

**1009**                    **EQUAL OPPORTUNITY POLICY**

I.                    Purpose:

This establishes the Arkansas Department of Human Services Equal Opportunity policy. This policy is applicable to all employees, applicants seeking employment within the Arkansas Department of Human Services, and to all persons or organizations seeking or receiving services, benefits, contracts, agreements, grants, sub-grants, programs, and projects funded through or from the Arkansas Department of Human Services, including employees, clients, customers, and applicants of grantees and sub-grantees.

II.                    Assurances:

- (a)    The Arkansas Department of Human Services shall provide fair and equal opportunity in employment, service delivery, and grant administration regardless of a person’s race, color, religion, sex, age, national origin, political beliefs, or disability as defined in the Americans with Disabilities Act.
- (b)    The Arkansas Department of Human Services shall actively promote equal opportunity through the establishment and application of personnel policies and procedures to include: recruitment, selection, promotion, demotion, transfer, reclassification, layoff and recall, training, termination and other benefits, and terms and conditions of employment.
- (c)    The Arkansas Department of Human Services shall ensure non-discrimination and equal opportunity in compliance with all applicable federal laws, regulations, executive orders, and civil rights rules or regulations.

III.                    Definitions:

- (a)    “Complaint” or “complaint of discrimination” means a complaint alleging unlawful discrimination, harassment, or retaliation by the Arkansas Department of Human Services; any contractor or grant recipient or sub-recipient of the Arkansas Department of Human Services; or one or more employees of the Arkansas Department of Human Services or its contractors, grant recipients, or sub-recipients acting in their official capacity or under their official authority.
- (b)    “Contract” as used in this policy means a contract subject to the Arkansas Procurement Law, Ark. Code Ann. §§ 19-11-201, et seq.
- (c)    “Harassment” means any unwelcome, repetitive behavior intended to threaten, disturb, or upset another person. Harassment based on any of the protected classes listed above may be reported under this policy. Harassment which is not based on a person’s membership in a protected class is nonetheless prohibited at the Arkansas Department of Human Services and may be addressed through disciplinary, security, legal, or other action.

- (d) “Protected conduct” means opposing unlawful discrimination, harassment, or retaliation, such as by making a complaint or filing a charge that alleges discrimination, harassment, or retaliation, or participating in an investigation, a proceeding, or a hearing regarding alleged unlawful discrimination, harassment, or retaliation.
- (e) “Retaliation” means materially adverse action, including but not limited to employment discipline, non-selection, harassment, or termination of a contract, a grant, or employment as punishment for an individual engaging in protected conduct.
- (f) “Unlawful discrimination or harassment” means discrimination or harassment, based on a person’s race, color, religion, sex, age, national origin, political beliefs, or disability as defined in the Americans with Disabilities Act.

IV. Responsibilities:

- (a) The overall responsibility for coordination of equal opportunity policies, programs, and employment practices within the Arkansas Department of Human Services has been assigned to the Administrator of the Arkansas Department of Human Services Office of Employee Relations and Office of Equal Opportunity.
- (b) Any Arkansas Department of Human Services staff member who receives a written complaint of discrimination from any person shall forward the complaint immediately to his or her division director for referral to the Office of Employee Relations and Office of Equal Opportunity.
- (c) Any Arkansas Department of Human Services supervisor or manager who receives a verbal complaint of discrimination from any person shall encourage that person to submit a written complaint. Regardless of whether the complaint is made in writing, the supervisor or manager receiving the complaint shall provide the person making the complaint a copy of form DHS-2808, and immediately notify his or her division director in writing for follow-up or referral to the Office of Employee Relations and Office of Equal Opportunity as appropriate.

V. Complaints of Discrimination

- (a) Any person to whom or entity to which this policy applies may use form DHS-2808, Complaint of Discrimination, to file a complaint, regardless of whether the complaint directly concerns Arkansas Department of Human Services or its employees. Complaints filed using other means, such as by letter or email, should contain substantially the same information as that requested on DHS-2808.

- (b) The Office of Employee Relations and Office of Equal Opportunity shall receive complaints relating to any Arkansas Department of Human Services division or office, program, project, service, contract, or grant, regardless of whether the person making the complaint or the person against whom the complaint is made is an employee of Arkansas Department of Human Services.
- (c) The Office of Employee Relations and Office of Equal Opportunity shall establish written criteria for determining when a complaint shall be referred to an outside agency or office, such as the U.S. Equal Employment Opportunity Commission, the U.S. Department of Health and Human Services Office of Civil Rights, the U.S. Department of Justice Office for Civil Rights, the U.S. Department of Labor, or other state or federal investigative or enforcement agencies.
- (d) Complaints which allege discriminatory, harassing, or retaliatory conduct by any Arkansas Department of Human Services employee shall be investigated by the Office of Employee Relations and Office of Equal Opportunity or the Arkansas Department of Human Services Office of Quality Assurance, as determined by the Office of Employee Relations and Office of Equal Opportunity Administrator. The Office of Employee Relations and Office of Equal Opportunity and the Arkansas Department of Human Services Office of Quality Assurance will conduct prompt investigations of complaints and issue written determinations of any findings.
- (e) When the Arkansas Department of Human Services investigates a complaint that involves a federal civil rights law over which the U.S. Department of Justice Office for Civil Rights has jurisdiction, the U.S. Department of Justice Office for Civil Rights retains the authority to:
  - (1) Conduct a supplementary or de novo investigation;
  - (2) Approve, modify, or reject recommended findings;
  - (3) Approve, modify, or reject any proposed voluntary resolution; and
  - (4) Initiate formal enforcement action.
- (f) Complaints which are not referred for investigation by the Arkansas Department of Human Services, including complaints which allege discriminatory, harassing, or retaliatory conduct by persons who are not Arkansas Department of Human Services employees, shall be referred to other appropriate state or federal investigative or enforcement agencies, consistent with the written criteria established under part V, section (c), above.

VI. Investigations:

- (a) Nothing in this policy shall prevent, prohibit, or delay an Arkansas Department of Human Services division, office, or institution from investigating violations of policy or monitoring compliance with contractual or grant obligations.
- (b) When an Arkansas Department of Human Services employee is accused of unlawful discrimination, harassment, or retaliation under this policy, the employing division may defer disciplinary action until resolution of the investigation by the Office of Employee Relations and Office of Equal Opportunity or the Arkansas Department of Human Services Office of Quality Assurance.
- (c) Deferring disciplinary action for alleged discrimination, harassment, or retaliation does not prevent a division from administering discipline up to and including termination for violation of other Arkansas Department of Human Services policy, behavior, or performance expectations.

VII. Posting Requirement:

English and Spanish versions of PUB-284, "Discrimination is Prohibited," will be posted in a conspicuous place in each Arkansas Department of Human Services office and facility, easily visible to Arkansas Department of Human Services employees, clients, customers, and applicants.