing on the issues presented in the petition, or deny or dismiss the petition. The Board will notify the petitioner of its decision.
- D. Any action or order of the Board is subject to judicial review.

Investigation Of Retaliation For Disclosure Of Information (Whistleblower Claims)

Board Rule 8-20. An employee who seeks to have an allegation of retaliation for disclosure of information reviewed by the Board must file a complaint with the Board in accordance with § 24-50.5-101, C.R.S., et seq. ("Whistleblower Act").

Board Rule 8-21. The Board will send a copy of the complaint to the department for an initial response. The response must be filed within 45 days after the date the complaint was filed with the Board. (1/1/07)

Board Rule 8-22. The Board will notify the employee of the notice requirements of the Governmental Immunity Act, § 24-10-101, C.R.S., et seq.

Board Rule 8-23. If an appeal is also filed asserting a constitutional or statutory right to a hearing, and the appeal and complaint relate to the same or closely related facts, they may be consolidated for evidentiary hearing. Either party may request, or the administrative law judge may order, consolidation if it would be more efficient and would not unduly prejudice any party. The hearing shall be set to commence not later than 90 days from transmittal of the acknowledgement to the parties of the written response filed by the agency and may be continued once for 30 days only upon good cause shown and upon approval of the administrative law judge. (7/1/13)

Board Rule 8-24. If the employee does not have a constitutional or statutory right to a hearing, the case will be set for preliminary review pursuant to the discretionary Board hearing section of these rules. The matter shall be set for preliminary review upon transmittal of the agency's written response. (7/1/13)

Allegations Of Discrimination

Board Rule 8-25. Pursuant to § 24-50-125.3, C.R.S., the Board has jurisdiction over claims of discrimination within the state personnel system. If an employee or applicant seeks to have an allegation of discrimination reviewed by the Board, that person must file a petition for hearing within 10 days of the action or receipt of any final written decision (including, but not limited to, grievance decisions, selection decisions, or performance pay system dispute resolution decisions). All such decisions must notify that employee or applicant of the right to appeal the final decision, including the time frame for such an appeal, and the Board's address and telephone and facsimile numbers for filing the appeal. Except for appeals, the Board will defer action to allow the parties a chance to resolve the issue. (1/1/07)

Board Rule 8-26. Upon receipt of an appeal or a petition for hearing on matters covered by § 24-34-402, C.R.S., the Board will refer the matter to the Colorado Civil Rights Division (CCRD) for investigation and issue a notice of referral.

- A. If the allegation is against the CCRD, the Board shall appoint an independent third party to investigate and will inform CCRD.
- B. If the applicant or employee wants CCRD to investigate the discrimination claim, the employee must file a discrimination charge with the CCRD within 20 days of the date of the certificate of mailing of the notice of referral. The employee must file a verification form with the Board no more than 10 days after filing the CCRD charge, with a copy to the respondent. (7/1/13)

Board Rule 8-27. Any time an appointing authority becomes aware of an allegation of discrimination based on disability, the matter must be referred to the department's ADA coordinator for investigation, no later than 7 days from the date of the allegation. This includes grievances and meetings to consider adverse action against the employee. Any time limits are suspended pending the investigation.

Board Rule 8-28. For claims asserted pursuant to § 24-34-402, C.R.S., an employee can waive the right to investigation and proceed to preliminary review or hearing any time prior to completion of the investigation. The date of written notice of waiver of investigation is the date of appeal to begin the 45-day hearing period. If no specific, written charge is filed with the CCRD within 20 days of the date of the certificate of mailing of the referral order from the Board, or if the employee fails to file a verification form with the Board, the employee is deemed to have waived investigation and the matter will proceed to preliminary review or hearing. (7/1/13)

Board Rule 8-29. If the investigation is not completed within 270 days, absent granting a time extension, the Board will notify the parties and set the matter for preliminary review or hearing.

Board Rule 8-30. When the investigation is complete, a written opinion of probable cause or no probable cause will be prepared. The Board will mail the opinion to the parties along with notice of their rights.

Board Rule 8-31. If probable cause is found in the CCRD investigation, CCRD will attempt to conciliate. If conciliation succeeds, the results and any settlement agreement will be sent to the Board. The Board will notify the parties by mail. If attempts fail, CCRD will notify the Board in writing. The Board will notify the parties by mail, including informing them of the right to appeal within 10 days of the Board's notice. If a party appeals the probable cause finding, the issue of discrimination shall be set for hearing.

Board Rule 8-32. If no probable cause is found in the investigation, CCRD or the independent third-party investigator will send the opinion to the Board who will notify the parties in writing by mail. The employee or applicant may appeal within 10 days of receipt of the opinion. If the employee fails to file an appeal or petition, the discrimination claim is considered abandoned and dismissed, and the matter will proceed without consideration of the issue of discrimination.

Attorney Fees And Costs

Board Rule 8-33. Pursuant to § 24-50-125.5, C.R.S., attorney fees and costs may be assessed against an applicant, employee, or department, upon final resolution of a proceeding against a party if the Board finds that the personnel action from which the proceeding arose, or the appeal of such action was frivolous, in bad faith, malicious, was a means of harassment, or was otherwise groundless.

- A. Frivolous means that no rational argument based on the evidence or law was presented;
- B. In bad faith, malicious, or as a means of harassment means that it was pursued to annoy or harass, made to be abusive, stubbornly litigious, or disrespectful of the truth;
- C. Groundless means despite having a valid legal theory, a party fails to offer or produce any competent evidence to support such an action or defense. (7/1/13)

Board Rule 8-34. Attorney fees may be assessed against an applicant, employee, department, or their respective counsel, for abuses of discovery procedures, prehearing procedures, or other proceedings before the Board or its administrative law judges as provided in the Colorado Rules of Civil Procedure.

- A. Any party seeking attorney fees under this rule shall file and serve a written motion for such fees no later than the conclusion of a proceeding, or make an oral motion for such fees during the course of a proceeding.
- B. Any response to a motion for attorney fees shall be filed within ten (10) days of the date of filing or making of the motion.
- C. A person or party that may be affected by a motion for attorney fees may request a hearing. The administrative law judge may hold a hearing if it is determined, in his or her discretion, that a hearing would materially assist in ruling of the motion.

Board Appeal Process

Address

Board Rule 8-35. Appeals asserting claims or grounds within the Board's jurisdiction as authorized by Colorado Constitution, statute, or these rules must be submitted to the Board at the official address listed on the Board's website. (7/1/13)

Filing Deadlines

Board Rule 8-36. Any appeal is timely if it is received by the Board or postmarked within 10 days after receipt of the written notice of the action. Any appeal that is not timely will be denied except for the following.

- A. If the 10th day falls on a weekend or legal state holiday (regular schedule), the time period will be extended to the next regular business day.
- B. The Board may extend the period of time for good cause as long as the request for extension is received by the Board or postmarked within the 10-day appeal period. The Board shall add up to three days to the date of notice if it was not sent by certified mail, hand delivered, or filed by facsimile transmission; however, the 10-day period begins to run from the actual date of receipt.

Scope and Contents of Board Appeals

8-37. Claims (with no allegation of discrimination) based upon the selection and comparative analysis process, downward allocation of a position, disputes involving the performance pay system, matters involving the overall administration of the personnel system by a department, not otherwise subject to an appeal to the Board, and matters involving overtime, FMLA, removal of a name from an eligibility list, or rejection of an application shall be filed with the Director pursuant to the provisions of these rules governing "Director's Dispute Resolution Processes" in this chapter. (3/30/13)

Board Rule 8-38. The appeal must be in writing and copies provided concurrently to the affected department. Use of the standard "**Colorado State Personnel Board Consolidated Appeal/Dispute Form**" found on the Board's website is required. For good cause shown, the Board may waive this requirement provided the person filing the appeal ("complainant") sets forth such grounds at the time the appeal is submitted. The appeal must clearly state the following in sufficient detail: (7/1/13)

1. The name, address, email address, and telephone number of the complainant and any representative. (7/1/13)
2. The specific action being appealed and a copy of the written notice.
3. The date the complainant received the notice of action.
4. A short, specific statement giving the reason for the appeal.
5. Whether the complainant is a certified employee.
6. The specific remedy sought.

Failure to provide a copy to the affected department may be grounds for denial or dismissal of the appeal.

Board Rule 8-39. If the notice of appeal does not contain sufficient or appropriate grounds for filing an appeal, the Board may dismiss the appeal with prejudice. Employees are required to keep the Board informed of their current address and telephone number, and to attend any required meetings or hearings. If either party does not follow these procedures, the Board may take appropriate action, including dismissal with prejudice.

Board Rule 8-40. The determination of timeliness of any subsequent documents will be the date of receipt in the Board's office. Whenever a person or party files any documents with the Board, copies must be provided to the opposing party at the same time.

Discretionary Board Hearings

Board Rule 8-41. The Board may use its discretion to grant a hearing for actions that do not adversely affect a certified employee's current base pay, status, or tenure, and where the employee does not have a right to a hearing, appeal, or review by law or rule.

- A. The Board may grant a hearing in matters such as a violation of federal or state constitutional rights, an adverse written decision from the highest level of a department's grievance process, a decision from the "Director's review process" involving the overall administration of the state personnel system (referred to later in this chapter), unlawful discrimination where there is no mandatory right to a hearing, including discrimination in the selection and comparative analysis process, and reversion of a trial service employee for unsatisfactory performance. (7/1/13)
- B. The Board cannot grant a hearing to probationary employees who appeal discipline for unsatisfactory performance unless the employee alleges unlawful discrimination or other statutory or constitutional violation. (3/30/13)

Board Rule 8-42. After the State Personnel Director's final decision pursuant to § 24-50-112.5(4), C.R.S., any applicant directly affected by the comparative analysis process may file a written petition for discretionary review of the appointing authority's decision with the Board. Such petition shall be filed within 10 days after the State Personnel Director's final decision has been received by the applicant. The Board may only grant the petition when it appears that the appointing authority's decision violates the comparative analysis standards set forth in § 24-50-112.5, C.R.S., in any other provision of law, or in any rules or procedures relating to the comparative analysis process. The Board shall review and summarily grant or deny a petition within one hundred twenty days of receipt of the petition. Any petition granted shall be determined in accordance with § 24-50-125.4, C.R.S. (3/30/13)

Board Rule 8-43. The written petition for hearing must be filed within 10 days after a complainant receives written notice of the action on which the petition is based, and must include a copy of the action. Contents of the petition must be the same as those required in an appeal as listed in the scope and contents of Board appeals section of this chapter. (7/1/13)

- A. Failure to provide a copy of the petition to the respondent at the same time it is filed with the Board may be grounds to deny the petition for a hearing.

Mandatory Disclosures

Board Rule 8-44. Within 15 days of the date of the certificate of mailing the notice of preliminary review, the parties shall provide to each other copies of all documents or information relied upon by that party in reaching, in the complainant's case, the decision to grieve the respondent's action(s) and to appeal the respondent's final agency decision, and, in the respondent's case, the final agency decision that constitutes the subject of the petition for hearing. If either party asserts a privilege regarding such documents or information, it shall specify the nature of the privilege and provide the other party a privilege log that describes each document by title, author, date, subject matter, and legal basis for preserving the privileged or confidential nature of the documents or information withheld. (7/1/13)

Information Sheets

Board Rule 8-45. Each party is required to file an information sheet containing the following specifically and clearly stated information:

A. Complainant

1. the facts complainant is prepared to prove, if a hearing is granted, that the respondent's actions were arbitrary, capricious, or contrary to rule or law;
2. any legal argument or authority complainant relies upon to support his or her claims;
3. the names, addresses, and telephone numbers of all witnesses, and a brief description of the testimony of each such witness that would substantiate complainant's allegations and claims;
4. a list of exhibits that would substantiate complainant's allegations and claims, with copies of such exhibits attached to the information sheet; and
5. a description of the remedy or relief sought by complainant.

B. Respondent

1. the response to the allegations and claims of complainant, including all facts respondent intends to prove if a hearing is granted that respondent's actions were not arbitrary, capricious, or contrary to rule or law;
2. any legal arguments or authority relied on by respondent;
3. the names, addresses, and telephone numbers of all witnesses, and a brief description of testimony of each such witness that would substantiate respondent's allegation and claims;
4. a list of exhibits that would substantiate respondent's allegations and claims, with copies of such exhibits attached to the information sheet; and
5. the respondent's response to the remedy or relief sought by complainant.

C. Unless an investigation has been referred and is pending as provided in the allegation of discrimination section of this chapter, complainant shall file his or her information sheet with the Board and serve a copy on the respondent within 25 days of the certificate of mailing of the notice of preliminary review by the Board. The respondent shall file its information sheet with the Board no more than 10 days after the complainant has filed his or her information sheet with the Board. The complainant may file a reply to the respondent's information sheet within five days. Three days shall not be added for pleadings sent by mail. The Board may grant one extension of time to each party for the filing of information sheets. Such extension shall be for no more than five (5) days, and granted only upon good cause shown. (7/1/13)

D. In the event an investigation has been referred and is pending pursuant to the allegation of discrimination section of this chapter, the time periods to file information sheets as provided in this rule shall not commence until the final written report or opinion resulting from such investigation is served upon the parties by the Board. (1/1/07)

E. The parties shall be required to file their respective information sheets with the Board electronically in an editable format, and to also submit a paper copy of the information sheet, with attached exhibits. The Board, for good cause, may waive the requirement of an electronically-filed information sheet if the party, no later than five days prior to the time the information sheet is due, makes a written request to the Board with detailed grounds to support the request. (7/1/13)

F. If complainant fails to file a conforming information sheet, the petition for hearing may be considered abandoned and dismissed. If the respondent fails to file an information sheet, the preliminary recommendation will be based solely upon the information submitted by complainant.

- G. The Board's director or administrative law judge will review the information presented by the parties in their information sheets to determine whether valid issues exist which merit a hearing. Complainant has the burden of demonstrating the existence of valid issues which merit a hearing as set forth in Board Rule 8-41(A). (7/1/13)
- H. An administrative law judge or the Board's director will make a written preliminary recommendation to the Board, with copies provided to both parties, as to whether a hearing should be granted or denied.

Board Rule 8-46. The Board will consider the preliminary recommendation and render its decision to grant or deny a hearing pursuant to § 24-50-123(3), C.R.S.

- A. The Board will not consider any document or other information submitted by either party after issuance of the preliminary recommendation. If the Board denies the petition for hearing, its determination shall not be subject to reconsideration.
- B. If the Board grants a hearing, the date of the order will be treated as the date the appeal was submitted for purposes of determining the deadline for commencing a hearing. If the hearing is denied, the date of the order shall be used for purposes of any further appeal.
- C. If a hearing is granted, the action that is the subject of the petition for hearing will not be reversed or modified unless it is found to be arbitrary, capricious, contrary to rule or law, or in violation of the grounds set forth in section § 24-50-123, C.R.S. (7/1/13)

Board Rule 8-47. If an employee files a petition for hearing and an appeal asserting a constitutional or statutory right to a hearing and the mandatory and discretionary appeals relate to the same or closely related matters, the administrative law judge or Board's director may consolidate the cases if it is determined that consolidation would be more efficient and would not unduly prejudice any party.

Board Appeals

Board Rule 8-48. Any action that adversely affects a certified employee's current base pay, status, or tenure as defined by Board rule may be appealed and will be set for hearing. An adverse effect results in a reduction of current base pay or loss of other rights to which an employee is entitled by law, including denial of reemployment rights or removal from a reemployment list. Issues involving annual total compensation survey, discretionary pay differentials, the granting of in-range salary movements, leave sharing, personal services contracts and job evaluation system and actions are not subject to appeal. (7/1/13)

- A. Disciplinary actions are subject to appeal and will be set for hearing, except discipline of probationary employees for unsatisfactory performance, reversion of trial service employees for unsatisfactory performance, and demotion of conditional employees to the class in which last certified. An employee who resigns in lieu of disciplinary action forfeits appeal rights. (1/1/07)

Practice Before The Board And Preparation For Board Hearings

Board Rule 8-49. The Colorado Rules of Civil Procedure and Evidence apply to proceedings before the Board as follows:

- A. To the extent practicable, unless inconsistent with these rules, the Colorado Rules of Civil Procedure (C.R.C.P.) apply to matters before the Board. Unless the context otherwise requires, whenever the word "court" appears in the C.R.C.P., that word shall be construed to mean the Board or an administrative law judge for the Board.

- B. To the extent practicable, the Colorado Rules of Evidence (C.R.E.) applicable to civil cases apply to all hearings before the Board or its administrative law judges. Unless the context otherwise requires, whenever the word "court," "judge," or "jury" appear in the C.R.E., such word shall be construed to mean the Board or an administrative law judge for the Board. An administrative law judge for the Board has the discretion to admit evidence not admissible under C.R.E, as permitted by law.

Representation

Board Rule 8-50. An individual may appear before the Board on his or her own behalf, or by an attorney authorized to engage in the practice of law in Colorado. Nothing shall preclude an out-of-state attorney from being admitted to practice before the Board in accordance with C.R.C.P. 221.1.

- A. An attorney representing a party before the Board shall file an entry of appearance or sign a pleading. The entry of appearance shall contain the attorney's name, mailing address, email address, telephone number, attorney registration number, and the identity of the party for whom the appearance is made.
- B. An attorney may withdraw from a case before the Board in conformance with the C.R.C.P. (7/1/13)

Board Rule 8-51. The filing and service of pleadings and other papers, including facsimile filings, shall be governed by the following:

- A. The original of an appeal, petition, pleading, or other papers shall be filed with the Board. After the Board has assigned a case number to a matter, all pleadings and other papers filed with the Board shall contain the assigned case number.
- B. The facsimile capabilities of the Board are limited. Parties are encouraged to avoid filing pleadings or other papers with the Board by facsimile copy, except when reasonably required by time constraints. Facsimile copies may be filed with the Board in lieu of the original document, provided, however, that if a complete facsimile copy fails to conform to Board rules, it will not be accepted for filing. The party or attorney filing the facsimile copy shall keep the original document for production to the Board, if requested.
- C. Documents in excess of six pages, excluding the caption or cover sheet, may not be filed in lieu of the original unless otherwise ordered by the Board's director or an administrative law judge.
- D. Any facsimile copy filed or transmitted directly to the Board shall be accompanied by a caption/cover sheet that contains:
 - 1. the title of the document being transmitted and identifying it as a facsimile copy;
 - 2. the case number;
 - 3. the number of pages;
 - 4. identity of the transmitter; and
 - 5. telephone number of the transmitter, along with any instructions.
- E. All facsimile copies filed in lieu of the original document must be filed during normal business hours of the Board between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding state holidays. In the event a facsimile copy is received outside of normal business hours, it will be considered to have been filed on the next business day.
- F. Service of pleadings or other papers on a party or on an attorney representing a party may be made by hand delivery, facsimile transmission to the facsimile number provided

by the party or attorney, by mail or email to the address contained in the pleadings, or to the party's last known address. When an attorney represents a party, service shall be made on the attorney. (7/1/13)

Board Rule 8-52. The filing of motions shall be governed by the following:

- A. Prior to the filing of a motion, the party or counsel filing a motion should confer with the opposing party or counsel. The motion shall, at the beginning, contain a certification that the party filing the motion in good faith has conferred with the opposing party or counsel about the motion. If no conference has occurred, the reason why shall be stated. If the relief sought in the motion has been agreed to by the parties or will not be opposed, the motion shall so state.
- B. Except for motions made during hearing or where the administrative law judge deems an oral motion appropriate, motions should be filed as early as possible prior to hearing, and in no event later than 10 days prior to hearing. Substantive motions shall be supported by a recitation of legal authority either incorporated in the motion or set forth in a separate brief. The responding party shall have 10 days from the date of the motion to file a response. If there are less than 10 days before the hearing, the responding party may provide a written or oral response at the hearing. No reply from the moving party shall be permitted unless ordered by the administrative law judge. Motions and briefs in excess of 10 pages in length are discouraged.
- C. Motions shall be determined promptly upon the written motion and briefs filed. However, the administrative law judge may order expedited responses, oral argument or an evidentiary hearing on the administrative law judge's own motion or at the discretion of the administrative law judge, on request of a party. The party filing a motion requiring immediate disposition shall call it to the attention of the administrative law judge or Board's director.
- D. A motion shall be deemed a confession upon failure of a party to file a response. If any party fails to appear at oral argument or hearing, without a prior showing of good cause for non-appearance, the administrative law judge or Board's director may proceed to hear and rule on the motion.
- E. Motions for extensions of time or continuance of hearings shall be determined in accordance with this rule. A hearing may only be continued once and only for good cause; motions for extensions of time shall also be granted only for good cause. Stipulations for extensions of time or continuances shall not be effective unless and until approved by an administrative law judge or Board's director. (7/1/13)

Prehearing Procedures

Discovery

Board Rule 8-53. Discovery in proceedings before the Board shall be governed by the following:

- A. To the extent practicable, C.R.C.P. 26 through 37 apply to proceedings before the Board and its administrative law judges, except to the extent they provide for or relate to disclosures, numerical limitations on discovery requests, or the time discovery can be initiated.
- B. Preparation for hearing may be done through informal information requests or the formal discovery procedures. No specific order by an administrative law judge is needed for a party to conduct discovery. Without an order, the following applies to preparation for all

hearings; however, upon the filing of a proper motion and a showing of good cause, an administrative law judge may modify or waive the following provisions in a specific case.

1. Within 15 days of the certificate of mailing of the notice of hearing, the parties, without awaiting a discovery request, are to disclose to each other a listing, together with a copy of all documents, information, data compilations and tangible things in the possession, custody, or control of the party that are relevant to the facts, claims and defenses in the appeal before the Board. Each party shall also make available for inspection and copying the documents or other evidentiary materials not privileged or protected from disclosure. If a party claims a privilege relative to any document or evidentiary materials, that party shall provide the other parties a privilege log describing the title, author, date, and subject matter of the document or material, along with the legal basis for preserving the privileged or confidential nature of the document or materials withheld.
2. All requests for information, either informal or formal, other than depositions, must be served no later than 15 days from the certificate of mailing of the notice of hearing. The deadlines are not extended if the hearing is continued unless the administrative law judge orders an extension.
3. Responses to all requests for information, either informal or formal, must be provided within 20 days after the certificate of service of the request.
4. All exchanges of information, including depositions, must be completed at least 10 days prior to the commencement of a hearing.
5. Each party is allowed to take three depositions. Each party is allowed to submit 30 interrogatories consisting of one question each, 20 requests for production of documents consisting of one request each, and 20 requests for admissions consisting of one admission each.
6. A party must make a good faith effort to resolve any discovery disputes prior to filing a motion to compel discovery. Failure to make such an effort may result in the imposition of sanctions against the moving party. Any motion concerning discovery disputes must certify compliance with this rule. (7/1/13)

Prehearing Statements

Board Rule 8-54. The parties shall file with the Board and serve on each other party, no less than 15 days prior to the commencement of a hearing, a prehearing statement setting forth the following:

- A. Statement of claims and defenses (a plain, concise statement of all claims or defenses asserted by the party filing the prehearing statement. Complainants should include the action being appealed and date of the action, the date complainant was notified of the action, complainant's job position and time in the position at the time of the action (including date complainant was certified in the position), complainant's current position, and the remedy/relief requested);
- B. Undisputed facts (a plain, concise statement of all facts which the party filing the prehearing statement contends are or should be undisputed);
- C. Disputed issues of fact (a plain, concise statement of the facts which the party filing the prehearing statement claims are in dispute);

- D. Pending motions (a listing of all outstanding motions that have not been ruled upon by the administrative law judge);
- E. Points of law (a plain, concise statement of all points of law that are to be relied upon or that may be in controversy, citing pertinent statutes, regulations, rules, cases, and other authority);
- F. Witnesses (the name, address and telephone number of any witness whom the party may call at hearing, together with a description of the content of such person's testimony);
- G. Experts (the name, address, telephone number and a brief summary of the qualifications of any expert witness a party may call at hearing, together with a detailed statement as to the opinions or conclusions to which the expert is expected to testify. These requirements may be satisfied by the party incorporating a resume for each expert and a report containing the opinions or conclusions of each expert, along with the basis of each opinion or conclusion);
- H. Exhibits (a description of any physical or documentary evidence to be offered at the hearing. Complainant's exhibits should be marked using letters, and respondent's exhibits marked using numbers. Exhibits should not be attached to the prehearing statement filed with the Board.) (6/1/06); and,
- I. Stipulations (a listing of all stipulations of fact or law, or admissibility of exhibits reached between the parties, as well as any additional stipulations offered to facilitate disposition of the case).

Board Rule 8-55. Compliance with the prehearing procedures set forth in these rules is mandatory unless modified by order by the administrative law judge on his or her own motion, or motion by one of the parties. Such order may require the parties to participate in a prehearing conference before the administrative law judge.

Board Rule 8-56. The hearing must commence no later than 90 days after receipt of the appeal. All prehearing matters, including the filing of prehearing or amended prehearing statements and completion of discovery, must be concluded prior to commencement of the hearing.

- A. The commencement will be in person, or if ordered by the administrative law judge prior to the commencement, upon good cause shown, may be by telephone or videoconference where appropriate. Presentation of an opening statement, factual stipulations, and stipulated exhibits will be sufficient to constitute the commencement of the hearing.

Board Rule 8-57. Both parties must attempt to resolve an appeal before the hearing. This may include settlement.

Responsible/Lead Counsel

Board Rule 8-58. If all parties are represented by counsel in proceedings before the Board, each counsel of record shall be jointly responsible for scheduling conferences and preparing and filing prehearing pleadings and documents as may be required. In the event a party is not represented and will be participating in the hearing, counsel for the represented party in the proceeding shall be responsible for coordinating with the unrepresented party for the purpose of scheduling conferences, obtaining hearing dates, and preparing and submitting prehearing pleadings and documents.

Subpoenas

Board Rule 8-59. Upon an oral or written request of a party or counsel for a party at least 3 business days in advance, an administrative law judge shall issue a subpoena or subpoena duces tecum requiring the attendance of a witness or the production of documentary evidence, or both. Attorneys for parties in actions pending before the Board may also issue subpoenas in conformance with C.R.C.P. 45.

- A. The subpoena or subpoena duces tecum shall be served on the witness to whom it is directed in the same manner as subpoenas served in proceedings in the district courts for the State of Colorado pursuant to C.R.C.P. 45. A subpoena for testimony at a hearing must be served at least 48 hours prior to the commencement of the hearing. A subpoena for testimony in a deposition shall be served at least 7 days before the deposition. A subpoena duces tecum commanding a person to produce records or tangible things shall be served at least 14 days before compliance is required. Immediately following service of a subpoena, the party or attorney who issues the subpoena, shall serve a copy of the subpoena on all parties.
- B. Except for witnesses subpoenaed on behalf of the State of Colorado, or an officer or department of the State of Colorado, witnesses subpoenaed for testimony pursuant to this rule shall be paid the same fees for mileage as are paid to witnesses in the district courts of the State of Colorado. The party requesting that the subpoena be issued shall pay such fees to the witness at the time the subpoena is served as required by this rule.
- C. Consistent with C.R.C.P. 45 criteria for mandatory or discretionary quashing or modification of a subpoena, upon the failure of a party or counsel to comply with the requirements of either subparagraphs A or B of this rule, the party or witness subject to the subpoena may petition the administrative law judge for an order quashing or modifying such subpoena. The administrative law judge, in his or her discretion, may also award attorney fees for such non-compliance pursuant to Board Rule 8-34.
- D. Upon failure or refusal of any witness to comply with a subpoena issued and served upon a witness under this rule, either party may petition the district court for the City and County of Denver for an order enforcing the subpoena, and upon failure or refusal to comply, for an order citing such witness as in contempt for such failure or refusal. The procedure for such contempt proceedings shall be governed pursuant to § 24-4-105(5), C.R.S. (1/1/14)

Post-Hearings Proceedings

Board Rule 8-60. A petition for reconsideration of the initial decision may be filed by an original party within five days of receipt of the initial decision. The administrative law judge may reconsider an initial decision without the petition within 10 days of issuance. Petitions shall be limited to matters alleged to be overlooked or misunderstood by the administrative law judge and cannot contain other arguments. Oral arguments shall not be permitted on any petition. A determination on the petition is typically issued but if no order is issued, the petition is considered denied. Filing a petition does not extend the time for filing an appeal of the initial decision.

Board Rule 8-61. Recordings of a hearing may be deleted after expiration of all rights resulting from that hearing. (7/1/13)

Board Review Of Initial Decisions and Dismissal Orders

Board Rule 8-62. Appeals of dismissal orders, initial decisions, and orders issued subsequent to an initial decision by the administrative law judge are made in accordance with statute. Appeals should be filed with the Board and a copy served on the opposing party, within 30 days of mailing

of the order or decision. Any party who seeks review of all or part of the order or initial decision must file an appeal within 30 days, with no extensions for cross-appeals. Timely filing is determined by the date the Board actually receives the appeal. Failure to serve a copy on the opposing party may result in dismissal. The Board is required by statute to certify the record within 60 days after the date the record is designated. The Board will review and render a written decision within 90 days of the date the record is certified. (7/1/13)

Board Rule 8-63. Any party who seeks to reverse or modify the initial decision must file with the Board a designation of record within 20 days following the date of the certificate of mailing of the initial decision. A copy of this designation shall be served on all parties. Within 10 days, any other party or the Board may also file a designation of additional parts of the transcript of the proceedings which is to be included. Any appeal of the initial decision must be filed within 30 days of the date of the decision. Any appealing party shall submit appropriate payment for preparation of the record at the time the appeal is filed. (7/1/13)

Board Rule 8-64. Any party who designates a transcript as part of the record is responsible for obtaining and paying a certified court reporter who shall prepare the transcript and file it with the Board no more than 59 days after the designation of record. Failure to designate a transcript is deemed a waiver of a request to prepare the transcript. If no transcript has been filed within the time limit, the record will be certified and the transcript will not be included in the record or considered on appeal. In absence of a transcript, the Board is bound by the findings of fact of the administrative law judge.

Board Rule 8-65. The appeal of the initial decision shall describe, in detail, the basis for the appeal, the specific findings of fact and/or conclusions of law that are alleged to be improper, and the remedy being sought.

Board Rule 8-66. Upon certification of the record of administrative proceedings, the parties shall be notified in writing of the date the Board will consider the appeal. The Board is required by statute to decide the appeal no more than 90 days after the certification of the record.

Board Rule 8-67. Absent specific orders to the contrary, the appellant shall serve and file the opening brief within 20 days after the Board certifies the record. The opposing party's answer brief shall be filed within 10 days after date of the certificate of service of the appellant's brief. The appellant may file a reply brief within five days. Three days shall not be added for pleadings sent by mail.

- A. The final brief must be filed no later than 12 days before the Board meeting where the appeal will be considered. No extensions of time will be granted unless they allow both parties to file briefs within that time limit.
- B. In cases where both parties have filed an appeal, they will be ordered to file simultaneous briefs as described above unless the parties file a stipulated amended briefing schedule. (7/1/13)

Board Rule 8-68. All briefs must be typewritten and the text double-spaced, using only 8 ½ x 11-inch paper. Except by permission of the Board's director, briefs shall not exceed 10 pages, exclusive of pages containing the table of contents, tables of citations, and any addendum containing statutes, rules, regulations, and the like. An original and nine copies must be filed with the Board and a copy must also be served on the opposition. (6/1/06)

Board Rule 8-69. For any appeal to the Board, an original and nine copies of any motion (except extension of time) must be filed. For extensions of time or motions to dismiss based upon settlement of the appeal, the original and one copy must be filed with the Board. The Board director may grant motions for extension of time or motions to dismiss based upon settlement. A copy of any motion must be served on the opposition. (6/1/06)

Board Rule 8-70. In general, no oral argument will be heard and parties need not be present before the Board. Oral arguments may be allowed at the discretion of the Board. A request for oral argument shall be filed no later than the date the requesting party's brief is due. If granted, oral argument shall not exceed 15 minutes for each party. A request for additional time may be made by motion within 10 days after the briefs are closed but granted only for good cause. If oral argument is granted, parties are given reasonable notice of the time and place. The Board may terminate the argument whenever, in its judgment, further argument is unnecessary.

Board Rule 8-71. Any party appealing a final Board order to the Colorado Court of Appeals shall serve a copy of the notice of appeal on the Board at the time of filing the notice. (7/1/13)

Security

Board Rule 8-72. Security during Board meetings and Board hearings may be obtained by any party at that party's expense. Board staff will assist the parties in obtaining security when possible.

Director's Dispute Resolution Processes

General

8-73. Disputes asserting claims or grounds within the Director's jurisdiction as authorized by Colorado Constitution, statute, or these rules must be submitted to the Director at the official address as listed on the Director's website. (7/1/13)

8-74. Disputes must be in writing. Use of the standard "**Colorado State Personnel System Consolidated Appeal/Dispute Form**" found on the Director's website is required. For good cause shown, the Director may waive this requirement provided the person filing the appeal ("complainant") sets forth such grounds at the time the appeal is submitted.

A. The dispute must clearly state the following in sufficient detail:

1. The name, address, and telephone number of complainant and any representative.
2. The specific action being disputed and a copy of the written notice.
3. The date complainant received the notice of action.
4. A short, specific statement giving the reason for the dispute.
5. Whether complainant is a certified employee.
6. The specific remedy sought.

B. Copies of the written dispute must be provided concurrently to the affected department. Failure to do so may result in denial or dismissal of the dispute. (7/1/13)

Director's Appeals

8-75. An applicant or employee who is directly affected may appeal to the Director within 10 days of receipt of notice or knowledge of the action. The appeal is timely filed if it is in writing and received by 5:00 p.m. or postmarked by the 10th day. It may be filed by mail, hand delivery or facsimile to the Director:

- A. An allocation of an individual position to a lower pay grade.
- B. Objection to the selection and comparative analysis process.
- C. Matters that are not otherwise covered in this chapter e.g., removal of name from an eligible list, rejection of an application, violation of FLSA, or FMLA. (1/1/14)

- 8-76. A request for review may be filed with the Director within 10 days after receipt of notice or knowledge of the action. It must be in writing to the Director and include the following: job title, department involved, name of the department representative spoken to during informal resolution attempts, the date of the conversation, the specific issue, and the reason it is believed the decision is arbitrary, capricious, or contrary to rule or law.
- A. A request may also be filed for a Director's review of a general matter that affects the overall administration of the state personnel system that is not otherwise covered by this chapter (except annual compensation survey, the granting of in-range salary movements, discretionary pay differentials, leave sharing, granting and application of discretionary saved pay during exercise of retention rights, and job evaluation system and actions). A Director's decision in this type of review is subject only to a discretionary Board hearing. (7/1/13)
- 8-77. The decision may be overturned only if found to be arbitrary, capricious, or contrary to rule or law. Both parties will receive a copy of the decision. If a decision is not issued within the time period, the initial decision is upheld. (7/1/13)
- 8-78. Confidentiality of Examination Materials. Examination data and documents will be filed in a sealed envelope with the Director only. Such documents include, but are not limited to: test questions, scoring keys and scores or results. A list of documents sent under sealed envelope will be given to all appellants.
- A. Use or disclosure of the information outside the appeal review process is strictly prohibited. Confidentiality of material in sealed envelopes shall be maintained throughout *all phases of the review process, including preparation of any record for judicial review.* The confidential material will be returned to the Director after the completion of a panel review. The Director will return the contents to the responding party if no request for judicial review is filed.
- 8-79. Oral Argument. No party is entitled to oral argument; it is discretionary with the Director or advisor(s). Either party may request oral argument in writing. A request must be granted before oral argument is permitted. The Director or advisor(s) may request oral argument on any issue raised regardless of whether any party has requested it.
- A. The Director or advisor(s) will notify all parties of the date, time, and place. No continuances will be granted. All parties may speak. Each party is allowed 15 minutes. The appellant speaks first, followed by the opposing side. No witnesses or new written material will be allowed. Questions asked by the Director or advisor(s) are outside the 15 minutes allotted to a party.
- B. Oral argument will be tape recorded unless all parties agree in writing to waive the recording. The tape recording will be destroyed 90 days after the decision is issued if no notice of judicial review is received.
- 8-80. The Director shall issue a written decision no later than 90 days after receipt of the appeal. The action may be overturned only if found to have been arbitrary, capricious, or contrary to rule or law. Failure to issue a decision within the time limit will cause the initial decision to be upheld. The matter appealed must be resolved within the 90 days, after which the Director loses jurisdiction and does not have the authority to extend the time period.
- 8-81. Decisions of the Director are subject to judicial review in accordance with statute. Any person directly affected by the comparative analysis process may seek Board review pursuant to Board Rule 8-38. (7/1/13)

8-82. An appellant may withdraw an appeal at any time prior to the final decision. If the remedy is granted during the course of the appeal, the appeal will be considered moot and dismissed with prejudice.

Performance Management Disputes

8-83. The performance management dispute resolution process is an open, impartial process that is not a grievance or appeal. No party has an absolute right to legal representation, but may have an advisor present. The parties are expected to represent and speak for themselves. (7/1/07)

8-84. Only the following matters are disputable:

- A. the individual final overall performance evaluation, including lack of a final overall evaluation; and,
- B. the application of a department's performance management program to the individual employee's final overall evaluation. (1/1/14)

8-85. The following matters are not disputable:

- A. the content of a department's performance management program; (7/1/07)
- B. matters related to the funds appropriated; and, (8/1/08)
- C. the performance evaluations and merit pay of other employees. (9/1/12)

8-86. Every effort shall be made by the parties to resolve the issue at the lowest possible level in a timely manner. Informal resolution before initiating the dispute resolution process is strongly encouraged.

8-87. Dispute Resolution Process. Only the issue(s) as originally presented in writing shall be considered throughout the dispute resolution process.

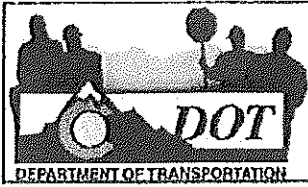
A. Internal Stage. The first stage is the department internal dispute resolution process. Each department shall continually communicate and administer a detailed internal dispute resolution process that complies with the requirements of, and is approved in advance by, the Director. A description of the process must be communicated to all employees and must include the following elements.

1. The time limits and the process for filing a written request for review of the issue(s) throughout the dispute resolution process.
2. Who will decide the issue(s). The appointing authority is the decision maker unless it is delegated in writing and publicized in advance. Employees must be notified of the authorized decision maker for their disputes.
3. The time limits for issuing the final written department decision.
4. Any other specific requirements established by the Director.

A department's decision on issues involving an individual performance evaluation concludes at the internal stage and no further recourse is available. For issues disputable at the external stage, the employee shall be given written notice, including deadlines and address for filing and the requirement to include a copy of the original written dispute and the department's final decision.

B. External Stage. This stage is administered by the Director. Only those original issues involving the application of the department's performance management program to the individual evaluation are disputable at this stage. (1/1/14)

1. Within five working days from the date of the department's final decision, an employee may file a written request for review with the Director at the address specified in the Director's dispute resolution processes section of this chapter.
 2. The request for external review shall include a copy of the original issue(s) submitted in writing and the department's final decision.
 - a. The Director or designee shall retain jurisdiction but may select a qualified neutral third party to review the matter. The Director or designee shall issue a written decision that is final and binding within 30 days.
- C. In the event that an employee with a pending dispute separates from the state personnel system, the dispute is dismissed. (8/1/08)
- 8-88. The scope of authority of those individuals making final decisions throughout the dispute resolution process is limited to reviewing the facts surrounding the current action, within the limits of the department's performance management program. These individuals shall not substitute their judgment for that of the rater, reviewer, or the department's dispute resolution decision maker if an issue is being considered at the external stage. Further, these individuals shall not render a decision that would alter a department's performance management program. (7/1/07)
- A. In reaching a final decision, these individuals have the authority to instruct a rater(s) to:
1. follow a department's performance management program;
 2. correct an error; or,
 3. reconsider an individual performance plan or final overall evaluation.
- B. These individuals may also suggest other appropriate processes such as mediation.
- 8-89. Retaliation against any person involved in the dispute resolution process is prohibited.



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Your Rights and Where to Get Help

by Wyatt, Beverly — last modified Apr 30, 2013 03:47 PM

All CDOT employees have the right to work in an environment free from all forms of discrimination, workplace harassment, sexual harassment, and retaliation. CDOT prohibits discrimination and harassment based on race, religion, sex, color, national origin, age physical and mental disability, organizational membership and sexual orientation.

Contents

1. Workplace Harassment
2. Whistle blower or Retaliation
3. Americans with Disability Act (ADA)
4. Workplace Violence
5. Resources

Workplace Harassment

Conduct of a sexual or discriminatory nature that interferes with work performance and creates an intimidating, hostile or offensive work environment. If you experience or witness behavior that could be workplace harassment:

1. If possible, tell the person that his/her behavior is unwelcome and ask that the behavior stop.
2. If the incident continues, or you do not feel comfortable speaking directly to the person, report the behavior to your supervisor.
3. Report the incident to the HQ Center for Equal Opportunity or the appropriate Region Civil Rights Office.

Whistle blower or Retaliation

All CDOT Employees are protected against retaliation for opposing an illegal employment practice, or for testifying, assisting, or participating in any manner in a investigation, proceeding, or hearing. An employee in the state personnel system must file a whistleblower complaint within 10 days of the discipline or penalty by completing a form and contacting the State Personnel Board.

Americans with Disability Act (ADA)

CDOT employees with disabilities have the right to reasonable accommodation so that they can perform their jobs. CDOT implements an interactive process under the ADA to protect employees and applicants from discrimination based on physical and mental disability.

Workplace Violence

CDOT employees have the right to work in a safe environment, free from workplace violence. If you experience or witness behavior that may be workplace violence.

1. You should seek a safe location.
2. Call 911, if appropriate and/or
3. Contact your supervisor, Civil Rights Office or Human Resource

Resources

Human Resources or Civil Rights Offices - Employees may seek help from CDOT resources. These professional will process and resolve discrimination, harassment, workplace violence and other complaints.

Colorado State Employee Assistance Program - This is a professional assessment, referral and short-term counseling service offered to State employees with work-related or personal concerns, as well as a resource for supervisors and managers. For more information call 1-800-821-8154.

Mediation is a way to resolve difference and reach agreement. You can obtain more information through Colorado State Employee Mediation Program or CDOT's Civil Rights Staff.

MySafeWorkplace.com - This website and toll-free number 1-800-461-9330 allows employees to report concerns anonymously. The anonymous reporting mechanism is staffed 24 hours per day and 365 days per year. You can report fraud, waste or abuse within CDOT. The Internal Audit Division monitors all calls and pairs with HR and CDOT Management to ensure all allegations are investigated, and appropriate action is taken.

CDOT Resources



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- » [Forms Library](#)
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- » [Employment Opportunities](#)
- » [Roster of Key Personnel](#)

External Site Resources

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- » [Follow us on YouTube](#)
- » [State of Colorado Website](#)

Intranet Resources

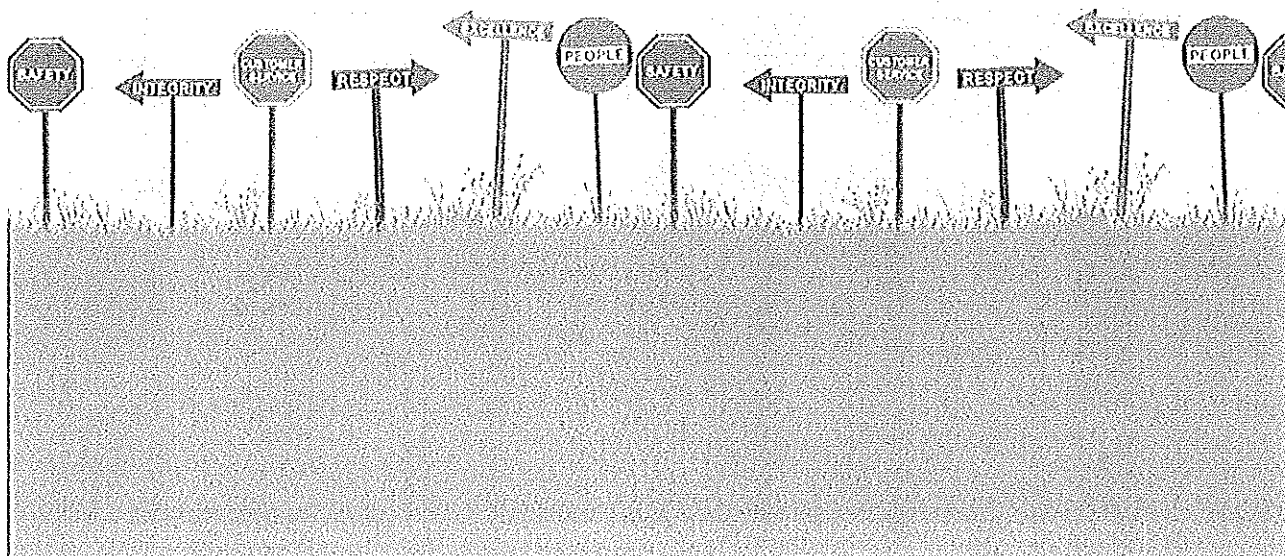


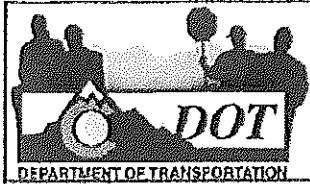
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CDOT Web Links



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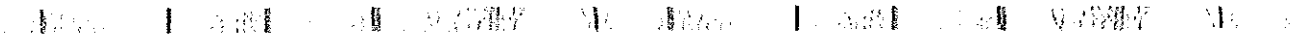
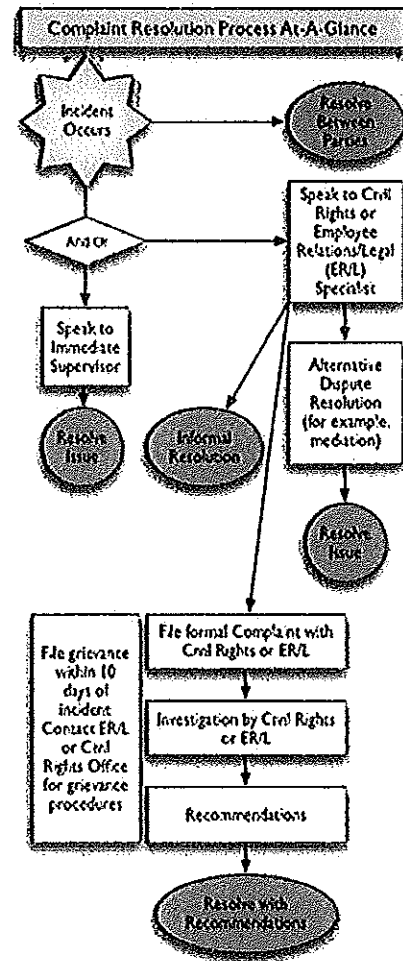
Complaints

by Wyatt, Beverly — last modified Feb 03, 2012 02:34 PM

There are several ways to address inappropriate, unfair or unlawful behavior when it occurs in the workplace. You may reach an informal resolution of the problem by discussing it with the other person(s) involved, or perhaps with a supervisor. You may call in a neutral mediator who is trained to help resolve the issue. If discrimination is not involved, you may file a grievance. If discrimination is involved, you may file a complaint with the CDOT Center for Equal Opportunity. You may also file the complaint with the Colorado Civil Rights Division (CCRD), or the Equal Employment Opportunity Commission (EEOC). Each process has its own timeliness and deadlines. The CCRD and EEOC can take up to 12 months to investigate a formal discrimination complaint.

Before CCRD or EEOC will complete their investigation, they will request specific information from CDOT, requiring CDOT to investigate the claims and provide facts related to claims made. Often it is more efficient to have the complaint addressed initially by Region Civil Rights Office. If possible, it is usually best to resolve the conflict informally at the lowest level.

- Center for Equal Opportunity (CEO)
- Regional Civil Rights Managers (RCRM)
- Colorado Civil Rights Division (CCRD)
- Equal Opportunity Commission (EEOC)
- Grievance Process



CDOT Resources

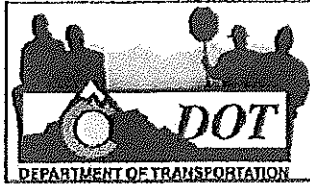
- Service Desk
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External Site Resources

CDOT's External Site

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CDOT Roll Calls



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Workplace Violence

by Wyatt, Beverly — last modified Dec 28, 2011 04:45 PM

Creating a safer workplace. It's everyone's responsibility to assess the risks for violence in their workplaces and take appropriate action to reduce those risks.

What is workplace violence?

Conduct in the workplace or on state property involving employees or persons who have an employment-related connection with CDOT that include:

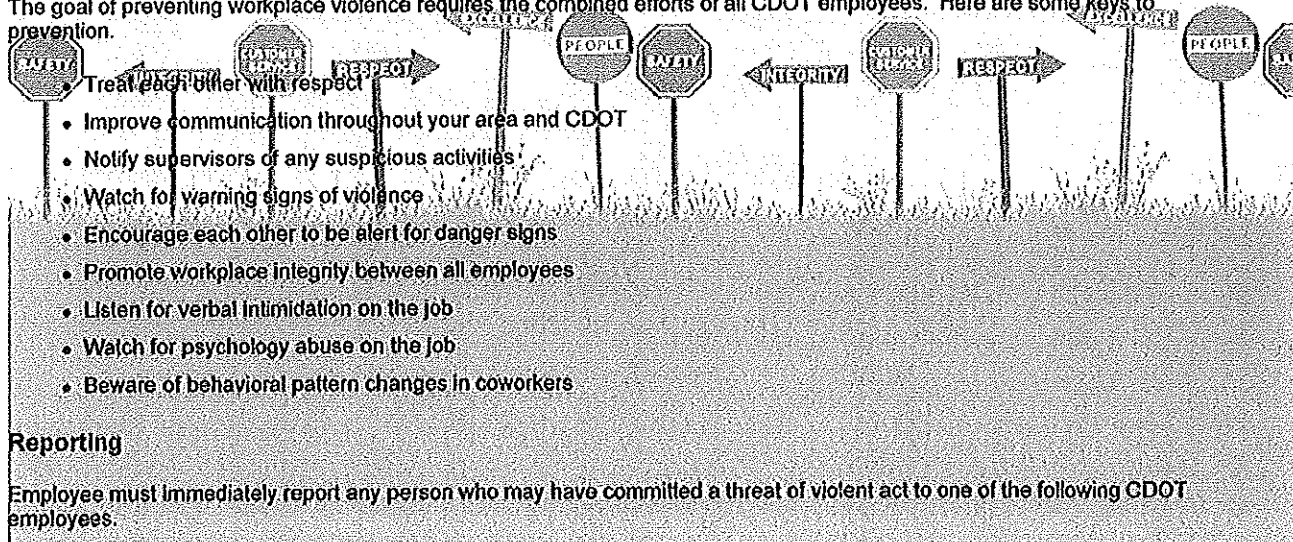
- physical acts against persons or property in the workplace, or against CDOT property
- domestic violence occurring in the workplace or on state property
- veiled conditional or direct verbal or nonverbal threats, profanity or statements that harm and/or create an intimidating work environment
- written threats, profanity, cartoons or notes, or other written conduct that threatens or creates an intimidating work environment
- any other acts that threaten to injure or convey intimidation

Warning Signs of Violence

- Depression or withdrawal
- Property destruction
- Physical fighting
- Suicidal threats
- Use of weapons to harm others

Prevention

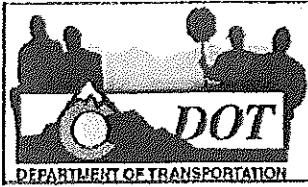
The goal of preventing workplace violence requires the combined efforts of all CDOT employees. Here are some keys to prevention.



- Treat each other with respect
- Improve communication throughout your area and CDOT
- Notify supervisors of any suspicious activities
- Watch for warning signs of violence
- Encourage each other to be alert for danger signs
- Promote workplace integrity between all employees
- Listen for verbal intimidation on the job
- Watch for psychology abuse on the job
- Beware of behavioral pattern changes in coworkers

Reporting

Employee must immediately report any person who may have committed a threat of violent act to one of the following CDOT employees.



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Grievance Process

by Estrada, Rose — last modified May 20, 2013 11:41 AM

The grievance process is designed to address and resolve problems or complaints. It is not an adversarial process. The intent of the process is to attempt to resolve issues at the lowest possible level. A permanent employee may grieve items that do not affect an employee's base pay, status or tenure such as corrective actions, work situations or conditions that impact an employee and matters that are not subject to appeal or review by the State Personnel Board or State Personnel Director.

[Grievance Flow Chart](#)

Informal Stage

An employee must initiate the grievance process within ten (10) days of the action or occurrence being grieved; or within 10 days after the employee has knowledge of, or reasonably should have knowledge of the action.

- To initiate the grievance process, the employee shall notify his/her supervisor that the employee wants to have an informal discussion to attempt to resolve the grievance on an informal basis.
- An informal discussion shall occur within ten (10) calendar days of the supervisor's notification.
- An employee may be represented by any person of the employee's choice at any step of the grievance process; however, the employee is expected to participate in all discussions and meetings throughout the process.

Formal Stage

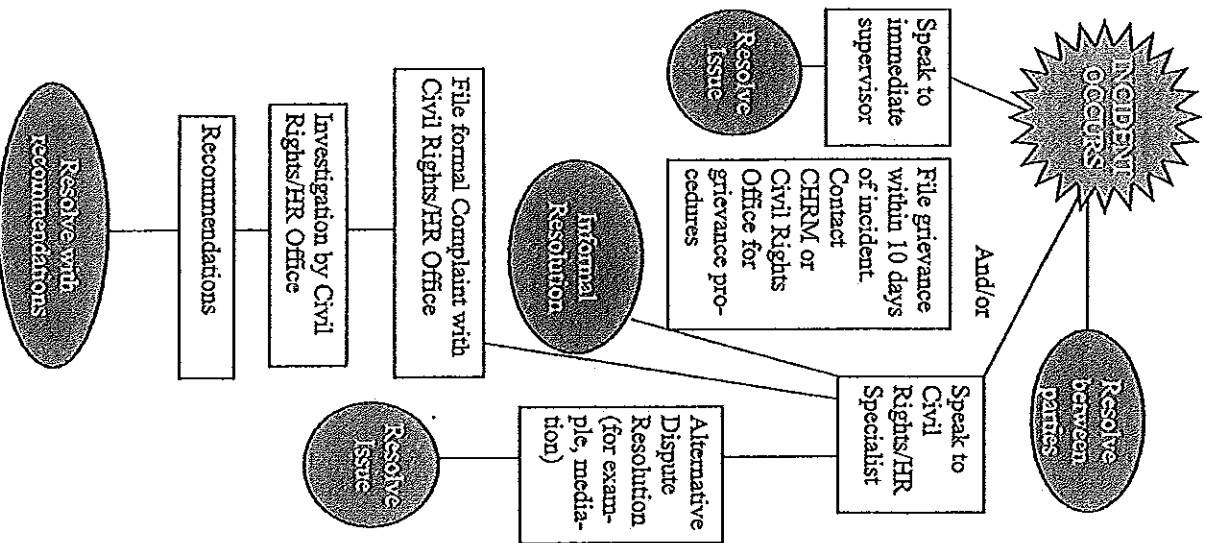
If the grievance process is not resolved during the informal discussion, the employee may initiate the formal written process pursuant to State Board Rule 8-8.

- The formal stage must be initiated within five (5) calendar days of being notified of the supervisor's decision regarding the informal discussion.
- To initiate the formal stage, the employee shall put the grievance in writing using the Grievance Form.
- The employee shall submit the written grievance to the appointing authority.
- Only the issues set forth in the written grievance will be considered.

Board Appeal of Appointing Authority's Decision

- An employee has ten (10) days to file a petition for hearing with the Board after receipt of the final department decision or 30 days after the written grievance was submitted and the department did not respond.
- An employee shall follow the directions on the State Personnel Board's website.

Complaint Resolution Process at a Glance



Important Contact Information

CDOT Center for Equal Opportunity
Toll Free: 1-800-925-3427 or 303-757-9303
www.dot.state.co.us/EEO/Index.htm

CDOT Center for Human Resources Management
303-757-9211
<http://internal/chrm>

CDOT Organizational Learning & Development
303-757-9678
<http://internal/TrainingAndOD/>

Regional Civil Rights Offices

Region 1 303-365-7030	Region 4 970-350-2107
Region 2 719-546-5432	Region 5 970-385-1403
Region 3 970-683-6210	Region 6 303-757-9386

Colorado Civil Rights Division
303-894-2997

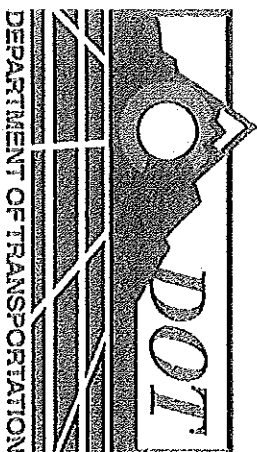
Equal Employment Opportunity Commission
303-866-1300

Important Employment Links

To view CDOT Policies and Procedural Directives regarding Non-Discrimination and Sexual Harassment, and ADAAA, go to <http://internal/PolicyGovernanceRelations/procedurea.htm> and select EEO/DBMVE

The CDOT Grievance flowchart can be found at <http://www.colorado.gov/dor/news/grievanceflowchart.pdf>

An electronic copy of this brochure is located at <http://cdot/business/hr/tctr/CHRM/Documents/Benefits/BrochureRightsResources.pdf>



Quick Guide: Your Workplace Rights & Resources

COLORADO DEPARTMENT OF
TRANSPORTATION
4201 E. Arkansas Avenue
Denver, CO 80222

Center for Equal Opportunity
Phone: 303-757-9303
Toll Free: 1-800-925-3427
Center for Human Resources
Phone: 303-757-9211

Your Rights and Where to Get Help

All CDOT employees have the right to work in an environment free from all forms of discrimination, workplace harassment, sexual harassment, and retaliation.

The Colorado Department of Transportation prohibits discrimination and harassment based on race, religion, sex, color, national origin, age, physical and mental disability, organizational membership, and sexual orientation.

Workplace harassment is conduct of a sexual or discriminatory nature that interferes with work performance and creates an intimidating, hostile or offensive work environment. If you experience or witness behavior that could be workplace harassment:

1. If possible, tell the person that his/her behavior is unwelcome and ask that the behavior be stopped.
2. If the incident continues, or you don't feel comfortable speaking directly to the person, report the behavior to your supervisor and/or
3. Report the incident to the Region Civil Rights Office or the HQ Center for Equal Opportunity

All CDOT employees are protected against retaliation for opposing an illegal employment practice, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing.

CDOT employees with disabilities have the right to reasonable accommodation so that they can perform their jobs. CDOT implements an interactive process under the Americans with Disabilities Act (ADA) to protect employees and applicants from discrimination based on physical and mental disability. If you would like more information, contact your Region Civil Rights Office or the Center for Equal Opportunity.

CDOT employees have the right to work in a safe environment, free from workplace violence. If you experience or witness behavior that may be workplace violence:

1. You should seek a safe location.
2. Call 911, if appropriate, and/or
3. Contact your supervisor, Civil Rights Office or Human Resources.

Available Resources

CDOT is committed to resolving issues informally and at the earliest opportunity. Employees are encouraged to speak directly with those involved, and most certainly with a supervisor or manager, as appropriate. Other informal resources available to all State employees include:

- Human Resources/Civil Rights Offices—Employees may seek help from CDOT human resources and civil rights professionals. These professionals will process and resolve discrimination, harassment, workplace violence and other complaints.

- Colorado State Employee Assistance Program (C-SEAP)—This is a professional assessment, referral, and short-term counseling service offered to State employees with work-related or personal concerns, as well as a resource for supervisors and managers. For more information, call 1-800-821-8154.

- Mediation—Mediation is a way to resolve differences and reach agreement. You can obtain more information through the state employee assistance program or CDOT human resources or civil rights staff.

- State Office Ombuds—The Ombudsman is available to help employees with unresolved issues. Call 1-866-484-7270.

- CDOT Employee Organization—Representatives can provide information and assistance to employees. Call 1-866-900-7965.

- MySafeWorkplace.com—Employees may report concerns to the hotline and may remain anonymous. Call 1-800-461-9330.

F.Y.I.

For training on Stopping and Preventing Discrimination, Workplace Harassment, and Workplace Violence, contact CDOT Organizational Learning and Development (OL&D) at 303-757-9678.

